



**U.S. OFFICE OF SPECIAL COUNSEL**

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The Special Counsel

March 19, 2015

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

Re: OSC File No. DI-14-3479

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed is an agency report based on disclosures received from an employee at the Department of Homeland Security, U.S. Customs and Border Protection (CBP), Border Patrol Office (BPO), McAllen, Texas. The whistleblower, Carlos Gonzalez, a mission support assistant, alleged that an employee at the McAllen BPO engaged in conduct that may constitute a violation of law, rule, or regulation, gross mismanagement, and an abuse of authority.

Specifically, Mr. Gonzalez alleged that Field Technology Officer (FTO) Jefferson Sutton consistently falsified his timesheets by claiming he worked 80 hours per pay period while actually working significantly less. In addition, Mr. Gonzalez alleged that Mr. Sutton misused government supplies and equipment by printing a large quantity of personal photos in color on a government printer. Finally, Mr. Gonzalez alleged that, despite being made aware of Mr. Sutton's misconduct, BPO McAllen management failed to stop it. During the course of the investigation, Mr. Gonzalez additionally alleged that on August 12, 2014, he was assaulted by Mr. Sutton in the workplace.

**The agency report did not substantiate Mr. Gonzalez's allegations. The investigation determined that Mr. Sutton's intermittent appearances at the McAllen BPO office were attributable to his alternative work schedule, episodic teleworking, and work at offsite locations. An analysis of Mr. Sutton's computer hard drive indicated that his use of his government computer and printer for non-work related purposes was limited and within the bounds of the CBP Rules of Behavior. Finally, the investigation revealed insufficient evidence to determine whether Mr. Sutton assaulted Mr. Gonzalez in the work place. Despite this finding, Mr. Sutton was moved to an alternative worksite in an effort to alleviate the friction between these two employees. Based on my review of the original disclosure, Mr. Gonzalez's additional disclosure regarding the alleged assault, and the agency report, I have determined that the report contains all of the information required by statute and that the findings appear to be reasonable.**

On July 29, 2014, OSC referred Mr. Gonzalez's allegations to Secretary of Homeland Security Jeh C. Johnson to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d).

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Secretary Johnson designated authority to respond to Mr. Gonzalez's disclosures to CBP Commissioner R. Gil Kerlikowske. On August 1, 2014, CBP's Office of Internal Affairs (OIA) was tasked with investigating Mr. Gonzalez's allegations regarding Mr. Sutton's alleged time and attendance fraud and misuse of government equipment, as well as management's failure to take appropriate action on the allegations. The investigation was completed on November 24, 2014. Commissioner Kerlikowske reported the results of the OIA investigation to me on February 24, 2015, which included a response to the additional allegation of assault raised by Mr. Gonzalez during the course of the investigation. On February 25, 2015, the report and Commissioner Kerlikowske's findings were forwarded to Mr. Gonzalez for his review and comment. On March 4, 2015, Mr. Gonzalez declined to comment. As required by 5 U.S.C. § 1213(e)(3), I am now transmitting the report to you.<sup>1</sup>

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

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the agency report to the Chairman and Ranking Member of the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Homeland Security. I have also filed a copy of the report in our public file, which is now available online at [www.osc.gov](http://www.osc.gov), and closed the matter.

Respectfully,



Carolyn N. Lerner

Enclosure

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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) and (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, 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).