

Ms. Olare A. Nelson

Attorney, Disclosure Unit

Re: OSC File No. DI-12-0428

We the Complainants (Mr. Agee, Mr. Gatewood and Mr. Golembiewski) would like to make comments about the report.

We agree that the report has brought to light concerns that the Complainants have had and presented to the U.S. Office of Special Counsel (OSC), however because the Complainants were not allowed to interact with the IG during the investigation we feel that the Command provided false documentation and information in order for the IG and the OSC to come to such ludicrous conclusion's.

Within the OSC report it is extremely apparent that NAVFAC MIDLANT (the Command) was given and used more time and man power than was afforded the Complainants and that the Command provided and/or did not provide documentation and/or information that was of importance to this case, and throughout the report the NAVFAC MIDLANT Command has provided untruthful and/or misleading information and /or documentation in order to mislead the OSC and others as well.

The Complainants were not given the opportunity to interact with the IG during the investigation or to first give rebuttal to any of the Commands statements, information and/or documentation provided to the OSC which lead to a preposterous final report.

Statements such as the one made by Mr. Garrett on the bottom of page # 9, foot note #12 is completely an untruth. And if the Complainants had been given the time, we would have been able to provide times and places that Mr. Garrett made statements that would have proven that he was providing false information. During a meeting with Admiral Slate and the Complainants, Mr. Garrett stated that the Complainants would be allowed to accompany him in order to investigate a situation that occurred at Oceana Nava I Air Station. However during the next meeting with Admiral Slate, Mr. Garrett, the NAVFAC MIDLANT Commanding Officer, the Executive Officer and the Complainants, Mr. Garrett said that during his investigation into that particular complaint he found nothing wrong in the Complainants complaint. However, when the Complainants asked Mr. Garrett why they were not contacted and allowed to attend the site visit (at Oceana) as he had promised, Mr. Garrett made the statement that he had made a Command decision not to have us accompany him because we were not needed during the investigations. However in Mr. Garret's statements, he does not remember making such statements.

Since filing our safety complaints and at each and every meeting held with the Command, the Complainants have been assured and/or promised that they would at the least be part of any investigation in to the complaints filed by the Complainants in order to assist the Command during their investigations, and as to date not one of the Complainants has ever been involved in any of the Commands investigations. The Command did recruit a NAVFAC MIDLANT Electrician (Mr. Winstead) from a different work site (Portsmouth VA.) to assist the Command in their endeavors to prove that the Complainants complaints and/or information provided to the Command is ill founded.

The electrician Mr. Winstead was portrayed as being an extremely confident, well seasoned Master High Voltage Electrician. If the Complainants were given the opportunity to provide the OSC with correct information to first show that there is no such thing as a Master High Voltage Electrician and that Mr. Winstead did not have the background to assist Mr. Garrett and/or the Command pertaining to High Voltage situations, and that there are other personal within the Command that should have been used to assist Mr. Garrett in situations pertaining to High Voltage.

The Complainants reported and have given testimony that the High Voltage problems are throughout the Command not just within the Norfolk area; however the investigation was limited to the Norfolk Naval station. Other Installations throughout NAVFAC MIDLANT were not visited nor were they interviewed about our concerns.

If the Complainants had been given the opportunity to go with the IG during their investigation and also be allowed to show the IG what the Complainants concerns are, and if the Complainants had been given the opportunity to first look over the Commands responses before they were sent to the OSC, the outcome would have been completely different.

The Complaints would like to also provide you with the following information as well.

Page # 9, Section # 34                      This section where it says He stated that he had been informed that he would be allowed to ride along with the investigation team is incorrect. It should have read that the Complainants would be allowed to ride along with the investigation team, and as what Mr. Agee felt that it was insufficient to merely question employees and supervisors because they would provide untruthful answers, is exactly what was allowed to happen. Because the Complainants were not involved with the investigation the Command and employees were allowed to provide untruthful statements, information and documentation.

Page # 9, Section # 35                      The Complainants did agree that some of the described course of actions were appropriate, however, they also disagreed that some of the course of actions were not appropriate.

