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**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

Office of Inspector General
Washington, D.C. 20590

December 30, 2014

RE: FOIA No: FI-2014-0022

This letter is in response to your electronic Freedom of Information Act (FOIA) request received December 11, 2013, sent to the U.S. Department of Transportation (DOT), Office of the Inspector General (OIG). You seek copies of DOT investigation reports, closing memo, referral letter, or other reviews by DOT OIG done regarding a different agency for records created since January 1, 2005.

Enclosed you will find the records responsive to your request. You will note that some information was redacted pursuant to exemptions provided by the Freedom of Information Act (5 U.S.C. § 552(b)(5), (6) and (7)(C)).¹ A total of 66 pages were responsive to your request and no pages were withheld. We are producing all 66 pages with redactions.

This letter closes your FOIA request and no further action is contemplated regarding this matter. The FOIA gives you the right to appeal adverse determinations to the appeal official for the agency. The appeal official for the OIG is the Assistant Inspector General, Brian A. Dettelbach. Any appeal should contain all facts and arguments that you propose warrant a more favorable determination. Please reference the file number above in any correspondence.

Appeals to Mr. Dettelbach should be prominently marked as a "FOIA Appeal" addressed to: U.S. Department of Transportation, Office of Inspector General, 7th Floor West (J3), 1200 New Jersey Avenue, SE, Washington, DC 20590. If you prefer, your appeal may be sent via electronic mail to FOIAAPPEALS@oig.dot.gov. An appeal must be received within 45 days

¹ Exemption 5 protects documents that are pre-decisional and a direct part of the deliberative process.

Exemption 6 protects names and any data identifying individuals if public disclosure would be a clearly unwarranted invasion of privacy.

Exemption 7(C) protects personal information in law enforcement records. It prevents the disclosure of law enforcement information which could reasonably be expected to constitute an unwarranted invasion of personal privacy.

of the date of this determination and should contain any information and arguments you wish to rely on. The Assistant Inspector General's determination will be administratively final.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. **See** 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you have any questions regarding this message, please contact me at either (202) 366-1406 or by email at Barbara.Hines@oig.dot.gov and reference the FOIA control number above. You may also contact our FOIA Public Liaison, David Wonnenberg, at either (202) 366-1544 or david.wonnenberg@oig.dot.gov to discuss any aspect of your request.

Sincerely,



Barbara A. Hines
Associate Counsel

Enclosures



**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

Office of Inspector General
Washington, D.C. 20590

August 11, 2011

Mr. Arthur A. Elkins, Jr.
Inspector General
U.S. Environmental Protection Agency
Office of Inspector General
1200 Pennsylvania Ave. NW, Mail Code 2410T
Washington, D.C. 20460

Dear Mr. Elkins:

This letter is provided in response to EPA-OIG's request that the U.S. Department of Transportation, Office of Inspector General (DOT-OIG) conduct a review of a sensitive hotline complaint received by EPA-OIG. Attached are our findings.

Our case number for this investigation is I11Z002SINV. I can be reached at (202) 366-1415 if you have any questions or would like to schedule an oral briefing regarding our investigation. Thank you for this opportunity.

Sincerely,

Robert A. Westbrook
Deputy Assistant Inspector General
for Investigations

cc: (b)(6), (b)(7)c to the Inspector General

BACKGROUND

In May 2011, EPA-OIG requested that DOT-OIG conduct an independent review of a complaint alleging that (b)(6), (b)(7)c demanded that an ARRA grant recipient repay money to EPA. (Attachment 1) Specifically, on April 18, 2011, (b)(6), (b)(7)c for the (b)(6), (b)(7)c Texas, emailed (b)(6), (b)(7)c of the Texas Water Development Board (TWDB) reporting an interaction (b)(6), (b)(7)c had had with (b)(6), (b)(7)c wrote:

(b)(6), (b)(7)c

* * *

The next day (b)(6), (b)(7)c forwarded (b)(6), (b)(7)c email to EPA-OIG. (b)(6), (b)(7)c email, (b)(6), (b)(7)c alluded to negative encounters with other EPA-OIG agents. (b)(6), (b)(7)c wrote:

(b)(6), (b)(7)c

SYNOPSIS

We found substantial credible evidence that on April 15, 2011, (b)(6), (b)(7)c told (b)(6), (b)(7)c that (b)(6), (b)(7)c needed to pay ARRA grant money back to EPA. In addition to the description of this conversation contained in (b)(6), (b)(7)c email to TWDB (b)(6), (b)(7)c also called TWDB (b)(6), (b)(7)c on the same day to report the encounter. (b)(6), (b)(7)c made a record of the encounter in the form of an email to (b)(6), (b)(7)c (b)(6), (b)(7)c acknowledged to DOT-OIG investigators that (b)(6), (b)(7)c called (b)(6), (b)(7)c for the "sole purpose" of asking (b)(6), (b)(7)c to pay the money back. We also found that in a separate telephone conversation between (b)(6), (b)(7)c on the same day (b)(6), (b)(7)c

(b)(6), (b)(7)c stated to (b)(6), (b)(7)c words to the effect " (b)(6), (b)(7)c
(b)(6), (b)(7)c "

We also found substantial credible evidence that on September 1, 2010, (b)(6), (b)(7)c
(b)(6), (b)(7)c made a similar statement to another grant recipient (b)(6), (b)(7)c
(b)(6), (b)(7)c (b)(6), (b)(7)c Water Control Improvement
District (b)(6), (b)(7)c reported that (b)(6), (b)(7)c visited (b)(6), (b)(7)c office
and one of the agents asked if (b)(6), (b)(7)c " in
the amount of approximately (b)(6), (b)(7)c for (b)(6), (b)(7)c costs under
an ARRA grant. (b)(6), (b)(7)c reported this encounter to TWDB (b)(6), (b)(7)c
(b)(6), (b)(7)c did not recall making this statement to (b)(6), (b)(7)c but
showed DOT-OIG investigator (b)(6), (b)(7)c interview preparation notes which listed the
question: " (b)(6), (b)(7)c "

(b)(6), (b)(7)c told DOT-OIG investigators that (b)(6), (b)(7)c
first learned that a grant recipient offered to pay back EPA-OIG money when (b)(6), (b)(7)c
called (b)(6), (b)(7)c from a field site visit to say that a grant recipient " (b)(6), (b)(7)c
(b)(6), (b)(7)c " and asked (b)(6), (b)(7)c what (b)(6), (b)(7)c should do. This
occurred on September 1, 2010. (b)(6), (b)(7)c told (b)(6), (b)(7)c

(b)(5), (b)(6), (b)(7)c

(b)(6), (b)(7)c told DOT-OIG investigators that it (b)(6), (b)(7)c

(b)(6), (b)(7)c

Our findings regarding the "pay back" question do not support any actionable violations of law. The agents' actions were made in the context of a properly predicated EPA-OIG investigation. EPA Region 6 had previously notified TWDB that certain professional fees were non-allowable under ARRA funded grants, and TWDB had notified grantees ((b)(6), (b)(7)c in the case of (b)(6), (b)(7)c and (b)(6), (b)(7)c in the case of (b)(6), (b)(7)c) that these costs would be disallowed. We found no evidence that the agents were motivated by personal gain. We offer no opinion on the methods used by the agents or whether their conduct was consistent with EPA-OIG policies, procedures and practices. Additionally, the original complainant, (b)(6), (b)(7)c was emphatic with the DOT-OIG investigator that (b)(6), (b)(7)c has "no complaint" with EPA-OIG. (b)(6), (b)(7)c told the DOT-OIG investigator, (b)(6), (b)(7)c " We also

interviewed the TWDB (b)(6), (b)(7)c who had spoken on the telephone with (b)(6), (b)(7)c. This witness reported that (b)(6), (b)(7)c (b)(6), (b)(7)c.

(b)(6), (b)(7)c recollection of events differs from the recollections of other witnesses. Specifically, (b)(6), (b)(7)c stated that (b)(6), (b)(7)c

(b)(6), (b)(7)c

DETAILS

In July 2010, (b)(6), (b)(7)c opened an investigation (Case #OI-DA-2010-CFR-0329; " (b)(6), (b)(7)c TX, ET AL") into potential false claims by the (b)(6), (b)(7)c on an ARRA grant involving Clean Water State Revolving Fund (CWSRF) projects. That investigation was predicated on a January 2010 confidential hotline complaint from a credible source, as well as information provided in July 2010 by EPA-OIG's Director of Forensic Audits. Previously, EPA Region 6 had conducted a program evaluation of the State's implementation of the CWSRF ARRA Program. During the course of that evaluation, the issue of the allowability of bond counsel and some financial advisor fees was discussed (although it was not identified in the final Program Evaluation Report).

The TWDB elected to adopt a conservative approach on these professional fees. On June 7, 2010, the TWDB sent a letter to the (b)(6), (b)(7)c "suspending further payments for any legal or financial advisor expenses associated with your ARRA Grant," and advised that TWDB was "working with EPA to determine the full extent of their interpretation." (**Attachment 2**) On July 13, 2010, the TWDB sent another letter to the (b)(6), (b)(7)c advising that the EPA "has identified possible issues that have raised questions" concerning whether the reimbursement to the City for certain professional fees is allowable. In this letter, the TWDB concluded there was insufficient documentation for these fees and it disallowed the costs. (**Attachment 3**)

(b)(6), (b)(7)c received a similar letter from TWDB dated June 24, 2010, on behalf of the (b)(6), (b)(7)c Water Control and Improvement District (b)(6), (b)(7)c (b)(6), (b)(7)c (**Attachment 4**)

(b)(6), (b)(7)c was interviewed by the DOT-OIG investigator regarding (b)(6), (b)(7)c interactions with EPA-OIG. (**Attachment 5**) (b)(6), (b)(7)c reported that around September (b)(6), (b)(7)c 2010, a (b)(6), (b)(7)c (b)(6), (b)(7)c employee told (b)(6), (b)(7)c (b)(6), (b)(7)c According to (b)(6), (b)(7)c identified themselves

by displaying their credentials and badges and asked to record the interview. (b)(6), (b)(7)(c) agreed to be recorded, but could not recall if a recording was actually made. (b)(6), (b)(7)(c) described the agents' conduct as "overbearing" and "demanding." According to (b)(6), (b)(7)(c) either (b)(6), (b)(7)(c) asked (b)(6), (b)(7)(c) if (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) said the (b)(6), (b)(7)(c)

(b)(6), (b)(7)(c)

(Attachment 6)

By letter dated January 17, 2011, (b)(6), (b)(7)(c) (signing for (b)(6), (b)(7)(c) (b)(6), (b)(7)(c)) contacted a contractor with (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) asserting that (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) " The letter requested the production of documents within 30 days "per the requirements of Section 1606 and 1515 of the American Recovery and Reinvestment Act." **(Attachment 7)**

By letter dated January 17, 2011, (b)(6), (b)(7)(c) (signing for (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) notified (b)(6), (b)(7)(c) of the existence of a hotline complaint and requested the production of documents within 30 days "per the requirements of Section 1606 and 1515 of the American Recovery and Reinvestment Act." **(Attachment 8)**

Other entities received similar letters from (b)(6), (b)(7)(c) On January 31, 2011, TWDB Engineering (b)(6), (b)(7)(c) sent an email to (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) and the (b)(6), (b)(7)(c) reporting that " (b)(6), (b)(7)(c) (b)(6), (b)(7)(c)

The TWDB also received a request for documents. TWDB (b)(6), (b)(7)(c) spoke by telephone regarding the request. We interviewed (b)(6), (b)(7)(c) regarding (b)(6), (b)(7)(c) interactions with (b)(6), (b)(7)(c) **(Attachment 9)** (b)(6), (b)(7)(c) reported that (b)(6), (b)(7)(c) telephoned (b)(6), (b)(7)(c) to inquire about the requested documents. (b)(6), (b)(7)(c) stated that (b)(6), (b)(7)(c)

(b)(6), (b)(7)(c)

We interviewed (b)(6), (b)(7)(c) regarding this matter. **(Attachment 10)** (b)(6), (b)(7)(c) reported that (b)(6), (b)(7)(c) had reported (b)(6), (b)(7)(c) telephone

conversation with (b)(6), (b)(7)c. According to (b)(6), (b)(7)c told

(b)(6), (b)(7)c

On April 6, 2011, (b)(6), (b)(7)c left a voice mail for (b)(6), (b)(7)c stating (b)(6), (b)(7)c company "needed to pay back to the EPA (b)(6), (b)(7)c" (b)(6), (b)(7)c repeated similar statements in later phone conversations with (b)(6), (b)(7)c and (b)(6), (b)(7)c

