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Folder Title:

Office of Special Counsel Reports & Scott Bloch Issues [3]

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Report	Report of Investigation	72	01/09/2008	P6/b6; b7c;
002	Report	Analysis of Disclosures, Agency Investigation and Report...	6	N.D.	P6/b6; b7c;
003	Report	Commander Directed Report of Investigation...	19	02/02/2006	P6/b6; b7c;

COLLECTION TITLE:

Counsel's Office, White House

SERIES:

Fielding, Fred - General Files

FOLDER TITLE:

Office of Special Counsel Reports & Scott Bloch Issues [3]

FRC ID:

11293

RESTRICTION CODES**Presidential Records Act - [44 U.S.C. 2204(a)]**

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- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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Records Not Subject to FOIA

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U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

March 26, 2008

The Honorable Fred F. Fielding
Counsel to the President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-07-0955

Dear Mr. Fielding:

Pursuant to 5 U.S.C. § 1213(e)(3), I am transmitting the enclosed letter, report and whistleblower's comments to the President. If I may provide more information concerning this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Bloch".

Scott J. Bloch

Enclosures



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

March 26, 2008

The Special Counsel

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

Re: OSC File No. DI-07-0955

Dear Mr. President:

I received a disclosure from Lawrence M. Flinton, Sr., who consented to the release of his name, that employees at the Department of the Navy (Navy), Naval Weapons Station (Navy Base), Seal Beach, Detachment Corona Fire Brigade, Torrance, California, failed to follow proper safety procedures when employees responded to a hazardous material (HAZMAT) spill on Navy property in December 2006. Mr. Flinton works as a Navy Firefighter and is a Department of Defense (DoD) certified HAZMAT technician and incident commander.

I required the Honorable Donald C. Winter, Secretary of the Navy, to conduct an investigation into Mr. Flinton's disclosures pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary tasked the matter to the Office of the Naval Inspector General. On February 6, 2008, the Secretary submitted his report to me. Mr. Flinton provided comments on the agency report pursuant to 5 U.S.C. § 1213(e)(1). As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the report to you along with Mr. Flinton's comments.

Mr. Flinton alleged that Navy employees had not adhered to HAZMAT procedures and regulations when employees improperly permitted a chlorine contaminated HAZMAT site to be cleaned up by approximately 8-10 prisoners from a neighboring California Rehabilitation Center instead of requesting a trained HAZMAT team to manage the site. While the comprehensive investigation revealed that Navy employees properly permitted HAZMAT certified personnel from the adjoining prison to clean up the spill, the agency substantiated two other allegations that Navy personnel responding to the chemical spill improperly secured the site in violation of 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response, and that the Navy Corona Hazardous Substance Plan was out-of-date and no longer provided adequate guidance for a HAZMAT spill response.

Specifically, the agency determined that fifty gallons of sodium hypochlorite, which is also called industrial bleach, leaked from the adjacent prison and flowed from a floor drain into a storm drain. After a prison employee noticed the leak, he flushed the floor drain with water to prevent damage to the floor and drain. The contaminated water ran down the storm drain until it emerged downhill from the prison onto the Navy property. Using water to dilute sodium hypochlorite, according to the report, is a recommended safety measure. Experiments conducted at the request of the Navy investigator demonstrated that as much as 2,500 gallons of water was

The President

Page 2

used to dilute the sodium hypochlorite. The agency further consulted an employee at the Environmental Protection Agency as a consultant to review the report, and opined that such a spill could reasonably be described as "de minimis."

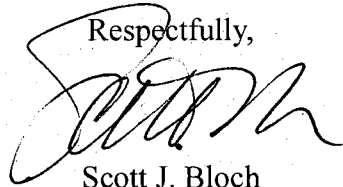
However, the agency determined that Fire Chief Clarke failed to attempt to control the perimeter of the contaminated area and deny entry to the site, and failed to contact a HAZMAT team to make an assessment. Given that the nature of the spill was initially unknown, the agency determined that the area should have been isolated at a safe distance and attempts should have been made to identify the material with assistance from the Navy's environmental department. In addition, Navy employees should have called 911 immediately and requested testing of the material by a HAZMAT team.