Page # 9, Section # Footnote # 21                      This is an incorrect statement. The Complainants have provided the IG and the Command with mechanisms from which the Complainants drew their conclusions. Both were told to use the NOUC Safety Tag Log which would provide them with information needed. The IG Ms. Davis asked Mr. Gatewood to prepare a Lock Out/Tag Out (LO/TO)

report which would provide documentation of what the Complainants were alleging. Ms. Davis informed the Complainants that she would come to Mr. Gatewood work area the following afternoon at approximately 1400 to pick up the report. Ms. Davis never arrived at Mr. Gatewood's work area and as of today has not contacted Mr. Gatewood to receive the requested information nor has any other Official from the OSC or the Command requested such information and/or documentation. .

Throughout this report the IG and IO keeps stating the Command has done this and done that, however, at no time within this report has the IG and the IO stated that the Command has provided and written documentation to substantiate their findings. At the very best everything that the Command has provided to the IG and IO is here say and only here say.

The IG and the IO requested the Complainants provide documentation, however the Command has not had to provide any such documentation.

Because the IG and the IO are not familiar with the Laws Rules and Regulations of the UFC, OSHA, NFPA, IEE and High Voltage work, the IG/IO team should had consisted of at least one of the Complainants. Doing so would have allowed the Complainants to shown the IG and the IO the exact situations that the Complainants had been complaining about and been able to provide the IG and IO the specific Laws, Rules and Regulations that coincided with each situation. By the IG/IO not knowing the Laws, Rules and Regulations, the Report is flawed and inconsistent with the Laws, Rules and Regulations.

Allegation # 2 was found not substantiated.

Page # 13, Section # 52 Allegation 2 was found not substantiated. If this was found not substantiated then why did Mr. Donald Davis provide testimony that a newly hired high voltage electrician had to receive extended training before he was allowed to perform the duties that he was hired to do. He was hired as a WG 11HighVoltage Duty Electrician. This person required two years of specialized training before the Command felt that he was qualified to perform the duties of this position. Also information was provided to the IG that other WG 11HighVoltage Duty Electricians would not perform their duties during emergency situations without having their supervisor and/or other High Voltage Electricians to assist them. The Complainants also provided information that there were persons throughout NAVFAC MIDLANT that have been hired within the past 5 years to perform High Voltage Electricians jobs that were not qualified to perform such work, nor had they ever had nor have they received from the Command any such training in order to perform High Voltage Electrical work. The Command has never provided the IG with documentation to substantiate the Commands allegations, that employees had been properly trained as High Voltage Electricians, especially the employees who have been hired within the past 5 to 10 years as High Voltage Electricians. By the IG not allowing the Complainants to interact with the IG during the investigation the Command intentionally mislead the IG about the situation High Voltage Employee situation.

Allegation # 3 was found not substantiated.

Page # 13, Section # 53 Allegation 3 was found not substantiated. How could this be found not substantiated when e-mails and safety managers reports showed that NAVFAC MIDLANT personnel were not wearing their PPE and that they were in direct violation of the UFC and that several of the Commands SOP's are out of date by approximately 10 to 20 years? The IG and the Command had been provided with information that employees were not wearing PPE as required as well as NAVFAC MIDLANT Safety had witnessed employees not wearing their PPE while performing work within the Yorktown site. Also the Complainants provided information to the IG and Command that the Commands PPE Instructions are outdated and not up to code as per the UFC, NFPE 70E, IEE and OASHA require. By the IG not allowing the Complainants to interact with the IG during the investigation the Command intentionally mislead the IG about the situation.

Allegation # 5 was found not substantiated.

Page # 13, Section # 53 Allegation 5 was found not substantiated. How could this be found not substantiated when the Complainants have provided the IG with information that the Command was in violation of the UFC, OSHA? The Complainants proved that the Command did not have SOP for mechanical personal that perform work on high pressure steam systems. However the SOP had been in the works for well over 5 years without any results, placing personnel in harms way. Also even though Electrical Ship to Shore SOP's have been put into place, there have been no less than 5 near misses within the Tidewater area.

Page # 21, Section # 80 As stated in the report The Control of Hazardous Mechanical Energy Lockout/Tagout (LO/TO) was finalized on 14 may 2010 then restarted April 2011. It is now June 12, 2013 two years after the restart of the Mechanical LO/TO and still it has not been finalized and/or implemented within the Command.

