FOIA Marker

This is not a textual record. This FOIA Marker indicates that material has been removed during FOIA processing by George W. Bush Presidential Library staff.

Counsel's Office, White House

Fielding, Fred - General Files

Stack:	Row:	Sect.:	Shelf:	Pos.:	FRC ID:	Location or Hollinger ID:	NARA Number:	OA Number:
W	19	23	3	2	11294	24157	10383	10821

Folder Title:

Office of Special Counsel Reports & Scott Bloch Issues [13]

Withdrawn/Redacted Material
The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Memorandum	[Investigative Report with attachments] - To: Charles Conner - From: Phyllis Fong	34	11/01/2007	P6/b6; b7c;
002	Letter	[Letter of Caution]	2	10/15/2007	P6/b6; b7c;
003	Report	Whistleblower's Comments	2	N.D.	P6/b6; b7c;
004	Report	[Whistleblower's Comments]	1	01/22/2008	P6/b6; b7c;
005	Report	[Whistleblower's Comments]	1	01/22/2008	P6/b6; b7c;
006	Report	Analysis of Disclosures, Agency Investigation and Report...	6	01/08/2008	P6/b6; b7c;
007	Letter	OSC File Nos. DI-06-2424 - To: POTUS - From: Scott Bloch	1	07/27/2007	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 [13]

FRC ID:
11294

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

Withdrawn/Redacted Material
The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
008	Report	Analysis of Disclosures, Agency Investigation and Report...	5	N.D.	P6/b6; b7c;
009	Report	Report of Invesitgation	39	04/20/2007	P6/b6; b7c;
010	Letter	Reply to OSCFILE NO. DI-06-2424	1	05/31/2007	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 [13]
FRC ID:
11294

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	[Investigative Report with attachments] - To: Charles Conner - From: Phyllis Fong	34	11/01/2007	P6/b6; b7c;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Counsel's Office, White House
SERIES:
Fielding, Fred - General Files
FOLDER TITLE:
Office of Special Counsel Reports & Scott Bloch Issues [13]
FRC ID:
11294
OA Num.:
10821
NARA Num.:
10383

FOIA IDs and Segments:
2014-0210-F

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 8/31/2016 by erl

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	[Letter of Caution]	2	10/15/2007	P6/b6; b7c;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Counsel's Office, White House

SERIES:
Fielding, Fred - General Files

FOLDER TITLE:
Office of Special Counsel Reports & Scott Bloch Issues [13]

FRC ID:
11294

OA Num.:
10821

NARA Num.:
10383

FOIA IDs and Segments:

2014-0210-F

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 8/31/2016 by erl

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Report	Whistleblower's Comments	2	N.D.	P6/b6; b7c;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Counsel's Office, White House

SERIES:
Fielding, Fred - General Files

FOLDER TITLE:
Office of Special Counsel Reports & Scott Bloch Issues [13]

FRC ID:
11294

OA Num.:
10821

NARA Num.:
10383

FOIA IDs and Segments:

2014-0210-F

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 8/31/2016 by erl

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

February 5, 2008

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

Re: OSC File No. DI-07-0168

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,

Scott J. Bloch

Enclosures

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

February 5, 2008

The Special Counsel

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

Re: OSC File No. DI-07-0168

Dear Mr. President:

I received a disclosure from Mr. José N. Alfaro, Supervisory General Supply Specialist, that employees at the Department of Veterans Affairs (VA), Veterans Administration Medical Center (VAMC), Long Beach Healthcare System, Long Beach, California, engaged in a violation of a law, rule, or regulation and gross mismanagement. Mr. Alfaro disclosed that VA managers improperly authorized credit card purchases for random door prizes to employees that were distributed at an agency's "Celebration of Quality" event in December 2004. Mr. Alfaro consented to the release of his name.

I required the Honorable R. James Nicholson, then Secretary of Veterans Affairs, to conduct an investigation into the whistleblower's disclosures pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary tasked the matter to management at the Network Director of Veterans Integrated Service (VISN 22) for an administrative investigation. On January 2, 2008, the Honorable James B. Peake, the newly appointed Secretary of Veterans Affairs, submitted his report to me. Mr. Alfaro provided comments on the agency report to 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, together with Mr. Alfaro's comments.

As discussed below, the agency investigation substantiated Mr. Alfaro's allegations. Specifically, Mr. Alfaro alleged that during the summer of 2005, he was responsible for reviewing credit card purchases as part of a routine audit. According to the information that Mr. Alfaro provided, VA managers improperly instructed VAMC Staff Assistant Lolita Cuevas to purchase door prizes and gift cards for a random drawing that would be conducted as part of an employee-focused Celebration of Quality agency event. The door prizes and gift card purchases were authorized by Mr. Charles Feistman, VAMC Chief Financial Officer. When Mr. Alfaro brought these purchases to the attention of managers, including Mr. Feistman, managers summarily found that no wrongdoing had occurred and declined to act upon his allegations.

The investigation substantiated Mr. Alfaro's allegations that the purchase of gift cards and other items for an agency celebration violated VA Handbook 5017. After the agency's initial inquiries about purchases related to the event in December 2004, the agency decided to expand its scope of investigation to analyze expenditures for a similar event that had been held in December 2003. The investigation concluded that items purchased for door prizes, specifically, gift cards, plants, and other decorations totaling $495.81 for the 2003 event, and totaling an additional $1,540.01 for the 2004 event, were not permissible under VA policies because these items had "intrinsic value." VA Handbook 5017, *Employee Recognition and Awards*, Part IV and OF Bulletin 03GA1.01. Furthermore, the agency has taken the following corrective action:

1. Mr. Feistman, Chief Financial Officer, received verbal counseling regarding the improper guidance given to employees related to the proper use of appropriated funds;
2. Mr. Feistman and other relevant employees involved in the planning of incentive awards ceremonies will receive additional training on permissible expenditures;
3. VAMC in Long Beach has implemented new guidelines on the purchase of mementos; and
4. the agency will pursue, to the extent practical, reimbursement for the value of the door prizes distributed to certain employees.

Mr. Alfaro had an opportunity to review the agency report. Mr. Alfaro commented that he and Mr. Feistman met on many occasions to review expenditures that were not appropriate and lamented the fact that Mr. Feistman only received verbal counseling for violating regulations related to the improper purchases. Mr. Alfaro also accused Mr. Feistman of lying to investigators about his lack of knowledge regarding impermissible items. Mr. Alfaro maintained that he had informed Mr. Feistman previously about the improper purchases on several occasions. Mr. Alfaro also questioned the appointment of the investigator, Mr. Ronald J. Larson, given that Mr. Larson is also a Chief Financial Officer at another facility within the same VA VISN 22 system.

I have reviewed the original disclosures, the agency report, and Mr. Alfaro'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. Alfaro's comments to the Chairmen of the Senate and House Committees on Veterans' Affairs. I have also filed a copy of the agency report and Mr. Alfaro's comments in our public file and closed the matter.

Respectfully,

Scott J. Bloch

Enclosures

THE SECRETARY OF VETERANS AFFAIRS

WASHINGTON

January 2, 2008

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

Re: OSC File No. DI-07-0168

Dear Mr. Bloch:

In accordance with your letter dated April 24, 2007, the Department of Veterans Affairs (VA) has conducted an investigation, pursuant to 5 U.S.C. § 1213(c), into whistleblower disclosures alleged by a VA employee. This investigation was completed on November 8, 2007. In accordance with Office of Special Counsel (OSC) policy, the whistleblower, Jose N. Alfaro, who is employed at Long Beach VA Health Care System (VAHCS), was interviewed on November 1, 2007.

Mr. Alfaro has alleged that:

a. Managers at the Long Beach VAHCS improperly authorized credit card purchases for door prizes, including gift cards worth over $2,000 in total, that were used during a random drawing for VA employees at a "Celebration of Quality" event in December 2004. (As the investigation proceeded, similar expenditures for a December 2003 event were also reviewed); and

b. He brought these purchases to the attention of the Chief Financial Officer and Director of the Long Beach VAHCS, but they summarily found no wrongdoing had occurred, and declined to act on his allegations.

Kenneth J. Clark, Network Director of Veterans Integrated Service Network 22 (VISN 22), ordered an investigation of Mr. Alfaro's allegations. The investigation was completed by Ronald J. Larson, Fiscal Officer, San Diego VA Medical Center (VAMC). Mr. Larson conducted his investigation under Mr. Clark's authority in accordance with VA Directive 0700, *Administrative Investigations*.

The investigator obtained purchase orders of all credit card purchases related to the "Celebration of Quality" events in December 2003 and December 2004. These documents reflect purchases of door prizes, specifically, gift cards, plants, and decorative centerpieces, totaling $495.81 for the December 2003 "Celebration of Quality" event, and $1,540.01 for the December 2004 event. The investigator concluded that these items were not permissible as awards or mementos under applicable VA policies, i.e., VA Handbook 5017, *Employee Recognition and Awards*, Part IV and OF Bulletin 03GA1.01; 2 c. (3)(b). These purchases were deemed inappropriate because the items did not meet the criteria for awards, nor could they be considered mementos, since applicable policy prohibits the distribution to employees of mementos with intrinsic value.

Specifically, the following purchase orders reflect impermissible expenditures on door prizes for these events: 600-P41033 ($100.37); 600-P41174 ($48.44); 600-P41286 ($40.00); 600-P41287 ($20.00); 600-P41288 ($20.00); 600-P41289 ($20.00); 600-P41290 ($20.00); 600-P41291 ($20.00); 600-P41292 ($20.00); 600-P41293 ($187.00); 600-5P1583 ($173.90); 600-5P1670 ($100.00); 600-5P1674 ($80.00); 600-5P1675 ($544.40); 600-5P1676 ($450.00); 600-5P1677 ($191.71).