In terms of corrective action, the agency report revealed that Fire Chief Clarke retired while disciplinary action was under consideration. However, the HAZMAT spill response plan and guidelines have been reviewed and updated. In addition, in February 2008, a spill response drill based on the new HAZMAT spill response guidelines was conducted successfully.

I have reviewed the original disclosures, the agency report, and Mr. Flinton's comments. 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 a copy of the agency report and Mr. Flinton's comments to the Chairman of the Senate Committee on the Armed Forces and the Chairman of the House Armed Services Committee. I have also filed a copy of the agency report and Mr. Flinton's comments in our public file and closed the matter.

Respectfully,

A handwritten signature in black ink, appearing to read "S. Bloch", written over the word "Respectfully,".

Scott J. Bloch

Enclosures



THE SECRETARY OF THE NAVY
WASHINGTON, D. C. 20350-1000

February 6, 2008

Scott J. Bloch, Special Counsel
U.S. Office of Special Counsel
1730 M. Street, NW, Suite 300
Washington, DC 20036-4505

Dear Mr. Bloch,

Thank you for your letter of May 10, 2007, requesting an investigation of the response to a Hazardous Material (HAZMAT) spill at Naval Weapons Station, Seal Beach Detachment, Corona, California, (Office of Special Counsel (OSC) File No. DI-07-0409).

The inquiry led by the Naval Inspector General (NAVINGEN) determined that the Corona Fire Brigade Chief failed to properly secure the spill site. NAVINGEN concluded that involved Navy personnel properly permitted HAZMAT qualified personnel from an adjoining prison, the source of the spill, to clean it up. The inquiry also resulted in a finding that the applicable spill response plan is old and needs to be updated.

The Brigade Fire Chief retired while disciplinary action was under consideration. The spill response plan has been updated and reissued. A spill response drill is scheduled to take place this month. Key personnel have received, and will continue to receive, additional emergency response training.

I am enclosing two versions of the report of investigation. The first contains names of witnesses and is for your official use. I understand that you will provide a copy of this version to the Complainant, the President, and the House and Senate Armed Services Committees for their review.

The second version excludes the names of witnesses and is suitable for release to the general public. As has been the case with other reports that the Department has provided to your office since September 11, 2001, I request that you make only this redacted version available to members of the public.

Again, thank you for bringing this matter to my attention.
If I may be of further assistance, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donald C. Winter".

Donald C. Winter

Enclosures: 1. For Official Use Copy of Report
of Investigation
2. Public Release Copy of Report of
Investigation

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Report	Report of Investigation	72	01/09/2008	P6/b6; b7c;

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Fielding, Fred - General Files

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FOIA IDs and Segments:

2014-0441-F

2014-0210-F

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Office of the Naval Inspector General

OSC Case Number DI-07-0955
NAVINGEN Case Number 20070409
CNIC Case Number 07-049

Report of Investigation

9 January 2008

ALLEGED IMPROPER RESPONSE TO DECEMBER 2006 HAZARDOUS
MATERIAL SPILL AT NAVAL WEAPONS STATION SEAL BEACH
DETACHMENT, CORONA, CALIFORNIA

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Suitable for Public Release
(names removed)



U.S. OFFICE OF SPECIAL COUNSEL
 1730 M Street, N.W., Suite 218
 Washington, D.C. 20036-4505
 202-254-3600

SP
 WA
 2008 FEB 25 PM 3:1

**CONSENT TO PUBLIC RELEASE
 OF WRITTEN COMMENTS ON AGENCY REPORT**

OSC File No. DI-07-0955

I consent to public release by the U.S. Office of Special Counsel (OSC) of my written comments on the agency report required by OSC in response to my disclosure in the file identified above. My consent includes placement of my written comments in the public file maintained by OSC pursuant to 5 U.S.C. § 1219(a)(1).*

I understand that my consent means that OSC may release my written comments in response to an outside party's request for access to the public file; as part of any press release issued by OSC about the agency report; or in other circumstances deemed appropriate by OSC. I also understand that my consent means that that my written comments may be included in public file or press release documents posted from time to time on OSC's web site (www.osc.gov).

Name (signature)

Lawrence M. Flintan

Name (printed)

2/18/08

Date

Please Add for the record. This is relevant to my statement.

