



DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
104 ARMY PENTAGON
WASHINGTON DC 20310-0104

December 22, 2008

Ms. Catherine A. McMullen
Chief, Disclosure Unit
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

Re: U.S. Army Corps of Engineers (COE)
Louisville Repair Station, Louisville,
Kentucky (OSC File Number DI-07-2166)

Dear Ms. McMullen:

In a letter dated July 17, 2008, the Office of Special Counsel (OSC) forwarded the above captioned case to the Secretary of the Army and requested that he initiate an investigation and forward a report pursuant to 5 U.S.C.1213(c)(1) and (g).

The Special Counsel concluded that there is substantial likelihood that information provided by a whistleblower, Mr. Paul Polly, with first-hand knowledge, discloses that there is a substantial likelihood that two employees at the COE's Louisville Repair Station, Louisville, Kentucky, have routinely committed temporary duty (TDY) fraud by collecting TDY payments even though they are staying at their personal home or at the home of a friend, in violation of a law, rule, or regulation. Specifically, Mr. Polly alleges that two employees, Mr. [REDACTED], Fleet Captain, and Mr. [REDACTED], Machinist and Work Leader, have been impermissibly collecting TDY payments while staying with family or at the home of a friend. Further, that Mr. [REDACTED] has been impermissibly collecting such payments for at least four years while Mr. [REDACTED] has been impermissibly collecting such TDY payments for at least six years.

Because these allegations are criminal in nature, they were referred to the U.S. Army Criminal Investigation Command (CID) for investigation on July 18, 2008. The CID initiated its investigation and submitted a report on September 8, 2008. Upon review of that report, additional questions and lines of inquiry needed to be pursued. Hence, OGC requested that CID address those matters. At the present time, CID is in the midst of that supplemental investigation. When that supplemental investigation is completed, the investigation report will be forwarded to the COE Chief Counsel's (CC) Office for the preparation of a draft Army response to OSC since the Louisville Repair Station is an element under the COE organization. The COE CC will prepare a draft report and address, among other things, not only the investigative actions taken to address the OSC

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referred allegations but also the merits of those allegations. Then the draft report will be forwarded to my office for review, staffing, and preparation of the final Army report.

As you are aware, by statute, the agency has sixty (60) days from receipt of the OSC letter to provide the required report. Since the referred allegations concern criminal misconduct, and as such, investigations into such matters usually take longer to conduct than investigations involving non-criminal misconduct, you normally grant ninety (90) days extension periods as the more appropriate time period when allegations concern criminal matters. I respectfully request that you consider another 90 day extension period so the CID can continue its investigative effort and the Army can prepare the Army response after the investigation has been completed.

Should you grant this suspense adjustment, please advise me as to length of the extension. Within that allotted time, I will either provide you a status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the suspense adjustment request. To advise me as to your decision on this request, you can reach me at [REDACTED].

[REDACTED]
[REDACTED]
Associate Deputy General Counsel
(Human Resources)

Scan Log

E-mail Sent

Date: Monday, 2008-12-22 12:20

To: [REDACTED]

From: [REDACTED]

Subject: Email Sent from Scanning Device louisville coe

Message:

Attachments: document2008-12-22-122026.pdf

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DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
104 ARMY PENTAGON
WASHINGTON DC 20310-0104

March 23, 2009

Ms. Catherine A. McMullen
Chief, Disclosure Unit
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

Re: U.S. Army Corps of Engineers (COE)
Louisville Repair Station, Louisville,
Kentucky (OSC File Number DI-07-2166)

Dear Ms. McMullen:

In a letter dated July 17, 2008, the Office of Special Counsel (OSC) forwarded the above captioned case to the Secretary of the Army and requested that he initiate an investigation and forward a report pursuant to 5 U.S.C.1213(c)(1) and (g).

The Special Counsel concluded that there is substantial likelihood that information provided by a whistleblower, Mr. Paul Polly, with first-hand knowledge, discloses that there is a substantial likelihood that two employees at the COE's Louisville Repair Station, Louisville, Kentucky, have routinely committed temporary duty (TDY) fraud by collecting TDY payments even though they are staying at their personal home or at the home of a friend, in violation of a law, rule, or regulation. Specifically, Mr. Polly alleges that two employees, Mr. [REDACTED], Fleet Captain, and Mr. [REDACTED], Machinist and Work Leader, have been impermissibly collecting TDY payments while staying with family or at the home of a friend. Further, that Mr. [REDACTED] has been impermissibly collecting such payments for at least four years while Mr. [REDACTED] has been impermissibly collecting such TDY payments for at least six years.