(b)(6), (b)(7)c was interviewed regarding (b)(6), (b)(7)c encounters with (b)(6), (b)(7)c (Attachment 11) (b)(6), (b)(7)c told the DOT-OIG investigator that (b)(6), (b)(7)c had "no complaint" with (b)(6), (b)(7)c said (b)(6), (b)(7)c had a complaint (b)(6), (b)(7)c would make it (b)(6), (b)(7)c did not need for someone to send in an email for (b)(6), (b)(7)c stated, (b)(6), (b)(7)c

(b)(6), (b)(7)c

Shortly after speaking with (b)(6), (b)(7)c telephoned TWDB (b)(6), (b)(7)c (b)(6), (b)(7)c to report (b)(6), (b)(7)c encounters. (b)(6), (b)(7)c sent an email to other TWDB staff stating, (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c (Attachment 12) (b)(6), (b)(7)c also made a record of (b)(6), (b)(7)c encounters with (b)(6), (b)(7)c in (b)(6), (b)(7)c April 18 email to (b)(6), (b)(7)c (See, Attachment 1)

On April 6, 2011, (b)(6), (b)(7)c emailed TWDB engineering (b)(6), (b)(7)c to report that (b)(6), (b)(7)c called (b)(6), (b)(7)c the day before to tell (b)(6), (b)(7)c to (b)(6), (b)(7)c (Attachment 13)

According to (b)(6), (b)(7)c received a telephone call from (b)(6), (b)(7)c who identified (b)(6), (b)(7)c as (b)(6), (b)(7)c (b)(6), (b)(7)c told the DOT-OIG investigator that SA (b)(6), (b)(7)c stated, (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

We interviewed (b)(6), (b)(7)c regarding (b)(6), (b)(7)c encounters with (b)(6), (b)(7)c
(Attachment 15) (b)(6), (b)(7)c said (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

explained that

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

We interviewed (b)(6), (b)(7)c regarding (b)(6), (b)(7)c encounters with grant recipients.
(Attachment 16) (b)(6), (b)(7)c advised that (b)(6), (b)(7)c

(b)(6), (b)(7)c

We interviewed (b)(6), (b)(7)c regarding these matters. (Attachment 17)(b)(6), (b)(7)c

(b)(6), (b)(7)c

ATTACHMENTS

1. April 19, 2011 email to EPA-OIG from (b)(6), (b)(7)c
2. June 7, 2010 letter from the TWDB to the (b)(6), (b)(7)c Texas
3. July 13, 2010 letter from the TWDB to the (b)(6), (b)(7)c Texas
4. June 24, 2010 letter from the TWDB to (b)(6), (b)(7)c (b)(6), (b)(7)c
5. Memorandum of Activity, Interview of (b)(6), (b)(7)c
6. Memorandum of Activity, Interview of (b)(6), (b)(7)c
7. January 19, 2011 letter from (b)(6), (b)(7)c
8. January 25, 2011 letter from (b)(6), (b)(7)c
9. Memorandum of Activity, Interview of (b)(6), (b)(7)c
10. Memorandum of Activity, Interview of (b)(6), (b)(7)c
11. Memorandum of Activity, Interview of (b)(6), (b)(7)c
12. April 15, 2011 email from (b)(6), (b)(7)c
13. April 15, 2011 email from (b)(6), (b)(7)c
14. Memorandum of Activity, Interview of (b)(6), (b)(7)c
15. Memorandum of Activity, Interview of (b)(6), (b)(7)c
16. Memorandum of Activity, Interview of (b)(6), (b)(7)c
17. Memorandum of Activity, Interview of (b)(6), (b)(7)c



U.S. Department of Transportation
Office of Inspector General

REPORT OF INVESTIGATION	INVESTIGATION NUMBER # I12E014SINV	DATE Nov. 6, 2012
TITLE Conduct of (b)(6), (b)(7)c Office of Inspector General Department of Defense	PREPARED BY: Robert A. Westbrook Deputy Assistant Inspector General for Investigations (JI-3)	STATUS FINAL
	DISTRIBUTION Acting Inspector General, DOD OIG General Counsel, DOD OIG	APPROVED BY:

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BACKGROUND

In July 2012, the (b)(6), (b)(7)c requested that the U.S. Department of Transportation OIG conduct an independent investigation after (b)(6), (b)(7)c

(b)(6), (b)(7)c reported that (b)(6), (b)(7)c made unwanted physical contact with (b)(6), (b)(7)c with the intent to physically intimidate. (b)(6), (b)(7)c denied making any physical contact and later filed an official complaint alleging (b)(6), (b)(7)c accusation constitutes a false official statement.¹ Our Scope and Methodology of Investigation² and a Timeline of Significant Events³ are appended to this report.

(b)(6), (b)(7)c began employment with DoD OIG on January 30, 2012. (b)(6), (b)(7)c for OCCL. (b)(6), (b)(7)c first few weeks in OCCL were uneventful. (b)(6), (b)(7)c met with subordinate staff and attended outreach meetings with internal stakeholders.

Two significant events occurred in early March involving (b)(6), (b)(7)c and staff which affected the work relationship between (b)(6), (b)(7)c and (b)(6), (b)(7)c. On Friday, March 9, (b)(6), (b)(7)c had a discussion with (b)(6), (b)(7)c, over the submission of a draft speech to the Front Office. (b)(6), (b)(7)c was upset and angry after this discussion, telling (b)(6), (b)(7)c. On Monday, March 12, (b)(6), (b)(7)c held a staff meeting where (b)(6), (b)(7)c shared (b)(6), (b)(7)c early impressions of the office and the feedback (b)(6), (b)(7)c had received from internal stakeholders. One of the comments (b)(6), (b)(7)c made was that there is a perception among some that “OCCL is broke.” (b)(6), (b)(7)c and some staff found this comment offensive.

(b)(6), (b)(7)c and (b)(6), (b)(7)c working relationship rapidly deteriorated after these two events and never rebounded. (b)(6), (b)(7)c ordered (b)(6), (b)(7)c to have no personal contact with (b)(6), (b)(7)c unless (b)(6), (b)(7)c was present. (b)(6), (b)(7)c ordered (b)(6), (b)(7)c to apologize to staff for the “OCCL is broke” comment, and was not satisfied even after (b)(6), (b)(7)c personally apologized to several individuals and made a group apology at a staff meeting. (b)(6), (b)(7)c became openly critical of (b)(6), (b)(7)c and had numerous oral and written communications with (b)(6), (b)(7)c between March 12 and June 6 regarding these two events and various purported performance issues.

(b)(6), (b)(7)c and (b)(6), (b)(7)c worked with (b)(6), (b)(7)c from March 20 to May 18 to address these two events and purported performance issues. (b)(6), (b)(7)c contacted Human Capital Advisory Services on March 16 to discuss how to document and counsel (b)(6), (b)(7)c for the two events, and (b)(6), (b)(7)c continued to work with HCAS on (b)(6), (b)(7)c through May 25. On April 1, (b)(6), (b)(7)c requested that the Office of Professional Responsibility conduct an investigation of (b)(6), (b)(7)c March 9 interaction with (b)(6), (b)(7)c. OPR declined to investigate, concluding it was a management issue.⁵

On May 14, (b)(6), (b)(7)c emailed (b)(6), (b)(7)c advising that (b)(6), (b)(7)c did not believe it was in (b)(6), (b)(7)c best interests to continue mediation. When (b)(6), (b)(7)c shared this information with

(b)(6), (b)(7)(C) told (b)(6), (b)(7)(C) that (b)(6), (b)(7)(C) had made physical contact with (b)(6), (b)(7)(C) with the intent to intimidate on an undefined date some weeks before. On May 25, while meeting the (b)(6), (b)(7)(C) for the (b)(6), (b)(7)(C) encounter, (b)(6), (b)(7)(C) mentioned physically intimidating behavior by (b)(6), (b)(7)(C) but (b)(6), (b)(7)(C) did not provide details. In a later conversation on May 25 with (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) was mentioned in the context of who would lead OCCL while (b)(6), (b)(7)(C) was out on upcoming (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) told the (b)(6), (b)(7)(C) that (b)(6), (b)(7)(C) should not serve in this capacity because (b)(6), (b)(7)(C) had put (b)(6), (b)(7)(C) hands on (b)(6), (b)(7)(C) "three times" in the past.

On June 6 (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) exchanged emails throughout the day regarding a dispute over OCCL's response to a FAIR Act data request. (b)(6), (b)(7)(C) had responded to the data request and maintained (b)(6), (b)(7)(C) had previously discussed the response with (b)(6), (b)(7)(C) at a staff meeting. (b)(6), (b)(7)(C) maintains they did not discuss the response in advance.

At 10:19 pm on June 6 (b)(6), (b)(7)(C) sent an email to (b)(6), (b)(7)(C) entitled, "Work Place Violence re (b)(6), (b)(7)(C)". In the email (b)(6), (b)(7)(C) recounted the March events and the FAIR Act email exchange and said, "(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) then described an alleged physical encounter with (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) was interviewed by OPR investigators on June 8 regarding this email. (b)(6), (b)(7)(C) told the investigators the alleged incident occurred on April 4 or 5.

(b)(6), (b)(7)(C) was detailed out of OCCL effective June 18.

SYNOPSIS

The evidence provided by (b)(6), (b)(7)(C) to support (b)(6), (b)(7)(C) allegation of "unwanted physical contact . . . in an effort to physically intimidate" is significantly outweighed, in our view, by other evidence we obtained. In addition, (b)(6), (b)(7)(C) passed a polygraph examination on this point. We believe, based on a preponderance of the evidence, there are reasonable grounds to conclude that (b)(6), (b)(7)(C) made a false accusation.

We found that (b)(6), (b)(7)(C) June 6 accusation against (b)(6), (b)(7)(C) was not an isolated event; it was part of a continuing course of conduct by (b)(6), (b)(7)(C) following the March events. (b)(6), (b)(7)(C) did

not fully support the creation of the (b)(6), (b)(7)c position and at some point came to believe that (b)(6), (b)(7)c was not an appropriate fit for OCCL. In (b)(6), (b)(7)c words, “ (b)(6), (b)(7)c ”

(b)(6), (b)(7)c failed to effectively communicate and ensure a common understanding among staff regarding (b)(6), (b)(7)c duties and responsibilities. This confusion exacerbated some staff's adjustment to a (b)(6), (b)(7)c enlisted (b)(6), (b)(7)c to assist (b)(6), (b)(7)c in managing (b)(6), (b)(7)c and inappropriately delegated some managerial responsibilities to (b)(6), (b)(7)c

(b)(6), (b)(7)c had a negative view of (b)(6), (b)(7)c and management and investigators that (b)(6), (b)(7)c

(b)(6), (b)(7)c proactively sought out feedback from (b)(6), (b)(7)c subordinate staff, and amplified or exaggerated some staff's concerns to support (b)(6), (b)(7)c views.

(b)(6), (b)(7)c responses to the March events were disproportionate to (b)(6), (b)(7)c missteps, and in the words of (b)(6), (b)(7)c did not appear interested in rehabilitating (b)(6), (b)(7)c

We found that (b)(6), (b)(7)c demonstrated a lack of candor with management and investigators, and made several false, exaggerated or reckless statements regarding (b)(6), (b)(7)c with the intent or having the effect of damaging (b)(6), (b)(7)c position, authority, and reputation. (b)(6), (b)(7)c falsely claimed that (b)(6), (b)(7)c was opposed to the selection of (b)(6), (b)(7)c but was “outvoted.” (b)(6), (b)(7)c falsely claimed that (b)(6), (b)(7)c allegedly said to (b)(6), (b)(7)c shortly after beginning employment at OCCL that (b)(6), (b)(7)c did not want to (b)(6), (b)(7)c because (b)(6), (b)(7)c was (b)(6), (b)(7)c falsely claimed that OCCL staff had concerns about “ (b)(6), (b)(7)c ” by (b)(6), (b)(7)c (b)(6), (b)(7)c recklessly suggested to (b)(6), (b)(7)c based on the March 9 event that (b)(6), (b)(7)c might (b)(6), (b)(7)c and (b)(6), (b)(7)c repeated this statement to (b)(6), (b)(7)c (b)(6), (b)(7)c June 6 email contained numerous material factual inaccuracies (b)(6), (b)(7)c sent an email to (b)(6), (b)(7)c on June 10 (two days after (b)(6), (b)(7)c was interviewed by OPR investigators) in which (b)(6), (b)(7)c purports to explain why (b)(6), (b)(7)c believed (b)(6), (b)(7)c may have acted as (b)(6), (b)(7)c had. This email could reasonably be construed as an attempt to ensure that (b)(6), (b)(7)c and (b)(6), (b)(7)c shared a common understanding of events. Four days after (b)(6), (b)(7)c interview where (b)(6), (b)(7)c was confronted with numerous inconsistencies, (b)(6), (b)(7)c disclosed for the first time that (b)(6), (b)(7)c was taking pain medication during the week of June 6 and therefore (b)(6), (b)(7)c call lacks “ (b)(6), (b)(7)c ” We believe (b)(6), (b)(7)c explanation is further evidence of a pattern of lack of candor with management and investigators.