Page # 21, Section # 85 The current Command's Ship to Shore SOP 600 EH. 015, EH. 016 and EH. 017 are not up to date they are not in compliance with the UFC, OSHA, NFPA 70 E, IEE, DOD and NAVFAC Instructions.

Pages # 21 and # 22, Section # 80 through Section # 85 As previously stated, since the IG's Investigation, there have now been four near misses pertaining to the connect and disconnect of electrical shore power to Naval ships because there are no up to date SOP's. Two of the mishaps happened at the Little Creek Base and two have happened at the Norfolk Naval Base.

Page # 23, Section # 92 The Ship to Shore Safety Managers report was incorrect to the IG and the SOP has not been revised as of 6-12-1013.

Page # 23, Section # 93        The Mechanical SOP has been in the process for well over 5 years. There has been no training, nor has there been a finalized SOP. The Command is making reference that it is the Unions fault that the SOP has not been implemented. Since when does the Union establish a SOP and/or determine when an SOP is to be implemented.

Page # 23 and # 24, Section # 94 This is also an incorrect statement. The Complainants did not recommend that the IG only make an unannounced site visit to Naval Station Norfolk Pier 11 South to observe a high voltage job. The Complainants recommended that the IG make several unannounced site visits to the Naval Station Norfolk Pier not just pier 11 South and suggested that he also make unannounced site visits to other bases in order to observe other High Voltage as well as Low Voltage electricians performing their daily jobs. As the IO stated, he was accompanied by the NAVFAC HQ IG, HQ Safety Manager and Mr. Donald Davis (who is the director for the Ship to Shore and High Voltage Electricians) other supervisors, however the Complainants were not asked to attend such unannounced visit . That being said, the Complainants are in no way assured that the IO made any such unannounced visit. He may have arrived at pier 11South to witness what was going on, but in no way was his visit unannounced with that many Command upper management and/or supervisors being involved. If the IO wanted to hold a truthful unannounced arrival to a ships connect and disconnect or any other truthful unannounced arrival in order to observe electricians performing their normal practices, he would have contacted the Complainants and they alone would have gone with him to the piers and/or other locations to witness the connect and disconnect of electrical power to ships and other electrician performing their daily duties. The Complainants not only have been complaining about how ships are electrically connected and disconnected, the Complainants have been complaining about the overall way the High Voltage Electricians and Low Voltage Electricians are not performing their jobs and not following the NAVFAC MIDLANT SOP. If the IO wanted to perform truthful unannounced visits, he would have visited more than just one site and would have allowed the Complainants to be part of the investigation instead of the Command upper management attending the unannounced visit. By the Command being allowed to attend the unannounced visit assured that the employees were informed of the IO site visit which allowing NAVFAC Employees to be prepare for the Commands and IO unannounced visit.

Page # 26, Section # 108        This is also an incorrect statement. The Complainants informed the IO that not only had they received repeatable information from fellow High Voltage supervisors and employees, but had also directly spoken with several of the High Voltage NAVFAC MIDLANT employees who had informed the Complainants that they had no former High Voltage Experience and/or training but were hired to perform High Voltage Work for the Command. The IO was also told that the Command had admitted to several of our previous meetings, that they knew they were hiring people that were not qualified but the hired the persons anyway because the Command needed bodies to fill the High Voltage Positions. When the Complainants question the Command back in 2009 about why the people being hired as High Voltage Electricians were not being interviewed in order to make sure they had the qualifications as High Voltage Electricians the Command response was, they would try do so in the future. The Command admitted that they have known for well over 5 years that they had been hiring unqualified persons to perform High Voltage work because they were

unable to find anyone on the hiring rosters that had the qualifications to perform High Voltage Work. The Complainants gave the Command several different options on how to recruit qualified High Voltage Electricians.

Page # 26 and 27, Section # 108, # 109 and # 110 Are also an incorrect and false statements given by Mr. Davis. Mr. Gatewood informed the IO and the Command that when he met with the newly hired High Voltage Electrician Mr. Lasinio (for the first time), Mr. Lasinio informed Mr. Gatewood that he had no previous High Voltage experience.