However, the following purchase orders reflect expenditures permitted by VA policy: purchases of food: 600-P41312 ($215.00); 600-P41519 ($2,315.94); 600-5P1671 ($238.00); 600-5P1761 ($1,600.00), decorations (600-P41324) ($264.13); 600-5P1539 ($138.39); "post-it" type office supplies given to all employees (no intrinsic value), 600-5P1466 ($490.00); and award plaques 600-5P1673 ($596.09); 600-5P1793 ($42.41). These permissible expenditures amounted to $2,795.07 for the December 2003 event and $2,614.89 for the December 2004 event.

Through the course of the investigation, sworn testimony was obtained from several Long Beach VAHCS employees in addition to Mr. Alfaro. Specifically, the investigators interviewed the Medical Center Director, the Associate Medical Center Director, the Chief Financial Officer, and the Program Assistant who made the purchases questioned by Mr. Alfaro. According to the testimony of the Program Assistant, at some point prior to the December 2004 event, she asked the Chief Financial Officer if the purchases of mementos were acceptable, and he responded affirmatively. However, the Chief Financial Officer testified that he had simply responded to an inquiry on whether or not mementos could be purchased. He stated that he did not specifically ask what was being purchased or how the items purchased would be used.

Mr. Alfaro stated in sworn testimony that he raised his concerns with the Medical Center Director, but after agreeing to get back to the Director, he never did. However, Mr. Alfaro also stated that he brought his concerns to both the Associate Medical Center Director and the Chief Financial Officer. The Chief Financial Officer still was convinced there was no wrongdoing. The Associate Medical Center Director testified that she conducted her own investigation and, as a result, implemented newer and stricter guidelines on the purchase of mementos.

Based on the above findings, the investigator concluded that VA policy was violated by the purchases of the door prizes and failure to obtain the appropriate approval for an incentive awards ceremony with over 100 attendees.

Consequently, the following actions are planned or have already taken place:

a. The Chief Financial Officer will receive a verbal counseling regarding improper guidance given as to the proper use of appropriated funds.

b. The Long Beach VAHCS will pursue, to the extent practical, reimbursement for the value of the door prizes distributed to certain employees who attended the "Celebration of Quality" events in December 2003 and December 2004.

c. The Long Beach VAHCS Chief Financial Officer and all other personnel involved in planning incentive awards ceremonies, will receive additional training on VA policies governing permissible expenditures for such events, and applicable pre-approval procedures.

If you have any questions or require any additional information, please contact Richard A. Moses, Human Resources Consultant, Veterans Health Administration Human Resources Management Group at 603-624-4366, extension 6904.

Thank you for the opportunity to address this matter.

Sincerely yours,

James B. Peake, M.D.

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Report	[Whistleblower's Comments]	1	01/22/2008	P6/b6; b7c;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Counsel's Office, White House
SERIES:
Fielding, Fred - General Files
FOLDER TITLE:
Office of Special Counsel Reports & Scott Bloch Issues [13]
FRC ID:
11294
OA Num.:
10821
NARA Num.:
10383

FOIA IDs and Segments:

2014-0210-F

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulatiou of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

This Document was withdrawn on 8/31/2016 by erl

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

January 25, 2008

The Honorable Michael B. Mukasey
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: OSC File No. DI-07-2160

Dear Mr. Attorney General:

I am writing you because we are being impeded in our investigations of the United States Department of Justice in several areas, including the firing of U.S. Attorney David Iglesias, the investigation into the firing of the other seven U.S. Attorneys to the extent there is an allegation of use of official authority to affect the outcome of an election under the Hatch Act, 5 U.S.C. § 7323, in our investigation into political intrusion into personnel decision making, and in the matter of former U.S. Attorney Rachel Paulose.

The matter of David Iglesias involves an additional allegation that one of the considerations in firing him was his military reserve service, which could be a violation of the Uniform Services Employment and Reemployment Rights Act (USERRA). Moreover, he has alleged prohibited personnel practices (PPPs) as well.

In addition, our Special Task Force is looking at political intrusion into personnel decision making at the United States Department of Justice (DOJ) under 5 U.S.C. 1216(a)(4), and violations of prohibited personnel practices in the use of political affiliation as a preference for hiring under 5 U.S.C. 2302(b)(1), (b)(6) and b(12).

As you may know, the U.S. Office of Special Counsel has exclusive authority to investigate and prosecute violations of the Hatch Act, prohibited personnel practices, and political intrusion into decision making. We also have authority to prosecute violations of the Uniformed Services Employment and Reemployment Rights Act (USERRA) affecting federal executive branch employees, and exclusive authority to investigate mixed cases of PPPs and USERRA, which is what Mr. Iglesias' case contains.

U.S. Attorney Matters

I met with DOJ Inspector General (IG), Glenn Fine, along with the H. Marshall Jarrett, Counsel, Office of Professional Responsibility (OPR), on May 4, 2007 to discuss our then-pending investigation. After our investigation was opened, Attorney General Alberto Gonzales asked the IG and OPR to conduct a joint investigation into the matters we were considering, according to Mr. Fine. He asked me to step aside while his office and OPR looked at the firing of the U.S. Attorneys and the matters surrounding Monica Goodling's testimony about using political affiliation in hiring of career personnel.

On May 8, 2007, I wrote Mr. Fine that it was clear we could not step aside and not investigate the matters within our exclusive jurisdiction simply on speculation that criminal charges might be preferred from the IG and OPR joint investigation.

We proceeded with our investigation and sent a preservation letter to DOJ. On August 13, 2007, we forwarded an administrative request for documents and answers to written questions under Rule 5.4, which answer was due on September 13, 2007. We received a call from Paul Colborn, Special Counsel, DOJ Office of Legal Counsel (OLC) who also asked that we step aside and allow the IG and OPR to conduct their investigation first. We related several things: our exclusive jurisdiction; that pursuant to 5 U.S.C. § 1214, the U.S. Attorney General could not mete out disciplinary action without consulting OSC; that we have exclusive jurisdiction to obtain corrective action for individuals who might have been aggrieved, and to bring actions for discipline against offending officials pursuant to 5 U.S.C.§ 1215.

Subsequently, my office wrote to explain this to OLC on November 6, 2007 to provide them with notice that we had to be consulted on the matter of any disciplinary action proposed. We again made it clear we were looking at the political hiring issues, and that we needed to have some cooperation on obtaining documents pursuant to our request. After receiving no cooperation for four months, we received a letter from Steven Bradbury, PDAAG of OLC, on January 16, 2008. Mr. Bradbury reiterates the request that we step down. Still there is expressed no intent to cooperate until the OIG and OPR are done with their investigation. Reports indicate that DOJ's internal investigation may take another several months. This is unacceptable for OSC to have to wait when OSC has exclusive jurisdiction over the Hatch Act, prohibited personnel practices, and USERRA. This will effectively push OSC's role into the very last months of the administration when there is little hope of any corrective measures or discipline possible.

I requested to see Fred Fielding, White House Counsel, to speak with him about this impeding of our investigations, and to inform him of new areas we were going to be investigating so that we could obtain cooperation there. Despite several calls to his office, he has refused to speak with or see me for over two months.

<u>U.S. Attorney Rachel Paulose matter</u>

On November 19, 2007, I referred to you a finding of a substantial likelihood on the disclosure of John Marti, accusing U.S. Attorney Rachel Paulose of abuse of authority and gross mismanagement, among other things.

On November 26, Mr. Fine responded, accusing OSC of misleading and factually inaccurate representations. He questioned the accuracy of my statement to you that he declined to further investigate in response to our previous referral to his office (OIG). He stated that

OSC's request was "not a normal OSC referral that sought an agency or OIG investigation of the allegations," and that we did not request an investigation.

That is incorrect. Catherine McMullen, Chief of the Disclosure Unit, forwarded these allegations according to the same procedure our offices have used on at least four previous occasions, using the same language in the referral letter in all cases. In each case, the IG initiated or tasked an inquiry or investigation, and provided to us a written report.[1] In one case, the IG provided a written report, but we found the report insufficient and elected to refer the matter to the Attorney General pursuant to 5 U.S.C. § 1213.[2]

Our offices have previously enjoyed a good working relationship to address less complex matters through an informal method of referral directly to the IG rather than proceeding formally under 5 U.S.C. § 1213. We similarly referred Mr. Marti's allegations to the IG under this informal process on the belief that it is best to try to deal with matters effectively in the least elevated way whenever possible.

On October 9, 2007, a response was due to OSC. We were informed by telephone on that day, that the OIG had "asked around" and that the "IG was not planning on doing anything." We were also informed that while the IG was pleased to report by telephone on the allegations concerning the misuse of classified information and agency funds, he would not respond to OSC's letter in writing, and would not report on the abuse of authority allegations or "management issues," which were still pending in connection with an ongoing Department of Justice Evaluation and Review Staff (EARS) review. However, he declined to provide a copy of any EARS report.

The characterization in my letter to you, Mr. Attorney General, is accurate and fair. Where the IG provided information telephonically, it was so noted in the letter. My staff informed the IG's office that we would be referring the matter on to the Attorney General after he declined to provide a written response to our informal referral.

The IG also took issue with our failure to provide significant additional detail in our referral to the Attorney General because "OSC has been investigating this matter for months." As you should be aware, this referral was made to the IG, and then to the Attorney General, pursuant to my authority under 5 U.S.C. § 1213. In this capacity, as distinct from OSC's other functions under the Whistleblower Protection Act in 5 U.S.C. § 1214, my office has no investigative authority, and therefore does not conduct investigations. The statute permits me to rely solely on the whistleblower as the source of information on which to base a substantial likelihood determination. No investigative activity occurred or is occurring with regard to this disclosure qua disclosure.

Finally, the IG alleged we have engaged in a pattern of misrepresentation. He cited a recent case in support in which I commented on the agency's findings.[3] I am required by

---

[1] OSC File Nos. DI-98-1089, DI-02-1086, DI-05-2091, and DI-05-2454.
[2] OSC File No. DI-98-1089.
[3] OSC File No. DI-06-0784.

