

Army Report

Fort Leavenworth DOL/DPW

Fort Leavenworth, Kansas

OSC File Number DI-10-3098

July 27, 2011

Redacted Version



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

JUL 27 2011

The Honorable Carolyn Lerner
The Special Counsel
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

USOSC HQ DC '11JUL28

RE: Whistleblower Investigation – Department of
the Army, Directorate of Logistics/Directorate of
Public Works (DOL/DPW), Combined Arms Center
(CAC) and Fort Leavenworth, Fort Leavenworth,
Kansas (OSC File DI-10-3098)

PH2:52

Dear Ms. Lerner:

In accordance with Title 5, United States Code (USC) Sections 1213(c) and (d), the enclosed report is submitted in response to your referral of information requesting an investigation of allegations and a report of findings in the above-referenced case.

The Secretary of the Army (SA) has delegated to me his authority, as agency head, to review, sign, and submit to you the report required by Title 5, USC, Sections 1213(b), (c) and (d) [Tab A].

The Department of the Army (DA) has enclosed two versions of its report. The first version of the report contains the names and duty titles of military service members and civilian employees of the DA. This first version is for your official use only, as specified in Title 5, USC, Section 1213(e); we understand that, as required by that law, you will provide a copy of this first version of the report to the Whistleblower, the President of the United States and the Senate and House Armed Services Committees for their review. Other releases of the first version of the report may result in violations of the Privacy Act¹ and breaches of personal privacy interests.

The second version of the report has been constructed to eliminate references to privacy-protected information and is suitable for release to all others as well as the regulations that require protection as noted above. We request that only the second version of the report be made available on your web-site, in your public library, or in any other forum in which it will be accessible to persons not expressly entitled by law to a copy of the report.

¹The Privacy Act of 1974 is codified at Title 5, USC, Section 552a.

INFORMATION INITIATING THE INVESTIGATION

By letter dated August 17, 2010, the OSC referred to the SA its conclusion that information provided by a whistleblower with first-hand knowledge, Mr. Phillip Nelson, disclosed that there is a substantial likelihood that DA civilian employees at Fort Leavenworth, Kansas, may have engaged in activities that violate a law, rule or regulation, in particular 5 Code of Federal Regulations (CFR) Section 735.201, which prohibits employees from gambling while on government-owned or leased property or while on duty for the government from conducting or participating in any gambling activity, including operating a gambling device, conducting a lottery or pool, participating in a game for money or property, or selling or purchasing a numbers slip or ticket. Included in the OSC referral was a betting sheet document containing 70 names of individuals that the Whistleblower, Mr. Nelson, had provided to the OSC for its use during its investigation into his allegations [Tab B]².

The Whistleblower, Mr. Phillip Nelson, an electrician in the DOL/DPW³ at Fort Leavenworth, alleged the following:

1. For the last two years, during the 2008 and 2009 professional football seasons, numerous employees, including those from DOL/DPW, engaged in gambling activities on Fort Leavenworth property during duty hours by participating in a football pool on a weekly basis.
2. Employees who wished to participate in the pool contributed \$5.00 each week, and a winner was awarded a cash prize on a weekly basis.
3. The names of the weekly winners were displayed on a piece of paper placed on a desk in the DPW Electrical Shop.

² This footnote prescribes the citation convention that will be employed throughout this report with a view to facilitating the reader's understanding of, and reference to, the specific document from which facts or assertions set forth herein are drawn. Tabs or Enclosures referenced in this report are referenced as "[Tab x or Enclosure 'x']". Additionally, there are extensive references made to documents or information referenced as "ROI". The term "ROI" refers to the Army Regulation (AR) 15-6 Report of Investigation (ROI) (and its exhibits) undertaken to investigate the allegations referred by OSC to the SA. References made to the memorandum that the Investigating Officer prepared to accompany the assembled ROI and its exhibits is referenced as "ROI". This investigation was conducted by the Investigating officer (IO). Further, documents that contain no reference to ROI are documents that were not included as part of the record documents for ROI but were assembled for purposes of this document which is the final Army report to the OSC.

³ The DOL/DPW employees and the other employees referenced in this report are assigned to the Fort Leavenworth Garrison, and as such, are employees of the U.S. Army Installation Management Command (IMCOM).

4. DOL/DPW management, including Mr. Nelson's supervisor, Supervisor, Operations & Maintenance, was aware of, or did permit, these activities.

5. Maintenance Mechanic #1, a DOL/DPW employee, coordinated the pool and used his government owned vehicle to distribute the betting sheets to and collect money from participating employees.

CONDUCT OF THE INVESTIGATION

By statute, an agency is afforded sixty days to complete the report required by Title 5, USC, Section 1213. On September 7, 2010, the SA referred the OSC whistleblower complaint to the Commander, U.S. Army Training and Doctrine Command (TRADOC), directing the TRADOC Commander to initiate an investigation into the OSC allegations which were related to matters under the commander's authority, direction or control. On September 15, 2010, the TRADOC Commander forwarded the whistleblower complaint, and delegated investigative authority to, the Commander, U.S. Army CAC and Fort Leavenworth, for action as the appropriate subordinate commander with responsibility for Fort Leavenworth [Tab C].⁴ The Commander, CAC and Fort Leavenworth is the senior mission commander of the Fort Leavenworth installation. The Fort Leavenworth Garrison Commander is subordinate to the CAC Commander. The DOL/DPW is a directorate within the Fort Leavenworth Garrison organization.⁵

⁴ The Civilian Employment Handbook, an Everyday Guide, issued as CAC & FT LVN PAM 690-4 [Tab D], provides the following history of the Combined Arms Center (CAC) and Fort Leavenworth: Founded in the spring of 1827, Fort Leavenworth is the oldest continuous United States military establishment west of the Mississippi River and the oldest continuous settlement of the United States citizens west of the Missouri River. The Army established the fort to monitor fur trade in upper Missouri and to protect trade caravans along the Santa Fe Trail from Indian attacks. As a result of President Grant's order for reorganization of the Army under General Sherman, in 1881 the School of Application for Infantry and Cavalry was established at Fort Leavenworth. Today, the Command and General Staff College is the United States' senior tactical school of combined arms. From the turn of the century, the Fort Leavenworth garrison's mission has been that of a supporting role for the college. The reorganization of the Continental U.S. Army transformed the post into the United States Army Combined Arms Center (CAC) and Fort Leavenworth to determine present and future answer to the questions of how the Army will fight, how it will be equipped, how it will be structured, and to perform important and far-reaching missions in the areas of training and operations research analysis. Hence, the mission of the Combined Army Center and Fort Leavenworth is to develop and train confident, competent, adaptive leaders who will train and fight their units to win decisively in battle now and in the future, and to integrate verified doctrine, new organizations, and new equipment into the total Army.

⁵ The Installation Management Command (IMCOM), activated on October 24, 2006 was created to reduce bureaucracy, apply a uniform business structure to manage U.S. Army installations, sustain the environment and enhance the well-being of the military community. It is headquartered in San Antonio, Texas. (See <http://www.imcom.army.mil/hq/about/history>) The individual employees in the DOL/DPW directorate are managed under an IMCOM manning document, however DOL/DPW as a directorate within the Fort Leavenworth Garrison staff is subordinate to the Commander, CAC. The Fort Leavenworth garrison including the DOL/DPW falls under the purview of the CAC Commander. Accordingly, it is appropriate for the CAC Commander to investigate a whistleblower complaint involving activities in DOL/DPW located on Fort Leavenworth.

On September 23, 2010, on behalf of Lieutenant General Robert Caslen, Jr., the CAC Commander, Colonel (COL) Dominic Pompelia, Jr., Chief of Staff, appointed COL as an Investigating Office (IO) under the provisions of Army Regulation (AR) 15-6, *Procedures for Investigating Officers and Boards of Officers*, to conduct an informal investigation into the allegations made by Mr. Nelson [Tab E].

COL Pompelia directed the IO to investigate the validity of Mr. Nelson's allegations and make findings whether DOL/DPW employees engaged in gambling activities on Fort Leavenworth property during duty hours in violation of 5 C.F.R. § 735.201, and specifically whether they participated in a football pool where cash was collected and cash prizes were distributed during the 2008 and 2009 professional football seasons; to determine who was involved, either actively or passively; whether the conduct was condoned, consented to, or otherwise supported by the leadership or supervisors of the DOL/DPW employees or the employees of other organizations; if such conduct was condoned, consented to, or otherwise supported by the leadership or supervisors; to provide the names and circumstances surrounding their involvement; whether adequate policies and procedures are in place to preclude any recurrence of any improprieties, irregularities, or misconduct disclosed during the inquiry; to determine if there was a misuse or abuse of a government vehicle and/or a misuse of other government resources; and to investigate any relevant and related matters that he may discover that fall under the areas of investigation previously outlined.

THE RULES AND REGULATIONS GOVERNING GAMBLING ON FEDERAL PROPERTY

Regarding OSC allegations 1-4, the regulation relevant to those allegations is 5 Code of Federal Register (CFR) Section 735.201. 5 CFR Section 735.201 is the Office of Personnel Management administrative regulation that sets out employee responsibilities and conduct and specifically addresses restrictions on gambling. It states that:

(a) While on Government-owned or leased property or on duty for the Government, an employee shall not conduct or participate in any gambling activity, including operating a gambling device, conducting a lottery or pool, participating in a game for money or property, or selling or purchasing a numbers slip or ticket.

(b) This section does not preclude activities:

- (1) Necessitated by an employee's official duties; or
- (2) Occurring under section 7 of Executive Order 12353 and similar agency-approved activities.

Regarding OSC allegation 5, the governing authority relevant to this allegation⁶ is Title 31, USC Section 1349(b). This statutory provision sets out the penalty for willful or unauthorized use of a government vehicle for other than official purposes as follows:

An officer or employee who willfully uses or authorizes the use of a passenger motor vehicle or aircraft owned or leased by the United States Government (except for an official purpose authorized by section 1344 of this title) or otherwise violates section 1344 shall be suspended without pay by the head of the agency. The officer or employee shall be suspended for at least one month, and when circumstances warrant, for a longer period or summarily removed from office.

SUMMARY OF EVIDENCE OBTAINED FROM THE INVESTIGATION

During his investigation, as memorialized in the Report of Investigation (ROI) which included a memorandum and 38 enclosures [Tab F], the IO interviewed 31 individuals regarding the allegations, including Mr. Nelson, Maintenance Mechanic #1, and several management officials. [Tab F, Enclosures 1, Statement of Mr. Phillip Nelson; Enclosure 7, Statement of Maintenance Mechanic #1. He also reviewed and gathered various documents including briefings, handbook provisions, and other documents to gain an understanding of whether Fort Leavenworth employees are trained and/or are on notice of matters related to gambling on government property or on government time [Tab F, Enclosures 5, 7, and 9]. Investigating Officer also wrote two memoranda for record to clarify the evidence and document key facts not otherwise clearly addressed in the sworn statements and other evidence [Tab F, Enclosures 4 and 8].

OSC Allegations:

The Whistleblower, Mr. Phillip Nelson, made the following allegations that were subsequently referred by OSC to the SA:

1. For the last two years, during the 2008 and 2009 professional football seasons, numerous employees, including those from DOL/DPW, engaged in gambling activities on Fort Leavenworth property during duty hours by participating in a football pool on a weekly basis.
2. Employees who wished to participate in the pool contributed \$5.00 each week, and a winner was awarded a cash prize on a weekly basis.
3. The names of the weekly winners were displayed on a piece of paper placed on a desk in the DPW Electrical Shop.

⁶The OSC letter to the SA dated August 17, 2010 sets out that Mr. Nelson alleged the improper use of a government vehicle, but the OSC letter does not provide a legal citation for the alleged misconduct.

4. DOL/DPW management, including Mr. Nelson's supervisor, Supervisor, Operations & Maintenance, was aware of, or did permit, these activities.

5. Maintenance Mechanic #1, a DOL/DPW employee, coordinated the pool and used his government owned vehicle to distribute the betting sheets to and collect money from participating employees.

Discussion:

OSC Allegations 1-4. Investigating Officer initiated his investigation on September 23, 2010, and ascertained the following facts.

Mr. Nelson provided the OSC a detailed copy of a National Football League (NFL) summary betting sheet [Tab B]. This document was one of the documents provided to Investigating Officer for his use during the investigation and provided valuable background information with which to begin his investigation. [ROI, p. 1, paragraph 2]. During his initial interview with Investigating Officer, Mr. Nelson testified that he picked up the summary betting sheet from one of the tables in the break area of the DOL/DPW Electric Shop where he was assigned. He further identified for Investigating Officer several names on the sheet as current employees of DOL/DPW [ROI, p. 3, paragraph 4.c.; Tab F, Enclosure 1, Statement of Mr. Phillip Nelson, p. 1].

A review of the summary betting sheet revealed comprehensive NFL betting activities involving Fort Leavenworth employees from weeks 1 – 16 during the 2009⁷ NFL season [Tab B]. The summary betting sheet contained 70 participant names, some of which were nicknames or aliases (e.g., Pup, Demo, Stud Muffin). Investigating Officer concluded that 25 of the 70 participant names were those of government employees [ROI, p. 5, paragraph 6.a.1.; see also Tab F, Enclosure 3]. The remaining names were those of off-post civilians who did not fall under the purview of the investigation and thus were not interviewed⁸ [ROI, p. 5, paragraph 6.a.2.]. As a result, Investigating Officer subsequently interviewed a total of 31 individuals, including participants in the betting pool, members of management, and other witnesses, and obtained sworn statements from all of them, including the Whistleblower, Mr. Nelson [ROI, p. 3, paragraph 4.d.; Tab F, Enclosure 4, IO's Memorandum for Record].

⁷The summary betting sheet was not dated but a review of the information on the sheet supports the conclusion that the sheet was from the 2009 NFL season. For example, participants on the sheet included several Ft. Leavenworth employees who began working on Ft. Leavenworth during 2009. Accordingly, because Investigating Officer began investigating the matter on September 23, 2010 [ROI], which was at the beginning of the 2010 NFL season, it can be concluded that the information on the summary betting sheet was from the 2009 season.

