

SENSITIVE SECURITY INFORMATION

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

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The Special Counsel

July 20, 2016

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

Re: OSC File No. DI-14-1450

Dear Mr. President:

Pursuant to my duties as Special Counsel, I am transmitting a Department of Homeland Security report based on disclosures of wrongdoing at the United States Coast Guard (USCG), Pacific Tactical Law Enforcement Team (PACTACLET), San Diego, California. I have reviewed the report and in accordance with 5 U.S.C. § 1213(e), provide the following summary of the agency report,<sup>1</sup> whistleblower comments, and my findings.<sup>2</sup>

The whistleblower, Christopher Sajnog, who consented to the release of his name, is a close quarters combat training coordinator (CQCTC) for PACTACLET. Mr. Sajnog disclosed that PACTACLET's command ignored numerous and repeated weapons safety violations that USCG personnel committed during live-fire training and that the PACTACLET command was deploying personnel who did not have the requisite weapons handling skills or safety knowledge. The agency did not substantiate Mr. Sajnog's

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<sup>1</sup> The Office of Special Counsel (OSC) is authorized by law to receive disclosure of information from federal employees alleging a 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 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).

<sup>2</sup> I note that both the agency report and the twenty-two attachments contained extensive information relevant to Mr. Sajnog's retaliation allegation against officials of PACTACLET. Accordingly, OSC included only the information relevant to the allegations referred, and redacted the portions of the agency report pertaining to Mr. Sajnog's retaliation allegations. USCG gave OSC permission to redact the report in this manner.

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allegations. The investigation revealed that the command did not fail to address the weapons safety violations Mr. Sajnog routinely reported in accordance with his duties.

I referred Mr. Sajnog's allegations to Secretary of Homeland Security Jeh Johnson on May 30, 2014, for investigation pursuant to 5 U.S.C. § 1213(c). Secretary Johnson referred the matter to the USCG. The Coast Guard Investigative Services (CGIS) completed the investigation. Then-Acting Deputy Commandant for Mission Support USCG Rear Admiral Marshall B. Lytle reviewed and signed the report, which the agency submitted to OSC on October 21, 2014.

The report found that PACTACLET personnel consistently followed the same process for addressing and reporting weapons safety violations, namely, by applying the Tactical Standard Operating Procedures and the Field Safety Board and Performance, Aptitude and Behavior Board Process. To assess Mr. Sajnog's allegations regarding PACTACLET's practice of addressing reports from combat instructors of safety violations at the range and during training, investigators interviewed and consulted with subject matter expert Eric Warren, a close quarters combat trainer (CQCT) for Coast Guard Special Mission Training Center. In consultation with Mr. Warren, the investigation found that though Mr. Sajnog's duties included observing and reporting USCG personnel for safety violations, the command ultimately had the discretion to determine whether the USCG personnel were fit to return to training. Based on the investigation, as of May 2014, weapons safety violations were completed pursuant to PACTACLET instruction 1500.1A. The process of reporting weapons safety violations consists of two separate actions. In the Field Safety Board (FSB), the firearms instructor counsels the member on the firing line in cases of low-risk safety violations. In cases of higher-risk safety violations, the command could convene a Performance Aptitude and Behavior (PAB) Board, wherein senior members of PACTACLET meet and discuss the safety violation. The Board recommends to the commander, who formulates a conclusion during the investigation. CWO Gonzales was the commander at this time. The conclusion is then forwarded to the PACTACLET commanding officer, who either approves or disapproves the decision.

The investigation also found that when PACTACLET receives a deployment order, the order includes a list of weapons qualifications USCG personnel must possess prior to deployment. If PACTACLET is unable to provide the qualified personnel, it is required to submit a specific waiver request explaining the deficiency to the Atlantic area (LantArea), the command center that coordinates law enforcement and rescue missions. If a unit meets all deployment requirements, it is considered fully mission capable. However, if a unit does not meet all deployment requirements, it is considered only partially mission capable, with deficiencies noted. The investigation noted that as long as other USCG personnel on the same team were fully weapons qualified, those who were not fully weapons qualified could deploy

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with that team and serve in different capacities.<sup>3</sup> For example, the USCG apportionment guide requires that a team be comprised of eight personnel who are tactical operators with current Tactical Sustainment Training (TST) qualifications, three personnel who are boarding officers, and five personnel who are boarding team members. The report found that it is possible for personnel who do not possess full TST qualifications to deploy as part of a larger team, as long as they are serving with members who are TST-qualified. Thus, being partially mission capable did not detract from PACTACLET's ability to conduct the primary mission for which it was deployed.

In his comments, Mr. Sajnog expressed concern that the investigative findings were the result of ongoing retaliation against him for continuously reporting deficits in PACTACLET's CQCT program, as well as the command's cavalier attitude towards safety violations. He stated that the investigation did not review the safety concerns and instead focused on investigating him. Mr. Sajnog also noted that he and Eric Warren, the USCG subject matter expert consulted throughout the investigation, possessed different qualifications. Mr. Sajnog had years of training and experience, whereas Mr. Warren only received several weeks or months of training. Mr. Sajnog also indicated that Mr. Warren instructs the Basic Tactical Operations Course, while Mr. Sajnog instructs the more rigorous Tactical Sustainment Training. Mr. Sajnog voiced concern that though he provided approximately 200 pages of documentation supporting his allegations to CGIS's lead investigator, CGIS largely ignored the documentation and did not reference it in the report. Regarding the findings related to the deployment of non-certified personnel, Mr. Sajnog acknowledged the command submitted the requisite deployment paperwork to LantArea, but he believes the command improperly manipulated the qualifications in order to advance members who were not TST qualified.

I have reviewed the original disclosures, the agency report, and Mr. Sajnog's comments. I note Mr. Sajnog's concerns, and I agree that the agency report contains substantial information unrelated to the allegations concerning weapons safety referred by OSC, which complicated our analysis. It does appear, however, that PACTACLET officials have implemented a system of noting and documenting weapons training violations and of ensuring that those members who do not possess the highest form of weapons training qualification are consistently deployed on teams consisting of members who are fully TST certified. Accordingly, I have determined that the report contains all of the information required by statute and the findings appear reasonable.

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<sup>3</sup>As the investigation explained, USCG personnel first complete a Basic Tactical Operators Course, or BTOC. Once a member completes a BTOC, he is required to undergo and pass a TST course every three months in order to maintain his qualifications.

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As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the unredacted agency report and the whistleblower comments to the Chairmen and Ranking Members of the Senate and House Committees on Homeland Security. I have also filed copies of the redacted agency reports in OSC's public file, which is available online at [www.osc.gov](http://www.osc.gov).<sup>4</sup> This matter is now closed.

Respectfully,



Carolyn N. Lerner

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<sup>4</sup> The USCG provided OSC with reports containing employee names (enclosed), and redacted reports in which employees' names were removed. The USCG has cited Exemption 6 of the Freedom of Information Act (FOIA) (5 U.S.C. § 552(b)(6)) as the basis for its redactions to the reports produced in response to 5 U.S.C. § 1213, and requested that OSC post the redacted version of the reports in our public file. OSC objects to the USCG's use of FOIA to remove these names because under FOIA, such withholding of information is discretionary, not mandatory, and therefore does not fit within the exceptions to disclosure under 5 U.S.C. § 1219(b), but has agreed to post the redacted version of the reports as an accommodation.

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