

ENCLOSURE 7

ENCLOSURE 8

TAB A

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Thursday, August 30, 2007 5:35 PM
To: 'Crouch, David P Mr USAGAPG'
Cc: 'Penhollow, David M Mr ARD 20TH SUPPORT COMMAND'; 'Swinson, Thomas R Mr ARD 20TH SUPPORT COMMAND'
Subject: RE: FOIA packet received 28 Aug. (UNCLASSIFIED)
Attachments: CPAC Resp Missing FOIA Docs.doc



CPAC Resp Missing
FOIA Docs.do...

Thank you for your patience, Mr. Crouch. The attached file addresses your response to Mr. Swinson's original request, as well as a few additional concerns created by a more thorough review of the FOIA package.

The problem with Mr. Swinson's e-mail has been fixed.

Victoria Kost-Swinson

-----Original Message-----

From: Crouch, David P Mr USAGAPG [mailto:David.P.Crouch@us.army.mil]
Sent: Wednesday, August 29, 2007 2:30 PM
To: Kost-Swinson, Victoria A.
Subject: FW: FOIA packet received 28 Aug. (UNCLASSIFIED)

I received failed mail from Tom's address. Also I will be sending your info through the FOIA process, but as noted you'll already get it from Mike's and hopefully we won't need to reschedule the date again with the COL..
dave

david.p.crouch@apg.army.mil
CPAC
410-278-8987

-----Original Message-----

From: Crouch, David P Mr USAGAPG
Sent: Wednesday, August 29, 2007 1:51 PM
To: 'Swinson, Thomas R Mr ARD 20TH SUPPORT COMMAND'
Cc: 'Lowe, Barrett F COL 20TH SUPPORT COMMAND (CBRNE)'; Crouch, David P Mr USAGAPG
Subject: RE: FOIA packet received 28 Aug. (UNCLASSIFIED)

The appointment of the officer is an assignment of work, a management reserved right, and has no basis in your grievance of the Commander's decision.

I was unaware of statements to which you refer. The information I received was from Cpt. Crisp the former 20th JAG. This information was not a part of the information provided to me to be used as the basis, supporting documentation for the proposal or decision affecting your discipline. You were given the information that I had which was used as the basis. Major Hyman's recommendations were not considered in any part of the proposal or decision.

I went to LTC Mingus and found that some of the statements do exist, but as I said were omitted from the charge and specification documentation. I obtained them from him. Of the seven documents noted only 4 were discovered. There are no statements from Mr. Armstead, Mr. Maddox, or Ms. Stitley. It is my opinion that out of the 4 statements, three support management's decision and one is neutral. In order for you to receive these documents under your FOIA request I will need to go through the FOIA process from the start OR I will be attaching this information to Mike's request which is now over at legal. If you do want these documents I will need to provide them to

Col.
Lowe as well.

The memo dated 22 June in your request and 15-6 is actually dated 20 June 2006. It involves Mr. Penhollow and another person's discipline. If legal permits its release then we can do either as mentioned in paragraph three to get the information to you. Again if I give it to you I will need to send to Col Lowe.

You do not have your rebuttal statement? If you trully don't then I will send it to you, but not as a part of the FOIA. (It would be my administrative error, but I wouldn't want you to have to delay again when the information is what you had supplied). This will also be in Mike's package. I have already provided it to Col. Lowe.

I don't see the e-mail reference in Mr. Budzinski's statement as you mentioned. Mr. Bauld's statement concerning the e-mail is not in the package and I'll be happy to tell Col. Lowe.

Please advise as to how I should proceed.

Thanks
Dave

david.p.crouch@apg.army.mil
CPAC
410-278-8987

-----Original Message-----

From: Swinson, Thomas R Mr ARD 20TH SUPPORT COMMAND [mailto:thomas.swinson@us.army.mil]
Sent: Wednesday, August 29, 2007 8:52 AM
To: Crouch, David P. NECPAC
Cc: Swinson, Thomas R Mr ARD 20TH SUPPORT COMMAND
Subject: FOIA packet received 28 Aug. (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Mr. Crouch,
After reviewing the packet I noticed that it did not include the investigating officers appointment orders and the following statements from Ms. Lisa North, Mr. May, Mr. Martinez, Mr. Armstead, Mr. Maddox, Ms. Stitley, and Mr. Swinson's first interview statement from February 2007.

If they did not make statements or were not interviewed I would like something in writing stating that.

In the packet Mr. West's statement dated 18 January 2007 refers to a memo dated 22 June 2006. This memo was not in the packet and I will need it.

Mr. Budzinski and Major Bauld's statements reference E-mail messages I sent. These messages were not in this packet. I will need them.

At this point in time my rebuttal statement should have been included also to make this packet complete.

I hope you can locate this information ASAP, This information is necessary to reference and complete my grievance packet.

Mr. Thomas R. Swinson
Classification: UNCLASSIFIED
Caveats: NONE

I spoke with Messrs Penhollow and Swinson at length yesterday. As explained below, we still request all of the information listed below.

We appreciate your assistance in this matter.

-----Original Message-----

From: Crouch, David P Mr USAGAPG
Sent: Wednesday, August 29, 2007 1:51 PM
To: 'Swinson, Thomas R Mr ARD 20TH SUPPORT COMMAND'
Cc: 'Lowe, Barrett F COL 20TH SUPPORT COMMAND (CBRNE)'; Crouch, David P Mr USAGAPG
Subject: RE: FOIA packet received 28 Aug. (UNCLASSIFIED)

1. The appointment of the officer is an assignment of work, a management reserved right, and has no basis in your grievance of the Commander's decision.

Whether your assessment is correct or not, providing or withholding this document is not your call to make. The FOIA request asked for "...access to the following federal agency records: all documentation collected and/or generated as part of the 15-6 investigation into allegations of misconduct against Mr. Swinson, et al."

AR 15-6 requires a report of the proceedings. Paragraph 3-14. b. requires that, "In an informal investigation or board, the report will be written unless the appointing authority has authorized an oral report. Every report will include findings and, unless the instructions of the appointing authority indicate otherwise, recommendations." Paragraph 3-15 provides the following further requirements: "In written reports, all significant letters and other papers that relate to administrative aspects of the investigation or board and that are not evidence will be numbered consecutively with roman numerals and made enclosures, including such items as these:

a. The memorandum of appointment or, if the appointment was oral, a summary by the investigating officer or board including date of appointment, identification of the appointing authority and of all persons appointed, purpose of the investigation or board, and any special instructions." MAJ Hyman stated in his report that he received a written appointment letter.

...
d. Written communications to or from the appointing authority.

...
f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered.

5 USC 7503(c) requires copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefore, and any order effecting the suspension, together with any supporting material, shall be maintained by the agency and shall be furnished to...the employee affected upon the employee's request.

2. I was unaware of statements to which you refer. The information I received was from Cpt. Crisp the former 20th JAG. This information was not a part of the information provided to me to be used as the basis, supporting documentation for the proposal or decision affecting your discipline. You were given the information that I had which was used as the basis.

I am not clear as to what statements you are referring above. Your comments below account for all of the documents requested.

Major Hyman's recommendations were not considered in any part of the proposal or decision.

This is irrelevant to the request for the missing information.

3. I went to LTC Mingus and found that some of the statements do exist, but as I said were omitted from the charge and specification documentation. I obtained them from him. Of the seven documents noted only 4 were discovered. There are no statements from Mr. Armstead, Mr. Maddox, or Ms. Stitley. It is my opinion that out of the 4 statements, three support management's decision and one is neutral.

Other than protected information, what these documents do or do not support is immaterial. Mr. Swinson has a statutory and regulatory right to obtain them through his original FOIA request, as described above.

In order for you to receive these documents under your FOIA request I will need to go through the FOIA process from the start OR I will be attaching this information to Mike's request which is now over at legal. If you do want these documents I will need to provide them to Col. Lowe as well.

We appreciate that you have already begun the FOIA process for some of this information (per your e-mail). My concern is that even if every piece of the requested information is in Mr. Penhollow's package, we will not receive it in enough time to provide us a reasonable review before 7 September. Though another delay is not ideal, being compelled to proceed with a formal grievance without being allowed to review all applicable information would be much worse.

4. The memo dated 22 June in your request and 15-6 is actually dated 20 June 2006. It involves Mr. Penhollow and another person's discipline. If legal permits its release then we can do either as mentioned in paragraph three to get the information to you. Again if I give it to you I will need to send to Col Lowe.

The same concerns noted above apply here.

5. You do not have your rebuttal statement? If you trully don't then I will send it to you, but not as a part of the FOIA. (It would be my administrative error, but I wouldn't want you to have to delay again when the information is what you had supplied). This will also be in Mike's package. I have already provided it to Col. Lowe.

Thank you for your concern. The rebuttal statement itself is not the actual issue. Mr. Swinson should have been clearer. CPOL guidance requires the commander write a memorandum for record following any oral rebuttal and provide that to the employee. Further CPOL guidance directs the employee be provided the Notice of Personnel Action with the final decision memorandum, or separately.

5 USC 7503(c) requires copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefore, and any order effecting the suspension, together with any supporting material, shall be maintained by the agency and shall be furnished to...the employee affected upon the employee's request.

Mr. Swinson erroneously assumed that all of the requisite proposed and final disciplinary action documentation would be co-located and that asking for the rebuttal statement would suffice to receive all of the information that was missing from the FOIA package. You provided Mr. Swinson the commander's Douglas Factors analysis upon his request on 28 August. What he does not have, was not in the FOIA

package and is requesting are the commander's MFR following the oral rebuttal and the NPA in conjunction with the Notice of Final Decision.

6. I don't see the e-mail reference in Mr. Budzinski's statement as you mentioned.

Again, Mr. Swinson misspoke. The e-mails to which he referred are the ones MAJ Hyman asserts in his findings and recommendations memorandum he used to "...support a conclusion that Mr. Swinson is at best a functional illiterate." Because MAJ Bauld discussed an e-mail provided by Mr. Budzinski and no other statement mentioned anything similar, Mr. Swinson assumed both e-mails MAJ Hyman stated in his findings and recommendations memorandum that he attached to said memorandum came from Mr. Budzinski. Regardless of the source, the e-mails are part of the investigation and Mr. Swinson has a statutory and regulatory right to obtain them through his original FOIA request, as described above.

Mr. Bauld's statement concerning the e-mail is not in the package and I'll be happy to tell Col. Lowe.

MAJ Bauld's statement begins on the 19th page of the FOIA package. The third answer on the first page reads: "A. Yes, Mr. Budzinski brought me a copy of an e-mail sent out by Mr. Swinson to all his employees that could have been construed as questionable due to the way that it was worded and that it was in all capital letters." His following answer addresses the same e-mail and Mr. Budzinski's insistence that it defines Mr. Swinson's writing abilities.

Please advise as to how I should proceed.

**Thanks
Dave**

**david.p.crouch@apg.army.mil
CPAC
410-278-8987**

Having had time to review the package, we have additional concerns.

MAJ Hyman's findings and recommendations memorandum referenced 33 enclosures (A-AG). Our package was missing exhibits A through E and M through P. We request those missing documents. We realize some of them are most likely the items we have already requested, but the findings memorandum did not include an exhibits listing to discern which exhibits were which.

His memorandum is dated 1 Feb 07. He interviewed the three accused in Mar 07. He departed the area on a permanent change of station move on 15 Mar 07. There are three statements dated 24 or 25 Apr 07. The investigation then, did not close until 25 April, at the earliest, more than a month after the appointed Investigating Officer departed. We request the appointment orders for the "new" Investigating Officer and the new or amended findings and recommendations memorandum. In accordance with the AR 15-6 reference in 1. above, we also request the documentation "Explan[ing] any unusual delays, difficulties, irregularities, or other problems encountered."

Thank you again for your patience and assistance.

Victoria Kost-Swinson

TAB B

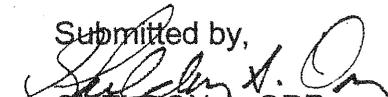
17 August 2007

MEMORANDUM FOR Mr. Tom Swinson

SUBJECT: Conversation with Ms. Lisa North

On or about late spring or early summer I had a conversation with Ms Lisa North concerning a situation between her and Mr. Swinson. Certain allegations had been levied against Mr. Tom Swinson by a third party that supposedly involved Mr. Swinson and Ms. North. Ms. North had never, nor did she ever want to file any charges against Mr. Swinson for the supposed transgression. Ms. North was very concerned because her Supervisor, Ms. Bess Jensen was trying to coerce Ms. North into changing her mind and submit a sexual harassment complaint against Mr. Swinson. Ms. North declined to submit such a complaint but was worried about repercussions from her Supervisor. This is the extent of my knowledge on this matter.

Submitted by,

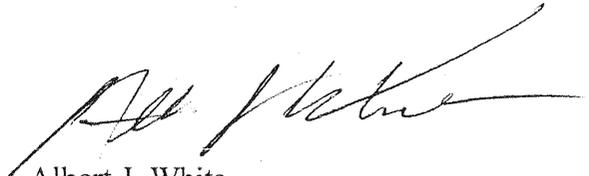


SHELDON A. ORR

TAB C

23 August 2007

I, Albert J. White, make the following statement: On 2 July 2007, I met LTC Patrick R. Terrell in the hallway of building 1942, at approximately 0900 hrs. He said to me, "I have your packet back from JAG, get with CPT Miller and make an appointment to see me tomorrow". Mr Swinson had his appointment with LTC Terrell at 1500 hrs, 2 July 2007, to present his rebuttal to his proposed punishment. I had already been convicted of his offense before he presented his rebuttal.

A handwritten signature in black ink, appearing to read 'Albert J. White', with a long, sweeping horizontal line extending to the right.

Albert J. White
Chief, Operation East



DEPARTMENT OF THE ARMY
22d CHEMICAL BATTALION (TECHNICAL ESCORT)
5183 BLACKHAWK ROAD, BLDG E1942
ABERDEEN PROVING GROUND, MARYLAND 21010-5424

AFCB-CFT-CO

3 JULY 2007

MEMORANDUM FOR Mr. Albert White, 22nd Chemical Battalion (Technical Escort), 5183 Blackhawk Road, Aberdeen Proving Ground, MD 21010

SUBJECT: Notice of Decision to Suspend

1. This is official notification of my decision, concerning your proposed fourteen (14) day suspension and reassignment for your failure to observe written regulations, orders, and/or procedures and for your negligence in the performance of your supervisory duties.
2. You were afforded fifteen (15) calendar days in which to reply orally, in writing, or both to the notice of proposed suspension, which you acknowledged receipt of on 31 May 2007. Your written reply, undated, was received by me on 4 June 2007. I have carefully considered the reasons contained in the proposal and your written reply, fully and impartially. I find the circumstances involving the charge of "failure to observe written regulations, orders, and/or procedures" is fully supported by a preponderance of the evidence, and is sustained. I sustain two of the specifications, for the charge of "negligence in the performance of your supervisory duties." Specifically, the specifications of allowing Mr. Swinson to be verbally abusive to employees and Mr. Penhollow to display a sheep sex doll in the workplace. I dismiss the third specification concerning the "two man rule."
3. In deciding the appropriate penalty, I have considered the factors listed in Douglas v. Veterans Administration, 5 MSPR 280 (1981). I believe a two (2) day suspension is the appropriate disciplinary action to correct your misconduct and promote the efficiency of the service.
4. Therefore, my decision is to suspend you from your position, without pay, for a period of two (2) days, effective 12 July 2007, for "failure to observe written regulations, orders, and/or procedures", and "negligence in the performance of your supervisory duties." You should return to duty and your position of record on 16 July 2007. A Standard Form 50, Notification of Personnel Action, effecting this action is forthcoming under separate correspondence. I must warn you that any subsequent misconduct may result in more serious disciplinary action up to and including your removal from Federal service.
5. I expect you to attend training which focuses on Supervisor/Employee communications within the next six (6) months. Your duties as a Certifying Official in PRP will remain suspended until such time as the Chain of Command is again satisfied with your reliability.

AFCB-CFT-CO

SUBJECT: Notice of Decision to Suspend

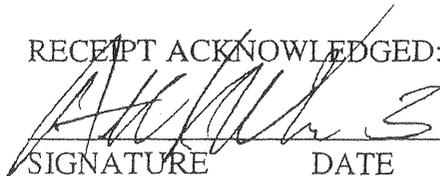
6. If you believe this personnel action discriminated against you on the basis of your race, color, religion, age, sex, physical or mental handicap, or national origin, you may file, within 45 days of the effective date of this action, a complaint of discrimination with the Equal Employment Opportunity Office, telephone 410-278-1100. You may not, however, file both a grievance and a complaint of discrimination. Should you elect to file a complaint of discrimination, your complaint will be processed in accordance with Equal Employment Opportunity Commission Regulations at Title 29 Code of Federal Regulations Section 1614.

7. You may grieve this suspension under the administrative grievance procedures found in DoD-1400.25-M, DoD Civilian Personnel Manual, Chapter 700, Subchapter 771, Administrative Grievance System. You have the right to represent yourself or seek assistance from a representative of your choosing in matters pertaining to this action. Copies of applicable regulations as well as the materials relied on in issuing this suspension is available to you and/or your representative for review through the Civilian Personnel Advisory Center (CPAC). If you require assistance or additional information concerning your procedural rights, you may consult with Mr. David Crouch, Civilian Personnel Advisory Center, 410-278-8987.

8. Please acknowledge receipt of this notice by affixing your signature and date in the designated space on the enclosed "Employee Receipt Acknowledgement Copy" of this memorandum and returning it to me. Acknowledgement in no way constitutes concurrence or non-concurrence with the contents.


