



U.S. OFFICE OF SPECIAL COUNSEL

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The Special Counsel

April 21, 2014

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

Re: OSC File Nos. DI-12-0428, DI-12-0354, and DI-12-1819

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find agency reports based on disclosures made by employees at the Department of the Navy (Navy), Naval Facilities Engineering Command Mid-Atlantic (NAVFAC Midlant), Norfolk, Virginia, alleging that Navy officials and employees engaged in violations of law, rule, or regulation, which contributed to a substantial and specific danger to public safety. The whistleblowers – Larry Agee, Robert Gatewood, and Bruce Golembiewski – are electrical engineering technicians at NAVFAC Midlant. These three whistleblowers, who consented to disclosure of their names, alleged serious safety violations at the Navy. The whistleblowers further alleged that they have been reporting these problems since 2008, but that management officials have not taken appropriate action.

The Navy substantiated the whistleblowers' allegations that management officials failed to ensure that employees complied with the standard operating procedures. It also substantiated the whistleblowers' allegations that management officials failed to ensure compliance with the safety rules and eliminate unnecessary safety risks. The investigation did not substantiate the whistleblowers' claims that unqualified employees were allowed to work on high voltage assignments, that employees failed to wear proper protective equipment, or that management has not appropriately responded to these allegations.

In response to the whistleblowers' disclosures, the Navy has revised its procedures and agency rules, implemented additional trainings and safety meetings, and added safety review boards. In addition, the agency has established an apprenticeship training program and a process for tracking and monitoring safety equipment, modified its hiring process, and established a pilot program to evaluate whether further changes need to be made to agency policies. I have determined that the Navy's investigative reports meet all statutory requirements and that the findings of Secretary of the Navy Ray Mabus appear reasonable.

The whistleblowers' allegations were referred to Secretary Mabus to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). On January 7, 2013, Secretary Mabus submitted the agency's report to OSC based on an investigation conducted by the Naval

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Inspector General (Naval IG). On October 11, 2013, OSC received a supplemental report from the Navy. The whistleblowers submitted comments on the January 7 report pursuant to § 1213(e)(1). They declined to provide comments on the supplemental report. As required by 5 U.S.C. § 1213(e)(3), I am now transmitting the reports and comments to you.¹

I. The Whistleblowers' Disclosures

Messrs. Agee, Gatewood, and Golembiewski disclosed that numerous employees failed to follow standard operating procedures; employees were unqualified to work on high voltage projects and required training; employees worked on electrical projects without the proper personal protective equipment; and management officials failed to ensure compliance with the rules or to eliminate unnecessary safety risks. The whistleblowers provided multiple examples and supporting documentation in support of their claims. Messrs. Agee, Gatewood, and Golembiewski brought this matter to our attention because they were concerned that these alleged violations put the safety of employees and other members of the public at risk.

A. Failure to Follow Standard Operating Procedures

The whistleblowers alleged that since 2008, they have continuously reported numerous safety concerns and violations that management officials repeatedly ignored. Specifically, Messrs. Agee, Gatewood, and Golembiewski disclosed that employees failed to follow the standard operating procedures (SOPs), which include Lockout/Tagout (LOTO)² procedures, and other applicable rules for high voltage work. The whistleblowers explained that more than 200 employees are required to follow these rules, but that only about 5% of the employees adhere to the appropriate procedures.³ In particular, the whistleblowers alleged

¹ 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) and (g).

Upon receipt, the Special Counsel reviews the agency 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 report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

² LOTO addresses the practices and procedures necessary to disable machinery or equipment, thereby preventing the release of hazardous energy while employees perform servicing and maintenance activities. See 29 CFR Part 1910.147, Hazardous Energy Lockout/Tagout. The LOTO rules are also included within the NAVFAC's SOPs.

³ The whistleblowers also stated that Maximo is a Navy system that is used to install and track work orders and assignments given to employees. Work orders can be retrieved from Maximo for a given period of time and would indicate whether following LOTO rules was required for the job and whether the employees adhered to the proper procedures.

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that employees failed to contact the NAVFAC Utilities Operations Center (Call Center)⁴ and receive authorization to work on specific assignments before engaging in high voltage projects. They asserted that this failure to follow procedures was still occurring on a daily basis as of the date of their disclosures.

