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REPORT OF INVESTIGATION - EXHIBIT 19

SWORN STATEMENT OF KARL GIBSON

WITH 40 ATTACHMENTS (KG EXHIBITS)

Report of Investigation - Exhibit 19
Sworn Statement of Mr. Karl Gibson
with 40 attachments (KG Exhibits)

Exhibit 19

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is PMG.

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, USC Section 301; Title 5, USC Section 2951; E.O. 9397 Social Security Number (SSN).
PRINCIPAL PURPOSE: To document potential criminal activity involving the U.S. Army, and to allow Army officials to maintain discipline, law and order through investigation of complaints and incidents.

ROUTINE USES: Information provided may be further disclosed to federal, state, local, and foreign government law enforcement agencies, prosecutors, courts, child protective services, victims, witnesses, the Department of Veterans Affairs, and the Office of Personnel Management. Information provided may be used for determinations regarding judicial or non-judicial punishment, other administrative disciplinary actions, security clearances, recruitment, retention, placement, and other personnel actions.

DISCLOSURE: Disclosure of your SSN and other information is voluntary.

1. LOCATION Fort Leavenworth, KS	2. DATE (YYYYMMDD) 2009/05/20	3. TIME 0800	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME Gibson, Karl	6. SSN XXX-XX-██████	7. GRADE/STATUS GS-11	
8. ORGANIZATION OR ADDRESS MAHC			

9. I, Karl Gibson **KLG**, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1 - (2a1) - *Please tell me how your time and resources were redirected. How did that diminishing your authority as the Ft Leavenworth's IH?

Answer: I have a question on what "your authority" means.

I was not allowed to fully perform my hired duties as the sole industrial hygienist (IH) and IH program manager (IHPM). For example I was not allowed to conduct the functional area responsibilities as the sole IH and IHPM. I was not allowed to conduct IH surveys to anticipate, recognize, evaluate, or control occupational hazards as the sole IH and IHPM by conducting IH surveys in the frequency and scope required by OSHA, DOD, and DA. *1 I was not allowed to apply OSHA, DOD, and DA standards as the sole IH and IHPM. *1 I was not allowed request for additional services as as the sole IH and IHPM. I was not allowed to use professional judgment as the sole IH and IHPM. I was not allowed to make or provide quantitative judgments concerning health hazards and risks as the sole IH and IHPM. I was not allowed to conduct the required program relationships with other Army Medical Department Proponency and Supported Programs or Safety programs as the sole IH and IHPM. I was not allowed to perform my IH consulting role as the sole IH and IHPM. I was not allowed to perform my design review role as the sole IH and IHPM. Management's actions violate OSHA, DOD, and DA regulations and policy and did not just diminish my authority, but removed and denied my authority. *1 Exhibits KG#16

When I was hired I received my original job description, since then management has given me additional add on of duties which are not outlined within the 2008 "performance objectives" as given to me by management. Historically, I have been directed by my MEDDAC Commanders to perform the needed IH program, as resources have allowed as the IH and IH Program Manager. In years past, the PM Program Document sets the official priorities for all PM areas to include IH. The official IH priorities have been: Top priority-Lead Risk Assessment for lead poisoned children and emergencies 2) IH Surveys of the accredited areas (Munson Army Health Center [MACH] and U.S. Disciplinary Barracks [USDB]); 3) IH Surveys of high risk operations, Design Reviews, Quantitative Fit Testing, and IAQ surveys; 4) any and everything IH items as resources allowed. The priorities changed with COL Rinehart, LTC ██████, and LT ██████ arriving. The last published PM Program Document was in October 2005 for the year FY 2006. Then in October 2008 LTC ██████ published the FY2008 PM Program document however, it was never signed therefore, it stood as an unofficial document. When I I questioned COL ██████ whether she agreed with LTC ██████ IH Priorities, COL ██████ stated to me verbally, that she was not in agreement with them. Because management has refused to allow me to conduct IH testing in accordance with Federal Regulations, DODI, OSHA and Army Regulations and Policies these practices have substantially put at risk the lives and safety of all individuals on Fort Leavenworth, especially those individuals working in environments where past hazards have been identified and not fully corrected. *1 (continued on next page)

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT KLG	PAGE 1 OF <u>34</u> PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF Karl Gibson TAKEN AT Ft Leavenworth DATED 2009/05/20

J. STATEMENT (Continued)

Specifically, managements directives and practices of how they have managed the IH Program has violated OSHA, DODI, and Army Regulations and Policy (AR 40-5; DA PAM 40-11 paragraphs 5-12 and 5-20; DA PAM 40-503 paragraphs 3-5, 4-4, 4-8, 4-13, and 7-10.). *1 Exhibit KG#16

Complaint procedures have changed. It went from responding while coordinating with Safety and DPW Environmental – look, test, and report – to just notifying my supervisor of the request. The past practices and precedents of how the IH Program was administered to on Fort Leavenworth complied with OSHA's 29 CFR 1910.120 paragraphs (a), (b), (c), (e), (h), (l), (m), (p), (q). Managements current procedures do not comply. Neither LT [redacted] nor LTC [redacted] are trained in HAZWOPER. I am trained and receive annual refresher training. COL [redacted], as Commander, has effectively made me non-essential even though I am trained, worked with the Fire & Police in past emergency responses, and have been the back up for Fort Leavenworth's emergency responders for monitoring, providing equipment, and emergency response assistance. Managements practice of excluding me from being part of the emergency response team is in direct violation of OSHA, DODI, and Army Regulations and Policy. Exhibit KG#16

Report or Memorandum writing has changed. Past Practice was 1) I would write IH survey memos, 2) the Chief, PM would review, 3) if there were questions - I would answer them, 4) C, PM would ok survey memo, 5) I would send to Secretary, PM for hard copy to be produced, 6) the signed hard copy would be sent out. As of January 2007, 1) I'm to write the Facility Assessment memo, 2) I'm to place a copy of the report on the J: drive for LT [redacted] to review, 3) LT [redacted] then would edit the memo's as he saw fit, 4) LT [redacted] would send his edited memo's to LTC [redacted] who would also edit them as she saw fit and place her initials at the end of document name – Always the document name was changed thereby, effectively removing all trace of my original memo, 5) Next, LT [redacted] or LTC [redacted] would notify the PM Secretary that the memo was ready for printing. However, after all modifications and changes, I was never allowed to see the changes that management made to these memorandum. As it currently stands, from the years 2006 and 2007 there are over 170 incomplete IH survey memorandums that need editing, signature and final record archiving. Furthermore, these reports need to be forwarded to the safety office as well as the supervisor that they pertain to. Managements practice of not completing and sending out these reports violates OSHA, DODI, and Army Regulations and Policy. *1 On 10 July 2008, management agreed to allow me to see all documents before they were are released to the PM's Secretary and inform me of all changes made to my original reports, so I could either concur or non-concurred with the changes management was wanting. If I non-concurred and they still wanted to keep changes, my name was to then be removed from document. This practice of allowing me to review the reports I'm generating after management makes their changes has not been followed and management continues to ignore my non-concurrence with their current practice of editing my documents without my knowledge or review. Additionally, management had directed that my name will remain on the reports despite my having no knowledge of what changes have been made to them. In 2008, memorandums I was directed by management to write reports in 8 different formats. When I asked management for a sample report outline that they would like for me to use, they steadfast refused to provide me a sample copy, citing "just keep writing them until we find a format we like". As of this date to my knowledge the memos are still not liked by management and no standard format is being used. For example in 2008 I drafted approximately 50 memorandums that have not been completed and have not been sent out, ~~not been sent out~~. Neither LT [redacted] nor LTC [redacted] are qualified as IHs IAW DA PAM 40-503. This violates OSHA, DODI, and Army Regulations and Policy. DA PAM 40-11, paragraph 5-20 and DA PAM 40-503 paragraph 4-12, clearly states that the IHPM (which is me) is to notify in writing the organization of the IH hazard & risk assessment and results. Exhibit KG#16

Since COL Rinehart, LTC [redacted], and LT [redacted] arrival in May, June and August 2006 respectively, I have not been allow to perform my full prescribed duties as the IH program manager and have been excluded from all meetings with management above LTC [redacted] on any IH issues. This management practice violates OSHA, DODI, and Army Regulations and Policy. In DA PAM 40-503 paragraph 2-2, clearly states that the IHPM is the requestor of outside services. For example management has refused to allow me to conduct the scheduled IH survey of the USDB as of June 2007 and the stopping of all occupational Exposure testing, monitoring, or sampling as of 28 August 2007. This management practice of excluding the IHPM violates OSHA, DODI, and Army Regulations and Policy. Furthermore, I have been prohibited from planning and executing on-site studies and surveys covering the full range of occupational operations at Fort Leavenworth, the USDB, and the Fort Leavenworth Health Services areas. I have been prohibited from serving as a consultant in the field of industrial hygiene. I have been not allowed to attend any Safety committee meeting outside MAHC – and then only when management was shown that it was required by Joint Commission standards. I have been allow coordinating with outside IH services or attending their in-briefings or their out briefings that have occurred — KLG
 evening the IH program. KLG

SIGNATURE OF PERSON MAKING STATEMENT

KLG

STATEMENT (Continued)

I have not been allow to review design plans and specifications to provide IH input to ensure compliance with applicable standards, codes, and regulations except on time for BLDG 198. I have been allowed to provide only limited safety job training to employees on Fort Leavenworth. I have not been allowed to provide safety support to MEDDAC/DENTAC and conduct safety/IH inspections for compliance with regulatory standards. I have not been allowed to perform IH sampling of the MEDDAC and DENTAC facilities. These prohibitions by management have violated OSHA, DODI, and Army Regulations and Policy. Exhibit KG#16

IH Surveys have been replaced with "Walk-thrus" where I am only allowed to ask supervisors and employees if they think monitoring needs to be done and what hazards they think are present. This removes all IH professional judgment from the OSH process in violation with OSHA, DOD and DA regulations. *1 When I completed the tasked "Walk-Thrus" of the 18 buildings identified by management, I was then tasked to conduct "Assessments". However, no occupational testing, monitoring, sampling or measurements of ventilation, noise or lighting, etc was allowed by management of the 18 buildings. In September 2008, I was allowed to do instantaneous, direct readings for Noise and Lighting. For Customer Service Requests for IAQ, I was allowed to do direct readings for instantaneous CO2, Temperature, RH, Respirable Particulates, Noise and Lighting readings. No Time Weighted Averages were allowed. Management's violates OSHA, DODI, and Army Regulations and Policy. In DA PAM 40-11 paragraphs 5-2d. And 5-20 and in DA PAM 40-503 paragraphs 1-8, 4-4, 4-8, 4-13, 7-10, and Appendix D clearly require employees occupational monitoring with 8 hr Time Weighted Averages to be conducted. *1 An example of what I was allowed to do: In both January and February of 2009 I received a complaint from the supervisor of the Provost Marshal Officer's Building whereby, sewer problems were reported and the smells were repeatedly causing employees to feel sick at the work site. I was not allowed to do chemical testing beyond grab samples when the employees/soldiers were present. As the situation persisted, management directed me to conduct chemical testing measurements over nights and over weekends when no employees/soldiers were present. This violates OSHA, DODI, and Army Regulations and Policy. *1 Exhibit KG#16

----- Statement continue on attached pages -----

KL6

AFFIDAVIT

I, Karl Gibson ^{KL6}, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 34. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Karl Gibson
(Signature of Person Making Statement)

WITNESSES:

Don Hinton (AFGE LOCAL 733)
Po Box 3224
Fort Leavenworth, KS 66027
ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 20 day of MAY, 2009 at Fort Leavenworth, KS

[Redacted Signature]
(Signature of Person Administering Oath)

[Redacted Name] COL
(Typed Name of Person Administering Oath)

Investigating Officer
(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

KL6

Fort Leavenworth 15-6 Investigation RE: Munson Army Health Center Industrial Hygiene Program Whistle Blower Case.