⁸The IO determined 25 of 70 aliases/names on the betting sheet were DOD Employees and interviewed each of them. Because the remaining 45 aliases/names on the betting were not identified as belonging to a DOD/DA employee, the IO after conferring with his legal advisor, determined these individuals were outside his investigative purview, and thus were not interviewed or otherwise pursued as investigative leads. At the time, the OSJA did not believe that there was a requirement to coordinate the investigation with local law enforcement or prosecutorial authorities.

Maintenance Mechanic #1, the employee Mr. Nelson alleged operated the NFL betting pool, plainly admitted that he ran the betting pool for the past three years and he did so on government time. Additionally, he also actively participated in the football pool for the last six years. Maintenance Mechanic #1, who had worked as a maintenance mechanic for DOL/DPW for six years, explained that the cost to participate was \$5 per week and that participants could play any or all weeks, and each week was a separate event. Maintenance Mechanic #1 indicated that participants were to pick the winner of each of the week's NFL games and also pick the winner and score of the Monday night game. The person with the highest number of correct picks won the weekly pool. If there was a tie, the participant who predicted most closely the score of the Monday night game would win the weekly pool. [ROI, p. 4, paragraphs 5.b. and 5.c.; Enclosure 2, Statement of Maintenance Mechanic #1; and Enclosure 4, IO's Memorandum for Record, pps. 1-2, paragraph 3]. Maintenance Mechanic #1 admitted that participants would routinely drop off their picks in a box in DOL/DPW (HVAC Shop) or his mailbox.⁹ Maintenance Mechanic #1 stated he made payouts to the winners on Tuesdays, either directly to winners on the installation or at several bars. He indicated the pool was a big morale booster which was growing every year. Finally, he admitted that he would destroy any papers at the end of the NFL season. [Tab F, Enclosure 2, Statement of Maintenance Mechanic #1, p. 1]. During his interview, Maintenance Mechanic #1 reviewed the summary betting sheet and provided Investigating Officer information about which participants were government employees and which were not [Tab F, Enclosure 4, IO's Memorandum for Record, p. 2, paragraph 3.b.], information which Investigating Officer used to compile the list of 25 government employees who participated [Tab F, Enclosure 3].

A review of the summary betting sheet [Tab B] further revealed that most of the participants in the betting pool participated every week while a few participated less frequently. The 2009 summary betting sheet set out the number of correct picks each participant made during the given NFL week, and the name of the weekly winner was placed at the bottom of the sheet. The winning payout amount each week was clearly set out above the winner's name and ranged from \$236 to \$272 for a total payout through week 16 of \$4096. The sheet also revealed a category labeled "progressive pot," a weekly amount ranging from \$59 - \$68 that appeared to accumulate through the end of the 2009 NFL season. The weekly payout amount and the weekly progressive pot

⁹After the completion of the ROI, in a subsequent inquiry from OGC, the IO provided the following description of the physical location, setting, and circumstances surrounding the primary site of the football pool activity: "Maintenance Mechanic #1 kept a box to collect the selection sheets and monies on a shelf in the HVAC Break/Lunch Room located in building 238. Building 238 only houses the HVAC Section of DOL/DPW. The results of each week's games were also posted in this same room. The employee break areas where nickel and dime poker was conducted include this same building and is in the same open space as the room with the shelf where the selection sheet box was maintained during football season. Other building break areas where nickel and dime poker was conducted included building 304 (Utilities Maintenance and Facilities Maintenance), building 247 (Equipment and Grounds Maintenance) and building 116 (USDB Maintenance Shop). These employee break areas are the same areas where Supervisor, Operations & Maintenance posted notices or memorandums telling employees to not play cards for money."

amount equaled the total amount obtained each week from the participants who contributed \$5 per week to the betting pool.

In addition to operating the NFL betting pool, Maintenance Mechanic #1 also actively participated in the pool. Based on the summary betting sheet Mr. Nelson provided the OSC, Maintenance Mechanic #1 won twice during the 16 possible NFL weeks in which bets were tracked in 2009, in the amounts of \$264 during week 7 and \$264 in week 9 [Tab B]. It is unknown how Maintenance Mechanic #1 submitted his picks or if anyone was required to review his picks prior to the kickoff of the week's NFL games.

Numerous witnesses verified the information provided by Maintenance Mechanic #1 and provided additional information that assisted in explaining the details and logistics of the football betting pool on Fort Leavenworth. For example, though Maintenance Mechanic #1 had been operating the betting pool for the last three years, several witnesses indicated that the pool had been in place for as long as 10 years. Other witnesses established that participation in the betting pool was purely voluntary.

Witnesses indicated participants picked up betting sheets in the break area of the Electric Shop [ROI, p. 4, paragraph 5.c.; Enclosure 1, Statement of Mr. Phillip Nelson]. Most participants admitted they would drop their picks on betting sheets in a designated unlabeled box in the HVAC Shop of DOL/DPW. A few participants stated Maintenance Mechanic #1 would pick up their betting sheets or they would drop off or give their betting sheets to him either at the golf course, when bowling together, at his house, or in the parking lot. Several participants indicated they would drop off their betting sheets and money at Maintenance Mechanic #1's house or at other locations off base.

Witness interviews established that betting activity was clearly open and apparent in the workplace [Tab F, Enclosure 1, Statement of Mr. Phillip Nelson]. Mr. Nelson stated he saw the betting sheets on the card and picnic tables in the Electric Shop and saw Maintenance Mechanic #1 on various occasions pick up and carry out stacks of betting sheets. [Enclosure 1, p. 1, Statement of Mr. Phillip Nelson]. Others verified that the gambling activity was readily discussed among employees and betting sheets were available in the break area. Boiler Plant Operator provided information that the betting activity was so well known in the workplace that the winner would usually bring in donuts on Wednesdays after receiving their winnings [Tab F, Enclosure 4, IO's Memorandum for Record, p. 2, paragraph 3.g.].

The investigation thoroughly explored the issue of whether management was aware of, or did permit, the football betting pool activities, and most sworn statements specifically addressed the issue of knowledge. Though several witnesses, including Maintenance Mechanic #1, indicated management likely knew of the activity or the witnesses assumed they knew [Tab F, Enclosure 2, Statement of Maintenance Mechanic #1 who testified that OMA Maintenance Supervisor and Boiler Plant Operator Supervisor knew and participated], most other witnesses indicated in their sworn statements that they

did not know if management knew or they stated they had never discussed the matter with management.

Mr. Nelson specifically alleged to the OSC and in his sworn statement to Investigating Officer that his senior rater, Supervisor, Operations & Maintenance, GS-13, Supervisory Operations and Maintenance Manager, knew about the pool and permitted it. Mr. Nelson reasoned that Supervisor, Operations & Maintenance's office was in the building next door, he was around a lot, he knew all the guys from the shops, and there was no way he did not know [Tab F, Enclosure 1, Statement of Mr. Phillip Nelson]. Utility Systems Repair-worker was the only other witness who mentioned that Supervisor, Operations & Maintenance, in particular, might have known about the pool. Utility Systems Repair-worker's basis for thinking Supervisor, Operations & Maintenance might have known about the pool was that Supervisor, Operations & Maintenance would come in "fairly often" to discuss shop matters with Facility Operations Management Supervisor. Utility Systems Repair-worker offered no other information to substantiate that Supervisor, Operations & Maintenance was aware of the gambling activity. Contrary to Mr. Nelson's allegation, Supervisor, Operations & Maintenance provided a sworn statement asserting that he was not aware of any football pool until the matter was investigated. The investigation revealed no further information to support Mr. Nelson's allegation that Supervisor, Operations & Maintenance, in particular, knew about the football pool [Tab F, Enclosure 4, p. 3, paragraph 4.c.].

Besides taking Supervisor, Operations & Maintenance's sworn statement, Investigating Officer interviewed and took sworn statements from five other supervisors regarding their knowledge of gambling activities in DOL/DPW. The supervisors included Deputy Garrison Commander (a GS-15, Supervisory Program Manager and the senior civilian in the Office of the Garrison Commander); Director, DOL/DPW (a GS-14, Supervisory General Engineer and Supervisor, Operations & Maintenance's supervisor); the GS-12, OMA Maintenance Supervisor and Mr. Nelson's immediate supervisor; the WS-10, Boiler Plant Operator Supervisor; and a GS-12 Facility Operations Management Supervisor. Both Deputy Garrison Commander and Director, DOL/DPW indicated they were unaware of the football pool in DOL/DPW until the investigation commenced.

OMA Maintenance Supervisor was a supervisor who was found to have been the only supervisor who actively participated in the betting pool by the IO.¹⁰ He admitted

¹⁰It should be noted that the IO's finding and conclusion relative to OMA Maintenance Supervisor were that he was the only supervisor that was an active participant in the football pool [See ROI, p. 7, paragraph 6h and p. 8, paragraph 6.b.1.]. Hence, the IO recommended that since, he participated in the football and was a supervisor, his "actions created a work environment that permitted the misconduct by not enforcing the requirements of Title 5 C.F.R. Part 735.201." The IO recommended that OMA Maintenance Supervisor receive a 1-2 days suspension [See ROI, p. 10, paragraph 7.g.]. On the other hand, the IO finding and conclusion regarding Boiler Plant Operator Supervisor was that he participated in the football pool for the last six years as was reflected in Boiler Plant Operator Supervisor's own statement [See ROI, p. 5, paragraph 6a(2)(b)(i); p. 7, paragraph 6a(2)(h), and the recommendation for a reprimand as disposition in paragraph 7c(1) on page 7]. However, the IO did not recognize/acknowledge the fact that Boiler Plant Operator Supervisor was a supervisor and given that status, he should recommend a higher penalty for him similar to his recommendation regarding OMA Maintenance Supervisor. Instead, the IO grouped Boiler Plant Operator Supervisor in the nonsupervisory employee category that he referred to as "DOL/DPW

he became aware of the pool in the fall of 2008, was asked if he wanted to participate, and then elected to do so. He indicated, however, that he informed Maintenance Mechanic #1 on two occasions that it was illegal to participate on duty hours and that he received a copy of his weekly betting report before work. OMA Maintenance Supervisor further stated he was not aware of how the football pool was managed. OMA Maintenance Supervisor was listed under alias "Six Pin" [Tab F, Enclosure 3] on the 2009 summary betting sheet [Tab B].

Facility Operations Management Supervisor asserted he did not participate in the football pool and never spoke to his employees about it, though he did hear some talk in the shop during breaks. He denied knowing the extent of the football betting activity. He also admitted he was aware of the box in the HVAC Shop in which he saw individuals placing papers. He stated he "suspected" it was for the football pool but he never asked anyone about it. He further stated that OMA Maintenance Supervisor and Boiler Plant Operator Supervisor said they were in the pool, but Facility Operations Management Supervisor said he did not think other managers knew about it.

Employee Construction Control Representative #2 stated he did not know if current managers knew about the pool, but he said that former DOL/DPW manager, David Prindle, knew about the betting pool [Tab F, Enclosure 4, IO's Memorandum for Record, p. 2, paragraph 3.e.]. Investigating Officer contacted Mr. Prindle, who reportedly retired ten years ago and lives in the local area [Tab F, Enclosure 4, IO's Memorandum for Record, p. 2, paragraph 3.f.]. Mr. Prindle indicated that he did not recall ever seeing or hearing anyone in his department participating in a football pool or any other form of gambling [Tab F, Enclosure 4, IO's Memorandum for Record, p. 2, paragraph 3.f.]. Mr. Prindle did not provide a sworn statement.

OSC Allegation 5. With respect to OSC Allegation 5, Mr. Nelson alleged that Maintenance Mechanic #1 used a government vehicle to distribute the betting sheets to and collect money from participating employees. When questioned, Mr. Nelson admitted that he never actually saw Maintenance Mechanic #1 use a government vehicle for these purposes. However, Mr. Nelson explained that Maintenance Mechanic #1 drove a government vehicle all day and it is, therefore, the only way Maintenance Mechanic #1 could have picked up and passed out betting sheets [Tab F, Enclosure 1, Statement of Mr. Phillip Nelson].

On the other hand, in his sworn statement, Maintenance Mechanic #1 declared that he "absolutely" did not use the government vehicle to distribute or pick up betting

employees" and recommended that Boiler Plant Operator Supervisor receive a written reprimand [See ROI, p. 9, paragraph 7.c.]. Therefore, perhaps the IO made an error in citing OMA Maintenance Supervisor as the only supervisor who actively participated in the football pool. Also, the IO perhaps erred in not including MAJOR as a supervisor at the Fort Leavenworth site. After the ROI's completion, a request from OGC for additional clarification relative to Major revealed that Major is the Chief, Instructional Systems Division Directorate of Education Technology (DOET), Command and General Staff College, which is located at Fort Leavenworth.

sheets or money. He stated he never used the government vehicle for anything other than work. [Tab F, Enclosure 2, Statement of Maintenance Mechanic #1].

Other than the Whistleblower's bare assertion, no witness provided information that Maintenance Mechanic #1 used a government vehicle in the operation of the betting pool. As previously set out, numerous participants on the installation verified that they would pick up betting sheets in the break area of the Electric Shop and drop their betting sheets in a designated unlabeled box in the HVAC Shop of DOL/DPW or with Maintenance Mechanic #1, thereby presumably not requiring the transport of the information by Maintenance Mechanic #1 in any vehicle.

Additional Relevant Evidence.

Evidence collected during the investigation revealed that other forms of gambling occurred in the DOL/DPW workplace throughout the years. Various DOL/DPW employees described their participation in or knowledge of employees playing cribbage, penny ante poker, and other card games for small amounts of money during lunch and breaks [Tab F, Enclosure 1, Statement of Mr. Phillip Nelson¹¹].