PATRICK R. TERRELL
LTC, CM
Commanding

RECEIPT ACKNOWLEDGED:

 3 Jun 07
SIGNATURE DATE

ENCLOSURE 9



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY 20TH SUPPORT COMMAND
5183 BLACKHAWK ROAD
ABERDEEN PROVING GROUND MD 21010-5424

AFCB-DCO

NOV 26 2007

MEMORANDUM FOR RECORD

SUBJECT: Designated Grievance Receiver Decision Regarding Thomas R. Swinson
Grievance

1. As the Designated Grievance Receiver for Mr. Thomas R. Swinson's formal grievance dated 16 October 2007, I have reviewed the investigation and grievance materials provided by Diane J. Smith, Director, Civilian Advisory Center, Aberdeen Proving Grounds. I find as follows:

a. The Investigating Officer (IO) did not conduct a model investigation. His questions were sometimes suggestive or imprecisely focused. However, I find no investigatory errors or practices that materially prejudiced any substantial rights of Mr. Swinson. Even discounting the questionable aspects of the IO's interviews, the remaining evidence is sufficient to arrive at the findings below.

b. 5 USC 7701, cited as an authority for the grievance in Mr. Swinson's memorandum, is inapplicable to this review. 5 USC 7701 deals with appeals to the U.S. Merit System Protection Board.

c. LTC Terrell substantiated findings of "threatening or attempting bodily harm without bodily contact" and "use of abusive or offensive language, gestures, or similar conduct". The basis for these charges were words to the effect of "get the keys or I could break your legs" made to Mr. Ray Baldeo, and routine use of profanity and the term "crackheads", respectively. No witness statements or IO findings regarding any other possible supervisory misconduct were considered in this grievance review.

c. The overall information elicited through the numerous employee interviews substantiates Mr. Swinson's use of vulgar and offensive language under a preponderance of the evidence standard. Multiple employees stated that they personally heard Mr. Swinson use foul and/or offensive language towards themselves or others. Mr. Swinson admitted that he did refer to employees as "crackheads", but only as a term of endearment.

d. The finding of "threatening or attempting bodily harm without bodily contact" was improper. The comment that constituted this purported threat, words to the effect of "get the keys or I could break your legs", was made to Mr. Ray Baldeo in the presence of other employees. Taken in context, it is possible that this comment was made in jest; at the very least the comment does not seem to express an actual present determination to injure Mr. Baldeo. This comment is more properly described as offensive; the evidence is insufficient to substantiate it as an actual threat within the

meaning of the charge. While not a threat, the comment fits the pattern of offensive language identified in subparagraph (c), above.

2. The five (5) day suspension issued by LTC Terrell is reduced to three (3) days to reflect the findings above.

A handwritten signature in cursive script, reading "Barrett F. Lowe". The signature is written in black ink and is positioned above the printed name.

BARRETT F. LOWE
COL, IN
Deputy Commander

ENCLOSURE 10

15 August 2008

MEMORANDUM FOR RECORD

SUBJECT: OSC Form 11, Questions 13 and 14; Prohibited Personnel Practices Involving Thomas R. Swinson

1. The purpose of this memorandum is to relay prohibited personnel practices taken against me pursuant to an Article 15-6 investigation conducted between 17 Jan and 31 May 07 (Tab B to Enclosure 6, Exhibit 1). I continue to be subjected to ongoing prohibited practices, primarily in the form of a detail to which I was assigned for 19 months, 12 of which were in unevaluated duties.

2. I am a 25-year veteran of the CBRNE Analytical and Remediation Activity, and its predecessor organizations. On 17 Jan 07 I was removed from my WS-14 position and placed on a detail to unevaluated duties pending the outcome of an Article 15-6 investigation (Tab A to Enclosure 5, Exhibit 1). I was not told at that time what the allegations against me were. The Investigating Officer, MAJ Wayne Hyman treated it as an adversarial process with a foregone conclusion from the onset. Following the investigation, the Deputy to the Commander, Ms. Charlene Jensen (YC-301-03), proposed a 14-day suspension without pay. Following my rebuttal, the Battalion Commander, LTC Patrick Terrell, imposed a five-day suspension. The Designated Grievance Receiver (Deputy Commander, 20th Support Command), COL Barrett Lowe, reduced it to a three-day suspension.

3. With the exception of references to COL Lowe's actions, all of the information concerning the investigation discussed below was presented as part of the grievance I presented to COL Lowe. I have left the information in its original format, referenced it in that format and included that grievance package as Exhibit 1. Exhibit 2 contains the information pertinent to actions begun during the investigation but not ended following either the completion of my suspension or COL Lowe's final decision.

4. 5 USC 2302(b)(2) states "Any employee who has authority to take, direct others to take, recommend or approve any personnel action, shall not, with respect to such authority...solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on personal knowledge or records of the individual providing it."

a. As discussed in Enclosure 2 to Exhibit 1, MAJ Hyman's frequent solicitation of exactly such information was in direct violation of this requirement.

b. Tab B to Enclosure 8, Exhibit 1 contains evidence that shows the then-Deputy to the Commander, 22nd Chemical Battalion (TE), Ms Jensen, attempted to coerce testimony from a subordinate employee who had already provided a witness statement.

15 August 2008

SUBJECT: OSC Form 11, Questions 13 and 14; Prohibited Personnel Practices Involving Thomas R. Swinson

c. Despite her access to official records and other documents that could refute some of the allegations, Ms. Charlene Jensen, relied heavily upon this type of unsubstantiated information in the Notice of Proposed Actions and Notice of Final Decision, as direct quotation in several places. COL Lowe's finding that two of the three allegations for which Ms. Jensen punished me were unfounded and that there was essentially no record evidence to support the third allegation attest to her unquestioned consideration and acceptance of the biased and incomplete information presented in many of MAJ Hyman's witness statements

5. 5 USC 2302(b)(12) states that it is a prohibited practice to "...take or fail to take any other personnel action if taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 or this title." 5 USC 2301(b)(2) states, "All employees...should receive fair and equitable treatment in all aspects of personnel management without regard to ...race, color...sex, age,...and with proper regard for their privacy and constitutional rights."

6. Enclosure 2, Exhibit 1 provides an analysis of the threat allegation in accordance with the Metz factors. In short, the proper evaluation of the information gathered with regards to me making a threat shows that the decision to sustain that threat is not in accordance with law.

7. The expansive and extensive investigation and punitive disciplinary action I received as a result were not equitable to the actions LTC Terrell took with respect to other supervisors and senior personnel committing the same or similar offenses during his command.

a. It is common knowledge in the battalion that an EEO complaint was filed against 1SG Davidson and he was found guilty of making a racial slur against one of his subordinates. Neither he nor his commander was temporarily removed from his position during the investigation into his use of offensive language. The only action taken against the 1SG was a local letter of reprimand. In fact, after questioning the First Sergeant's ability to be a role model after such an incident, LTC Terrell made it very clear that the reprimand was administrative in nature, not punitive. 1SG Davidson was awarded an MSM upon departure from the unit.

b. No formal complaint was ever made reference my alleged offensive language and the record shows that: 1) when people told me my word choices offended them I stopped using it around them; 2) the language was never directed at subordinates and peers; and 3) most of the employees interpreted and appreciated my use of nicknames as a morale/camaraderie tool. Despite the record, my commander was temporarily removed from his position, I was ultimately suspended for three days, and to date I have I have not been allowed to return to my position.

15 August 2008

SUBJECT: OSC Form 11, Questions 13 and 14; Prohibited Personnel Practices Involving Thomas R. Swinson

c. The record also shows members of the battalion staff, military and civilian regularly used the same type of language during staff meetings and in personal conversations in the headquarters building without any repercussion.

8. Substantial substantive and procedural error prejudiced my rights and LTC Terrell's decision. Because much of the process failures were caused by prohibited personnel practices, Ms. Jensen's initial decision, LTC Terrell's decision after my rebuttal, and COL Lowe's decision on my grievance were based on prohibited personnel practices.

a. As established in Enclosure 1 to Exhibit 1, MAJ Hyman's conduct of his fact finding was in gross violation of my constitutional rights, as was LTC Terrell's failure to remain impartial in his evaluation of all of the evidence. Enclosure 2 to Exhibit 2 further describes the elements of MAJ Hyman's investigatory conduct that violated UCMJ and civilian personnel regulations.

b. Enclosure 1 to Exhibit 1 contains a detailed discussion of statutory and regulatory substantive due process requirements for AR 15-6 proceedings and civilian adverse personnel actions. In short, the investigating officer's conduct during the investigation was so egregious and procedural due process violated so much that I could not possibly have received a fair evaluation of the allegations or disposition thereof. As a result, in accordance with AR 15-6 paragraph 2-3.c.(3)(c), the appointing authority may not use the affected part of the investigation as the basis for adverse action; no part of the investigation was unaffected by the substantive process failures.

c. Significant harmful errors led to decisions and disciplinary actions that would not have occurred had the investigation and handling of the information obtained been accomplished in accordance with statutory and regulatory requirements. This is most obvious in LTC Terrell's upholding of and disciplinary action in response to a charge not supported by law (addressed in paragraph 6 above, discussed in Enclosure 2, Exhibit 1).

d. It is worth noting that I did not receive my Douglas Factors analysis until I received my FOIA packet, 28 Aug 07, and the form demonstrates clearly a lack of concern for the proper handling and disposition of my case—it states it's evaluating me reference a proposed removal action; however, I was never being considered for removal, a fellow supervisor was. Not only was I denied the opportunity to rebut the information used to determine my disciplinary action, but the technical incorrectness of the basic data raises doubts as to the accuracy of the analysis as a whole and the commander's approach in preparing it.

e. It also bears noting that LTC Terrell had already established my guilt before receiving and reviewing my rebuttal of the Notice of Proposed Actions—his lack of impartiality denied me my right to a pre-decisional opportunity to tell my side of the story. Tab C to Enclosure 8, Exhibit 1 provides a record documentation that LTC Terrell punished

15 August 2008

SUBJECT: OSC Form 11, Questions 13 and 14; Prohibited Personnel Practices Involving Thomas R. Swinson

my supervisor, Mr. Al White, for my actions before I presented my written and oral rebuttal. To punish him for his supervisory responsibility for my alleged misconduct, LTC Terrell had to have already decided that I was guilty and the extent to which I should be punished—that is the only way he could impose an appropriate disciplinary action on my supervisor.

9. Ms. Jensen's attempt to coerce testimony (discussed in 4b above) is in direct violation of my right to a fair and impartial investigation during which no one interferes with or attempts to influence or alter the testimony of a witness or participant. This right is derived from the fact that Item 19b in the Table of Penalties states it is punitive misconduct to interfere with, attempt to influence or attempt to alter testimony of a witness or participant (AR 690-700, Chapter 751, Table 1-1).

10. LTC Terrell, Ms. Jensen and MAJ Hyman also had a regulatory obligation to protect my right that no one can knowingly make false or malicious statements against an employee with the effect of harming or destroying his reputation, authority or official standing in the organization. This right is derived from Item 10c in the Table of Penalties, which makes it a punitive offense to knowingly make false or malicious statements against co-workers, supervisors, subordinates or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization (AR 690-700, Chapter 751, Table 1-1). Allowing unsubstantiated hearsay and inflammatory, extremely subjective accusations to go unchallenged and unsupported by further, more comprehensive and impartial investigation and analysis deprived me of that protection. In fact, their actions and disciplinary decisions exacerbated the impacts by legitimizing the false, malevolent accusations, which were ultimately largely disproved when thorough, objective information was provided to COL Lowe.

11. As described in Enclosure 3 to Exhibit 2, Ms. Jensen's actions with respect to my lengthy detailed status were prohibited practices in that they amounted to mismanagement of my skills and experience as a Government resource and had the effect of making the detail punitive in nature.

12. My personal representative in this matter is Ms. Victoria Kost; 132 Talton Drive, Delta, PA 17314; (h) 717-456-5883; (w) 443-402-9293.

13. Thank you for your consideration in this matter.

2 encls

Exhibit 1 – Original

Documentation

Exhibit 2 – Additional

Documentation

Thomas R. Swinson

EXHIBIT 3

ENCLOSURE 1

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Wednesday, July 11, 2007 2:59 PM
To: 'david.m.penhollow@us.army.mil'
Subject: FW: Information as Requested (UNCLASSIFIED)

From: Stephens, Darryl MAJ MIL USA OTIG [mailto:Darryl.Stephens@us.army.mil]
Sent: Tuesday, July 10, 2007 5:04 PM
To: Kost-Swinson, Victoria A.
Subject: RE: Information as Requested (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Thank You

You will hear from me within the week regarding this issue.

MAJ S

From: Kost-Swinson, Victoria A. [mailto:VICTORIA.A.KOST-SWINSON@saic.com]
Sent: Tuesday, July 10, 2007 4:22 PM
To: Stephens, Darryl MAJ MIL USA OTIG
Subject: Information as Requested
Importance: High

MAJ Stephens,

I apologize for the delay. Per the telephone conversation circa 1245 this afternoon with you, me, Mr. Penhollow, Mr. Swinson and Mr. White, I respectfully request to initiate an IG complaint concerning LTC Patrick Terrell, currently at Aberdeen Proving Grounds, MD, but slated to PCS to Fort Leonard Wood, MO, in mid Jul 07. The attachment provides initial information reference concerns with how he handled an AR 15-6 investigation into allegations against Mssrs. Penhollow, Swinson and White.

Per our phone conversation later this afternoon, as I said, I am Mr. Swinson's wife and his designated personal representative. I served in the military for 17 years and have known all three of these men for 15 or more years. As a member of the unit in the early 90s, I have worked with all three of them as well. Mr. Penhollow and Mr. White (I spoke with him after our last call) have asked me to be their personal representatives as well, based on our established bonds of trust, my knowledge of and experience with the organization, and my knowledge of and experience with the military.

Thank you very much for your time and attention in this matter.

Victoria Kost

5/7/2009

Classification: UNCLASSIFIED

Caveats: NONE

INSPECTOR GENERAL SENSITIVE INFORMATION

The information contained in this e-mail and any accompanying attachments may contain Inspector General sensitive information, which is protected from mandatory disclosure under the Freedom of Information Act (FOIA), 5 USC §552. Matters within IG records are often predecisional in nature and do not represent final approved DA policy. Dissemination is prohibited except as authorized under Army Regulation 20-1. Do not release outside of DA channels without prior authorization from The Inspector General. If you are not the intended recipient of this information, any disclosure, copying, distribution, or the taking of any action in reliance on this information is prohibited. If you received this e-mail in error, please notify us immediately by return e-mail.

5/7/2009

LTC Patrick Terrell exercised undue command influence in the conduct of a recently completed AR 15-6 investigation into allegations against Mssrs. David M. Penhollow, Thomas R. Swinson and Albert J. White. All three of the individuals are DA civilians. Furthermore, he failed to maintain impartiality and to provide due process for the accused.

The investigation itself was not approached as an IMPARTIAL search for the TRUTH and did not protect the accuseds' right to due process.

- The commander began the investigation by removing all three supervisors from their positions, forbidding them from having any contact with other members of their company and apologizing to the rest of the members of the company in which the accused work for their actions and the failure of the three previous commanders to do anything about it. How can there be due process when the commander responsible for the investigation fails to protect the accuseds' rights and declares his partiality as to their guilt from the outset?

- Everyone in the organization was not interviewed. Some of those individuals not questioned during the investigation later provided statements that refuted many of the complainants' allegations.

- The IO asked inflammatory questions, received the expected subjective emotional responses but failed to follow up with any questions requiring objective proof of the allegations (i.e., several said they didn't come forward earlier because they feared retribution, only twice did the IO ask why and he never asked for objective proof to substantiate the claims, nor did he ask for objective proof to refute the claim—have you received bad evaluations, have you been denied promotions or training?...)

- After receiving emotionally charged answers to questions, the IO did not ask for clarification of the basic elements—was there a reason you needed to be contacted, have there been communication problems in the past that impacted mission requirements? If you, another supervisor, knew it was bad, why didn't you take positive action...?

- The accused were not afforded the opportunity to understand or explain any of the alleged violations as part of the investigative process, let alone provide records and documents to refute them. They were asked to explain statements without any context in which to understand what was actually being asked. Essentially, their interviews/statements were used to induce them to incriminate themselves and they were not told that they had the right not to do that. One of the accused stopped the interview when he realized the IO was not only NOT writing down what he was saying the way he said it, but instead the IO was actually paraphrasing it in the IO's own perceptive window instead of capturing the accused's perspective (and the IO failed to maintain impartiality by using that approach). Another accused noted that the statement provided him in the review process was missing much of the conversation he had had with the IO and what was recorded was not always what he had actually said. Two of the individuals noted that they had been interviewed twice yet only one of their statements was part of the record.

- By the commander's admission in response to a Congressional inquiry made on behalf of one of the accused, the investigation was completed in Feb 07, yet nothing

was said to the accused, there was no official action on the case until 31 May. 31 May is also the date on LTC Terrell's response to the Congressman.

- The original IO was deployed after he submitted his results and no other IO was officially appointed, yet additional interviews were conducted in April and May and the Deputy to the Commander provided the memorandums of proposed disciplinary actions to the accused on 31 May.

The investigative process itself was used to construct evidence to support a predetermined conclusion.

- LTC Terrell's final decision on Mr. White was prepared, reviewed and sent from CPAC to the battalion on 29 Jun. It included disciplinary action for Mr. Swinson's bad language. Mr. Swinson did not present his rebuttal to the charges until 1500 on 2 Jul. LTC Terrell had already decided his guilt and Mr. White's responsibility for his actions before Mr. Swinson had presented matters in his defense.

- Based on what was provided to the accused as the statements considered when determining the resolution of the investigation:

- The commander used essentially fourth party hearsay to substantiate offenses (i.e., Mr. X told me that Mr. Y said someone told him something; to include information that could easily be disproved by the record of the "rumored" events)

- The commander used hearsay to substantiate offenses (i.e., Mr. X told me he saw this happen)

- The commander interpreted very loosely the facts in evidence to sustain his initial decisions (i.e., he had seen an allegedly offensive object on more than one occasion and said nothing at the time, as had several other command group members, higher headquarters leadership and a DAIG team; 5/7 witnesses did not state they were offended by the object and 1 witness didn't even know about the object, yet the final decision memo stated that the allegation was supported by a "preponderance of the evidence". The verbiage of one of the charges used a quotation from a witness statement to support the charge; however, that verbiage was NOT from the alleged victim's statement. That verbiage came from a statement that contradicted the alleged victim's account of the incident and was shown to be factually incorrect in almost everything stated. Another witness statement provided the context that the alleged victim and the other witness left out of their statements—it was very similar to the alleged victim's statement, to include the fact that a threat was never made. The alleged victim never stated he was threatened or even felt threatened, yet the commander upheld the charge.)

Pervasive command climate as supportive of and preferential to the military and suspect of civilians enabled this to happen.

The primary complainants, although civilians, are all recently retired soldiers and the commander still saw them as soldiers, he still trusted their word as senior NCOs over that of the civilian leadership:

- Investigating officer (IO) made a point of establishing the alleged victims' status as prior military and used that to establish their credibility and ability to pass very subjective judgment on others' supervisory abilities.

- None of the three accused were even asked about their military service, or about any other skills, experience and supervisory responsibilities that would establish their credibility to respond to the allegations or explain the difference in the complainants' perception and the realities of leadership (one of the primary complainants biggest complaints was that his supervisor was continually trying to maintain accountability of him).

- The commander chose to put full faith and confidence in the subjective and emotionally charged statements of individuals who had been in the unit no more than five years each and discount the word of men who had served in the unit for no less than 20 years each. He did this despite the fact that the accused used records, recent history not in question, objective facts, and additional statements from unit members who had not been interviewed during the investigation to provide objective rebuttal statements that discredited many of the witness statements, pointed out the contradictions among some of the witness statements, and negated any basis on which to charge for several of the allegations.