Questions asked by U.S. Army Colonel [REDACTED] and answered by Mr. Karl Gibson on May 20, 2009.

2 – (2a2) How were you prevented by LT [REDACTED] and LTC [REDACTED] from ensuring compliance with federal regulations and Army rules and regulations requiring the regular assessment and appropriate testing of Ft. Leavenworth buildings and facilities for industrial hygiene threats and hazards?

Answer: By verbal and written orders from LT [REDACTED] and LTC [REDACTED] not to perform IH work. I was verbally ordered not to do "special testing" in MAHC by COL [REDACTED] and COL [REDACTED] in January 2007. When I inquired what types of hazards fell into the category of "special testing" management refused to provide clarification. I do know however, that management prohibited me from conducting IH testing concerning asbestos, fiberglass, or construction related odor testing with an exception, that I was allowed to test for fiberglass and mold in the MACH Commander's office. COL [REDACTED] did not return to her office area until the hazard levels had diminished to safe levels. Yet, other staff were required to remain in the hazard area and COL [REDACTED] refused to allow me to test these areas. I made multiple request to management asking to be allowed to test for asbestos and fiberglass, and management refused to allow me to do the testing. At the time management issued these directives to me, MACH was under massive reconstruction renovation of the second hospital floor in its entirety. In advance of the management's new directives, I had already had occasion to report asbestos and fiberglass abatement violations, as well as, ventilation contamination of the third floor operating rooms in direct correlation to the ongoing construction and lack of asbestos and fiberglass abatement. See Notice of Samplings #1, #2, and #3 for Operations: Debris Falling into Commander's Office and Memorandums #1 and #2 for SUBJECT: Air Sampling Because of Debris Falling into Commander's Office from Ceiling Tile and Carpet Replacement Project January – February 2007. Managements directives that prevented me from conducting testing and prevented me from notifying employees of their actual or potential exposures is in violation of OSHA, DODI, and Army Regulations and Policy. Exhibit KG#16

On 19 April 2007 I was tasked by LTC [REDACTED] to do each IH Survey for 3 days and take at least 6 samples per survey (what type of surveys I was to conduct was not specified by management). The above normal amount of survey day and sample numbers caused an increase in the amount of supplies I would need to order for future IH surveys. Additionally, the amount of time to conduct these surveys as directed by LTC [REDACTED] increased dramatically. This was especially concerning to me because the USDB annual IH survey was upcoming. I was forced by LTC [REDACTED] to order three times the usual amount of supplies for the USDB surveys in order to meet her requirements. However, in accordance with managements directive, I was not allowed to perform the required annual IH surveys at the USDB in June-August 2007 as scheduled. *1 Nor was I allowed to conduct these surveys at a later date. *1 LT [REDACTED] and LTC [REDACTED] always gave me verbal directives and refused to put their directives in writing, so I wrote an MFR on 22 June 2007 outlining the fact that I was not being allowed to perform my IH duties with regards to the USDB IH Survey. *1 The fact that management was not allowing me to perform my prescribed duties did not seem to concern LT [REDACTED] or LTC [REDACTED]. As a result of the surveys not being conducted, all the supplies I was forced to order expired without their having

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Fort Leavenworth 15-6 Investigation RE: Munson Army Health Center Industrial Hygiene Program Whistle Blower Case.

Questions asked by U.S. Army Colonel [REDACTED] and answered by Mr. Karl Gibson on May 20, 2009.

been used. LT [REDACTED] and LTC [REDACTED] stopped all IH surveys and Occupational Exposure Monitoring on 28 August 2007. *1 Management practice of prohibiting IH testing violates OSHA, DODI, and Army Regulations and Policy. *1 Exhibit KG#16

As it currently stands, from the years 2006 and 2007 there are over 170 incomplete IH survey memorandums that need editing, signature and final record archiving. Furthermore, these reports need to be discriminated to the safety office as well as the supervisor that they pertain to. Managements practice of not completing these reports violates OSHA, DODI, and Army Regulations and Policy. Exhibit KG#16

In January 2008, LT [REDACTED] added a "Assessments" requirement to my individual performance standards. I requested clarity, but these requirements were not explained. LT [REDACTED] refused to answer my questions.

In February 2008, "Walk-thrus", "Assessment" and then "IH Surveys" (to be done at some later point) process was tasked by management. Mr. [REDACTED] GPRMC, explained generally what I was to perform, but would not answer my questions as if these complied with OSHA, DODI, and DA requirements. According to Mr. [REDACTED] I was to always side with management. I asked where this was in writing, but LT [REDACTED] and Mr. [REDACTED] refused to answer or provide this policy information. I asked LT [REDACTED] and Mr. [REDACTED] what was the purpose of this 3 step process, but they refused to answer my questions. This management's and GP's policy violates OSHA, DODI, and Army Regulations and Policy. Exhibit KG#16

In July 2008, LT [REDACTED] directed that some testing in facility assessments were now allowed by management: I could perform grab, direct measurements for noise and light. LT [REDACTED] directed that if I performed "to much" testing or violated the 28 August 2007 MFR, I would be disciplined. No Occupational exposure testing was permitted. For IAQ assessments, LT [REDACTED] directed that some testing were now allowed by management: if it was grab, direct measurements for CO2, Temperature, Relative Humidity, Respirable Particulates, Noise and Lighting. But if I performed "to much" testing or violated the 28 August 2007 MFR, I would be disciplined.. These actions of management violates OSHA, DODI, and Army Regulations and Policy. Exhibit KG#16

In 2008 I have drafted approximately 50 memorandums that have not been completed and have not been sent out, ~~not been sent out~~. Neither LT [REDACTED] nor LTC [REDACTED] are qualified as IHs IAW DA PAM 40-503. This violates OSHA, DODI, and Army Regulations and Policy. In DA PAM 40-11, paragraph 5-20 and DA PAM 40-503 paragraph 4-12, clearly states that the IHPM (which is me) is to notify in writing the organization of the IH hazard & risk assessment and results. No written documentation of the "Walk-thrus" were permitted by management. These actions violates OSHA, DODI, and Army Regulations and Policy. Exhibit KG#16

In September and October 2006, I was repeatedly threatened by management with disciplinary actions

Fort Leavenworth 15-6 Investigation RE: Munson Army Health Center Industrial Hygiene Program Whistle Blower Case.

Questions asked by U.S. Army Colonel [REDACTED] and answered by Mr. Karl Gibson on May 20, 2009.

when I saw and expressed IH & Safety concerns dealing with asbestos and electrical safety.

On 8 January 2007, LT [REDACTED] gave me an initial counseling. Included in this counseling were the following directives 1) anything being sent out of the MACH PM Office would first be reviewed by LT [REDACTED] and LTC [REDACTED] 2) All testing and analyses conducted would also have to be approved by LT [REDACTED] or LTC [REDACTED] prior to them being conducted. Upon being given this initial counseling I provided him with a draft support form (DA Form 7222-1) which outlined my past performance duties that I had been conducting for over 16 years. When I gave this support form to LT [REDACTED], he verbally stated that he did not know at that time as to whether he wanted me to continue performing these duties or not. He further stated to me that he would have to get back with me in the future to provide further clarification. Despite several repeated attempts on my part to gain managements clarification on the matter, both LT [REDACTED] and LTC [REDACTED] refused to provide their clarification. The support form I gave to management contained some duties that are encompassed in OSHA, DODI, and Army Regulations and Policy that are to be performed by Industrial Hygienist's in support the Army's Occupational Safety and Health Program. Exhibit KG#16

On 26 February 2007, LTC [REDACTED] and I entered into discussion that centered on whether I could exclude survey sample results from IH survey reports. In MFR SUBJECT: MFR for Employee Notification dated 12 March 2007; I explain why management's directive would violate OSHA, DOD, and DA regulations and policy. I received no response to my MFR and so I continued to include whatever results I might have collected in future reports. Exhibit KG#17

On 14 March 2007, management provided additional IPS requirements to Karl Gibson. Management added the following duties to the 8 January 2007 requirements: 1) maintain IH Work Log; 2) Submit leave; 3) Dispatch vehicle from TMP; and 4) Compress report files, so they would not exceed 3 MB. These new duties assigned by management kept me busy and limited the amount of time that I normally had to preform IH surveys and other IH program requirements. Exhibit KG#18

On 19 April 2007, management gave Karl Gibson new Performance Expectations (PE) issued by LTC [REDACTED]. In the PE management added duties the following duties to be performed: 1) Air Sampling-3 day minimum with 6 samples; 2) IH Quality Assurance (QA) will be performed by GPRMC; 3) Equipment Maintenance will be audited; 4) Assistance visits will be conducted GPRMC IH Manager or designated Representative; and 5) Follow-up will be provided to Karl Gibson quarterly. After the first IH survey, management verbally ended their three days sampling requirement and samples would no longer be sent GPRMC. Management would not discuss how QA would be performed. Without my knowledge or consent management personnel, specifically, SSC [REDACTED] and SSG [REDACTED] were accessing the secured IH equipment storage room, where the IH testing equipment that I was singularly hand receipted for was being kept. According to what management had been telling me, I was the only person who was supposed to have access to this room. When I questioned both SSG [REDACTED] and SSG [REDACTED] as to why they were in the locked room, they stated "LTC [REDACTED] had ordered them to go into the room and check to see whether my equipment was calibrated or not, and they were to report

Fort Leavenworth 15-6 Investigation RE: Munson Army Health Center Industrial Hygiene Program Whistle Blower Case.

Questions asked by U.S. Army Colonel [REDACTED] and answered by Mr. Karl Gibson on May 20, 2009.

directly back to her". When I reported this incident to management, LT [REDACTED] seemed unconcerned. His behavior was exemplified in the fact that management gave no further assistance or follow-up on the issue. Exhibits KG#19a and KG#19b.

On 25 May 2007 and 8 June 2007, in MFRs, I asked questions of management with regards to the April 19, 2007 PE's. I received no response back from management. Exhibit KG#20

On 22 June 2007, management and I had a meeting. See MFR SUBJECT: Minutes for 22 June 2007 Counseling of Karl Gibson; Dated 3 July 2007. I asked questions of management. I received no response. Managements prohibition on allowing me to conduct these tests violates OSHA, DOD, and DA regulations and policy. At no time was I notified by management that any of these tests were being conducted per DA PAM 40-503. Exhibit KG#21

On 12 July 2007 in the morning, Management provided Karl Gibson a copy of the MFR SUBJECT: Counseling Karl Gibson referencing his MFR dated 25 May 2007; Dated 11 July 2007. I rebutted the items in a statement that I provided to LT [REDACTED]. In the afternoon of 12 July 2007, management and I had a second meeting. I rebutted their counseling in a MFR dated 13 July 2007. See MFR SUBJECT: Meeting on 12 July 2007; dated 13 July 2007. I received no response to this MFR. Exhibit KG#22a and Exhibit KG#22b

On 1 August 2007, Management prohibited me from conducting the USDB IH survey and all IAQ surveys on prohibited unless they were already scheduled, for example; the TRAC MOA IAQ Surveys. See MFR SUBJECT: Meetings on 1 August 2007; Dated 1 August 2007. I made multiple requests to management asking to be able to perform the IH Surveys, management refused to allow me to conduct these surveys every time. These prohibitions violate OSHA, DOD, and DA regulations and policy. Exhibit KG#16 and Exhibit KG#23

In MFR for Karl Gibson SUBJECT: Deferment of Indoor Air Quality and Occupational Exposure Testing; dated 28 August 2007, Management directed that I was to defer all IAQ and Occupational Exposure testing until notice to resume was given by LTC [REDACTED] or LT [REDACTED]. When management was questioned and I asked for specific examples of what they were alleging, no examples of wrong doing or mistakes were provided. To this date I still have not received a response to my questions. As of May 2009, the deferment of IH IAQ and Occupational Exposure Testing has not been lifted. Exhibit KG#1

After 28 August 2007, the only work I have been allowed to perform has always been at the direct direction of management, such as DOEHRs-IH data entry, WAWF, pulling the the original documents for the Eisenring Asbestos death lawsuit and any other assigned tasks by management. Again, IH testing and survey work was on hold which violated with OSHA, DOD, and DA regulations and policy. Exhibit KG#16

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Questions asked by U.S. Army Colonel [REDACTED] and answered by Mr. Karl Gibson on May 20, 2009.