OMA Maintenance Supervisor admitted he was aware that employees were playing cards for small sums of money. Facility Operations Management Supervisor's sworn statement indicates he may have known about the card games, but he did not specifically admit it in his statement. Deputy Garrison Commander said he was aware of card playing but stated he was unaware that money was involved. Director, DOL/DPW indicated he found out about card playing around December 2009 or January 2010 when Supervisor, Operations & Maintenance brought the matter to his attention. Director, DOL/DPW indicated Supervisor, Operations & Maintenance told him he had put out a memorandum to his branch chiefs to ensure the activity ceased. Supervisor, Operations & Maintenance stated that Mr. Nelson informed him of gambling during card playing, and he immediately told the branch chiefs to stop any gambling on or about December 4, 2009.

Construction Control Representative #1, GS-9 DOL/DPW employee, stated that there have been college basketball brackets, World Series pools, and other types of gambling within DOL/DPW for years.

¹¹ It should be noted that the Whistleblower, Mr. Nelson, admitted that he too had participated in playing cards and cribbage. He testified that "I'm not perfect; I admit that I played in the card games at first. It was penny ante poker and it wasn't a lot of money. After a while I realized I was just hurting myself because I had a gambling problem. I told my boss OMA Maintenance Supervisor and Supervisor, Operations & Maintenance about it and Supervisor, Operations & Maintenance told everybody 'no card playing' at lunch. Then in December of 2009 it was put out that you could play, but not for money."

Many participants in the NFL betting pool denied knowing that participation in such a pool in the workplace was illegal citing the open nature of the activity, how long it had been going on, and other similar factors. Likewise, numerous witnesses thought government employees should be briefed on or better informed and educated about the prohibition on betting pools in the workplace.

EVIDENTIARY FINDINGS AND CONCLUSIONS

On April 5, 2011, Investigating Officer completed his findings and recommendations, and submitted his ROI [Tab F] to the Office of the Staff Judge Advocate (OSJA), Fort Leavenworth, for legal review, in accordance with AR 15-6, paragraph 2-3(b). In his ROI, Investigating Officer made the following *findings and conclusions* [ROI, pps. 3-11]:

1. Employees of DOL/DPW engaged in gambling activities on Fort Leavenworth property during duty hours in violation of 5 CFR Section 735.201. A total of 25 Fort Leavenworth employees actively participated in a football betting pool where cash was collected and cash prizes were distributed during the 2008 and 2009 football seasons, and 19 of them were DOL/DPW employees, including one member of management. One of the nineteen DOL/DPW employees who actively participated, Heating and Air Conditioning Equipment Mechanic #4, did not do so on government time or on government property.

2. One active duty Army soldier assigned to Headquarters and Headquarters Company, four employees from the Family and Morale, Welfare and Recreation (FMWR) Office, and one employee from the Adjutant General's (AG) Office actively participated in the football pool. Two of the four FMWR employees who actively participated in the pool, Recreation Assistant (LEAD) and Recreation Assistant, did not do so on government time or on government property.

3. The football pool involved the regular season games of the National Football League (NFL). The entry fee to play in the pool was \$5.00 weekly per person. The participants could play any or all weeks, and each week was a separate event. The participants were to pick the victor of the games and also determine the victor and the score of the Monday night football game. The winner of the weekly pool was determined by the highest number of correct picks. A correct pick was the winning team of the game, and there were no point spreads involved in the weekly games or decisions. If there was an overall tie between participants, then the person who predicted most closely the score of the Monday night game was the weekly winner. The money collected for that week's pool was then distributed to the winner.

4. Maintenance Mechanic #1, ran the football pool on Fort Leavenworth for the last three years, and he did so on government time. He also actively participated in the football pool for the last six years. Maintenance Mechanic #1 collected the money and the entry forms both at the workplace and at his home. Many DOL/DPW employees

placed their forms and money in his office mailbox or in a box in the HVAC Shop that was specifically designated for this purpose. Numerous individuals not associated with the installation, i.e., non-DA civilian employees, also participated in the pool and either left their forms and money at Maintenance Mechanic #1's home, or Maintenance Mechanic #1 would meet them and pick up their forms and money at local bars. The winnings would be distributed directly to the winner at work if the winner was a DOL/DPW employee, or the winner would meet Maintenance Mechanic #1 at his home or at a local bar.

5. In addition to Maintenance Mechanic #1, the following sixteen current DOL/DPW employees, not members of management, participated in the football pool on post and admitted doing so for the stated number of years¹²: Boiler Plant Operator Supervisor, the last six years; High Voltage Electrician, the last two years; Construction Control Representative #1, the last ten years; Utility Systems Repair-worker, the last four years; Heating and Air Conditioning Equipment Mechanic #1, the last two years; Construction Control Representative #2, the last three years; Maintenance Mechanic #2, the last two years; Heating and Air Conditioning Equipment Mechanic #2, the last two years; Maintenance Mechanic #3, the last year; Heating and Air Conditioning Equipment Mechanic #3, the last year; Boiler Plant Operator, the last six years; Carpenter, the last five years; Plumber, the last year; Heating and Air Conditioning Equipment Mechanic #5, the last three years; Heating and Air Conditioning Equipment Manager #6, the last six years; and Heating and Air Conditioning Equipment Mechanic #7, the last year.

6. Heating and Air Conditioning Equipment Mechanic #4, a DOL/DPW employee, participated in the football pool but not on government property or during duty hours.

7. Electronic Industrial Controls Mechanic, a DOL/DPW employee, did not participate in any way in the football pool or any other gambling activity on Fort Leavenworth.

8. The following non-DOL/DPW employees participated in the football pool on government property during the last year: Laborer, an FMWR employee; Custodial Worker, an FMWR employee; and Human Resources Assistant, a Garrison employee.

9. The following non-DOL/DPW employees participated in the football pool but not on government property or during duty hours: Recreation Assistant (LEAD) and Recreation Assistant, both FMWR employees.

¹²Investigating Officer investigated the case during the 2010 NFL season, a season not at issue here. Accordingly, when the Investigating Officer referred in his ROI to participation by an employee during the last year or, for example, during the last six years, the 2009 NFL season is the final season to which he is referring.

10. One military officer, a Major,¹³ an Army staff officer assigned to Headquarters and Headquarters Company, CAC, working in the Command and General Staff College Directorate of Education Technology, engaged in gambling activities on Fort Leavenworth.

11. OMA Maintenance Supervisor in DOL/DPW, was aware of, and actively participated in the illegal football pool. His actions created a work environment that permitted the misconduct by not enforcing the requirements of 5 CFR Section 735.201.

12. Facility Operations Management Supervisor in DOL/DPW, was aware of, and passively participated in the football pool through his inaction. Facility Operations Management Supervisor failed to provide effective leadership in addressing these issues when they came to his attention. This created the perception that management tolerated the inappropriate activity and would not effectively deal with complaints concerning that conduct.

13. The investigation did not establish from the evidence collected and reasonably available whether anyone else in management besides OMA Maintenance Supervisor and Facility Operations Management Supervisor was aware of or permitted, either actively or passively, the conduct of these activities. Based on interviews with management officials, there was no evidence that anyone else in the chain of command was in any way involved in these activities.¹⁴

14. The investigation did not establish, and there was no evidence to indicate, that Maintenance Mechanic #1 misused a government vehicle or that any other government resources were abused or misused. Mr. Nelson assumed the government owned vehicle was utilized given the number of individuals involved in the pool.

15. The policy pertaining to the conduct of gambling activities (5 CFR Section 735.201) is clear and sufficient. The policy provides specific examples of prohibited activities to include the conduct of a football pool and leaves no room for misinterpretation.

16. Neither the CAC/Installation New Employee Orientation Brief nor the Garrison Newcomer's Brief mentions the gambling provision.

¹³Though Major is an active duty soldier, for purposes of this investigation, he was counted as one of the 25 total Ft. Leavenworth "employees" who actively participated in the betting pool. It should be noted that after the ROI's completion, a request from OGC for additional clarification relative to Major revealed that Major is the Chief, Instructional Systems Division Directorate of Education Technology (DOET), Command and General Staff College, which is located at Fort Leavenworth.

¹⁴ Again, as explained in footnotes 10 and 13, the IO perhaps erred in concluding that the only supervisors who either actively or passively participated in the football pool were OMA Maintenance Supervisor and Facility Operations Management Supervisor, respectively, omitting the mention of Boiler Plant Operator Supervisor and Major as other supervisors who actively participated in the football pool.

17. The Fort Leavenworth Employee Handbook is seriously outdated. The handbook was last published in September 1997. It is currently undergoing revision and is expected to be published within the next 60 days.

18. The employee annual refresher training does not mention the gambling policy.

19. The procedures currently in place on Fort Leavenworth are not sufficient to preclude a reoccurrence of the illegal activity due to the lack of emphasis or publicity of the established policy within the installation.

As a result, Investigating Officer made the following *recommendations* [ROI, pps. 9-11], concerning individual accountability based on his review of the Table of Penalties found in AR 690-700, Chapter 751, under Offense 8 Gambling, and, his experience as a senior leader and supervisor of civilian employees at various times in my military career [Tab F, Enclosure 6]:

1. Maintenance Mechanic #1, a DOL/DPW employee, receive a 14-day suspension for his operation and promotion of the football pool.

2. Carpenter, a DOL/DPW employee, receive a one-day suspension for his participation in the football pool. By Carpenter's own testimony (in response to the question whether he knew gambling was wrong), he knew that gambling was illegal from his similar experience in the U.S. Navy.

3. The following 15 DOL/DPW employees receive a written reprimand for their participation in the football pool:

Boiler Plant Operator Supervisor
High Voltage Electrician
Construction Control Representative #1
Utility Systems Repair-worker
Heating and Air Conditioning Equipment Mechanic #1
Construction Control Representative #2
Maintenance Mechanic #2
Heating and Air Conditioning Equipment Mechanic #2
Maintenance Mechanic #3
Heating and Air Conditioning Equipment Mechanic #3
Boiler Plant Operator
Plumber
Heating and Air Conditioning Equipment Mechanic #5
Heating and Air Conditioning Equipment Manager #6
Heating and Air Conditioning Equipment Mechanic #7

4. The following two FMWR employees receive a written reprimand for their participation in the football pool: Laborer and Custodial Worker.

5. The following AG employee received a written reprimand for her participation in the football pool: Human Resources Assistant.

6. The following active duty Army officer receive a written reprimand for his participation in the football pool: Major.

7. OMA Maintenance Supervisor receive a one or two-day suspension for his participation in the football pool and for violating administrative rules by not following the instructions of Supervisor, Operations & Maintenance, that gambling on government time was illegal.

8. Facility Operations Management Supervisor receive a one or two-day suspension for his acquiescence in allowing the activity to continue despite knowing it was improper and his misrepresentation of fact because he was, in fact, fully aware the football pool was going on within his shop and he did nothing to investigate the activity or stop it.

9. The Fort Leavenworth installation leadership immediately provide notification and/or training as necessary to all government employees and military personnel on the installation regarding the policy prohibiting such conduct through the publication of a policy statement.

10. The installation either publish a separate briefing or update appropriate briefings to include a complete and comprehensive review of the policy regarding gambling, and that all personnel be required to attend the briefing or read the policy statement, and sign a document indicating that they have read and understand the standard operating procedures.

11. Those charged with revising the Fort Leavenworth Employee Handbook ensure it restates the prohibition found in 5 C.F.R. § 735.201, that gambling, pools or other games of chance involving exchange of money or items of value are not permitted in the workplace. Further, that the publication and distribution of the revised handbook to the workforce receive top priority within the Garrison leadership.

On April 14, 2011, COL Fred Taylor, the Ft. Leavenworth Staff Judge Advocate, completed a legal review of the investigation and determined that the investigation was legally sufficient, there was evidence to support the findings and recommendations, and there were no errors or irregularities. He advised the CAC Commander, LTG Caslen, that he may approve, disapprove, or modify the findings or the recommendations as he determined appropriate. On April 18, 2011, the CAC Commander approved the findings and directed action on the IO's recommendations [Tab G].

In summary, the evidence reflects the following:

Allegation 1. For the last two years, during the 2008 and 2009 professional football seasons, numerous employees, including those from DOL/DPW, engaged in gambling activities on Fort Leavenworth property during duty hours by participating in a football pool on a weekly basis. This allegation is substantiated. Numerous DOL/DPW employees participated in a football pool on a weekly basis is substantiated. Information obtained from sworn statements from the DOL/DPW participants confirmed their involvement and revealed the nature and specifics of the gambling activity.

Allegation 2. Employees who wished to participate in the pool contributed \$5.00 each week, and a winner was awarded a cash prize on a weekly basis. This allegation is substantiated. Details obtained from the 2009 NFL summary betting sheet and information obtained from sworn statements, including Maintenance Mechanic #1's, revealed the detailed guidelines of the betting pool, including the cost to participate and the weekly cash payouts.

Allegation 3. The names of the weekly winners were displayed on a piece of paper placed on a desk in the DPW Electrical Shop. This allegation is substantiated. The existence of the 2009 NFL summary betting sheet, and information from sworn statements, including Maintenance Mechanic #1's, revealed that weekly winners were often displayed in this manner.

Allegation 4. DOL/DPW management, including Mr. Nelson's supervisor, Mr. Supervisor, Operations & Maintenance, was aware of, or did permit, these activities. This allegation is substantiated in part. The existence of the 2009 NFL summary betting sheet and information obtained from sworn statements, including those from some of the managers, support that OMA Maintenance Supervisor, Mr. Nelson's immediate supervisor, and Facility Operations Management Supervisor, another DOL/DPW supervisor, were aware of, or did permit, the betting pool. Moreover, the evidence reflects that OMA Maintenance Supervisor actively participated in the football pool. In addition, Boiler Plant Operator Supervisor, another DOL/DPW supervisor, did know about the football pool and actively participated in the pool as well. The allegation that supervisor Supervisor, Operations & Maintenance was aware of, or did permit, these activities is not substantiated. The evidence did not establish that any management official, other than OMA Maintenance Supervisor, Facility Operations Management Supervisor, and Boiler Plant Operator Supervisor, was aware of, or did permit, these activities.