(b)(5)

FINDINGS

(b)(6), (b)(7)c Did Not Engage in Unwanted Physical Contact with (b)(6), (b)(7) as Alleged

According to (b)(6), (b)(7)c there were no independent witnesses to the alleged unwanted physical contact. (b)(6), (b)(7)c denied making any physical contact with (b)(6), (b)(7)c and offered to take a polygraph. A polygraph examiner from the U.S. Postal Service OIG administered a polygraph examination to (b)(6), (b)(7)c on September 6. (b)(6), (b)(7)c passed the examination with “no deception indicated.”⁷

In reaching our conclusion, we also considered the timing, context and circumstances surrounding (b)(6), (b)(7)c reporting of the alleged physical contact.

(b)(6), (b)(7)c did not immediately report to management the alleged April 4 or 5 unwanted physical contact. (b)(6), (b)(7)c was asked by OPR investigators (b)(6), (b)(7)c if (b)(6), (b)(7)c told anyone at the time. (b)(6), (b)(7)c answered, “

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c first reported the incident six weeks after it allegedly occurred. (b)(6), (b)(7)c told investigators that (b)(6), (b)(7)c discussed the alleged incident with three witnesses prior to the June 6 email: (b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c and the (b)(6), (b)(7)c (b)(6), (b)(7)c. All (b)(6), (b)(7)c witnesses responded with a degree of puzzlement.

(b)(6), (b)(7)c was working with (b)(6), (b)(7)c (b)(6), (b)(7)c to address the March events and purported performance matters, and (b)(6), (b)(7)c had six one-on-one meetings with the (b)(6), (b)(7)c and three facilitated group meetings with (b)(6), (b)(7)c and (b)(6), (b)(7)c before (b)(6), (b)(7)c mentioned the alleged incident. When (b)(6), (b)(7)c first mentioned the alleged physical contact to (b)(6), (b)(7)c on May 18, (b)(6), (b)(7)c did so only after (b)(6), (b)(7)c advised (b)(6), (b)(7)c that (b)(6), (b)(7)c no longer wanted to participate in mediation. (b)(6), (b)(7)c provided vague details to (b)(6), (b)(7)c regarding the alleged incident. (b)(6), (b)(7)c described to investigators the context and substance of (b)(6), (b)(7)c disclosure.

(b)(6), (b)(7)c

(b)(6), (b)(7)c was working with (b)(6), (b)(7)c, on a proposed disciplinary action against (b)(6), (b)(7)c for the March 9 event. (b)(6), (b)(7)c and (b)(6), (b)(7)c had several meetings and email exchanges after the date of the alleged unwanted physical contact before (b)(6), (b)(7)c stated on May 25 that (b)(6), (b)(7)c no longer planned to meet alone with (b)(6), (b)(7)c because (b)(6), (b)(7)c discomfort with, in other words, (b)(6), (b)(7)c physically intimidating aura.

(b)(6), (b)(7)c

(b)(6), (b)(7)c was listed as a courtesy copy recipient on (b)(6), (b)(7)c June 6 "Work Place Violence" email in which (b)(6), (b)(7)c states that (b)(6), (b)(7)c had previously told (b)(6), (b)(7)c about the incident. (b)(6), (b)(7)c emailed (b)(6), (b)(7)c and (b)(6), (b)(7)c on June 7: "(b)(6), (b)(7)c

(b)(6), (b)(7)c

On the afternoon of May 25, (b)(6), (b)(7)c came to the office of (b)(6), (b)(7)c for an unscheduled meeting. (b)(6), (b)(7)c shared with the (b)(6), (b)(7)c that (b)(6), (b)(7)c had a (b)(6) (b)(6) in the coming weeks. (b)(6), (b)(7)c told the (b)(6), (b)(7)c that (b)(6), (b)(7)c did not know who to leave in charge. When the (b)(6), (b)(7)c suggested that (b)(6), (b)(7)c should be left in charge, (b)(6), (b)(7)c disclosed that (b)(6), (b)(7)c (b)(6), (b)(7)c had previously shared with the (b)(6), (b)(7)c what (b)(6), (b)(7)c had told (b)(6), (b)(7)c and the (b)(6), (b)(7)c told OPR investigators that "(b)(6), (b)(7)c" ¹³ (b)(6), (b)(7)c because the two versions differed.

(b)(6), (b)(7)c acknowledged to investigators that (b)(6), (b)(7)c made no contemporaneous written record of the alleged incident. (b)(6), (b)(7)c had a habit of emailing notes to (b)(6), (b)(7)c regarding (b)(6), (b)(7)c. Before and after the date of the alleged unwanted physical contact, (b)(6), (b)(7)c sent emails to (b)(6), (b)(7)c documenting unrelated purported performance concerns regarding (b)(6), (b)(7)c. (b)(6), (b)(7)c made no email note of the alleged incident. When asked why (b)(6), (b)(7)c did not document the alleged incident, (b)(6), (b)(7)c replied, " (b)(6), (b)(7)c" ¹⁴ (b)(6), (b)(7)c

(b)(6), (b)(7)c has provided management and investigators with various descriptions of the alleged incident. (b)(6), (b)(7)c June 6 email (b)(6), (b)(7)c referenced a single incident that (b)(6), (b)(7)c discussed "with the (b)(6), (b)(7)c and with (b)(6), (b)(7)c and with others." On May 18, when discussing the alleged incident with the (b)(6), (b)(7)c (b)(6), (b)(7)c asked if it had happened more than once and (b)(6), (b)(7)c said no. On May 25, (b)(6), (b)(7)c told (b)(6), (b)(7)c about physically intimidating behavior, but (b)(6), (b)(7)c did not mention any specific incident of unwanted physical

contact. On May 25, (b)(6), (b)(7) told the (b)(6), (b)(7)c that (b)(6), (b)(7) touched (b)(6), (b)(7) three times on the chest. Investigators asked (b)(6), (b)(7) to describe what (b)(6), (b)(7) told the (b)(6), (b)(7)c

(b)(6), (b)(7)c

In a June 5 email reply to the (b)(6), (b)(7)c regarding continuing mediation, (b)(6), (b)(7) stated

(b)(6), (b)(7)c

(b)(6), (b)(7)c was re-interviewed by OPR investigators on June 12 regarding the possible second incident. (b)(6), (b)(7) stated:

(b)(6), (b)(7)c

(b)(6), (b)(7)c

When asked by DOT OIG investigators to explain the discrepancy over the number of incidents, (b)(6), (b)(7)c stated:

(b)(6), (b)(7)c

There is no written record of (b)(6), (b)(7)c ever counseling or otherwise directly addressing with (b)(6), (b)(7)c the alleged unwanted physical contact incident(s).

In our view, based on the totality of the evidence, (b)(6), (b)(7)c's description of the first incident is not credible. According to (b)(6), (b)(7)c on April 3, (b)(6), (b)(7)c counseled (b)(6), (b)(7)c about physically aggressive behavior and (b)(6), (b)(7)c made a written note of the counseling.²³ (b)(6), (b)(7)c claims on April 4 or 5, (b)(6), (b)(7)c went to (b)(6), (b)(7)c's office to discuss, again, the (b)(6), (b)(7)c incident of March 9. (b)(6), (b)(7)c described the incident as follows:

(b)(6), (b)(7)c

(b)(6), (b)(7)c said (b)(6), (b)(7)c had (b)(6), (b)(7)c hands on (b)(6), (b)(7)c²⁵ and then the two (b)(6), (b)(7)c sat down at the table (b)(6), (b)(7)c described for investigators what (b)(6), (b)(7)c said happened next: "

(b)(6), (b)(7)c

(b)(6), (b)(7) repeated a similar description in (b)(6), (b)(7)c interview with DOT OIG investigators.

When DOT-OIG investigators asked (b)(6), (b)(7) why (b)(6), (b)(7) did not immediately address the alleged unwanted physical contact with (b)(6), (b)(7)c, (b)(6), (b)(7)c stated: (b)(6), (b)(7)c

(b)(6), (b)(7)c

On June 12, OPR investigators met with a Pentagon Force Protection Agency lieutenant and sergeant to discuss (b)(6), (b)(7)c concerns of workplace violence. The Pentagon police officials advised they would take a report of the incident, and stated that (b)(6), (b)(7)c had the option of filing a criminal complaint in Virginia state court. On June 13, this information and the lieutenant's email address and office location were emailed to (b)(6), (b)(7)c. The police supervisor left a voice mail for (b)(6), (b)(7)c but did not receive a return call. (b)(6), (b)(7)c told investigators (b)(6), (b)(7)c did not contact PFPA and does not recall receiving any voice mails from PFPA regarding this matter.²⁹

(b)(6), (b)(7)c **Did Not Fully Support the Creation of the (b)(6), (b)(7)c Position**

According to several witnesses, the chief proponent for the creation of the (b)(6), (b)(7)c position was former (b)(6), (b)(7)c. According to (b)(6), (b)(7)c it was a joint (b)(6), (b)(7)c decision made to free (b)(6), (b)(7)c from administrative duties and to create a layer of management between (b)(6), (b)(7)c and (b)(6), (b)(7)c direct reports so that (b)(6), (b)(7)c was not the second-line supervisor. (b)(6), (b)(7)c stated:

(b)(6), (b)(7)c

(b)(6), (b)(7)c was asked by investigators to explain why (b)(6), (b)(7)c (GS-15), who was functioning as the (b)(6), (b)(7)c from 2006 to 2011, did not provide this buffer (b)(6), (b)(7)c told investigators that (b)(6), (b)(7)c thought that (b)(6), (b)(7)c was " (b)(6), (b)(7)c (b)(6), (b)(7)c .

The position description creating the (b)(6), (b)(7)c position was signed by (b)(6), (b)(7)c on January 7, 2010. The position was not filled until 2 years later.

(b)(6), (b)(7)c former (b)(6), (b)(7)c told investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7)c told (b)(6), (b)(7)c that (b)(6), (b)(7)c felt the (b)(6), (b)(7)c position had been forced upon (b)(6), (b)(7)c by the (b)(6), (b)(7)c told investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7)c was asked by investigators whether (b)(6), (b)(7)c ever confided in (b)(6), (b)(7)c that the position had been forced on (b)(6), (b)(7)c and was asked to explain the origins of the position description. (b)(6), (b)(7)c told investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7) provided investigators an ambiguous answer on whether the (b)(6), (b)(7) position was forced (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7) Failed to Effectively Communicate (b)(6), (b)(7)c Role and Responsibilities

According to both (b)(6), (b)(7)c and (b)(6), (b)(7)c the two repeatedly suggested to (b)(6), (b)(7)c during (b)(6), (b)(7)c tenure in OCCL that (b)(6), (b)(7)c put (b)(6), (b)(7)c on performance standards so there would be a common understanding of (b)(6), (b)(7)c role. (b)(6), (b)(7)c never put (b)(6), (b)(7)c on performance standards outlining (b)(6), (b)(7)c role and duties.

There was confusion among OCCL staff over (b)(6), (b)(7)c role and responsibilities.

(b)(6), (b)(7)c

told investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7)c told investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7)c told investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7)c

told investigators: . . .

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c told investigators that (b)(6), (b)(7)c fundamentally “

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Prior to (b)(6), (b)(7)c arrival, an organizational chart was prepared with an empty box directly under (b)(6), (b)(7)c for the (b)(6), (b)(7)c position. After (b)(6), (b)(7)c arrived, (b)(6), (b)(7)c name was inserted in the empty box. After seeing the updated organizational chart, (b)(6), (b)(7)c made one change to the chart. (b)(6), (b)(7)c made (b)(6), (b)(7)c a direct report to (b)(6), (b)(7)c.

(b)(6), (b)(7)c

(b)(6), (b)(7)c described to investigators the confusion over the reporting structure:

(b)(6), (b)(7)c

Notwithstanding the updated organizational chart, (b)(6), (b)(7)c believed (b)(6), (b)(7)c remained a direct report to (b)(6), (b)(7)c. (b)(6), (b)(7)c told investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7) told investigators that (b)(6), (b)(7) intended to keep (b)(6), (b)(7) as a direct report (b)(6), (b)(7) did not make this point clear to any staff including (b)(6), (b)(7) who held a performance counseling on March 1 with (b)(6), (b)(7) to sign a new performance standards document making (b)(6), (b)(7)c (b)(6), (b)(7)c

This uncertainty over (b)(6), (b)(7) and (b)(6), (b)(7)c reporting relationship directly exacerbated the March 9 incident. (b)(6), (b)(7) and (b)(6), (b)(7)c exchanged emails on March 8 regarding (b)(6), (b)(7)c response to a Front Office request. After (b)(6), (b)(7) provided (b)(6), (b)(7) with feedback, (b)(6), (b)(7)c forwarded (b)(6), (b)(7)c email to (b)(6), (b)(7) with a note, (b)(6), (b)(7)c (b)(6), (b)(7)c discussed the deliverable directly with (b)(6), (b)(7) and obtained an extension of time without advising (b)(6), (b)(7)c. On March 9, (b)(6), (b)(7) was by most accounts firm and direct and by (b)(6), (b)(7)c account (b)(6), (b)(7)c when (b)(6), (b)(7) asked (b)(6), (b)(7) why (b)(6), (b)(7) did not respond to (b)(6), (b)(7)c earlier email.