On 31 August 2007, Karl Gibson provided management with an MFR re. [REDACTED] GPRMC visit. See MFR SUBJECT: Meetings on 21-29 August 2007. Exhibit KG#24

In November 2007, LT [REDACTED] and LTC [REDACTED] failed Karl Gibson in his senior employee evaluation, for failing to perform the IH surveys covering 350 workplace operations. This failed rating came despite management's deferment of the 350 workplace operations requirement. See Memorandum For LT [REDACTED] SUBJECT: Appeal of Karl Gibson Evaluation July 2006 thru October 2007; Dated 7 November 2007. Exhibit KG#25

On 25 January 2008, with no additional training having been provided by management Karl Gibson was evaluated by LT [REDACTED] who found to be able to "demonstrate the knowledge and skills necessary to perform the duties of his position". See Ongoing Competency Assessment Statement, Dated 25 January 2008. Exhibit KG#3

On 11 and 15 January 2008, IPS for Karl Gibson was given. See MFR SUBJECT: Individual Performance Standards for Karl Gibson; Dated 10 January 2008 and MFR SUBJECT: Initial Counseling of Karl Gibson by LT [REDACTED] Part #2 on 15 January 2008. LT [REDACTED] informed Karl Gibson that "everything is subjective" and he would be evaluated by how management felt about him. I asked LT [REDACTED] and Mr. Bentley what the items meant, but they refused to answer. Exhibit KG#26

On 1 February 2008, LT [REDACTED] sent by Email an IH Project Priority List to Karl Gibson. I asked LT [REDACTED] what was I to do with this list. I received no response. I asked LT [REDACTED] why the specific buildings are listed by management and asked why no high risk areas were picked? To this day I have received no response. Exhibit KG#4

On 5 February 2008 and 15 February 2008, I provided LT [REDACTED] with questions concerning the January 2008 IPS. See MFR SUBJECT: Questions; Dated 5 February 2007 *1 and MFR SUBJECT: Additional Question on IPS Feb 2008; Dated 15 February 2008 *2. LT [REDACTED] could not explain what the IH surveys mentioned in this new IPS would encompass, nor could ~~her~~ answer any of my other questions. *1 Exhibit KG#27 and *2 Exhibit KG#28
his KLG

During the [REDACTED] visit on 20 February 2008, I asked both LT [REDACTED] and [REDACTED] "what kind of surveys are these to be since all noise, ventilation, air testing, other measurements are prohibited?" See MFR SUBJECT: Additional Questions on IPS Feb 2008; dated 15 February 2008. LT [REDACTED] could not explain what these IH surveys covered or answer my questions. See MFR SUBJECT: [REDACTED] Visit on New Job Standards and Individual Performance Standards for Karl Gibson; Dated 22 February 2008. Exhibit KG#29a and Exhibit KG#29b

On 25 February 2008, LT [REDACTED] reminded Karl Gibson that "everything is subjective." I then asked, if I was being tasked to do other things other than my rated duties by LT [REDACTED] how could he rate me as being unsuccessful? LT [REDACTED] stated that I was to use my own time to do the IH requirements,

Fort Leavenworth 15-6 Investigation RE: Munson Army Health Center Industrial Hygiene Program Whistle Blower Case.

Questions asked by U.S. Army Colonel [REDACTED] and answered by Mr. Karl Gibson on May 20, 2009.

even though I was being tasked to perform other duties than the duties on my IPS. See MFR SUBJECT: Notes from 30 Day Performance Counseling for Karl Gibson; Dated 26 February 2008. Exhibit KG#30

On 4 April 2008, I emailed LT [REDACTED] a draft IH Work Place Assessment Form: It clearly states "No sampling or measurement of hazards will be conducted." Exhibit KG#6, Exhibit KG#7, Exhibit KG#8

On 18 April 2008, LT [REDACTED] sent Karl Gibson a copy of MFR signed by LT [REDACTED] regarding No Mold Testing in the workplace will be conducted. See MFR SUBJECT: Mold In The Environment; dated 20 November 2007. This email was sent to me while I was on my 14 Day suspension for prior mold testing. Exhibit KG#31

On 9 May 2008, LT [REDACTED] provided an unlabeled chart to Karl Gibson. See unlabeled chart and MFR. In the IH Surveys Question column found on page 2 column 3: "What kind of surveys are these to be? Since any air samples are prohibited? Since any noise, ventilation, or other measurements are prohibited?" The answer in column 4 is blank. Exhibit KG#32

On 20 May 2008, LT [REDACTED] provided a MFR SUBJECT: Update to individual Performance Standards dated 19 May 2008. It gave new suspenses's. On 20 May 2008, I emailed multiple requests LT Derivan asking for his assistance, in order to meet his suspenses. I received no response or assistance. See MFR SUBJECT: Request for Assistance from LT [REDACTED] on DOEHRs and Creation of SEGs; Dated 31 October 2008.

On 30 May 2008, LT Derivan provided a MFR SUBJECT: Performance Counseling Regarding IH Workplace Assessment and Reports; Dated 30 May 2008. This was the first time since 28 August 2007 that LT [REDACTED] had directed that I now allowed to perform "Direct-reading" measurements, but I was still prohibited from performing Time Weighted Averages (TWAs). I questioned LT [REDACTED] what did he meant by the term "Direct-reading". LT [REDACTED] refused to answer my question. See MFR SUBJECT: Questions Unanswered from February 2008 Through May 2008; Dated 31 May 2008. *1 See additional MFR SUBJECT: Questions to MFR SUBJECT: Performance Counseling Regarding IH Workplace Assessment and Reports Dated 30 May 2008; Dated 3 June 2008. I emailed clarifying questions to LT [REDACTED] on 4 June 2008. To this date I have not received a response from LT [REDACTED] *1 Exhibit KG#33

On 23 June 2008, LT [REDACTED] called me into his office whereby, he proceeded to unintelligibly yell and scream at me. When he began to scream at me, I was instantly concerned for my safety. See MFR SUBJECT: Counseling with LT [REDACTED] on 23 June 2008; Dated 23 June 2008. Exhibit KG#34

On 27 June 2008 and 30 June 2008, I requested clarity from LT [REDACTED] concerning my job performance expectations and standards of performance I was being rated on. See MFR SUBJECT:

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Request for Clarity from Email Subject: IH Equipment & Testing You Want from LT [REDACTED] on 26 June 2008; Dated 27 June 2008 and 30 June 2008. *1 To this date I have not received a response from LT [REDACTED] *1 Exhibit KG#35

On 8 July 2008, I submitted a MFR to LT [REDACTED]. The MFR subject was: Request for Clarity from LT [REDACTED]'s MFR Dated 2 July 2008 Response; Dated 8 July 2008. To this date I have not received a response from LT [REDACTED].

On 10 July 2008, Management (COL [REDACTED], LTC [REDACTED], LT [REDACTED] and Jar [REDACTED]), Union and I met. I submitted a MFR SUBJECT: Management, Union and Karl Gibson Meeting; Dated 10 July 2008. The following questions were asked: What standards are being used? How will IPS objectives be measured? What is memo writing procedure? Exhibit KG#36

On 16 July 2008, LT [REDACTED] handed Karl Gibson MFR SUBJECT: Clarified IPS for Karl Gibson; Dated 16 July 2008. Karl Gibson was not allowed to ask questions, but submit them to LT [REDACTED] in writing. I submitted my questions to LT [REDACTED] in a MFR SUBJECT: Request for Clarity on MFR Subject: Clarified IPS for Karl Gibson by LT [REDACTED], Dated 28 July 2008. *1 To this date I have not received a response from LT [REDACTED] *1 Exhibit KG#37

Because I was being tasked by LT [REDACTED] with multiple tasks with overlapping suspense dates. Therefore, on 5 August 2008, I emailed LT [REDACTED] asking specifically what items he wanted to suspense first. On 7 August 2008, I emailed LT [REDACTED] with my questions regarding LT [REDACTED] "Projected IH Hazard Assessment Surveys for week 4-8 August 2008". I questioned what LT [REDACTED] wanted, because the tasks he had assigned for me to perform during this period were not humanly possible to be accomplished.

On 12 August 2008, LT [REDACTED], Union and I had a meeting. I wrote MFR SUBJECT: LT [REDACTED] wanted to know what was possible to be done. LT [REDACTED] would assign daily IH tasks starting 12 August 2008. I provided this MFR to LT [REDACTED] Exhibit KG#38

On 22 August 2008, Corps of Engineers (CoE) visited. I prepared MFR for Meeting Dated 4 September 2008 *1 and CoE wrote Memo SUBJECT: 22 August 2008 – Field Observations of the IH Facility Assessment Process; Dated 26 August 2008. *2 Karl is performing job within standards, but limited by management. The differences between CoE and Management's opinion as to how IH documents are to be written were identified and discussed. Management disagreed with CoE. *1 Exhibit KG#9 and *2 Exhibit KG#10

On 29 August 2008, LT [REDACTED] provided MFR SUBJECT: Periodic Performance Counseling; Dated 29 August 2008. Karl Gibson is doing a good job. Exhibit KG#11

On 11 September 2008, CoE conducted an Audit. See MFR SUBJECT: 11 September 2008 – IH

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Facility Inspection Audit Findings; Dated 12 September 2008. Differences between CoE and Management in what were correct IH duties were identified. CoE had issues with management's IHIP and management was not allowing Occupational Exposure Monitoring to be performed. Exhibit KG#12

On 24 September 2008, LT [REDACTED] provided MFR SUBJECT: Template for IH reports; Dated 24 September 2008. This was never used and stopped by LT [REDACTED] on 6 October 2008.

On 6 October 2008, LT [REDACTED] provided MFR SUBJECT: Periodic Performance Counseling; Dated 6 October 2008. Karl Gibson was given more latitude, but management was still not allowing Occupational TWA sampling. LT [REDACTED] also cited "You have done a good job." Exhibit KG#13

On 17 October 2008, LT [REDACTED] provided MFR SUBJECT: Periodic Performance Counseling; Dated 17 October 2008. LT [REDACTED] keeps his 25 buildings priority list, assessments, reports, etc. Exhibit KG#14 and Exhibit KG#15

On 18 December 2008, Karl Gibson was failed in Senior Evaluation by LT [REDACTED] and LTC [REDACTED]

3 - (2a3)- In the conduct of his duties, did Ft Leavenworth would violate Federal and Army regulations concerning industrial hygiene and safety by not conducting regular assessment and the appropriate testing of Ft Leavenworth's buildings/facilities? If so, which laws or regulations?