Mr. Lasinio was hired to perform High Voltage Electrical duties as a High Voltage Duty Electrician (WG11) and to work without supervision and/or without other employees. He was hired to stand a duty watch which required him to perform after hours High Voltage work. He was working by himself for several weeks when the NUOC determined he was not qualified to perform his duties as a High Voltage electrician and the NUOC reported such to upper management. The Command still worked him on the Duty shift work until the NUOC escalated the matter to the Command, at which time he was removed from the performing his duties but still being paid as if he was a High Voltage Duty Electrician. Mr. Lasinio was not required to perform the duties he was hired to perform for over two years.

However when other High Voltage Electricians were hired to perform the High Voltage Watch Duty, they received approximately 2 to 4 weeks on the job training before they were placed on shift work to perform their duties as a High Voltage Duty Electrician.

Page # 27, Section # 111 Mr. Brown failed to inform the IO that as per the UFC, OSHA and the NFPA 70E, supervisors are required to know and understand the High Voltage systems and work performed in order to properly correct High Voltage situations, be able to read High Voltage one line diagrams and be able to write High Voltage outage request etc. No other Base within NAVFAC MIDLANT allows a person to supervise High Voltage Electricians unless they have High Voltage experience and/or a High Voltage back ground as per the UFC, OSHA and NFPA 70E requires.

Page # 28, Section # 112 Employees mentioned within this section may or may not have received on the job training, However the Command did not provide the IO with any documentation to verify their statements.

Page # 28, Section # 116 In Mr. Lougan statements he provided that the skills and knowledge required to perform High Voltage work are not abundantly available, however if a person that had High Voltage (HV) experience was allowed to question the people in question that person would be able to determine who is minimally qualified to perform HV work. No one within the Command nor did the IO even question anyone to determine who is at the best minimally qualified to perform HV work.

Also in Mr. Lougan's statement, he informed the IO that there is no test, license or certification for High Voltage electricians. That being stated, then why in Section # 222, did the Command make the statement to the IO that Mr. Winstead is a master High Voltage electrician (there is no such thing as a master High Voltage electrician). At best Mr. Winstead may have two years of limited HV experience during his electrical career. When the Complainants

questioned Mr. Winstead about his HV experience in front of Mr. Garrett the NAVFAC MIDLANT CO and XO and other management officials he stated he had very little HV experience but held a Virginia State Master Electrician license, which has nothing to do with High Voltage.

Page # 29, Section # 119 This statement was also incorrect. Ms. Isenhour stated, applicants met the minimal qualifications as a veteran and were offered the position. This is inconsistent with the way personnel are hired. The Office of Personnel state that a person must meet minimal qualifications to perform the duties of the job they applied for. The Command has stated that they have not been reviewing job applications to determine who is and is not qualified as a High Voltage Electricians, that they have been hiring personnel knowing they were not qualified as a High Voltage Electricians, they went as far as to state they have hired personal just to fill the position.

Page # 30, Section # 121 This is an incorrect statement. High Voltage Electricians have been hired since 2009, and they were not qualified to hold the positions as a High Voltage Electricians per the Commands information. WG – 9 Ship to Shore Electricians were hired as WG-10 High Voltage Electricians in (2011 and 2012). During a meeting with the Command the Complainants question about this situation. The Complainants were told that it was an over looked situation and informed the Complainants that the Command would correct the situation. However they again provided false information to the IO.

Page # 30, Section # Foot Note 41

This is an incorrect statement. The Investigating team never received any documentation that showed employees hired without the required skills under went on the job training, additional class room training pertaining to High Voltage. This IO statement also proves that the IO as well as the Command knows the Command has been hiring unqualified employees as High Voltage Electricians.

Page # 32, Section # 127 As stated the Command could not provide any documentation to prove that employees had been HV trained, provided proper HV training, and/ or received any type of High Voltage Training. The reason the Command could not provide any such documentation is because the Command has failed to provide any such HV training. Without any such documentation how can the IO and/or the IG make a determination that employees had received any such High Voltage training, if anything, it proves they did not provide any HV training.

Page # 32, Section # 128 and # 1287 The Command informed the Complainants that the Command no longer is providing NAVFAC MIDLANT employees with a High Voltage Apprentice program because they can't find anyone who teaches or provides such a program. The Tidewater Community Collage that was providing and assisting in the apprentices program could not provide any subject matter and or teachers pertaining to High Voltage and therefore the Command stopped the High Voltage Apprentice Program.