Because these allegations are criminal in nature, they were referred to the U.S. Army Criminal Investigation Command (CID) for investigation on July 18, 2008. The CID initiated its investigation and submitted a report on September 8, 2008. Upon review of that report, additional questions and lines of inquiry needed to be pursued. Hence, OGC requested that CID address those matters. You granted an extension on December 23, 2008 for the Army's CID to continue with its supplemental investigation and eventual preparation of the final Army report. That extension extended the Army's response time until March 23, 2009.

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At the present time, CID recently completed its supplemental investigation and is in the process of forwarding its investigative report for review and preparation of the final Army report to Army's OGC and to the COE Chief Counsel's (CC) Office for the preparation of a draft Army response to OSC. (Enclosure 1). I will be reviewing the CID supplemental investigative report to ensure that it is complete and thorough so that the draft OSC report can be appropriately prepared based on its content. Note, since the Louisville Repair Station is an element under the COE organization, the COE CC will prepare a draft report and address, among other things, not only the investigative actions taken to address the OSC referred allegations but also the merits of those allegations. Then the draft report will be forwarded to my office for review, staffing, and preparation of the final Army report.

Since the referred allegations concern criminal misconduct, and as such, investigations into such matters usually take longer to conduct than investigations involving non-criminal misconduct, I am unsure of the time period appropriate for requesting an extension of time for this action at this particular time, since I have yet to determine whether the CID adequately investigated the allegations or whether we are able, at this time, to proceed with the drafting of the final Army report. Hence, since the referral is based on alleged criminal misconduct, I respectfully request that you consider another 90 day extension period so the Army can evaluate the CID investigative report, and in turn, prepare the Army response if the investigation has been completed.

Should you grant this extension request, please advise me as to length of the extension. Within that allotted time, I will either provide you a status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the suspense adjustment request. To advise me as to your decision on this request, you can reach me at [REDACTED].

[REDACTED]
[REDACTED]
Associate Deputy General Counsel
(Human Resources)

Enclosure

Ms CIV USA OGC

From: [REDACTED] MIL USA USACIDC
Sent: Friday, March 20, 2009 3:11 PM
To: [REDACTED] Ms CIV USA OGC
Subject: Status of CID Investigation (OSC File # DI-07-2166)

Good Afternoon [REDACTED],

Reference our telephone discussion this afternoon regarding the CID Investigation into the allegations of fraud by several employees of the Louisville Repair Station, US Army Corps of Engineers - the investigation is finally complete (and finally correct). I just finished copying the Report(s), and they will be mailed to your office first thing Monday.

The mailing address I have for you is:

Office of the General Counsel
104 Army Pentagon, Rm 3C546
ATTN: [REDACTED]
Washington DC 20310-0104

Please let me know if this address is correct.

Thank you for your patience in this matter,

-v/r-

[REDACTED]
Special Agent
G3 Investigative Operations
HQUSACIDC
6010 6th Street
Fort Belvoir, VA 22079
[REDACTED]

Enclosure 1



DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
104 ARMY PENTAGON
WASHINGTON DC 20310-0104

June 19, 2009

Ms. Catherine A. McMullen
Chief, Disclosure Unit
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

Re: U.S. Army Corps of Engineers (COE)
Louisville Repair Station, Louisville,
Kentucky (OSC File Number DI-07-2166)

Dear Ms. McMullen:

In a letter dated July 17, 2008, the Office of Special Counsel (OSC) forwarded the above captioned case to the Secretary of the Army and requested that he initiate an investigation and forward a report pursuant to 5 U.S.C. 1213(c)(1) and (g).

The Special Counsel concluded that there is substantial likelihood that information provided by a whistleblower, Mr. Paul Polly, with first-hand knowledge, discloses that there is a substantial likelihood that two employees at the COE's Louisville Repair Station, Louisville, Kentucky, have routinely committed temporary duty (TDY) fraud by collecting TDY payments even though they are staying at their personal home or at the home of a friend, in violation of a law, rule, or regulation. Specifically, Mr. Polly alleges that two employees, Mr. [REDACTED], Fleet Captain, and Mr. [REDACTED], Machinist and Work Leader, have been impermissibly collecting TDY payments while staying with family or at the home of a friend. Further, that Mr. [REDACTED] has been impermissibly collecting such payments for at least four years while Mr. [REDACTED] has been impermissibly collecting such TDY payments for at least six years.