Answer: Yes,
Occupational Safety and Health Act of 1970 as amended

Executive Order 12196 - Occupational safety and health programs for Federal employees;
Paragraphs 1-2 and 1-201 (a), (b), (C), (d), (e), (f), (g), (h), (I), and (j)

OSHA regulations

29 CFR 1960.8

29 CFR 1960.9

29 CFR 1960.11

29 CFR 1960.12

29 CFR 1960.16

29 CFR 1960.17

29 CFR 1960.18

29 CFR 1960.19

29 CFR 1960.25

29 CFR 1960.26

29 CFR 1960.27

29 CFR 1960.28

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29 CFR 1960.29
29 CFR 1960.30
29 CFR 1910.94 paragraphs (b), (c),
29 CFR 1910.95 paragraphs (a), (b), (c), (d), (e), (f), (i), (j), (k), (l), (m), (n)
29 CFR 1910.120 paragraphs (a), (b), (c), (e), (h), (l), (m), (p), (q)
29 CFR 1910.132 paragraphs (a), (d), (f),
29 CFR 1910.133 paragraphs (a),
29 CFR 1910.134 paragraphs (a), (b), (c), (d), (f), (g), (h), (k), (m), App A
29 CFR 1910.135
29 CFR 1910.136
29 CFR 1910.138
29 CFR 1910.141 paragraphs (a), (g)
29 CFR 1910.146 paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (l)
29 CFR 1910. subpart Z paragraphs (a), (b), (c), (d)
29 CFR 1910.1000 all tables : paragraph a, b, c, d, e.
29 CFR 1910.1001 paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (m), (n), App A,
29 CFR 1910.1018 paragraphs (a), (b), (c), (e), (f), (g), (h), (j), (k), (m), (o), (p), (q), (r)
29 CFR 1910.1020 paragraphs (a), (b), (c), (d), (e), (g),
29 CFR 1910.1025 paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (l), (m), (n), (o), App A, B, C, D
29 CFR 1910.1026 paragraphs (a), (b), (c), (d), (e), (f), (g), (i), (j), (l), (m),
29 CFR 1910.1027 paragraphs (a), (b), (c), (d), (e), (f), (g), (i), (j), (k), (m), (n), (o),
29 CFR 1910.1028 paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (l)
29 CFR 1910.1048 paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (m), (n), (o), App B
29 CFR 1910.1052 paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (k), (l), (m),
29 CFR 1910.1200 paragraphs (a), (b), (c), (d), (e), (g), (h), App B
29 CFR 1910.1045 paragraphs (a), (b), (c), (d), (e), (f), (h), (i), (j),
29 CFR 1926. Subpart C
29 CFR 1926. Subpart D
29 CFR 1926.62 paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (l), (m), (n), (o), App A, B, C, D
29 CFR 1926.65
29 CFR 1926. Subpart E
29 CFR 1926.1101 paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (m), (n), App A

NIOSH NTIS Publication No. PB-94-195047; Documentation for Immediately Dangerous to Life or Health Concentrations (IDLH)
National Institute for Occupational Safety and Health (NIOSH) Recommended Exposure Limit (REL)

Department of Defense Instruction 6055.1, Dated August 19, 1998
Paragraphs 2.2.; 4.1; 4.3; E3.1.;E3.1.1; E3.5; E3.5.1; E3.5.3; E3.5.3.1; E3.5.3.2;

Department of Defense Instruction 6055.5, dated January 10, 1989

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Paragraphs 1.2.; 5.1.; 6.1.1; 6.1.1.1.; 6.1.1.2.; 6.1.1.3.;

AR 385-10, Chapter 16, 17, and 18; Paragraphs 8-1.a, 8-1.b; and 8-2.
DA PAM 385-10, Paragraphs 8-1.a, 8-1.b; and 8-2.

AR 40-5, Paragraphs 1-5; 1-6; 1-7; 2-18 to include n.(1) & n.(3); 2-26;
DA PAM 40-11; Paragraphs 1-4; 1-6; 2-2; 2-18; 4-14; 4-15; 5-1; 5-2 d; 5-3; 5-7; 5-8; 5-10; 5-12; 5-13;
5-14; 5-15; 5-17; 5-19; 5-20; 5-22; 5-26; 7-12; 7-14; 10-1; 11-1; 11-2;
DA PAM 40-21, Ergo; 1-1; 1-4; 1-6; 1-7; 1-8; 1-9; Chapter 3, 4,
DA PAM 40-501, Noise Chapter 1, 3, 4, 5, 6
DA PAM 40-503, IHP; Chapter 1, 2, 3, 4, 5, 6, 7, App C, D
DA PAM 40-506 Vision; Chapter 1, 2, 3, 4, 5, 6
TB MED 510, WAG; Chapter 1, 2, 3, 5,
TB MED 513, Asbestos, paragraphs 4, 8, 9, 10, 11, 12, 13, 14
TG 278, Mold; Page 3
TG-040, Noise; Part I
TG 141, Sampling; All
TG 181, Noise; All

AR 608-10, Paragraph 4-4; 4-6; 4-8; 4-24 through 4-37; 4-33; 5-27; 5-35; 5-39; 5-41; 5-42; 5-43; 5-48;
5-50; 5-53; 6-52; App C
AR 190-47 paragraph 1-4; 7-2 a.4.; 9-4 d;
Title 41, CFR, Section 101-20.107,

Exhibit KG#16

4 – (2b) – In June 2007 why were you ordered to stop all IH assessments, testing and surveys?

Answer – I do not know why, Management has not given an explanation. See MFRs Exhibit KG#20, Exhibit KG#21, Exhibit KG#22

5 – (2b1a) Who was monitoring the IH issues and maintaining IH program elements?

Answer – As the IHPM and sole IH on Fort Leavenworth the duties to perform these tasks were encompassed in my position description and Army regulation and policy. However, I was prohibited in carrying out my appointed duties as the IHPM when MEDDAC management directed on 28 August 2007 that I was to defer any further IAQ testing, Occupational exposure monitoring and other associated tasks with these duties. Exhibit KG#1

6 – (2b1b) - If the assessment, testing and surveys were stopped what reason was given for halting

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them?

Answer- When I requested the information you are asking about from management, they refused to provide me with an explanation. See MFRs. Exhibit KG#21, Exhibit KG#22, Exhibit KG#23, Exhibit KG#24, Exhibit KG#26, Exhibit KG#27, Exhibit KG#28, Exhibit KG#33.

7 - (2b1c) - How were annual health and safety assessment conducted and by whom?

Answer - Karl Gibson performed as per Program Document: Historically, the PM Program Document sets the official priorities for all PM areas to include IH. They have been: Top priority was 1) Lead Risk Assessment for lead poisoned children then 2) IH Surveys of the accredited areas (Munson Army Health Center [MACH] and U.S. Disciplinary Barracks [USDB]); 3) IH Surveys of high risk operations, Design Reviews, Quantitative Fit Testing, and IAQ surveys; 4) any and everything IH items as resources allowed. These past practices and policies changed with the advent of COL [REDACTED], LTC [REDACTED], and LT [REDACTED] arriving to Fort Leavenworth beginning in 2006. Management did not have a PM Program document for FY 2007. The FY2008 PM Program Document was not produced until after the FY ended on 18 October 2008. In this FY2008 PM Program Document, the IH number one priority was fit testing. To my knowledge, no PM Program Document has been produced for FY 2009. I met with the MEDDAC Commander on 18 February 2009. In this Open Door Policy meeting with COL [REDACTED] agreed that fit testing was not her number one priority for IH. Instead, she cited that communication was her number one IH priority.

8 - (2b1d) - From June 2007 to present, did any major life safety or IH come to the attention of the Munson staff that required IH intervention or assessment?

Answer: Yes, major life safety and IH issues did come to my attention that should have required IH intervention or assessment. I was only allowed to inform LT [REDACTED] or LTC [REDACTED] of these issues. I emailed LT [REDACTED] the IH requests for services and my concerns.

Here are examples of a few:

BLDG	What was allowed to be performed	Occupational Exposure Monitoring & IH Survey Allowed
193 AG offices	14 June 08 IH & Safety request because worker ^{climbed} clashed and taken by ambulance 29 June 08 Walk-thru allowed	None

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	28 Aug 08 grab testing approved 29 Aug 08 grab testing done No write up allowed by management	
45 NSC (13 operations)	8 July 08 Request: worker was sick & removed from office 15 July 08 Walk-thru allowed 20 Aug 08 grab IAQ allowed	None
320 PMO	4 Aug 08 Ergo request for injured workers 7 Aug 08 Ergo questionnaires given No assessment or survey allowed by management	None
470 Pope	3 & 21 Apr 08 Request for IAQ baseline because an Employee died 2 May 08 Walk-thru allowed 5 June 08 Requested to answer 6 Oct 08 grab IAQ assessment allowed by management	None
46	21 Apr 08 Request sick employees 16 May 08 Walk-thru allowed No Assessment allowed by management	None
47	21 Apr 08 Request sick employees 16 May 08 Walk-thru allowed No Assessment allowed by management	None
77	30 Oct 08 Mercury Light bulbs broken and Spill None assessment allowed by management	None

9 – (2b1e) If so, who handled these issues and what was the resolution?

Answer – As the IHPM and sole IH on Fort Leavenworth the responsibility to identify, test, monitor and evaluate hazards is with me. IAW DA PAM 40-503, the IH program manager, 4-4. Survey frequency and scope

4-4. Survey frequency and scope

- a. Recognizing existing and potential hazards is a step towards improving health and safety in the workplace.
- b. The 29 CFR 1960, AR 385-10, and AR 40-5 require the annual inspection of workplaces by OSH personnel who are qualified to recognize and evaluate hazards. The IHPM ensures that this annual workplace survey documents the IH aspects,

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such as—

- (1) Chemical, physical, biological, and ergonomic hazards inherent to each activity.
- (2) Existing measures employed to control exposure to the hazard.

4-8. Purpose and scope

a. Health hazard evaluations are the foundation on which the OH program is built. Health hazard assessments identify and quantify all potential and actual health hazards. A comprehensive health hazard assessment requires the IHPM to collect both qualitative and quantitative data. The IHPM uses this data to assess the effectiveness of protective equipment, administrative controls and engineering controls. Health hazard assessments also provide occupational medicine personnel with data to develop an effective medical surveillance program.

b. Following the IHIP's (or order of accomplishment) established priorities (PACs), the IHPM ensures that—

(1) Each operation performed on the installation is analyzed to evaluate and document all worker exposures, both potential and/or real. Documentation of exposures includes qualitative and quantitative assessment.

(2) A sampling strategy is developed that includes both recognized qualitative and quantitative protocols to provide statistically significant exposure data. Breathing zone, ventilation and noise measurements, and other appropriate hazard exposure measurements are performed and documented using the sampling strategy. (USACHPPM Technical Guide (TG) 141 provides instructions for sampling chemical contaminants, and DA PAM 40-501 and USACHPPM TG 181 provide instructions for sampling noise hazards.)

(3) Sampling results are subject to approved statistical analysis to determine data significance. Statistical analysis is used to determine data accuracy and precision and exposure trends. The IHPM must use statistical analysis to both develop sampling strategies and to analyze sample results.

(4) Statistical analysis is not a substitute for professional judgment but is an additional tool used by the IHPM to provide a better health hazard assessment. When exposure conclusions/decisions are obvious, such as during emergencies or when the data obviously indicates an overexposure and/or very low exposures, the application of statistical analysis is not warranted.

4-9. Frequency

Health hazard evaluation is a continuous process. Changes in operations over time may affect levels of exposure to chemical, physical, and biological agents. Therefore, the IHPM should ensure that operations are evaluated to build hazard level and exposure histories for each operation when—

a. The process changes.

b. Personnel change.

c. The work rate changes.

d. Engineering controls degrade or are modified.

e. Building and structural changes occur.