(b)(6), (b)(7)c who was asked by (b)(6), (b)(7) to provide a witness statement regarding the March 9 incident and who was present at the March 12 staff meeting, explained to investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7) **Overreacted to the March Events and Formed a Negative View of (b)(6), (b)(7)c**

(b)(6), (b)(7) and (b)(6), (b)(7)c work relationship rapidly deteriorated after the March events. For (b)(6), (b)(7) the "OCCL is broke" comment and demands for an apology became, in his words, a " (b)(6), (b)(7)c 46

(b)(6), (b)(7) told investigators, " (b)(6), (b)(7)c (b)(6), (b)(7)c shared with investigators, " (b)(6), (b)(7)c (b)(6), (b)(7)c

(b)(6), (b)(7) told investigators that (b)(6), (b)(7)c duties were minimized after the March 12 meeting.

(b)(6), (b)(7)c

On Sunday, March 25, (b)(6), (b)(7)(c) sent (b)(6), (b)(7)(c) an email entitled, "At Your Service." In the seven paragraph email (b)(6), (b)(7)(c) stated,

(b)(6), (b)(7)(c)

(b)(6), (b)(7)(c) goes on to explain (b)(6), (b)(7)(c) intent in making the " (b)(6), (b)(7)(c) " comment. (b)(6), (b)(7)(c) ends the email with the statement:

(b)(6), (b)(7)(c)

There is no record that (b)(6), (b)(7)(c) ever acknowledged or replied in writing to this email.

According to (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) humiliated (b)(6), (b)(7)(c) in front of staff members. (b)(6), (b)(7)(c) told investigators:

(b)(6), (b)(7)(c)

(b)(6), (b)(7)(c) denied that (b)(6), (b)(7)(c) intended to embarrass (b)(6), (b)(7)(c) with these comments.

According to (b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c was "adamant" that (b)(6), (b)(7)c apologize to staff about the "(b)(6), (b)(7)c" comment. (b)(6), (b)(7)c wrote an email note to (b)(6), (b)(7)c on April 13, entitled "(b)(6), (b)(7)c Apology." The email states in part, "(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

As directed by (b)(6), (b)(7)c (b)(6), (b)(7)c made a group apology at an April 20 OCCL meeting and personally apologized afterwards to six employees who were not in attendance at the meeting. (b)(6), (b)(7)c told witnesses that based on (b)(6), (b)(7)c words and tone, (b)(6), (b)(7)c group apology was not sincere enough. (b)(6), (b)(7)c sent a detailed email to (b)(6), (b)(7)c critiquing the apology, and (b)(6), (b)(7)c forwarded this email to (b)(6), (b)(7)c (b)(6), (b)(7)c described for investigators what (b)(6), (b)(7)c was told:

(b)(6), (b)(7)c

On May 17 (b)(6), (b)(7)c sent (b)(6), (b)(7)c a counseling email entitled, "Apology to Staff Regarding Your Remarks." (b)(6), (b)(7)c stated, "(b)(6), (b)(7)c

(b)(6), (b)(7)c

"We found no evidence of any OCCL staff members continuing to express any concern about the "OCCL is broke" comment or apology, and (b)(6), (b)(7)c was unable to identify any such staff members for investigators.

We asked OCCL staff members about their observations regarding the interactions between (b)(6), (b)(7)c and (b)(6), (b)(7)c at meetings. According to (b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c told investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7) and (b)(7) told investigators they did not observe any tension between (b)(6), (b)(7) and (b)(6), (b)(7) in the daily staff meetings.

(b)(6), (b)(7) told investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7)c

told investigators:

(b)(6), (b)(7)c

According to (b)(6), (b)(7), (b)(6), (b)(7) did not seem interested in rehabilitating (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c told investigators,

(b)(6), (b)(7)c

(b)(6), (b)(7)c was never placed on performance standards.

(b)(6), (b)(7)c formed a negative view of (b)(6), (b)(7)c after the March event. (b)(6), (b)(7)c told management and investigators that (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c **Exaggerated Staff Concerns Regarding** (b)(6), (b)(7)c

There were no direct witnesses to the entire March 9 incident involving (b)(6), (b)(7)c and (b)(6), (b)(7)c. (b)(6), (b)(7)c maintained (b)(6), (b)(7)c was asked (b)(6), (b)(7)c to come to his office, where (b)(6), (b)(7)c discussed the importance of responding to (b)(6), (b)(7)c emails. (b)(6), (b)(7)c maintains (b)(6), (b)(7)c came to (b)(6), (b)(7)c office while (b)(6), (b)(7)c was with someone and said (b)(6), (b)(7)c followed (b)(6), (b)(7)c to (b)(6), (b)(7)c office and they discussed the (b)(6), (b)(7)c (b)(6), (b)(7)c told investigators

(b)(6), (b)(7)c

(b)(6), (b)(7)c office. Both (b)(6), (b)(7)c and (b)(6), (b)(7)c reported the incident to (b)(6), (b)(7)c

(b)(6), (b)(7)c witnessed part of the incident and heard (b)(6), (b)(7)c say “ (b)(6), (b)(7)c described (b)(6), (b)(7)c tone as “ (b)(6), (b)(7)c

(b)(6), (b)(7)c later reported the incident to (b)(6), (b)(7)c. According to (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c was asked by investigators whether (b)(6), (b)(7)c was angry at (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c shared with investigators (b)(6), (b)(7)c discussion with (b)(6), (b)(7)c about this issue. (b)(6), (b)(7)c said, "I

(b)(6), (b)(7)c

On April 1 (b)(6), (b)(7)c requested that OPR conduct an investigation of the March 9 event. In the email (b)(6), (b)(7)c describes the (b)(6), (b)(7)c incident and states (b)(6), (b)(7)c actions "(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c further states "

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c ends the email with "

(b)(6), (b)(7)c

(b)(6), (b)(7)c

We found no evidence of any OCCL staff

member not being treated with dignity and respect by (b)(6), (b)(7)c and we offer no opinion on (b)(6), (b)(7)c interactions with (b)(6), (b)(7)c

OPR advised (b)(6), (b)(7)c by email dated April 5 that an investigation was not warranted. On April 9 and 12 (b)(6), (b)(7)c sent emails to the (b)(6), (b)(7)c of OPR questioning the decision not to investigate. (b)(6), (b)(7)c worked with HCAS on disciplinary action for the (b)(6), (b)(7)c (b)(6), (b)(7)c incident. (b)(6), (b)(7)c submitted a memorandum on May 25 requesting the issuance for a letter of reprimand. In August, the Office of General Counsel declined this request citing insufficient evidence. (b)(6), (b)(7)c told investigators (b)(6), (b)(7)c

(b)(6), (b)(7)c

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(b)(6), (b)(7)c similarly exaggerated staff's concerns regarding the (b)(6), (b)(7)c comment.

(b)(6), (b)(7)c admitted to investigators that not all staff members were offended by the comment.

(b)(6), (b)(7)c identified (b)(6), (b)(7)c as an employee who told (b)(6), (b)(7)c was not offended. (b)(6), (b)(7)c identified (b)(6), (b)(7)c and (b)(6), (b)(7)c as two employees who told (b)(6), (b)(7)c they were not offended. (b)(6), (b)(7)c proactively sought feedback from staff. (b)(6), (b)(7)c told (b)(6), (b)(7)c was not offended. (b)(6), (b)(7)c told investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c was not personally offended by (b)(6), (b)(7)c comment. (b)(6), (b)(7)c told investigators (b)(6), (b)(7)c believed the comment was an insult to (b)(6), (b)(7)c and (b)(6), (b)(7)c and (b)(6), (b)(7)c was concerned that internal stakeholders had provided (b)(6), (b)(7)c with inaccurate negative feedback regarding OCCL.

(b)(6), (b)(7)c provided (b)(6), (b)(7)c notes of the meeting to (b)(6), (b)(7)c. (b)(6), (b)(7)c was also present at the meeting and later provided (b)(6), (b)(7)c with (b)(6), (b)(7)c notes.

(b)(6), (b)(7)c described for investigator (b)(6), (b)(7)c recollection of the meeting: “(b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c though, did not complain to (b)(6), (b)(7)c about the comment, and (b)(6), (b)(7)c did not mention being offended by the comment during (b)(6), (b)(7)c DOT OIG interview.

(b)(6), (b)(7)c Enlisted (b)(6), (b)(7)c to Assist (b)(6), (b)(7)c in Managing (b)(6), (b)(7)c and Inappropriately Delegated to (b)(6), (b)(7)c Some Managerial Responsibilities

(b)(6), (b)(7)c and (b)(6), (b)(7)c have a close working relationship. (b)(6), (b)(7)c was the only (b)(6), (b)(7)c who remained a direct report to (b)(6), (b)(7)c. After (b)(6), (b)(7)c arrival, (b)(6), (b)(7)c brought the updated organizational chart to (b)(6), (b)(7)c and according to (b)(6), (b)(7)c said, (b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c According to (b)(6), (b)(7)c (b)(6), (b)(7)c asked (b)(6), (b)(7)c to (b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c told investigators, “(b)(6), (b)(7)c (b)(6), (b)(7)c told investigators that (b)(6), (b)(7)c did, in fact, tell (b)(6), (b)(7)c that (b)(6), (b)(7)c would be (b)(6), (b)(7)c coach. (b)(6), (b)(7)c was unaware of any coaching role by (b)(6), (b)(7)c (b)(6), (b)(7)c told investigators about how (b)(6), (b)(7)c learned that (b)(6), (b)(7)c would be reporting to (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

On Sunday, March 11, (b)(6), (b)(7) sent (b)(6), (b)(7) an email about the (b)(6), (b)(7) incident entitled, *"Matters Within OCCL - Need Your Advice."*

(b)(6), (b)(7)c

(b)(6), (b)(7) attended the March 12 staff meeting (b)(6), (b)(7) went to (b)(6), (b)(7) after the meeting and discussed what (b)(6), (b)(7) had said.

Over the next 12 weeks, (b)(6), (b)(7) performed various tasks for (b)(6), (b)(7) relating to (b)(6), (b)(7) that are supervisory in nature, including being present at counseling sessions, revising (b)(6), (b)(7) position description, preparing draft performance standards, preparing draft disciplinary action, and assigning work tasks to (b)(6), (b)(7). These responsibilities were not transparent to (b)(6), (b)(7) or other staff members. (b)(6), (b)(7) and (b)(6), (b)(7) shared negative comments and views regarding (b)(6), (b)(7).

According to (b)(6), (b)(7) asked (b)(6), (b)(7) for (b)(6), (b)(7) position description shortly after the March 12 staff meeting (b)(6), (b)(7) described for investigator (b)(6), (b)(7) conversation with (b)(6), (b)(7).