Because these allegations are criminal in nature, they were referred to the U.S. Army Criminal Investigation Command (CID) for investigation on July 18, 2008. The CID initiated its investigation and submitted a report on September 8, 2008. Upon review of that report, additional questions and lines of inquiry needed to be pursued. Hence, OGC requested that CID address those matters. You granted an extension on December 23, 2008 for the Army's CID to continue with its supplemental investigation and eventual preparation of the final Army report. That extension extended the Army's response time until March 23, 2009. On March 23, 2009, an additional request for an extension of time was made in order to allow the Army to review the CID supplemental investigative report

that it was completed in early March 2009 and prepare the final Army report to OSC. You granted that extension request on March 24, 2009.

Since that time, CID's supplemental investigation report was forwarded for review (and to ensure its completeness) and preparation of the final Army report in satisfaction of its 5 USC 1213 requirement to the Army's OGC and to the COE Chief Counsel's (CC) Office. Note, since the Louisville Repair Station is an element under the COE organization, the COE CC Office was tasked to prepare a draft report and address, among other things, the investigative actions taken to address the OSC referred allegations, the merits of those allegations, and appropriate corrective actions. The initial draft report was recently completed by the Louisville CC Office and was forwarded to my office for review, staffing, and preparation of the final Army report. I have reviewed the Louisville CC Office's initial draft report and have requested some issues be further addressed in the draft. Those matters are still being addressed.

Therefore, additional time is being requested to complete the outstanding matters in order to finalize the final Army report. Should you grant this extension request, please advise me as to length of the extension. Within that allotted time, I will either provide you a status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the suspense adjustment request. To advise me as to your decision on this request, you can reach me at [REDACTED].

[REDACTED]

CASSANDRA TSINTOLAS JOHNSON
Associate Deputy General Counsel
(Human Resources)



DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
104 ARMY PENTAGON
WASHINGTON DC 20310-0104

August 21, 2009

Ms. Catherine A. McMullen
Chief, Disclosure Unit
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

Re: U.S. Army Corps of Engineers (COE)
Louisville Repair Station, Louisville,
Kentucky (OSC File Number DI-07-2166)

Dear Ms. McMullen:

In a letter dated July 17, 2008, the Office of Special Counsel (OSC) forwarded the above captioned case to the Secretary of the Army and requested that he initiate an investigation and forward a report pursuant to 5 U.S.C.1213(c)(1) and (g).

The Special Counsel concluded that there is substantial likelihood that information provided by a whistleblower, Mr. Paul Polly, with first-hand knowledge, discloses that there is a substantial likelihood that two employees at the COE's Louisville Repair Station, Louisville, Kentucky, have routinely committed temporary duty (TDY) fraud by collecting TDY payments even though they are staying at their personal home or at the home of a friend, in violation of a law, rule, or regulation. Specifically, Mr. Polly alleges that two employees, Mr. [REDACTED], Fleet Captain, and Mr. [REDACTED], Machinist and Work Leader, have been impermissibly collecting TDY payments while staying with family or at the home of a friend. Further, that Mr. [REDACTED] has been impermissibly collecting such payments for at least four years while Mr. [REDACTED] has been impermissibly collecting such TDY payments for at least six years.

A request for an extension of time to provide the final Army report to the above OSC referral was made to OSC on June 19, 2009. Additional time was needed in order for the Office of the Louisville COE Chief Counsel (CC) to prepare a draft report and address, among other things, the investigative actions taken to address the OSC referred allegations, the merits of those allegations, and appropriate corrective actions. Though the initial draft report was completed by the Louisville CC Office and was forwarded to my office for review, staffing, and preparation of the final Army report, I reviewed the Louisville CC Office's initial draft report and requested some issues be further addressed in the draft. Because those matters had not been completely addressed at the time, additional time was requested to complete the outstanding matters and the proceed to

finalizing and completing the staffing and approval of the final Army report. You granted that request on June 22, 2009.

To date, the following actions have been taken on this case since that time. The outstanding matters have been resolved and we are in the final stages of staffing the draft final Army report. Additionally, since a new Army official designated by the Secretary of the Army to review and approve the final Army report for transmission to OSC was recently appointed (Assistant Secretary of the Army (Manpower and Reserve Affairs) (ASA (M&RA)), we are also in the process of adhering to the new staffing requirements imposed by the new ASA (M&RA) for these Army reports.

Therefore, additional time is being requested to complete these remaining stages for finalizing the Army report. Should you grant this extension request, please advise me as to the length of the extension. Within that allotted time, I will either provide you a status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the suspense adjustment request. To advise me as to your decision on this request, you can reach me at [REDACTED].