- Earlier in his command, a company 1SG was accused of making a racial slur. Both he and the company commander remained in the unit during the (much shorter) investigation. The 1SG received a local letter of reprimand. The commander received nothing in writing. Both individuals received awards when they PCSed. The three civilians have been recommended to receive punishments that will not only remain on their permanent record, but will also effectively eliminate their chances for career progression.

Kost-Swinson, Victoria A.

From: Stephens, Darryl MAJ MIL USA OTIG [darryl.stephens@us.army.mil]
Sent: Monday, August 06, 2007 9:08 AM
To: Kost-Swinson, Victoria A.
Subject: RE: Information as Requested (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Mrs. Krost-Swinson:

I just recently returned from two weeks vacation; please let me go through all of my emails.

MAJ S

From: Kost-Swinson, Victoria A. [mailto:VICTORIA.A.KOST-SWINSON@saic.com]
Sent: Tuesday, July 31, 2007 5:24 PM
To: Stephens, Darryl MAJ MIL USA OTIG
Subject: RE: Information as Requested (UNCLASSIFIED)

MAJ Stephens,

Do you need something more from us on this yet? It's been three weeks of silence. Understanding this is summer vacation time, the lengthy delay is still disconcerting. Thanks,

Victoria

From: Stephens, Darryl MAJ MIL USA OTIG [mailto:Darryl.Stephens@us.army.mil]
Sent: Tuesday, July 10, 2007 5:04 PM
To: Kost-Swinson, Victoria A.
Subject: RE: Information as Requested (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Thank You

You will hear from me within the week regarding this issue.

MAJ S

5/7/2009

Classification: UNCLASSIFIED

Caveats: NONE

INSPECTOR GENERAL SENSITIVE INFORMATION

The information contained in this e-mail and any accompanying attachments may contain Inspector General sensitive information, which is protected from mandatory disclosure under the Freedom of Information Act (FOIA), 5 USC §552. Matters within IG records are often predecisional in nature and do not represent final approved DA policy. Dissemination is prohibited except as authorized under Army Regulation 20-1. Do not release outside of DA channels without prior authorization from The Inspector General. If you are not the intended recipient of this information, any disclosure, copying, distribution, or the taking of any action in reliance on this information is prohibited. If you received this e-mail in error, please notify us immediately by return e-mail.

Classification: UNCLASSIFIED

Caveats: NONE

INSPECTOR GENERAL SENSITIVE INFORMATION

The information contained in this e-mail and any accompanying attachments may contain Inspector General sensitive information, which is protected from mandatory disclosure under the Freedom of Information Act (FOIA), 5 USC §552. Matters within IG records are often predecisional in nature and do not represent final approved DA policy. Dissemination is prohibited except as authorized under Army Regulation 20-1. Do not release outside of DA channels without prior authorization from The Inspector General. If you are not the intended recipient of this information, any disclosure, copying, distribution, or the taking of any action in reliance on this information is prohibited. If you received this e-mail in error, please notify us immediately by return e-mail.

Kost-Swinson, Victoria A.

From: Penhollow, David M Mr ARD 20TH SUPPORT COMMAND [david.m.penhollow@us.army.mil]
Sent: Tuesday, August 14, 2007 3:28 PM
To: 'darryl.stephens@ignet.army.mil'
Cc: Kost-Swinson, Victoria A.; White, Albert J Mr ARD 20TH SUPPORT COMMAND; Swinson, Thomas R Mr ARD 20TH SUPPORT COMMAND
Subject: Prohibited Practices Disclosure (1 of 2) (UNCLASSIFIED)
Signed By: david.m.penhollow@us.army.mil

Attachments: OSC-12 Penhollow Disclosure Information.doc; Penhollow Disclosure Memo With Signature.doc; Enclosure 4 - Position Description AG153575.doc; Enclosure 1 - 5 USC 5545.doc; Enclosure 2 - 5 CFR 550.904.pdf; Enclosure 3 - Time Sheets.doc



OSC-12 Penhollow
Disclosure In...



Penhollow
losure Memo With



Enclosure 4 -
Position Descrip...



Enclosure 1 - 5 USC
5545.doc



Enclosure 2 - 5 CFR
550.904.pd...



Enclosure 3 - Time
Sheets.doc

Classification:

UNCLASSIFIED
Caveats: NONE

MAJ Stephens,

Ms. Kost-Swinson briefed me, Mr. Swinson and Mr. White on the telephonic conversation she had with you on 13 Aug. She explained the importance of minimizing her direct contact with you and maximizing ours. Because I am the one with the most direct, first-hand knowledge of the alleged prohibited practices, she feels it best I serve as the POC for the disclosure submission to the Office of Special Counsel. I am also the one who initiated the research and information gathering, on behalf of the three of us, concerning this issue. So, per your instruction, I am providing you the OSC-12 and supporting documentation for submission to the OSC for action and to the DAIG as additional material in the matter we have already presented you. I will also send a hardcopy of the information directly to the Office of Special Counsel.

Please note that a copy of this disclosure submission is being sent to Congressman Ruppenger, Second District, Maryland. As we told you in our initial phone conversation, Mr. White submitted a Congressional request to Congressman Ruppenger in May 07 seeking redress of numerous concerns with the then-ongoing investigation. Though we received our notices that the investigation was complete on the very same day LTC Terrell signed the response to the Congressional request, the Commander's response to the request did not address all of Mr. White's concerns. He is forwarding this information to keep his Congressman informed of the ongoing situation with one of his constituents. He is not seeking action from his Congressman at this point.

Because of the size of the complete submission, I have broken it into two messages.

Thank you for your assistance in this matter,
David M. Penhollow

Classification: UNCLASSIFIED
Caveats: NONE

Kost-Swinson, Victoria A.

From: Penhollow, David M Mr ARD 20TH SUPPORT COMMAND [david.m.penhollow@us.army.mil]
ent: Tuesday, August 14, 2007 3:30 PM
.o: 'darryl.stephens@ignet.army.mil'
Cc: Kost-Swinson, Victoria A.; White, Albert J Mr ARD 20TH SUPPORT COMMAND; Swinson, Thomas R Mr ARD 20TH SUPPORT COMMAND
Subject: Prohibited Practices Dicsclosure (2 of 2) (UNCLASSIFIED)

Attachments: Enclosure 9 - Memo to Commander, USA Garrison APG re Hazard Pay Situation (DRAFT).doc; Enclosure 5 - Matter of Ralph Von Dane..pdf; Enclosure 6 - Matter of Leroy J. Pletten.pdf; Enclosure 7 - 2007 GS Pay Schedules.doc; Enclosure 8 - Memo to Commander, 22nd Cm re Pay Differential.doc



Enclosure 9 - Memo to Commande...



Enclosure 5 - Matter of Ralph ...



Enclosure 6 - Matter of Leroy ...



Enclosure 7 - 2007 GS Pay Sche...



Enclosure 8 - Memo to Commande...

Classification: UNCLASSIFIED

Caveats: NONE

MAJ Stephens,

This is the second half of the enclosures.

Thank you,
David M. Penhollow

Classification: UNCLASSIFIED

Caveats: NONE

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Friday, August 17, 2007 1:30 PM
To: 'Penhollow, David M Mr ARD 20TH SUPPORT COMMAND'
Subject: DAIG

Mike,

You may want to send a note to MAJ Stephens. It's been a week, has he had a chance to look at the latest information? What's the status of the first information we sent in? What else does he need? I also need you to write a statement re what Lisa told you about the phone call she received. The reason I need it written down is to keep it from being considered hearsay—her lips to your ears v he told me that she told him.

Victoria A. Kost-Swinson
Senior Management Analyst
Science Applications International Corporation (SAIC)
3465A Box Hill Corporate Center Drive
Abingdon, MD 21009-1201
tel: 443.402.9293 fax: 443.402.9786
victoria.a.kost-swinson@saic.com

Kost-Swinson, Victoria A.

From: Penhollow, David M Mr ARD 20TH SUPPORT COMMAND [david.m.penhollow@us.army.mil]
Sent: Monday, August 20, 2007 3:01 PM
To: 'darryl.stephens@ignet.army.mil'
Cc: Kost-Swinson, Victoria A.; Swinson, Thomas R Mr ARD 20TH SUPPORT COMMAND
Subject: Information Up-Date (UNCLASSIFIED)
Signed By: david.m.penhollow@us.army.mil

Classification: UNCLASSIFIED
Caveats: NONE

MAJ. Stephens,
Have you had a chance to look at the latest information I sent you?

What is the status of the first information we sent?

And is there anything else you need?

David M. Penhollow
Classification: UNCLASSIFIED
Caveats: NONE

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Wednesday, August 22, 2007 2:20 PM
To: 'Penhollow, David M Mr ARD 20TH SUPPORT COMMAND'
Subject: MAJ Stephen's Contact Information

703.601.1089

You have substantive evidence that shows Ms. Jensen, the then-Deputy to the Commander, tried to interfere with the conduct of an official investigation by coercing a witness to file a false official statement. It is supported by firsthand information and will be further supported by the statement the witness made during the investigation... once we receive the material from the FOIA request. We know the statement should be there because the witness has already stated that she made a statement during the investigation and did not wish to make another one.

What is the best way to proceed with this information in terms of speed and outcome? Will the finding of this statutory violation on behalf of the official who made the final disciplinary recommendations to the commander and who is currently the official to decide whether or not to reinstate or permanently disqualify you from the PRP, in conjunction with the commander's use of undue command influence, be enough to set aside the results of the investigation and all of the follow-on actions?

You are asking him because there is no resource available to you on APG to seek guidance in this matter.

Victoria A. Kost-Swinson
Senior Management Analyst
Science Applications International Corporation (SAIC)
3465A Box Hill Corporate Center Drive
Abingdon, MD 21009-1201
tel: 443.402.9293 fax: 443.402.9786
victoria.a.kost-swinson@saic.com

Kost-Swinson, Victoria A.

From: Penhollow, David M Mr ARD 20TH SUPPORT COMMAND [david.m.penhollow@us.army.mil]
Sent: Tuesday, September 18, 2007 9:00 AM
To: Kost-Swinson, Victoria A.; Swinson, Thomas R Mr ARD 20TH SUPPORT COMMAND; White, Albert J Mr ARD 20TH SUPPORT COMMAND
Subject: FW: Prohibited Practices Disclosure (1 of 2) (UNCLASSIFIED)
Signed By: david.m.penhollow@us.army.mil

Importance: High

Classification: UNCLASSIFIED
Caveats: NONE

-----Original Message-----

From: Penhollow, David M Mr ARD 20TH SUPPORT COMMAND
Sent: Tuesday, September 18, 2007 8:59 AM
To: 'Flood, Edward'
Subject: FW: Prohibited Practices Disclosure (1 of 2) (UNCLASSIFIED)
Importance: High

Classification: UNCLASSIFIED
Caveats: NONE

Mr. Flood,
No, I haven't received any calls from the Army Office of Inspector General nor have I talked to anyone from that office.

David M. Penhollow

-----Original Message-----

From: Flood, Edward [mailto:eflood@osc.gov]
Sent: Tuesday, September 18, 2007 7:24 AM
To: Penhollow, David M Mr ARD 20TH SUPPORT COMMAND
Subject: FW: Prohibited Practices Disclosure (1 of 2) (UNCLASSIFIED)
Importance: High

Please respond.

-----Original Message-----

From: Flood, Edward
Sent: Friday, September 14, 2007 3:58 PM
To: 'Penhollow, David M Mr ARD 20TH SUPPORT COMMAND'
Subject: RE: Prohibited Practices Disclosure (1 of 2) (UNCLASSIFIED)

Mr. Penhollow --

Just to confirm, you have not heard anything from the Army Office of Inspector General in response to your letter (August 2007), correct?

May have additional, quick questions...

Thanks,
/s/

-----Original Message-----

From: Penhollow, David M Mr ARD 20TH SUPPORT COMMAND [mailto:david.m.penhollow@us.army.mil]
Sent: Wednesday, September 05, 2007 12:50 PM
To: Flood, Edward
Subject: FW: Prohibited Practices Disclosure (1 of 2) (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

As requested...

Thank you.

Classification: UNCLASSIFIED
Caveats: NONE
Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Content: Wednesday, October 31, 2007 10:05 AM
Subject: 'Penhollow, David M Mr ARD 20TH SUPPORT COMMAND'
Subject: RE: Information Needed (UNCLASSIFIED)

That's fair enough. I'm in meetings on EA from 1030-1400 today. If you think Al would give me some bullets for what he would like to say (were he given the exit interview he should be), then please ask him for them. Otherwise, please send me some salient points that add meat to what I've said below. For example, I wrote that he hasn't been invited to meetings--how many meetings? Who is going? What decisions about E Company are being made without his input? How does he find out? What has he done to try to stay in the command loop? What other things has she done to keep him out of it? What did she do to "introduce" him back into the company, to ease the transition and demonstrate senior leader support of him in the position? Is he getting any support from her or her staff? Are the other 2 supervisors and the rest of the company personnel treating him as the commander, or going around him to battalion...and not being sent back to Al? I'll try to get the letter written today or tomorrow. Thanks.

-----Original Message-----

From: Penhollow, David M Mr ARD 20TH SUPPORT COMMAND
[mailto:david.m.penhollow@us.army.mil]
Sent: Wednesday, October 31, 2007 9:46 AM
To: Kost-Swinson, Victoria A.
Subject: RE: Information Needed (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Wicky,
I just sent it this morning. I sent it as you wrote it, put my phone number in as you told me to and, most importantly cleared it with Al since we were using him and his retirement as part of the over all message. He was fine with that as he was with a last bit he could do for us (the statement you asked me if he would write). But he really doesn't want to write something that needs to be changed, reworded etc.etc. down the road so if you want to write something up he said he'll sign it.

Mike

-----Original Message-----

From: Kost-Swinson, Victoria A. [mailto:VICTORIA.A.KOST-SWINSON@saic.com]
Sent: Tuesday, October 30, 2007 11:57 AM
To: Penhollow, David M Mr ARD 20TH SUPPORT COMMAND
Subject: RE: Information Needed (UNCLASSIFIED)

I would tone it down a bit, Mike. I understand the frustration, but you don't really want to come off sounding demanding. Don't forget to type in your cell phone number at the bottom.

MAJ Stephens,

Mr. Swinson and I have been trying to contact you for about a week. I realize you must be very busy, but we would like to speak with you about what more you may need from us to process our complaint. We filed our grievances re the actual investigation and the resulting disciplinary actions last week. In going through all of the information we received from our FOIA requests and writing the grievances, the partiality and undue influence of the command group is even clearer. We would be more than happy to send you that information, as it further supports the disparity of our treatment compared to that of other soldiers and that which is required by statute and/or regulation. Of particular concern is that we have now been extended on non-PRP details beyond the 270 days allowable by AR 50-6, yet there is no mention of the required DA waiver in our extension memos. Requests for updates as to our status, that of the reorganization and that of the

positions we were in (and should be returned to) are met with anything from confusion to hostility.

In addition, though Mr. White was returned to his "command" position as the chief of E Company, Ms. Jensen (the former, Deputy to the Commander, 22d Cm and now Director of the 1st AD) continues to fail to give him the respect and courtesy due his position, and her intentional exclusion of him in any of the planning discussions for the reorganization of the ARD and E Company and her detached association with him despite her professional and supervisory responsibilities to him and the organization, have made it virtually impossible for him to do his job. After several months of attempting to re-establish theirs and other staff-element working relationships, also to no avail, Mr. White has been left with no other choice than to retire.

Given the information we provided you initially about the extent of our professional credentials, and the fact that we are three of the most senior individuals in the organization (having been through multiple reorganizations of TEU itself as well as its mission), our continued ostracism from any substantive unit function is not in the best interest of this unit. Her disassociation with Mr. White, one of her subordinate leaders, and apparent disinterest in returning us to any semblance of our former duties make it clear to us she is being motivated by something other than the best interests of the unit. It is also clear to us that she will not be impartial in her final evaluation of us, rather find additional reasons/methods to negatively and severely impact our careers. (This fear has basis in fact, which is captured in both grievances)

Mr. Swinson is in training all week, and our representative, Ms. Victoria Kost-Swinson, works 20 minutes away. Please call me with whatever information you can provide, even if it is just to set up a time next week when all three of us can sit down with you on a teleconference.

Thank you for your time.

Mike Penhollow
c: (410) 436-1542
ll:

-----Original Message-----
From: Penhollow, David M Mr ARD 20TH SUPPORT COMMAND
[mailto:david.m.penhollow@us.army.mil]
Sent: Tuesday, October 30, 2007 11:03 AM
To: Kost-Swinson, Victoria A.
Subject: Information Needed (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Major Stephens,
I have attempted to reach you on several occasions both by phone and e-mail with no reply. I would like to have any and all information you can provide me specifically in regards to our case.

I can be reached at 443-907-5028 or you can reach Mrs. Victoria A. Kost Swinson at 703-973-6941 with the information request update.

Mr. David M. Penhollow

Vicky,
this ok to send????????????????????????????????
Classification: UNCLASSIFIED
Caveats: NONE
Classification: UNCLASSIFIED
Caveats: NONE

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Tuesday, December 04, 2007 1:42 PM
To: 'Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'; 'Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'
Subject: Onward

Mike,

Tom gave me a quick recap of your conversation with Mr. Flood. Just to speed things up, will you print the information and forms from the web site he referred you to so I can get a handle on what we need to do and how fast. I also want to make sure this "arm" of OSC can do for us what we need it to do. My afternoon meeting tomorrow may get pushed to 1400. I'll know by the end of today and we can meet between meetings or after my second one.

One of you needs to call MAJ Stephens again. If he actually answers the phone, great, you can discuss with him the issues I raised in the note I sent yesterday. If he doesn't, leave a voicemail to the effect that several months have passed without communication, the tangible effects of the undue command influence are beginning to occur and you are concerned with his lack of response to previous messages and emails. Then send him an email so that you re-establish a timeline for how long you've been trying to bring attention to and get resolution of the concerns of undue command influence.

The email should reiterate the three of you having concerns about undue command influence in 22d Cm and add that the reviewing official's final decision on your grievances appears to extend the undue command influence to 20th SUPCOM, at least to COL Lowe (the reviewing official throughout the investigation, disciplinary and grievance processes). This is based on his disregard of facts, convenient interpretations and several illogical or unsupported conclusions in his response memos. But beyond the grievance process, COL Lowe was presented with factual evidence that at least two supervisors may have committed prohibited personnel practices and does not appear to have any intention of examining the information and facts provided any more closely, let alone treat them with the same severity as he has chosen to treat the three of you. As such, you need to know how to bring their (alleged) wrongdoing to light, particularly that of the Civilian Executive for the CARA unit—her prohibited practices were to the detriment of you three yet she controls your future with her current authority over you as members of her organization. Because of her failure, apparent refusal, to afford Mr. White the courtesy and respect due him as the civilian leader of E Company, Mr. White was unable to exercise the duties and responsibilities of his position upon his return to it. After a few months of repeated efforts to interject himself back into the leadership and communication channels at battalion level, her continued exclusion of Mr. White in even basic personnel and organizational decisions regarding his company made it clear it to him that it would be in his and his subordinates' best interest to retire.