B. Unqualified Employees and Lack of Training

The whistleblowers next disclosed that since 2007, officials have taken dangerous safety risks by hiring unqualified and/or inexperienced individuals who did not know the trade or how to perform high voltage work. They further alleged that employees are not receiving the necessary training to perform their job functions safely, specifically in LOTO procedures. According to the whistleblowers, they learned of this problem by observing many of the inexperienced employees at work. Several of the employees also informed Messrs. Agee, Gatewood, and Golembiewski that they did not know how to perform the high voltage projects they were working on.

C. Electrical Project Work Without Protective Equipment

The whistleblowers further alleged that employees were not consistently wearing the proper personal protective equipment (PPE) while performing high voltage work, such as fire retardant uniforms, arc flash clothing, hard hats, safety glasses, and protective gloves.

Agency rules mandate that any employee whose normal job includes working on or near exposed electrical equipment shall wear, at a minimum: "Fire retardant long-sleeve shirt and fire retardant pants; [c]otton underwear (t-shirt and briefs/shorts); [and] [l]eather electrical hazard-rated work shoes/boots." See NAVFAC Midlant All Hands Note, Updated Electrical Safe Acts for Employees and Fire Retardant Clothing Policy, June 27, 2008. It further states that employees shall wear these items at all times during their work shift. *Id.* The whistleblowers maintained that a large number of employees were not in compliance with this provision.

D. Officials Failed to Ensure Compliance With Rules or Eliminate Safety Risks

Messrs. Agee, Gatewood, and Golembiewski also noted that many of these problems persisted because management officials refused to enforce the safety rules that had already been adopted by the agency. As a result, the NAVFAC divisions, especially the Norfolk and Portsmouth locations, have failed multiple safety audits and created dangerous working conditions for their employees. The whistleblowers began meeting with Captain John Heckmann, then-executive officer, Captain Mark Libonate, NAVFAC Midlant commanding officer, and other high ranking officials in the fall of 2009, regarding the problems. According to Messrs. Agee, Gatewood, and Golembiewski, these officials acknowledged that the safety problems needed to be resolved, and assured the whistleblowers that they would be addressed and that the whistleblowers would be notified regarding the progress. However,

⁴ The Call Center was previously referred to as the Regional Operational Center (ROC).

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the whistleblowers asserted that despite these assurances, no significant changes have been implemented, and the dangerous, unsafe conditions remain.

E. Navy Has Failed to Take Appropriate Corrective Action

The whistleblowers informed our office that the Navy investigated some of these safety issues and concluded its investigation in August 2011. Despite this investigation, Messrs. Agee, Gatewood, and Golembiewski asserted that the safety problems still remained. The whistleblowers emphasized that although they provided specific examples of safety incidents at NAVFAC Midlant, safety issues at the facility are a widespread and systemic problem. Thus, resolving each incident alone is not sufficient. According to Messrs. Agee, Gatewood, and Golembiewski, the need for systemic change is evidenced by the fact that the safety problems continued after the August 2011 investigation.

II. Summary of Previous Investigations

The Navy asserted that it has conducted five investigations since 2009, including this present one, into the same and/or similar allegations brought by the whistleblowers. Summaries of the previous investigations are contained below.

A. NAVFAC Midlant Inspector General Investigation

On April 29, 2010, the NAVFAC Midlant Inspector General (Midlant IG) received a complaint from Mr. Agee alleging that NAVFAC Midlant employees improperly hired contractors to serve as safety liaisons, which resulted in a waste of taxpayer money. Mr. Agee also alleged that agency officials hired employees who did not have sufficient training or experience. The Midlant IG conducted a preliminary inquiry into the matter and did not find any wrongdoing. Based on the Midlant IG's review, it appeared that the procedures had been followed in selecting the contractors.

B. DoD Inspector General/ Congressman Wittman Investigation

On July 14, 2010, Mr. Agee simultaneously filed a whistleblower complaint with the Department of Defense Inspector General (DoD IG) and Congressman Robert Wittman. Mr. Agee alleged that NAVFAC Midlant had reassigned him because of his continuing reports of hazardous safety conditions. Mr. Agee asserted that the Safety Program at NAVFAC Midlant was ineffective and that employees were not following the SOPs. The Navy responded that Mr. Agee's concerns were addressed by Portsmouth supervisors who took steps to reinforce the requirements that employees follow SOPs. Mr. Agee further contended that two student interns had been injured while performing electrical work due to failure to follow SOPs. Consequently, NAVFAC Midlant reassigned the interns and conducted additional training. In addition, Mr. Agee alleged that the Midlant IG was not taking his concerns seriously. The Navy denied this claim and asserted that the investigation into his allegations indicates that Mr. Agee's claims were given appropriate review and attention.