(AR 11-34). Quantitative exposure data allow for the proper

selection of respiratory protective equipment (RPE). To ensure the recommended RPE remains appropriate for the intended use, continued periodic measurement of the contaminant's exposure levels is necessary.

c. *The installation hearing conservation program.* Quantitative measurements of noise levels allow for the proper selection of hearing protective devices. Continued measurements of noise hazardous operations are necessary to ensure that hearing protective devices are appropriate for the intended use (DA PAM 40-501 and USACHPPM TG 181).

d. *The installation civilian personnel office.* Quantitative assessments of specific workplace or occupational exposures can assist the personnel specialist in defining job requirements and managing the civilian resource conservation program (chap 7).

e. *The installation safety office.*

(1) Quantitative assessments of exposure and workplace conditions aid the installation safety office in promoting safe work practices and conditions.

(2) Quantitative measurements of exposure aid in managing the hazard abatement program by prioritizing—

(a) Funds for implementing hazard controls (see para 4-11).

(b) Work areas and operations for the implementation of hazard controls.

f. *The workplace supervisor.* Quantitative assessments of exposure and workplace conditions aid supervisors in correcting unsafe working conditions, enforcing safe work practices, and scheduling employees for HAZCOM and other training.

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6-1. Introduction

The IH records are required to meet legal and professional requirements. The IHPM ensures the records are maintained per appropriate Federal regulations (such as 29 CFR 1910.1020, 1915, and 1960, and 40 CFR). Both automated and hard copy records are required.

6-4. Survey files

The IHPM ensures that survey files are maintained per AR 25-400-2. Files may be maintained indefinitely to meet local or regulatory needs. The 29 CFR 1910.1020 specifies additional requirements for sampling data.

7-10. Standard Army safety and occupational health inspections

a. AR 40-5, chapter 5 identifies IH responsibilities. The IH mission defined in AR 40-5 will meet the standard Army safety and occupational health inspections (SASOHI) requirements of AR 385-10.

b. The OSHA regulation concerning Federal employees (29 CFR 1960, AR 385-10, and AR 40-5) requires persons qualified through training and experience to identify and evaluate work site health hazards and to operate monitoring equipment. (See para 4-4.) The industrial hygienist has responsibility for assessing health hazards in DA work sites that have potential chemical, physical or biological health hazards. The role of the IHPM in SASOHI includes:

- (1) Performing field surveys to complete the annual SASOHI requirements for all workplaces, which have potentially hazardous chemical, physical, or biological exposures.
- (2) Assigning health RACs to operations or chemical, physical, or biological health hazards for inclusion in installation prioritized abatement action plans.
- (3) Providing the installation safety officer with DOEHRS-IH information and results of field surveys.

7-23. Director of public works

a. The IHPM requires the information and service provided by Director of Public Works and Director, Installation Support to effectively manage and implement the IH program. The Director of Public Works and Director, Installation Support—

- (1) Control all real property, perform maintenance, and implement IH recommendations to control health hazards. This includes:

- (a) Designing new facilities and modifying existing facilities.
- (b) Managing the installation asbestos management program, the radon program, and waste disposal for the installations, including hazardous waste.
- (2) Implement controls required to abate other OSH hazards.

b. The IHPM aids supervisors, the Director of Public Works, and other responsible parties in ensuring the effectiveness of health hazard controls by—

- (1) Evaluating the effectiveness of new and existing controls (including ventilation systems).
- (2) Participating in the design review process for proposed new systems and modifications of existing systems.
- (3) Reviewing purchase requests for new types of PPE, especially RPE.
- (4) Evaluating technology improvement projects for equipment, processes, and materials.

At no point in time did management bring to my attention nor provide in writing an exception to policy that would have exempted management from complying with the regulatory requirement as just cited. On numerous occasions I brought to managements attention the OSHA, DODI, and DA regulatory requirements. I even provided to them hard copy's of the regulatory requirements. Management would thank me for the copy's, and yet, they continued to ignore the requirements and continued their prohibition in allowing me to perform my hired IH duties in support of the Army's Occupational Safety and Health Program. Exhibit KG#16

10 - (2b2a) February 2008 - Why were 18 of Ft Leavenworth's 295 buildings selected for a walk thru?

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Answer: When I questioned LT [REDACTED] list of the 18 buildings he sent to me on 1 February 2008 in an email SUBJECT: IH Project Priority List. *1 I questioned LT [REDACTED] as to why he has selected these buildings and only these. His response was simply "This is what I want". I resurfaced my question again to LT [REDACTED] when Mr. [REDACTED] came to Fort Leavenworth February 2008. LT Derivan again stated "these are the buildings I want you to do". Again he offered no other explanation. See IH Work Log for 19-22 Feb 2008. *2 *1 Exhibit KG#4 and *2 Exhibit KG#29a

11 – (2b2b) - Why would the selection of 18 Ft Leavenworth buildings for walk-thrus constitute abuse if authority?

Answer – There are 296 buildings on Fort Leavenworth and in accordance with DA-PAM 40-503 and OSHA 29 CFR 1960 all buildings must be surveyed by an industrial hygienist annually. A majority of the ongoing operations in the buildings LT [REDACTED] selected were low risk. The buildings that I had reported through past IH Surveys that had ongoing or prior high risk hazards to include Asbestos, Lead, Chemical, etc, were ignored. When I brought these buildings and their high hazard risk assessments to LT [REDACTED] and LTC [REDACTED] attention, they stated they would have to speak to Scott Bentley and get back to me with their response. To this day I have still not received a response to management and the remaining buildings have not been surveyed. As part of the walk-thrus as the only IH on Fort Leavenworth I was only allowed by management to ask supervisors and employees seven (7) questions about what they thought about the work place. No IH judgment was allowed. Managements prohibition in not allowing me to perform IH Surveys or testing of all buildings on Fort Leavenworth put at risk the lives safety and health of civilian federal workers and military service members. These prohibitions directly violate OSHA, DOD, and DA regulations. Exhibit KG#16

12 – (2b3) You indicate that the "walk-thrus" (as described in item b2), above) were unreasonably limited in scope by LT [REDACTED] and LTC [REDACTED]. What limitation were imposed and why?

Answer – Management directed that I was to only ask seven (7) questions and find out how many operations were in the buildings. The seven questions I was directed to ask were of a nature that non-qualified IH personnel would be unable to make an accurate determination of what was actually occurring in the work place. I was not allowed to make my IH professional judgment known or document the visit in an official report as required by OSHA, DODI and DA Regulations. When I questioned my supervisors as to why I was being limited in the scope of what they were directing and allowing me to perform, LT [REDACTED] and LTC [REDACTED] did not explain why and refused to answer my questions concerning these "walk-thrus". LT [REDACTED] did however, issue the following warning statement to me verbally whereby, he stated "not following managements verbal directives could lead management to taking other disciplinary actions against me, such as the 14 day suspension they had already imposed against me". I felt so threatened by LT [REDACTED] comment at the time that I dropped the issue and promptly complied with their directives. Managements prohibitions again did not comply with OSHA, DOD or DA regulations. Exhibit KG#16

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13 - (2b3a) What were the questions seven questions asked of the occupants of each of the 18 buildings?

Answer: To the Supervisors: Do you think there are chemicals hazards here? Do you think there are biological or IAQ hazards here? Do you think there are ergonomic hazards here? Do you think there are physical hazards here? Do you think there are radiological hazards here? Do you think there are vision and lighting hazards here? Do you wear respirators?

14 - (2b3b) - What was the level of health risk to personnel conducting operations in the buildings surveyed?

Answer - I cannot accurately answer this question beyond what I was allowed to perform. I do know from past surveys that some of the building had ongoing IH identified health risks such as Benzene, carbon monoxide, and pesticides. Managements directives on what I was to perform did not allow me to assess risks. Since my employment began on Fort Leavenworth 1990 I have gained an extensive working knowledge of what the risks associated with the identified 18 buildings. When I made these IH identified health risks known to LT [REDACTED] and LTC [REDACTED] they refused to allow me to continue assessing the occupational exposure hazards and risks. Furthermore, the Kansas City District Corps of Engineers also found that these management directed "walk-thrus" did not comply with OSHA, DOD or DA regulations. Exhibit KG#16

15 - (2b4) If you had reason to suspect the existence of an industrial hygiene issue during the walk-thrus were you authorized to conduct an assessment of the building?

Answer - I was not allowed to produce an IH judgment or allowed to write my concerns in any official report. When I requested permission to do so through LT [REDACTED] he refused me permission. I was directed to only add the information gained from the seven (7) questions into the Industrial Hygiene Implementation Plan (IHIP). After all the "walk thrus" were completed and entered into the IHIP, I received permission to do Facility Assessments (FA). After the FAs were completed, LT [REDACTED] expressed that I might be allowed to do IH Surveys.

An Example of where I might have suspected the existence of an IH issue:

a. See MFR 31 October 2008 Subject: *Meeting with LT Derivan on BLDG 77 TSC about the Reported Accident in BLDG 77* with LT [REDACTED] and Karl Gibson. On October 31, 2008, I informed 1LT [REDACTED] of a phone call I had received whereby, Mr. [REDACTED] a supervisor in Building 77 Media Support stated that he and three other civilian employees had been moving a table that projects light on October 30, 2008. While moving the table several fluorescent light bulbs had got broke. It was only specified to me during the phone call that "a lot" of light bulbs had been broken while moving a light table. I have a picture of a broken fluorescent light bulb I found during the May 2008 visit to Mr. [REDACTED] shop that he

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was not concerned about and the improper dry sweeping method that was use to clean up the mess of the broken fluorescent light bulb. This October 31, 2008 accident was different in scope and number of broken fluorescent light bulbs.

a1.) The shop supervisor requested to know what type and level of exposures he and the other employee's might have been exposed to? I informed him that the potential exposure could be mercury. Without going to the sight and seeing for myself what actually occurred I was only able to assess the situation based on the information I was receiving over the telephone. Additionally, I read the ACGIH Threshold Limit Values and Biological Exposure Indices and informed the shop supervisor that I could not tell him what he had actually been exposed to by testing the air a day after the incident, instead this type of test would need to be conducted on the actual day of the incident. However, the ACGIH says an individual can be tested to see if they were exposed to a hazard through air vapors or skin absorption.

a2.) The supervisor also requested to know if the clean-up procedures he had enacted would be sufficient in protecting his workers. I referred him to Ms. [REDACTED] Environmental Specialist who works within the Fort Leavenworth Directorate of Public Works (DPW).

a3.) I advised [REDACTED] he should contact the Occupational Health Nurse to report the incident in order to see what medical test might be necessary.

b. I promptly reported the issue to 1LT [REDACTED] and asked for permission to go to the site to conduct Mercury Air testing in an attempt to verify what the current exposure levels were at this time, if any. He denied my request to perform the Mercury air testing in this shop.

c. On October 31, 2008, 1LT [REDACTED] directed me to send out an email to himself, LTC [REDACTED] Chief, PM, Ms. [REDACTED] Occupational Health Nurse, Ms. [REDACTED] Combined Arms Center Safety Manager, and Ms. [REDACTED] DPW Environmental office explaining the phone call I had received and what subsequent actions I had taken. Upon receiving 1LT [REDACTED] instructions, I promptly complied. [REDACTED] read my email, but has not responded back to this information. [REDACTED] deleted my email without reading it.