In addition, and despite her assurances to the contrary, your continued detail to unevaluated duties and temporary Personnel Reliability Program disqualification is tantamount to continued and excessive punishment. And an impartial investigation and review of the facts would raise doubt as to the legitimacy of the allegations themselves and certainly the appropriateness of the disciplinary actions taken. You have served your punishments and they were for offenses that do not, on face, support permanent disqualification. Nor do the actions for which you have been punished merit permanent disqualification when considered in conjunction with your work and disciplinary records. Both of you are senior members of the organization and have more experience with CARA-related missions than almost everyone else in the organization—hiding you away in positions without any significant duties cannot possibly be in the best interest of a unit with such a specialized mission and high OPTEMPO—you should be utilizing your vast skills and experience to support unit missions. There is no understandable reason or need to continue your details. The legitimacy of this action is further degraded by the fact that you have exceeded the 270 days allowed by AR 50-6 yet she has not presented you with or referenced in any of your recent extension memos the required DA waiver to temporarily disqualify beyond 270 days. In fact, both memos you've received since the 270 limit expired cited her as the authority for the action, when in fact she no longer has the authority to continue your temporary disqualifications.

Those are some initial thoughts, but I have to go for now.

5/7/2009

V

Victoria A. Kost-Swinson

Senior Management Analyst

Science Applications International Corporation (SAIC)

3465A Box Hill Corporate Center Drive

Abingdon, MD 21009-1201

tel: 443.402.9293 fax: 443.402.9786

victoria.a.kost-swinson@saic.com

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Thursday, January 10, 2008 8:27 AM
To: 'Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'
Cc: Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: RE: Paper Work Needed (UNCLASSIFIED)

The "they" could very well be OSC or the DAIG, you do still have open issues with both of those offices. OSC may have requested any files on the three of you to assess your overall character as a measure of your veracity in filing your disclosure statements. It doesn't make sense at first glance, but we have no way of knowing what information the command provided in its response. And, the DAIG may have made a request for all information pertaining to the investigation you three questioned in your IG complaint. Your grievances are now a part of that official record. And, it could be that the command is just stalling.

So, you guys need to give your OSC investigatory POC a call. You have a perfectly legitimate reason to call now—you requested the information in Dec to prepare your filing with them and you still don't have it. You think the command is intentionally stalling. Ask the POC if it's possible the whistleblower side of the house or the DAIG requested the information. Then, if the tone of the conversation allows it, tell her about your latest batch of paperwork and what that means career wise and ask if there's anything that can be done immediately to prevent them from reading you out of PRP until this situation is resolved. Reading you out of PRP will put you at an automatic disadvantage in the "competition" for your jobs because it won't matter how more-qualified you are with time-in-the-job or TE experience, OC and Grif will already be in PRP and you two will not be. Anyone without the contextual information about the situation would accept that justification for bypassing both of you—it's a critical job that needs to be filled immediately. I've played that game myself to avoid hiring someone. Again, if the situation allows it, Mike should definitely ask about his eval. That might show enough retaliatory intent to allow OSC to step in before we get your official complaints filed. And if we need to, we can get them at least Tom's timeline and complaint Mon, Tues at the latest. That will give them enough to evaluate the situation because Mike and AI will only have relatively minimal variations to the details; the overall theme will be the same.

Given your new work location, Mike, it would be best that you take leave to go over to the CER to make the call with Tom to OSC. You clearly can't make it from your desk and you don't want to give any of your new "watchers" an opportunity to question what you are doing on official time. You in particular need to keep things clean. Not only do I not think lunch will be enough time for the call, I don't think you should wait that long. Perhaps Tom could make a call right now and set up a return call during lunch so you won't have to take as much time...

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[mailto:david.m.penhollow@us.army.mil]
Sent: Thursday, January 10, 2008 8:08 AM
To: Kost-Swinson, Victoria A.
Cc: Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: FW: Paper Work Needed (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Who's they in the e-mail below? How do you want to handle this?

Tom and I physically went over there early December face to face with him and asked for a copy of the binders. He didn't even know where they were at that time. He's not tracking things as he should in my opinion and I expressed my concerns as I did when this mess all started with the same questions i.e. who has access to the paper work, where is all the paper work, who has what paper work, who is responsible for tracking the paper work, and finally where is the central point or repository for everything.

5/7/2009

I don't like the idea that all of our paper work isn't accounted for! I think someone needs to be more forthright in answering questions about all of this since any part and all the parts of the paper work are so inflammatory and negative in nature. Another words I don't want nor need this type of negativity floating around out there with no accountability.

What's your and Tom's take?

Mike

-----Original Message-----

From: Crouch, David P Mr USAGAPG [mailto:David.P.Crouch@us.army.mil]

Sent: Thursday, January 10, 2008 7:43 AM

To: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)

Subject: RE: Paper Work Needed (UNCLASSIFIED)

it will be a while- they need the documents a short while longer- the nature of the need - I do not know

david.p.crouch@apg.army.mil

CPAC

410-278-8987

Kost-Swinson, Victoria A.

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[david.m.penhollow@us.army.mil]
Sent: Friday, January 11, 2008 2:07 PM
To: Kost-Swinson, Victoria A.; 'ajwhite41@comcast.net'; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: FW: Information Needed (UNCLASSIFIED)

Classification: **UNCLASSIFIED**

Caveats: NONE

-----Original Message-----

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Sent: Friday, January 11, 2008 2:06 PM
To: 'Herd, Timothy C MAJ MIL USA OTIG'
Subject: RE: Information Needed (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Sir,
I'll try to call him again on Monday.

Per your answer below I figured as much. That's why I was careful in my e-mail as not to say or put you in a compromising position given what and where you work now.

Thanks for at least answering me.....

Mike

-----Original Message-----

From: Herd, Timothy C MAJ MIL USA OTIG [mailto:timothy.herd@us.army.mil]
Sent: Friday, January 11, 2008 1:48 PM
To: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: RE: Information Needed (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Mike,

I am not sure what is going on with your case. I had to recuse myself from it since I knew too many of the complainants and the subject was my former rater. MAJ Stephens will be in the office after lunchtime on Monday. I am sure if you call him he

5/7/2009

would answer your questions. His number is 703-601-1060.

v/r

MAJ H

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[mailto:david.m.penhollow@us.army.mil]
Sent: Friday, January 11, 2008 12:08 PM
To: Herd, Timothy C MAJ MIL USA OTIG
Cc: 'ajwhite41@comcast.net'; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA); Kost-Swinson, Victoria A. Contractor - SAIC
Subject: RE: Information Needed (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Sir,
Mr. White, Mr. Swinson, Mrs. Kost-Swinson and I talked to a Major Stevens down your way many months ago about a situation (on going) here at Edgewood. Further more we sent paper work to establish our complaint and spoke with him in length i.e. a conference call and several e-mails.

Since our initial contact he seems to have fallen off the face of the earth? It's been close to six months and our phone calls and e-mails haven't been returned?

1. Is he still in the Army and in the position for which we first established our complaint?
2. Is there some type of investigation going on for which he has redirected his efforts elsewhere?
3. Is there any information you can give us that would put these issues and problems back on track?

As a side note. Mr. White has retired due in part (a large part) to the on going issues and problems here yet stands committed in correcting them as we do.

Mike

-----Original Message-----

From: Herd, Timothy C MAJ MIL USA OTIG [mailto:timothy.herd@us.army.mil]
Sent: Friday, January 11, 2008 11:37 AM
To: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: RE: Information Needed (UNCLASSIFIED)

Classification: UNCLASSIFIED

5/7/2009

Caveats: NONE

Mike,

Yes, I am the same person. What can I help you with?

v/r

MAJ H

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[mailto:david.m.penhollow@us.army.mil]
Sent: Friday, January 11, 2008 11:07 AM
To: Herd, Timothy C MAJ MIL USA OTIG
Subject: Information Needed (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Sir,
Are you the Timothy Herd that was assigned and worked here at Edgewood TEU?

If so I needed some help with finding some information.

Mike
Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

INSPECTOR GENERAL SENSITIVE INFORMATION

The information contained in this e-mail and any accompanying attachments may contain Inspector General sensitive information, which is protected from mandatory disclosure under the Freedom of Information Act (FOIA), 5 USC §552. Matters within IG records are often predecisional in nature and do not represent final approved DA policy. Dissemination is

5/7/2009

prohibited except as authorized under Army Regulation 20-1. Do not release outside of DA channels without prior authorization from The Inspector General. If you are not the intended recipient of this information, any disclosure, copying, distribution, or the taking of any action in reliance on this information is prohibited. If you received this e-mail in error, please notify us immediately by return e-mail.

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

INSPECTOR GENERAL SENSITIVE INFORMATION

The information contained in this e-mail and any accompanying attachments may contain Inspector General sensitive information, which is protected from mandatory disclosure under the Freedom of Information Act (FOIA), 5 USC §552. Matters within IG records are often predecisional in nature and do not represent final approved DA policy. Dissemination is prohibited except as authorized under Army Regulation 20-1. Do not release outside of DA channels without prior authorization from The Inspector General. If you are not the intended recipient of this information, any disclosure, copying, distribution, or the taking of any action in reliance on this information is prohibited. If you received this e-mail in error, please notify us immediately by return e-mail.

Classification: UNCLASSIFIED

Caveats: NONE

Classification: **UNCLASSIFIED**

Caveats: NONE

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Wednesday, February 20, 2008 12:43 PM
To: 'Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: RE: Update (UNCLASSIFIED)

We can meet after work today, I will try to leave at 1600.

Tom's approach is the one to use. As Bud's detail happened in Jan, it should be common knowledge by now that he's in it. And if it isn't, well, that's one some people in the unit have told you. There is no way that it is a replacement for Phil—Grif has no authority to detail someone into a Battalion-level job. It's the same approach for the IG and Coutant. It might work best to bring it up with Coutant—as a follow-up to the retaliation question—and when he asks if you have documentation tell him you're planning on going to the IG to resolve your concerns and he'll be able to provide that information.

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[mailto:david.m.penhollow@us.army.mil]
Sent: Wednesday, February 20, 2008 12:02 PM
To: Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Cc: Kost-Swinson, Victoria A.
Subject: RE: Update (UNCLASSIFIED)

Classification: **UNCLASSIFIED**
Caveats: NONE

Tom,
Sorry about not sending this e-mail to Vicky and asking for guidance. People were hanging around my area and I couldn't send an e-mail discreetly.

Vicky,
Per our discussion yesterday, do we want to meet after work one night this week to discuss this and any other issues? Al called yesterday and asked what time the meeting was last night? I told him we met last Thursday night when he was tied up. I told him we needed to do this because I was off Friday through Monday and with that said we weren't sure what might pop up on Tuesday with Tom or I directly because of the chain of events that took place last week. He understood and asked if there was a plan to meet this week?

-----Original Message-----

From: Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Sent: Wednesday, February 20, 2008 11:40 AM
To: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA); Kost-Swinson, Victoria A. Contractor - SAIC

Subject: RE: Update (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

so what's the plan do we just go to the IG with this is what's going on and this is what we herd, that have detailed budzinski in a position as a supervisor and let them see if its for Phil's or our's. this was the big picture plan of bud and griffs any way as it looks to me. to oust us and take over the company

5/7/2009

-----Original Message-----

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Sent: Wednesday, February 20, 2008 10:16 AM
To: Kost-Swinson, Victoria A. Contractor - SAIC
Cc: Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: RE: Update (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

We can't use that memo or paper that I gave Tom and you anyway shape or form! I'll explain later when I see you. That was and is to keep us some what up on what's going on. I think the request isn't for or to place a person in one of our slots. I think it's to cover down on Phil's position/slot if indeed he has been temporary relieved due to some the most recent allegations against him. I may be wrong? I am attempting to dig around to see if I can find out what's going on.

-----Original Message-----

From: Kost-Swinson, Victoria A. [<mailto:VICTORIA.A.KOST-SWINSON@saic.com>]
Sent: Wednesday, February 20, 2008 9:25 AM
To: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA); Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)

Subject: RE: Update (UNCLASSIFIED)

I sent Coutant the memo requesting the exemption for HDP. I was going to send him the CSM's "sensing session" from the FOIA packets, but I didn't have it in electrons and I haven't been able to scan it yet. You do not want to appear overanxious to sink this ship-it will raise doubt as to the honesty and legitimacy of your own positions. Remember, Coutant is working on the OSC HDP issue.

He is NOT investigating the veracity or results of the 15-6 or anything else that's been going on, at least not at this point. If he asks for more information, we should be ready to provide it, but nothing Coutant is doing right now can resolve the rest of the issues without further action on someone else's part. What you two should be doing now is taking your original (17 Jan 07), disciplinary (uneval pending reorg), any post-270 days, and latest detail memos with a copy of Griffin's email to Jensen and walking into the IG's office seeking assistance with your chain of command's implementation of punitive details "against" you. The only reason a detail can go beyond a year is the best interest of the organization. (Going beyond 120 days for any other reason is questionable but not as bad) How can the unit say it is in the best interest of the organization to relegate its two most senior experienced personnel (to include one that has been with and helped the unit through every reorganization since 1985) to jobs outside of their expertise for over a year (and well past the completion of disciplinary actions that are still being investigated) and then detail someone with significantly less applicable experience in general and in a totally different job series into one of the very positions you two are continuing to be denied returning to, your own jobs? By the way, by definition, the resolution of a detail is to return to your former position and duties. 22d cannot say that the position and duties no longer exist-they just detailed someone, in writing, into one (the email states Bud has OC's responsibilities and OC's responsibilities are that of a TMC0 Supervisor, not a UXO tech).

- The unit clearly still has the need of at least one of you to return to your position.
- The acting commander is a detailed TMC0 Supervisor with significantly less experience.
- If the continued details were for the good of the unit or the individual (and had no associated negative connotations), why weren't the other two supervisors rotated through them and why weren't either of you considered for the acting CO detail (given that both of you had filled that role before and Griffin had not)?

5/7/2009

- Why was one of positions left vacant by your continued details filled with a non-TMCO supervisor when there were two TMCO-supervisors available (save Ms. Jensen's convenient admin removal of you from PRP) to return to duty. If your details are so critical, why not let the UXO tech be detailed to one of them-they are specialty immaterial (other than a working knowledge of technical escort operations, which Bud must have because they have already detailed him into your positions, which require it)

Given all of this, what other conclusion can be drawn than that your continued details are punitive in nature, at the very least. At worst, in light of your OSC disclosure, the continued details look more and more like retaliation.

That said, perhaps this is information you should provide to Coutant. He opened that door when he specifically asked if you felt past or ongoing actions were retaliatory in nature. You didn't have Griffin's email when he asked you that last week. Now that you do, the picture is much clearer.

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[mailto:david.m.penhollow@us.army.mil]
Sent: Wednesday, February 20, 2008 8:04 AM
To: Kost-Swinson, Victoria A.
Subject: Update (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Vick,

Did you say last week that you sent (e-mailed) paper work to the 20th Captain upstairs? Was it the memo requesting exemption to the haz-pay? Did you send anything else? If we are asked or even if we aren't did you thing it a prudent call to send more paper work like all the EOD statements like Al said to show where Griffin had talked to each person setting up the distrust and the cue?

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Monday, March 17, 2008 8:23 AM
To: 'Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'; 'ajwhite41@comcast.net'; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: RE: Paper Work Needed (UNCLASSIFIED)

You had, and this link doesn't answer your question. You already have all that information—it's what they did with you and Tom. Your question actually is difficult because of the surrounding circumstances. In a different world, you and Tom would be the ones to discipline Budzinski and crew and AI would take care of Griffin. In a modified world, AI would take care of Bud and crew and forward Griffin to battalion. In your current world, you don't really have standing to take care of Bud and crew and even less standing to take care of Griffin. You also have a very valid reason for not believing Griffin would respond appropriately if you filed allegations against Bud and crew with him (although it would be interesting to put him in that position, as it is a no-win situation for him). The other issue is that at first glance some might find your allegations based on vengeance instead of truth and be afraid to act.

Give Dave one last chance to answer your question: "Once the dust from everything happening now settles, there is substantive evidence in the record of wrongdoing by several of the individuals involved in the initial investigation. As I am no longer a supervisor, or even a member of E Company, how do I file allegations of violations of the civilian code of conduct against those individuals? How do I file allegations of misconduct against supervisory personnel?" Give him a day or two to figure it out and then you and Tom need to call the IG (after we make sure we have all of our ducks in somewhat of a row).

Tom, don't forget to call Flood re that pending grade increase.

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA) [mailto:david.m.penhollow@us.army.mil]
Sent: Monday, March 17, 2008 7:46 AM
To: 'ajwhite41@comcast.net'; Kost-Swinson, Victoria A.; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: FW: Paper Work Needed (UNCLASSIFIED)

Classification: **UNCLASSIFIED**

Caveats: NONE

Wasn't sure if I had sent Dave's reply out last week?

-----Original Message-----

From: Crouch, David P Mr USAGAPG [mailto:David.P.Crouch@us.army.mil]
Sent: Monday, March 10, 2008 3:29 PM
To: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: RE: Paper Work Needed (UNCLASSIFIED)

wed I guess Mike- before 2:30

the second question has no simple answer, and this is in general terms: it is when a supervisor takes action against an employees conduct, maybe this link will assist you

<http://www.opm.gov/er/adverse.asp>

5/7/2009

david.p.crouch@apg.army.mil
CPAC
410-278-8987

Kost-Swinson, Victoria A.

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[david.m.penhollow@us.army.mil]
Sent: Wednesday, March 19, 2008 9:34 AM
To: Kost-Swinson, Victoria A.; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA); 'ajwhite41@comcast.net'
Subject: FW: Information Needed (UNCLASSIFIED)

Classification: **UNCLASSIFIED**

Caveats: NONE

-----Original Message-----

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Sent: Tuesday, March 18, 2008 1:19 PM
To: Crouch, David P. NECPAC
Cc: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: Information Needed (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Dave,

I need your assistance and the information for the following.

- 1.) As I am no longer a supervisor, or even a member of E-Company, how do I file allegations of violations of the civilian code of conduct against individuals?
- 2.) How do I file allegations of misconduct against supervisory personnel?