C. NAVFAC Consolidated Safety Investigation/ Congressional Complaint

Admiral Kevin Slates, Commander NAVFAC Atlantic, posted a blog in April 2011 on the NAVFAC Portal titled "Straight Talk on Keeping Safe." Mr. Agee responded with his safety concerns. On May 12, 2011, a meeting was held with Messrs. Agee, Gatewood, and Golembiewski to discuss their issues about safety. On June 9, 2011, Captain Libonate appointed a team of subject matter experts (SMEs) to conduct a consolidated safety investigation. The Navy stated that the investigative team met with the whistleblowers on June 14, 24, and 30 to discuss the conduct of the safety investigation, provide updates, receive input, and share comments and suggestions. According to the Navy, the whistleblowers' 23 issues of concern were consolidated into 7 specific actionable items, which the whistleblowers agreed represented their concerns. On July 1, 2011, Mr. Agee filed a second complaint with Congressman Wittman. This complaint included Mr. Agee's previous list of 23 concerns. The investigative team briefed Messrs. Agee, Gatewood, and Golembiewski and Midlant leadership monthly regarding the status of completion. The Navy stated that all items had been addressed and were reported as completed. They are:

1. Clarify and improve Lockout/Tagout Inspection process;
2. Ensure adequate equipment certification and inspection review;
3. Ensure proper training;
4. Evaluate operations center capacity to manage simultaneous outages;
5. Re-establish electrical process teams;
6. Review high-voltage apprentice training; and
7. Review current staffing/resources for fall protection.

D. NAVFAC Midlant IG Complaint

On October 7, 2011, Mr. Agee filed another complaint with Midlant IG alleging that contractors were improperly hired to perform the duties he had previously performed for five years. Because the allegations were identical to those previously filed, the Midlant IG closed the complaint without further investigation.

III. Current Investigation

The Navy separated the whistleblowers' allegations into five main categories.

Allegation One: "That since 2008, NAVFAC Midlant management officials failed to ensure that NAVFAC employees complied with the Standard Operating Procedures Public Works Business Line Publications (PWBL) .001 and PWBL .007, 'The Control of Hazardous Electrical Energy (LOTO),' in violation of 29 CFR 1910.147(d) 'Application of control.'"

The Navy substantiated this allegation. The agency acknowledged that the whistleblowers and other employees reported violations of the LOTO process, SOPs and the

perception that no one is held accountable. The Naval IG found that most violations occurred due to failure to complete switching orders, to list appropriate data in the serialized tags, and to ensure that accurate lists of qualified individuals are maintained. The Navy stated that lack of documentation, considerable lapses in time, second- or third-hand reporting of incidents, and the fact that some employees are no longer employed with the agency made it difficult to confirm many of the specific issues identified in the OSC referral. However, the Navy acknowledged that there were lapses in compliance and that in many instances the Naval IG's investigating officer was unable to verify that NAVFAC Midlant took corrective action.

As a result of the investigation, NAVFAC Midlant management reviewed the roles and responsibilities of personnel and supervisors. The agency held an information session for supervisors on October 19, 2012, that included a presentation by the Human Resources Office regarding the options available for violations of SOPs and other infractions. NAVFAC Midlant officials revised the PWBL.001 SOP to address the lack of accountability and follow-up. The revised SOP includes specific responsibilities for supervisors and management officials to ensure the minimum requirements for LOTO are met. In addition, NAVFAC Midlant held additional training to educate supervisors on the full spectrum of punitive and non-punitive corrective measures available, based on the frequency and severity of the infractions. NAVFAC Midlant established regular safety meetings and forums, including daily work center "5 minute safety stand-up" meetings, and weekly or semi-monthly work center safety meetings; and Weekly Mishap Review Boards, Quarterly Mishap Review Boards, Annual Supervisor Safety Stand-Down, as well as Supervisor Safety Committee and Employee Driven Safety Committee meetings.