d. In management's recent letter of proposed removal of Mr. Karl Gibson, they have attached an email from Mr. [REDACTED] Great Plains Regional Medical Command Regional Industrial Hygiene Program Manager. Mr. [REDACTED] makes a series of uninformed assumptions about the level of risk and type of exposure encounter by Mr. [REDACTED] his employees. Had I been apply informed by management at the time of Mr. [REDACTED] incorrect assertions - that I had misinterpreted the level of risk associated with this event - I could have provided management with accurate feedback. However, it was not until management proposed this latest discipline that I learned Senior Management Officials even had any concerns at all about my actions and performance during this matter. Prior to managements actions to propose my removal, they did not address the issue with me. In regards to Mr. [REDACTED] assumptions and assertions with regards to my actions he has made the following errors: 1) "I am assuming we are

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talking about a regular ceiling fixture with fluorescent bulbs." This assumption is not factually correct. A table that projects light with many (15-20) 8 foot fluorescent bulbs was dropped. 2) "Sealed bulbs when handed properly poses no significant health risk." This statement does not apply to multiple broken fluorescent bulbs. LT [REDACTED]'s prohibition did not allow me to see the hazard or measure the employees' exposures. 3) "A mercury exposure from a broken light bulb or two - would be minimal." This is not factually correct. There were not one or two bulbs broken as suggested in Mr. [REDACTED] statement, there were "a lot broken" as stated to me by Mr. [REDACTED]. As a result of the multiple broken bulbs, Mercury exposures can vary and without testing. One cannot know or assume what these levels were. 4) "There is no recommended medical surveillance requirement for this exposure event." This is not factually correct. I made no such recommendation. Management is ignoring OSHA regulation requirement in 29 CFR 1910.120 Hazardous waste operations and emergency response (HAZWOPER) as this was an accident that meets these regulatory requirements. 5) "ACGIH" is the only standard Mr. Bentley refers to. This is not factually correct. The OSHA Ceiling limit is a instantaneous exposure limit that employees shall not be exposed to without regard to time. Management is ignoring this OSHA regulation requirement in 29 CFR 1910.1000 Table Z-2.

e. My recommendations to the employees during this incident was in keeping with DA PAM 40-503, Industrial Hygiene Program, dated 30 October 2000 whereby, I complied with paragraph 1-8 Standards by using the ACGIH Threshold Limit Values and Biological Exposure Indices, dated 2007 as called for in this manual. Additionally, I followed the recommendations of the Material Safety Data Sheet and EPA's Mercury Response Guidebook, dated July 2004.

16 - (2b4a) **What did the assessment involve and how were the IH issues resolved, once they were identified.**

Answer - See IH Work Place Assessment Form. Exhibit KG#8

- 1) Fill in date and name of organization.
- 2) Visit with Supervisor and ask questions: How many work there? What do they do? For each process, what are the hazards in his/her view? Do they have MSDSs? Do they have controls and what PPE? Do they have other ergo, mold or other concerns in their work place?
- 3) Write down all chemicals used, review chemical inventory & MSDS.
MSDS KLG
- 4) Interview 30% or more of employees
- 5) Write down if I see biological concerns.
- 6) Do walk through of work place. Take pictures.
- 7) Identify areas that needed occupational or environmental monitoring.

Until August 2008, no "Direct-reading" measurements were allowed. For FA, not even grab chemical testing was allowed. For FA, only noise and lighting was to be measured.

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IH issues were not resolved. Management has edited my memorandums and removed processes and hazards that they did not want identified. They removed all risk assessment that I made in these memorandums. Exhibit KG#8

17 – (2b4b) What were the hazard identified in the walk thru?

Answer – I was not allowed to assess or identify hazards during the walk-thrus, as per managements directive. I have been IH here since 1990 and have a working knowledge of what was the previous risks associated with the building and their past operations posed to the employees and military members. When I reported these to management prior to carrying out their directives, they were unconcerned. LT [REDACTED] warned me that failing to obey management's verbal directives could lead them to taking additional punitive action against me. Exhibit KG#6

18 – (2b4c) If you were prohibited from taking time weighted measurements, how did this constitute an abuse of authority by LTC [REDACTED] or COL [REDACTED]?

Answer - As the IH, I was only allowed to ask supervisors and employees what they thought, no IH judgment was allowed. These do not comply with OSHA, DOD, DA regulations. As clearly stated in DA PAM 40-11 paragraph 5-2d. 8 hour Time Weighted Averages are to be collected and levels compared to standards. The actions of LT [REDACTED] and LTC [REDACTED] is a clear abuse of authority. As clearly stated in DA PAM 40-503 paragraph 4-8, 4-13, 7-10, and Appendix D, exposure monitoring and TWA measurements are vital in the OSHA, DOD, DA Occupational Safety and Health Program. The actions of LT [REDACTED] and LTC [REDACTED] is a clear abuse of authority and cause significant harm to service members and employees. Exhibit KG#16

19 – (2b4d) What did the “spot testing” entail?

Answer - In September 2008, for Facility Assessments I was allowed to do instantaneous, direct readings for Noise and Lighting. For Customer Service Requests for IAQ, I was allowed to do instantaneous, direct readings for CO2, Temperature, Relative Humidity, Respirable Particulates, Noise and Lighting. No Time Weighted Averages or occupational exposure monitoring were allowed. Exhibit KG#39

An example of what I was allowed to do: in January and February 2009, for the PMO building with sewer problems where 2 employees were repeatedly sick from the work site, I was not allowed to do chemical testing beyond grab samples when the employees/soldiers were present. As the situation persisted, I was directed to conduct chemical testing measurements over nights and over weekends when no employees/soldiers were present. This violates OSHA, DODI, and Army Regulations and Policy. Exhibit KG#16

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Another example. On 14 June 2008, I observed a worker as she collapsed. She fell to the floor and was transported by ambulance to an off post hospital. Her injuries were a direct result of her having experienced respiratory problems. At the time of the employee's collapse, I physically smelled formaldehyde off gassing from the new carpet that had recently been installed. When I asked LT [REDACTED] if I could test to see what the current formaldehyde levels were, he stated "no". The Fort Leavenworth Safety office requested that an IH test be conducted to verify the exposure levels in an effort refute the workman's compensation claim the employee had filed. The employee had filed a CA form. Two weeks later on 29 June 08, management allowed me to perform a "Walk-thru" however, I was prohibited from documenting my findings with regard to the seven (7) questions management allowed me to ask. On 28 August 2008, LT [REDACTED] approved IH grab testing with a Dragger chip. On 29 August 2008, I did the grab testing. Management refused to allow me to document my findings in any official report in violation of OSHA, DODI, and Army Regulations and Policy. Exhibit KG#16

20 - (2b4e) 6) Did, in October, 2008, LT [REDACTED] and LTC [REDACTED] permit you to follow the Corps of Engineers' approach to inspecting buildings but still prohibit you from performing time weighted testing without first receiving prior supervisory approval?

Answer: YES, I was allowed to follow CoE and not LT [REDACTED] LTC [REDACTED] approach, however, management still prohibited me from performing occupational exposure testing or any TWA testing.

Management did allow me to perform one survey with TWA measurements, however, managements action with regards to the survey with TWA measurements demonstrates their abuse of authority:

On 8 October 2008 when I returned to work, LT [REDACTED] emailed me and tasked me to conduct an re-inspection of Bldg 77 Defense Automated Printing Service (DAPS). Management explained that I was to verify that the corrections made in the work place in response to my findings in March of 2007 had been implemented and were successful. I asked LT [REDACTED] clarifying questions as to what he was allowing me to do, and what if any, were managements prohibitions regarding my duties were. LT [REDACTED] tasked me to test and measure for the same chemicals that I detected in the March 2007 survey. I asked if this included wipes and Time Weighted Average (TWA) air samples. LT [REDACTED] said yes.

a. On 9 October 2008, I contacted Mr. [REDACTED]. Mr. [REDACTED] is the safety manager for the Headquarters of DAPS. I notified LT [REDACTED] of my coordination efforts. LT [REDACTED] emailed me back and said, "Excellent. Please keep me apprised."

b. On 16 October 2008, I emailed LT [REDACTED] requesting additional clarification as to whether I was supposed to recheck the areas that were to identified in the March 2007. If he said yes, this would mean that I would need to measure TWA air samples for metals, measure by wipe samples for metals to see how good the clean up was, measure TWA air samples for formaldehyde, and measure TWA air

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samples for asbestos. I informed LT [REDACTED] that I had scheduled the survey for 13 November 2008. I asked LT [REDACTED] if I could order supplies in order to perform the needed testing? I also asked if I could do the testing, because management had directed in writing on August 28, 2007 that I could not perform IH Testing or conduct occupational exposure monitoring.

c. On 21 October 2008, I emailed LT [REDACTED] and LTC [REDACTED] asking for a status check, because I had yet to receive their response my questions in the 16 October 2008 email.

d. On 21 October 2008, LT [REDACTED] emailed stating "he would get back with me, but wanted to know when I needed to know, in order to get the supplies I would need ordered. I returned his email and stated "I needed to know no latter than 29 October 2008". LT [REDACTED] emailed me back saying "Thank you".

e. On 28 October 2008, LT [REDACTED] emailed me stating "I was tasked to order the supplies I needed", in order to preform the testing listed below.

f. On 29 October 2008, LT [REDACTED] emailed me to provide a written outline detailing what my strategy was to be in order to conduct management directive to determine the compliance.

g. On 4 November 2008, I emailed LT [REDACTED] outlining and detailing my sample strategy. I also asked for guidance as to whether management was going to have the lab test by individual metals which would cost more money, or was management going to have the lab test by metals profile and save money?

h. On 4 November 2008, LT [REDACTED] asked for additional information and informed me that [REDACTED] (CoE) would be accompanying me at the survey on the November 13, 2008. I emailed LT [REDACTED] back with the information that he requested and asked about the funding question. I included [REDACTED] on this email giving date and time of survey.

i. On 13 November 2008, I waited for LT [REDACTED] approval to do TWA testing, since this was the day I was scheduled to do the testing. LT [REDACTED] verbally approved my measurement TWA air samples for metals, my measurement by wipe samples for metals to see how good the clean up was, my measurement TWA air samples for formaldehyde, and my measurement TWA air samples for asbestos in person. He also stated the "we" would test by individual metals even though it cost more money. I performed the task as directed by my supervisor. I complied with and used the approved methods and standards while performing the duties. Included in my prior directives by LT [REDACTED] was the fact prior to conducting any testing or sampling, I had to have Mr. [REDACTED] CoE concurrence. Had my supervisor or Mr. [REDACTED] directed me that the wipe samples not be collected, I would have complied and not taken these samples.