Section 1213(e)(2) to review the report and determine whether the findings of the agency head appear reasonable and whether the report meets statutory criteria. Section 1213(e)(3) requires that I transmit the agency report, together with my comments or recommendations, to the President and congressional oversight committees.

I commented in my letter to the President and Congress on the findings of the agency report, as mandated by my authorization statute. In response to the investigative finding that an agency component "was unable to conduct regular sustainment training, could not fully staff teams deployed to cover high-profile trials, and was unable to replace heavy-duty vests whose useful life had expired," I added, "...it does appear that the shortage of resources hindered [the agency component's] ability to carry out its mission." Because the systemic problems had been corrected, and the agency took appropriate action, I found the report reasonable. The agency report in that case has been made a part of the public file maintained by my office pursuant to 5 U.S.C. § 1219, and was transmitted to the President and congressional oversight committees along with my letter. The IG simply disagrees.

<u>Margolis letter</u>

On December 11, 2007, I received a letter from Associate Deputy Attorney General David Margolis, regarding allegations from John Marti about USA Rachel Paulose. I referred these allegations to you pursuant to my authority as discussed above. Mr. Margolis' letter purports to respond to the referral, but does not meet the statutory criteria for an agency response under § 1213(d).

Mr. Margolis took issue with my finding of a substantial likelihood that USA Paulose grossly mismanaged her office, and abused her authority. He expressed strong disagreement with what he refers to as my characterizations of USA Paulose's actions, and requested reconsideration of my substantial likelihood finding.

Section 1213(b) requires that within 15 days of receipt of information from a whistleblower such as Mr. Marti, I review the information and "determine whether there is a substantial likelihood that the information discloses..." a wrongdoing as alleged. Under this statute, I have no investigative authority, and therefore must make a determination on the basis of the information supplied by the whistleblower.

The letter from Mr. Margolis does not meet the statutory criteria for investigation and reporting to me. Rather, it expresses Mr. Margolis' opinion that the allegations, if true, do not constitute gross mismanagement and an abuse of authority. This is wholly insufficient and reflects a deliberate disregard for the law under which OSC operates and with which you are obligated to comply. Mr. Margolis reports that "the Department has reviewed and assessed the issues surrounding Mr. Marti's allegations," and not only declines to investigate and report, but demands a retraction of my finding of substantial likelihood. In the same letter, Mr. Margolis informs my office that the EARS review is ongoing. This conflict suggests that Mr. Margolis' opinions are premature.

The law that mandates I refer whistleblower disclosures for investigation and reporting also requires that I transmit the report and my comments to the President and congressional oversight committees, and make the report available to the public. Are you requesting that I report to the President that you refuse to investigate disclosures of wrongdoing made by a career federal prosecutor, an employee of your agency? That you demand that I reconsider my statutorily authorized substantial likelihood finding and rescind my referral because it is the opinion of your Associate Deputy Attorney General that there has been no gross mismanagement? That you demand that I report back to this career federal employee, a recipient of the Attorney General's award, who has courageously come forward to report wrongdoing?

When considered in light of other pending requests from the IG and OLC to step aside from enforcing federal laws exclusively reserved to my office, this reveals a disturbing pattern of disregard for the authority of my office. I am gravely concerned that the Attorney General is asking a presidentially-appointed official to disregard his statutory duty.

I enclose a copy of my November 19 referral and renew my request that you investigate and report to me as required. I anticipate your response within the statutorily prescribed period, otherwise I will report to the President and congressional oversight committees that you have failed to comply.

Cooperation with our investigations is not optional. It is required by administrative rule, and failure to cooperate is a violation. I hereby ask that our Administrative Request for documents be complied with and that we receive unimpeded cooperation in our duty to exclusively investigate the matters within our jurisdiction.

Sincerely,

Scott J. Bloch
Special Counsel

Enclosure:
Letter to the Honorable Michael Mukasey dated November 19th, 2007.

cc:
The Honorable Fred Fielding
White House Counsel

The Honorable Glenn A. Fine
Inspector General

The Honorable Patrick Leahy
Chair, Senate Judiciary Committee

The Honorable Arlen Specter
Ranking Member, Senate Judiciary Committee

The Honorable John Conyers
Chair, House Judiciary Committee

The Honorable Lamar S. Smith
Ranking Member, House Judiciary Committee

The Honorable Henry Waxman
Chair, Committee on Oversight and Government Reform

The Honorable Tom Davis
Ranking member, Committee on Oversight and Government Reform

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

November 19, 2007

The Honorable Michael Mukasey
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: <u>OSC File No. DI-07-2160</u>

Dear Mr. Attorney General:

Pursuant to my responsibilities as Special Counsel, I am referring to you a whistleblower disclosure that the United States Attorney for the District of Minnesota, Rachel K. Paulose, engaged in conduct, comments, and actions that constitute an abuse of authority and gross mismanagement. I am forwarding the following information from John R. Marti, an Assistant United States Attorney, Office of the United States Attorney, District of Minnesota (USAO MN), Minneapolis, Minnesota.

The U.S. Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 5 U.S.C. § 1213(a) and (b). As Special Counsel, if I find, on the basis of the information disclosed, that there is a substantial likelihood that one of these conditions exists, I am required to advise the appropriate agency head of my findings, and the agency head is required to conduct an investigation of the allegations and prepare a report. 5 U.S.C. § 1213(c) and (g).

Mr. Marti, who has consented to the release of his name, was until April, 2007, First Assistant United States Attorney (FAUSA) under United States Attorney (USA) Paulose. He disclosed to OSC that before, during, and after his tenure as FAUSA, he observed conduct, comments, and actions by USA Paulose that constitute an abuse of authority and gross mismanagement.

On August 7, 2007, OSC referred Mr. Marti's allegations, as described below, to The Honorable Glenn A. Fine, Inspector General, United States Department of Justice

(DOJ OIG). On October 11, 2007, OIG informed OSC by telephone that two of the allegations had been reviewed and resolved previously to the satisfaction of the Executive Office for United States Attorneys (EOUSA). OIG declined to further investigate, to make any inquiry into the remaining allegations, or to provide any written report in response to OSC's referral.

Mr. Marti alleged that, through USA Paulose's management and administration by fear and intimidation, she has rendered the USAO without adequate and efficient leadership sufficient to conduct its mission. He described an office in which line AUSAs do not have supervisory guidance and support. USA Paulose has had difficulty in retaining a FAUSA, and currently has a leadership team, members of whom have told USAO employees that they are operating to contain the USA's abuses of authority.

Two FAUSAs have resigned in the last eight months, including Mr. Marti. Other resignations have contributed to the overall organizational uncertainty and lack of leadership, including two Chiefs of the Civil Division, one Chief of the Criminal Division, and two Administrative Officers. A candidate expected to start as Administrative Officer recently withdrew. According to Mr. Marti, the supervisory officials who have resigned did so in protest of USA Paulose's heavy-handed and inappropriate management of the USAO. Mr. Marti reports that her abuse of authority is continuing to cause significant morale and retention problems in the office. These concerns were attributed to the poor leadership and behavior of the USA by John Kelly, then Deputy Director, EOUSA, and the DOJ Evaluation and Review Staff (EARS) review of USAO MN, as reported to Criminal Division staff in October 2007.

Mr. Marti alleged that this dramatic turnover of the top supervisory officials calls into question whether the USAO MN is severely impaired in operating as a credible and effective prosecutorial arm of the agency, and whether it can continue to fulfill its mission to prosecute criminal and civil cases on behalf of the Federal government.

By way of example, Mr. Marti reported that USA Paulose delayed implementation of a top DOJ initiative, Project Safe Childhood[1], in favor of planning and executing her investiture as USA. When approached by Tracy Braun, the AUSA assigned to implement Project Safe Childhood, regarding missed deadlines for reporting to DOJ, Ms. Paulose directed repeatedly that AUSA Braun "hold off on that." USA Paulose stated directly to Mr. Marti that the investiture was the most important event to happen to the office. In accordance with that sentiment, she used agency resources and time over a four month period to plan the investiture, including directing up to six employees to work on planning the event. Mr. Marti alleged that the commitment of these employees' time and effort to the investiture directly affected the implementation of the agency-wide priority to advance Project Safe Childhood. According to Mr. Marti, if Project Safe Childhood had not been delayed by work on the investiture, the USAO would have been

[1] Project Safe Childhood is a Department of Justice initiative begun in 2006, as a comprehensive, department-wide, prosecutorial initiative to protect children from online exploitation and abuse. See, http://www.projectsafechildhood.gov/, last accessed August 6, 2007.

prosecuting child exploitation cases much more aggressively at least one year earlier than actually occurred.

As a result of the lack of consistent leadership, Mr. Marti alleged that the USA's relationship with outside entities, including the judiciary, law enforcement, and the community, has suffered. Mr. Marti reports that several judges in the District of Minnesota have commented on their desire to see the current USA's tenure end. In addition, several AUSAs charged by USA Paulose with additional collateral responsibilities, including those that require regular communications with DOJ such as the handling of sensitive issues involving Native American voting rights, were directed not to communicate directly with DOJ officials or the media. USA Paulose's imposition of these tight controls on the flow of information between the USAO MN and DOJ left supervisory USAO officials unable to perform their duties and responsibilities adequately, hampered day-to-day operations, and adversely affected the accomplishment of the USAO mission.

Mr. Marti cites, as another example of the gross mismanagement of the office, USA Paulose's routine requests to use agency funds to pay for receptions, meals, and other products not authorized to be purchased with federally allocated money. On one occasion, USA Paulose requested that staff purchase place settings and silverware to be used at a breakfast in her office for the Minnesota Governor's staff. She also requested the purchase of Christmas trees, cards and other decorations not authorized to be purchased with federal funds.