Mike

Classification: UNCLASSIFIED

Caveats: NONE

Classification: **UNCLASSIFIED**

Caveats: NONE

5/7/2009

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Monday, March 24, 2008 8:32 AM
To: 'Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: RE: Key Request (UNCLASSIFIED)

It's time to stop dicking around with things. Go to the IG, recap what's been going on and ask for available courses of action. You made your point clear about the key—beyond the fact that you are still assigned to the organization, you need access to equipment for which you are signed. The detail business itself has exceeded any realm of reason. The plan to upgrade the UXOs to compensate them for their loss of hazard duty pay flies in the face of the as-yet-incomplete Whistleblower action and federal law. The individuals whose improper actions initiated your current situations are being put in positions of authority when their past behavior indicates they lack the sound judgment to be in those positions.

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[mailto:david.m.penhollow@us.army.mil]
Sent: Monday, March 24, 2008 8:06 AM
To: Kost-Swinson, Victoria A.; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: FW: Key Request (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Vicky,

Haven't heard anything from Dave! Should Tom and I plan on going over to the IG(s) office and ask for the information? Frame the questions as we did with Dave and tell them we have asked CPAC for the same information and that they haven't given us what we need nor replied to the last e-mails?

What do you think about the key issue? Should I send a e-mail to Bob now requesting the key and cc Mrs. Jensen? Bob said he was going to have to speak to Mrs. Jensen but I know he hasn't asked her squat?

Mike

-----Original Message-----

From: Griffin, Bruce K CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Sent: Thursday, March 20, 2008 9:19 AM
To: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA); Maddox, Robert D Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)

Subject: RE: Key Request (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Mike,

5/7/2009

Somebody needs to explain to me what is your current status is and do you require a key to this bulding. Bob, can you elaborate on this issue?

-----Original Message-----

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Sent: Thursday, March 20, 2008 9:07 AM
To: Griffin, Bruce K CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: Key Request (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Griff,

I tried to gain access into our building (4220) the other night to retrieve my M-40(s) and my key wouldn't work. I've since been told the locks had been changed some time ago. With that said I need to sign for my new key. When can Mr. Pino or his alternate do this.

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

Classification: **UNCLASSIFIED**
Caveats: NONE

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Monday, March 24, 2008 11:06 AM
To: 'Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'
Cc: 'Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'
Subject: RE: IG (UNCLASSIFIED)

Definitely bring up the planned upgrades—they violate the very statute that has the unit stuck in the current Whistleblower action. The bottom line is that the UXOs are already graded higher than their duty descriptions support because of the added daily hazard exposures that were considered part of their job. Grading them even higher “to make up for the loss of their HDP” is not only illegal it is unethical. The unit is acting as though HDP was an entitlement that was owed to the UXOs...and it is not! This further demonstrates the “command group’s” lack of judgment in enforcing laws and regulations.

I don't know if the IG can do the desk audit, but he should know who can. You raising all of these issues may result in him asking for one as part of the investigation into your allegations.

You can discuss your concerns about Budzinski, but you need to approach it from the perspective of you saw a detail action on a board and the only existing positions in E are Tox Mat Hand Spvrs. If your details are not punitive in nature and the unit requires another supervisor to accomplish its mission, one of you should be returned to your supervisory position—you are, by default, more qualified to do your own job than Bud is. In addition, there is no defined need for either of your details, as demonstrated by your lack of substantive objectives over the past year. Your details are not developmental either. Again, if your details are not punitive in nature the 4 of you should be rotating through the four open details—acting commander, team supervisor, CER and Ops. And if there is a need for two Tox Mat Hand Spr in addition to the acting commander, the four of you should be rotating through the acting commander, the 2 supervisors and whichever one of the details the command group feels is more important. Again, with no truly identified mission requirement for them, the other detail can just disappear. OR, if there is a need for both of them, Bud and the other UXOs could rotate through those...they don't require supervisory skills/training, and theoretically the UXOs are experienced enough to support whatever tasks the unit claims were necessary enough to detail the two of you into the positions for another year.

Yes, ask if he's heard anything from MAJ Stephens. Do you have a copy of what we sent him? I can email it to you if you don't. That way when he says he hasn't heard from him, you can tell him that sage and provide him a hard copy of what you tried to do with DAIG.

Your focus here is the code of conduct violations of Bud, Griffin and crew, and the punitive nature of your extended details. The extended details, by nature, are a prohibited personnel practice. I would see how the conversation flows. If it comes down to it and you lay it ALL out there, DO NOT ask/agree to have the RDECOM IG investigate unless he can assure you of substantive action. You can only pursue offenses in one “court”. If the RDECOM IG does it and botches it up, you cannot then go to the OSC/MSPB. Your best chances are with the OSC/MSPB route—they have more authority, though it may take longer.

From: Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[mailto:thomas.swinson@us.army.mil]
Sent: Monday, March 24, 2008 10:44 AM
To: Kost-Swinson, Victoria A.
Subject: IG (UNCLASSIFIED)

Classification: **UNCLASSIFIED**

Caveats: NONE

We are planning on going to the IG here on post. should we bring up the planning of the up grades for the uxo personnel ?

5/7/2009

Can we ask the IG to have cpac do a desk audit of there job ?

WE would like them to find out what roll budzinski is filling since Phil's position is not a supervisor so how is he detailed to a supervisor position? have you been contacted by DA IG Maj Stevenson ?

Do we bring any of the prohibited personnel practices up? If so which ones ?

Classification: **UNCLASSIFIED**

Caveats: NONE

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Monday, March 24, 2008 11:38 AM
To: 'Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'
Subject: RE: IG (UNCLASSIFIED)

Focus on the conduct issues and this draft upgrade. If you want resolution on the details and the opportunity to go back to your supervisory positions, discuss your details and the fact that they are punitive in nature (a la what I wrote in the last message). There is still plenty of meat with the other violations to support an OSC complaint. And I wouldn't go beyond discussing the punitive details in case the IG decides to act anyway.

From: Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[mailto:thomas.swinson@us.army.mil]
Sent: Monday, March 24, 2008 11:17 AM
To: Kost-Swinson, Victoria A.
Subject: RE: IG (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Send what we sent Stephens. So are you saying not to bring up any of the prohibited personnel practices. Just stick to the conduct violations

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Monday, March 24, 2008 11:42 AM
To: 'Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: RE: Information Needed (UNCLASSIFIED)

All of the IGs are in the office today. I just called. Here are the numbers, in order of hierarchy in the office:

Ernie (don't know last name): 2822
Jim Gribbel: 5381
Dave Dubrovick (sp): 5716
Michelle Gillespie: 7642

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[mailto:david.m.penhollow@us.army.mil]
Sent: Monday, March 24, 2008 11:36 AM
To: Kost-Swinson, Victoria A.; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: RE: Information Needed (UNCLASSIFIED)

Classification: **UNCLASSIFIED**
Caveats: NONE

Got it.....

Tom,
I'm still on the computer here at the old EOC. When are we going over to the IG? Today is a training holiday so is anyone even going to be in? Ask or call someone and find out since I don't know anything about that building Vicky use to work in....

Mike

-----Original Message-----

From: Kost-Swinson, Victoria A. [mailto:VICTORIA.A.KOST-SWINSON@saic.com]
Sent: Monday, March 24, 2008 11:31 AM
To: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA); Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)

Subject: RE: Information Needed (UNCLASSIFIED)

My take is that the IG is the appropriate course of action. You do not have the position or the freedom to approach any of the supervisors in CARA to initiate action as it relates to the investigation. In addition, I don't know that there is an established or effective/functioning chain of command in the present organization capable of fairly and impartially addressing your concerns.

5/7/2009

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[mailto:david.m.penhollow@us.army.mil]
Sent: Monday, March 24, 2008 11:24 AM
To: Kost-Swinson, Victoria A.; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: FW: Information Needed (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

I just got on the computer and saw this. I'm over at the old EOC where Lisa is so I could see and use the computer. Everybody and their brother was hanging and hovering around my area this morning so I couldn't send or read things. What's your take on this?

Mike

-----Original Message-----

From: Crouch, David P Mr USAGAPG [mailto:David.P.Crouch@us.army.mil]
Sent: Monday, March 24, 2008 10:59 AM
To: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: RE: Information Needed (UNCLASSIFIED)

- 1) Please discuss the initial situation with your supervisor. Violations which concern conduct require a supervisor's authority to take an action. or the IG

- 2) Secondly, the supervisor's supervisor would take such action. Again you may want to ask your supervisor, or if not your supervisor's supervisor. or the IG

- 3) Did you discuss this with your rater at the time? Did you submit a list of your major accomplishments? The AGS system is available for formal reconsideration unless it involves the performance elements, standards, or work objectives. see APGR 690-13 2.1- typically 15 days from the event.

david.p.crouch@apg.army.mil
CPAC
410-278-8987

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[mailto:david.m.penhollow@us.army.mil]
Sent: Thursday, March 20, 2008 3:44 PM
To: Crouch, David P. NECPAC
Subject: FW: Information Needed (UNCLASSIFIED)

5/7/2009

Classification: UNCLASSIFIED
Caveats: NONE

Dave,
I hadn't heard anything so I decided to e-mail again and I had omitted another question.

What recourse does an employee have when their yearly evaluation doesn't reflect their major contributions? Is there a grievance process and time limitations in doing this?

Mike

-----Original Message-----

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Sent: Tuesday, March 18, 2008 1:19 PM
To: Crouch, David P. NECPAC
Cc: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: Information Needed (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Dave,
I need your assistance and the information for the following.

- 1.) As I am no longer a supervisor, or even a member of E-Company, how do I file allegations of violations of the civilian code of conduct against individuals?
- 2.) How do I file allegations of misconduct against supervisory personnel?

Mike

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

Kost-Swinson, Victoria A.

From: Kost-Swinson, Victoria A.
Sent: Monday, March 24, 2008 1:21 PM
To: 'Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'
Cc: 'Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)'
Subject: RE: IG (UNCLASSIFIED)

Primary focus: Misconduct

1) Bud and crew making malicious official statements they knew to be false. You could take a couple of the statements that contain nothing but emotionally charged hearsay as examples. They clearly violated 10c and I would say that the way Bud spoke about Maddox and his (non-existent) 2-supervisor dilemma violates 10d because he deliberately misrepresented that supervisory relationship by concealing the fact that Maddox IS NOT his supervisor. He, and the rest of them, deliberately exaggerated what little truth there was in their statements, concealed material facts (such as that Mike was a site supervisor and responsible for reporting, which is why he would have more hours than the rest of the site personnel on a project), and misrepresented themselves and others with the intent of painting a negative picture of three supervisors to get them in trouble. If you remove their exaggerated, emotional and deliberately inciting adjectives and look at what they actually said, it is predominately unsubstantiated hearsay or knowingly false (statements re Lisa North easily refuted by alleged victim), easily refuted by record documents (time and stealing allegations, unfair training and overtime allocations), deliberately misrepresented (Pino and Baldeo claiming a threat of physical violence when proper review refutes it), or a subordinate complaining about his supervisor trying to maintain accountability for his subordinates and his financial stewardship responsibilities.

10. False Statements

c. Knowingly making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization.	Written reprimand to removal	Removal	
d. Deliberate misrepresentation, exaggeration, concealment, withholding of a material fact. Includes perjury, making false sworn statements, and lying to a supervisor.	Written reprimand to removal	5 day suspension to removal	10 day suspension to removal

2) Griffin's official statement about the doll violates 10 or 14/18. If he was telling the truth, he violated 14 or 18, depending on how severely they want to punish the person after the first offense. He states that he knew what it was and that it should not be there. As a supervisor, when he knew what it was and that it should not be displayed yet did not remove it, he either failed to observe whatever rule or order they want to dig up that says you shouldn't display toys at work, or he committed the same disgraceful conduct for which Mike was suspended. In either case, he violated the code of conduct. If he tries to retract the meaning of the statement, that he "didn't mean it that way," then he violated 10c or d. It was either a false malicious statement against his co-worker or a deliberate misrepresentation of the truth (aka, he lied).

14. Failure to observe written regulations, orders, rules, or procedures

a. Violation of administrative rules or	Written	1-14 day	5 day
---	---------	----------	-------

regulations where safety to persons or property is not endangered.

reprimand to 1 day suspension

suspension to removal

18. Conduct Unbecoming a Federal Employee

1 day suspension to removal

Removal

Includes off-duty conduct if nexus is established.

Requested resolution: Investigation into their actions and appropriate disciplinary action

Secondary Concern

Your details are punitive in nature. I explained the basis of that in the earlier message. This one you should be able to talk through without providing all of the detail memos.

Requested resolution: Investigation into the allegations and return to duty or equitable distribution of the detail time across all 4 TMC Supervisors; reinstatement into PRP; appropriate disciplinary action taken with respect to the personnel responsible for the punitive details.

Tertiary Concern

The UXO upgrades. I explained that in the earlier email, and I think you guys grasp all the key elements of that issue anyway. I would take the draft email or whatever it is that you have that captured the thought process for justifying/attempting this upgrade (to compensate for the loss of HDP)

Requested resolution: Investigation into the allegations, to include a desk audit of the actual duties performed. Accurate duty description for the UXO personnel that reflects the correct level of hazard exposure. If the desk audit shows it is not an everyday occurrence, the position should be appropriately graded without an increase for inherent hazards and the personnel would be eligible for HDP as it is actually earned. If the desk audit supports the inherent hazardous nature of the job, the position should remain graded as is—which already includes and grade increase because of the regular exposure to hazards. As the duties have not changed significantly—expanded or increased—there is no other need/justification for yet another grade increase, particularly one that would be “justified” solely because of the hazardous nature of the position (again, because that’s already been taken into account to get them where they are now). Cessation of further attempts to upgrade the position and consideration of informal disciplinary action with respect to the personnel knowingly trying to violate the statute. You know the leadership is aware of the guiding statutes and regulations because of the ongoing Whistleblower action re unauthorized HDP.

From: Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)

[mailto:thomas.swinson@us.army.mil]

Sent: Monday, March 24, 2008 11:57 AM

To: Kost-Swinson, Victoria A.

Subject: RE: IG (UNCLASSIFIED)

Classification: **UNCLASSIFIED**

Caveats: NONE

What am I to focus on? What is my desired out come or solutions ? So I can look to see if I have any of paper work I may have here

5/7/2009

-----Original Message-----

From: Kost-Swinson, Victoria A. [mailto:VICTORIA.A.KOST-SWINSON@saic.com]

Sent: Monday, March 24, 2008 11:38 AM

To: Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)

Subject: RE: IG (UNCLASSIFIED)

Focus on the conduct issues and this draft upgrade. If you want resolution on the details and the opportunity to go back to your supervisory positions, discuss your details and the fact that they are punitive in nature (a la what I wrote in the last message). There is still plenty of meat with the other violations to support an OSC complaint. And I wouldn't go beyond discussing the punitive details in case the IG decides to act anyway.

Kost-Swinson, Victoria A.

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[david.m.penhollow@us.army.mil]
Sent: Thursday, April 03, 2008 12:34 PM
To: Kost-Swinson, Victoria A.
Subject: Information Up-Date (UNCLASSIFIED)

Classification: **UNCLASSIFIED**

Caveats: NONE

Vicky,

I talked to Tom this morning just to let him know I went to see the IG. I also gave him an update on my job interview and what and who to expect.

Now, with all that said I also called you this morning and left a message. I need to see you today if at all possible to give you some paper work. I need to update you too.

When can we meet?

Mike

Classification: **UNCLASSIFIED**

Caveats: NONE

Kost-Swinson, Victoria A.

From: Penhollow, David M Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
[david.m.penhollow@us.army.mil]
Sent: Wednesday, May 07, 2008 10:44 AM
To: 'Flood, Edward'
Cc: Kost-Swinson, Victoria A.; Swinson, Thomas R Mr CBRNE ANALYTICAL AND REMEDIATION ACTIVITY (CARA)
Subject: Information Update (UNCLASSIFIED)

Classification: **UNCLASSIFIED**

Caveats: NONE

Mr. Flood,

Just wanted to check in to see if you had any update information? I also had some questions I was hoping you could answer as well.

1. When does the present investigation extension expire?
2. When is the paper work due in your office?
3. How long (ball park) does it take to go over all the paper work on your end and to make your final decisions?
4. What if they (the 20th) asks for another extension? How many extensions are allowed?
5. What are the proper channels to seek redress for violations of conduct that aren't Prohibited Personnel Practices? The local CPAC has been less than enthusiastic from day one about giving us any information. And our encounter recently with the 20th Support Command I.G. was disastrous at best. We felt the pressure of what we feel was intimidation tactics on his part, most significant were his refusal to allow our personal representative to be present when we discussed our conduct violation concerns with him and his requirement that we provide him actual charge specifications (in addition to the documentation and sources of record evidence we had) before he would proceed any further. It was clear to us he had no interest in helping us, not even by discussing our concerns with us to discern if a violation might in fact exist or if we were misinterpreting the regulations/requirements.

As a side note, we are only 65% complete with one of the packets in regards to the Prohibited Personnel Practices that have been going on since the command was notified in November. We, Mr. Swinson and I are still detailed and haven't been sent back to our prior supervisory positions. The details are for unspecific days or time and only say quote (until other wise notified).

Mr. Swinson and I applied for Mr. White's vacated position recently. We were given interviews yet weren't chosen over another subordinate supervisor (in tenure). This supervisor had only been here for 3 maybe 4 years to our 20 and 23. The supervisor selected is also a key player in many of the past and ongoing issues.

Mrs. Swinson has been very busy and side lined with her own work requirements, her VA medical claim, and resolving her veteran status. I'm telling you this because she is the only one willing to help locally and who has the technical/professional back ground to pull all the paper work and research together.

Mr. Flood, I'm not sure what to do at this point and quite frankly running a little more than scared for my job. The writing on the wall and unsubstantiated talk and plan is to rid the organization of us! What insight technical or professional advice can you give us?

Respectfully
David M. Penhollow

5/7/2009

Classification: UNCLASSIFIED

Caveats: NONE

ENCLOSURE 2

TAB A

ISSO on Monday



DEPARTMENT OF THE ARMY
22d CHEMICAL BATTALION (TECHNICAL ESCORT)
5183 BLACKHAWK ROAD, BLDG E1942
ABERDEEN PROVING GROUND, MARYLAND 21010-5424

AFCB-CFT-CO

30 May 2007

MEMORANDUM FOR Mr. Albert J. White

SUBJECT: Notice of Proposed Fourteen (14) Day Suspension

1. This is official notification that I propose to suspend you from your position of Supervisory Project Specialist, YC-0301-02 for fourteen (14) days and reassign you to the position of Project Specialist YA-0301-02 for your failure to observe written regulations, orders, and/or procedures and for your negligence in the performance of your supervisory duties. This action is taken to promote the efficiency of the Federal service and the mission of this organization.