Allegation 5. Maintenance Mechanic #1, a DOL/DPW employee, coordinated the pool and used his government owned vehicle to distribute the betting sheets to and collect money from participating employees. This allegation is substantiated in part. Maintenance Mechanic #1 admitted in his sworn statement that he operated the football pool for the last three years, and witnesses confirmed this information in their sworn statements. Hence, the allegation that Maintenance Mechanic #1, a DOL/DPW employee, coordinated the pool is substantiated. However, with respect to the allegation that Maintenance Mechanic #1 improperly used a government vehicle to distribute the betting sheets to and collect money from participating employees is not substantiated. Mr. Nelson did not witness Maintenance Mechanic #1

improperly using the government vehicle, and no witness provided information that Maintenance Mechanic #1 used a government vehicle in the operation of the betting pool or for any other unauthorized purpose.

LISTING OF VIOLATIONS APPARENT VIOLATIONS OF LAW, RULE, OR REGULATION

5 CFR 735.201

Army Regulation 690-700, Chapter 751, Discipline

CORRECTIVE ACTIONS

On April 18, 2011, the CAC Commander directed action on the IO's recommendations as follows [Tab G]:

1. Action Regarding Civilian Employees: The CAC Commander referred the ROI to the Garrison Commander¹⁵ for such action as he deemed appropriate, to include referral of portions of the ROI to an individual employee's immediate supervisor.
2. Action Regarding Active Duty Army Officer: The CAC Commander issued Major a written admonition.¹⁶
3. New Employee Handbook: The CAC Commander referred the ROI to the Garrison Commander to develop and publish a new and updated New Employee Handbook. The Handbook will discuss the prohibition found in 5 C.F.R. § 735.201, that gambling, pools, or other games of chance involving exchange of money or items of value are not permitted in the federal workplace.
4. Training Deficiency: The CAC Commander referred the ROI to the Garrison Commander to develop training materials to educate new and current employees on the prohibition found in 5 C.F.R. § 735.201.

Further, pursuant to a request from OGC to the Fort Leavenworth Staff Judge Advocate Office, COL contacted the United States Attorney's Office (USAO) for Kansas to determine if it had an interest in prosecuting the case against any of the individuals named in the betting sheet. The USAO declined prosecution. Additionally, COL contacted the Leavenworth County Prosecutor's Office (LCPO) to determine its interest in prosecuting any of the individuals named in the betting sheet. Similarly, the LCPO advised COL that it did not have an interest in prosecuting at this time. However, COL will provide the LCPO with a copy of the investigation for its review.

¹⁵ All civilian employees implicated in the gambling activity worked under the authority of the Garrison Commander.

¹⁶ The CAC Commander issued A Letter of Admonishment to MAJOR [Tab G, item 2b].

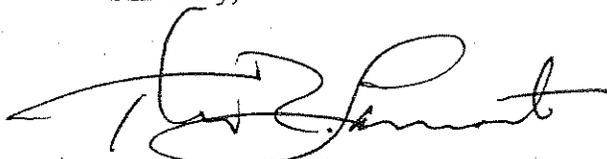
CLOSING COMMENTS

Federal employees and soldiers must refrain from participating in gambling related activity, or any other improper activity, while on government time or on government property. Such activity is a discredit to the Federal service and harms the reputation of the Army. Employees are expected to diligently perform their official duties and conduct themselves in an appropriate and professional manner.

The Army takes its responsibility to address concerns brought to it by the OSC very seriously. The Army has addressed the concerns raised in the instant allegations deliberately and thoughtfully. The planned corrective actions are now underway and are intended to hold the responsible persons accountable and deter future, similar misconduct. Further, the existence of a new employee handbook and proposed training for new and current employees should help to ensure all employees are aware of their individual responsibilities and the Army's expectations of them.

This letter, with enclosures, is submitted in satisfaction of my responsibilities under Title 5, USC, Sections 1213 (c) and (d).

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Lamont', written in a cursive style.

Thomas R. Lamont
Assistant Secretary of the Army
(Manpower & Reserve Affairs)

Enclosures

Army Report Documents
Fort Leavenworth
Fort Leavenworth, Kansas
OSC File Number DI-10-3098

Tab **Description**

- Tab A** Delegation of Authority from the Secretary of the Army dated March 18, 2011
- Tab B** NFL Summary Betting Sheet, provided to OSC by Mr. Phillip Nelson, undated
- Tab C** Memorandum from the TRADOC Commander, Subject: Delegation of Investigative Authority, dated September 15, 2010
- Tab D** CAC & FT LVN PAM 690-4: Civilian Employment Handbook
- Tab E** Memorandum from CAC Chief of Staff, COL, Subject: Appointment as Investigating Officer under Army Regulation (AR) 15-6 for Whistleblower Investigation - Department of the Army, Directorate of Logistics/Directorate of Public Works (DOL/DPW), Fort Leavenworth, Kansas – (Office of Special Counsel File Number DI-10-3098), dated September 23, 2010
- Tab F** Report of Investigation (ROI)/Report of Proceedings by Investigating Officer dated April 5, 2011 with attached Memorandum, Subject: Findings and Recommendations of Investigating Officer under Army Regulation (AR) 15-6 for Whistleblower Investigation - Department of the Army, Directorate of Logistics/Directorate of Public Works (DOL/DPW), Fort Leavenworth, Kansas – (Office of Special Counsel File Number DI-10-3098), dated April 5, 2011

Tab F, Report of Investigation (ROI) Enclosures

- Enclosure 1 Sworn Statement, Phillip Nelson
- Enclosure 2 Sworn Statement from Interview with Maintenance Mechanic
- Enclosure 3 List of Government Employees Identified on the Betting Sheet

Enclosure 4 Investigating Officer Memorandum for Record #1 Investigating Officer Memorandum for Record #2, Subject: Findings and Recommendations of Investigating Officer under Army Regulation 15-6 for Whistleblower Investigation--Department of the Army, Directorate of Logistics/Directorate of Public Works (DOL/DPW), Fort Leavenworth, Kansas – (Office of Special Counsel File Number DI-10-3098), dated March 23, 2011

Enclosure 5 Email dated 23 November 2010, 1643 hours

Enclosure 6 Army Regulation 690-700, Chapter 751, Discipline, and Table 1-1, Table Of Penalties for Various Offenses (Note: for purposes of recommending discipline in the instant ROI, the IO focused on the relevancy of offense #8 Gambling)

Enclosure 7 CAC & FT LVN PAM 690-4: Civilian Employment Handbook

Enclosure 8 Investigating Officer Memorandum for Record #2, Subject: Findings and Recommendations of Investigating Officer under Army Regulation 15-6 for Whistleblower Investigation--Department of the Army, Directorate of Logistics/Directorate of Public Works (DOL/DPW), Fort Leavenworth, Kansas – (Office of Special Counsel File Number DI-10-3098), undated

Enclosure 9 Ethics Briefing from SJA for New Employee Orientation/Refresher Training

Tab G Memorandum For Record from CAC Commander, LTG Robert Caslen, Jr., Subject: Appointing Authority Direction on Findings and Recommendations of Investigating Officer under Army Regulation (AR) 15-6 for Whistleblower Investigation – Department of the Army, Directorate of Logistics/Directorate of Public Works (DOL/DPW), Fort Leavenworth, Kansas – (Office of Special Counsel File Number DI-10-3098), dated April 18, 2011, with enclosures

Tab H Organizational Charts of Combined Arms Center and Fort Leavenworth, and Directorate of Logistics/Directorate of Public Works (DOL/DPW) – **H-1 to H-7**

Tab I Fort Leavenworth Witness Listing for Army Report-DI-10-3098 (only in unredacted version)



SECRETARY OF THE ARMY
WASHINGTON

MAR 18 2011

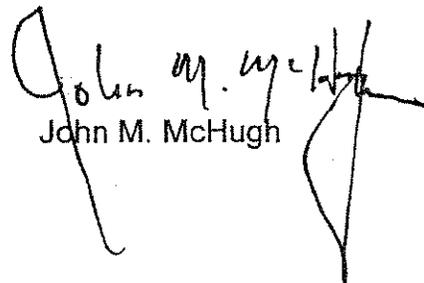
MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY
(MANPOWER AND RESERVE AFFAIRS)

SUBJECT: Delegation of Certain Authority Under Title 5, United States Code,
Section 1213

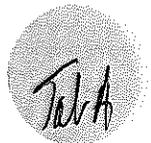
In accordance with Title 10, United States Code, Section 3013(f), I hereby delegate to you certain authority conferred upon me as the head of the Department of the Army by Title 5, United States Code, Section 1213. Specifically, you are authorized to review, sign and submit written reports setting forth the findings of investigations into information and any related matters transmitted to me by The Special Counsel in accordance with Title 5, United States Code, Sections 1213. This authority may not be further delegated.

Although not a limitation on your authority to act in my behalf, in those cases in which your proposed decisions or actions represent a change in precedent or policy; are of significant White House, Congressional, Department or public interest; or have been, or should be, of interest or concern to me, for any reason, you will brief me prior to decision or action, unless precluded by the exigencies of the situation.

This delegation shall remain in effect for three years from the date of its execution, unless earlier rescinded in writing by me.


John M. McHugh

CF:
Office of the Army General Counsel



Weekly Standings	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16	Week 17	TOTAL
	11	10	9	11	11	8	11	9	8	10	14	12	12	14	9	10		169
	12	9	12	11	10	9	9	11	9	8	13	12	12	12	10	10		169
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14	9	9	9	8	10	9		7	9							84
12	9	11	11	8	8	8	6									73
12	7	11	11	7	5	7										60
					11			9	7	9	12					48
				10	8	9	9	7								43
														9	10	19

Pay out	260	272	260	260	268	268	264	264	264	260	248	244	240	236	248	240		4096
Progressive Pot	65	68	65	65	67	67	66	66	66	65	62	61	60	59	62	60		1024
Weekly Winner																		



DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND
102 MCNAIR DRIVE
FORT MONROE, VIRGINIA 23651-1049

REPLY TO
ATTENTION OF

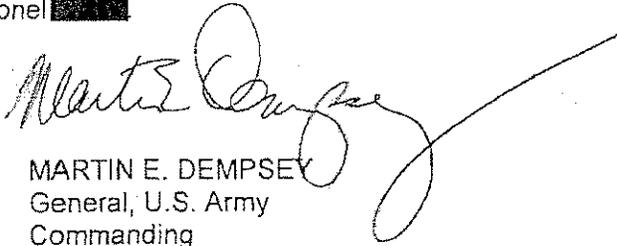
ATCG

15 September 2010

MEMORANDUM FOR Lieutenant General Robert L. Caslen, Commander, U.S. Army Combined Arms Center and Fort Leavenworth, U.S. Army Training and Doctrine Command, 415 Sherman Avenue Unit 1, Fort Leavenworth, KS 66027-2300

SUBJECT: Delegation of Investigative Authority

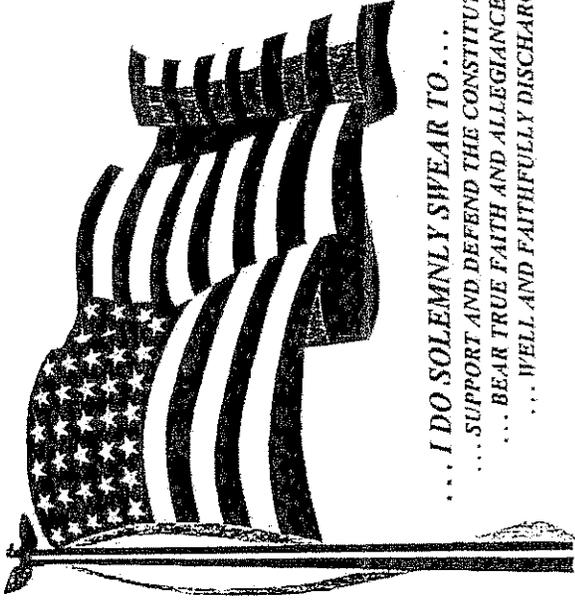
1. The Secretary of the Army sent the enclosed whistleblower complaint involving Fort Leavenworth to me for action. I am forwarding to you as the appropriate subordinate commander with responsibility for Fort Leavenworth to ensure a thorough investigation is conducted by appropriate officials on Fort Leavenworth and that a draft Army report is also prepared as required by Title 5, United States Code, Section 1213(d).
2. The Office of Special Counsel (OSC) is designated by law to receive whistleblower complaints from Army employees. The OSC has determined that this complaint, involving an alleged football betting pool among certain Army employees at Fort Leavenworth, presents a substantial likelihood there has been a violation of law, rule, or regulation; gross mismanagement or waste of funds; an abuse of authority; or a substantial and specific danger to public health and safety.
3. My Staff Judge Advocate, Colonel [REDACTED] is my point of contact for this matter and can be reached at [REDACTED]. I understand that Colonel [REDACTED] has already been in touch with your Staff Judge Advocate to facilitate timely completion of the required actions. Forward the completed investigation and narrative report to me through your Staff Judge Advocate to Colonel [REDACTED].


MARTIN E. DEMPSEY
General, U.S. Army
Commanding

Encl

CF:
DCG/CoS, TRADOC
DCS, G-1, TRADOC
DCS, G-3, TRADOC
SJA, TRADOC





... I DO SOLEMNLY SWEAR TO ...
... SUPPORT AND DEFEND THE CONSTITUTION ...
... BEAR TRUE FAITH AND ALLEGIANCE ...
... WELL AND FAITHFULLY DISCHARGE DUTIES ...