When confronted with the regulations prohibiting such expenditures, Mr. Marti alleged, USA Paulose became irate, abusive, and demeaning toward the employees who attempted to advise her of the regulations, including Mr. Marti. During these tirades, USA Paulose made racially and culturally insensitive remarks. She also threatened and attempted, many times successfully, to remove or reassign many employees who questioned her decisions. Throughout his tenure as FAUSA, Mr. Marti observed numerous occasions in which USA Paulose viewed government regulations and the requirement to operate within those regulations, as constraints on her authority. She berated employees who regularly reminded her of applicable government regulations.[2]

Specifically, Mr. Marti reported that in March 2007, he discovered that classified information had been routinely left unsecured and unattended in USA Paulose's office. According to Mr. Marti, the material in question includes reports related to the war on terror drawn from the SIPRNET[3] websites of numerous federal law enforcement and intelligence agencies. These reports were, for approximately one year, compiled in a

---

[2] OIG informed OSC by telephone that EOUSA conducted an Evaluation and Review Staff (EARS) review including a three-month snapshot of the budget and spending issues for the USAO MN. The EARS review did not find anything unusual, and no further review is planned. OIG declined to provide a written report to OSC.

[3] SIPRNET, the Secret Internet Protocol Router Network, is a Department of Defense network used to transmit classified information among defense and law enforcement agencies.

binder and routinely retrieved and delivered by a secretary who did not have clearance to handle the material. The binder was stored unsecured on a bookshelf in USA Paulose's office. Office employees, some without clearance, and building maintenance personnel, have access to this office. Mr. Marti also discovered that keys to USA Paulose's Secure Telephone Unit (STU) were kept in an unapproved file cabinet. He took immediate actions to correct the compromise of classified information and the improper STU key storage.

On April 2, 2007, Mr. Marti filed a mandatory report with the Executive Office for United States Attorneys (EOUSA), in the form of a memorandum to Eric Dorsey, Information Systems Program Manager, EOUSA. Thereafter, Mr. Marti reported, no inquiry or investigation of the matter was conducted as required by Chapter 1, Section 3 of the DOJ, Security Program Operating Manual.[4]

Mr. Marti also disclosed that, although he and others at the USAO MN have informed EOUSA of their concerns regarding USA Paulose's management and leadership of the USAO, they are unaware of any inquiry, investigation, or action in connection with these allegations. Although Mr. Kelly made a site visit to the USAO in April 2007, to discuss these matters with staff, and an EARS review was initiated, it appears that no action has since been taken to address the significant leadership and morale problems in the USAO MN.

I have concluded that there is a substantial likelihood that USA Paulose has grossly mismanaged the USAO MN, and has engaged in abuses of her authority as a USA. As previously stated, I am referring this information to you for an investigation of Mr. Marti's allegations and a report of your findings within 60 days of your receipt of this letter.

By law, the report must be reviewed and signed by you personally. Should you delegate your authority to review and sign the report to the Inspector General, or any other official, the delegation must be specifically stated and must include the authority to take the actions necessary under 5 U.S.C. § 1213(d)(5). Without this information, I would hasten to add that the report may be found deficient. The requirements of the report are set forth at 5 U.S.C. § 1213(c) and (d). A summary of § 1213(d) is enclosed. As a matter of policy, OSC also requires that your investigators interview the whistleblower as part of the agency investigation.

In the event it is not possible to report on the matter within the 60-day time limit under the statute, you may request in writing an extension of time not to exceed 60 days. Please be advised that an extension of time is normally not granted automatically, but only upon a showing of good cause. Accordingly, in the written request for an extension

[4] OIG advised OSC by telephone that EOUSA did initiate the required inquiry. As a result, the USA admitted the improper storage, and was counseled regarding appropriate security measures.

of time, please state specifically the reasons the additional time is needed. Any additional requests for an extension of time must be approved by me.

After making the determinations required by 5 U.S.C. § 1213(e)(2), copies of the report, along with any comments on the report from the person making the disclosure and any comments or recommendations by this office will be sent to the President and the appropriate oversight committees in the Senate and House of Representatives owing to the requirements set forth in 5 U.S.C. § 1213(e)(3). Unless classified or prohibited from release by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs, a copy of the report and any comments will be placed in a public file in accordance with 5 U.S.C. § 1219(a).

Please refer to our file number in any correspondence on this matter. If you need further information, please contact Catherine A. McMullen, Chief, Disclosure Unit, at (202) 254-3604. I am also available for any questions you may have.

Sincerely,

Scott J. Bloch

Enclosure

Enclosure

Requirements of 5 U.S.C. § 1213(d)

Any report required under subsection (c) shall be reviewed and signed by the head of the agency[1] and shall include:

(1) a summary of the information with respect to which the investigation was initiated;

(2) a description of the conduct of the investigation;

(3) a summary of any evidence obtained from the investigation;

(4) a listing of any violation or apparent violation of law, rule or regulation; and

(5) a description of any action taken or planned as a result of the investigation, such as:

(A) changes in agency rules, regulations or practices;

(B) the restoration of any aggrieved employee;

(C) disciplinary action against any employee; and

(D) referral to the Attorney General of any evidence of criminal violation.

In addition, we are interested in learning of any dollar savings, or projected savings, and any management initiatives that may result from this review.

---

[1] Should you decide to delegate authority to another official to review and sign the report, your delegation must be specifically stated.

Farren
Flood
Burck

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

FACSIMILE COVER SHEET

TO:

Name: The Honorable Fred Fielding	
Title: Counsel to the President	
Organization: The White House	
Office / Location: Washington, D.C.	
Telephone: (202) 456-2632	**Fax:** (202) 456-6279

FROM:

Name: Scott J. Bloch	
Organization: Office of Special Counsel	
Office / Location: Washington, D.C.	
Telephone: (202) 254-3601	**Fax:** (202) 653-5151

Date: February 5, 2008	**Number of pages, including this cover sheet: 3**

Message: Original and enclosures to follow by Federal Express delivery

If you did not receive the total number of pages shown, please call Denise Toney at (202) 254-3632.

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

February 5, 2008

The Special Counsel

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

Re: OSC File No. DI-07-0926

Dear Mr. President:

I received a disclosure from a whistleblower that managers at the United States Department of Agriculture (USDA), Rural Development (RD), Rural Utility Services (RUS), Albuquerque, New Mexico, were responsible for a violation of a law, rule, or regulation and gross mismanagement. The whistleblower, who requested anonymity, disclosed that RUS managers improperly allowed a former employee to sign documents on behalf of the agency for the past ten years while working as a consultant-representative for agency applicants, despite being informed by various RUS staff that such a procedure is improper.

I required the Honorable Mike Johanns, then Secretary of Agriculture, to conduct an investigation into the whistleblower's disclosures pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary tasked the USDA Office of Inspector General (OIG) with conducting the investigation. On December 10, 2007, the Honorable Charles F. Conner, Acting Secretary of Agriculture, submitted his report to me. The whistleblower provided comments on the agency report to this office pursuant to 5 U.S.C. § 1213(e)(1). As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting this report to you along with the whistleblower's comments.

As discussed further below, although the agency investigation did not substantiate the whistleblower's allegations, the agency determined that Ms. Sandra Alarcon, RUS Program Specialist, showed favoritism towards loan and grant applications submitted by Mr. Gil Gallegos, a former RD State Director for New Mexico. Specifically, the whistleblower had alleged that improper conduct existed between RD Program Director Martha Torrez and Mr. Gil Gallegos, who resigned in 1997 from his agency position. The whistleblower alleged that RUS managers allowed Mr. Gallegos to misrepresent himself as a federal employee and permitted him to manage RUS programs by signing not only applicant documents on behalf of grantees or debtors, but signing grant or loan applications on behalf of the agency. Further, Ms. Torrez allegedly permitted Mr. Gallegos to run "the RUS program from the outside..." whereby Mr. Gallegos, as a representative of water associations and others, signed applications on behalf of grantees or debtors as well as agency loans and grant applications on behalf of the agency, regardless of whether an agency employee or a grantee/debtor was supposed to sign the documents.

The investigation revealed that Mr. Gallegos did not sign or approve any loan or grant documents on behalf of the agency and that there was no evidence that agency managers altered loan or grant documents to conceal improperly prepared documents. The investigation, however, found that Mr. Gallegos had an intimate relationship from 1997 to 2003 with Ms. Sandra Alarcon, RUS Program Specialist. Ms. Alarcon admitted to expediting loan and grant reviews that involved Mr. Gallegos and accepting gifts from him. As a result, OIG forwarded a copy of the agency report to RD managers. Accordingly, Ryan Gleason, RD State Director, issued Ms. Alarcon a Letter of Caution for her failure to follow established ethical guidelines in performing her official duties.

The whistleblower commented that he or she believed documents in RUS grant and loan files reflect a misrepresentation by Mr. Gallegos. The whistleblower also stated that the two supervisors, Ms. Torrez and Mr. Hudson, were aware of Mr. Gallegos' and Ms. Alarcon's intimate relationship and, consequently, "they too are implicated in the dereliction of duty displayed by Ms. Alarcon."

I have reviewed the original disclosures, the agency report, and the whistleblower'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 § 1213(e)(3), I have sent a copy of the report and the whistleblower's comments to the Chairman of the Senate Committee on Agriculture, Nutrition, & Forestry, and the Chairman of the House Committee on Agriculture. We have also filed a copy of the agency report and the whistleblower's comments in our public file and closed the matter.

Respectfully,

Scott J. Bloch

Enclosures

Turner
Flood
Burck

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

FACSIMILE COVER SHEET

TO:

Name: The Honorable Fred Fielding	
Title: Counsel to the President	
Organization: The White House	
Office / Location: Washington, D.C.	
Telephone: (202) 456-2632	**Fax:** (202) 456-6279

FROM:

Name: Scott J. Bloch	
Organization: Office of Special Counsel	
Office / Location: Washington, D.C.	
Telephone: (202) 254-3601	**Fax:** (202) 653-5151

Date: February 5, 2008	**Number of pages, including this cover sheet: 7**

Message: Original and enclosures to follow by Federal Express delivery

If you did not receive the total number of pages shown, please call Denise Toney at (202) 254-3632.

