



U.S. OFFICE OF SPECIAL COUNSEL

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March 9, 2010

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

Re: OSC File No. DI-09-3604

Dear Mr. President:

The Office of Special Counsel (OSC) received a disclosure from James Bertzyk, a GS-7 Senior Officer at the U.S. Department of Justice (DOJ), Federal Bureau of Prisons (BOP), at the Federal Correctional Institution, Fort Worth, Texas (FCI Ft. Worth). Mr. Bertzyk, who consented to the release of his name, alleged that employees at FCI Ft. Worth violated laws, rules and regulations, engaged in gross mismanagement and created a substantial and specific danger to public safety by placing industrial sized fans in inmate housing areas at FCI Ft. Worth. Mr. Bertzyk alleged that due to their size and position, the fans impeded the safe and efficient movement of inmates through the facility. In addition, Mr. Bertzyk alleged that the presence of these fans posed a potential impediment to the safe evacuation of inmates and officers in the event of an emergency.

Mr. Bertzyk's allegations were referred to the Honorable Eric H. Holder, Jr., Attorney General, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d) on September 22, 2009. On October 14, 2009, Attorney General Holder delegated authority to respond to OSC's request for investigation to BOP Director Harley G. Lappin. Mr. Lappin submitted his report which was based on the results of an investigation conducted by the DOJ, BOP, Office of Internal Affairs (OIA) to our office on January 20, 2010.

The agency report concluded that Mr. Bertzyk's allegations were substantiated. According to the report, FCI Ft. Worth officials violated the Code of Federal Regulations and BOP policy by allowing the fans "to remain positioned for unspecified periods of time in such manner as to effectively obstruct egress in the case of an emergency...." The report further found that FCI Ft. Worth management failed to act on Mr. Bertzyk's reports regarding the placement and positioning of the fans. The report commended Mr. Bertzyk's efforts to remedy this situation and to notify FCI Ft. Worth management of this potential "Life Safety" issue.

Based on these findings, BOP has taken steps to remedy this situation. Specifically, BOP has, according to the report, approved FCI Ft. Worth's request to install air conditioning in the housing units in question. Funds have been allocated by BOP for this purpose and, according to an agency official we contacted following receipt of the report, the project commenced on February 1, 2010, and is expected to be completed in six months. In addition,

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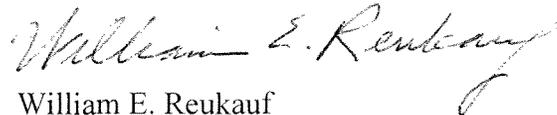
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training sessions have been planned for FCI Ft. Worth executive staff members and department heads with emphasis upon "their responsibilities relating to the Occupational Safety, Environmental Compliance and Fire Protection Program." Mr. Bertzyk declined to comment on the report.

OSC has reviewed the original disclosure and the agency's report. Based on that review, we have determined that the agency's report contains all of the information required by statute and that its findings appear to be reasonable.

As required by law, 5 U.S.C. § 1213(e)(3), OSC has sent a copy of the agency report to the Chairmen and Ranking Members of the Senate and House Committees on the Judiciary. OSC has also filed a copy of the report in our public file and closed the matter.

Respectfully,



William E. Reukauf
Associate Special Counsel

Enclosure