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j. The Corps of Engineers' November 20, 2008 memorandum SUBJECT: Industrial Hygiene Technical Support - Technical Observations 13 November 2008 sampling at Building 77 -DAPS was not provided to me. What management has not addressed is from the CoE's own memorandum paragraph 3. which states "Mr [REDACTED] concurred with Mr. Gibson to obtain wipe samples for closure purposes."

k. On 2-3 December 2008, I forwarded the PO Numbers and sample results for the BLDG 77 DAPS survey to LT [REDACTED]

l. On 11 December 2008, LT [REDACTED] requested the status of the survey that I performed in BLDG 77, DAPS on 13 November 2008. I emailed LT [REDACTED] on 11 December 2008 Subject: Scan of BLDG 77 DAPS Results. I stated that "Here are the results. I have no drives on my network computer so I cannot save. With all the computer problem issues, I have not been able to write up the memo and could not transfer it, even had it been written. All the employee exposure results are good and show no problems." LT [REDACTED] did not respond.

m. On 15 December 2008, I emailed LT [REDACTED] Subject: Memo for 77 DAPS IH Survey Dec 2008 on the J: drive.

n. On 6 January 2009, I emailed LT [REDACTED] and [REDACTED] Subject: MFR Bldg 77 IH Survey of DAPS in Dec 2008 on the J: drive.

o. On 3 February 2009, LT [REDACTED] returned my 15 December 2008 email Memo for 77 DAPS IH Survey Dec 2008 is on J drive. LT [REDACTED] asked that I include the results in this report.

p. On 4 February 2009, I emailed LT [REDACTED] Memo for 77 DAPS IH Survey (version II) Feb 2009 on the J: drive. I also asked clarifying questions to LT [REDACTED] asking him to advise me if he had questions on anything he might find unclear. I was still having additional computer problems and subsequently sent a second email to LT [REDACTED] that included a scanned hard copy of results from the Bldg 77 DAPS IH Survey. LT [REDACTED] emailed me back and informed that the raw lab results were not needed for the report.

q. On 5 February 2009, LT [REDACTED] emailed me his questions surrounding the BLDG 77 DAPS IH Survey report. On 6 February 2009, I returned LT [REDACTED] email and provided him my answers in this email.

r. On 6 February 2009, LT [REDACTED] emailed both myself and [REDACTED] PM Secretary stating several memorandums were finished. After reviewing the memorandums, I noticed several memorandums I had originally produced had been changed without my knowledge or consent. I sent LT [REDACTED] an email whereby, I expressed that I was in non-concurrence with the changes. I requested through LT [REDACTED] IAW the MFR dated 10 July 2008 meeting with Union, management and myself that my name be removed from these memorandum. To this date I have still not received a response from

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management.

s. On 10 February 2009, LT [REDACTED] emailed [REDACTED] that the 77 DAPS IH Survey Report Version II Feb 2009 was in [REDACTED] J: drive folder and needed to be printed off. My name still appeared on the point of contact line and signified the fact that I was the final author of the published document. Exhibit KG#16

21 – (2b4f) If so, how does this constitute an abuse of authority by LT [REDACTED] or LTC [REDACTED]?

Answer – While conducting the initial assessments, I identified hazards that required further testing, measuring and/or risk assessments to be performed. Management prohibited me from conducting further assessments, testing or measurements in these locations. This is identified in my end of month IH reports that were provided regularly to my immediate supervisor. For example: In September 2008, I was allowed to conduct “Assessments” where no occupational testing, monitoring, sampling or measurements of ventilation, but I was allowed to perform instantaneous, direct readings for Noise and Lighting. For Customer Service Requests for IAQ, I was only allowed to perform direct readings for instantaneous CO2, Temperature, Relative Humidity, Respirable Particulates, Noise and Lighting readings. Management prohibited me from performing TWA's. Management's most recent IH testing policy given to me in August of 2008 violates OSHA, DODI, and Army Regulations and Policy. In DA PAM 40-11 paragraphs 5-2d. And 5-20 and in DA PAM 40-503 paragraphs 1-8, 4-4, 4-8, 4-13, 7-10, and Appendix D clearly require employees occupational monitoring with 8 hr Time Weighted Averages to be conducted. Exhibit KG#16

22 – (2b4g) 7) [REDACTED] Was it reasonable for LTC [REDACTED] and COL [REDACTED] to require Mr. Gibson, the only certified Industrial Hygienist at Ft. Leavenworth, to obtain permission from his supervisors before performing time weighted testing on buildings?

Answer – It was not unreasonable to require the IHPM to obtain managements prior approval for conducting IH testing, surveys, occupational exposure measurements, etc in order to ensure the IHPM is in compliance with OSHA, DODI, and DA regulatory requirements. *1 However, seeing how the IHPM was being prohibited from conducting IH testing, surveying, measuring, etc by management, the agency was required to have a written exception to policy by the Head of the Agency Component Responsible Official that would have permitted IH testing to be halted. This was not done, because I asked for copies of the exceptions to policy and management plainly stated in front of my Union Representative that they did not possess nor had they requested any exceptions to policy. When questioned by my Union Representative as to whether management intended to obtain exceptions to policy concerning IH testing, management stated “they have the right to assign and take away work, as is their right as a supervisor”. Furthermore, Federal Labor Law requires all federal agencies to provide a safe and healthful working

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environment free of hazards to federal civilian employees. Mr. Karl Gibson brought to the attention of the Munson Army Health Command structure the fact that the IH program prohibitions being implemented were in violation of OSHA, DODI, and DA policy. *1 Mr. Gibson made management fully aware of their abuses by their overstepping statutory and regulatory guidance, by failing to recognize his professional judgments and opinions. In just one many examples of managements unreasonableness I cite DA Pam 40-503 paragraph 4-8 which mandates: *a. Health hazard evaluations are the foundation on which the OH program is built. Health hazard assessments identify and quantify all potential and actual health hazards. A comprehensive health hazard assessment requires the IHPM to collect both qualitative and quantitative data. The IHPM uses this data to assess the effectiveness of protective equipment, administrative controls and engineering controls. Health hazard assessments also provide occupational medicine personnel with data to develop an effective medical surveillance program.* Managements inability and unwillingness to provide clear instructions to Mr. Gibson concerning his IHPM duties demonstrates managements unreasonableness and abuse of authority. In most cases involving decisions concerning the IH program, both LT [REDACTED] and LTC [REDACTED] stated that they had to constantly seek Mr. [REDACTED] guidance instead of relying on the professional judgment of their hired IHPM, the CoE, and the Union. In order to manage a Army IH Program DA PAM 40-503 mandates that civilians be qualified by CPOC Regulations for this job series and military have the Industrial Hygiene Specialty Skill Identifier. Outside of Mr. Karl Gibson, no other person in the Munson Army Health Command Structure possessed the necessary qualifications to manage or administer the IH Program. The IH Program Manager is tasked to monitor employee occupational exposures to include TWA's as he sees need for using his professional judgment. The Army or others (OSHA, DOD) do not give untrained personnel this authority. OSHA, DOD and DA do not give untrained personnel the authority to professional judgments regarding employee exposure monitoring including the requirement to perform TWA testing. OSHA, DOD and DA require this testing and monitoring to be conducted by IHs or under the IH control and supervision. DA PAM 40-503 and OPM outline specific training requirements for all IH's. The Army Civilian Training, Education and Development System (ACTEDS) Plan also have specific requirements for IH persons in the grade of GS-11 and IH Supervisory personnel. Because Mr. Karl Gibson has met these requirements and personnel within the Munson Army Health Center Command Structure have not, it was an unreasonable expectation and local Command policy that required Mr. Karl Gibson to have to always have to obtain the Commands prior approval before being allowed to conduct TWA's, especially when past and present hazards had been identified. *1 Exhibit KG#16

23 - (2c). **Whether or not adequate industrial hygiene assessment and testing has not occurred at Fort Leavenworth, Kansas, in violation of law, rule, and regulation.**

24 - (2c1a) **What happened in August 2008 when the Army Corps of Engineers objected to LT [REDACTED]'s and LTC [REDACTED]'s two step (walk-thru followed by assessment) approach?**

Answer - First, LT [REDACTED]'s and LTC [REDACTED]'s walk-thru directive was a three step process. 1.)

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I was directed while performing "walk-thrus" to ask supervisors and employees if they thought monitoring needed to be performed by asking the seven (7) questions referenced above; 2.) "Assessments" where no occupational testing, monitoring, sampling or measurements of ventilation, noise or lighting, etc. 3.) Only when my supervisors approved, could I perform IH "Survey" with TWA occupational exposure monitoring and measurements. However, management only gave me approval to do IH "Survey" with TWA occupational exposure monitoring and measurements on one occasion. After giving me their approval to do the testing they came back to discipline me by proposing my removal. Exhibit KG#6

In August 2008, the CoE recommended that management change their IH Program plan because 1) management's plan does not comply with DOD's annual facility inspections; 2) management should be relying on the professional judgment of their IH qualified employee's (Mr. Karl Gibson); 3) management's required IH reports were not meeting the requirements of supervisors or commanders on Fort Leavenworth; 4) management's required IH reports did not allow the IH to assert his professional judgment. Exhibit KG#9 and Exhibit KG#10

On 29 August 2008, LT [REDACTED] in the MFR SUBJECT: Periodic Performance Counseling; Dated 29 August 2008, stated "You are not to carry the tasking on to the next level until you have been directed to do so." This counseling was given to me by LT [REDACTED] in response to the CoE recommendations. LT [REDACTED] directives countered what the CoE was recommending. By doing so, LT [REDACTED] and LTC [REDACTED] made no changes to the management's three step process. Exhibit KG#11

In September 2008, the CoE informed management 1) that it needed to restructure the IHIP and 2) By not allowing supporting data and information, specifically occupational exposure monitoring, management was not readily correlating identified hazardous operations which violates OSHA, DOD and DA regulations. Exhibit KG#12 and Exhibit KG#16

LT [REDACTED] in his MFR SUBJECT: Template for IH Reports dated 24 September 2008 completely ignored the CoE's recommendations.

LT [REDACTED] in the MFR SUBJECT: Periodic Performance Counseling Dated 6 October 2008, states 1) Workplace Hazard Assessment and Surveys "You are to handle these as you see fit", but IPS must be followed, no Occupational Exposure Sampling TWA are to be performed. We must do what Great Plains dictates. 2) "Reports - Management has decided to go with the recommendations of the CoE." Exhibit KG#13

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As of 14 May 2009, I have no knowledge that LT [REDACTED] and LTC [REDACTED] three step process has changed.

25 – (2c1b)- What type of health risk was associated with the August 2008 actions and what was the level of the risk?

Answer – Before I respond, I need further clarification on what you are asking or attempting to identify.

26 – (2c1c) 2) It is alleged that the Corps of Engineer officials determine that the walk-thru alone was of minimal value and that the walk-thru and assessment steps should be combined. What is the significance of combining the information?

Answer – The CoE stated that “walk-thru” were a waste of time. Furthermore, the CoE stated by performing the “assessments” this may be adequate for low risk operations. Potentially the “assessments” could lay the format for required IH surveys when risk hazards are known or identified. Additionally, the “assessments” could provide the format for occupational exposure sampling and monitoring to be performed in work areas that had higher risk. Exhibit KG#9, Exhibit KG#10, Exhibit KG#12.

27 – (2d). Please provide specifics details on how and when the actions of LTC [REDACTED] and LT [REDACTED] created the potential for a substantial and specific danger to the public health and safety at Fort Leavenworth, Kansas.

- Was anyone hospitalized as a result of the actions? Admitted to the clinic with injuries or illnesses related to the IH issues?

On 14 May 2009, COL [REDACTED] expressed that he only wanted documents that showed, in writing, that management knew of dangers and hazards so acute and severe that people would die immediately if nothing happen. COL [REDACTED] said that he wanted only examples of severe hazards - like 'when a fire was racing down a hallway' from me and nothing else. COL [REDACTED] expressed that it was common IH language to use Immediately Dangerous to Life and Health (IDLH) level. If I provide documentation that shows hazards on Fort Leavenworth that were less than this Immediately Dangerous to Life and Health level, they will probably not be consider by him in this investigation. COL [REDACTED] expressed that he would refuse to accept any other

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documentation citing of management's actions from me.

Here is one example of management's actions that document a case of IDLH:

On 6 November 2006, I received a phone call from the Executive Officer of the BCTID and BSTD in BLDG 275, Trolley Station. The Executive Officer explained to me that workers in the basement offices were having headaches and other complaints while in their cubicles. I requested that he email this information to me (this was required by the Chief of Preventive Medicine for me to have all requests in writing). The Executive Officer explained to me that workers were going to their own doctors because of these complaints. I received this email request for IH testing to see what was causing the employees' complaints. I verbally informed LTC [REDACTED] and forwarded the Executive Officer's email to LTC [REDACTED]. LTC [REDACTED] gave me verbal permission to go and do testing for that I thought was needed. I was tasked to find out what was going on in BLDG 275.

