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July 20, 2010

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-08-1283

Dear Mr. President:

The Office of Special Counsel (OSC) received disclosures from Stephanie M. Armel, a whistleblower employed as a Sexual Assault Prevention and Response Assistant at the Department of the Air Force (AF), Sheppard Air Force Base (AFB), 82nd Training Wing, Sheppard AFB, Texas. Mrs. Armel, who consented to the release of her name, alleged that AFB employees failed to protect private information, improperly emailed personal information without permission, and violated time and attendance rules. She asserted that the actions of these employees constituted a violation of law, rule, or regulation, gross mismanagement, and an abuse of authority.

Mrs. Armel's allegations were referred to the Honorable Michael B. Donley, Secretary, AF, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). On January 4, 2010, the Secretary submitted a report to this office. On February 22, 2010, OSC received a supplemental report from the agency. On May 17, 2010, Mrs. Armel provided comments on the reports pursuant to 5 U.S.C. § 1213(e)(1). As required by law, 5 U.S.C. § 1213(e)(3), OSC is now transmitting the reports and Mrs. Armel's comments to you.

The Air Force's Air, Education and Training Command division (AETC) within the Office of Inspector General, investigated this matter. Mrs. Armel's allegations were substantiated in part. In its investigation, AETC concluded that Barbara King, in her capacity as the Sexual Assault Response Coordinator (SARC), failed to protect private information. Specifically, she violated the *Department of the Air Force Policies and Procedures for the Prevention of and Response to Sexual Assault* (June 3, 2005), because she failed "to maintain all records that could serve to identify the victim of sexual assault in a secure container and strictly control the access to the information." See Agency Report, pg. 5. AETC also found that Ms. King violated "AFI 33-332, paragraph 12.1.3.6 by failing to protect personal information from disclosure." *Id.*

AETC further concluded that Ms. King improperly released personal information, because she emailed a Victim Advocate Roster containing the private information of 22 volunteers, without their expressed written consent to disseminate the information. This was in violation of AF provision AFI 33-332, paragraphs 12.1, 12.1.3.6, and the Privacy Act. Ms. King's actions also violated "paragraph 7.3 of AFI 33-332 because she failed to include 'FOUO' (for official use only) at the beginning of the subject line . . ." as well as a statement ". . . indicating that the email contains FOUO information that must be protected under the Privacy Act and AFI 33-332." *Id.*

AETC also found that Ms. King violated Department of Defense, *Financial Management Regulation*, 7000.14-R, Volume 8, Chapter 2, paragraph 020204, by stating on her time and attendance cards that she reported to work 60 to 90 minutes prior to doing so. The investigation did not substantiate Mrs. Armel's allegation that Ms. King violated agency rules by wrongly claiming on-call status on her time and attendance records.

As a result of the investigation, Ms. King was issued a Notice of Proposed Seven Day suspension for "1) failing to properly secure Privacy Act information files and 2) improperly accounting of her work hours on official time cards." Ultimately, Ms. King was issued a letter of reprimand in lieu of suspension. She also received verbal counseling and was retrained on the appropriate procedures necessary to protect Privacy Act information. For other reasons unrelated to this investigation, Ms. King was demoted and removed from the SARC position.

In her comments, Mrs. Armel asserted that she was pleased with the findings of the investigation, but disappointed that management officials were not held accountable for their failure to act when she originally reported her disclosure in December 2007. Mrs. Armel also disagrees with AETC's conclusion that Ms. King did not willfully disclose agency records and believes that Ms. King's actions indicate that she intentionally violated AF rules.

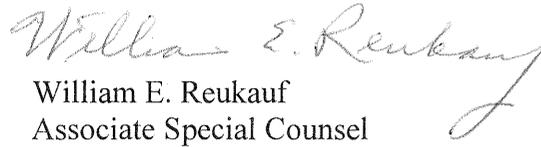
We have reviewed the original disclosure, the agency's reports, and Mrs. Armel's comments. Based on that review, OSC has determined that the agency's reports contain all of the information required by statute, and the findings appear to be reasonable.

As required by 5 U.S.C. § 1213(e)(3), we have sent copies of the agency's reports and Mrs. Armel's comments to the Chairmen and Ranking Members of the Senate Committee on Armed Services and the House Committee on Armed Services. We have also filed copies of the revised reports and Mrs. Armel's comments in our public file, which is now available online at www.osc.gov. The revised reports identify AF employees (other than Mrs. Armel and

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Ms. King) and witnesses by title only and contain certain language substituted to maintain the confidentiality of the parties involved.¹ OSC has now closed this file.

Respectfully,


William E. Reukauf
Associate Special Counsel

Enclosures

¹ The AF provided OSC with revised reports, which substituted titles for the names of AF employees and witnesses referenced therein. The AF cited the Privacy Act of 1974 (Privacy Act) (5 U.S.C. § 552a) as the basis for these revisions to the reports produced in response to 5 U.S.C. § 1213. OSC objects to the AF's use of the Privacy Act to remove the names of these individuals on the basis that the application of the Privacy Act in this manner is overly broad.