2. The specifications of these charges are as follows.

a. On or around 8 December 2006, you failed to observe written regulations, orders, and/or procedures when you did not report the arrest of two subordinate employees to the chain of command as required of a Certifying Official in the Personnel Reliability Program (PRP).

b. On 7 December 2006, Mr. Roderick Hawkins and Mr. Raymond Steele were arrested. On 8 December 2006, Mr. Hawkins called you on his cell phone and told you that both he and Mr. Steele had been arrested the previous day. On 9 December 2006, Mr. Steele notified Mr. Bruce Griffin of their arrest. Mr. Griffin then spoke with you about the arrests on 11 December 2006. *I was the one who requested to see Mr Steele and Mr Griffin. Mr Steele never called and I find out in this meeting that he called Mr Griffin.*

c. As a PRP Certifying Official you are required by the 22d Chemical Battalion "Guide for Reviewing Official, Certifying Officials and CPRP (Chemical Personnel Reliability Program) Members," August 2005, and Army Regulation (AR) 50-6, Chemical Surety section 2-3 c, to report the two arrests to the Commander, LTC Patrick Terrell, the Reviewing Official; however, you failed to do so. The Commander became aware of the arrests a week later via the 13 December 2006 Police Blotter that was in the "AEGIS" newspaper. You also violated AR 50-6 section 2-3 f (3), when you did not promptly remove Mr. Steele and Mr. Hawkins from their chemical duties until the issue was resolved. *I asked Mr Hawkins repeatedly was he charged with anything and he repeatedly said NO! It all a misunderstanding*

d. On 14 December 2006, you issued Mr. Hawkins a memorandum which indicated that you had given him an oral reprimand for failing to report the arrest. On 19 December 2006, you did the same with Mr. Steele. This was deceiving on your part as you were informed of the arrests by Mr. Hawkins and Mr. Griffin.

As I stated above Mr Hawkins did call me on 8 Dec 06 approx 4900 hrs and said he had been pickup the wife of 7 Dec 06. He repeatedly said the police released him without any charges. Mr Griffin never said anything Mr Steele calling him. I find this out when I asked Mr Steele who...

He kept well ^{saying} I thought Mr Hawkins had
inform you. When I insisted repeatedly that
it was his responsibility, he finally admitted
that he had call Mr Griffin. Mr Griffin said to
me, that he did not say anything to me, because
he thought Mr Steele had call me.

AFCB-CFT-CO

SUBJECT: Notice of Proposed Fourteen (14) Day Suspension

e. You neglected your supervisory responsibilities by not ceasing the abusive or offensive language of one of your subordinate supervisors. Mr. Thomas Swinson repeatedly uses the word "fuck" and calls subordinate employees "crackhead." The behavior of Mr. Swinson has gone on for a long period of time; therefore you knew or should have known about this improper behavior and should have taken appropriate disciplinary action. *Mr. Swinson has been reprimanded in the past about use of offensive language. Not there yet but he has made improv*

f. You also neglected to properly supervise Mr. David Penhollow. You knew or should have known that a sheep sex doll was prominently displayed at your worksite. Mr. Penhollow admits that he brought the sheep sex doll into the work area. Mr. Adam Pulliam said the sheep doll "had a hole in the rear end made for sexual intercourse" and "the doll was so prominently displayed that even when you walk down the hallway if you glance into the room the doll is clearly visible." Another employee confirmed that the sheep sex doll was visible from the hallway and was on display on the middle file cabinet in the center of the team room for at least six (6) months. Your employees were aware of the sheep sex doll and Mr. Raymond Steele said you "visited the team areas pretty often." *When I visit team areas, I am looking for sex objects so I didn't recognize the blown up sheep as connection to sex*

g. You electronically certified Mr. Penhollow's payroll time for work at environmental duty sites where he claimed environmental differential pay (EDP), when no other employee claimed the same amount of EDP. A person claiming EDP must adhere to the "two man rule" or creates a serious breach of safety. You should have ensured the "two man rule" found in Department of Army (DA) Pamphlet (Pam) 385-61, Toxic Chemical Agent Safety Standards, chapter 6, section 10, was being utilized as evidenced by the use of EDP hours. In particular, during the Hawaii project, 8-21 January 2006, specifically 20 January, Mr. Penhollow submitted payroll time of 14 hours of EDP when the only other employee working claimed no EDP. During that period, Mr. Penhollow reported 28 more hours of EDP than any other employee. It is reasonable to believe you neglected your supervisory responsibility and should have ensured that your subordinate employees were taking the correct safety precautions.

EDP is paid base on the number hours in the work status
3. In proposing this action I have consulted the Table of Penalties for various offenses *MSG Reyes and Mr Penhollow required to remain behind on many occasions* listed in AR 690-700, Personnel Relations and Services (General), chapter 751, section B-14 (a), "Violation of administrative rules or regulations where safety to persons or property is not endangered," and also your supervisory duties. I must caution you that if this behavior or any other inappropriate behavior continues it may result in more severe disciplinary action up to and including your removal from government service. This action is considered to be constructive and corrective in nature and is proposed to promote the efficiency of the organization.

to do a proper inventory of the IHF

RIGHT TO REPLY - You have the right to reply to this proposed action personally or in writing or both personally and in writing, and to furnish affidavits and other documentary evidence in support to your answer within 15 calendar days from the date of receipt of this notice. Consideration will be given to extending this time limit upon your written request to LTC Terrell, Deciding Official, for an extension, with your reason(s) for so requesting. If you reply in writing, it should be sent to LTC Terrell, Commander, 22d Chemical Battalion (Technical Escort), 5182 Blackhawk Road, Bldg E1942, Aberdeen Proving Ground, MD 21010.

If you desire to reply personally, Mr. Crouch, CPAC, 3-8987, will make an appointment for LTC Terrell to hear your reply. You have the right to be represented by an attorney or other representative. If you are covered by a negotiated union agreement, you also have the right to be represented by a union representative. Your choice must be designated in writing. A written summary will be made of any personal reply and will be made available for your review and initialing as to accuracy. Your reply, if any, will be fully considered before a decision is made. If no reply is received, a decision will be made on the basis of present evidence. You will be furnished a written notice of decision.

RIGHT TO REVIEW MATERIAL - You may review the material which is relied on to support the reason(s) for this proposed action and it is available for your review at Mr. Crouch's office. If you are in a duty status, you will be granted up to four (4) hours of official duty time to review the material relied on to support this proposed action, for preparing and submitting a written reply, for obtaining affidavits, and for preparing and making an oral reply. The use of duty time for these purposes should be arranged with Mr. Crouch.

AVAILABILITY OF PERTINENT REGULATIONS - Pertinent regulations concerning this action are located in the CPAC and upon your request will be explained to you and/or made available to you by contacting Mr. Crouch, 3-8987.

EMPLOYEE ASSISTANCE PROGRAM - It may be that there are personal problems or circumstances beyond your control such as medical problems, emotional problems or alcohol or drug abuse that contributed to this deficiency in your conduct. You should be aware of the availability of assistance in dealing with such problems through the Employee Assistance Program at this installation. This office is located in Building 2477 - AA and the telephone extension is 3-5319. If you have such a problem you must notify LTC Terrell, Deciding Official, or Mr. Crouch of its existence in order that it may be afforded appropriate consideration in deciding the proposed action.

Enclosure

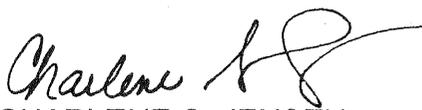
AFCB-CFT-CO

SUBJECT: Notice of Proposed Fourteen (14) Day Suspension

4. The enclosure explains your right to representation, your right to reply to these charges and to review the material relied upon to support this action. You may contact Mr. Dave Crouch, Civilian Personnel Advisory Center (CPAC), 3-8987 (AA), with any questions, and for pertinent regulations and or supporting documentation relating to this proposal.

5. Please acknowledge the receipt of this memorandum by affixing your signature and date in the designated space below. Acknowledgement in no way constitutes concurrence or non-concurrence with the contents.

1 Encl


CHARLENE S. JENSEN
Deputy to the Commander

CF: CPAC, Mr. Crouch

RECEIPT ACKNOWLEDGED:

Mr. Albert J. White



SIGNATURE DATE 31 May 07

TAB B

MEMORANDUM FOR LTC Patrick R. Terrell

SUBJECT: Response to Proposed Fourteen Days Suspension and Reassignment

Response to 2 a-d (Hawkins)

- As stated, Mr. Hawkins did call me 8 Dec 2006 at approximately 1900 hrs and said he and Mr. Steele had been (pickup) by the Bel Air police.
- Mr. Hawkins said it was a big mistake and he was not charged with anything.
- I repeatedly asked him; "Are you sure you were not charged with anything?" Each time he said; "yes I am sure."
- Mr. Hawkins is a solid performer and I would rank him within the top three in the company. I do not believe he deliberately tried to deceive me; I truly believe that he thought he was not charged with anything because he called the police himself and to the best of my knowledge, based on Mr. Hawkins' account of the incident, he was cautioned by the police officer and released without any requirements to follow up or report back.

Response to 2 a-d (Steele)

- Mr. Steele never contacted me at any time and on the 11 Dec 2006; I requested to see him and his supervisor (Mr. Griffin), in my office.
- I asked Mr. Steele why he had not reported the Bel Air police incident; he said "I thought Mr. Hawkins did."
- It was at this time that I became aware Mr. Steele had called Mr. Griffin on 9 Dec 2006.
- Mr. Griffin said he did not say anything to me because, he thought Mr. Steele had called me.
- After the meeting with Mr. Steele and Mr. Griffin, I called Ms Jensen and explained the situation as I thought it to be, based on the information I had been given.
- Once I became aware that Mr. Hawkins and Mr. Steele had been charged with offenses, they were promptly reprimanded verbally, counseled in writing, temporarily removed and informed of their temporary disqualification from The Chemical Personnel Reliability Program. (14 Dec 06)
- The charge or implication that I deceived or attempted to deceive this unit is absolutely false; being that I have never deceived or attempt to deceive this command for any reason at any time. I gave the oral reprimand based on late reporting, without knowing and without being informed that charges had been

filed. It was later that Ms Jensen said she wanted it documented in writing. I brought the unsigned letters to the C&S meeting and explained that Mr. Hawkins and Mr. Steele were not available for signature at that time (due to mission support/annual leave). Mr. Steele returned to the unit and signed his forms on 19 Dec 2006 and Mr. Hawkins returned to the unit and signed his forms on 3 Jan 2007. (not 14 Dec 2006)

Response to 2 e

- Mr. Swinson has been given a letter of Reprimand for the use of abusive, offensive and profane language; which required that he attend additional sensitivity training. Although Mr. Swinson is not where he should be; he successfully completed the training and he has made substantial improvement.
- I do not use nor condone the use of offensive and profane language; however, this problem exists blatantly throughout the battalion and especially in the battalion headquarters.
- The F word has been used repeatedly by senior NCOs and Officers in your presence; especially during the command/staff and training meetings.

Response to 2 f

- Anytime that I visit a team's room or work area, it is to conduct professional business or to sample the unit's morale relating employees' training, health and welfare, unit cohesion, team spirit, problems/solution/accolades, to establish daily contact between my employees and make myself available, at the beginning or closing of each day, giving the employees my undivided attention and a chance to vent if needed.
- I have seen the inflated plastic animal of concern; however, I saw it for the animal it was designed to represent, not some disrespected, perverted thing it was made to be. I firmly believe that only the people with the perverted intentions involved in the private joke were obvious of the sexual connotation. I am a professional with professional thoughts, working with mature adults in a professional environment. I am unable to read anyone's mind or know their unspoken intents. The inflated animal did not register as a sexual toy with me because I do not look for the worst in my employees or people in general. Employees come from all walks of life, with various backgrounds and scars or the lack thereof; however, I work toward the Army's slogan "Be All That You Can Be", which is why the inflated sheep didn't register negatively in my mind. I saw it as an inflated plastic animal, nothing more or less. It meant nothing to me and I never connected it to any thing sexual.
- I have escorted several people through the same building, during this time in question, to include the CG, BN Cdr, IG and CSMs and no one has ever mention

anything about the inflated plastic animal; although, this is supposed to be highly visible from the hallway.

Response to g

- Environmental Differential Pay for handling toxic agents is paid to employees based on the total number of hours worked during the business day or work status.
- MR Penhollow and MSG Reyes were required to work additional hours (continuing environmental pay), inventorying the Interim Holding Facility, attending meetings and conference calls, which did not include or require the other team members.
- There was **never** a violation of the “**two man rule**” on the 20 Jan 2006 by MR Penhollow because he was working with MR Carney (Dugway) MR Roberts (PBA) and other personnel from INEL, as documented in his SITREP (see enclosure 1).

Response to para 3

- Failure to observe written orders, rules, or procedures: a violation of administrative rules or regulations where safety to persons or property is **not** endangered (First offense, written reprimand to 1 day suspension).

My loyalty, performance, dedication and integrity while in this unit have been above and beyond that of any of my peers. Sir you promised to be fair, treat everyone with the same dignity and respect and that is all that I request.

Albert J. White

Chief E Company

TAB C



DEPARTMENT OF THE ARMY
22d CHEMICAL BATTALION (TECHNICAL ESCORT)
5183 BLACKHAWK ROAD, BLDG E1942
ABERDEEN PROVING GROUND, MARYLAND 21010-5424

AFCB-CFT-CO

3 JULY 2007

MEMORANDUM FOR Mr. Albert White, 22nd Chemical Battalion (Technical Escort), 5183 Blackhawk Road, Aberdeen Proving Ground, MD 21010

SUBJECT: Notice of Decision to Suspend

1. This is official notification of my decision, concerning your proposed fourteen (14) day suspension and reassignment for your failure to observe written regulations, orders, and/or procedures and for your negligence in the performance of your supervisory duties.
2. You were afforded fifteen (15) calendar days in which to reply orally, in writing, or both to the notice of proposed suspension, which you acknowledged receipt of on 31 May 2007. Your written reply, undated, was received by me on 4 June 2007. I have carefully considered the reasons contained in the proposal and your written reply, fully and impartially. I find the circumstances involving the charge of "failure to observe written regulations, orders, and/or procedures" is fully supported by a preponderance of the evidence, and is sustained. I sustain two of the specifications, for the charge of "negligence in the performance of your supervisory duties." Specifically, the specifications of allowing Mr. Swinson to be verbally abusive to employees and Mr. Penhollow to display a sheep sex doll in the workplace. I dismiss the third specification concerning the "two man rule."
3. In deciding the appropriate penalty, I have considered the factors listed in Douglas v. Veterans Administration, 5 MSPR 280 (1981). I believe a two (2) day suspension is the appropriate disciplinary action to correct your misconduct and promote the efficiency of the service.
4. Therefore, my decision is to suspend you from your position, without pay, for a period of two (2) days, effective 12 July 2007, for "failure to observe written regulations, orders, and/or procedures", and "negligence in the performance of your supervisory duties." You should return to duty and your position of record on 16 July 2007. A Standard Form 50, Notification of Personnel Action, effecting this action is forthcoming under separate correspondence. I must warn you that any subsequent misconduct may result in more serious disciplinary action up to and including your removal from Federal service.
5. I expect you to attend training which focuses on Supervisor/Employee communications within the next six (6) months. Your duties as a Certifying Official in PRP will remain suspended until such time as the Chain of Command is again satisfied with your reliability.

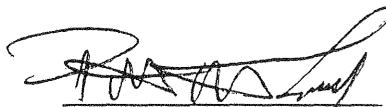
AFCB-CFT-CO

SUBJECT: Notice of Decision to Suspend

6. If you believe this personnel action discriminated against you on the basis of your race, color, religion, age, sex, physical or mental handicap, or national origin, you may file, within 45 days of the effective date of this action, a complaint of discrimination with the Equal Employment Opportunity Office, telephone 410-278-1100. You may not, however, file both a grievance and a complaint of discrimination. Should you elect to file a complaint of discrimination, your complaint will be processed in accordance with Equal Employment Opportunity Commission Regulations at Title 29 Code of Federal Regulations Section 1614.

7. You may grieve this suspension under the administrative grievance procedures found in DoD-1400.25-M, DoD Civilian Personnel Manual, Chapter 700, Subchapter 771, Administrative Grievance System. You have the right to represent yourself or seek assistance from a representative of your choosing in matters pertaining to this action. Copies of applicable regulations as well as the materials relied on in issuing this suspension is available to you and/or your representative for review through the Civilian Personnel Advisory Center (CPAC). If you require assistance or additional information concerning your procedural rights, you may consult with Mr. David Crouch, Civilian Personnel Advisory Center, 410-278-8987.

8. Please acknowledge receipt of this notice by affixing your signature and date in the designated space on the enclosed "Employee Receipt Acknowledgement Copy" of this memorandum and returning it to me. Acknowledgement in no way constitutes concurrence or non-concurrence with the contents.



PATRICK R. TERRELL
LTC, CM
Commanding

RECEIPT ACKNOWLEDGED:

 3 Jun 07
SIGNATURE DATE

ENCLOSURE 3

TAB A

DAVID M. PENHOLLOW

202 Maudlin Ave.
North East, MD 21901
443-907-5028

20 years specialized experience involving complex chemical, biological, radiological/nuclear and explosive (CBRNE) technical procedures and use of highly sophisticated apparatuses and equipment to eliminate or minimize dangers to human life and property while conducting chemical/biological (C/B) emergency response, remediation, escort, assessment and hazard evaluation operations involving mitigation, detection, recovery, sampling, exploitation, verification, transportation and disposal. Worked directly with live, toxic chemical agents for past 20 years; certifying official for hazardous materials shipments since 1989. General experience includes extensive working knowledge of C/B agents, C/B/R warfare material, and multiple assignments as a subject matter expert providing advice and assistance to other governmental agencies (OGAs) and foreign military organizations on chemical and biological agents. Additional specialized experience includes assisting 22nd Chemical Battalion through every personnel and structure reorganization during past 20 years.

CBRNE Analytical and Remediation Activity (CARA) (08/01/1997 - Present) - Toxic Material Control Operator Supervisor
Aberdeen Proving Ground (APG), Maryland
Supervisor: Al White - (443) 414-8403; Contact: Yes
Pay Grade: WS - 6501 - 14
Salary: \$36.96 per hour
Hours per week: 50

Supervise assigned work operations within limits of established policies and schedules for up to 14 WG-6501-07/11 Toxic Material Control Operator and GS-1670-09/11 Equipment Specialist (EOD) subordinate employees and 10 support personnel while managing technical escorts, emergency responses and remediation projects worldwide. Coordinate and supervise remediation of Formerly Used Defense Site (FUDS) projects from inception to completion, to include: developing, writing and reviewing work plans, safety submissions and sampling plans to ensure compliance with established safety regulations, requirements and standards; conducting risk assessments; prioritizing work plans and sampling plans; determining numbers and types of workers and equipment needed to accomplish specific projects and redirecting individual workers and resources to accomplish unanticipated tasks; and interfacing with senior leadership and staff to develop current and future work schedules, work technique changes, work flow improvements, budget requests, and staffing needs and estimates. Supervise and execute projects involving transportation and storage of recovered chemical warfare material (CWM), chemical surety material, and toxic materials at remote sites worldwide with minimum supervision and coordinating directly with federal, state and local governments, Army Corps of Engineers, Department of the Army (DA), Safety Specialists and DA contractors. Observe work in progress to anticipate or identify and control unsafe acts or hazardous conditions, to include modifying the

workplace/worksite or work process to eliminate hazards; provide guidance, recommendations and assistance to supervisors and employees concerning established biological and chemical safety and techniques.