***Allegation Two:** "That, since 2007, NAVFAC Midlant management hired and assigned inexperienced employees as high voltage electricians without the requisite skill and training in violation of 29 CFR 1910.332 'Occupational Safety and Health Standards, Electrical, Training'."*

The Navy did not substantiate this allegation. The Naval IG's investigation established that prior to 2008 there were instances when unqualified employees were hired to work in high voltage electrician positions. However, supervisors were insistent that, both then and now, no employee has been allowed to actually perform work on electrical projects until they have been evaluated by personal observation as competent to perform the ordered tasks. The investigation also found that it appeared to be widely believed that the specialized skills required of high voltage electricians are difficult to specify and are obtained through a combination of classroom and on-the-job training.

The report asserted that management has been effective in taking steps to ensure that personnel are adequately trained. Management has established an apprenticeship program; identified specific hiring criteria to ensure better qualified individuals are selected, and ensured that training is available for new and existing employees. NAVFAC Midlant management now requires apprentices to enroll in courses at the local Tidewater Community College, where they must take skill tests and receive on-the-job training and mentorship. Specific high voltage training is provided via a contractor for both apprentices and existing

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employees, information on local training opportunities is posted on the agency's website, and LOTO training is conducted at least annually. Further, NAVFAC Midlant management has initiated a process to require a subject matter expert to be involved in the hiring process of wage grade employees.

Allegation Three: "That NAVFAC Midlant utilities supervisors allowed employees to work on electrical projects without the proper personal protective equipment in violation of DoD Unified Facilities Criteria 3-560-01 §4."

The Navy did not substantiate this allegation. The report clarified that although the NAVFAC SOP does not require it, the "NAVFAC Midlant All Hands Note" provides that employees wear protective clothing throughout the work day, even when temperatures are high and employees are not actually working on high-voltage projects. Unified Facilities Criteria regulations require use of arc flash protection while in "the zone" working in or near exposed energized electrical equipment of 50 volts or more. According to the report, despite the language in the NAVFAC Midlant All Hands Note, the "requirement to wear PPE when outside 'the zone' is not in itself a safety risk . . ." Management officials have considered the possibility that the provision in the NAVFAC Midlant All Hands Note may be too stringent and may pose a safety risk by forcing employees to wear arc flash clothing even when they may be subject to heat-related injury. Thus, NAVFAC Midlant has implemented a pilot program in which workers are allowed to remove the protective shirt when under certain heat-related conditions, to monitor and address these concerns.

By a preponderance of the evidence, the investigation demonstrated that on the whole, employees wear the proper protective gear and are conscious of the safety risk if they fail to do so. While isolated incidents still occasionally occur, supervisors issue verbal warnings and letters of reprimand when repeated or flagrant violations are reported. The investigation found that most first-line supervisors have daily safety talks and visit work-sites daily to observe and assist.

Pursuant to these findings, the NAVFAC Midlant Public Works Department, Public Works Business Line (PW-1), has assumed responsibility to monitor, track, and keep inventory of safety equipment; manage contracts associated with PPE; and implement a pilot project to address the aforementioned concerns regarding the NAVFAC Midlant All Hands Note. Moreover, monthly safety newsletters are sent to all supervisors; management has implemented weekly and quarterly reviews to discuss safety trends and identify lessons learned; and a Plan of the Week is distributed to all Midlant employees with safety notes addressing the responsibilities of senior leadership, supervisors and employees. In addition, agency officials have included new critical elements related to safety in employee performance standards.

Allegation Four: "That NAVFAC Midlant management officials failed to ensure compliance with the safety rules or eliminate unnecessary safety risks in violation of OPNAVINST 5100.23G 'Navy Safety and Occupational Health Manual,' Chapter 24."

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The Navy substantiated this allegation. The Naval IG determined that agency personnel frequently failed to comply with switching order SOPs. The whistleblowers repeatedly reported that annual inspections of the energy control procedure had not been conducted since 2010, and management confirmed that this was the case. However, agency officials had not taken any corrective action in the past to ensure compliance with SOPs regarding inspections. The investigation also found that there has been a lapse in enforcement of the energy control inspection process on a regular and routine basis.

Consequently, the NAVFAC Midlant Safety Office and PW-1 have revised the PWBL/001 SOP to address the lack of accountability and follow-up. This revised version includes specific responsibilities for supervisors and management to ensure the minimum requirements for LOTO of electrical energy sources are met. It provides clarity and inspection checklists and procedures to delineate roles and responsibilities of NAVFAC Midlant staff.

