



U.S. OFFICE OF SPECIAL COUNSEL

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The Special Counsel

November 17, 2014

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

Re: OSC File No. DI-14-0457

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find agency reports based on a disclosure received from a former supervisory special agent with the Department of Justice (DOJ), Drug Enforcement Agency (DEA), Aviation Division in Fort Worth, Texas. The whistleblower, William Roche, alleged that Aviation Division employees engaged in conduct that may constitute violations of law, rule, or regulation, and an abuse of authority. Mr. Roche consented to the disclosure of his name.

The enclosed agency reports detail that the DOJ investigation did not substantiate Mr. Roche's specific allegations. The investigation determined that Special Agent in Charge (SAC) Jeffrey Stamm did not, as alleged by Mr. Roche, arrange for the unauthorized use of a DEA aircraft for personal travel on December 18, 2012, in order to attend a colleague's retirement luncheon in Conroe, Texas. Although SAC Stamm and five other DEA employees did travel to Conroe on a DEA aircraft on December 18, 2012, and had lunch with the soon-retiring colleague, the investigation, as detailed in the enclosed reports, found the flight was appropriately identified as a "training flight" consistent with ethics regulations and DEA policy. I have reviewed the original disclosure, agency reports, and Mr. Roche's comments on the reports. Based on that review, I have determined that the agency's reports contain all of the information required by statute and that the findings are reasonable.

Mr. Roche's allegations were referred to Attorney General Eric H. Holder Jr. to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d) on February 3, 2014. The DOJ Office of Inspector General (OIG) was tasked with conducting an investigation shortly thereafter. On March 31, 2014, the Attorney General delegated authority to review, sign, and submit a report to Special Agent in Charge Ronald Holland, DOJ OIG, Investigations Division, Dallas Field Office. A copy of the agency's initial report, dated June 13, 2014, was forwarded to Mr. Roche, whose comments on the report prompted OSC to request additional information from the agency. The agency's supplemental

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report was submitted to OSC on September 5, 2014. Mr. Roche declined to comment on the supplemental report. As required by 5 U.S.C. § 1213(e)(3), I am now transmitting the reports and Mr. Roche's comments to you.¹

Mr. Roche disclosed that on December 18, 2012, SAC Stamm directed Aviation Division supervisors to arrange for the flight of a DEA aircraft to attend a retirement luncheon for Supervisory Special Agent Steve Orr in Conroe, Texas, and that the aircraft had a total engine time of 2.8 hours. Mr. Roche further alleged that SAC Stamm instructed the flight crew to identify the flight as a "training flight" in order to circumvent applicable federal laws pertaining to the personal use of a government aircraft by Senior Executive Service employees.

On June 13, 2014, DOJ provided an initial report in response to Mr. Roche's allegations. According to the report, the investigation found that SAC Stamm and five members of his management staff flew on a DEA aircraft along with two pilots and an instructor to Conroe on December 18, 2012, and attended a luncheon with Mr. Orr, who retired at the end of December 2012. However, the report concluded that "the evidence did not show that [SAC Stamm] violated ethics regulations or DEA policy." Specifically, the report noted that the principal purpose for the flight was to train the pilots on a recently updated avionics system in the aircraft and to familiarize SAC Stamm and the other supervisors with the capabilities of the upgraded avionics system, and the training requirements their subordinate pilots would undergo as a result of the upgrade. Additionally, the report found that SAC Stamm made the required notification to the General Services Administration regarding his status as a Senior Federal Official passenger on the flight.

After reviewing the agency report, Mr. Roche provided comments questioning the agency's determination that SAC Stamm and five members of his management staff were trained on the aircraft's instrumentation given that it has a separate flight deck and passenger compartment. Mr. Roche stated his belief that the flight was incorrectly labeled

¹ The U.S. 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), (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), (g).

Upon receipt, I review 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). I will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, (cont'd) 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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“training” to provide cover for its true, improper purpose. Based on Mr. Roche’s comments and in order to determine whether the agency’s findings appeared to be reasonable, OSC requested that the agency identify specifics as to how the six managers, while airborne, were able to familiarize themselves with the upgraded avionics system and training their subordinate pilots were undergoing, particularly given the size and configuration of the aircraft.

On September 5, 2014, the agency submitted a supplemental report to OSC stating that a member of SAC Stamm’s management team told investigators that he had convinced SAC Stamm to go on the flight in order to demonstrate the capabilities of the new avionics technology to SAC Stamm and the other supervisors, and that SAC Stamm requested that the flight travel to Conroe. The supplemental report also noted that the same individual told investigators that all of the supervisors on board the aircraft were either pilots or were in some way involved with implementing the new equipment upgrade and that all individuals rotated seats in order to observe the operation and capabilities of the new equipment, an account which was corroborated by others on board. Mr. Roche declined to provide comments on the supplemental report.

I have reviewed the original disclosure, agency reports, and Mr. Roche’s comments. Based on that review, I have determined that the agency’s reports contain all of the information required by statute and that the findings are reasonable.

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

Respectfully,



Carolyn N. Lerner

Enclosures