Operate independently at remote sites for extended periods of time. Analyze mission requirements to determine appropriate courses of action, plan and coordinate resources, and schedule work assignments to ensure effective and economical use of personnel, equipment, materials and methods to meet organizational goals and quality standards. Plan, schedule and coordinate concurrent work operations; determine material, equipment and facilities required; provide technical direction, develop and write technical operating procedures and solve complex technical operational problems; establish deadlines, work priorities, project schedules, resource usage plans and detailed work plans; track and provide oral and written reports on work progress; assign work using verbal and written instructions; direct work operations.

Safeguard against waste, loss and unauthorized use or misappropriation of funds. Participate in planning, training, budgeting and execution of long and short-term remediation projects and no-notice emergency responses worldwide. Exercise authority and control over team's participation in local, national and international missions and functions. Represent Chief, Remediation, Response East (RRE) during emergency responses and off-site planning and coordination for remediation efforts. Resolve complex and visible problems to fulfill mission requirements involving diverse and complex activities requiring significant planning and coordination using seasoned technical judgment. Supervise on-site subordinate supervisors/leaders to ensure efficient and safe execution of emergency responses, chemical accidents/incidents, surety and non-surety escorts, short and long-term munitions assessments and other missions; assume operational control for the DA during a chemical accident/incident response and assistance (CAIRA) event. Participate in development and evaluation of new detection, decontamination and other advanced technologies to support remediation and emergency response operations.

Oversee Chemical Personnel Reliability Program and training for all team members. Develop, write and implement internal operating procedures to ensure effective control and direction of work activities and personnel supervised; recommend promotion or reassignment of subordinates; provide formal written evaluations of and informal oral feedback about subordinates' work performance; determine, manage and support achievement of subordinates' long-range training requirements. Maintain appropriate production reports and administrative records.

Maintain capability for worldwide emergency response to CAIRA situations 24 hours a day, 365 days a year. Maintain specialized training and certification for remediation work, to include knowledge of and compliance with local, state and federal environmental regulations. Maintain Chemical Personnel Reliability Program and medical qualifications in accordance with AR 50-6 and meet all applicable requirements for chemical agent workers. Maintain certification to carry a weapon and use of force while handling or transporting (as an armed escort) surety materials.

Coordinated with ECBC for transportation of chemical munitions and explosives to explosive destruction system (EDS) for destruction. Supervised armed escorts to EDS; oversaw operations from control room to provide technical advice to EDS operators for handling and unpacking of stored munitions in various container packages and packing media. Directly supported EDS validation process by supervising EDS, personnel decontamination station, and rescue teams.

Supported DoD and OGAs (including US Secret Service, Federal Bureau of Investigation and unified/specified combatant commanders) tactical, operational and strategic responsibilities and objectives as site exploitation advisor during deployment to Iraq August 2006 through September 2006, wrote initial operational plans, to include logistical support requirements; as commander of all in-theater assets during deployment to Kuwait March 1998 through July 1998, provided technical advice and wrote coordination guidance concerning radiological contamination

Supported unified/specified combatant commander while deployed to Israel as senior advisor and Site Exploitation Team leader Israel; conferred with Israeli government and military on technical and tactical aspects of team's capabilities in the event of SCUDS attack; advised on appropriate threat postures; March 2003 through May 2003

Served as acting Chief, RRE on numerous occasions, ensuring continuity and balance of unit missions and activities. This included implementing program guidance, interpretation of regulations or directives, determining resource requirements, and monitoring and evaluating progress towards organizational goals as required to ensure mission accomplishment and compliance with higher headquarters' directives.

US Army Technical Escort Unit (08/01/1987 – 07/31/1997) - Toxic Material Control Operator
APG, MD
Supervisor: CPT Keith Reed - unknown; Contact: Yes
Pay Grade: WG - 6511 - 11
Salary: \$50,000.00 per year
Hours per week: 50

Maintained worldwide, no-notice emergency response capability to accomplish escort, disposal, emergency responses and EOD support operations involving C/B agents and munitions, DOT-waivered radiological materiel and other hazardous materials by employing broad range of skills necessary for storage, transfer, shipment and neutralization of toxic chemical agents or various materials contaminated with toxic chemicals, to include chemical surety materiel. Loaded equipment on vehicles for ground and aircraft deployment using prescribed load plans. Used technologically advanced chemical agent detection equipment and alarms to detect contamination. Decontaminated equipment, materials, and personnel in toxic environment while wearing protective clothing, including full level "A" toxicological agent protective clothing, self-contained breathing apparatuses and other types of protective clothing and

equipment. Applied, inspected and enforced stringent safety precautions and safeguards while handling lethal chemicals and biological agents and materials to prevent serious injury, illness or death of self and others. Served as remediation project liaison officer; advised and assisted commander and supervisors in conduct of unit missions; provided technical input and guidance. Applied safety and occupational health laws, regulations, principles and procedures while preparing for and executing remediation projects on FUDS contaminated with explosives, commercial chemicals and CWM. Planned, coordinated and conducted detection, monitoring and decontamination operations. Set-up, operated and closed out personnel decontamination stations in accordance with applicable federal and state environmental, safety and occupational health regulations and requirements.

Planned and conducted soil, sediment, water and vapor sampling operations in accordance with EPA protocols and OSHA regulations; selected appropriate sampling method, containers and preservation method based on sample media and analysis required.

Maintained specialized training and certification for remediation work, to include knowledge of and compliance with local, state and federal environmental regulations. Maintained Chemical Personnel Reliability Program and medical qualifications in accordance with AR 50-6 and meet all applicable requirements for chemical agent workers. Authorized to carry a weapon and use force while handling or transporting (as an armed escort) surety materials.

Fire Department (1984 - 1989) – Fire Fighter
Fort George G. Meade, MD
Supervisor: Chief Robert Miller - unknown; Contact: Yes
Pay Grade: GS - 7
Salary: \$30,000.00 per year
Hours per week: 72

1988 – 1989 Fort Meade Fire Department

1986 – 1988 Patuxent River Naval Air Base, MD; Supervisor: Chief William Schooley

1984 – 1985 Bainbridge Naval Base Singer Corp– Asst. Fire Chief, Port Deposit, MD;
Supervisor: Chief Allen Ryan

Supervised 4 captains, 20 firefighters and 2,000 staff members and students. Served as Installation Safety Officer for responses to incidents where lives and property were in danger. Wrote safety, operations, disaster, and hazardous material plans for Bainbridge Fire Department, Naval Installation, the local fire department, and county civil defense agencies; wrote SOPs for health, life and safety codes and issues; reviewed and provided input on annual budget, strategic planning for emergency operations, tactics and emergency operations planning; established, enforced and inspected performance, conduct and personnel management policies and procedures; trained new personnel on quality management, public fire safety, leadership and problem solving.

EDUCATION

University of Maryland – Fire and Rescue Institute (1990-present)

College Park, MD

Degree – Fire Science and Administration

GPA: 3.0

Completed 25 of 30 courses towards 4-year degree; Courses included Fire Officer I/II, Fire Ground Operations I/ II, Aerial Operations. Program objective is to provide training in company operations and administration—manage human resources; community/public relations; fire department organization and administration, including budgets, reports and planning; fire inspection, investigation, public education and emergency service delivery; and safety

Specialized Education – US Army Quality Assurance Specialist Ammunition Specialist School

Technical Chemical Surety (1991)

80-hour course; in-depth instruction on all known military chemical agents—physical and physiological properties, safe handling, exposure symptoms, first aid, all applicable safety regulations, and storage and transportation regulations

Specialized Education - School of Military Packaging Technology

Defense Packaging of Hazardous Materials for Transportation (09/89)

80-hour course, completion authorizes individual to certify all hazardous cargo via all modes of military and commercial ground/air/sea/rail transportation worldwide. Program graduates possess international recognition of their credentials as certifying officials to attest to compliance with regulatory and legal requirements for packaging, loading, and transporting of hazardous materials, to include toxic chemicals. 40-hour retraining required biennially; last completed 07/28/2000

Specialized Education - US Army Ordnance Missiles and Munitions Center and School
Technical Escort Specialist (07/89)

144-hour course; in-depth instruction on chemical agent characteristics, their physical and physiological properties, their hazards and symptoms of exposure to them. Covered all known military chemical agents, first aid procedures, and safety and transportation regulations

High School Diploma 1977

ADDITIONAL

Certified as Emergency Medical Technician (EMT) since 1985

Maintained military drivers license since 86

Maintained SECRET clearance since 88

Certified as EMT-B, Intravenous Technician since 1990

Maintained Commercial Drivers License with HAZMAT endorsement since 91

Maintained Heavy Equipment Operator's License since 91

Certified as CPR/First Aid/AED and Safety instructor since 1991
Certified as OSHA Instructor Level I since 1996
Certified by the National Fire Protection Association as a level II instructor—facilitate teaching and certify safety, medical, OSHA, and fire and rescue classes—since 1997

Single CAIS (Chemical Agent ID Set) Assessment and Neutralization System (SCANS) 2006

Radiation Safety I and II 2006

40-hour Fire Prevention Course 2006

Army Traffic Safety 2005

Toxic Chemical Training for Emergency Medical Services 1999

Medical Management of Chemical and Biological Casualties 1999

Leadership Education and Development Course 1999

Confined Space Entry and Rescue 1999

Supervisor Development Course 1998

PINS operator training, 1997

Instructor Training Course 1997

28-hour Environmental Sampling Course 1994

Controlled Hazardous Substances in Transportation 1994

Hazardous Material Waste Operations/Supervisory Training 1994; annual refresher training

Chemical Weapons Inspector/Escort Individual Safety 1993

40-hour MINICAM Operator Course 1993

Gas Chromatograph/Mass Spectrometer (Viking) training 1993

OSHA 40-hour Site Supervisor Course 1992; annual 8-hour refresher course

OSHA Hazard Communication Standards 1991

OSHA Hazardous Waste Operations and Emergency Response 1991

40-hour OSHA fire protection and Life Safety, 1986

Leadership and Supervision Course, 1985.

Qualify annually with M-4 rifle and 9mm pistol (to include night firing and firing while wearing chemical protective gear), on using and maintaining respirator protective equipment and applying CPR and First Aid.

Annual refresher training on rules of engagement and use of force.

Collected over 5,000 environmental samples using multitude of sampling tools and detection equipment. Used, and trained superiors, coworkers and subordinates to use, the M18 chemical detection kit, the Chemical Agent Monitor (CAM), Depot Area Air Monitoring System (DAAMS) pumps and tubes, Draeger tubes, the MINICAM, and the Photo and Flame Ionizing Detection Systems to detect agent presence or contamination in storage areas, at sampling sites and in labs; and detect leaks in storage areas and cargo holds during sampling, remediation, transportation and emergency response operations.

Supervised 2006 remediation project to recover and destroy 6 steel containers packed with more than 200 CAIS vials. Vials were destroyed using the SCANS—the first time this destruction technology was employed since its validation as a viable neutralization method.

Supervisor of 2005 remediation project to destroy in place 5 fused and armed phosgene and chloropicrin mortar rounds. It was largest open-air thermal destruction since 1989.

Team leader of 1994 remediation project for mitigation, recovery, packaging, storage and transportation of 700 CAIS vials—the largest such discovery since 1987.

Participated in internationally sensitive Operation Golden Python—1989 load-up and transportation of US chemical munitions stockpile in Europe to railheads for final disposition at Johnston Atoll. Served as armed government custodial agent of munitions.

Trained and experienced in using: Trucks with a capacity over 26,000 pounds; 25-ton crane; forklifts up to 18,000 pounds; all graders, bulldozers, and backhoes; generators up to 60KW, all tactical vehicles up to 10 tons; M12A1 and M17 decontamination apparatuses; Bio Pack 60 and Bio Pack 240 rebreathers; and self-contained breathing apparatuses; fire, rescue and tactical trucks over 26,000 pounds. Instructor skills. Intermediate computer skills. Supervisory and managerial skills.

TAB B

THOMAS R. SWINSON

132 Talton Drive
Delta, PA 17314
(717) 456-5883

25 years specialized experience involving complex chemical, biological, radiological/nuclear and explosive (CBRNE) technical procedures and use of highly sophisticated apparatuses and equipment to eliminate or minimize dangers to human life and property while conducting chemical/biological (C/B) emergency response, remediation, escort, assessment and hazard evaluation operations involving mitigation, detection, recovery, sampling, exploitation, verification, transportation and disposal. Worked directly with live, toxic chemical agents for past 25 years; certifying official for hazardous materials shipments since 1989. General experience includes extensive working knowledge of C/B agents, C/B and radiological warfare material, and multiple assignments as a subject matter expert providing advice and assistance to other governmental agencies (OGAs) and foreign military organizations on chemical and biological agents. Additional specialized experience includes assisting 22nd Chemical Battalion (TE) through every personnel and structure reorganization during past 19 years.

CBRNE Analytical and Remediation Activity (CARA) (06/01/1995 - Present) - Toxic Material Control Operator Supervisor

Aberdeen Proving Ground (APG), Maryland

Supervisor: Al White - (443) 414-8403; Contact: Yes

Pay Grade: WS - 6501 - 14

Salary: \$36.96 per hour

Hours per week: 50

Supervise and direct accomplishment of assigned work operations within limits of established policies and schedules for up to 14 WG-6501-07/11 Toxic Material Control Operator and GS-1670-09/11 Equipment Specialist (EOD) subordinate employees and 10 support personnel while managing technical escorts, emergency responses and remediation projects worldwide. Coordinate and supervise remediation of Formerly Used Defense Site (FUDS) projects from inception to completion, to include: developing, writing and reviewing work plans, safety submissions and sampling plans to ensure compliance with established safety regulations, requirements and standards; conducting risk assessments; prioritizing work plans and sampling plans; determining numbers and types of workers and equipment needed to accomplish specific projects and redirecting individual workers and resources to accomplish unanticipated tasks; and interfacing with senior leadership and staff to develop current and future work schedules, work technique changes, work flow improvements, budget requests, and staffing needs and estimates. Supervise and execute projects involving transportation and storage of recovered chemical warfare material (CWM), chemical surety material, and toxic materials at remote sites worldwide with minimum supervision and coordinating directly with federal, state and local governments, the Army Corps of Engineers, Department of the Army (DA), Safety Specialists and DA contractors. Observe work in progress to anticipate or identify and control unsafe acts or hazardous conditions, to include modifying the workplace/worksite or work process to eliminate

hazards; provide guidance, recommendations and assistance to supervisors and employees concerning established biological and chemical safety and techniques.

Operate independently at remote sites for extended periods of time. Independently analyze mission requirements to determine appropriate courses of action, plan and coordinate resources, and schedule work assignments to ensure effective and economical use of personnel, equipment, materials and methods to meet organizational goals and quality standards. Plan, schedule and coordinate concurrent work operations; determine material, equipment and facilities required; provide technical direction, develop and write technical operating procedures and solve complex technical operational problems; establish deadlines, work priorities, project schedules, resource usage plans and detailed work plans; track and provide reports (orally and in writing) on work progress; assign work using verbal and written instructions; direct work operations and provide oral and written review of subordinates' work.

Safeguard against waste, loss and unauthorized use or misappropriation of funds. Participate in planning, training, budgeting and execution of long and short-term remediation projects and no-notice emergency responses worldwide. Exercise authority and control over the team's participation in local, national and international missions and functions. Represent activity and Chief, Remediation, Response East (RRE) during emergency responses and off-site planning and coordination for remediation efforts. Resolve complex and visible problems to fulfill mission requirements involving diverse and complex activities requiring significant planning and coordination using seasoned technical judgment. Supervise on-site subordinate supervisors/leaders to ensure efficient and safe execution of emergency responses, chemical accidents/incidents, surety and non-surety escorts, short and long-term munitions assessments and other missions; assume operational control for the Department of the Army in the event of a chemical accident/incident response and assistance (CAIRA) event. Participate in development and evaluation of new detection, decontamination and other advanced technologies to support remediation and emergency response operations.

Oversee Chemical Personnel Reliability Program and training for all team members. Develop, write and implement internal operating procedures to ensure effective control and direction of work activities and personnel supervised; recommend promotion or reassignment of subordinates; provide formal written evaluations of and informal oral feedback about subordinates' work performance; determine, manage and support achievement of subordinates' long-range training requirements. Maintain appropriate production reports and administrative records.

Maintain capability for worldwide emergency response to CAIRA situations 24 hours a day, 365 days a year. Maintain specialized training and certification for remediation work, to include knowledge of and compliance with local, state and federal environmental regulations. Maintain Chemical Personnel Reliability Program and medical qualifications in accordance with AR 50-6 and meet all applicable requirements for chemical agent workers. Maintain certification to carry a weapon and use of deadly force while handling or transporting (as an armed escort) CWM and other hazardous materials.

Coordinated with ECBC for transportation of chemical munitions and explosives to explosive destruction system (EDS) for destruction. Supervised armed escorts to EDS; oversaw operations from control room to provide technical advice to EDS operators for handling and unpacking of stored munitions in various container packages and packing media.

Supported DoD and OGA (including Defense Intelligence Agency, Federal Bureau of Investigation and unified/specified combatant commanders) tactical, operational and strategic responsibilities and objectives as Sensitive Site Exploitation Team leader during extended deployment to Afghanistan Sep 01 through May 02.

As senior Toxic Material Control Operator Supervisor in unit, served as acting Chief, RRE on numerous occasions, ensuring continuity and balance of unit missions and activities. This included implementing program guidance, interpretation of regulations or directives, determining resource requirements, and monitoring and evaluating progress towards organizational goals as required to ensure mission accomplishment and compliance with higher headquarters' directives.