CIVILIAN EMPLOYMENT HANDBOOK

An Everyday Guide

U.S. ARMY COMBINED ARMS CENTER
Fort Leavenworth, Kansas



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I. INTRODUCTION TO FORT LEAVENWORTH

Founded in the spring of 1827, Fort Leavenworth is the oldest continuous United States (US) military establishment west of the Mississippi River and the oldest continuous settlement of United States citizens west of the Missouri River. The Army established the fort to monitor fur trade in upper Missouri and to protect trade caravans along the Santa Fe Trail from Indian attacks.

Colonel Henry Leavenworth chose the site of the present Fort Leavenworth on 8 May 1827, and was later joined by Captain W.G. Belknap and a detachment of 188 men from the 3rd Infantry Regiment, Jefferson Barracks (near St. Louis, Missouri) on 18 May 1827.

Soldiers at the new post inspected cargoes, examined licenses to trade, and caught those illegally transporting liquor into the Indian country. They kept peace between the Indian tribes and the traders. Fort Leavenworth guarded and guided the migration of the great removal of eastern Indian nations to the area west of Missouri in the 1830's. Troops trained and equipped at Fort Leavenworth launched many peace-making expeditions. Regional tribes and government agents met in council at the fort. Many times during those critical years hundreds of Indians from the various tribes converged on Fort Leavenworth where their leaders met with the military and Indian agents to make treaties which might ensure an interval of peace to the stormy frontier.

The war between the US and Mexico in 1846 gave birth to the Army of the West, commanded by Colonel Stephen Watts Kearny and formed at Fort Leavenworth. During the war, the fort became a major quartermaster installation, supplying the military outposts of the west. This mission lasted into the 1880's. With the opening of Kansas Territory in 1854, Fort Leavenworth became the temporary territorial seat of government. Andrew J. Reeder, first Territorial Governor, administered the affairs of the new territory from his office on post.

In 1855, the famous freighting firm of Russell, Majors, and Waddell came into being in Leavenworth and portions of the military reservation were used as corral grounds for some of the 45,000 oxen used in its far-flung operations. William F. (Buffalo Bill) Cody, a youthful employee of this firm, was born on a farm adjacent to the spot. During the Civil War, Fort Leavenworth was the command and supply post for the troops assigned to protect the Missouri-Kansas border. Camp Lincoln was established on the reservation to muster in, train, and equip volunteers.

The early military cemeteries at Fort Leavenworth were in the vicinity of the present home of the commanding general. In 1860, the known graves were moved to the present site, which became a national cemetery in 1867. Among the monuments now in the national cemetery are markers of five officers of the 7th Cavalry (including Captain Tom Custer, brother of General George A. Custer) who were killed in the Battle of Little Big Horn. In 1902, the remains of General Henry Leavenworth were brought to the Fort Leavenworth Cemetery from Delhi, New York. A handsome granite monument marks the site of reinterment.

GATEWAY TO THE FRONTIER

TWENTYETH CENTURY ARMY

Congress established the United States Disciplinary Barracks at Fort Leavenworth in 1874. From a modest beginning in converted Quartermaster buildings in 1875, it has become today the largest military establishment of its kind.

As a result of President Grant's order for reorganization of the Army under General Sherman, in 1881 the School of Application for Infantry and Cavalry was established at Fort Leavenworth. The Army suspended operations of the school for four years, during and after the Spanish-American war, and again for a brief period following the outbreak of World War I. Except for these two interruptions, the school has continued to develop. Today the Command and General Staff College is the US Army's senior tactical school of combined arms.

From the turn of the century, the Fort Leavenworth garrison's mission has been that of a supporting role for the college. In addition to its prescribed mission, the garrison has performed many other special missions in times of national emergency. From October 1950 to June 1951, the Army War College was located at Fort Leavenworth.

The reorganization of the Continental US Army transformed the post into the United States Army Combined Arms Center and Fort Leavenworth to determine present and future answers to the questions of how the Army will fight, how it will be equipped, how it will be structured, and to perform important and far-reaching missions in the areas of training and operations research analysis.

The mission of the Combined Arms Center and Fort Leavenworth (CAC & FT LVN) is to develop and train confident, competent, adaptive leaders who will train and fight their units to win decisively in battle now and in the future and to integrate verified doctrine, new organizations, and new equipment into the total Army.

The functions of CAC & FT LVN are to:

- ◆ Provide instruction to officers of the active Army and Reserve Components, worldwide, to prepare them for duty as field grade commanders and principal staff officers at brigade and higher levels.
- ◆ Determine system requirements for managing effectiveness of the Army through development of concepts, doctrine, and organizational materiel requirements within the combined arms functional areas, primarily by means of integrating the products from associated schools and other Training and Doctrine Command centers.
- ◆ Determine combined arms training requirements associated with the systems acquisition cycle and coordinate and integrate the development and dissemination of improved doctrine, techniques, devices, and management practices for training of combined arms units, commanders, and staffs.
- ◆ Provide the specialized correctional treatment, care, training, and custodial supervision necessary to prepare military prisoners for return to military duty with improved attitudes or return to civilian life as better citizens.

- ◆ Ensure administrative and logistical support to active Army units and activities, reserve components, and tenant and satellite activities.

The CAC is comprised of several elements and units to discharge the above responsibilities. It is essential that you understand how your position impacts on the activity's mission, and ultimately those of the Center.

Shortly after you report for duty, your supervisor will discuss with you the duties you will be expected to perform. You will also be given a job description, which describes the major duties and responsibilities of your job, and performance standards, which tell you more about the quality of job performance expected. While your input is desired and considered in assigning duties and determining performance standards, it is your supervisor's right and responsibility to assign your work and determine the quality of performance required of you. Speak with your supervisor if you need further guidance or clarification.

YOUR ROLE IN THE CAC MISSION

CIVILIAN
PERSONNEL
ADVISORY
CENTER
(CPAC)

II. POLICIES AND GUIDES FOR SUCCESSFUL EMPLOYMENT

As an employee at Fort Leavenworth, you will have considerable contact, either directly or indirectly, with the CPAC. Although your supervisor should always be your first source for help with employment policies and concerns, you are welcome to call for an appointment to visit the CPAC to obtain information which your supervisor may be unable to provide. You should inform your supervisor and secure approval prior to visiting the CPAC during duty time.

The CPAC offers many services to Fort Leavenworth employees, and is organized into the functions listed below. Telephone numbers are provided for your quick reference.

Civilian Personnel Officer 42151

Management-Employee Relations (MER) 44827
Guidance on leave, standards of conduct, discipline, grievances, appeals, interpretation of personnel regulations, performance appraisals, and incentive awards.

Employee Benefits 44444
Guidance on employee benefits (e.g., insurance, retirement, thrift savings plan, disability and death), workers' compensation, unemployment, travel, and transportation).

Classification and Staffing (CSI) 42412
Guidance on job descriptions and assigned grades, classification complaints and appeals, opportunities for job advancement and improving qualifications for competing for merit promotion job vacancies.

Recorded Job Information Listing (24-Hour) 45533
Positions for which applications are currently being accepted (AF and NAF).

Training and Development (T&D) 44996
Guidance on training needs and opportunities and career development programs.

Support and Information Services (SIS) 45337
Guidance on automated civilian personnel systems, employment verification, and carpooling registration.

Nonappropriated Fund (NAF) 42747
Guidance on NAF employment policies and practices.

Civilian Pay Customer Service Representative 45711
Guidance on civilian pay matters and liaison with Defense Civilian Payroll Offices.

**STANDARDS
OF CONDUCT
AND CODE OF
ETHICS**

As you began your Federal career, you stood before the American flag and took the oath of Federal office. Doing so, you became an important member of the Army team. A team made special by your pledge to support and defend the Constitution of the United States.

The citizens of the United States have confidence that Army personnel will do their part to preserve the security and well-being of our nation. The public also expects that we conduct our mission honestly and with integrity. To ensure we do not betray or violate this public trust, the Standards of Conduct and the Code of Ethics must be strictly adhered to. You should become completely familiar with the provisions of the Joint Ethics Regulation. Once again, your supervisor is your primary source for information concerning appropriate standards of conduct.

- ♦ Report for work promptly and in a condition which will permit you to perform your assigned duties (in appropriate clothing, with required tools or equipment, and in a sober condition).
- ♦ Render full, efficient, and industrious service. If insufficient work is assigned to occupy you fully at any given time, you are expected to notify your supervisor so that additional work may be assigned.
- ♦ Give ready response to your supervisor's instructions and directions.
- ♦ Comply with all safety regulations and practices prescribed for your worksite, including the use of protective clothing and equipment.
- ♦ Exercise courtesy and tact in all dealings with co-workers and the public.
- ♦ Maintain a clean and neat personal appearance to the maximum practical extent during working hours.
- ♦ Safeguard public information.
- ♦ Conserve and protect Federal funds, property, equipment, and materials.
- ♦ Observe the various laws, rules, regulations, and other authoritative instructions, and consistently conduct yourself in a manner which is above reproach.
- ♦ Recognize your personal responsibility for taking an active part in your organization's mission. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
- ♦ Maintain a high standard of integrity and responsibility with regard to your private financial obligations.
- ♦ Uphold with integrity the public trust involved in the position to which you are assigned.

**PUBLIC
RELATIONS**

The primary goal of the Federal government is to provide efficient, effective service to the public. The manner in which you perform your job will directly impact on the accomplishment of this goal. As Federal employees, we all have contact, in varying degrees, with the public, both on and off the job. We should, therefore, continually strive to provide the public with the highest quality products, advice, and assistance in a professional and courteous manner.

Any contact with the media concerning your official duties must be coordinated with your supervisor and the Public Affairs Office.

As an employee at Fort Leavenworth, your successful job performance and working experience are under the direct concern and control of your supervisor. Teamwork and understanding between supervisors and employees are essential since most actions taken concerning your employment begin with your supervisor's recommendation. Any difficulties you may experience should first be discussed with your supervisor.

As an employee at Fort Leavenworth, you are eligible to receive awards for superior performance of duties. You could receive an award as an individual or as part of a group that contributes significantly to the efficiency of work at Fort Leavenworth or the Federal government as a whole.

You are encouraged to submit constructive ideas for accomplishing your job better, simplifying operations, increasing productivity, improving morale, conserving energy, or promoting safety.

Suggestions may be submitted to the Deputy Chief of Staff for Resource Management on DA Form 1045 (Army Ideas for Excellence Program (AIED) Proposal). Adopted suggestions may be recognized by a letter of appreciation or a cash award, depending on the tangible/intangible benefits identified in the suggestion evaluation.

The Federal Civil Rights Act of 1964, as amended by the Federal Equal Opportunity Act of 1972, establishes the right of equal opportunity in employment for all qualified persons and prohibits discrimination in employment or harassment of any kind because of race, color, religion, national origin, sex, physical or mental handicap, age, or reprisal. CAC & FT LYN fully adheres to and actively supports this program in all respects. For information or concerns, contact the Equal Employment Opportunity Office (EEOC), 43697.

As part of the overall EEO program, the Black Employment Program, Hispanic Employment Program, Asian American/Pacific Islander/American Indian/Alaskan Native Employment Program, Federal Women's Program, and Persons with

SUPERVISION

**RECOGNITION
FOR SUPERIOR
PERFORMANCE**

**SUGGESTION
PROGRAM**

**EQUAL
EMPLOYMENT
OPPORTUNITY
(EEO)**

**SPECIAL
EMPHASIS
PROGRAM (SEF)
COMMITTEES**

Disabilities Program were implemented to monitor special concerns and to ensure equal opportunity in training, merit promotion, and employment. Each committee has a separate program manager who can be contacted through the EEOO.

OCCUPATIONAL HEALTH SERVICE (OHS)

The OHS promotes good health and reduction of illness/injury within the work environment. Special preventive measures are taken for civilian employees who are potentially exposed to toxic materials, infectious agents, or other hazardous influences. The Occupational Health Nurse can be contacted at telephone extension 46544.

ALCOHOL AND DRUG ABUSE PREVENTION AND CONTROL PROGRAM (ADAPCP)

Alcoholic beverages may not be served or consumed at any time while in a duty status. The ADAPCP is designed to educate employees about the effects of alcohol and drug use and abuse, and to provide rehabilitative assistance to individuals who request it or whose job performance or attendance is adversely affected by alcohol or drug abuse. The ADAPCP may be reached at 42800.

SMOKING POLICY

The rights of both smokers and non-smokers are recognized. However, Department of the Army policy prohibits smoking in work places at Fort Leavenworth. Your supervisor can provide information about the location of designated smoking areas.

USE OF OFFICIAL GOVERNMENT PROPERTY

Government property and facilities are supplied for the sole purpose of accomplishing official duties. You are responsible for proper use, maintenance, and protection of the materials, equipment, and facilities used in performing your work. The cost of these items represents an investment of taxpayers' money. Therefore, efficient use and proper care will result in considerable savings. If you are required to remove any type of supplies or equipment from your work location, be sure that you have the written approval of your supervisory chain to do so.

INTERACTION WITH INMATES

From time to time you may encounter trustees and inmates (prisoners) from the United States Disciplinary Barracks (USDB) or the United States Penitentiary work details at Fort Leavenworth. Relatively few employees will have daily contact with inmates. Inmates should be treated politely and fairly. However, conversations with inmates are to be limited to that which is necessary to accomplish your assigned duties. Additionally, you may not

- correspond with an inmate
- assist an inmate to communicate in any manner with other persons or inmates
- buy, trade, exchange, receive, or deliver any article for or with an inmate
- accept any gift or compensation from an inmate
- give refuge, safety, shelter, or comfort to an inmate

2-4

- permit an inmate, through carelessness or design, to obtain articles or materials which they are not permitted to have.

Additional information and instructions will be provided if you are assigned to work at the USDB or to work with or in supervision over inmates.

OUTSIDE INTERESTS

As a Federal employee, you are permitted to engage in outside employment and interests provided there is no conflict of interest with your government position or adverse effect on your performance as a government employee.