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

February 5, 2008

The Special Counsel

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

Re: OSC File No. DI-07-0168

Dear Mr. President:

I received a disclosure from Mr. José N. Alfaro, Supervisory General Supply Specialist, that employees at the Department of Veterans Affairs (VA), Veterans Administration Medical Center (VAMC), Long Beach Healthcare System, Long Beach, California, engaged in a violation of a law, rule, or regulation and gross mismanagement. Mr. Alfaro disclosed that VA managers improperly authorized credit card purchases for random door prizes to employees that were distributed at an agency's "Celebration of Quality" event in December 2004. Mr. Alfaro consented to the release of his name.

I required the Honorable R. James Nicholson, then Secretary of Veterans Affairs, to conduct an investigation into the whistleblower's disclosures pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary tasked the matter to management at the Network Director of Veterans Integrated Service (VISN 22) for an administrative investigation. On January 2, 2008, the Honorable James B. Peake, the newly appointed Secretary of Veterans Affairs, submitted his report to me. Mr. Alfaro provided comments on the agency report to 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, together with Mr. Alfaro's comments.

As discussed below, the agency investigation substantiated Mr. Alfaro's allegations. Specifically, Mr. Alfaro alleged that during the summer of 2005, he was responsible for reviewing credit card purchases as part of a routine audit. According to the information that Mr. Alfaro provided, VA managers improperly instructed VAMC Staff Assistant Lolita Cuevas to purchase door prizes and gift cards for a random drawing that would be conducted as part of an employee-focused Celebration of Quality agency event. The door prizes and gift card purchases were authorized by Mr. Charles Feistman, VAMC Chief Financial Officer. When Mr. Alfaro brought these purchases to the attention of managers, including Mr. Feistman, managers summarily found that no wrongdoing had occurred and declined to act upon his allegations.

The investigation substantiated Mr. Alfaro's allegations that the purchase of gift cards and other items for an agency celebration violated VA Handbook 5017. After the agency's initial inquiries about purchases related to the event in December 2004, the agency decided to expand its scope of investigation to analyze expenditures for a similar event that had been held in December 2003. The investigation concluded that items purchased for door prizes, specifically, gift cards, plants, and other decorations totaling $495.81 for the 2003 event, and totaling an additional $1,540.01 for the 2004 event, were not permissible under VA policies because these items had "intrinsic value." VA Handbook 5017, *Employee Recognition and Awards*, Part IV and OF Bulletin 03GA1.01. Furthermore, the agency has taken the following corrective action:

1. Mr. Feistman, Chief Financial Officer, received verbal counseling regarding the improper guidance given to employees related to the proper use of appropriated funds;
2. Mr. Feistman and other relevant employees involved in the planning of incentive awards ceremonies will receive additional training on permissible expenditures;
3. VAMC in Long Beach has implemented new guidelines on the purchase of mementos; and
4. the agency will pursue, to the extent practical, reimbursement for the value of the door prizes distributed to certain employees.

Mr. Alfaro had an opportunity to review the agency report. Mr. Alfaro commented that he and Mr. Feistman met on many occasions to review expenditures that were not appropriate and lamented the fact that Mr. Feistman only received verbal counseling for violating regulations related to the improper purchases. Mr. Alfaro also accused Mr. Feistman of lying to investigators about his lack of knowledge regarding impermissible items. Mr. Alfaro maintained that he had informed Mr. Feistman previously about the improper purchases on several occasions. Mr. Alfaro also questioned the appointment of the investigator, Mr. Ronald J. Larson, given that Mr. Larson is also a Chief Financial Officer at another facility within the same VA VISN 22 system.

I have reviewed the original disclosures, the agency report, and Mr. Alfaro'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. Alfaro's comments to the Chairmen of the Senate and House Committees on Veterans' Affairs. I have also filed a copy of the agency report and Mr. Alfaro's comments in our public file and closed the matter.

Respectfully,

Scott J. Bloch

Enclosures

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

January 2, 2008

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

Re: OSC File No. DI-07-0168

Dear Mr. Bloch:

In accordance with your letter dated April 24, 2007, the Department of Veterans Affairs (VA) has conducted an investigation, pursuant to 5 U.S.C. § 1213(c), into whistleblower disclosures alleged by a VA employee. This investigation was completed on November 8, 2007. In accordance with Office of Special Counsel (OSC) policy, the whistleblower, Jose N. Alfaro, who is employed at Long Beach VA Health Care System (VAHCS), was interviewed on November 1, 2007.

Mr. Alfaro has alleged that:

a. Managers at the Long Beach VAHCS improperly authorized credit card purchases for door prizes, including gift cards worth over $2,000 in total, that were used during a random drawing for VA employees at a "Celebration of Quality" event in December 2004. (As the investigation proceeded, similar expenditures for a December 2003 event were also reviewed); and

b. He brought these purchases to the attention of the Chief Financial Officer and Director of the Long Beach VAHCS, but they summarily found no wrongdoing had occurred, and declined to act on his allegations.

Kenneth J. Clark, Network Director of Veterans Integrated Service Network 22 (VISN 22), ordered an investigation of Mr. Alfaro's allegations. The investigation was completed by Ronald J. Larson, Fiscal Officer, San Diego VA Medical Center (VAMC). Mr. Larson conducted his investigation under Mr. Clark's authority in accordance with VA Directive 0700, *Administrative Investigations*.

The investigator obtained purchase orders of all credit card purchases related to the "Celebration of Quality" events in December 2003 and December 2004. These documents reflect purchases of door prizes, specifically, gift cards, plants, and decorative centerpieces, totaling $495.81 for the December 2003 "Celebration of Quality" event, and $1,540.01 for the December 2004 event. The investigator concluded that these items were not permissible as awards or mementos under applicable VA policies, i.e., VA Handbook 5017, *Employee Recognition and Awards*, Part IV and OF Bulletin 03GA1.01: 2 c. (3)(b). These purchases were deemed inappropriate because the items did not meet the criteria for awards, nor could they be considered mementos, since applicable policy prohibits the distribution to employees of mementos with intrinsic value.

Specifically, the following purchase orders reflect impermissible expenditures on door prizes for these events: 600-P41033 ($100.37); 600-P41174 ($48.44); 600-P41286 ($40.00); 600-P41287 ($20.00); 600-P41288 ($20.00); 600-P41289 ($20.00); 600-P41290 ($20.00); 600-P41291 ($20.00); 600-P41292 ($20.00); 600-P41293 ($187.00); 600-5P1583 ($173.90); 600-5P1670 ($100.00); 600-5P1674 ($80.00); 600-5P1675 ($544.40); 600-5P1676 ($450.00); 600-5P1677 ($191.71).

However, the following purchase orders reflect expenditures permitted by VA policy: purchases of food: 600-P41312 ($215.00); 600-P41519 ($2,315.94); 600-5P1671 ($238.00); 600-5P1761 ($1,600.00), decorations (600-P41324) ($264.13); 600-5P1539 ($138.39); "post-it" type office supplies given to all employees (no intrinsic value), 600-5P1466 ($490.00); and award plaques 600-5P1673 ($596.09); 600-5P1793 ($42.41). These permissible expenditures amounted to $2,795.07 for the December 2003 event and $2,614.89 for the December 2004 event.

Through the course of the investigation, sworn testimony was obtained from several Long Beach VAHCS employees in addition to Mr. Alfaro. Specifically, the investigators interviewed the Medical Center Director, the Associate Medical Center Director, the Chief Financial Officer, and the Program Assistant who made the purchases questioned by Mr. Alfaro. According to the testimony of the Program Assistant, at some point prior to the December 2004 event, she asked the Chief Financial Officer if the purchases of mementos were acceptable, and he responded affirmatively. However, the Chief Financial Officer testified that he had simply responded to an inquiry on whether or not mementos could be purchased. He stated that he did not specifically ask what was being purchased or how the items purchased would be used.

Mr. Alfaro stated in sworn testimony that he raised his concerns with the Medical Center Director, but after agreeing to get back to the Director, he never did. However, Mr. Alfaro also stated that he brought his concerns to both the Associate Medical Center Director and the Chief Financial Officer. The Chief Financial Officer still was convinced there was no wrongdoing. The Associate Medical Center Director testified that she conducted her own investigation and, as a result, implemented newer and stricter guidelines on the purchase of mementos.

Based on the above findings, the investigator concluded that VA policy was violated by the purchases of the door prizes and failure to obtain the appropriate approval for an incentive awards ceremony with over 100 attendees.

Consequently, the following actions are planned or have already taken place:

a. The Chief Financial Officer will receive a verbal counseling regarding improper guidance given as to the proper use of appropriated funds.

b. The Long Beach VAHCS will pursue, to the extent practical, reimbursement for the value of the door prizes distributed to certain employees who attended the "Celebration of Quality" events in December 2003 and December 2004.

c. The Long Beach VAHCS Chief Financial Officer and all other personnel involved in planning incentive awards ceremonies, will receive additional training on VA policies governing permissible expenditures for such events, and applicable pre-approval procedures.

If you have any questions or require any additional information, please contact Richard A. Moses, Human Resources Consultant, Veterans Health Administration Human Resources Management Group at 603-624-4366, extension 6904.

Thank you for the opportunity to address this matter.

Sincerely yours,

James B. Peake, M.D.

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Report	[Whistleblower's Comments]	1	01/22/2008	P6/b6; b7c;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Counsel's Office, White House

SERIES:
Fielding, Fred - General Files

FOLDER TITLE:
Office of Special Counsel Reports & Scott Bloch Issues [13]

FRC ID:
11294

OA Num.:
10821

NARA Num.:
10383

FOIA IDs and Segments:

2014-0210-F

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

This Document was withdrawn on 8/31/2016 by erl

Williams, Rachel E.