* 5 U.S.C. § 1219 ("Public information") reads, in relevant part: "The Special Counsel shall maintain and make available to the public—... a list of ... matters referred to heads of agencies under [5 U.S.C. § 1213(c)], together with reports from heads of agencies under [§ 1213(c)(1)(B) about] such matters."

The only reference or fact left out was that when I asked Capt Willis + Chief Clarke about the incident upon returning to the Firestation. Chief Clarke stated "I'm not playing your fuckin' games!" + the officer log book kept in the Captains office was hidden. Capt Willis also mentioned →

Against me for asking + was apparently very agitated I
Asked questions. This is why I stated + believe there
was an attempt to discredit me + believe Capt Wallis
did try to deceive me. end of statement

A handwritten signature consisting of a stylized, cursive letter 'J' or 'I' with a long horizontal stroke extending to the right.



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

November 1, 2007

The Honorable Fred Fielding
Counsel to the President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-05-0995

Dear Mr. Fielding:

Pursuant to 5 U.S.C. § 1213(e)(3), I am transmitting the enclosed letter, report, and comments to the President. If I may provide more information concerning this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott J. Bloch". The signature is stylized and cursive.

Scott J. Bloch

Enclosures



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

November 1, 2007

The Special Counsel

The President
The White House
Washington, DC 20500

Re: OSC File No. DI-05-0995

Dear Mr. President:

I received disclosures from Maryann Zelenak, a whistleblower at the U.S. Department of the Air Force, concerning the activities of employees and former employees at the Space Battlelab, Schriever Air Force Base, Colorado Springs, Colorado. Ms. Zelenak, who consented to the release of her name, alleged that Col. Ron Oholendt, former Space Battlelab Commander, and Lt. Col. Allan Cassady, former Space Battlelab Chief of Concept Evaluation, violated 18 U.S.C. § 207 by engaging in illegal post-employment communications with federal employees in an attempt to influence the Space Battlelab to fund a project in which they had previously participated personally and substantially as government employees. She also alleged that Col. Patrick Rhodes, then Space Battlelab Commander, and other federal employees were aware of the illegal nature of these communications, yet allowed them to continue. As discussed in the attached Analysis of Disclosures, an agency investigation did not substantiate Ms. Zelenak's allegations.

I required the Honorable Michael W. Wynne, Secretary of the Air Force, to conduct an investigation into Ms. Zelenak's disclosures pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary subsequently submitted a report to this office. Ms. Zelenak provided comments on the agency report to this office pursuant to 5 U.S.C. § 1213(e)(1)); her comments are enclosed. As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the report to you.

Based on the representations made in the agency report and Ms. Zelenak's comments, I have determined that the agency report contains all of the information required by statute and the findings appear to be reasonable. As required by § 1213(e)(3), I have sent a copy of the report and Ms. Zelenak's comments to the Chairmen of the Senate and House Committees on Armed Services. We have also filed a copy of the report and a version of Ms. Zelenak's comments suitable for public release in our public file and closed the matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Scott J. Bloch".

Scott J. Bloch

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SECRETARY OF THE AIR FORCE
WASHINGTON

SPECIAL COUNSEL
WASHINGTON, D.C.

2005 APR 14 AM 11:06

The Honorable Scott J. Bloch
The Special Counsel
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 300
Washington, DC 20036-4505

12 APR 2006

Dear Mr. Bloch:

In response to your letter dated 10 November 2005, attached is the completed Report of Investigation for OSC File DI-05-0995.

The Space Warfare Center at Schriever Air Force Base, Colorado conducted a commander-directed investigation into all four allegations referred by your office. These allegations were not substantiated based on a preponderance of evidence. However, the investigation identified a consistent theme of poor and mishandled superior-to-subordinate communications. The attached Report of Investigation cites numerous examples.

Please note that in several instances prior to this investigation, the complainant took specific portions of the case to an appropriate agency seeking feedback on the allegations. Respondents offered their professional ethical and/or judicial evaluation, however the complainant was dissatisfied with these responses.

My point of contact for this matter is Maj Stephen Silvers, SAF/IGQ at (703) 588-1532.

Sincerely,

Michael W. Wynne

Attachment:
Report of Investigation (2 February 2006)

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