(b)(6), (b)(7)c

(b)(6), (b)(7) provided (b)(6), (b)(7) with a (b)(6), (b)(7) marked-up (b)(6), (b)(7) position description which eliminated some duties and curtailed others. (b)(6), (b)(7) told investigators, “ (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

85 In fact, (b)(6), (b)(7) emailed (b)(6), (b)(7) with a draft performance plan for (b)(6), (b)(7) on May 24.⁸⁶

When (b)(6), (b)(7) held a counseling session with (b)(6), (b)(7) on March 16 to address the (b)(6), (b)(7)c incident and the “ (b)(6), (b)(7)c ” comments, (b)(6), (b)(7)c was also present. (b)(6), (b)(7) told investigators, “ (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

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(b)(6), (b)(7) ghostwrote at least four emails for (b)(6), (b)(7) relating to (b)(6), (b)(7)c. One of the emails that (b)(6), (b)(7) ghostwrote was a detailed analysis for (b)(6), (b)(7) to use (b)(6), (b)(7)c request to OPR to reconsider their decision not to investigate the March 9 incident.⁸⁸

On May 15, (b)(6), (b)(7) prepared an apparent email on behalf of (b)(6), (b)(7) to (b)(6), (b)(7) relating to a work tasking:

(b)(6), (b)(7)c

(b)(6), (b)(7) directed (b)(6), (b)(7) on at least one work assignment. (b)(6), (b)(7) told investigators:

(b)(6), (b)(7)c

On May 24, (b)(6), (b)(7) ghostwrote for (b)(6), (b)(7) a Douglas Factors memo.⁹⁰ This was the documentation required for submission of the request for disciplinary action. (b)(6), (b)(7)c draft requested a letter of reprimand and a one day suspension. (b)(6), (b)(7) removed a line at the bottom of the memo that said “Prepared by: (b)(6), (b)(7)c and forwarded the memo to (b)(6), (b)(7)c.”⁹¹

(b)(6), (b)(7) and (b)(6), (b)(7) also shared critical observations regarding (b)(6), (b)(7)c

On April 11, (b)(6), (b)(7) sent (b)(6), (b)(7) an email stating, “ (b)(6), (b)(7)c

(b)(6), (b)(7)c

On April 13, (b)(6), (b)(7) sent senior OCCL staff (minus (b)(6), (b)(7)) an email rescheduling the daily administration meeting. (b)(6), (b)(7) obtained a copy of the email and forwarded it to (b)(6), (b)(7) with a note: (b)(6), (b)(7)c

(b)(6), (b)(7)c

On April 16, (b)(6), (b)(7) emailed (b)(6), (b)(7) stating, “ (b)(6), (b)(7)c

(b)(6), (b)(7)c ”

On April 17, (b)(6), (b)(7) emailed (b)(6), (b)(7) stating, (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7) replied, “ (b)(6), (b)(7)c

(b)(6), (b)(7)c ”

On April 23, (b)(6), (b)(7) emailed (b)(6), (b)(7) regarding (b)(6), (b)(7)c apology to staff: “ (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7) and (b)(6), (b)(7) shared the following negative views regarding (b)(6), (b)(7)c

(b)(6), (b)(7)c

At 6:54 pm on Sunday, June 10, (b)(6), (b)(7) forwarded to (b)(6), (b)(7)c June 6 “Work Place Violence Re: (b)(6), (b)(7)c email.”⁹⁹

(b)(6), (b)(7) Has Made Reckless Statements and Has Otherwise Demonstrated a Lack of Candor

In addition to the information above, the following are examples of (b)(6), (b)(7)c reckless statements and otherwise lack of candor regarding (b)(6), (b)(7)c

1. Statements to investigators regarding the selection of (b)(6), (b)(7)(c)

(b)(6), (b)(7)(c) was on the hiring panel for the (b)(6), (b)(7)(c) position along with (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) told investigators that (b)(6), (b)(7)(c) preferred candidate was (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) stated that (b)(6), (b)(7)(c) but was (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) said (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) told DOT OIG investigators:

(b)(6), (b)(7)(c)

Whatever reservations (b)(6), (b)(7)(c) may have had regarding the selection of (b)(6), (b)(7)(c) signed a memorandum dated December 19, 2011 to the (b)(6), (b)(7)(c) recommending (b)(6), (b)(7)(c) for the position.

(b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) told investigators that (b)(6), (b)(7)(c) was, in fact, (b)(6), (b)(7)(c) top selection and that (b)(6), (b)(7)(c) did not voice any reservations about (b)(6), (b)(7)(c) or a preference for (b)(6), (b)(7)(c)

2. Statements to (b)(6), (b)(7)(c) regarding staff concerns

In a March 16 email to (b)(6), (b)(7)(c) entitled, "Physical Intimidation within OCCL," (b)(6), (b)(7)(c) stated " (b)(6), (b)(7)(c)

(b)(6), (b)(7)(c) With the exception of (b)(6), (b)(7)(c) employees we interviewed, male or female, expressed any concern about physical intimidation by (b)(6), (b)(7)(c). (b)(6), (b)(7)(c) told investigators, " (b)(6), (b)(7)(c) " When (b)(6), (b)(7)(c) was asked whether (b)(6), (b)(7)(c) was physically intimidated by (b)(6), (b)(7)(c) replied, " (b)(6), (b)(7)(c) " (b)(6), (b)(7)(c) was asked whether (b)(6), (b)(7)(c) was physically intimidated by (b)(6), (b)(7)(c) answered, (b)(6), (b)(7)(c) " 103

3. Statements regarding the "threat" posed by (b)(6), (b)(7)(c)

In a April 1 email to (b)(6), (b)(7)(c) of OPR, (b)(6), (b)(7)(c) characterized (b)(6), (b)(7)(c) encounter with (b)(6), (b)(7)(c) as "stalking with malice." This is a serious accusation which could form the basis of a criminal harassment charge. We are aware of no facts to suggest that (b)(6), (b)(7)(c) was either "stalking" or acting with "malice."

(b)(6), (b)(7) also exaggerated the concerns of (b)(6), (b)(7) and made a reckless and baseless statement to (b)(6), (b)(7) that (b)(6), (b)(7) was concerned that (b)(6), (b)(7) might (b)(6), (b)(7)c. (b)(6), (b)(7)c never raised this concern to investigators. (b)(6), (b)(7) told investigators that (b)(6), (b)(7) told (b)(6), (b)(7)c that (b)(6), (b)(7) was concerned that (b)(6), (b)(7) might (b)(6), (b)(7)c.

(b)(6), (b)(7)c

(b)(6), (b)(7) acknowledged to investigators that (b)(6), (b)(7) discussed the (b)(6), (b)(7) concern with (b)(6), (b)(7)c.

(b)(6), (b)(7)c

(b)(6), (b)(7) told investigators that it was (b)(6), (b)(7) who first raised the (b)(6), (b)(7) issue with (b)(6), (b)(7)c. (b)(6), (b)(7)c stated:

(b)(6), (b)(7)c

(b)(6), (b)(7)c was asked whether (b)(6), (b)(7)c believed this was a credible threat or concern (b)(6), (b)(7)c replied that is was (b)(6), (b)(7)c "108 (b)(6), (b)(7)c explained:

(b)(6), (b)(7)c

4. Statements to the (b)(6), (b)(7)c which (b)(6), (b)(7)c attributed to (b)(6), (b)(7)c

(b)(6), (b)(7)c told the (b)(6), (b)(7)c that (b)(6), (b)(7)c told (b)(6), (b)(7)c that (b)(6), (b)(7)c (b)(6), (b)(7)c denied making this statement. (b)(6), (b)(7)c told investigators:

(b)(6), (b)(7)c

(b)(6), (b)(7)c provided investigators with an ambiguous answer when asked about this:

(b)(6), (b)(7)c

5. Statements to investigators regarding (b)(6), (b)(7) and (b)(6), (b)(7)c

In an interview with DOT OIG investigators, (b)(6), (b)(7)c was asked why (b)(6), (b)(7)c did not report to (b)(6), (b)(7)c (b)(6), (b)(7)c alleged for the first time that (b)(6), (b)(7)c told (b)(6), (b)(7)c that (b)(6), (b)(7)c did not want (b)(6), (b)(7)c reporting to (b)(6), (b)(7)c because (b)(6), (b)(7)c is “(b)(6), (b)(7)c”

(b)(6), (b)(7)c

(b)(6), (b)(7)c was asked why (b)(6), (b)(7)c did not address this alleged discrimination issue with (b)(6), (b)(7)c (b)(6), (b)(7)c answer is inconsistent with (b)(6), (b)(7)c actions and with the expectations of a federal manager. (b)(6), (b)(7)c said, (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c said

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c explained

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c denied making this statement. (b)(6), (b)(7)c told investigators (b)(6), (b)(7)c

(b)(6), (b)(7)c

6. Statements in the June 6 Work Place Violence email

(b)(6), (b)(7)c June 6 email contains several factual inaccuracies, and (b)(6), (b)(7)c admitted (b)(6), (b)(7)c

(b)(6), (b)(7)c

”¹¹⁶ For example, in the email (b)(6), (b)(7)c wrote, (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c in interview (b)(6), (b)(7)c attempted to explain:

(b)(6), (b)(7)c

(b)(6), (b)(7)c said that what (b)(6), (b)(7)c intended to convey with the phrase “ (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c also admitted that when (b)(6), (b)(7)c said (b)(6), (b)(7)c made a comment (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7) told investigators that

(b)(6), (b)(7)c

(b)(6), (b)(7)c

„119 After

investigators shared with (b)(6), (b)(7) examples of (b)(6), (b)(7)c emails which demonstrate no pattern of closing signatures, (b)(6), (b)(7) acknowledged (b)(6), (b)(7)c

(b)(6), (b)(7)c „120 In other words, (b)(6), (b)(7) filed a formal workplace violence complaint against a subordinate based on factually inaccurate information.

7. Statements to a potential witness

At 8:13 pm on Sunday, June 10, (b)(6), (b)(7) sent (b)(6), (b)(7)c an inexplicable email entitled, “Confounding News from a Source.” „121 In this email, (b)(6), (b)(7) discussed (b)(6), (b)(7)c

(b)(6), (b)(7)c comment and stated a

(b)(6), (b)(7)c

(b)(6), (b)(7)c :

(b)(6), (b)(7)c

This email could reasonably be construed as an attempt to ensure that (b)(6), (b)(7) and (b)(6), (b)(7)c shared a common understanding of events. None of the information in this email was new to either (b)(6), (b)(7) or (b)(6), (b)(7)c. Both (b)(6), (b)(7) and (b)(6), (b)(7)c acknowledge that they had multiple conversations throughout (b)(6), (b)(7)c tenure regarding the supposed attempt to use (b)(6), (b)(7)c to remove (b)(6), (b)(7) from (b)(6), (b)(7)c responsibilities. Although we did not interview all senior leaders, we found no evidence of impropriety on the part of any senior leaders.

(b)(6), (b)(7) was asked whether (b)(6), (b)(7) would now, with the benefit of time, take back any of (b)(6), (b)(7)c emails. (b)(6), (b)(7) replied:

(b)(6), (b)(7)c

(b)(6), (b)(7)c

The substance of the email did see the light of day when (b)(6), (b)(7)c repeated the themes of the email in (b)(6), (b)(7)c first interview with DOT OIG investigators. (b)(6), (b)(7)c did not mention receiving the email from (b)(6), (b)(7)c. In (b)(6), (b)(7)c first interview, (b)(6), (b)(7)c repeatedly suggested to investigators there was a “ (b)(6), (b)(7)c involving (b)(6), (b)(7)c and encouraged investigators to pursue this lead:

(b)(6), (b)(7)c

When investigators asked (b)(6), (b)(7)c about this email in a follow-up interview, (b)(6), (b)(7)c responded, “ (b)(6), (b)(7)c acknowledged that the email

(b)(6), (b)(7)c

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(b)(6), (b)(7)c described (b)(6), (b)(7)c intent with the June 6 and June 10 emails:

(b)(6), (b)(7)c

(b)(6), (b)(7)c

8. Statements regarding [redacted] state of mind during the week of June 6

(b)(6), (b)(7)c was interviewed by DOT OIG investigators on September 21 and was confronted with (b)(6), (b)(7)c various prior statements. Four days after (b)(6), (b)(7)c interview, (b)(6), (b)(7)c emailed investigators and said (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

then disclosed for the first time that (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

While we do not dispute (b)(6), (b)(7)c assertion that (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

it does not explain (b)(6), (b)(7)c consistent behavior towards (b)(6), (b)(7)c that began immediately after the March events. We believe (b)(6), (b)(7)c explanation is further evidence of a pattern of lack of candor with management and investigators.