From: Fratto, Tony
Sent: Tuesday, January 29, 2008 12:09 PM
To: Williams, Rachel E.
Subject: Fw: OSC letter

Please print a hard copy for me, and take a hard copy to Mary Beth Bakke in FF's office for his attention. Thanks.

----- Original Message -----
From: Stanzel, Scott M.
To: Bohn, Trey; Fratto, Tony
Sent: Tue Jan 29 12:03:34 2008
Subject: Re: OSC letter

Adding Fratto.

----- Original Message -----
From: Bohn, Trey
To: Stanzel, Scott M.
Sent: Tue Jan 29 11:31:54 2008
Subject: FW: OSC letter

Scott, not sure why this went here. Let me know how you'd like to handle.

-----Original Message-----
From: Frommer, Fred [mailto:FFrommer@ap.org]
Sent: Tuesday, January 29, 2008 11:17 AM
To: Bohn, Trey
Subject: OSC letter

Hey Trey,

Just wanted to see if I could get a comment from the White House on a letter sent last week by the OSC, which claims that Fred Fielding refused to meet with the agency to discuss the impeding of the OSC investigations into the firings of U.S. attorneys.

Thanks,

Frederic J. Frommer
Associated Press Writer
202 641-9536 w
202 744-9273 c

The information contained in this communication is intended for the use of the designated recipients named above. If the reader of this communication is not the intended recipient, you are hereby notified that you have received this communication in error, and that any review, dissemination, distribution or copying of this communication is strictly prohibited. If

you have received this communication in error, please notify The Associated Press immediately by telephone at +1-212-621-1898 and delete this email. Thank you.
[IP_US_DISC]
msk dccc60c6d2c3a6438f0cf467d9a4938

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

January 25, 2008

The Honorable Michael B. Mukasey
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: OSC File No. DI-07-2160

Dear Mr. Attorney General:

I am writing you because we are being impeded in our investigations of the United States Department of Justice in several areas, including the firing of U.S. Attorney David Iglesias, the investigation into the firing of the other seven U.S. Attorneys to the extent there is an allegation of use of official authority to affect the outcome of an election under the Hatch Act, 5 U.S.C. § 7323, in our investigation into political intrusion into personnel decision making, and in the matter of former U.S. Attorney Rachel Paulose.

The matter of David Iglesias involves an additional allegation that one of the considerations in firing him was his military reserve service, which could be a violation of the Uniform Services Employment and Reemployment Rights Act (USERRA). Moreover, he has alleged prohibited personnel practices (PPPs) as well.

In addition, our Special Task Force is looking at political intrusion into personnel decision making at the United States Department of Justice (DOJ) under 5 U.S.C. 1216(a)(4), and violations of prohibited personnel practices in the use of political affiliation as a preference for hiring under 5 U.S.C. 2302(b)(1), (b)(6) and b(12).

As you may know, the U.S. Office of Special Counsel has exclusive authority to investigate and prosecute violations of the Hatch Act, prohibited personnel practices, and political intrusion into decision making. We also have authority to prosecute violations of the Uniformed Services Employment and Reemployment Rights Act (USERRA) affecting federal executive branch employees, and exclusive authority to investigate mixed cases of PPPs and USERRA, which is what Mr. Iglesias' case contains.

U.S. Attorney Matters

I met with DOJ Inspector General (IG), Glenn Fine, along with the H. Marshall Jarrett, Counsel, Office of Professional Responsibility (OPR), on May 4, 2007 to discuss our then-pending investigation. After our investigation was opened, Attorney General Alberto Gonzales asked the IG and OPR to conduct a joint investigation into the matters we were considering, according to Mr. Fine. He asked me to step aside while his office and OPR looked at the firing of the U.S. Attorneys and the matters surrounding Monica Goodling's testimony about using political affiliation in hiring of career personnel.

On May 8, 2007, I wrote Mr. Fine that it was clear we could not step aside and not investigate the matters within our exclusive jurisdiction simply on speculation that criminal charges might be preferred from the IG and OPR joint investigation.

We proceeded with our investigation and sent a preservation letter to DOJ. On August 13, 2007, we forwarded an administrative request for documents and answers to written questions under Rule 5.4, which answer was due on September 13, 2007. We received a call from Paul Colborn, Special Counsel, DOJ Office of Legal Counsel (OLC) who also asked that we step aside and allow the IG and OPR to conduct their investigation first. We related several things: our exclusive jurisdiction; that pursuant to 5 U.S.C. § 1214, the U.S. Attorney General could not mete out disciplinary action without consulting OSC; that we have exclusive jurisdiction to obtain corrective action for individuals who might have been aggrieved, and to bring actions for discipline against offending officials pursuant to 5 U.S.C.§ 1215.

Subsequently, my office wrote to explain this to OLC on November 6, 2007 to provide them with notice that we had to be consulted on the matter of any disciplinary action proposed. We again made it clear we were looking at the political hiring issues, and that we needed to have some cooperation on obtaining documents pursuant to our request. After receiving no cooperation for four months, we received a letter from Steven Bradbury, PDAAG of OLC, on January 16, 2008. Mr. Bradbury reiterates the request that we step down. Still there is expressed no intent to cooperate until the OIG and OPR are done with their investigation. Reports indicate that DOJ's internal investigation may take another several months. This is unacceptable for OSC to have to wait when OSC has exclusive jurisdiction over the Hatch Act, prohibited personnel practices, and USERRA. This will effectively push OSC's role into the very last months of the administration when there is little hope of any corrective measures or discipline possible.

~~I requested to see Fred Fielding, White House Counsel, to speak with him about this impeding of our investigations, and to inform him of new areas we were going to be investigating so that we could obtain cooperation there. Despite several calls to his office, he has refused to speak with or see me for over two months.~~

U.S. Attorney Rachel Paulose matter

On November 19, 2007, I referred to you a finding of a substantial likelihood on the disclosure of John Marti, accusing U.S. Attorney Rachel Paulose of abuse of authority and gross mismanagement, among other things.

On November 26, Mr. Fine responded, accusing OSC of misleading and factually inaccurate representations. He questioned the accuracy of my statement to you that he declined to further investigate in response to our previous referral to his office (OIG). He stated that

OSC's request was "not a normal OSC referral that sought an agency or OIG investigation of the allegations," and that we did not request an investigation.

That is incorrect. Catherine McMullen, Chief of the Disclosure Unit, forwarded these allegations according to the same procedure our offices have used on at least four previous occasions, using the same language in the referral letter in all cases. In each case, the IG initiated or tasked an inquiry or investigation, and provided to us a written report.[1] In one case, the IG provided a written report, but we found the report insufficient and elected to refer the matter to the Attorney General pursuant to 5 U.S.C. § 1213.[2]

Our offices have previously enjoyed a good working relationship to address less complex matters through an informal method of referral directly to the IG rather than proceeding formally under 5 U.S.C. § 1213. We similarly referred Mr. Marti's allegations to the IG under this informal process on the belief that it is best to try to deal with matters effectively in the least elevated way whenever possible.

On October 9, 2007, a response was due to OSC. We were informed by telephone on that day, that the OIG had "asked around" and that the "IG was not planning on doing anything." We were also informed that while the IG was pleased to report by telephone on the allegations concerning the misuse of classified information and agency funds, he would not respond to OSC's letter in writing, and would not report on the abuse of authority allegations or "management issues," which were still pending in connection with an ongoing Department of Justice Evaluation and Review Staff (EARS) review. However, he declined to provide a copy of any EARS report.

The characterization in my letter to you, Mr. Attorney General, is accurate and fair. Where the IG provided information telephonically, it was so noted in the letter. My staff informed the IG's office that we would be referring the matter on to the Attorney General after he declined to provide a written response to our informal referral.

The IG also took issue with our failure to provide significant additional detail in our referral to the Attorney General because "OSC has been investigating this matter for months." As you should be aware, this referral was made to the IG, and then to the Attorney General, pursuant to my authority under 5 U.S.C. § 1213. In this capacity, as distinct from OSC's other functions under the Whistleblower Protection Act in 5 U.S.C. § 1214, my office has no investigative authority, and therefore does not conduct investigations. The statute permits me to rely solely on the whistleblower as the source of information on which to base a substantial likelihood determination. No investigative activity occurred or is occurring with regard to this disclosure qua disclosure.

Finally, the IG alleged we have engaged in a pattern of misrepresentation. He cited a recent case in support in which I commented on the agency's findings.[3] I am required by

[1] OSC File Nos. DI-98-1089, DI-02-1086, DI-05-2091, and DI-05-2454.
[2] OSC File No. DI-98-1089.
[3] OSC File No. DI-06-0784.

Section 1213(e)(2) to review the report and determine whether the findings of the agency head appear reasonable and whether the report meets statutory criteria. Section 1213(e)(3) requires that I transmit the agency report, together with my comments or recommendations, to the President and congressional oversight committees.

I commented in my letter to the President and Congress on the findings of the agency report, as mandated by my authorization statute. In response to the investigative finding that an agency component "was unable to conduct regular sustainment training, could not fully staff teams deployed to cover high-profile trials, and was unable to replace heavy-duty vests whose useful life had expired," I added, "...it does appear that the shortage of resources hindered [the agency component's] ability to carry out its mission." Because the systemic problems had been corrected, and the agency took appropriate action, I found the report reasonable. The agency report in that case has been made a part of the public file maintained by my office pursuant to 5 U.S.C. § 1219, and was transmitted to the President and congressional oversight committees along with my letter. The IG simply disagrees.

Margolis letter

On December 11, 2007, I received a letter from Associate Deputy Attorney General David Margolis, regarding allegations from John Marti about USA Rachel Paulose. I referred these allegations to you pursuant to my authority as discussed above. Mr. Margolis' letter purports to respond to the referral, but does not meet the statutory criteria for an agency response under § 1213(d).

