



U.S. OFFICE OF SPECIAL COUNSEL

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The Special Counsel

November 16, 2018

The President
The White House
Washington, D.C. 20050

Re: OSC File No. DI-17-1589

Dear Mr. President:

Pursuant to my duties as Special Counsel, I am forwarding to you a report provided to me in response to disclosures received from an employee at the Department of Defense (DoD), Defense Commissary Agency (DeCA), Dyess Air Force Base (AFB) Commissary (Commissary), Dyess AFB, Texas. The whistleblower, [REDACTED], who consented to the release of her name, is a former store worker at Dyess AFB. She alleged that Commissary management engaged in improper and unsafe produce handling in violation of DeCA requirements, including retrieving discarded produce deemed unfit for sale from the trash and restocking it for sale. She further alleged that the produce manager regularly directed her to place spoiled, overripe, and damaged produce for sale at a reduced price, despite customer complaints of spoiled produce. I have reviewed the report, and in accordance with 5 U.S.C. §1213(e), provide the following summary of the agency investigation and my findings.¹

The agency substantiated both allegations. DoD found that the produce manager engaged in improper and unsafe produce handling, including retrieving produce deemed unfit for sale from the trash and restocking it for sale. The investigation revealed that while [REDACTED] and two other employees witnessed these practices, no other Commissary managers were aware of the produce manager's actions. The agency further substantiated that, in December 2016, the produce manager directed [REDACTED] to restock spoiled, overripe, and damaged produce for sale at a reduced price, despite customer complaints. The investigation did not reveal that these incidents occurred over a longer period of time and, therefore, DoD did not find this to be a regular practice.

In response to these findings, the agency confirmed that it has implemented the recommended corrective actions. The report states that the practice of repurposing unfit produce has ceased. Further, DoD confirmed that store management will ensure that produce employees are properly trained in rotation and culling of produce on a daily basis

¹ [REDACTED] allegations were referred to Secretary of Defense James N. Mattis on March 2, 2017, pursuant to 5 U.S.C. §1213(c) and (d). DeCA was tasked with the investigation. The authority to review and sign the agency's report was delegated to then-Defense Under Secretary Robert L. Wilkie.

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and that the required Employee Safety and Health Training Record forms are completed. [REDACTED] chose not to comment on the agency report.

I have reviewed the original disclosure and the agency report. Accordingly, I have determined that the report meets all statutory requirements, and the agency's findings appear reasonable. As required by 5 U.S.C. §1213(e)(3), I have sent copies of this letter and the agency report to the Chairmen and Ranking Members of the Senate and House Armed Services Committees. I have also filed redacted versions of these documents and the §1213(c) referral letter in our public file, which is available at www.osc.gov. This matter is now closed.

Respectfully,



Henry J. Kerner
Special Counsel

Enclosure