[REDACTED]
CASSANDRA TSINTOLAS JOHNSON
Associate Deputy General Counsel
(Human Resources)



DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
104 ARMY PENTAGON
WASHINGTON DC 20310-0104
October 23, 2009

Ms. Catherine A. McMullen
Chief, Disclosure Unit
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

Re: U.S. Army Corps of Engineers (COE)
Louisville Repair Station, Louisville,
Kentucky (OSC File Number DI-07-2166)

Dear Ms. McMullen:

In a letter dated July 17, 2008, the Office of Special Counsel (OSC) forwarded the above captioned case to the Secretary of the Army and requested that he initiate an investigation and forward a report pursuant to 5 U.S.C.1213(c)(1) and (g).

The Special Counsel concluded that there is substantial likelihood that information provided by a whistleblower, Mr. Paul Polly, with first-hand knowledge, discloses that there is a substantial likelihood that two employees at the COE's Louisville Repair Station, Louisville, Kentucky, have routinely committed temporary duty (TDY) fraud by collecting TDY payments even though they are staying at their personal home or at the home of a friend, in violation of a law, rule, or regulation. Specifically, Mr. Polly alleges that two employees, Mr. [REDACTED], Fleet Captain, and Mr. [REDACTED], Machinist and Work Leader, have been impermissibly collecting TDY payments while staying with family or at the home of a friend. Further, that Mr. [REDACTED] has been impermissibly collecting such payments for at least four years while Mr. [REDACTED] has been impermissibly collecting such TDY payments for at least six years.

A request for an extension of time to provide the final Army report to the above OSC referral was made to OSC on August 21, 2009. Additional time was needed in order to complete the staffing process of the final draft including resolving any outstanding matters from the initial draft report that was submitted to OGC for review. Additionally, since a new Army official designated by the Secretary of the Army to review and approve the final Army report for transmission to OSC had been recently appointed (Assistant Secretary of the Army (Manpower and Reserve Affairs) (ASA (M&RA)), we were also in the process of adhering to the new staffing requirements imposed by the new ASA (M&RA) for these Army reports. You granted that request on August 24, 2009.

Since that time, the final staffing requirements with the CID were recently completed and revisions to the final Army report are currently being made to finalize the final Army report that will be forwarded to the ASA (M&RA) for his review and approval. Therefore, additional time is being requested to complete these remaining matters before the final Army report can be forwarded to you. Should you grant this extension request, please advise me as to the length of the extension. Within that allotted time, I will either provide you a status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

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I appreciate your assistance in considering the suspense adjustment request. To advise me as to your decision on this request, you can reach me at [REDACTED].



CASSANDRA TSINTOLAS JOHNSON
Associate Deputy General Counsel
(Human Resources)



Tab O-1–Summary Findings of the U.S. Army Criminal Investigation Command (USACIDC) in Whistleblower Investigation – U.S. Army Corps of Engineers, Louisville District – Louisville Repair Station, Louisville, Kentucky (OSC File No. DI-08-2166)

This tab was prepared by Lieutenant Colonel (LTC) [REDACTED], Staff Judge Advocate, U.S. Army Criminal Investigation Command, Fort Belvoir, Virginia, [REDACTED], [REDACTED], August 25, 2009.

Introduction. USACIDC's mission is to conduct criminal investigations in which the Army is, or may be, a party of interest. This includes allegations of fraud; including bribery, illegal gratuities, false statements, false claims, and misrepresentation of the facts.¹

Standards used in USACIDC investigations. For purposes of report writing, USACIDC uses a probable cause standard when determining whether a criminal offense has been committed. Offenses are characterized as:

- a. **Founded** if USACIDC makes a determination that a criminal offense has been committed.
- b. **Unfounded** if USACIDC determines that a criminal offense did not occur.
- c. **Insufficient evidence** if the investigation was unable to determine that a reported or alleged criminal offense did or did not occur.

Referral of allegations to the USACIDC: On July 18, 2008, the USACIDC field office in Fort Knox, Kentucky received from Headquarters, USACIDC, a request for investigation into three allegations made by Mr. Paul Polly regarding two of his former coworkers and a former supervisor at the Louisville Repair Station, U.S. Army Corps of Engineers. Mr. Polly had made these allegations to the Office of Special Counsel and to the Department of Defense Inspector General. All three allegations were referred to USACIDC for investigation.

The following summary describes USACIDC's findings based solely on the evidence acquired during the course of the investigation.

