



U.S. OFFICE OF SPECIAL COUNSEL

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The Special Counsel

March 19, 2013

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

Re: OSC File No. DI-12-2577

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find an agency's report based on disclosures made by a whistleblower at the Department of Justice, Federal Bureau of Prisons (BOP), McDowell Federal Correctional Institution (FCI McDowell), Welch, West Virginia. The whistleblower, Michael S. Spradling, Case Manager, consented to the release of his name. He alleged that employees falsified records regarding inmates' participation in BOP's Release Preparation Program (RPP) and, thus, were engaged in conduct that constituted a violation of law, rule, or regulation, gross mismanagement, and an abuse of authority.

The agency's report substantiated Mr. Spradling's allegations regarding the improper coding of inmates' training records. The agency concluded that the practice was based on faulty guidance from misinformed employees regarding how and when inmates qualified for RPP participation, rather than intentional falsification of records. The agency will conduct audits and provide training on RPP participation. FCI McDowell officials must also correct all inaccuracies found during the investigation and issue a report to BOP Headquarters. Based upon my review of the original disclosure and the agency's report, I have determined that the report contains all of the information required by statute and that the findings appear to be reasonable.

The Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety. 5 U.S.C. § 1213(a) and (b). OSC does not have the authority to investigate a whistleblower's disclosure; rather, if the Special Counsel determines that there is a substantial likelihood that one of the aforementioned conditions exists, she is required to advise the appropriate agency head of her determination, and the agency head is required to conduct an investigation of the allegations and submit a written report. 5 U.S.C. § 1213(c).

Upon receipt, the Special Counsel reviews the agency's report to determine whether it contains all of the information required by statute and that the findings of the head of the agency appear to be reasonable. 5 U.S.C. § 1213(e)(2). The Special Counsel will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete based upon the facts in the disclosure, the agency's report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

Mr. Spradling's allegations were referred on August 15, 2012 to the Honorable Eric H. Holder, Jr., Attorney General, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). On December 14, 2012, Associate Deputy Attorney General Scott N. Schools submitted the agency's report to this office. Pursuant to 5 U.S.C. § 1213(e)(1), Mr. Spradling was offered the opportunity to comment on the agency's findings, but declined to do so. As required by 5 U.S.C. § 1213(e)(3), I am now transmitting the report to you.

FCI McDowell is a medium security facility housing male offenders, which includes an adjacent satellite prison housing approximately 1,712 minimum security male offenders. The facility was activated and received its first inmates in September 2010. Pursuant to BOP Program Statement 5325.07, the Release Preparation Program (RPP) provides information, training, and services to inmates who are about to be released to the community. RPP's purpose is to prepare each inmate to re-enter the community successfully, enhance the reintegration of inmates into society, and reduce recidivism. Participation in RPP is tracked by a national database identified as Sentry, and is used by agency employees to evaluate an inmate's progress while incarcerated.

The RPP has two components: the Institutional Release Preparation Program (Institution RPP) and the Unit Release Preparation Phase (Unit RPP). The Institution RPP is structured around attendance and completion of formalized classroom instruction in six core areas, namely health and nutrition; employment; personal finance and consumer skills; information and community sources; release requirements and procedures; and personal growth and development. The Unit RPP is a separate component, which is based on informal communications between the inmate and BOP employees. Inmates who participate in the Unit RPP, and thus do not complete core courses, should not be credited with having participated in the Institution RPP pursuant to agency policy.

The agency's report revealed that Mr. Spradling was accurate when he reported that his supervisor, Mr. Michael Chamblee, Unit Manager, instructed employees to enter codes indicating that inmates had participated in Institution RPP training even though the inmates had not completed the core courses. As a result, Mr. Chamblee violated BOP policy when he instructed employees to improperly credit inmate participation in RPP.

The investigation revealed that the misguided practice of improperly crediting inmate training participation was not unique to FCI McDowell employees. The investigators found employees at various facilities within the Mid-Atlantic Region informed them that Mr. Chamblee's practice may have been appropriate. Thus, it appears that the miscoding as directed by Mr. Chamblee was based on misinformation and inappropriate guidance from a number of sources. There is no evidence that Mr. Chamblee's knowingly falsified official documents or records. The agency's report added that, with the exception of the Mid-Atlantic employees, other regions did not improperly credit inmate participation in the Institution RPP as a matter of common practice.

The agency states that it will conduct audits and provide future training on correct documentation of RPP participation. In addition, on October 12, 2012, all BOP facilities

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received a memorandum from BOP Headquarters informing them that inmate participation in, or completion of, the Unit RPP should not be credited toward participation in the Institution RPP. The notice enjoined those staff engaging in the practice of improperly crediting RPP training to cease immediately. BOP facilities were informed that the inmates may only be credited when the inmate actually participates in one or more of the Institution RPP courses from the six core categories as detailed in Program Statement 5325.07. Furthermore, FCI McDowell officials must correct all inaccuracies found by the agency investigation and issue a report to BOP Headquarters about the status of those corrections.

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

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the agency's report to the Chairs and Ranking Members of the Senate and House Committees on the Judiciary. I have also filed copies of the agency's report in our public file, which is now available online at www.osc.gov. This matter is now closed.

Respectfully,



Carolyn N. Lerner

Enclosure