***Allegation Five:** "That NAVFAC Midlant management has failed to take appropriate action to correct widespread and systemic violations of safety procedures in violation of OPNAVINST 5100.23G 'Navy Safety and Occupational Health Manual'."*

The Navy did not substantiate this allegation. According to the agency report, NAVFAC Midlant began a safety investigation on June 9, 2011, and briefed the whistleblowers at the close of the investigation concerning their findings on August 18, 2011. As previously stated, the whistleblowers' 23 complaints were consolidated into 7 actionable items, which relate to allegation number 5.

1. Clarify and improve Lockout/Tagout Inspection process

The investigation team found that LOTO Inspections are required by 29 CFR § 1910, NAVFAC Safe Acts for Employees and SOP PWBL.001. However, the findings also showed that employees generally do not understand who is responsible for conducting the inspections; employees are not capturing the results; and there is no mechanism for follow-up.

In response, PW-1 has re-written the PWBL.001 SOP. The revised SOP specifies that supervisors will conduct two inspections each year with signed results sent to PW-1 and a Plan of Action and Milestones forwarded to the Operations Officer, PW-1 and other designated team members. The revised SOP also requires that a centralized tag log be implemented so that employees have access to the same data.

2. Ensure adequate equipment certification and inspection review

The report determined that hot sticks (an insulated pole used by electric utility workers), fall protection equipment (FPE), and rigging equipment (RE) were not in compliance. The Naval IG found that the responsibility for certification and inspection of equipment had not been re-assigned and no organized long-term plan had been developed

after Mr. Agee was no longer assigned to the task. Although it was determined that employees were not using outdated hot sticks, the team noted that there was no systemic maintenance conducted. The FPE and RE were being properly maintained, and employees were receiving adequate training with respect to this equipment.

Accordingly, an accountability structure has been developed to ensure that equipment is appropriately inventoried, certified and tracked in the agency's system.

3. Ensure proper training

The investigation uncovered that prior to 2009, hiring panels did not include SMEs or supervisors, resulting in job offers to individuals who were not fully qualified. However since 2009, selection panels consist of an SME and, in most cases, the direct or second-line supervisor. The Navy asserted that prior to the disclosures it had taken steps to ensure adequate training, including SOP, Fall Safety and LOTO training. Supervisors are involved in the hiring process and specific questions have been created to evaluate the expertise level of potential candidates during the interview process. Supervisors maintained that they do not allow employees to work on dangerous high voltage electrical projects until they have been observed and deemed competent.

4. Evaluate Operations Center capacity to manage simultaneous outages

Messrs. Agee, Gatewood, and Golembiewski cited numerous incidents in which employees trying to reach the Call Center experienced extensive delays when trying to implement switching orders and receive tags for marking. NAVFAC Midlant developed a new policy to transfer low voltage calls to the service desk to alleviate delays. Further, agency officials are rearranging personnel and schedules to help meet the high demand in the Call Center.

5. Re-establish Electrical Process Teams

The whistleblowers recommended that the Electrical Process Team (EPT) be reinstated. Previously the EPT was used to communicate safety goals and specific concerns for electrical processes. Consequently, NAVFAC Midlant reestablished the monthly EPT.

6. Review high-voltage apprentice training

The whistleblowers reported that apprentices were performing work without LOTO training and did not receive proper training from their supervisors or mentors. As discussed in allegation two, agency officials reviewed and revised the apprenticeship program to include additional training and oversight to ensure that students are well trained with proper oversight.

7. Review current staffing/resources for fall protection

As a result of this request concerning staffing and fall protection, the Midlant Safety Manager has identified employees to be designated as competent persons to evaluate fall protection capacity. The training for those selected individuals has been completed.

The Navy noted that while the actions of NAVFAC Midlant management have not fully satisfied Messrs. Agee, Gatewood, and Golembiewski, the agency has taken numerous actions to systemically improve safety for electricians and others at NAVFAC Midlant.

IV. The Whistleblowers' Comments

In their comments, Messrs. Agee, Gatewood, and Golembiewski agreed that the agency's report brought to light the concerns that they disclosed to OSC. However, the whistleblowers believe that because they were not allowed to actively participate in the investigation, management officials provided false documentation and information. In particular, the whistleblowers stated that Steve Garret, NAVFAC consolidated safety investigation team lead, assured them that they would be allowed to accompany him to investigate a situation that occurred at the Oceana Naval Air Station (Oceana Station). However, that never occurred. According to the whistleblowers, Mr. Garret stated that he decided not to have them accompany him because they were not needed during the investigations. The whistleblowers take issue with Mr. Garret's claim, which he does not recall making. The whistleblowers asserted that management repeatedly promised that they would be significantly involved in the investigation, to include interviewing employees and conducting random safety checks at different sites, but this did not occur. The whistleblowers also expected to be frequently consulted during the investigation because of their vast experience with high and low voltage work.