OSC Allegation 1: That Louisville District civilian employee [REDACTED], Fleet Captain, impermissibly claimed and collected temporary duty (TDY) payments for lodging and food expenses while staying at his own home in Owensboro, Kentucky, which is within a "fifty mile travel radius" of many of his common work sites, for up to fifty percent of the river work season,² over a period of at least four years. Mr. Polly asserted that because most of Mr. [REDACTED] TDY work sites were within fifty miles of his home, Mr. [REDACTED] was not eligible to collect TDY payments to reimburse him for lodging or food expenses while performing temporary duty at those job sites.

¹ See DoD Instruction 5505.2, *Criminal Investigations of Fraud Offenses*, February 6, 2003.

² The annual river work season for LRS is approximately April-November.

The Allegation as stated by CID: Whether Mr. [REDACTED] committed the offenses of Conspiracy, Larceny of Government Funds, and Fraud, when he impermissibly claimed and collected TDY payments for lodging and food expenses while residing at his girlfriend's home during authorized travel, for up to fifty percent of the work season, over a period of at least six years.

The USACIDC investigation unfounded the allegations that Mr. [REDACTED] committed the offenses of Conspiracy, Larceny of Government Funds or Fraud, as alleged. The final USACIDC Report of Investigation (ROI), dated 5 March 2009, reflects that the investigation determined that Mr. [REDACTED] owned a secondary residence near Owensboro, Kentucky, where he stayed during his frequent TDY trips to the area. While Mr. [REDACTED] was TDY in the Owensboro area, he lodged at his Owensboro house. However, Mr. [REDACTED] did not claim reimbursement for lodging expenses for periods in which he was TDY in sites around Owensboro; he claimed only per diem and mileage as authorized by the Joint Federal Travel Regulation. USACIDC verified that Mr. [REDACTED] primary residence is located in Jeffersonville, Indiana, which is near Louisville, Kentucky, Mr. [REDACTED] primary duty station.

OSC Allegation 2: Louisville District civilian employee [REDACTED], Machinist and Work Leader, impermissibly claimed and collected TDY payments for lodging and food expenses while residing at his girlfriend's home during authorized travel, for up to fifty percent of the work season, over a period of at least six years.

The Allegation as stated by CID: Whether Mr. [REDACTED] committed the offenses of Conspiracy, Larceny of Government Funds, and Fraud, when he impermissibly claimed and collected TDY payments for lodging and food expenses while residing at his girlfriend's home during authorized travel, for up to fifty percent of the work season, over a period of at least six years.

The final USACIDC report indicated that the investigation founded the allegations that Mr. [REDACTED] committed the offenses of Fraud, Conspiracy, Theft of Government Funds, and Making a False Statement when, with the knowing aid and assistance of his girlfriend, Ms. [REDACTED] (not a federal employee), he created false receipts indicating that he had lodged at two commercial lodging establishments, "[REDACTED] Bed and Breakfast" and "Northside Apartments," when, in actuality, he had lodged at Ms. [REDACTED] apartment residence. Mr. [REDACTED] submitted these false receipts with his travel vouchers in support of his claim for government reimbursement. In this way, Mr. [REDACTED] defrauded the government of \$22,285.00 in lodging reimbursements to which he was not entitled over a period of six years. The USACIDC investigation also founded the allegations that Ms. [REDACTED] committed the offenses of Fraud, Conspiracy, Theft of Government Funds, and Making a False Statement.

Additional allegation made to the DODIG: In the course of its investigation into the above referred OSC allegations, the USACIDC also investigated the related allegation that Mr. [REDACTED] Chief, Physical Support Branch, committed the offenses of Conspiracy, Larceny of Government Funds, and Fraud when he knowingly approved fraudulent travel vouchers submitted by Mr. [REDACTED] and Mr. [REDACTED]. The final USACIDC report unfounded all allegations against Mr. [REDACTED].

Statutes:

Title 18, Section 1001, USC: Fraud

Title 18, Section 641, USC: Theft

Title 18, Section 371, USC: Conspiracy

Title 18, Section 1001, USC: False Statement

TITLE 18. CRIMES AND CRIMINAL PROCEDURE
PART I. CRIMES
CHAPTER 31. EMBEZZLEMENT AND THEFT

18 U.S.C. § 641. Public money, property or records

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted--

Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of \$ 1,000, he shall be fined under this title or imprisoned not more than one year, or both.