Page # 35, Section # 141 States NAVFAC MIDLANT management has been effective in taking steps to ensure that personnel are adequately trained and have established an apprenticeship program, however why is this statement even in the report since the Command no longer is providing

a High Voltage Apprenticeship program, nor are they providing any such HV training. If the Command cannot find anyone to provide a HV training program, how will employees receive proper HV training?

Page # 36, Section # 143           The Conclusion is inconsistent with what has been stated throughout the report. The Command has stated throughout the report that they knowingly have hired employees that were not qualified but that they have provided them with the training needed to perform HV jobs, nor has the Command kept records to prove that the employees hired can perform HV work, nor did the Command provide any information as per the OSHA 1910.269 to insure employees are qualified to perform HV work.

Page # 36, Section # 147           As previously stated, the Command has informed the Complainants that there is no longer a HV Apprenticeship Program within NAVFAC MIDLANT and has not been one for over a year.

Page # 36, Section # 148           The Command could not provide any documentation in order to substantiate this statement therefore it should be an unfounded statement.

Page # 37, Section # 151           The Command did not provide the IO and/or IG of who was to be the subject matter expert, nor did they provide any of their questions that were to be used during the interviews. For the past three years the Command has promised the Complainants that they would provide them with the same information, however as of today the Complainants still have not been provided with such information, nor have we been provided with anything the Command has promised us.

Page # 37, Section # 152           For the past four years the Command has stated they know they are having a problem hiring qualified HV persons, that they are having to take whoever they can, to fill the position knowing they are not qualified. The Command has gone as far as to state that he had exhausted their ideas on what to do about the situation.

The Complainants provided the Command with a way to resolve the problem, by using the Special Pay option. However the Command has not considered the Special Pay option as an incentive to recruit and maintain qualified HV electricians. If the Command had considered such, they would have provided the minutes of the meeting and/or provided documentation of when the meeting was held and the reasoning for not providing a Special Pay to recruit and/or to obtain and HV electricians.

Because the Command has been having problems hiring and keeping Engineers within NAVFAC MIDLANT over the past ten years, the Command has exercised this Special Pay option for the Engineers within NAVFAC MIDLANT.

The Command already has this program in existence. They are paying a Special Pay rate to keep them within NAVFAC MIDLANT.

Page # 38, Section # 158           If the IO had question concerning the Complainants information and needed more details the OI should have contacted the Complainants. When the IO had further

questions concerning the Commands information he contacted them in order to clarify the situation. By not affording the Complainants the same opportunities as was afforded the Command has tainted the report.

Page # 38, Section # 159 Is also incorrect, Mr. Garrett is still working for NAVFAC MIDLANT. He is the Safety Manager that reports directly to the Admiral.

Page # 50, Section # 222 c. Is incorrect, there is no such thing as a Master High Voltage Electrician, therefore Mr. Winstead is not a Master High Voltage Electrician. Mr. Winstead does hold a Virginia State Master Electricians License that deals strictly in low voltage electrical.

Page # 53, Section # 239 When the Complainants asked the Command who their Subject Matter Expert (SME) is they were informed that they were unsure of who the person was and/or is and said they would provide their name at the next meeting. However during the next meeting the Command still could not provide the SME's name and as of to date the Command has not provided the Complainants with the name of the SME person and/or persons who was on the selection panels.

Page # 54, Section # 240 As previously stated this is not in compliance with the UFC 3560-1, OSHA 1910, NFPA 70E, IEE DOD and DON Instructions.

Page # 56, Section # 258 As previously stated the Command has stopped the HV portion of the Apprenticeship program because they have been unable to find anyone that can teach and/or provide High Voltage training.

Page # 57, Section # 260 Is also incorrect. The SCEP Apprenticeship is not fully implemented and is not functioning well because as previously stated the Command has stopped the HV portion of the Apprenticeship program because they have been unable to find anyone that can teach and/or provide High Voltage training.

Respectfully

Mr. Larry D. Agee

Mr. Robert D. Gatewood

Mr. Bruce Golembiewski