



U.S. OFFICE OF SPECIAL COUNSEL

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Washington, D.C. 20036-4505

The Special Counsel

April 29, 2016

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

Re: OSC File Nos. DI-13-1410 and DI-13-1472

Dear Mr. President:

Pursuant to my duties as Special Counsel, I am forwarding to you a report of investigation based on disclosures of wrongdoing at the Department of Homeland Security (DHS), Office of Inspector General (OIG), Washington, D.C. I have reviewed the report, and in accordance with 5 U.S.C. § 1213(e), provide the following summary.¹

The whistleblowers, Richard Reback, former counsel to the Inspector General, who consented to the release of his name, and a whistleblower who chose to remain confidential, disclosed several allegations of misconduct by former Deputy Inspector General (IG) Charles Edwards, who served as Acting IG from February 2011 to January 2013 and remained the head of OIG until December 2013. Among other allegations, the whistleblowers disclosed that Mr. Edwards failed to exercise independence by allowing DHS officials to direct the content and timing of release of OIG reports; impaired the independence of several OIG audit reports by failing to disclose his spouse's employment in the DHS Program Accountability and Risk Management Office; and charged personal travel and telephone expenses to DHS and misused agency resources in violation of travel and ethics regulations.

I referred the whistleblowers' allegations to the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE).² Pursuant to the procedures set

¹The Office of Special Counsel (OSC) is authorized by law to receive disclosure of information from federal employees alleging violation 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).

²While OSC is required under 5 U.S.C. § 1213(c) to refer allegations to the head of the involved agency for an investigation and report, this matter presented unique circumstances. The disclosures involved alleged wrongdoing by then-Deputy IG Charles Edwards, who at the time of the allegations served as the head of DHS OIG. Under the Inspector General Act of 1978 (IG Act), allegations of misconduct by IGs and their staff are referred to the Integrity Committee of CIGIE. The allegations were, therefore, referred to the Integrity Committee. The Special Counsel, who is

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forth in the Inspector General Act of 1978 (IG Act), the Integrity Committee evaluated the allegations and requested that the Department of Transportation, Office of Inspector General (DOT OIG) conduct an investigation and provide a report of its finding to the Integrity Committee. The Chair of the Integrity Committee provided the DOT OIG report to the Office of Special Counsel in response to our referral. The DOT OIG report reflects that the Integrity Committee referred for investigation a total of 16 complaints, including OSC's referral, alleging misconduct by Mr. Edwards. Thus, the report addresses additional allegations that were not included in OSC's referral. The whistleblowers declined to comment publicly on the report.

The DOT OIG investigation substantiated that Mr. Edwards failed to disclose his wife's employment in the Program Accountability and Risk Management Office, which appeared to impair the independence of an OIG audit of that office. As a result, the audit, which cost nearly \$660,000, was terminated and the report was rescinded. The DOT OIG investigation further confirmed that Mr. Edwards: (1) allowed his acting chief of staff to use official time and government equipment to perform work on Mr. Edwards's doctoral dissertation, and encouraged her to set aside her OIG work to assist him with this work; and (2) allowed his information technology branch chief to use official and personal time to perform work relating to Mr. Edwards's teaching position at Capitol College. The investigation also substantiated that Mr. Edwards could not account for all of his time during a June 2011 trip to the DHS OIG Miami Field Office, and found evidence that Mr. Edwards used this trip as a pretext to have his personal travel expenses paid for by the government. None of the additional allegations were substantiated.

Based on the DOT OIG's findings, the Integrity Committee determined that, with the exception of the allegation concerning Mr. Edwards's June 2011 trip, each substantiated allegation, separately and collectively, constituted administrative misconduct. Pursuant to their procedures, the Integrity Committee provided the report to DHS and Congress and has closed the matter. Under Integrity Committee procedures, DHS is not required to advise the Integrity Committee of any corrective action taken in response to the findings. OSC was advised that Mr. Edwards no longer works in DHS OIG.

As the investigation and report in this matter were completed pursuant to the Integrity Committee's procedures and standards, which differ from those required under 5 U.S.C. § 1213(c), I am not able to make a determination whether the DOT OIG report meets the statutory requirements of § 1213 or whether the findings appear to be reasonable.³

a member of the Integrity Committee pursuant to the IG Act, was recused from the Integrity Committee's review and deliberation of this matter.

³The DOT OIG report acknowledged receipt of, but did not address, one of the whistleblowers' allegations that Mr. Edwards improperly provided advance notice to two employees regarding their impending administrative leave, which resulted in their destruction of records concerning Mr. Edwards. Under Integrity Committee policies and procedures, the investigating OIG has full discretion to determine the scope of the investigation, and the OIG is not required to explain its basis for not investigating particular allegations. Additionally, OSC is not aware of corrective actions taken, if any, by DHS in response to the Integrity Committee's findings of administrative misconduct.

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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 Committee on Homeland Security and Government Affairs and the House Committee on Homeland Security. I have also filed copies of the report in our public file, which is available online at www.osc.gov.⁴ OSC has now closed this file.

Sincerely,



Carolyn N. Lerner

Enclosures

⁴The report provided to OSC by the Integrity Committee did not include the attachments referenced in the report or the exhibits to Mr. Edwards's response to the DOT OIG report, included as Addendum A. Although these documents were provided to OSC for review, CIGIE did not authorize their public release. Requests for documents may be made directly to CIGIE pursuant to the Freedom of Information Act (FOIA). Information regarding submitting a FOIA request is available on CIGIE's website at www.ignet.gov.