The word "value" means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

TITLE 18. CRIMES AND CRIMINAL PROCEDURE
PART I. CRIMES
CHAPTER 47. FRAUD AND FALSE STATEMENTS

18 U.S.C. § 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
- (2) makes any materially false, fictitious, or fraudulent statement or representation; or
- (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

- (1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or
- (2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

Tab O-2 – Excerpts from the Summary of Investigative Activity referenced in the Army Report for Whistleblower Investigation – U.S. Army Corps of Engineers, Louisville District – Louisville Repair Station, Louisville, Kentucky (OSC File No. DI-08-2166)

This tab was prepared by LTC [REDACTED], Staff Judge Advocate, U.S. Army Criminal Investigation Command, Fort Belvoir, Virginia, [REDACTED], [REDACTED], August 25, 2009. Control Number: 0292-2008-CID032-37187

<p>08/05/2008 08:00 Agent JMC\;20 Investigative</p>	<p>Reviewed - Received additional DoD hotline complaint on 5 Aug 08, identifying Mr. [REDACTED] as a possible co-conspirator in all of this. After reviewing the vouchers and the new complaint, a decision was made not to add Mr. [REDACTED] as a subject in a status ROI.</p> <p>Received guidance from CW4 [REDACTED] Bn Operations to roll the additional DoD Hotline complaint into this file. Sent e-mail confirming our actions on this.</p> <p>After review of the office vouchers, it seemed the allegations of staying at ' [REDACTED] B & B' do not exist within the vouchers we received. We will need to get audit support from the USACoE if possible. There was one thing was questionable. How can someone receive TDY for Owensboro, KY when that is where lives?</p> <p>This need s to be researched in the JFTR.</p> <p>We will have to wait on an audit before going anywhere with the interviews etc. as we don't have anything to show criminal activity, just the complaint.</p>
<p>08/06/2008 08:00 Agent JMC\3:00 Investigative</p>	<p>Traveled to USACoE, Louisville District and met with Mr. [REDACTED], Internal Review Office, who related he would be following up on the request for audit. He related a formal written request would be needed.</p> <p>Met with MAJ [REDACTED], Deputy Commander, USACoE, Louisville District and briefed him on the investigation, what we were looking for and requesting of the Internal Review Office. Further related this was a DoD Hotline complaint and that timeliness was a necessity. Briefed MAJ [REDACTED] that a formal request would be completed and forwarded. A copy of the INI Report was provided to MAJ [REDACTED] for the Commander upon his return. He was also advised future reports would be sent to him and the Commander would be provided a full face-to-face brief upon the completion of our investigation.</p>
<p>08/28/2008 11:15 Agent LSP\0:10</p>	<p>Telephonically interviewed Mr. POLLY, who related Mr. [REDACTED] and Mr. [REDACTED] had committed TDY Fraud for the past five to six years by</p>

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Investigative	<p>submitting travel vouchers wherein they claimed lodging which was unauthorized. Mr. Polly related Mr. [REDACTED] claimed lodging on travel vouchers when he lived within the 50 mile commuting distance from the job site. Mr. Polly related Mr. [REDACTED] claimed lodging for [REDACTED] Bed and Breakfast" which is the apartment of his girlfriend and not a legitimate business (See AIR).</p> <p>Mr. Polly was unable to provide a sworn statement due to currently being in Houston, TX on a job sit for the next three weeks.</p>
08/28/2008 14:45 Agent LSP\0:45 Investigative	Traveled to Evansville, IN
08/28/2008 16:00 Agent LSP\0:02 Investigative	Attempted to contact Flora, no answer.
08/28/2008 16:05 Agent LSP\0:03 Investigative	Contacted an unknown female located at [REDACTED] who related she had not seen [REDACTED] or her boyfriend today. Further, she provided the name and number of the property manager of the apartments.
08/28/2008 16:08 Agent LSP\0:02 Investigative	Attempted to contact Mr. [REDACTED] property manager, left message.
08/28/2008 17:25 Agent LSP\0:15 Investigative	Attempted to contact [REDACTED] at residence, no answer.
09/03/2008 12:40 Agent JMC\0:01 Investigative	Approve Investigative Report
09/03/2008 13:10 Agent LSP\0:02 Investigative	Attempted to contact [REDACTED] at the residence of Mr. and Mrs. [REDACTED] no answer.
09/03/2008 13:12 Agent LSP\0:02 Investigative	Attempted to contact [REDACTED] on her cell phone, left message.
09/03/2008 13:15 Agent LSP\0:05 Investigative	Contacted by Mrs. [REDACTED] who related [REDACTED] was out visiting a friend somewhere. Mrs. [REDACTED] related she would relay my phone number if she contacted the house.
09/03/2008 13:35	Contacted Mr. [REDACTED], who related he would contact [REDACTED] and relay the