POLITICAL ACTIVITIES

As a Federal employee, you have the right to express privately your opinions on all political subjects and candidates and, as a citizen, you have the right and duty to vote as you choose. However, you are prohibited from using official authority or influence for the purpose of interfering with an election or affecting its results and from engaging in any political activity while on duty. Additionally, you may not be a candidate for public office in partisan elections.

LABOR ORGANIZATIONS

Employees are free to join or to refrain from joining a recognized labor organization (union). Supervisors, management officials, employees engaged in intelligence and security work, and employees engaged in personnel work in other than a purely clerical capacity are among those not eligible to be represented by labor organizations. Eligible employees are provided with a copy of the negotiated agreement upon entrance on duty.

DISCIPLINE AND SEPARATION ACTIONS

As a Federal employee you are expected to conduct yourself, both on and off the job, in a manner which reflects high moral character, high ethical standards, and a sense of responsibility. If you fail to meet these standards, informal or formal corrective action may be taken depending upon the nature and severity of the offense.

Informal disciplinary actions are the first steps in constructive discipline and consist of oral warnings and counseling. Generally such actions are warranted in situations involving first offenses of a minor nature. Formal disciplinary actions consist of written reprimands, suspensions, and separations.

GRIEVANCES

If you have a complaint, you should first attempt to resolve the problem informally by talking with your supervisor. However, as a Federal employee you are entitled to submit a grievance if you are dissatisfied with any aspect of your working conditions or employment status.

If you are a bargaining unit employee represented by the union, you must use the grievance procedures outlined in the negotiated agreement. Employees not covered by a negotiated agreement must follow Department of Defense Administrative Grievance System (AGS) procedures.

For clarification of either grievance process, you may contact MER, 44827.

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III. YOUR EMPLOYMENT RECORDS AND PROCESSES

APPOINTMENT TO CIVIL SERVICE

When you were hired for your position at Fort Leavenworth, you received either a temporary, term, or permanent appointment, in the competitive or excepted service.

Under a temporary appointment your employment rights and benefits are limited. Most temporary employees are not eligible to compete with permanent employees for promotional consideration and the period of employment is specified. In addition, employment may be terminated due to poor performance, lack of work, or lack of funds.

Under a term appointment your employment rights and benefits are more extensive than those of temporary employees. However, you are still appointed for a time-limited period. When the need for an employee's services is not permanent, a term appointment may be made for a period of more than 1 year but not more than 4 years. Term employees serve a 1-year trial period. You may be terminated at any time during your trial period if you fail to demonstrate the qualifications and standards required for continued employment. After successful completion of the trial period, employment cannot be terminated without first offering you the full protection and rights associated with term employment entitlements.

A permanent appointment entitles you to all benefits and rights of the civil service system. The first year of a new appointment, however, is a probationary or trial period. During the probationary or trial period your job performance and the manner in which you meet the general standards of conduct and public service will be observed. These standards include high integrity, mature personality, good work habits, respect for higher authority and co-workers, and a willingness to learn and improve. If at any time during the probationary period you fail to fulfill the qualifications and standards required, your employment can be terminated. After successful completion of the probationary or trial period, your employment cannot be terminated without first offering you the full protection and rights of the civil service system.

Your initial permanent appointment is in a "career-conditional" tenure which, after 3 years of substantially continuous service, converts to "career" tenure. Career status provides additional protection during any reductions which may occur in the work force. In addition, if you leave Federal employment after obtaining career status, you have a lifetime eligibility to be reinstated to a vacant position for which you qualify, and for which you are selected competitively. Reinstatement of former "career-conditional" employees is limited to a 3-year period following the date of separation, except for those eligible for veterans preference. Individuals who qualify for veterans preference have the same reinstatement eligibility afforded to "career" employees.

PERFORMANCE/ PROBATIONARY APPRAISALS

By establishing a mutual understanding of job requirements and work standards, the formal evaluation process encourages top quality work which enhances the organization's overall mission. The Total Army Performance Evaluation System

(TAPES) is used to evaluate how well you are performing your assigned duties. Your immediate supervisor will inform you of the performance standards for your job, discuss your performance with you at periodic intervals, and complete an annual performance rating.

Probationary or trial period evaluations are required for all employees in the competitive and excepted services. This period is a continuation of the original selection process, and ends one year from the date of your appointment. During this period you have both the opportunity and responsibility to demonstrate acceptable job performance. You will be evaluated against specific job requirements, as well as general standards of conduct and suitability for public service. Your supervisor will make the decision whether to retain or remove you from Federal service prior to the end of the probationary/trial period.

CAREER GROWTH AND ADVANCEMENT

The Fort Leavenworth Merit Promotion and Placement Plan (CAC & FF.LVN Regulation 690-300) is normally posted on the official bulletin board and will be made available to you by your supervisor upon request. While this plan is intended to provide fair and proper consideration based on merit, it does not guarantee promotion. If you are a permanent employee, or a temporary employee with personal competitive status, you will have the opportunity under this plan to be considered for promotion, reassignment, or change to lower grade to jobs for which you are qualified and interested. Internal recruitment notices are issued for promotion opportunities. These announcements include specific details on application procedures. All application materials must be submitted to and received by the Civilian Personnel Operating Center (CPOC), Fort Riley, Kansas, prior to the closing date shown on the announcement. You are reminded that employment applications are considered to be personal in nature and, therefore, may not be submitted at government expense. Any questions you may have about promotional opportunities should be directed to your supervisor or CSD, 42412.

DETAILS

You may be detailed (assigned temporarily) to different duties or positions for a specified period of time. Although your rate of pay remains the same while you are on a detail, the experience you gain becomes a matter of record and adds to your total work experience and qualifications. You may even be detailed for a short time to work which requires qualifications you do not have. In such cases, you will be given assistance and instruction necessary to perform the work.

TEMPORARY PROMOTIONS

You may be promoted temporarily to a different position for a specified period. Because you receive the higher rate of pay, you must meet all qualification and eligibility requirements to be temporarily promoted.

JOB ASSIGNMENTS

You may be reassigned, either temporarily or permanently, to new job assignments without promotion or demotion. Some reassignments are management directed. You may also request consideration for a noncompetitive assignment to another position by submitting a written request citing specific reasons, through your

supervisor to the CPAC. Your request will be given careful consideration by management officials, but approval cannot be guaranteed. An example of a request which may warrant approval is one based on documented physical limitations.

You may receive training to ensure maximum efficiency in the performance of your official duties. Equal opportunity for training is given to every employee who needs training and meets established standards. In addition, you are encouraged to engage in personal development efforts (i.e., college courses, correspondence courses, Army service schools, government or nongovernment training, etc.).

You should notify the CPAC immediately regarding a change of home address, telephone number, or name (by marriage or court action). Also, it is a good idea to confirm with your supervisor periodically the accuracy of information regarding persons to be contacted in case of an emergency.

If you elect to resign your position, you should provide your supervisor with at least 2 weeks advance notice. Resignations are submitted in writing giving reasons, your last workday, and your forwarding address. A Standard Form 52 (Request for Personnel Action), which can be obtained from your supervisor or the CPAC, is the preferred notification method.

When you end employment at Fort Leavenworth for any reason, you must contact the CPAC, 45337, at least 3 days prior to separation, to schedule an appointment to clear post. As part of the clearance process, you will be informed of benefits to which you may be entitled.

If you must leave your employment to accompany a family member who is making a permanent change of station move, you may be entitled to enter a leave without pay status while you seek Federal employment at your new location. This protects your status as a Federal employee. If you are a family member of a Department of Army employee who makes a permanent change of station move, you may also be entitled to priority consideration for vacant positions at your new location for which you are qualified and eligible. Contact OSD, 42412, for specific information.

The OPF is the official depository of records and personnel actions effected through your Federal career, and is the major source of information used to determine your qualifications for new positions. The OPF is maintained at the Southwest Civilian Personnel Operations Center (CPOC), Fort Riley, Kansas, but retains the property of the Office of Personnel Management (OPM). When you resign or retire, the OPF is sent to the National Archives and Records Administration, St. Louis, Missouri. If you return to work for the Federal government, the original OPF will be obtained from the National Records Center by your employer. For ready reference, you should establish and maintain a personal file containing copies of employment documents and personnel actions which affect you.

IV. HOURS OF DUTY AND REQUESTING LEAVE

The normal work week for full-time employees is 40 hours. Most full-time employees work 8 hours per day, 5 days per week, Monday through Friday, although certain jobs require alternative schedules. Normal business hours at Fort Leavenworth are 0730 to 1630, Monday through Friday. However, some organizations participate in the flextime program, which allows participating employees to vary their tours of duty, with supervisory approval. Break periods are allowed for most employees and are considered paid duty time. It is your responsibility, as well as your supervisor's, to prevent abuse of work hours, break periods, and lunch periods. Check with your supervisor to clarify specific practices and expectations in your work area.

Unless you are an intermittent (on-call) employee, you will have a definite assigned tour of duty, either part-time or full-time. You are expected to report ready for work at your work station at the beginning of your tour of duty unless you have received advanced approval for leave. When emergencies arise that cause you to be late for work or absent without having received advanced approval, you should notify your supervisor of the emergency as soon as possible, generally within 2 hours after your scheduled tour of duty begins, or in the case of shift workers, 1 hour prior to the start of the scheduled tour of duty.

Annual leave is approved absence with pay, and may be requested for vacation periods and for personal and emergency purposes. You will earn annual leave hours of credit as shown below:

Length of Service	Accrual Per Pay Period	Total Leave Days Per Year
Less than 3 years	4 hours per biweekly pay period	13
3 years but less than 15	6 hours per biweekly pay period, except 10 in last pay period	20
15 years or more	8 hours per biweekly pay period	26

Part-time employees earn annual leave in proportion to the number of hours worked compared to full-time. Intermittent employees are not eligible to earn or use leave.

Although the annual leave you earn is yours to use, your supervisor has the responsibility and authority to decide when the leave may be taken. You and your supervisor should work together to schedule leave for the most advantageous time for your organization and yourself, and requests should be made as far in advance as possible. Your biweekly leave and earnings statement reflects how much leave you have accrued and used.

TOURS OF DUTY

ANNUAL LEAVE

SICK LEAVE

Sick leave is provided to help you avoid loss of pay when you are absent from work because of illness, disabling injury, or physical, dental, or optical examinations or treatment. All full-time employees, regardless of length of service, earn sick leave at the rate of 4 hours for each full biweekly pay period, or 104 hours per year. Other employees who are eligible for sick leave earn it at the proportional rate of 1 hour for each 20 hours in a pay status. There is no maximum limit to the amount of sick leave you may accrue. As with annual leave, sick leave accrues automatically and is yours to use. However, your supervisor has the responsibility and authority to approve or disapprove leave requests. To ensure adequate staffing to meet mission needs, requests for sick leave for routine medical, dental, or optical treatment should be made in advance.

If you are absent because of unexpected illness or injury, you should notify your supervisor as soon as possible, generally within 2 hours after the start of your normal tour of duty, or in the case of shift workers, 1 hour prior to the start of the scheduled tour of duty. You may be required to provide your supervisor with a doctor's statement certifying work days on sick leave.

**LEAVE FOR
CHILD BIRTH**

Absence for childbirth can be charged to sick leave, annual leave, and/or approved LWOP. You should notify your supervisor as early as possible of your intent to request leave for childbirth, and include the type of leave and anticipated duration. The length of leave requested for childbirth and recuperation must be supported by a doctor's certificate.

**PARENTAL
AND FAMILY
LEAVE**

You may request to use annual leave, LWOP, or sick leave under the Family Friendly Leave Act (FFLA) for parental and family responsibilities. This includes any absence to remain at home after the birth of a child that is not certified by a physician as medically necessary.

**FAMILY
FRIENDLY
LEAVE ACT
(FFLA)**

You may request to use a portion of your sick leave if you are required to be absent to give care or otherwise attend to a family member having an illness, injury, or other condition which, if you had such condition, would justify the use of sick leave. Also you may request to use sick leave for purposes related to the death of a family member. There is an annual limitation on the amount of sick leave that may be used under the FFLA. The basic limit for full-time employees is 40 hours. An additional 64 hours may be used if the use does not cause your sick leave credit to fall below 80 hours. The basic limit for part-time employees or employees with an uncommon tour of duty is equal to the average number of hours in the weekly scheduled tour of duty.

**FAMILY
MEDICAL
LEAVE ACT
(FMLA)**

Employees who have completed at least 12 months of service may be eligible for absence under the Family Medical Leave Act (FMLA). The FMLA provides eligible Federal employees with a total of 12 administrative workweeks of unpaid leave during any 12-month period for certain medical or family needs. FMLA is in addition to other paid time off that may be available to you. While on FMLA, you may continue your health benefits, provided you pay the employee's share of the

premiums. You are entitled to return to the same, or equivalent, position with equivalent benefits, pay, status, and other terms and conditions of employment. Under certain conditions, FMLA leave may be taken intermittently. You must provide your supervisor with as much advance notice as possible of your intent to take FMLA, and provide supporting medical documentation as requested.

**LEAVE
TRANSFER
PROGRAM**

If you experience a personal or family medical emergency that is likely to require you to be absent from work for a prolonged period without sick leave or annual leave income, you may apply to receive donated annual leave from other employees who voluntarily offer to be donors. Ask your supervisor or contact MER, 44827, for information on the process to become a leave recipient or to donate leave to another employee.

**MILITARY
LEAVE**

If you are a reservist of the Armed Forces or a member of the National Guard and are a permanent civil service employee, or are on a temporary appointment in excess of 1 year, you earn 15 calendar days of paid leave per fiscal year to be used for active duty or military training purposes. You may carry over as much as 15 calendar days from year to year. Your military orders must be submitted to your supervisor prior to departure. Upon your return to work, you must submit to your supervisor official evidence of your performance of military duty. Longer periods of absence for active duty may be granted in a LWOP status or charged to annual leave.