ATTACHMENTS

1. Letter of Engagement, July 11, 2012
2. Objective, Scope and Methodology of Investigation
3. Timeline of Significant Events
4. Email from (b)(6), (b)(7)c Subject: Conduct Issue Regarding (b)(6), (b)(7)c April 1, 2012
5. Email thread between (b)(6), (b)(7)c and (b)(6), (b)(7)c April 1-9, 2012
6. Email from (b)(6), (b)(7)c Subject: Work Place Violence Re: (b)(6), (b)(7)c June 6, 2012
7. Email from (b)(6), (b)(7)c Subject: FW: Work Place Violence Re: (b)(6), (b)(7)c June 7, 2012
8. Email from (b)(6), (b)(7)c Subject: Meeting with (b)(6), (b)(7)c April 3, 2012
9. Email from (b)(6), (b)(7)c Subject: At Your Service, March 25, 2012
10. Email from (b)(6), (b)(7)c Subject: Matters Within OCCL - Need Your Advice, March 11, 2012
11. Email from (b)(6), (b)(7)c Subject: 20120507 LT Performance Plan, May 24, 2012
12. Email from (b)(6), (b)(7)c Subject: How is this?, April 9, 2012
13. Email from (b)(6), (b)(7)c Subject: First Draft, May 24, 2012
14. Email thread, Subject to (b)(6), (b)(7)c statement to staff, April 23, 2012
15. Email from (b)(6), (b)(7)c Subject: FW: Work Place Violence Re: (b)(6), (b)(7)c June 10, 2012
16. Email from (b)(6), (b)(7)c Subject: Confounding News from a Source, June 10, 2012
17. Email from (b)(6), (b)(7)c Subject: Supplemental Information, September 25, 2012

NOTES

- ¹ Letter of Engagement dated July 11, 2012 (Attachment 1)
- ² Objective, Scope and Methodology of Investigation (Attachment 2)
- ³ Timeline of Significant Events (Attachment 3)
- ⁴ Email from (b)(6), (b)(7)c Subject: Conduct Issue Regarding (b)(6), (b)(7)c April 1, 2012 (Attachment 4)
- ⁵ Email thread between (b)(6), (b)(7)c and (b)(6), (b)(7)c April 1-9, 2012 (Attachment 5)
- ⁶ Email from (b)(6), (b)(7)c Subject: Work Place Violence Re: (b)(6), (b)(7)c June 6, 2012 (Attachment 6)
- ⁷ Memorandum of Activity, Polygraph Examination of (b)(6), (b)(7)c
- ⁸ (b)(6), (b)(7)c Interview, June 8, 2012, Transcript, p. 22:24 to 23:3
- ⁹ (b)(6), (b)(7)c Interview, June 8, 2012, Transcript, p. 26:24 to 27:8
- ¹⁰ (b)(6), (b)(7)c Interview, July 30, 2012, Transcript, p. 32:13-16 and 33:13-20
- ¹¹ (b)(6), (b)(7)c Interview, August 23, 2012, Transcript, p. 7:10-16
- ¹² Email from (b)(6), (b)(7)c Subject: FW: Work Place Violence Re: (b)(6), (b)(7)c June 7, 2012 (Attachment 7)
- ¹³ (b)(6), (b)(7)c Interview, June 13, 2012, Transcript, p. 5:7
- ¹⁴ (b)(6), (b)(7)c Interview, September 21, 2012, Transcript, p. 105:20-21
- ¹⁵ (b)(6), (b)(7)c Interview, September 21, 2012, Transcript, p. 113:8-22
- ¹⁶ (b)(6), (b)(7)c Interview, September 21, 2012, Transcript, p. 170:21-24
- ¹⁷ Email from (b)(6), (b)(7)c Subject: Checking In , June 10, 2012
- ¹⁸ Email from (b)(6), (b)(7)c Subject: Checking In, June 5, 2012
- ¹⁹ (b)(6), (b)(7)c Interview, September 21, 2012, Transcript, p. 108:20
- ²⁰ (b)(6), (b)(7)c Interview, September 21, 2012, Transcript, p. 109:20
- ²¹ (b)(6), (b)(7)c Interview, June 12, 2012, Transcript, pp. 5:3-8, 21:21-22, 26:20-23
- ²² (b)(6), (b)(7)c Interview, September 21, 2012, Transcript, p. 170:16-24
- ²³ Email from (b)(6), (b)(7)c April 3, 2012, Subject: Meeting with (b)(6), (b)(7)c (Attachment 8)
- ²⁴ (b)(6), (b)(7)c Interview, June 8, 2012, Transcript, p. 9:9-22
- ²⁵ (b)(6), (b)(7)c Interview, June 8, 2012, Transcript, p. 17:1-2
- ²⁶ (b)(6), (b)(7)c Interview, June 8, 2012, Transcript, p. 17:24 to 18:5
- ²⁷ (b)(6), (b)(7)c Interview, September 21, 2012, Transcript, p. 100:5-9
- ²⁸ OPR Memorandum of Activity, Subject: Coordination with Pentagon Police, June 18, 2012
- ²⁹ (b)(6), (b)(7)c Interview, September 21, 2012, Transcript, p. 115:4-23
- ³⁰ (b)(6), (b)(7)c Interview, September 21, 2012, Transcript, p. 40: 5-14
- ³¹ (b)(6), (b)(7)c Interview, September 21, 2012, Transcript, p. 40:21-22
- ³² (b)(6), (b)(7)c Interview, September 23, 2012, Transcript, p. 20:14 to 21:4
- ³³ (b)(6), (b)(7)c Interview, August 23, 2012, Transcript, p. 68:22 to 69:3
- ³⁴ (b)(6), (b)(7)c Interview, September 12, 2012, Transcripts, p. 9:3-17

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- ³⁵ (b)(6), (b)(7)(D) Interview, September 21, 2012, Transcript, p. 38:23-25
- ³⁶ (b)(6), (b)(7)(c) Interview, September 13, 2012, Transcript, p. 12:23 to 13:3
- ³⁷ (b)(6), (b)(7)(c) Interview, August 16, 2012, Transcript, p. 10:6-12
- ³⁸ (b)(6), (b)(7)(c) Interview, September 13, 2012, Transcript, p. 8:18-23
- ³⁹ (b)(6), (b)(7)(D) Interview, September 13, 2012, Transcript, p. 12:18-20
- ⁴⁰ (b)(6), (b)(7)(c) Interview, August 23, 2012, Transcript, p. 16:15-19
- ⁴¹ (b)(6), (b)(7)(D) Interview, July 30, 2012, Transcript, p. 18:12-14; 19:4-5 and 12-13
- ⁴² (b)(6), (b)(7)(c) Interview, July 30, 2012, Transcript, p. 18:16 to 19:8
- ⁴³ (b)(6), (b)(7)(c) Interview, July 30, 2012, Transcript, p. 27:17 to 28:24
- ⁴⁴ (b)(6), (b)(7)(D) Interview, September 21, 2012, Transcript, p. 102:23-24
- ⁴⁵ (b)(6), (b)(7)(D) Interview, August 16, 2012, Transcript, p. 11:17 to 12:4
- ⁴⁶ Email from (b)(6), (b)(7)(D) Subject: Apology to Staff Regarding Your Remarks, May 17, 2012
- ⁴⁷ (b)(6), (b)(7)(c) Interview, August 24, 2012, Transcript, p. 107:23-24
- ⁴⁸ (b)(6), (b)(7)(D) Interview, September 13, 2012, Transcript, p. 62:6-9
- ⁴⁹ (b)(6), (b)(7)(D) Interview, August 24, 2012, Transcript, p. 111:17-20 and 25
- ⁵⁰ Email from (b)(6), (b)(7)(c) Subject: At Your Service, March 25, 2012 (Attachment 9)
- ⁵¹ (b)(6), (b)(7)(D) Interview, August 24, 2012, Transcript, p. 126:16 to 127:7
- ⁵² (b)(6), (b)(7)(D) Interview, July 30, 2012, Transcript, p. 21:18-20
- ⁵³ Email from (b)(6), (b)(7)(D) Subject: (b)(6), (b)(7)(c) Apology, April 13, 2012
- ⁵⁴ Email from (b)(6), (b)(7)(D) Subject: (b)(6), (b)(7)(D) Statement to Staff, April 23, 2012
- ⁵⁵ (b)(6), (b)(7)(D) Interview, August 24, 2012, Transcript, p. 135:4-19
- ⁵⁶ Email from (b)(6), (b)(7)(D) Subject: Apology to Staff Regarding Your Remarks, May 17, 2012
- ⁵⁷ (b)(6), (b)(7)(D) Interview, July 30, 2012, Transcript, p. 22:14
- ⁵⁸ (b)(6), (b)(7)(D) Interview, July 30, 2012, Transcript, p. 21:25 to 22:8
- ⁵⁹ (b)(6), (b)(7)(D) Interview, August 16, 2012, Transcript, p. 31:19 to 32:13
- ⁶⁰ (b)(6), (b)(7)(c) Interview, August 15, 2012, Transcript, p. 15:7-16
- ⁶¹ (b)(6), (b)(7)(D) Interview, August 23, 2012, Transcript, p. 69:17-24
- ⁶² (b)(6), (b)(7)(D) Interview, September 12, 2012, Transcript, p. 55:21 to 56:2
- ⁶³ (b)(6), (b)(7)(D) Interview, September 21, 2012, Transcript, p. 98:6-8; 171:14-16
- ⁶⁴ (b)(6), (b)(7)(D) Interview, September 21, 2012, Transcript, p. 57:2-3
- ⁶⁵ (b)(6), (b)(7)(D) Interview, September 21, 2012, Transcript, p. 55:18 to 56:6
- ⁶⁶ (b)(6), (b)(7)(D) Interview, September 21, 2012, Transcript, p. 32:8-9
- ⁶⁷ (b)(6), (b)(7)(D) Interview, September 21, 2012, Transcript, p.
- ⁶⁸ (b)(6), (b)(7)(D) Interview, July 30, 2012, Transcript, p. 16:12-18
- ⁶⁹ (b)(6), (b)(7)(D) Interview, August 16, 2012, Transcript, p. 23:19-21

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- ⁷⁰ (b)(6), (b)(7) Interview, August 16, 2012, Transcript, p. 24:17
- ⁷¹ (b)(6), (b)(7)c Interview, August 21, 2012, Transcript, p. 17:22-25
- ⁷² (b)(6), (b)(7) Interview, September 21, 2012, Transcript, p. 19:4-8
- ⁷³ (b)(6), (b)(7) Interview, September 21, 2012, Transcript, p. 25:2-4
- ⁷⁴ See, endnote 4 and attachment 4
- ⁷⁵ (b)(6), (b)(7) Interview, September 21, 2012, Transcript, p. 152:22 and 153:13-21
- ⁷⁶ (b)(6), (b)(7) Interview, August 16, 2012, Transcript, p. 16:2-21
- ⁷⁷ (b)(6), (b)(7) Interview, August 16, 2012, Transcript, p. 19:19 to 20:2
- ⁷⁸ (b)(6), (b)(7) Interview, August 21, 2012, Transcript, p. 12:24 to 13:1
- ⁷⁹ (b)(6), (b)(7) Interview, August 16, 2012, Transcript, p. 21:11-13
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- ⁸³ Email from (b)(6), (b)(7) Subject: Matters Within OCCL - Need Your Advice, March 11, 2012 (Attachment 10)
- ⁸⁴ (b)(6), (b)(7) Interview, September 12, 2012, Transcript, p. 17:21-24
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- ⁸⁶ Email from (b)(6), (b)(7) Subject: 20120507 LT Performance Plan, May 24, 2012 (Attachment 11)
- ⁸⁷ (b)(6), (b)(7) Interview, August 24, 2012, Transcript, p. 95:24 to 96:2
- ⁸⁸ Email from (b)(6), (b)(7) Subject: How is this?, April 9, 2012 (Attachment 12)
- ⁸⁹ (b)(6), (b)(7) Interview, August 24, 2012, Transcript, p. 221:1-10
- ⁹⁰ Email from (b)(6), (b)(7) Subject: First Draft, May 24, 2012 (Attachment 13)
- ⁹¹ Email from (b)(6), (b)(7) Subject: Memo Re: (b)(6), (b)(7) May 25, 2012
- ⁹² Email thread, Subject: (b)(6), (b)(7) statement to staff, April 23, 2012 (Attachment 14)
- ⁹³ (b)(6), (b)(7) Interview September 21, 2012, Transcript, p. 57:2-4
- ⁹⁴ (b)(6), (b)(7) Interview, August 16, 2012, Transcript, p. 39:18
- ⁹⁵ (b)(6), (b)(7) Interview September 21, 2012, Transcript, p. 55:17 to 56:6
- ⁹⁶ (b)(6), (b)(7) Interview, August 16, 2012, Transcript, p. 90:4-5
- ⁹⁷ (b)(6), (b)(7) Interview September 21, 2012, Transcript, p. 33:18-19
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- ⁹⁹ Email from (b)(6), (b)(7) Subject: FW: Work Place Violence Re: (b)(6), (b)(7)c June 10, 2012 (Attachment 15)
- ¹⁰⁰ (b)(6), (b)(7) Interview September 21, 2012, Transcript, p. 36:21
- ¹⁰¹ (b)(6), (b)(7) Interview September 21, 2012, Transcript, p. 42:15-24
- ¹⁰² (b)(6), (b)(7)c Interview, September 4, 2012, Transcript, p. 29:5-6
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- ¹⁰⁴ (b)(6), (b)(7) Interview, September 12, 2012, Transcript, p. 97:21 to 98:15