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Agent LSP\0:05 Investigative	phone number.
09/03/2008 14:55 Agent LSP\0:02 Investigative	Attempted to contact [REDACTED] no answer.
09/03/2008 15:45 Agent LSP\Investigative	Attempted to contact [REDACTED] no answer.
10/21/2008 13:15 Agent LSP\0:10 Investigative	Contacted Mr. [REDACTED] who related he would provide financial consent for his bank records. Mr. [REDACTED] related he would take money out of the ATM and also write checks. Mr. [REDACTED] provided directions to the worksite address located in Tell City, IN, where he is currently working. Mr. [REDACTED] further related Ms. [REDACTED] is still living with his parents in Louisville, KY, and provided the telephone number for them.
10/31/2008 15:40 Agent LSP\0:05 Investigative	Attempted to contact Ms. [REDACTED] on her cell phone and Mr. [REDACTED] parent's phone, met with negative results.
11/01/2008 12:40 Agent LSP\0:02 Investigative	Attempted to contact Ms. [REDACTED] to schedule interview for 3 Nov, left message.
11/03/2008 10:05 Agent LSP\0:10 Investigative	Contacted Mr. [REDACTED] Mother, who related she would pass the message to Ms. [REDACTED] Mrs. [REDACTED] related she was currently working as a babysitter during the day until about 1800.
11/09/2008 15:20 Agent LSP\0:02 Investigative	Attempted to contact Ms. [REDACTED] no answer on cell phone or at Mr. [REDACTED] parent's house.
11/11/2008 13:05 Agent LSP\0:05 Investigative	Attempted to contact Ms. [REDACTED] left message.
11/03/2008 16:25 Agent LSP\0:10 Investigative	Attempted to coordinate with Ms. [REDACTED] at the residence of Mr. [REDACTED] met with negative results.
11/13/2008 05:00 Agent JMC\1:20 Investigative	Traveled to residence where Ms. [REDACTED] was to be residing in an attempt to interview her. Due to hour of day, house was not approached as [the special agent] deemed it unsafe and objective was to wait for her to leave work and contact was to be made at that time. It was discovered Ms. [REDACTED] worked from 0600 to 1800. Ms. [REDACTED] was not seen leaving the residence. During the surveillance, several phone calls were made to her cell phone during that

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	time period, of which she answered one time, then hung up.
11/17/2008 10:10 Agent LSP\0:05 Investigative	Received call from Mr. [REDACTED] who related MS [REDACTED] told him that someone from this office had tried to contact her. I confirmed we did and requested he advise her to speak with us.
11/25/2008 09:00 Agent SDM\0:10 Investigative	Coordinated with Mr [REDACTED] and requested he contact Ms. [REDACTED] so we can talk to her about this issue. MR [REDACTED] stated he would attempt to contact her and have her contact this office.
11/25/2008 10:00 Agent LSP\0:20 Investigative	On 25 Nov 08, Ms. [REDACTED] SSN refused, was telephonically interviewed and related she and Mr. [REDACTED] have known each other for about eight years. During this time, they developed a "Boyfriend/Girlfriend" relationship. Ms. [REDACTED] stated since they have known each other, Mr [REDACTED] would reside at her apartment located in Evansville, IN when he worked in the area. Ms [REDACTED] stated Mr [REDACTED] would stay between a week up to a month and half, at her apartment, depending on the job. Ms [REDACTED] stated as the years progressed, Mr [REDACTED] would pay her between \$55.00 to \$70.00 a day for rent when he stayed with her. Ms [REDACTED] stated she provided Mr [REDACTED] with a computer generated receipt that reflected something like [REDACTED] Bed and Breakfast; but could not remember signing any of the receipts. Ms. [REDACTED] stated she never owned any business, and she only provided a receipt because it was just something she did for Mr. [REDACTED] Ms. [REDACTED] decline to meet face to face or provide any other information.

TITLE 18. CRIMES AND CRIMINAL PROCEDURE
PART I. CRIMES
CHAPTER 19. CONSPIRACY

18 U.S.C § 371. Conspiracy to commit offense or to defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

Ms CIV USA OGC

From: [REDACTED]
Sent: Friday, July 17, 2009 11:49 AM
To: david.weiser@usdoj.gov
Subject: Referral of travel fraud case
Attachments: GSBCA 14398-TRAV.doc

Mr. Weiser-

Per our discussion on the phone, here is a brief summary of a travel fraud case I am referring to your office. This case originated with a whistleblower complaint to the Office of Special Counsel about a year ago.

