

March 27, 2011

2011 MAR 30 PM 1:49

Ms. Tracy Biggs, Esq.
US Office of Special Counsel
1730 M Street N.W., Suite 218
Washington, D.C. 20036-4505

Re: OSC File No. DI-10-2396

Dear Ms. Biggs,

I have reviewed the report from the Office of Special Counsel, and this document is my response to the findings of the said report. I'd like to take the time to personally thank you and your staff for their thoroughness in compiling this report.

Based on the findings, I am pleased that the allegations that Peter Mueller and myself brought forward had merit. The first being that Manuel Reynoso, a Branch Chief for the Office of Air and Marine (OAM) in Artesia, NM did wear a gold "Federal Agent" badge without being a sworn Federal Agent. Second, and the most disturbing allegation that had merit, was that Manuel Reynoso carried a personally owned firearm onto the Federal Law Enforcement Training Center in Artesia, NM numerous times. Manuel Reynoso is not a Federal Agent and not only violated FLETC firearms policy, but also the ICE Firearms Policy, and Title 18 United States Code Section 930 (possession of firearms and dangerous weapons in Federal Facilities.)

There are several key questions and topics that this investigation left out.

1) Why did the the Department of Homeland Security fail to interview and take a sworn statement from Hunter Davis (GS-14) , OAM Southeastern Regional Director? Hunter Davis had received numerous reports from Peter Mueller that Manuel Reynoso was violating the firearms policy and putting personnel, and local citizens at risk. There is email correspondence that Peter Mueller had with Hunter Davis to support the fact that Manny Reynoso was violating policy. Why weren't these emails subpoenaed?

2a) Why after Peter Mueller reported to Hunter Davis that Manuel Reynoso was carrying a firearm against policy, was he allowed to continually violate it?

2b) Why were Peter Mueller and myself allowed to stay in this training environment where our immediate supervisor was carrying a firearm and badge on a Federal Facility against policy?

3a) Aviation Operations Analyst (AOA) John Apodaca was interviewed in February 2010 and stated that four Agents who were recent graduates of Spanish Training, asked if Manuel Reynoso was allowed to carry a firearm. These same four agents also observed Manuel Reynoso un-holster a firearm, and told the Agents that they were not the only ones allowed to carry a gun. This cavalier attitude was present during my time spent with Manuel Reynoso. John Apodaca, stated that he reported these violations to his chain of command.

3b) If the Office of Air and Marine knew he was violating policy and Federal code, why then in July of 2010, and October of 2010 did more Air and Marine Interdiction Agents (in probationary status) come forward stating that they witnessed Manuel Reynoso with a firearm in uniform? It seems to me, that the Department of Homeland Security, Office of Air and Marine Head Quarters staff did not take any corrective measures to fix this issue, and placed the lives of others at risk in doing so. I believe these facts show a gross mismanagement of a Federal Agency. Manuel Reynoso continued to violate policy from October 2009 all the way until October 2010; this seems like someone obviously dropped the ball.

3c) The report also states that multiple Air and Marine Interdiction Agents told AOA John Apodaca that they did not want to report Manuel Reynoso due to the fact that they didn't want to risk getting fired from their positions since they were new employees on probationary status. I feel that Peter Mueller and myself had reprisal actions taken against us due to the fact that Mr. Mueller reported to Hunter Davis that Manuel Reynoso was carrying a firearm. Other Agents behind us in training chose not to report a serious violation of policy in fear of losing their job, we however, believed and still do believe we did the right thing in reporting this violation.

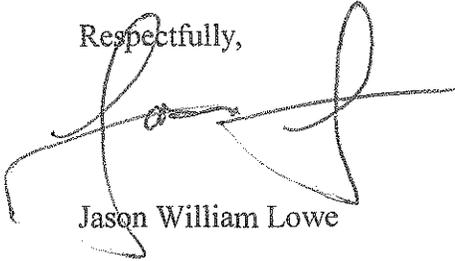
4) If the Office of Air and Marine allowed Manuel Reynoso to repeatedly make these violations, is it reasonable to assume that the Office of Air and Marine showed poor judgement in their decision to terminate the employment of Peter Mueller and myself?

5a) In response to actions taken, a CBP Labor and Employee Relations (LER) Office received a completed Report of Investigation concerning these matters. This case was presented to a Discipline Review Board (DRB) for a "dry run." The board determined that misconduct regarding Manuel Reynoso would not warrant proposed action based on LER's assessment of the investigative findings in conjunction with the CBP Tables of Offenses and Penalties. My first question is, was the board comprised of friends and family of Manuel Reynoso? And secondly, what is the quantitative measure for a threshold to meet the criteria for adverse action? Using a reasonable person stance, I would tend to think that carrying a firearm onto a federal facility shows severe misconduct.

5b) Would a reasonable and prudent person believe that a "proposed" suspension of 5 days without pay for violating such a serious policy and US Code is sufficient? I think not. A reasonable and prudent person would also know that they can't bring a firearm onto a federal facility.

Subsequently, Peter Mueller was terminated from his position and I resigned due to the immediate knowledge that I was going to be terminated. I feel that we should still be in our positions as Marine Interdiction Agents, but suffered from doing the right thing. I would like to respectfully request for President Obama and the appropriate congressional oversight committees to review this case, and take positive steps forward in re-instating myself to my former position as a Marine Interdiction Agent. Hopefully corrective measures will be taken to ensure that this does not happen again.

Respectfully,

A handwritten signature in black ink, appearing to read "Jason William Lowe". The signature is stylized with a large, sweeping initial "J" and a long horizontal stroke extending to the right.

Jason William Lowe