Mr. Margolis took issue with my finding of a substantial likelihood that USA Paulose grossly mismanaged her office, and abused her authority. He expressed strong disagreement with what he refers to as my characterizations of USA Paulose's actions, and requested reconsideration of my substantial likelihood finding.

Section 1213(b) requires that within 15 days of receipt of information from a whistleblower such as Mr. Marti, I review the information and "determine whether there is a substantial likelihood that the information discloses..." a wrongdoing as alleged. Under this statute, I have no investigative authority, and therefore must make a determination on the basis of the information supplied by the whistleblower.

The letter from Mr. Margolis does not meet the statutory criteria for investigation and reporting to me. Rather, it expresses Mr. Margolis' opinion that the allegations, if true, do not constitute gross mismanagement and an abuse of authority. This is wholly insufficient and reflects a deliberate disregard for the law under which OSC operates and with which you are obligated to comply. Mr. Margolis reports that "the Department has reviewed and assessed the issues surrounding Mr. Marti's allegations," and not only declines to investigate and report, but demands a retraction of my finding of substantial likelihood. In the same letter, Mr. Margolis informs my office that the EARS review is ongoing. This conflict suggests that Mr. Margolis' opinions are premature.

The law that mandates I refer whistleblower disclosures for investigation and reporting also requires that I transmit the report and my comments to the President and congressional oversight committees, and make the report available to the public. Are you requesting that I report to the President that you refuse to investigate disclosures of wrongdoing made by a career federal prosecutor, an employee of your agency? That you demand that I reconsider my statutorily authorized substantial likelihood finding and rescind my referral because it is the opinion of your Associate Deputy Attorney General that there has been no gross mismanagement? That you demand that I report back to this career federal employee, a recipient of the Attorney General's award, who has courageously come forward to report wrongdoing?

When considered in light of other pending requests from the IG and OLC to step aside from enforcing federal laws exclusively reserved to my office, this reveals a disturbing pattern of disregard for the authority of my office. I am gravely concerned that the Attorney General is asking a presidentially-appointed official to disregard his statutory duty.

I enclose a copy of my November 19 referral and renew my request that you investigate and report to me as required. I anticipate your response within the statutorily prescribed period, otherwise I will report to the President and congressional oversight committees that you have failed to comply.

Cooperation with our investigations is not optional. It is required by administrative rule, and failure to cooperate is a violation. I hereby ask that our Administrative Request for documents be complied with and that we receive unimpeded cooperation in our duty to exclusively investigate the matters within our jurisdiction.

Sincerely,

Scott J. Bloch
Special Counsel

Enclosure:
Letter to the Honorable Michael Mukasey dated November 19th, 2007.

cc:
The Honorable Fred Fielding
White House Counsel

The Honorable Glenn A. Fine
Inspector General

The Honorable Patrick Leahy
Chair, Senate Judiciary Committee

The Honorable Arlen Specter
Ranking Member, Senate Judiciary Committee

The Honorable John Conyers
Chair, House Judiciary Committee

The Honorable Lamar S. Smith
Ranking Member, House Judiciary Committee

The Honorable Henry Waxman
Chair, Committee on Oversight and Government Reform

The Honorable Tom Davis
Ranking member, Committee on Oversight and Government Reform

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

November 19, 2007

The Honorable Michael Mukasey
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: OSC File No. DI-07-2160

Dear Mr. Attorney General:

Pursuant to my responsibilities as Special Counsel, I am referring to you a whistleblower disclosure that the United States Attorney for the District of Minnesota, Rachel K. Paulose, engaged in conduct, comments, and actions that constitute an abuse of authority and gross mismanagement. I am forwarding the following information from John R. Marti, an Assistant United States Attorney, Office of the United States Attorney, District of Minnesota (USAO MN), Minneapolis, Minnesota.

The U.S. Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 5 U.S.C. § 1213(a) and (b). As Special Counsel, if I find, on the basis of the information disclosed, that there is a substantial likelihood that one of these conditions exists, I am required to advise the appropriate agency head of my findings, and the agency head is required to conduct an investigation of the allegations and prepare a report. 5 U.S.C. § 1213(c) and (g).

Mr. Marti, who has consented to the release of his name, was until April, 2007, First Assistant United States Attorney (FAUSA) under United States Attorney (USA) Paulose. He disclosed to OSC that before, during, and after his tenure as FAUSA, he observed conduct, comments, and actions by USA Paulose that constitute an abuse of authority and gross mismanagement.

On August 7, 2007, OSC referred Mr. Marti's allegations, as described below, to The Honorable Glenn A. Fine, Inspector General, United States Department of Justice

(DOJ OIG). On October 11, 2007, OIG informed OSC by telephone that two of the allegations had been reviewed and resolved previously to the satisfaction of the Executive Office for United States Attorneys (EOUSA). OIG declined to further investigate, to make any inquiry into the remaining allegations, or to provide any written report in response to OSC's referral.

Mr. Marti alleged that, through USA Paulose's management and administration by fear and intimidation, she has rendered the USAO without adequate and efficient leadership sufficient to conduct its mission. He described an office in which line AUSAs do not have supervisory guidance and support. USA Paulose has had difficulty in retaining a FAUSA, and currently has a leadership team, members of whom have told USAO employees that they are operating to contain the USA's abuses of authority.

Two FAUSAs have resigned in the last eight months, including Mr. Marti. Other resignations have contributed to the overall organizational uncertainty and lack of leadership, including two Chiefs of the Civil Division, one Chief of the Criminal Division, and two Administrative Officers. A candidate expected to start as Administrative Officer recently withdrew. According to Mr. Marti, the supervisory officials who have resigned did so in protest of USA Paulose's heavy-handed and inappropriate management of the USAO. Mr. Marti reports that her abuse of authority is continuing to cause significant morale and retention problems in the office. These concerns were attributed to the poor leadership and behavior of the USA by John Kelly, then Deputy Director, EOUSA, and the DOJ Evaluation and Review Staff (EARS) review of USAO MN, as reported to Criminal Division staff in October 2007.

Mr. Marti alleged that this dramatic turnover of the top supervisory officials calls into question whether the USAO MN is severely impaired in operating as a credible and effective prosecutorial arm of the agency, and whether it can continue to fulfill its mission to prosecute criminal and civil cases on behalf of the Federal government.

By way of example, Mr. Marti reported that USA Paulose delayed implementation of a top DOJ initiative, Project Safe Childhood[1], in favor of planning and executing her investiture as USA. When approached by Tracy Braun, the AUSA assigned to implement Project Safe Childhood, regarding missed deadlines for reporting to DOJ, Ms. Paulose directed repeatedly that AUSA Braun "hold off on that." USA Paulose stated directly to Mr. Marti that the investiture was the most important event to happen to the office. In accordance with that sentiment, she used agency resources and time over a four month period to plan the investiture, including directing up to six employees to work on planning the event. Mr. Marti alleged that the commitment of these employees' time and effort to the investiture directly affected the implementation of the agency-wide priority to advance Project Safe Childhood. According to Mr. Marti, if Project Safe Childhood had not been delayed by work on the investiture, the USAO would have been

[1] Project Safe Childhood is a Department of Justice initiative begun in 2006, as a comprehensive, department-wide, prosecutorial initiative to protect children from online exploitation and abuse. See, http://www.projectsafechildhood.gov/, last accessed August 6, 2007.

prosecuting child exploitation cases much more aggressively at least one year earlier than actually occurred.

As a result of the lack of consistent leadership, Mr. Marti alleged that the USA's relationship with outside entities, including the judiciary, law enforcement, and the community, has suffered. Mr. Marti reports that several judges in the District of Minnesota have commented on their desire to see the current USA's tenure end. In addition, several AUSAs charged by USA Paulose with additional collateral responsibilities, including those that require regular communications with DOJ such as the handling of sensitive issues involving Native American voting rights, were directed not to communicate directly with DOJ officials or the media. USA Paulose's imposition of these tight controls on the flow of information between the USAO MN and DOJ left supervisory USAO officials unable to perform their duties and responsibilities adequately, hampered day-to-day operations, and adversely affected the accomplishment of the USAO mission.

Mr. Marti cites, as another example of the gross mismanagement of the office, USA Paulose's routine requests to use agency funds to pay for receptions, meals, and other products not authorized to be purchased with federally allocated money. On one occasion, USA Paulose requested that staff purchase place settings and silverware to be used at a breakfast in her office for the Minnesota Governor's staff. She also requested the purchase of Christmas trees, cards and other decorations not authorized to be purchased with federal funds.

When confronted with the regulations prohibiting such expenditures, Mr. Marti alleged, USA Paulose became irate, abusive, and demeaning toward the employees who attempted to advise her of the regulations, including Mr. Marti. During these tirades, USA Paulose made racially and culturally insensitive remarks. She also threatened and attempted, many times successfully, to remove or reassign many employees who questioned her decisions. Throughout his tenure as FAUSA, Mr. Marti observed numerous occasions in which USA Paulose viewed government regulations and the requirement to operate within those regulations, as constraints on her authority. She berated employees who regularly reminded her of applicable government regulations.[2]

Specifically, Mr. Marti reported that in March 2007, he discovered that classified information had been routinely left unsecured and unattended in USA Paulose's office. According to Mr. Marti, the material in question includes reports related to the war on terror drawn from the SIPRNET[3] websites of numerous federal law enforcement and intelligence agencies. These reports were, for approximately one year, compiled in a

[2] OIG informed OSC by telephone that EOUSA conducted an Evaluation and Review Staff (EARS) review including a three-month snapshot of the budget and spending issues for the USAO MN. The EARS review did not find anything unusual, and no further review is planned. OIG declined to provide a written report to OSC.

