



U.S. OFFICE OF SPECIAL COUNSEL

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The Special Counsel

October 30, 2014

The President  
The White House  
Washington, D.C. 20510

Re: OSC File No. DI-14-1820

Dear Mr. President:

Pursuant to my duties as Special Counsel, enclosed please find the United States Air Force's (USAF) investigative report based on disclosures of wrongdoing at Grissom Air Reserve Base (Grissom ARB), Indiana, made to the U.S. Office of Special Counsel (OSC). OSC has reviewed the report and, in accordance with 5 U.S.C § 1213(e). The agency did not substantiate the whistleblower's allegations. I have determined that the agency's report appears reasonable.

The whistleblower, Ms. Tammy Schlarf, a human resources officer, alleged that agency officials engaged in conduct that may constitute a violation of law, rule, or regulation, gross mismanagement, and a gross waste of funds, in the staffing and management of Grissom ARB's tower and Radar Approach Control (RAPCON). Ms. Schlarf consented to the disclosure of her name. In brief, Ms. Schlarf disclosed that when military aircraft are not flying, Grissom ARB management continues to direct civilian air traffic controllers (ATCs) to staff the base's tower and RAPCON, in violation of agency time and attendance regulations. According to Ms. Schlarf, ATCs earn overtime, weekend, and holiday pay without performing any job duties, as she alleged their sole work responsibility is to support and direct military aircraft.

**The agency did not substantiate Ms. Schlarf's allegations. The report noted that Grissom ARB provides tower control and RAPCON services to both military and civilian aircraft during the course of daily duties, including weekends and holidays, as a component of the National Airspace System. In addition, Grissom ARB provides complementary services to the Federal Aviation Administration for a large part of Indiana. Grissom ARB's control tower is manned in accordance with USAF policy, and all practices and procedures were found to be proper and in compliance with USAF regulations.**

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## ***I. Background***

Ms. Schlarf's allegations were referred to Secretary of the Air Force Deborah Lee James to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). Investigation of the matter was tasked to the Inspector General of the Air Force Reserve Command. Joseph M. McDade, principal deputy general counsel, was delegated the authority to review and sign the agency report. On September 4, 2014, Mr. McDade submitted the agency's report to OSC. Pursuant to 5 U.S.C. § 1213(e)(1), Ms. Schlarf declined to provide comments on the report. As required by 5 U.S.C. § 1213(e)(3), I am now transmitting the report to you.<sup>1</sup>

## ***II. Ms. Schlarf's Disclosures***

Grissom ARB is a joint use civil airport and military base that houses the 434<sup>th</sup> Air Refueling Wing. Ms. Schlarf has worked at the facility for seventeen years and currently oversees civilian employees. Operational decisions, such as determining the need for ATCs and staffing the control tower and RAPCON, are made by USAF Reserve personnel. Specifically, the Airfield Manager and Operations Group Manager are responsible for decisions with respect to staffing the duty stations that manage Grissom ARB's air space.

Ms. Schlarf disclosed that when military aircraft are not flying, Grissom ARB management continues to direct ATCs to staff Grissom ARB's tower and RAPCON. As a result, ATCs earn overtime, weekend, and holiday pay without performing any job duties, as their sole responsibility is to support and direct military aircraft.

Ms. Schlarf alleged that civilian government ATCs are only responsible for directing military aircraft. Non-military aviation at Grissom ARB is managed by a private company. She maintained that government ATCs do not direct civilian aircraft even in emergency situations. In the event of an emergency with a military aircraft, she noted that Grissom ARB has specific individuals on staff designated to respond, who are not regular staff ATCs. Further, Ms. Schlarf asserted that when Grissom ARB is closed, air traffic is controlled by Federal Aviation Administration centers in Chicago and Indianapolis.

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<sup>1</sup> 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 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).

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According to Ms. Schlarf, because the only responsibility of Grissom ARB ATCs is managing military aviation, when military flights are grounded there is no reasonable justification for management to staff the air control tower or RAPCON. Moreover, Ms. Schlarf noted military aircraft do not fly on federal holidays or on weekends.

In her position as a human resources officer, Ms. Schlarf personally observed Grissom ARB Airfield and Operations Group Managers directing government ATCs to staff the tower and the RAPCON during federal holidays and weekends. Ms. Schlarf explained that when this occurs, managers request between eight and ten ATCs for these duty stations. These individuals are eligible for overtime or holiday pay, which is paid at between one-and-a-half and double their standard pay rates, respectively. *See* 5 C.F.R. § 550. Ms. Schlarf noted that because there are no military aircraft flying, and their responsibilities do not extend to civilian aviation<sup>2</sup>, government ATCs use these days to browse the internet, read books, and watch movies while at their work stations. Ms. Schlarf also stated that this practice has occurred at Grissom ARB for many years. Ms. Schlarf explained that discussions with military personnel indicated that this custom is not limited to Grissom ARB but is a systemic practice throughout the Air Force Reserve Command.