As it involved U.S. Army Corps of Engineers civilian employees, it was referred to Army General Counsel, then to Army CID for investigation. The local CID investigation was handled out of Fort Knox.

The basic facts of the case are this:

Between 2001 and 2008, an Army Corps-Louisville District employee, Mr. [REDACTED], would stay at the private residence of his girlfriend in Indiana when he was TDY. His girlfriend, Ms. [REDACTED], would create "receipts" on a friend's computer using a false business name (she first used the name "[REDACTED] Bed & Breakfast" and later switched to the name "Northside Apartments") and using the daily GSA lodging rate applicable at the time. Mr. [REDACTED] would then turn in the receipts for reimbursement. The total amount he was reimbursed over this period was approximately \$22,215.00. At some point when this first started, one of Mr. [REDACTED] supervisors did question him about the receipts as they looked "homemade." The supervisor states that Mr. [REDACTED] told him the receipts were from a legitimate business.

The Federal Travel Regulation (FTR) and the Joint Travel Regulations (JTR) (the Dept. of Defense travel regulations applicable to civilian personnel) prohibit such reimbursement:

Lodging with friend(s) or relative(s) (with or without charge). You may be reimbursed for additional costs your host incurs in accommodating you only if you are able to substantiate the costs and your agency determines them to be reasonable. You will not be reimbursed the cost of comparable conventional lodging in the area or a flat "token" amount.

FTR § 301-11.12(c); see also JTR C4555(B)(3), JTR Appendix O, T4040(A)(1)(e)(2).

So, for example, if your host friend or relative incurred increased utility costs because you stayed with them AND those costs can be substantiated, such costs can be reimbursed. A conventional lodging amount - like Ms. [REDACTED] used - is not reimbursable. I've attached a GSBCA case that is very similar to the facts here (traveler stayed with friend/girlfriend, she charged him flat \$50/day, agency would not reimburse), although our whistleblower case has the extra facts of making false business receipts and telling the supervisor this was a legitimate business.

After a rather protracted investigation by CID, they have listed the following offenses:

Mr. [REDACTED] - fraud (18 USC 1001), theft (18 USC 641), conspiracy (18 USC 371), false statement (18 USC 1001) Ms. Suntup - conspiracy (18 USC 371), false statement (18 USC 1001)

CID also referred this matter to the IRS regarding the amount of money Mr. [REDACTED]

██████ claims he gave to Ms. ██████ I am not sure what the status of this referral is, but I'm attempting to contact the IRS agent CID contacted.

As I mentioned to you, I will be out of the office most of next week. I will be here Monday (7/20) and Friday (7/24) if you are available to meet. Otherwise, I would like to arrange to meet with you the following week. I have various statements, Mr. ██████ vouchers, and many, many CID reports.

If you have any questions, my office number is below.

Thank you,

████████████████████
Assistant District Counsel
Office of Counsel
U.S. Army Corps of Engineers
P.O. Box 59
Louisville, KY 40201-0059
Office: ████████████████████
Fax: (502) 315-6659

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DEPARTMENT OF THE ARMY
280TH MILITARY POLICE DETACHMENT (CID)
BLDG 1467 D, 382 3D AVENUE, SUITE 313
FORT KNOX, KENTUCKY 40121-5117

REPLY TO
ATTENTION OF

CIRC-CFK

6 Aug 2008

MEMORANDUM FOR Commander, US Army Corps of Engineers, Louisville District, ATTN:
Internal Review Office, P.O. Box 59, Louisville, KY 40201-0059

SUBJECT: Request for Audit of TDY Vouchers

1. Pursuant to the receipt of a letter from the Office of Special Counsel to the Secretary of the Army, and forwarded to HQ, US Army Criminal Investigation Command, regarding a complaint made by a former employee of your office, this office is conducting an investigation into the possible Larceny of US Government Funds and Fraud committed by two civilian employees of your agency; Mr. [REDACTED], and Mr. [REDACTED].
2. It is suspected these two individuals have been committing Fraud and receiving TDY monies to which they were not entitled. The period in question is 2002 to the present for Mr. Harris, and 2004 to present for Mr. [REDACTED].
3. It is formally requested your office conduct an audit of all available TDY vouchers for the above time periods pertaining to Mr. [REDACTED] and Mr. [REDACTED]. Request you notify the undersigned when the audit is completed and your findings.
4. POC this memorandum is the undersigned at [REDACTED], or COMM:
[REDACTED].

[REDACTED]
CW3, MP
Special Agent-in-Charge

Q