[3] SIPRNET, the Secret Internet Protocol Router Network, is a Department of Defense network used to transmit classified information among defense and law enforcement agencies.

binder and routinely retrieved and delivered by a secretary who did not have clearance to handle the material. The binder was stored unsecured on a bookshelf in USA Paulose's office. Office employees, some without clearance, and building maintenance personnel, have access to this office. Mr. Marti also discovered that keys to USA Paulose's Secure Telephone Unit (STU) were kept in an unapproved file cabinet. He took immediate actions to correct the compromise of classified information and the improper STU key storage.

On April 2, 2007, Mr. Marti filed a mandatory report with the Executive Office for United States Attorneys (EOUSA), in the form of a memorandum to Eric Dorsey, Information Systems Program Manager, EOUSA. Thereafter, Mr. Marti reported, no inquiry or investigation of the matter was conducted as required by Chapter 1, Section 3 of the DOJ, Security Program Operating Manual.[4]

Mr. Marti also disclosed that, although he and others at the USAO MN have informed EOUSA of their concerns regarding USA Paulose's management and leadership of the USAO, they are unaware of any inquiry, investigation, or action in connection with these allegations. Although Mr. Kelly made a site visit to the USAO in April 2007, to discuss these matters with staff, and an EARS review was initiated, it appears that no action has since been taken to address the significant leadership and morale problems in the USAO MN.

I have concluded that there is a substantial likelihood that USA Paulose has grossly mismanaged the USAO MN, and has engaged in abuses of her authority as a USA. As previously stated, I am referring this information to you for an investigation of Mr. Marti's allegations and a report of your findings within 60 days of your receipt of this letter.

By law, the report must be reviewed and signed by you personally. Should you delegate your authority to review and sign the report to the Inspector General, or any other official, the delegation must be specifically stated and must include the authority to take the actions necessary under 5 U.S.C. § 1213(d)(5). Without this information, I would hasten to add that the report may be found deficient. The requirements of the report are set forth at 5 U.S.C. § 1213(c) and (d). A summary of § 1213(d) is enclosed. As a matter of policy, OSC also requires that your investigators interview the whistleblower as part of the agency investigation.

In the event it is not possible to report on the matter within the 60-day time limit under the statute, you may request in writing an extension of time not to exceed 60 days. Please be advised that an extension of time is normally not granted automatically, but only upon a showing of good cause. Accordingly, in the written request for an extension

[4] OIG advised OSC by telephone that EOUSA did initiate the required inquiry. As a result, the USA admitted the improper storage, and was counseled regarding appropriate security measures.

Enclosure

Requirements of 5 U.S.C. § 1213(d)

Any report required under subsection (c) shall be reviewed and signed by the head of the agency[1] and shall include:

(1) a summary of the information with respect to which the investigation was initiated;

(2) a description of the conduct of the investigation;

(3) a summary of any evidence obtained from the investigation;

(4) a listing of any violation or apparent violation of law, rule or regulation; and

(5) a description of any action taken or planned as a result of the investigation, such as:

(A) changes in agency rules, regulations or practices;

(B) the restoration of any aggrieved employee;

(C) disciplinary action against any employee; and

(D) referral to the Attorney General of any evidence of criminal violation.

In addition, we are interested in learning of any dollar savings, or projected savings, and any management initiatives that may result from this review.

---

[1] Should you decide to delegate authority to another official to review and sign the report, your delegation must be specifically stated.

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

FACSIMILE COVER SHEET

TO:

Name: The Honorable Fred Fielding	
Title: White House Counsel	
Telephone: (202) 254-2632	**Fax:** (202) 456-6279

FROM:

Name: Mary Robinson	
Organization: U.S. Office of Special Counsel	
Office / Location: Washington	
Telephone: (202) 254-3611	**Fax:** (202) 653-5161

Date: January 25, 2008	**Number of pages, including this cover sheet:** 13

Message:

Attached is the letter from Special Counsel, Scott J. Bloch to Attorney General, Michael Mukasey dated January 25th, 2008.

If you did not receive the total number of pages shown, please call (202) 254-3600.

Fallen
Blood
Buick
1-8-08

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

January 8, 2008

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

Re: OSC File No. DI-06-1117

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,

Scott J. Bloch

Enclosure

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

January 8, 2008

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

Re: OSC File No. DI-06-1117

Dear Mr. President:

I received a disclosure from Mr. Michael Dunkin, a former Avionics Technician, Department of Transportation, Federal Aviation Administration (FAA), Aviation System Standards 300 (AVN 300), Technical Operations Service Unit, Oklahoma City, Oklahoma and Anchorage, Alaska. Mr. Dunkin, who consented to the release of his name, disclosed to OSC that managers at the Federal Aviation Administration (FAA), purposely failed to record chronic aircraft equipment problems in the Inventory, Logistics, and Maintenance (ILM) database.

I required the Secretary of Transportation to conduct an investigation into these disclosures pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary tasked the Office of the Inspector General with conducting the investigation and writing the report. The report's findings are discussed further in the attached Analysis.

Mr. Dunkin alleged that managers did not record these problems because, once recorded, the aircraft would be grounded for maintenance and unavailable for flights. He alleged that management operated in this manner because aircraft availability is a standard used to evaluate management performance. Mr. Dunkin believed that allowing aircraft with equipment problems to fly unnecessarily placed the aircraft and crew in substantial danger and violated Federal Aviation Regulations. He also alleged that Dan Murphy, Airframe and Powerplant Mechanic, used FAA equipment and facilities for his own personal benefit in violation of federal regulations. The Department of Transportation's investigation, conducted by the Office of the Inspector General, did not substantiate the allegations. OSC's analysis of the whistleblower's disclosures, the agency's report and the whistleblower's comments are enclosed.

I have reviewed the original disclosures and the agency's report. 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 law, 5 U.S.C. § 1213(e)(3), I have sent a copy of the agency report to the Chairmen of the Senate Committee on Commerce, Science and Transportation and the House Committee on Transportation and Infrastructure. I have also filed a copy of the report and the whistleblower's comments in our public file and closed the matter.

Respectfully,

Scott J. Bloch

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Report	Analysis of Disclosures, Agency Investigation and Report...	6	01/08/2008	P6/b6; b7c;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Counsel's Office, White House
SERIES:
Fielding, Fred - General Files
FOLDER TITLE:
Office of Special Counsel Reports & Scott Bloch Issues [13]
FRC ID:
11294
OA Num.:
10821
NARA Num.:
10383

FOIA IDs and Segments:
2014-0210-F

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

This Document was withdrawn on 8/31/2016 by erl

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

FACSIMILE COVER SHEET

TO:

Name: The Honorable Fred Fielding	
Title: Counsel to the President	
Organization: The White House	
Office / Location: Washington, D.C.	
Telephone: (202) 456-2632	**Fax:** (202) 456-6279

FROM:

Name: Scott J. Bloch	
Organization: Office of Special Counsel	
Office / Location: Washington, D.C.	
Telephone: (202) 254-3601	**Fax:** (202) 653-5151

Date: January 8, 2008	**Number of pages, including this cover sheet: 10**

Message: Original and enclosures to follow by Federal Express delivery

If you did not receive the total number of pages shown, please call Denise Toney at (202) 254-3632.

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

July 27, 2007

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

Re: OSC File No. DI-06-2424

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,

Scott J. Bloch

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	OSC File Nos. DI-06-2424 - To: POTUS - From: Scott Bloch	1	07/27/2007	P6/b6; b7c;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Counsel's Office, White House
SERIES:
Fielding, Fred - General Files
FOLDER TITLE:
Office of Special Counsel Reports & Scott Bloch Issues [13]
FRC ID:
11294
OA Num.:
10821
NARA Num.:
10383

FOIA IDs and Segments:

2014-0210-F

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

This Document was withdrawn on 8/31/2016 by erl

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Report	Analysis of Disclosures, Agency Investigation and Report...	5	N.D.	P6/b6; b7c;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Counsel's Office, White House
SERIES:
Fielding, Fred - General Files
FOLDER TITLE:
Office of Special Counsel Reports & Scott Bloch Issues [13]
FRC ID:
11294
OA Num.:
10821
NARA Num.:
10383

FOIA IDs and Segments:
2014-0210-F

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

This Document was withdrawn on 8/31/2016 by erl

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

APR 25 2007

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

Dear Mr. Bloch:

Thank you for your letter requesting an investigation of home-made cooling vests alleged to be a danger to worker safety and to be manufactured from stolen government property at the Pearl Harbor Naval Shipyard, Hawaii (PHNS) (Office of Special Counsel (OSC) File No. DI-06-2424).

The Naval Inspector General led an inquiry that did not substantiate the allegations made to OSC, but did find that workers were using home-made cooling vests without first submitting them to the PHNS Safety Department for approval, in violation of PHNS instructions. The investigation resulted in a project to redesign cooling vests that have now been issued to workers as government-furnished protective equipment to be worn in hot, confined spaces.

PHNS has identified four supervisors and one worker who may be disciplined for their failure to comply with PHNS Safety Requirements, but has not yet proposed any specific disciplinary action. I have directed the Naval Inspector General to inform you of the decisions when they are made.

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 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 our attention. If I may be of any further assistance, please let me know at your earliest convenience.

Sincerely,

Donald C. Winter

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Report	Report of Invesitgation	39	04/20/2007	P6/b6; b7c;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Counsel's Office, White House
SERIES:
Fielding, Fred - General Files
FOLDER TITLE:
Office of Special Counsel Reports & Scott Bloch Issues [13]
FRC ID:
11294
OA Num.:
10821
NARA Num.:
10383

FOIA IDs and Segments:

2014-0210-F

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

This Document was withdrawn on 8/31/2016 by erl

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	Reply to OSCFILE NO. DI-06-2424	1	05/31/2007	P6/b6; b7c;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Counsel's Office, White House
SERIES:
Fielding, Fred - General Files
FOLDER TITLE:
Office of Special Counsel Reports & Scott Bloch Issues [13]
FRC ID:
11294
OA Num.:
10821
NARA Num.:
10383

FOIA IDs and Segments:
2014-0210-F

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

This Document was withdrawn on 8/31/2016 by erl