Air Force Personnel Center Instructions impose mandatory standards on civilian USAF employees with respect to approved overtime and holiday pay. These instructions state “only overtime determined to be absolutely necessary to carry out the assigned mission on a timely basis will be considered for approval.” *See*: AFPCI 36-105. In addition, USAF policy states that holiday duty is only permissible when the “work is justified by unusual circumstances or if the maintenance of usual essential services is involved.” *See*: AFI-36-807. Because there are no military aircraft flying during these periods, government ATCs are not necessary for carrying out any assigned mission. Additionally, Ms. Schlarf noted because federal holidays are known well in advance, there is no reasonable justification, barring unusual circumstances, for Grissom ARB ATCs to work during these times.

### ***III. The Agency’s Report***

The agency’s report did not substantiate Ms. Schlarf’s allegations, explaining that Ms. Schlarf appeared to be unaware of the full extent of air traffic operations at Grissom ARB. The report stated that as a component of the National Airspace System (NAS), Grissom ARB is responsible for providing air traffic control services to both civilian and military aircraft for a large section of Indiana. Grissom ARB is responsible for providing

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<sup>2</sup> Based on the report, it appears that Ms. Schlarf was incorrect in the belief that the ATC’s were not responsible for air traffic other than military aviation.

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these services during regular duty hours, as well as during the times Ms. Schlarf identified in her disclosure, such as weekends and federal holidays.

The report explained that while Ms. Schlarf took issue with the fact the FAA does not compensate Grissom ARB for the service it provides to the NAS, the evidence shows that both FAA's statutory framework and Department of Defense policy contemplate that the military participates in the NAS without compensation. The report noted that this serves both commercial and defense purposes. In addition, Grissom ARB has signed numerous letters of agreement and joint use agreements that obligate Grissom ARB's air traffic control operation to support civilian aviators using Grissom's runways. In addition, under these agreements Grissom ARB's air traffic control is used to assist multiple civilian airports within their assigned airspace. Further, all the joint use agreements call for the reimbursement of control tower services that occur outside the normal hours of operation. Grissom ARB air traffic control is also responsible for two military operating areas where air national guard and other military units participate in training exercises.

As a result, Grissom ARB has significant responsibilities that require the operation of the base and air traffic control operations on weekends and federal holidays, justifying why employees work these hours. The report noted that all the evidence reviewed by investigators indicated that Grissom ARB's air traffic control operation is staffed in accordance with standard USAF personnel staffing guidance and workforce standards. There was no evidence indicating that air traffic control personnel are being unnecessarily scheduled to work overtime, federal holidays, or weekends.

The report also examined the activity of controllers while on duty. Although Ms. Schlarf alleged that ATCs used their working hours to browse the internet, read books, and watch movies while at their work stations, the report noted that managers prohibited ATCs from reading any material while on shift and in position at their work stations. The report acknowledged that controllers could read books during breaks, but never did so when they were in position or performing traffic control duties. The investigation noted that controllers are afforded regular breaks on a rotation basis, based on workload, traffic density and number of controllers on shift. Common practice across the Department of Defense and Department of Transportation is to provide a break room to ATCs with amenities such as televisions or DVD players. These are provided for the purpose of allowing controllers to stay mentally alert, while taking a break from the stress of air traffic control. Grissom ARB has such a facility where ATCs on break can watch TV or read non-work related materials. The report determined that the use of these facilities at Grissom ARB was proper, and aligned with best practices common at other Air Force air traffic control facilities. Because the report did not substantiate the allegations concerning inappropriate staffing, or improper behavior while on duty, no corrective action was recommended.

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***IV. The Special Counsel's Findings***

I have reviewed the original disclosure and the agency report. Based on my review, I have determined that the agency report meets 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 report to the Chairmen and Ranking Members of the Senate and House Committees on Armed Services. I have also filed copies of the redacted report in our public file, which is available online at [www.osc.gov](http://www.osc.gov). The redacted report identifies Air Force employees and witnesses by title only and substitutes certain language to maintain the confidentiality of parties involved.<sup>3</sup> OSC has now closed this file.

Respectfully,



Carolyn N. Lerner

Enclosure

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<sup>3</sup> The Air Force provided OSC with a redacted report, which substituted titles for the names of Air Force employees and other individuals referenced therein. The Air Force 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 and the report produced in response to 5 U.S.C 1213. OSC objects to the Air Force'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.