COURT LEAVE

Court leave is authorized absence, without charge to leave or loss of pay, for jury or witness service. You will be required to furnish your supervisor with a copy of the order, subpoena, or other summons to appear in court as far ahead of the effective date as possible. Upon return to work, you will be asked to furnish written evidence of the dates (and hours if possible) of the service. Generally, you may not keep any fees paid by the court, but may be entitled to payment of certain expenses by the court.

**BONE MARROW/
ORGAN
DONATION**

You are authorized up to 7 days of paid leave each calendar year for purposes related to bone-marrow or organ donation.

**LEAVE
WITHOUT PAY
(LWOP)**

LWOP (absence in a nonpay status) can be approved for an employee who submits a request in writing to the supervisor, normally when the employee has exhausted available annual leave or sick leave credits. If you request LWOP for 30 calendar days or less your supervisor will carefully consider your reasons and approve or disapprove your request. LWOP requests for more than 30 days must be submitted through your supervisor to the CPAC for approval consideration.

**OTHER PAID
ABSENCE**

An excused absence is an absence from duty without loss of pay and without charge to leave which is approved by someone in your supervisory chain-of-command. Some examples of activities for which excused absence would be appropriate

include, but are not limited to, voting, permanent change of duty station (PCS), counseling, and blood donation. Your supervisor will provide specific guidance on these matters.

ABSENT WITHOUT LEAVE (AWOL)

If you are tardy or absent from duty without adequate excuse or without prior approval of your supervisor, you may be charged AWOL on official time and attendance records. Such a charge could become the basis for disciplinary action.

HOLIDAYS

The following Federal holidays are observed at Fort Leavenworth:

- New Year's Day - January 1
- Martin Luther King Jr.'s Birthday - 3rd Monday in January
- President's Day - 3rd Monday in February
- Memorial Day - last Monday in May
- Independence Day - July 4
- Labor Day - 1st Monday in September
- Columbus Day - 2nd Monday in October
- Veteran's Day - November 11
- Thanksgiving Day - 4th Thursday in November
- Christmas Day - December 25

If you are a full-time employee and your position is not limited to 90 days or less, or if you have worked continuously on a full-time limited appointment for 90 days or more, you are entitled to be excused from work with full pay on Federal holidays. Part-time employees will also receive holiday pay if the holiday falls on a day they are scheduled to work. Holidays other than those listed which are important to you may be observed, but they will be charged to annual leave or LWOP, and are subject to approval by your supervisor.

V. COMPENSATION FOR YOUR WORK

Normally, if you are a new employee, you will be paid at the first step of the grade assigned to your position. As you advance from one step to another in the salary schedule, you will receive an increase in your annual salary. Eligibility requirements for step increases include specified waiting periods between steps and a review of your work performance.

Your pay will normally be determined under one of two Federal pay systems, either general schedule or wage grade.

• General Schedule (GS) - GS positions are in professional, administrative, technical, and clerical occupations. The rates of pay for employees under the GS are determined by the US Congress and are the same nationwide. However, in some high cost living areas, special rates of pay may be approved. There are 10 salary steps within each grade, and specific waiting periods for advancing to higher steps. If you are being paid at steps 1, 2, or 3, you must wait 1 year before advancing; at steps 4, 5, or 6, you must wait 2 years before advancing; at steps 7, 8, or 9, you must wait 3 years before advancing.

• Federal Wage System (FWS) - The FWS includes positions in the skilled trades and crafts and unskilled labor occupations, commonly designated by one of the following: WG, WL, WS, WD, WN, XP, XL, XS, XD, and XN. The rates of pay under this system are based on surveys of private industries in the local area and, therefore, differ throughout the nation. Your supervisor can provide information on your pay rates, salary steps, and the waiting periods between steps.

You will be paid by Thursday of every other week. There is normally a 12-day processing time between the end of the pay period and payday.

PAYDAYS

DIRECT DEPOSIT

All new employees are required to have their paychecks sent directly to their personal accounts in a financial institution of their choice through Direct Deposit/Electronic Funds Transfer (DD/EFT). Current employees who have not elected to use DD/EFT will be required to enroll in DD/EFT within 60 days after being selected for a position under a Merit Promotion announcement.

PAYROLL DEDUCTIONS

Your gross pay is subject to various deductions in determining the net amount you receive each payday. Normal deductions include Federal and state income taxes, social security, and retirement fund contributions. In addition, other deductions may include thrift savings plan, union dues, life insurance, health insurance, savings bonds, and allotments.

LEAVE AND EARNINGS STATEMENT

Each payday you will be furnished with a copy of your leave and earnings statement which will show your gross and net pay and your payroll deductions (for both the current pay period and year). It will also show how much annual and sick leave you have accrued and used, and whether you have used any LWOP. You should carefully check each statement for accuracy and inform your supervisor of any discrepancy.

OVERTIME

When considered necessary by your supervisor, you may be required to work extra hours during peak work loads, special jobs, or emergencies. When required to work overtime, you will be compensated either with premium pay or, if appropriate, compensatory time off. Premium pay generally will be one and one-half times your basic rate of pay for each overtime hour worked. Compensatory time off, if authorized, will be 1 hour off for 1 hour overtime worked. Remember, overtime work and pay is subject to the control of your supervisor. The best practice is to work only your normal hour of duty unless you are approved or directed to work overtime in advance by your supervisor.

HEALTH INSURANCE

You may choose to enroll in the Federal Employees Health Benefits Program (FEHBP) which provides health insurance protection to you and your family. Both fee-for-service plans and prepaid plans are offered, some with high and low options, and some with dental plans. Premiums are paid automatically through payroll deductions. Temporary employees who have been employed continuously for 1 year may participate, but they pay the entire premium. Permanent employees have a portion of the premium paid by the government, the amount depending on whether the employee is full-time or part-time. You have 31 days from the time you begin your employment to select coverage. If you do not enroll at that time, or if you later want to change your coverage, you may do so during the annual open season which will be announced post-wide, or when certain changes occur in your life, such as a change in marital status. Information on FEHBP is available from Employee Benefits, 44444.

LIFE INSURANCE

You may choose to enroll in group life insurance which is available to all eligible Federal employees through the Federal Employees Group Life Insurance (FEGLI). You may elect basic coverage as well as optional coverage. The government pays one-third of the cost of basic coverage. You are automatically given basic coverage unless you sign a waiver declining coverage. You may elect optional coverage within 31 days after you begin employment. If you do not select coverage at that time, you may enroll when certain changes occur in your life, such as a change in marital or family status. At other times, employees may apply for coverage but may be required to show physical insurability.

RETIREMENT

Retirement benefits vary according to the system of coverage. Permanent employees may be covered by one of three retirement systems: The Civil Service Retirement System (CSRS), the CSRS-partial and full social security coverage, or the Federal Employees Retirement System (FERS) and full social security coverage. Certain firefighters and law enforcement officers are covered by an additional retirement benefit program. Most new employees are covered by FERS. However, if you have had prior Federal service and are covered by CSRS or CSRS-partial, you may choose FERS coverage within 6 months of employment.

Under certain circumstances, prior military service may be credited for retirement purposes. A deposit may be required to cover that period of service, and interest may be chargeable. It is advisable to clarify such matters at an early stage of your Federal employment. Questions about your retirement coverage should be directed to Employee Benefits, 44444.

THRIFT SAVINGS PLAN (TSP)

The TSP is a retirement savings and investment plan available to permanent Federal employees, regardless of the retirement system under which they are covered. TSP provides a tax-deferment on investment and interest earnings. CSRS covered employees may contribute up to 5 percent of gross salary to TSP. FERS covered employees may contribute up to 10 percent of gross salary to TSP. The government

VI. EMPLOYEE BENEFITS AND SERVICES

performance. Your supervisor can assist you in seeking such help at your request. The Occupational Health Program provides some examination, treatment, and counseling relating to the health and well-being of employees, including flu immunizations, testing for hypertension, and job-related illness or injury. Additionally, clinics and seminars are offered on issues such as smoking, stress management, and nutrition.

As a Federal employee you may participate in the payroll deduction plan for the purchase of savings bonds. Additional information may be obtained from the Civilian Pay Representative, 45711.

The CFC serves as a one time per year, joint effort to raise funds for charitable health and welfare agencies. The CFC brings together the appeal of the United Way, National Health Agencies, and International Services Agencies. Donations are voluntary and may be made through either a payroll allotment or a single cash donation.

The Fort Leavenworth credit union was established for the purpose of assisting employees in obtaining loans at reasonable interest rates, and providing a means of financial savings. You can contact a credit union official at 651-6575.

Second hand merchandise may be purchased through the Thrift Shop, building 275. Hours of operation are announced periodically in the Lamp and are posted at the main door of the Thrift Shop.

Several facilities are available for all employees: these include Bell Hall cafeteria, in the basement of Bell Hall; Soldier's Snack Bar, building 79; Food Court, Main Post Exchange; and Burger King. In addition, the golf course snack bar and the bowling center snack bar are available for employees during normal lunch times.

The United States Disciplinary Barracks (USDB) provides services and products that are available for purchase by civilian employees, such as greentouse products, bakery goods, shoe repair, upholstery, woodworking, textile repair, embroidery, screen printing, engraving, sheet metal work, car wash, and barbering.

As a Department of Defense employee you and your family members are eligible to participate in recreational and leisure activities offered at Fort Leavenworth, including the golf course, bowling centers, tennis courts, picnic grounds, fitness centers, libraries, arts and craft centers, swimming pools, fishing ponds, Rod and Gun Club, Stables/Riding Activity, and Flying Club. Civilian use may be limited to "space available" and fees are required for participation in some activities. Contact specific facilities and activities for more information. To obtain a privilege card for family member use of Moral Welfare Recreation facilities, contact 41673.

6-3

SAVINGS BONDS

COMBINED FEDERAL CAMPAIGN (CFC)

CREDIT UNION

THRIFT SHOP

DINING FACILITIES

USDB SHOPS

RECREATIONAL AND LEISURE ACTIVITIES

Automatically contributes an amount equal to 1 percent of the FERS covered employee's salary, regardless of whether the employee contributes. The government will also contribute an amount which equals FERS covered employees' contributions for the first 3 percent of gross salary and an amount equal to one-half of the next 2 percent of gross salary contributed. The maximum contribution made by the government to a FERS employee's TSP will be 5 percent of gross salary. Employees may invest in three different TSP funds: G-fund (government securities), F-fund (fixed income investments), and C-fund (common stock investments). Generally, you are eligible to invest in TSP during the second open season after your beginning date of employment. Open seasons occur twice per year during which you may start, increase, decrease, or stop contributions, and make changes to your designation of investment funds. Questions about your TSP should be directed to Employee Benefits, 44444.

The benefits available to survivors of Federal employees depend on varying factors, such as length of service, length of marriage, and whether the death was work-related. Survivors should initially contact the supervisor of the employee, who will then contact Employee Benefits. Employee Benefits is available to counsel survivors and to assist in completion of necessary claims forms. To ensure that benefits are distributed in accordance with employees' wishes, it is recommended that employees complete forms to designate beneficiaries to receive benefits from life insurance, retirement fund, unpaid compensation, and Thrift Savings Plan.

As an employee of Fort Leavenworth, you are covered by the Federal Employees Compensation Act (FECA) which provides compensation for work-related injuries, to include payment of medical expenses and compensation for time lost from work.

The Employee Benefits office can provide detailed information about FECA. Generally, if you are injured on the job, contact your supervisor immediately. You are encouraged to utilize the occupational health nurse. However, you have the right to choose to be treated by your own private physician or hospital, provided your place of treatment is within 25 miles of your home or work site. It is your responsibility, unless you are incapacitated, to ensure that your injury is documented on the proper forms within the required time frames.

★ Form CA-1: Complete within 2 workdays of injury to document specific bodily injury which occurred at an identifiable time and place.

★ Form CA-2: Complete within 30 calendar days after becoming aware of a disease or illness you believe is caused by your work environment.

Employee Benefits provides counseling on health and life insurance, retirement, and injury and death claims. Call 44444 to establish an appointment.

The Employee Assistance Program (EAP) provides counseling and referral services for employees who request help with personal problems that adversely affect job

6-2

DEATH BENEFITS

WORKER'S COMPENSATION

COUNSELING SERVICES

VII. GENERAL INFORMATION YOU SHOULD KNOW

The speed limit on Fort Leavenworth is 20 miles per hour, unless otherwise posted. Parking spaces are designated by white lines. Parking on grassy areas is prohibited. Driving while intoxicated is a serious violation and penalties are severe. Wearing of seat belts is mandatory on Fort Leavenworth and on Kansas roads. Motorcyclists are required to wear helmets, eye protection, gloves, long pants, long sleeves, and reflector vest or clothing. Joggers and walkers along the roadways have the right-of-way. Bicycling is prohibited on Grant Avenue, but is permitted on the adjacent sidewalk and on other streets.

Generally, it is expected that clothing worn by Fort Leavenworth civilian employees will be in keeping with good taste and decorum. Appropriate dress information for your work area is available from your supervisor.

If you are directed to travel for mission-related assignments or for training purposes, you may be reimbursed for travel expenses and receive a per diem allowance.

Occasionally severe weather conditions, such as icy roads, may warrant delaying the opening of Fort Leavenworth for normal business. If severe weather occurs overnight, notification is made to each activity's severe weather point of contact (POC). The POC then initiates notification of non mission essential employees. To ensure prompt notification, you should promptly report any change in your telephone number to your supervisor. Information provided by local radio and television media is used to supplement notification procedures. However, if you have not been otherwise advised by your activity, you are expected to report for work at your normal time, or to request appropriate leave.

During the hoisting and lowering of the flag, or when the flag is passing in a parade or in a review, you should stand and face the flag with your right hand over your heart. Respect will also be rendered whenever the "National Anthem" or "To The Colors" is played. Men wearing a hat will remove the hat with the right hand and hold the hat at the left shoulder with the right hand over the heart. Women need not remove hats, but salute by placing the right hand over the heart.