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- ¹⁰⁵ (b) (6), (b) (7) Interview, September 12, 2012, Transcript, p. 54:9-12
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- ¹⁰⁷ (b) (6), (b) (7) Interview, September 21, 2012, Transcript, p. 20:1-15 and 20:24 to 21:5
- ¹⁰⁸ (b) (6), (b) (7) Interview, September 21, 2012, Transcript, p. 177:8
- ¹⁰⁹ (b) (6), (b) (7) Interview September 21, 2012, Transcript, p. 177:11-16
- ¹¹⁰ (b) (6), (b) (7) Interview, September 13, 2012, Transcript, p. 33-11-25
- ¹¹¹ (b) (6), (b) (7) Interview September 21, 2012, Transcript, p. 33:1-7
- ¹¹² (b) (6), (b) (7) Interview September 21, 2012, Transcript, p. 70:12 to 71:3; 71:23 to 72:2
- ¹¹³ (b) (6), (b) (7) Interview, September 21, 2012, Transcript, p. 95:5-8
- ¹¹⁴ (b) (6), (b) (7) Interview, September 21, 2012, Transcript, p. 76:22 to 77:9; 77: 2-16
- ¹¹⁵ (b) (6), (b) (7) Interview, October 17, 2012
- ¹¹⁶ (b) (6), (b) (7) Interview, September 21, 2012, Transcript, p. 120:25 to 121:1
- ¹¹⁷ (b) (6), (b) (7) Interview, September 21, 2012, Transcript, p. 120:19-25
- ¹¹⁸ (b) (6), (b) (7) Interview, September 21, 2012, Transcript, p. 121: 21-22
- ¹¹⁹ (b) (6), (b) (7) Interview, September 21, 2012, Transcript, p. 10:18-15
- ¹²⁰ (b) (6), (b) (7) Interview, September 21, 2012, Transcript, p. 14:16-18
- ¹²¹ Email from (b) (6), (b) (7) Subject: Confounding News from a Source, June 10, 2012 (Attachment 16)
- ¹²² (b) (6), (b) (7) Interview, August 16, 2012, Transcript, p. 44:8-12
- ¹²³ (b) (6), (b) (7) Interview, September 12, 2012, Transcript, p. 58:5-13
- ¹²⁴ (b) (6), (b) (7) Interview, August 16, 2012, Transcript, p. 52:24-25
- ¹²⁵ (b) (6), (b) (7) Interview, September 12, 2012, Transcript, p. 60:10-11
- ¹²⁶ (b) (6), (b) (7) Interview, September 12, 2012, Transcript, p. 61:1
- ¹²⁷ (b) (6), (b) (7) Interview, September 21, 2012, Transcript, p. 163:24 to 164:14
- ¹²⁸ Email from (b) (6), (b) (7) Subject: Supplemental Information, September 25, 2012 (Attachment 17)



U.S. Department of
Transportation
Office of the Secretary
of Transportation
Office of Inspector General

Memorandum

Subject: **ACTION:** OIG Investigation
H13E003CC, Re: Alleged Misconduct
Washington Metropolitan Area
Transit Authority Office of the
Inspector General

Date: November 30, 2012

From: Ronald C. Engler *RCE*
Director, Special Investigations (JI-3)

Reply to
Attn. of: (202) 366-4189

To: Helen Lew
Inspector General, WMATA OIG

You asked that we investigate numerous allegations of misconduct made to you by a recently-resigned (b)(6), (b)(7)c. According to the former (b)(6), (b)(7)c among other things, violated WMATA OIG investigation procedures, abused time and attendance, and violated WMATA ethics policies.

We determined the complainant's allegations to be unfounded and we found no wrongdoing by WMATA OIG employees. Our Report of Investigation is attached for your review and any action deemed appropriate. If you would like additional details on our investigation, we would be pleased to provide an oral briefing.

If you have any questions or concerns, please feel free to contact me at (202) 366-4189.



U.S. Department of Transportation
Office of Inspector General

REPORT OF INVESTIGATION	INVESTIGATION NUMBER H13E003CC	DATE November 30, 2012
TITLE Alleged Violations of Misconduct at the Washington Metropolitan Area Transit Authority Office of Inspector General	PREPARED BY: <div style="background-color: #cccccc; padding: 2px; text-align: center;">(b)(6), (b)(7)c</div> Special Investigations, JI-3	STATUS FINAL
	DISTRIBUTION	APPROVED BY: JI-3 (RCE/EVC) <i>RCE</i>

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BACKGROUND

On approximately September 14, 2012, Washington Metropolitan Area Transit Authority (WMATA) (b)(6), (b)(7)c telephoned U.S. Department of Transportation (DOT) Inspector General Calvin Scovel III, asking that the DOT Office of Inspector General (OIG) investigate allegations made by recently (b)(6), (b)(7)c (b)(6), (b)(7)c previously determined that (b)(6), (b)(7)c compromised a WMATA OIG investigation of Metropolitan Transit Police Department (MTPD) officers by providing MTPD officials confidential information about the investigation. (b)(6), (b)(7)c advised that (b)(6), (b)(7)c conduct prompted (b)(6), (b)(7)c to approve (b)(6), (b)(7)c (b)(6), (b)(7)c however, opted to (b)(6), (b)(7)c

(b)(6), (b)(7)c on (b)(6), (b)(7)c (Attachment 1) Later that day, (b)(6), (b)(7)c sent an email to (b)(6), (b)(7)c and (b)(6), (b)(7)c former supervisor, (b)(6), (b)(7)c (b)(6), (b)(7)c, alleging various instances of misconduct by (b)(6), (b)(7)c and two of (b)(6), (b)(7)c direct subordinates, Special Agents (b)(6), (b)(7)c (Attachment 2) The following day, September 7, 2012, (b)(6), (b)(7)c sent (b)(6), (b)(7)c a second email repeating (b)(6), (b)(7)c allegations and alleging further wrongdoing by (b)(6), (b)(7)c (Attachment 3)

In the emails, (b)(6), (b)(7)c alleges that:

1. (b)(6), (b)(7)c falsified a memorandum of investigative activity by recording that (b)(6), (b)(7)c contacted a senior WMATA official before the contact actually occurred;
2. (b)(6), (b)(7)c frequently arrived late, left early, took long lunches, and, on one occasion, did not use the correct amount of sick leave;
3. Without using leave, (b)(6), (b)(7)c spent a week at a Girl Scouts day camp;
4. (b)(6), (b)(7)c informed (b)(6), (b)(7)c immediate supervisor, (b)(6), (b)(7)c misconduct described in allegations 1, 2, and 3, (b)(6), (b)(7)c took no action;
5. (b)(6), (b)(7)c instructed (b)(6), (b)(7)c not to investigate an alleged sexual relationship between the WMATA (b)(6), (b)(7)c
6. In violation of WMATA policy, (b)(6), (b)(7)c gave (b)(6), (b)(7)c (b)(6), (b)(7)c Airlines "buddy pass" that allowed (b)(6), (b)(7)c to fly free;
7. (b)(6), (b)(7)c did not follow WMATA procedure concerning the (b)(6), (b)(7)c employees when (b)(6), (b)(7)c did not: (a) allow (b)(6), (b)(7)c to respond in writing to allegations against (b)(6), (b)(7)c and (b) receive approval to (b)(6), (b)(7)c from the WMATA (b)(6), (b)(7)c (b)(6), (b)(7)c

8. In violation of WMATA ethics policy, (b)(6), (b)(7)c accepted an eReader from (b)(6), (b)(7)c as a gift; and
9. In violation of WMATA evidence procedure, (b)(6), (b)(7)c directed (b)(6), (b)(7)c and (b)(6), (b)(7)c agents not to give MTPD a receipt listing the investigative files the agents took from MTPD.

(b)(6), (b)(7)c provided copies of (b)(6), (b)(7)c emails to (b)(6), (b)(7)c and (b)(6), (b)(7)c. In a memorandum to (b)(6), (b)(7)c dated September 7, 2012, (b)(6), (b)(7)c responded to (b)(6), (b)(7)c

(b)(6), (b)(7)c

Pursuant to a Memorandum of Agreement signed on September 20, 2012, by Inspector General Scovel and on October 1, 2012, by (b)(6), (b)(7)c DOT OIG agreed to investigate (b)(6), (b)(7)c allegations. **(Attachment 10)** The methodology of our investigation is attached.

SYNOPSIS

We determined (b)(6), (b)(7)c allegations to be unfounded and we found no wrongdoing on the part of any WMATA OIG employees. Below are the details of our investigation.

DETAILS

Allegation 1: (b)(6), (b)(7)c falsified a memorandum of investigative activity by recording that (b)(6), (b)(7)c contacted a senior WMATA official before the contact actually occurred.

FINDINGS:

(b)(6), (b)(7)c alleges (b)(6), (b)(7)c backdated a memorandum of activity (b)(6), (b)(7)c wrote as part of an investigation into a complaint against then-WMATA employee (b)(6), (b)(7)c (b)(6), (b)(7)c stated

(b)(6), (b)(7)c

the contact as having previously occurred. (**Attachment 11, pp. 21-31**) According to

(b)(6), (b)(7)c

September 6, 2012, (b)(6), (b)(7)c made this allegation to (b)(6), (b)(7)c and (b)(6), (b)(7)c in an email. (**Attachment 2**) The following day, (b)(6), (b)(7)c sent (b)(6), (b)(7)c a second email repeating this allegation. (**Attachment 3**)

In a September 7, 2012, response to (b)(6), (b)(7)c first email, (b)(6), (b)(7)c contends that on July 11, 2012, (b)(6), (b)(7)c informed (b)(6), (b)(7)c that (b)(6), (b)(7)c told (b)(6), (b)(7)c that (b)(6), (b)(7)c had contacted (b)(6), (b)(7)c about the

(b)(6), (b)(7)c

We interviewed (b)(6), (b)(7)c who reiterated under oath the statements in (b)(6), (b)(7)c September 7, 2012, response. According to (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c also said that when (b)(6), (b)(7)c directed (b)(6), (b)(7)c

(b)(6), (b)(7)c

14, pp. 48-49; Attachment 15, pp. 4-10)

During (b)(6), (b)(7)c interview, (b)(6), (b)(7)c told us that (b)(6), (b)(7)c

(b)(6), (b)(7)c

(Attachment 16, pp. 39-42)

The evidence does not substantiate (b)(6), (b)(7)c allegation that (b)(6), (b)(7)c falsified a memorandum of investigative activity by recording that (b)(6), (b)(7)c contacted (b)(6), (b)(7)c before the contact actually occurred. Instead, the evidence indicates (b)(6), (b)(7)c directed (b)(6), (b)(7)c to create a

memorandum backdating the contact with (b)(6), (b)(7)c but (b)(6), (b)(7)c did not do so. Although (b)(6), (b)(7)c has a self-interest in denying the allegation, two other WMATA employees, (b)(6), (b)(7)c and (b)(6), (b)(7)c independently corroborated (b)(6), (b)(7)c contention that it was (b)(6), (b)(7)c who directed the creation of a backdated memorandum. Moreover, (b)(6), (b)(7)c did not provide us with any evidence, such as a copy of the alleged memorandum of investigative activity or documentation showing (b)(6), (b)(7)c disciplined (b)(6), (b)(7)c for the alleged falsification, in support of this allegation. At our request, the WMATA OIG (b)(6), (b)(7)c looked for, but could not find, any memorandum of investigative activity recording (b)(6), (b)(7)c contact with (b)(6), (b)(7)c

Allegation 2: (b)(6), (b)(7)c frequently arrived late, left early, took long lunches, and, on one occasion, did not use the correct amount of sick leave.

FINDINGS:

In (b)(6), (b)(7)c emails, (b)(6), (b)(7)c accused (b)(6), (b)(7)c of reporting to work several hours late without making up the missed time on three occasions; taking 90-minutes lunches; and failing to use the correct amount of sick leave after (b)(6), (b)(7)c sent (b)(6), (b)(7)c (b)(6), (b)(7)c. (Attachments 2 and 3) During (b)(6), (b)(7)c interview with DOT OIG, (b)(6), (b)(7)c stated that (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c further stated (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c said, (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c told us

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c said

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c testimony

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

In sum, the above evidence does not support (b)(6), (b)(7)c allegation. (b)(6), (b)(7)c denied abusing time and attendance by frequently arriving to work late, departing early, and taking long lunches, and (b)(6), (b)(7)c did not provide evidence supporting (b)(6), (b)(7)c allegation. On the contrary, despite (b)(6), (b)(7)c allegedly frequent time and attendance abuse over approximately eight months, (b)(6), (b)(7)c approved (b)(6), (b)(7)c time and attendance, did not provide documentation

demonstrating [REDACTED] addressed the matter with (b)(6), (b)(7)c made no mention of the abuse in (b)(6), (b)(7)c performance appraisal, and failed to contact anyone concerning (b)(6), (b)(7)c alleged direction to ignore the abuse.

(b)(6), (b)(7)c

Allegation 3: Without using [REDACTED] spent a week at a Girl Scouts day camp.

FINDINGS:

(b)(6), (b)(7)c alleges that, because (b)(6), (b)(7)c lacked (b)(6), (b)(7)c allowed [REDACTED] a week off to attend a Girl Scouts day camp without (b)(6), (b)(7)c
(Attachments 2 and 3, and Attachment 11, pp. 63-64)

According to (b)(6), (b)(7)c

(b)(6), (b)(7)c stated that (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c stated that (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c said that (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

In sum, the evidence indicates that (b)(6), (b)(7)c upon (b)(6), (b)(7)c suggestion, worked from home and stayed late to make-up for the work hours, (b)(6), (b)(7)c missed to attend the camp.