On 7 November 2006, I arrived at the Executive Officer's cubical in BLDG 275, Trolley Station at about 0700 hrs. I had four (4) different calibrated direct reading multi-gas detector instruments with data logging built in that could measure oxygen levels, Lower Explosive Levels (LEL), Carbon Monoxide (CO), and other gases such as Sulfur Dioxide. I conducted a walk around of the offices and set up my monitoring equipment in the basement areas where there were complaints. I came back and forth during the day to check on the area and my equipment. The 4 instruments alarmed several times during the afternoon as vehicles were parked running at the basement's Heating, Ventilating, and Air Conditioning (HVAC) fresh air intake. Because the employees were working past 1600 hrs, I left the four (4) multi-gas detector instruments with data logging monitoring all night to record what was happening in the work place. I spoke to the Executive Officer about my concerns about the vehicles that were being left running as patrons went into the donut/sandwich shop and the Pick-up Point. The vehicles' exhaust was entering the basement's HVAC fresh air intake. The HVAC fresh air intake was at tail pipe level. The Executive Officer and I also discussed that his Director's vehicle had a remote start and was backed into his parking spot. This placed the Director's vehicle tail pipe next to the basement's HVAC fresh air intake as well. The Director liked to warm up his vehicle before he left for lunch and at the end of his work day. I briefed LTC [REDACTED] about what was happening and that I was concerned that the exposures were dangerous and people could be harmed due to the vehicle exhaust fumes.

On 8 November 2006, I arrived about 0700 hrs at BLDG 275 with four additional calibrated direct reading multi-gas detector instruments with data logging built in that could measure oxygen levels, LEL, CO, and other gases such as Sulfur Dioxide. I set up my new monitoring equipment and picked up the previous day's equipments. I advised the Executive Officer and area supervisor that if my machines continued to alarm, they should call me and the Fire department. I returned to my office and down loaded the 7 November 2006 instruments' data. The four (4) instruments showed

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the same peak exposures to Carbon Monoxide and Sulfur Dioxide as well as the same Time Weighted Averages for the employees in the basement. I came back and forth during the day to check on the area and my equipment. The four (4) instruments alarmed several times during the afternoon as vehicles were parked running at the HVAC fresh air intake for the basement and the Director remote started his vehicle. The Fire Department was called in the late afternoon (about 1515 hrs) as my machines alarmed for a longer period. The Fire Department's calibrated direct reading multi-gas detector instrument measured the same levels of Carbon Monoxide in the basement as my equipment were reading. The Director sent his employees home early (using the 59 minute rule). I again briefed LTC [REDACTED] about what was happening and that I was concerned that the exposures were dangerous and people could be harmed due to the vehicle exhaust. LTC [REDACTED] agreed that I should leave my equipment monitoring for the rest of the week to include over the weekend as I was off work from 9-11 November 2006. The Fire Department officials and I advised the Director and Executive Officer that something needs to be done about the vehicles that were being left running as patrons went into the donut/sandwich shop and the Pick-up Point. I showed them how this exhaust was entering the basement's HVAC fresh air intake. I again repeated that Director needed to stop remote starting his vehicle while it was parked next to the basement's HVAC fresh air intake. I recommended that the Director needed to find a new parking spot or just not remote start his vehicle. We also discussed that DIS needed to raise the basement's HVAC fresh air intake like I had recommended in the initial design for the office renovation for the BCTID and BSTD's offices.

On 9 November 2006, my four (4) instruments alarmed several times during the afternoon as vehicles were parked running at the HVAC fresh air intake for the basement and the Director remote started his vehicle while it was next to the basement's HVAC fresh air intake. The Fire Department was called in the late afternoon (about 1535 hrs) as my machines alarmed for a longer period. The Fire Department's calibrated direct reading multi-gas detector instrument measured the same levels of Carbon Monoxide in the basement as my equipment were reading. The Director sent his employees home early (using the 59 minute rule).

On 13 November 2006, I arrived at BLDG 275 and picked up my monitoring equipment. I was told what had happened in my absence. The Director had placed paper signs outside asking for patrons not to keep their vehicles running. I returned to my office and down loaded the 8-11 November 2006 instruments' data. The four (4) instruments showed the same peak exposures to Carbon Monoxide, as well as, the same Time Weighted Averages for the employees in the basement. I again briefed LTC [REDACTED] about what was happening and that I was concerned that the exposures were dangerous, people could be harmed due to the vehicle exhaust and what the director had done to stop the vehicle exhaust from entering the basement HVAC. I wrote the Memorandum SUBJECT: Bldg 275 Carbon Monoxide Exposures; dated 13 November 2006 and provided it to LTC [REDACTED]. LTC [REDACTED] did not release the Memorandum SUBJECT: Bldg 275

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Carbon Monoxide Exposures; dated 13 November 2006. Exhibit KG#40

By 20 November 2006, the paper signs were gone from the BLDG 275 parking lot and employees were complaining again. I informed LTC [REDACTED] that the same thing was happening again and the signs were gone. LTC [REDACTED] informed me that management was taking care of this issue and I was not going to be involved in this situation any more. On 19 April 2007, LTC [REDACTED] made false allegations against Karl Gibson concerning this event. See MFR SUBJECT: Performance Expectations for Karl Gibson (GS-0690-11-Industrial Hygienist, Ft. Leavenworth, KS) Dated 9 April 2007. *1 I responded to these false allegations in the meeting and in the MFR SUBJECT: Performance Expectations for Karl Gibson Questions; Dated 25 May 2007. *2 *1 Exhibits KG#19 and *2 KG#20

In 2008, I was directed by LT [REDACTED] to only conduct a "Walk-Thru" and then I was directed by LT [REDACTED] to only conduct an "Assessment" with no Occupational Exposure Testing allowed.

As of 19 May 2009, no removal of personnel was conducted, no monitoring of Occupational Exposures were allowed, there have been no engineering controls provided such as raising of the HVAC fresh air intake so vehicle exhaust would not be sucked into the HVAC or have there been barriers placed to prevent idling vehicles from parking at the HVAC fresh air intake were installed, no right to know training provided to the employees and no policy to protect the employees has been established by management.

COL [REDACTED] COL [REDACTED] LTC [REDACTED] and LT [REDACTED] actions by not allowing the reporting of occupational exposure results, not informing employees of the hazards that they are working in, not making needed corrections, and not allowing additional occupational exposure monitoring violates OSHA, DOD and DA regulations. Exhibits KG#16

Table of Karl Gibson's Exhibits

KG#1: MFR SUBJECT: Deferment of Indoor Air Quality and Occupational Exposure Testing; dated 28 August 2007 (1 page)

KG#2: MFR SUBJECT: Meeting and Visit to CID on 20 September 2007 (1 page)

KG#3: Ongoing Competency Assessment Statement, Dated 25 January 2008 (1 page)

KG#4: Email an IH Project Priority List to Karl Gibson; Dated 1 February 2008 (2 pages)

KG#5: February 13 2008 Email from LT [REDACTED] SUBJECT: [REDACTED] Visit (1 page)

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KG#6: February 2008 IH End of Month Report

KG#7: May 2008 IH End of Month Report

KG#8: IH Work Place Assessment Form

KG#9: CoE wrote Memo SUBJECT: 22 August 2008 – Field Observations of the IH Facility Assessment Process; Dated 26 August 2008

KG#10: MFR for Meeting Dated 4 September 2008

KG#11: MFR SUBJECT: Periodic Performance Counseling; Dated 29 August 2008.

KG#12: MFR SUBJECT: 11 September 2008 – IH Facility Inspection Audit Findings; Dated 12 September 2008

KG#13: MFR SUBJECT: Periodic Performance Counseling; Dated 6 October 2008

KG#14: MFR SUBJECT: Periodic Performance Counseling; Dated 17 October 2008

KG#15: MFR SUBJECT: BLDG 77 Records; dated 15 October 2008

KG#16: Laws and Standards

KG#17: MFR SUBJECT: MFR for Employee Notification dated 12 March 2007

KG#18: MFR SUBJECT: Addendum to Individual Performance Standards; Dated 14 March 2007

KG#19a: MFR SUBJECT: Performance Expectations for Karl Gibson (GS-0690-11-Industrial Hygienist, Ft Leavenworth, KS) Dated 9 April 2007

KG#19b: MFR SUBJECT: Minutes for the 19 April 2007 Meeting; Dated 19 April 2007

KG#20: MFR SUBJECT: Performance Expectations for Karl Gibson Questions; Dated 25 May 2007 (77 pages)

KG#21: MFR SUBJECT: Minutes for 22 June 2007 Counseling of Karl Gibson; Dated 3 July 2007 (4 pages)

KG#22a: 12 July 2007 Rebuttal to above Issues (9 pages)

KG#22b: MFR SUBJECT: Meeting on 12 July 2007; dated 13 July 2007 (5 pages)

KG#23: MFR SUBJECT: Meetings on 1 August 2007; Dated 1 August 2007(4 pages)

KG#24: MFR SUBJECT: Meetings on 21-29 August 2007 (2 pages)

KG#25: Memorandum For LT [REDACTED] SUBJECT: Appeal of Karl Gibson Evaluation July 2006 thru October 2007; Dated 7 November 2007 (9 pages)

KG#26: MFR SUBJECT: Initial Counseling of Karl Gibson by LT [REDACTED] Part #2 on 15 January 2008; Dated 15 January 2008 (2 pages)

KG#27: MFR SUBJECT: Questions; Dated 5 February 2007 (13 pages)

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Questions asked by U.S. Army Colonel [REDACTED] and answered by Mr. Karl Gibson on May 20, 2009.

KG#28: MFR SUBJECT: Additional Question on IPS Feb 2008; Dated 15 February 2008 (31 pages)

KG#29a: IH Work Log for 19-22 Feb 2008 (4 pages)

KG#29b: MFR SUBJECT: Additional Questions on IPS Feb 2008; dated 15 February 2008 (3 pages)

KG#30: MFR SUBJECT: Notes from 30 Day Performance Counseling for Karl Gibson; Dated 26 February 2008 (2 pages)

KG#31: MFR SUBJECT: Mold In The Environment; dated 20 November 2007 (2 pages)

KG#32: MFR and 9 May 2008, LT [REDACTED] provided an unlabeled chart to Karl Gibson (24 pages)

KG#33: MFR SUBJECT: Questions Unanswered from February 2008 Through May 2008; Dated 31 May 2008 (18 pages)

KG#34: MFR SUBJECT: Counseling with LT [REDACTED] on 23 June 2008; Dated 23 June 2008 (1 page)

KG#35: MFR SUBJECT: Request for Clarity from Email Subject: IH Equipment & Testing You Want from LT [REDACTED] on 26 June 2008; Dated 30 June 2008 (9 pages)

KG#36: MFR SUBJECT: Management, Union and Karl Gibson Meeting; Dated 10 July 2008 (1 page)

KG#37: MFR SUBJECT: Request for Clarity on MFR Subject: Clarified IPS for Karl Gibson by LT [REDACTED], Dated 28 July 2008 (22 pages)

KG#38: MFR SUBJECT: LT [REDACTED] wanted to know what was possible to be done. Dated 12 August 2008 (1 page)

KG#39: September 2008 IH End of Month Report (4 pages)

KG#40: Memorandum SUBJECT: Bldg 275 Carbon Monoxide Exposures; dated 13 November 2006 (3 pages)

Q: Do you have any further statement or questions to add at this time?

A: No KL6

————— End of Statement ————— KL6