Pertinent publications will be posted or circulated as issued and should be read regularly. These will provide information on job vacancies, regulations, new or revised policies and procedures, general information, and scheduled activities. Although your supervisor is your primary source of information, other sources include:

- ◆ Department of Army and CAC and Fort Leavenworth regulations
- ◆ the Fort Leavenworth Bulletin

TRAFFIC REGULATIONS

The Information, Ticket and Registration (ITR) Office sells tickets to major league sports events, theater productions, and amusement parks in the surrounding area. Discounts are often available. The ITR also provides brochures and information about tourist attractions. Federal Express and UPS services are also provided.

The Frontier Army Museum contains more than 5,000 artifacts from the frontier Army period, 1817 to 1917. A gift shop offers limited edition books, prints, and historical items.

The Army Education Center (AEC) provides the opportunity to pursue a high school equivalency, associate degree, bachelor's degree, or master's degree, often without leaving Fort Leavenworth. Several major colleges are involved with this program. The AEC also offers self-study courses and classroom training on many subjects for employees' self-development and improvement of job skills.

EDUCATIONAL OPPORTUNITIES

APPROPRIATE WORK CLOTHES

OFFICIAL TRAVEL

SEVERE WEATHER DISMISSAL

RESPECT TO THE FLAG

INFORMATION SOURCES

RECOGNIZING MILITARY RANK

OFFICERS

O-1	O-2	O-3	O-4	O-5	O-6	O-7	O-8	O-9	O-10	SPECIAL
SECOND LIEUTENANT (GOLD)	FIRST LIEUTENANT	CAPTAIN	MAJOR (GOLD)	LIEUTENANT COLONEL	COLONEL	BRIGADIER GENERAL	MAJOR GENERAL	LIEUTENANT GENERAL	GENERAL	GENERAL OF THE ARMY

WARRANT

W-1	W-2	W-3	W-4	W-5
WARRANT OFFICER	CHIEF WARRANT OFFICER	CHIEF WARRANT OFFICER	CHIEF WARRANT OFFICER	MASTER WARRANT OFFICER

ENLISTED

E-1	E-2	E-3	E-4	E-5	E-6	E-7	E-8	E-9	
(NO INSIGNIA) PRIVATE									
PRIVATE	PRIVATE	PRIVATE FIRST CLASS	CORPORAL	SERGEANT	STAFF SERGEANT	SERGEANT FIRST CLASS	FIRST SERGEANT	COMMAND SERGEANT MAJOR	SERGEANT MAJOR OF THE ARMY
			SPECIALIST 4				MASTER SERGEANT	SERGEANT MAJOR	

- the Civilian Employee Bulletin
- Activity official bulletin boards
- the Lamp

You should review all pamphlets and brochures you received when you completed the in-processing on your first duty day. These documents are important to you and your family, and should be kept in a secure place with other important personal records.

It is important for you to know the rank of Army personnel. A guide of officer and enlisted insignia of rank is provided on the following page.

Keep this manual with your permanent records. As situations occur and you make job decisions, this handbook will be a continuing source of information. If after careful reading, you still have questions or need more information, ask your supervisor or inquire at the CPAC.

RETAINING INFORMATION

MILITARY INSIGNIA

FINAL NOTE

DEPARTMENT OF THE ARMY
HEADQUARTERS
U.S. ARMY COMBINED ARMS CENTER AND FORT LEAVENWORTH
Fort Leavenworth, Kansas 66027-5000

CALC & FT UVR Pamphlet
No. 640-4

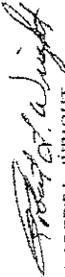
1 September 1997

Civilian Personnel
EMPLOYMENT HANDBOOK

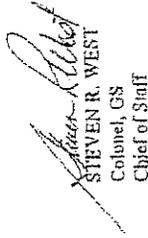
The proponent agency of this pamphlet is the Civilian Personnel Advisory Center. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Commander, U.S. Army Combined Arms Center and Fort Leavenworth, ATTN: ATZL-GCP, Fort Leavenworth, KS 66027-1361.

FOR THE COMMANDER:

OFFICIAL:


ROBERT L. WRIGHT

Director, Directorate of
Information Management


STEVEN R. WEST
Colonel, GS
Chief of Staff

DISTRIBUTION:

- E 600 - ATZL-GCP
- 400 - ATZL-JMM-AP
- 5 - ATZL-SWS-L

ATZL-CG

23 September 2010

MEMORANDUM FOR COL [REDACTED] Director, Department of Distance Education, US Army Command & General Staff College, Fort Leavenworth, KS 66027

SUBJECT: Appointment as Investigating Officer under Army Regulation (AR) 15-6 for Whistleblower Investigation – Department of the Army, Directorate of Logistics/Directorate of Public Works (DOL/DPW), Fort Leavenworth, Kansas – (Office of Special Counsel File Number DI-10-3098)

1. References.

a. Secretary of the Army memorandum, September 7, 2010, subject: Whistleblower Investigation – Department of the Army, Directorate of Logistics/Directorate of Public Works (DOL/DPW), Fort Leavenworth, Kansas - (Office of Special Counsel File Number DI-10-3098).

b. U.S. Office of Special Counsel Letter, August 17, 2010, subject: OSC File No. DI-10-3098.

2. You are appointed as an investigating officer to conduct an informal investigation pursuant to Army Regulation 15-6 into the circumstances surrounding the alleged misconduct by Fort Leavenworth DOL/DPW employees engaging in conduct that may constitute a violation of law, rule, or regulation. The Office of Special Counsel (OSC) referred allegations made by a whistleblower, Mr. Phillip Nelson, that DOL/DPW employees have engaged in gambling activities on Fort Leavenworth property during duty hours, and that DOL/DPW management is aware of, and has permitted, these activities. He alleged that for the last two years, during the 2008 and 2009 professional football seasons, numerous employees participated in a football pool on a weekly basis. Further, Mr. Nelson alleged that [REDACTED] a DOL/DPW employee, coordinated the pools and used his government-owned vehicle to distribute the betting sheets and to collect money from participating employees. Further, Mr. Nelson alleged that the names of the weekly winners were displayed on a piece of paper placed on a desk in the DPW Electrical Shop. Also, Mr. Nelson alleged that DOL/DPW managers, including his supervisor, [REDACTED] have permitted these football pools. Thus, Mr. Nelson contends that these activities violate 5 CFR section 735.201 that prohibits federal employees, while on Government-owned or leased property or on duty for the Government, from conducting or participating in any gambling activity, including conducting a lottery or pool, a game for money or property, or selling or purchasing a numbers slip or ticket.

3. The purpose of your investigation is to determine the validity of the whistleblower's allegations and make findings concerning whether any wrongdoing occurred, and if so, by whom, and whether adequate policies and procedures are in place to preclude any

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SUBJECT: Appointment as Investigating Officer under Army Regulation (AR) 15-6 for Whistleblower Investigation – Department of the Army, Directorate of Logistics/Directorate of Public Works (DOL/DPW), Fort Leavenworth, Kansas – (Office of Special Counsel File Number DI-10-3098)

recurrence of any improprieties, irregularities, or misconduct disclosed during your inquiry.

4. In conducting your investigation, you will consider the evidence of witnesses, the materials contained in the reference (enclosed), and any other materials that you consider relevant. At a minimum, you are to make detailed findings and recommendations regarding the following:

a. Whether DOL/DPW employees engaged in gambling activities on Fort Leavenworth property during duty hours in violation of 5 C.F.R. § 735.201. Specifically, whether DOL/DPW employees participated in a football pool where cash was collected and cash prizes were distributed during the 2008 and 2009 professional football seasons.

b. If said conduct did occur, you are to determine:

1) Who was involved, either actively or passively, in the alleged misconduct.

2) Whether this conduct was condoned, consented to, or otherwise supported by the leadership or supervisors of the DOL/DPW employees or from other organizations. If so, then provide the names and circumstances surrounding their involvement.

3) Whether there was a misuse or abuse of a government vehicle and/or a misuse of other government resources.

5. In your investigation you are not limited to the issues and questions listed above. You will investigate any relevant and related matters that you may discover that fall under the areas for investigation described above. You are advised not to investigate matters that do not fall within the areas for investigation described above. If you are in doubt about the relevance of a matter, you will consult your legal advisor, CPT [REDACTED] at [REDACTED]

6. Your investigation will use the informal procedures under AR 15-6. To the fullest extent possible, all witness statements will be sworn and reduced to writing. You will interview all witnesses in person, if practical. You should contact those witnesses you consider relevant during the course of your investigation. You will utilize DA Form 2823 for all sworn statements. Caution all individuals that they must not discuss the subject matter of the investigation with anyone other than a properly detailed investigator.

7. If, in the course of your investigation, you suspect wrongdoing or neglect on the part of a person senior to you, inform me so that a new investigating officer may be appointed. As an Investigating Officer, you may not, absent military exigency,

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investigate someone senior to you.

8. From the evidence, you will make findings as to the above issues and recommendations that are based upon your findings. Reference your analysis and findings to the specific evidence upon which you rely. Recommend remedial measures, to include any corrective and personnel or disciplinary actions you deem appropriate, if any. You may also recommend any necessary management actions to preclude a recurrence of any founded misconduct or identified systemic problems. If you find the evidence you collect has internal inconsistencies or conflicts, state what you believe to be inconsistent or in conflict and why. If any question asked solicits an answer that requires a follow up question and answer, ensure that you have pursued those questions in order to fully develop the record evidence.

9. In your investigation, you will make such findings as are relevant and supported by the facts. You will also make such recommendations as are appropriate and are supported by the facts. In compiling your report of investigation, consider carefully that information contained therein will be subject to public disclosure and release.

10. If in the course of your investigation you come to suspect that a person subject to the Uniform Code of Military Justice (UCMJ) has violated the UCMJ or some other criminal law, you will advise that person of his or her rights under Article 31, UCMJ or the Fifth Amendment of the United States Constitution, as appropriate. Additionally, you may have to provide certain witnesses Privacy Act statements before soliciting personal information.

11. During the course of your investigation, you may find it necessary to interview civilian employees. **Federal civilian employees have certain representational rights that active-duty personnel do not have.** Generally speaking, civilian employees are required to cooperate with official investigations. There are some exceptions:

a. Civilian employees who are members of a bargaining unit have a right to union representation at any interview with management if they "reasonably believe" that the interview could result in a disciplinary action against them. You must observe appropriate union notice requirements prior to interviewing any bargaining unit employees. Should a bargaining unit employee seek to invoke this right, you have no obligation to arrange representation for the employee, only an obligation to permit the employee the opportunity to secure representation. **That witness is entitled to union representation, and you must either stop questioning or allow the union to attend.** Once you have scheduled any bargaining unit employees for an interview, contact your legal advisor for guidance in notifying the appropriate union representative. The Civilian Personnel Office can tell you whether any particular employee you wish to interview is a member of the bargaining unit.

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b. If you are interviewing a civilian witness about *somebody else*, before initiating questioning you must: (1) inform the interviewee why you are questioning him/her about someone else and who that person is (by name), and (2) assure the employee that no reprisal will take place if he/she refuses to answer, but that adverse action could be initiated based on their refusal to cooperate in a properly authorized investigation or inquiry. If the employee refuses to answer your questions, suspend the interview and contact your legal advisor.

c. Civilian employees, who reasonably believe information they provide during an official investigation may be used against them in a criminal prosecution, cannot be required to cooperate without a grant of immunity. Should any civilian employee you attempt to interview decline to cooperate for any reason, suspend the interview and seek guidance from your legal advisor on how to proceed.

If the matter you are investigating involves a grievance, a personnel practice or policy or other conditions of employment, you may be required to notify the union of any interviews you have scheduled with bargaining unit employees and afford the union the opportunity to be present. Check with your legal advisor to determine if this rule applies to your case and how to proceed if it does.

12. You have no authority to compel the cooperation of contractor employees. If you find it necessary to interview contractor employees, you must contact the contracting officer's representative for the applicable contract to request cooperation.

13. Because this is a whistleblower investigation, the whistleblower has certain rights. Specifically, he must be interviewed and afforded a meaningful opportunity to provide his oral testimony and to provide written documentation, if any, in support of his allegations. The whistleblower is Mr. Phillip Nelson, an Electrician with DOL/DPW, and he has consented to the release of his name.

14. Before beginning your investigation, you will receive a legal briefing from the Combined Arms Center and Fort Leavenworth Office of the Staff Judge Advocate Legal Office. Contact your legal advisor, CPT [REDACTED] Chief of Administrative Law at [REDACTED] or his supervisor, LTC [REDACTED] to schedule the briefing. You may consult the legal advisor at any time during the investigation and you will consult the legal advisor before warning any witness as a suspect and before putting your report in final form.

15. Submit your findings and recommendations on a DA Form 1574 (Report of Proceedings by Investigating Officer/Board of Officers), with all administrative enclosures and evidentiary exhibits tabbed and indexed. The enclosures will include all

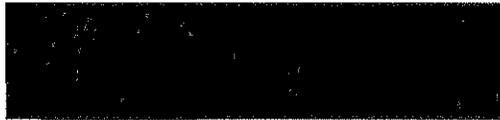
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SUBJECT: Appointment as Investigating Officer under Army Regulation (AR) 15-6 for Whistleblower Investigation – Department of the Army, Directorate of Logistics/Directorate of Public Works (DOL/DPW), Fort Leavenworth, Kansas – (Office of Special Counsel File Number DI-10-3098)

documentary materials considered by you. Make clear, concise, and specific findings of fact. The evidence contained in your investigation must directly support each finding you make, and you should specifically refer to each exhibit that supports that particular finding. Your recommendations must be consistent with your findings. Make two copies of your report of investigation (ROI) and staff the ROI through the CAC SJA prior to sending it to me. Additionally, along with your report of investigation, you will submit a draft final agency response describing any actions taken to address the allegations.

16. This duty takes precedence over your normal duties, TDY, and leave. You are directed to begin your investigation as soon as practicable. Submit your findings and recommendations by 25 October 2010.

FOR THE COMMANDER:



Encls
as

Colonel, GS
Chief of Staff