Allegation 4: (b)(6), (b)(7)c informed (b)(6), (b)(7)c immediate supervisor, (b)(6), (b)(7)c of (b)(6), (b)(7)c and (b)(6), (b)(7)c misconduct, but (b)(6), (b)(7)c took no action.

FINDINGS:

(b)(6), (b)(7)c alleges (b)(6), (b)(7)c made (b)(6), (b)(7)c aware of the alleged misconduct by (b)(6), (b)(7)c and (b)(6), (b)(7)c described in allegations 1, 2, and 3, but (b)(6), (b)(7)c took no action. (Attachments 2 and 3, and Attachment 11, pp. 20, 68) According to (b)(6), (b)(7)c (b)(6), (b)(7)c Given, however, the evidence does not substantiate (b)(6), (b)(7)c claims that (b)(6), (b)(7)c falsified a memorandum of investigative activity or that (b)(6), (b)(7)c abused time and attendance, we found no reason for (b)(6), (b)(7)c to take action.

Allegation 5: (b)(6), (b)(7)c instructed (b)(6), (b)(7)c not to investigate an alleged sexual relationship between the WMATA (b)(6), (b)(7)c and (b)(6), (b)(7)c

FINDINGS:

(b)(6), (b)(7)c alleges that in June or July 2012, WMATA received an anonymous complaint contending WMATA's (b)(6), (b)(7)c was having a sexual relationship with (b)(6), (b)(7)c (Attachments 2 and 3, and Attachment 11, pp. 68-70) (b)(6), (b)(7)c told us the complainant wrote, (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c said

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

We could not verify the content of the complaint. (b)(6), (b)(7)c told us

(b)(6), (b)(7)c

(b)(6), (b)(7)c stated (b)(6), (b)(7)c

(b)(6), (b)(7)c

Nevertheless, (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c the allegation was within the investigative authority of WMATA OIG as a potential conflict of interest. Even if WMATA has no prohibition against such officials dating and the relationship is indeed personal, there could nevertheless exist a conflict of interest or waste, fraud, or abuse given the (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c Similarly, complaints alleging the use of sex for professional gain may be worthy of investigation notwithstanding any crude, demeaning, or sexist language they contain. Further, even singular, anonymous complaints are capable of being investigated without speaking with the complainant by, for example, interviewing individuals that work with the subjects of the complaint.

Allegation 6: In violation of WMATA policy, (b)(6), (b)(7)c gave (b)(6), (b)(7)c Airlines “buddy pass” that allowed (b)(6), (b)(7)c to fly free.

FINDINGS:

(b)(6), (b)(7)c alleges that (b)(6), (b)(7)c in violation of WMATA policy, gave (b)(6), (b)(7)c Airlines “buddy pass” valued at more than \$800 that allowed (b)(6), (b)(7)c to fly without purchasing a ticket. According to (b)(6), (b)(7)c, (b)(6), (b)(7)c gave (b)(6), (b)(7)c the buddy pass after (b)(6), (b)(7)c mentioned (b)(6), (b)(7)c (b)(6), (b)(7)c stated that

(b)(6), (b)(7)c

In (b)(6), (b)(7)c September 12, 2012, and September 20, 2012, memoranda, (b)(6), (b)(7)c conceded (b)(6), (b)(7)c gave (b)(6), (b)(7)c Airlines buddy pass. (Attachments 8 and 9) According to the memoranda, the pass belonged to (b)(6), (b)(7)c who asked (b)(6), (b)(7)c to give one to (b)(6), (b)(7)c (b)(6), (b)(7)c mentioned (b)(6), (b)(7)c would travel to Arizona in April 2012. The September 12, 2012, memorandum contains a copy of such a buddy pass, which, (b)(6), (b)(7)c pointed out, indicates it has no cash value. (Attachment 9)

During (b)(6), (b)(7)c interview, (b)(6), (b)(7)c

(b)(6), (b)(7)c

We reviewed WMATA Policy/Instruction 7.8.10, *Standards of Conduct – Ethics*. This policy/instruction addresses conflicts of interest and gratuities. (Attachment 19) Although (b)(6), (b)(7)c gave (b)(6), (b)(7)c Airlines buddy pass, we found nothing in the policy/instruction prohibiting (b)(6), (b)(7)c from providing gifts to (b)(6), (b)(7)c .

Allegation 7: (b)(6), (b)(7)c did not follow WMATA procedure concerning the (b)(6), (b)(7)c employees when (b)(6), (b)(7)c did not: (a) allow (b)(6), (b)(7)c to respond in writing to allegations against (b)(6), (b)(7)c and (b) receive approval to (b)(6), (b)(7)c from the WMATA (b)(6), (b)(7)c .

FINDINGS:

(b)(6), (b)(7)c alleges (b)(6), (b)(7)c did not follow WMATA procedure in (b)(6), (b)(7)c an “at-will” employee, because (b)(6), (b)(7)c did not allow (b)(6), (b)(7)c the opportunity to address in writing the allegations against (b)(6), (b)(7)c or obtain the approval of the (b)(6), (b)(7)c (b)(6), (b)(7)c told us that on September 6, 2010, (b)(6), (b)(7)c met with (b)(6), (b)(7)c and WMATA (b)(6), (b)(7)c , and they

(b)(6), (b)(7)c

(Attachment 11, p. 10)

According to Section 5.01(c) of WMATA Policy/Instruction 7.2.1, *Categories of Employment*, “The dismissal of an at-will employee must be reviewed and approved by the General Manager prior to employee notification.” **(Attachment 20, p. 4)** Because (b)(6), (b)(7)c however, WMATA policy regarding the (b)(6), (b)(7)c employees did not apply.

Allegation 8: In violation of WMATA ethics policy, (b)(6), (b)(7)c accepted an eReader from (b)(6), (b)(7)c as a gift.

FINDINGS:

(b)(6), (b)(7)c alleges that in approximately late May or early June 2012, (b)(6), (b)(7)c offered (b)(6), (b)(7)c and (b)(6), (b)(7)c accepted, an eReader. **(Attachment 11, pp. 91-93)** (b)(6), (b)(7)c told us:

(b)(6), (b)(7)c

(Id., pp. 97-98)

According to (b)(6), (b)(7)c, (b)(6), (b)(7)c returned the eReader on the morning of (b)(6), (b)(7)c September 6, 2012. (b)(6), (b)(7)c (b)(6), (b)(7)c maintains that someone had used the eReader during that time because it had a scratch and fingerprints on it. According to (b)(6), (b)(7)c WMATA policy prohibits (b)(6), (b)(7)c from accepting gifts from (b)(6), (b)(7)c. (b)(6), (b)(7)c also stated that (b)(6), (b)(7)c had previously paid (b)(6), (b)(7)c \$50.00 for a year-old “NetBook” computer for which (b)(6), (b)(7)c originally paid approximately \$199.00. **(Attachment 3 and Attachment 11, pp. 91-101)**

(b)(6), (b)(7)c told us that,

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c added that

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Section 5.05 of WMATA Policy/Instruction 7.8.10, *Standards of Conduct – Ethics*, prohibits soliciting or accepting gifts from subordinate personnel except for voluntary gifts valued at no more than \$25.00 per person on special occasions such as marriage, transfer, illness, or retirement. **(Attachment 19, p. 8)**

The evidence indicates (b)(6), (b)(7)c did not accept the eReader from (b)(6), (b)(7)c as a gift, but accepted it with the intention of purchasing it if (b)(6), (b)(7)c liked it. Although (b)(6), (b)(7)c did not pay (b)(6), (b)(7)c for the eReader upon receiving it and the length of time (b)(6), (b)(7)c kept it without paying for it are indicators that (b)(6), (b)(7)c accepted it as a gift, (b)(6), (b)(7)c's explanation for not immediately paying for it and not returning it sooner appear credible. Most significantly, (b)(6), (b)(7)c's previous decision to decline (b)(6), (b)(7)c's Book as a gift and, instead, purchase it from (b)(6), (b)(7)c strongly suggests (b)(6), (b)(7)c would not have accepted a second similar device from (b)(6), (b)(7)c as a gift.

Allegation 9: In violation of WMATA evidence procedure, (b)(6), (b)(7)c directed (b)(6), (b)(7)c and (b)(6), (b)(7)c agents not to give the MTPD a receipt listing the investigative files the agents took from MTPD.

(b)(6), (b)(7)c alleges that during the investigation of MTPD officers that led to (b)(6), (b)(7)c, (b)(6), (b)(7)c directed (b)(6), (b)(7)c and other agents to gather MTPD case files to determine if MTPD officers were falsifying police reports. According to (b)(6), (b)(7)c

(b)(6), (b)(7)c directed them not to provide MTPD officials with a receipt listing the case files they took from the MTPD. (b)(6), (b)(7)c maintains (b)(6), (b)(7)c direction violated WMATA procedure requiring agents to provide a receipt for any evidence they take. **(Attachment 3 and Attachment 11, pp. 11-20, 108-109)**

The WMATA Inspector General Manual, *Investigations Chapter X: Physical and Documentary Evidence Handling Procedures*, provides “procedures and guidance on the handling, processing and storing of physical and documentary evidence obtained in the course of investigative activities by WMATA OIG Special Agents and other Investigations personnel.” **(Attachment 22, p. 1)** The Chapter does not contain a requirement that OIG agents provide a receipt to the owner of documentary evidence when obtaining the evidence. Instead, Section 3.7, *Record of Evidence Acquisition and Inventories*, of the Chapter requires agents to:

[P]repare a Memorandum of Investigative Activity (MOIA) to record when and how evidence comes into their possession during the course of an investigation or investigative activity [and] keep a running list of all evidence acquired for each case to include the [Evidence] Control Form log number, date of receipt and date of any transfer of the evidence, and final disposition. The list will be maintained in the case file.

(Id., pp. 9-10) The Evidence Control Form is an internal WMATA OIG document used to label evidence and track chain-of-custody. **(Id., pp. 4-8, Appendix A)**

(b)(6), (b)(7)c acknowledged (b)(6), (b)(7)c directed (b)(6), (b)(7)c and (b)(6), (b)(7)c agents not to provide MTPD officials with a receipt listing the case files they took. **(Attachment 23, pp. 1-2)** According to (b)(6), (b)(7)c informing MPTD officials, other than (b)(6), (b)(7)c (b)(6), (b)(7)c about which files WMATA OIG agents were examining might compromise the investigation. (b)(6), (b)(7)c said (b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c told us that (b)(6), (b)(7)c

(b)(6), (b)(7)c

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METHODOLOGY OF INVESTIGATION

This investigation was conducted by a DOT OIG Senior Attorney-Investigator with assistance from an Assistant Special Agent-In-Charge. To address the complainant's concerns, we obtained and analyzed numerous documents, including policies, statements, memoranda, and emails produced by the complainant and WMATA officials. We also interviewed the following:

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(b)(6), (b)(7)c

INDEX OF ATTACHMENTS

1. (b)(6), (b)(7)c September 6, 2012
2. Email from (b)(6), (b)(7)c September 6, 2012
3. Email from (b)(6), (b)(7)c, September 7, 2012
4. Memorandum from (b)(6), (b)(7)c September 7, 2012
5. Memorandum from (b)(6), (b)(7)c September 10, 2012
6. Memorandum from (b)(6), (b)(7)c September 12, 2012
7. Memorandum from (b)(6), (b)(7)c Undated
8. Memorandum from (b)(6), (b)(7)c September 12, 2012
9. Memorandum from (b)(6), (b)(7)c to DOT OIG, September 20, 2012
10. Memorandum of Agreement between DOT OIG and WMATA OIG, October 1, 2012
11. Transcript of (b)(6), (b)(7)c interview, October 3, 2012
12. Transcript of (b)(6), (b)(7)c interview, October 3, 2012
13. Emails between (b)(6), (b)(7)c and (b)(6), (b)(7)c July 11, 2012
14. Transcript of (b)(6), (b)(7)c interview, October 3, 2012
15. Transcript of (b)(6), (b)(7)c interview, October 15, 2012
16. Transcript of (b)(6), (b)(7)c interview, October 15, 2012
17. Performance Planning & Appraisal Program Portfolio for (b)(6), (b)(7)c August 28, 2012
18. Performance Planning & Appraisal Program Portfolio for (b)(6), (b)(7)c, August 28, 2012

19. WMATA Policy/Instruction 7.8.10, *Standards of Conduct – Ethics*, March 16, 2007
20. WMATA Policy/Instruction 7.2.1, *Categories of Employment*, February 25, 2010
21. Copy of check (b)(6), (b)(7)c from (b)(6), (b)(7)c to (b)(6), (b)(7)c December 12, 2011
22. WMATA Inspector General Manual, *Investigations Chapter X: Physical and Documentary Evidence Handling Procedures*, March 11, 2010
23. Memorandum from (b)(6), (b)(7)c to File, August 30, 2012
24. Summary of (b)(6), (b)(7)c interview, November 27, 2012