Further, the whistleblowers contended that the investigation team was not comprised of employees well versed in the applicable laws, rules, regulations, and other provisions at issue. As a result, the whistleblowers maintained that the Naval IG did not have adequate SMEs to assist in its investigation. In addition, Messrs. Agee, Gatewood, and Golembiewski asserted that agency officials did not conduct unannounced safety inspections to monitor compliance as suggested. They also claimed that agency officials did not submit adequate documentation and other information that was important to this case; rather, the officials provided untruthful or misleading information to OSC and others.

Messrs. Agee, Gatewood, and Golembiewski also maintained that the scope of the investigation was too narrow and should not have been limited to the Norfolk Naval Station. They asserted that other installations throughout NAVFAC Midlant were not visited or interviewed about these disclosures. In addition, they disagree with the investigation's findings not substantiating allegations two, three, and five, and maintained that the information presented patently demonstrated that these violations occurred. The whistleblowers claimed that despite the Navy's assurances, agency rules and provisions have

not been updated, and numerous safety violations continue to occur throughout NAVFAC Midlant. They asserted that the agency's January 7 report is riddled with inaccurate information and inconsistent statements and that the Navy did not accomplish many of the actions claimed. In response, OSC requested that the Navy address these claims of the whistleblowers in a supplemental report, which is summarized below.

V. The Agency's Supplemental Report

With the whistleblowers' consent, OSC provided the Navy with a copy of their comments and forwarded additional safety concerns that the whistleblowers brought to OSC's attention since the original referral. The Navy responded to these issues in its supplemental report. The agency asserted that it did not agree with the whistleblowers' contention that they should have been included in the investigation to the extent the whistleblowers described.⁵ It also did not agree that the ultimate answers and findings would have been significantly different had the whistleblowers been involved. The Navy claimed that such a role by complainants in an investigation would have been inappropriate and would have impeded the goal of all investigations to be an independent, objective fact finder. In particular, the agency maintained that the findings in the report are accurate and supported by the facts.

The Navy did concede that the whistleblowers were correct in stating that the agency misused the term "Master High Voltage Electrician," whereas the correct position designation is "High Voltage Electrician." However, the Navy maintains that such an error in the title does not affect the substantive conclusions. With respect to the many other challenges to the report, the Navy asserted that the whistleblowers' objections are subjective disagreements with the Naval IG's conclusions and do not raise any new or objective relevant facts that support modifications to the findings or conclusions in the report.

In regard to the additional examples of safety violations reported by Messrs. Agee, Gatewood, and Golembiewski, the Navy reviewed them to ensure that the proper reporting and other procedures had been followed and determined that the agency implemented processes and changes to address those issues. The Navy believes that the actions taken demonstrate a commitment to building and maintaining a culture that promotes a safe working environment.

⁵ As required by OSC policy, the Naval IG interviewed the whistleblowers in the beginning stages of the investigation. The Navy informed our office that agency personnel gave the whistleblowers updates on the status of the investigation and received input from the whistleblowers during the course of the investigation.

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I have reviewed the original disclosure, the agency's reports, and the whistleblowers' comments. I have determined that the reports meet all statutory requirements and that the findings of the agency head appear reasonable.

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the unredacted reports and comments to the Chairmen and Ranking Members of the Senate and House Committees on Armed Services. I have also filed copies of the redacted report, supplemental report, and comments in our public file, which is available online at www.osc.gov. The redacted report identifies Navy employees and witnesses by title only and contains certain language substituted to maintain the confidentiality of the parties involved.⁶ OSC has now closed this file.

Respectfully,



Carolyn N. Lerner

Enclosures

⁶ The Navy provided OSC with a redacted report, which substituted titles for the names of Navy employees and other individuals referenced therein. The Navy cited the Freedom of Information Act (FOIA) (5 U.S.C. § 552) and the Privacy Act of 1974 (Privacy Act) (5 U.S.C. § 552a) as the basis for these revisions to the report produced in response to 5 U.S.C. § 1213. OSC objects to the Navy's use of the FOIA and Privacy Act to remove the names of these individuals on the basis that the application of the FOIA and Privacy Act in this manner is overly broad.