US Army Technical Escort Unit (07/01/1989 - 05/31/1995) - Toxic Material Control Operator
APG, MD

Supervisor: CPT Thomas Thompson - unknown; Contact: Yes

Pay Grade: WG - 6511 - 11

Salary: \$50,000.00 per year

Hours per week: 50

Maintained worldwide, no-notice emergency response capability to accomplish escort, disposal, emergency responses and EOD support operations involving chemical/biological (C/B) agents and munitions, DOT-waivered radiological materiel and other hazardous materials by employing broad range of skills necessary for storage, transfer, shipment and neutralization of toxic chemical agents or various materials contaminated with toxic chemicals, to include chemical surety materiel. Loaded equipment on vehicles for ground and aircraft deployment using prescribed load plans. Used technologically advanced detection equipment and alarms to detect chemical agent contamination. Decontaminated equipment, materials, and personnel in toxic environment while wearing protective clothing, including full level "A" toxicological agent protective clothing, self-contained breathing apparatuses and other types of protective clothing and equipment. Applied, inspected and enforced stringent safety precautions and safeguards while handling lethal chemicals and biological agents and materials to prevent serious injury, illness or death of self and others. Served as remediation project liaison officer; advised and assisted commander and supervisors in conduct of unit missions; provided technical input and guidance. Applied safety and occupational health laws, regulations, principles and procedures while preparing for and executing remediation projects on FUDS contaminated with explosives, commercial chemicals and CWM. Planned, coordinated and conducted detection, monitoring and decontamination operations. Set-up, operated and closed out personnel decontamination stations in accordance with applicable federal and state environmental and safety and occupational health regulations, requirements and policies.

Liaison team member for numerous site remediation and support projects; coordinated with contractors and state and local agencies to determine and plan work requirements, to determine equipment and supplies requirements and usage, and to report to the project officer any developments, changes or problems. Planned and conducted soil, sediment, water and vapor sampling operations in accordance with EPA protocols and OSHA regulations; selected appropriate sampling method, containers and preservation method based on the sample media and analysis required.

Maintained specialized training and certification for remediation work, to include knowledge of and compliance with local, state and federal environmental regulations. Maintained Chemical Personnel Reliability Program and medical qualifications in accordance with AR 50-6 and meet all applicable requirements for chemical agent workers. Authorized to carry a weapon and use force while handling or transporting (as an armed escort) surety materials.

Used expert knowledge and extensive experience to write the battalion's program of instruction and trained personnel on lab spill responses, to include physical characteristics to look for to determine the extent of contamination and lab-specific decontaminants and procedures.

US Army Technical Escort Unit (03/31/1982 – 03/27/1989) – Senior Squad Leader
APG, MD

Supervisor: CPT Michael Davis - unknown; Contact: Yes

Pay Grade: E5

Salary: \$1100.00 per month

Hours per week: 60

Supervised 16 other soldiers during daily live-agent decontamination and training operations at a chemical training facility, to include during live agent mixing and equipment maintenance operations. Planned and conducted training for all students on agent characteristics, physiological signs of agent exposure, first aid procedures, safety and security regulations and SOPs and federal and state regulations. Managed a hazardous waste storage facility and a 90-day temporary storage site; assimilated required data, prepared written documentation for disposal, received and maintained lab reports, and kept superiors informed of site operations at all times. Supervised 8 other soldiers while performing technical escort duties.

EDUCATION

Specialized Education – Government Institutes (92-93)

Associate Diploma, Environment, Health and Safety Regulations

Completed 32 hours of environmental regulation training towards 40-hour diploma.

Material covered Resource Conservation and Recovery Act and Comprehensive Environmental Response, Compensation and Liability Act. Courses focused on understanding, interpreting and applying regulations, and understanding their enforcement and related penalties.

Specialized Education - School of Military Packaging Technology
Defense Packaging of Hazardous Materials for Transportation (09/89)
80-hour course, completion authorizes individual to certify all hazardous cargo via all modes of military and commercial ground/air/sea/rail transportation worldwide. Program graduates possess international recognition of their credentials as certifying officials to attest to compliance with regulatory and legal requirements for packaging, loading, and transporting of hazardous materials, to include toxic chemicals. 40-hour retraining required biennially; last completed 11/02/2007

Specialized Education – US Army Quality Assurance Specialist Ammunition Specialist School
Technical Chemical Surety (05/86)
80-hour course; in-depth instruction on all known military chemical agents—physical and physiological properties, safe handling, exposure symptoms, first aid, all applicable safety regulations, and storage and transportation regulations. Completed 40-hour refresher course 08/92.

Specialized Education - US Army Ordnance Missiles and Munitions Center and School
Technical Escort Specialist (1984, soldier; 08/89, DA civilian)
144-hour course; in-depth instruction on chemical agent characteristics, their physical and physiological properties, their hazards and symptoms of exposure to them. Covered all known military chemical agents, first aid procedures, and safety and transportation regulations. Course instructor, 84 through 86.

GED, Dec 1982

Additional:

Maintained military drivers license since 82
Maintained SECRET clearance since 84
Maintained Commercial Drivers License with HAZMAT endorsement since 91
Maintained Heavy Equipment Operator's License since 91

Professional and Technical Skills Training:
Single CAIS (Chemical Agent ID Set) Assessment and Neutralization System 2006
Army Traffic Safety 12/2005
Radiation Safety Course 05/2005
Confined Space Entry and Rescue 99
Supervisor Development Course 98
OSHA 40-hour Site Supervisor Course 96; annual 8-hour refresher course
Leadership Education and Development Course 96
28-hour Environmental Sampling Course 94
Hazardous Material Waste Operations and Emergency Response Supervisory Training 08/94; annual refresher training
Health and Safety Training for Hazardous Waste Site Activities 01/94
Controlled Hazardous Substances in Transportation 94
OSHA Hazard Communication Standards 05/93

Identification of Regulated Hazardous Waste 03/93
40-hour MINICAM Operators Course 02/93
Chemical Weapons Inspector/Escort Individual Safety 93
OSHA 40-hour Health and Safety Training for Hazardous Waste Operations 91, 8-hour annual refreshers 1992-2007
Hazardous Material Handling Course 91
Leadership and Supervision Course 85
160-hour Primary Leadership Development Course 85
Instructor Training Course 97

Qualify annually with M-4 rifle and 9mm pistol (to include night firing and firing while wearing chemical protective gear), on using and maintaining respirator protective equipment and applying CPR and First Aid. Annual refresher training on rules of engagement and use force.

Awards:

Bronze Star Medal 03/21/2002

"Exceptional bravery and meritorious achievement ... as executive officer for first technical escort support team during Operation Enduring Freedom. [His] technical and tactical proficiency, dedication to duty and commitment to mission accomplishment, ... while in close proximity to the enemy, were critical to the success of operations in Afghanistan..."

DA Commendation for Civilian Service 12/94

"... Professional competence and standards have been demonstrated time and again as he carries out his assigned duties in an exceptional manner."

DA Commendation for Civilian Service 07/92

For duties performed during Fort McClellan remediation project. "[He] operated a BA-21 mobile drill rig on 21 formerly utilized defense sites without accident, incident or violation."

Army Achievement Medal 09/87

For work during the Navajo Army Depot mission. "... During the long hours he spent... in full chemical protective clothing, his action contributed to the speedy completion and delivery of over 1400 soil, water and vapor samples... for further analysis."

Army Achievement Medal 04/87

For duty performance during a special 4-month mission on Johnston Atoll. "He performed duties in all phases of the 105mm demilitarization process (which included agent decon and neutralization). He was instrumental in the detachment's achievement of a single shift record of 704 rounds in an 8-hour shift."

Army Achievement Medal 03/85

For duties performed as decon team leader. "[His] technical expertise and administrative management at the Chemical Training Facility was a major keystone in the overall success of the Surety Operational Inspection."

Collected over 10,000 environmental samples using multitude of sampling tools and detection equipment. Neutralized over 2000 vials from recovered chemical ID kits. Used, and trained students, superiors, coworkers and subordinates to use, the M18 chemical detection kit, the Chemical Agent Monitor (CAM), Depot Area Air Monitoring System (DAAMS) pumps and tubes, Draeger tubes, the MINICAM, and the Photo and Flame Ionizing Detection Systems to detect agent presence or contamination in storage areas, at sampling sites and in labs; and detect leaks in storage areas and cargo holds during sampling, remediation, transportation and emergency response operations. I have mixed and distilled agents for use during decontamination training operations. Planned and conducted over 200 live-agent training sessions as instructor for Technical Escort Course at Redstone Arsenal and assisted with set up of operations at the Chemical Decontamination Training Facility at Fort McClellan, to include reviewing and helping write the final program of instruction for its live-agent training program. Participated in review and update of the program of instruction for the Technical Escort Course in the early 1990s to delete obsolete training material and add instruction on monitoring, soil sampling, and newer personnel protective clothing.

Maintained operational control of all assets (Coast guard strike team, Anderson AFB EOD, Johnston Atoll chemical soldiers, ECBC scientists and technicians and TEU response team) during politically-charged emergency response Operation Guam Express—hazard mitigation, recovery, packaging, transportation and storage of 15 chemical ID sets. Responsibilities included sensitive negotiations with local politicians and the private citizen on whose land the hazards were located and serving as the public affairs liaison with local radio, television and print media. Participated in internationally sensitive Operation Steel Box—removal of all chemical munitions from Europe, to include escort of munitions to Johnston Atoll via ships. Team leader of 2005 emergency response to and destruction in place of a fused and armed phosgene mortar round. It was first open-air thermal destruction since 1989.

Trained and experienced in using: Trucks with a capacity over 26,000 pounds; BA-21 mobile drill rig; forklifts up to 18,000 pounds; all graders, bulldozers, and backhoes; generators up to 60KW, all tactical vehicles up to 10 tons; wreckers; M12A1 and M17 decontamination apparatuses; Bio Pack 60 and Bio Pack 240 rebreathers; and self-contained breathing apparatuses. Instructor skills. Basic computer skills. Supervisory and managerial skills.

TAB C

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES

THIS IS AN IMPORTANT RECORD SAFEGUARD IT

ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

DD FORM 1 JUL 79 214

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, first, middle) WHITE, ALBERT JOHN 2. DEPARTMENT, COMPONENT AND BRANCH ARMY/RA 3. SOCIAL SECURITY NO.

4a. GRADE, RATE OR RANK CSM 4b. PAY GRADE E9 6. PLACE OF ENTRY INTO ACTIVE DUTY Baltimore, MD

7. LAST DUTY ASSIGNMENT AND MAJOR COMMAND Apache Tng Bde FORSCOM FC 8. STATION WHERE SEPARATED Fort Hood, Texas

9. COMMAND TO WHICH TRANSFERRED NA 10. SGLI COVERAGE AMOUNT \$ 50 000 NONE

Table with 5 columns: 11. PRIMARY SPECIALTY NUMBER, TITLE AND YEARS AND MONTHS IN SPECIALTY... 12. RECORD OF SERVICE (YEAR, MON, DAY) with rows for Date Entered AD, Separation Date, Net Active Service, Total Prior Active/Inactive Service, Foreign/Sea Service, Effective Date of Pay Grade, Reserve Oblig. Term. Date.

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) Legion of Merit//Bronza Star Medal w/4 Oak Leaf Clusters//Meritorious Service Medal w/4 Oak Leaf Cluster//Air Medal//Army Commendation Medal w/1 Oak Leaf Cluster//Army Achievement Medal//Good Conduct Medal w/Silver, 5 loops//National Defense Service Medal//Armed Forces Expeditionary Medal (Dominican Republic)//Cont'd in Item 18

14. MILITARY EDUCATION (Course Title, number weeks, and month and year completed) Sergeant Major Academy Course, 22 weeks (1977)//NOTHING FOLLOWS.

15. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM YES NO 16. HIGH SCHOOL GRADUATE OR EQUIVALENT YES NO 17. DAYS ACCRUED LEAVE PAID None

18. REMARKS Dental care was not provided within 90 days prior to separation//Item 12a: Immediate reenlistment this period: 770513-800212; 800213-851212; 851213-881130//Item 13: Vietnam Service Medal w/1 Silver Service Star//NCO Professional Development Ribbon Numeral 5//Army Service Ribbon//Overseas Service Ribbon Numeral 2//Republic of Vietnam Campaign Medal//Combat Infantryman Badge//Expert Infantryman Badge//Parachutist Badge//Pathfinder Badge//Presidential Unit Citation//Republic of Vietnam Gallantry Cross Unit Citation Badge w/Palm//Expert Badge (Rifle)//Sharpshooter Badge (Pistol)//Drill Sergeant Identification Badge//NOTHING FOLLOWS.

19. MAILING ADDRESS AFTER SEPARATION 2022 Cherry Rd (Harford) Edgewood, MD 21040 20. MEMBER REQUESTS COPY 6 BE SENT TO MD DIR. OF VET AFFAIRS YES NO

21. SIGNATURE OF MEMBER BEING SEPARATED 22. TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN LARRY ROCHA, SEC. NOIC, AG Transition Pt

MEMBER - 1

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

Table with 4 columns: 23. TYPE OF SEPARATION (Retirement) 24. CHARACTER OF SERVICE (Honorable) 25. SEPARATION AUTHORITY (Regulation 12, AR 635-200) 26. SEPARATION CODE (RBD) 27. REENLISTMENT CODE (RE-4R) 28. NARRATIVE REASON FOR SEPARATION (For length of service.)

REPRODUCED AT GOVERNMENT EXPENSE

@@@@@@@@@@@@@@@@
ALBERT J. WHITE
2022 Cherry Road
Edgewood, Maryland 21040
410 679 2858 H
410 436 7199 W
584 7199 DSN

SSN: 242 58 4849
Source: INTAPG

EXPERIENCE

Mar 03- Present 40HPW, Chief WS-6501-12, 29.81 PH, US Army Technical Escort Unit, APG, MD 21010, LTC Franz J. Amann, 410 436 3044. Chief of a chemical/biological, remediation and emergency response company, with a mission to provide national and international emergency response to chemical and biological events and incidents. Plan, coordinates, provides guidance, directions, tasking, and management of supervisors, Toxic Material Control Operators, Ordnance Removal Personnel, Administrative Personnel and Soldiers. Manage the chemical personnel reliability program as the certifying official; time certifying official, projects, resources, equipment/supplies accountability, training, EEO/EO, promotion recommendations and safety program. Keep the chain of command, superiors and subordinates informed to enhance operations. Establish and enforce deadlines, priorities, policies and procedures. Conducted briefing on the company's missions and capabilities. Coordinate work with various supporting unit, supervisors, and implement quality control procedures. Assist the Battalion Commander and Civilian Executive Assistant to set and obtain unit goals, anticipate/resolve work issues and solve problems when possible. Ensure that missions are accomplished IAW work plans, budget, schedules, standards and agreements. Currently successfully managing two remediation projects and a chemical one-ton movement operation.

Jan 99 - Feb 03 40 HPW, Deputy Hazardous Supervisor WS-6501-12, 28.67 PH, US Army Technical Escort Unit, APG, MD 21010, Major Ronald Gilliam 410 436-1899, Deputy Commander of B Co TEU to assist with Command and control. Supervised 4 WS-10 and 35 DoD civilians and contractors. Operated EOC during September 11, CAIRA exercise and local community training. Assisted CPOC in screening potential employees. Conducted promotion selection boards within TEU. Prepared, brief, deployed and directed teams to Spring Valley DC, Memphis TN,

Ogden UT, Ft. McClellan AL, Redstone Arsenal AL, for remediation and decontamination projects. Managed, trained and supervised Emergency Response Teams for Camp Doha Kuwait, Ft. Carson Co, England AFB, Edwards AFB, Guam and Afghanistan. Maintained annual certification and training qualifications for employees and myself. Managed hours worked, work schedules and overtime requests. Awarded all personnel based on individual initiative and demonstrative abilities. Research and write new job description for new hiring positions. Evaluate, monitor and approve employees for the Personnel Reliability Program. Attend meetings with other agencies to articulate B Co's participation in all projects. Draft operation plans for B Company projects. Support family support, EEO, and PRP programs.

Jun 95 - Jan 99, 40 HPW, Supervisor Toxic Material Operators, WS-6501-10, \$19.41 PH, US Army, Technical Escort Unit, Aberdeen Proving Ground, MD 21010, CPT Thompson, 410 436-7305. Supervised major remediation, mitigation, CAIRA, and CWM projects, mission planning, NBC decon procedures, site set-up, preparation of decon solution, safety gear exchange, operations and positioning of chemical agent alarms and detectors, chemical remediation burial. Operated and maintained light and heavy equipment, surveyed sites, provided site safety. Managed personnel in peacetime. Motivated unit to deliver safe quality service at home and abroad.

Feb 91 - Jun 95, 40 HPW, Toxic Material Handler, WG-6511-09 \$14.00 PH, US Army, Technical Escort Unit, Aberdeen Proving Ground, MD 21010, CPT Richard D. Sanders, UNK. Primary Driver and Operator of 5-ton truck with M12A1 Decontamination Apparatus during unit missions and major inspections. Decon personnel and equipment. Selected and used the proper decontaminants and procedures. Packed and transported contaminated materials for disposal and testing.

Feb 94 - Mar 95 Miniature Automatic Air Monitoring Systems Operator. Monitored the area for presence of chemical agents. Protected self, personnel and civilians from chemical agents. Collected, analyzed soil samples, accurately reported data. Packed, shipped and briefed soil samples.

Albert J White
242 58 4849

Jul 90 - Jan 91 Member of Initial Entry Party for Emergency Responses. Evaluated, leak-Sealed packed, Decon, and stored ammunition rounds. Donned encapsulated protective clothing and SCBA gear, Interspiro and M40 mask. Maintained and serviced unit chemical equipment, Cams, M18, DAMMS, MINICAM, Draggers, PINS and M256.

Nov 58 - Nov 88 Professional Soldier, Private thru Command Sergeant Major E-9, \$20.00 PH, US Army, Fort Bragg, NC 27101, COL Kruger, UNK. Infantryman, training instructor in 82nd Airborne Corps, received, trained and molded civilians into professional soldiers. Conducted precision training, resulted in the Army's best combat fighting forces. Trained to kill, escape, evade and survive. Planned and Managed unit missions and resources. Led in combat, Serviced two combat tours in Viet Nam, Kept my soldiers alive and healthy. Taught war tactics, EEO, NBC, Ethics, leadership, marksmanship, writing, reporting, communicating, first aid, sole survival, NBC defense, and parachuting with 82nd Airborne. Originated, wrote, and implemented SOPs in units and the Sergeant's Major Academy. Conducted briefing, parades, rehearsals, ceremonies, promotion boards, and investigations. Escorted units overseas. Performed Combat Life Saving measures and demonstrations. Taught as Senior Drill Instructor, jump master, Security Officer, and Chief Enlisted Advisor.

EDUCATION

AA, 1986 General Education, Central Texas College, Killeen, TX 76544

SPECIALIZED TRAINING: Graduate of US Army Sergeant's Major Academy, Security Awareness, Consideration for Others, Technical Escort Training July 1990, Heavy Equipment Jun 93, MINICAM Apr 1992, School of Military Packaging Technology, Transportation of Hazardous Materials 2000

LICENSE/CERTIFICATES: First Aid, Adult CPR, Time Keeper Jun 2002, Lead May 2000, SMPT Oct 2000, Military Drivers license, CDL Class B 1990

Albert J White
242 58 4849

ENCLOSURE 4



DEPARTMENT OF THE ARMY
 ANALYTICAL AND REMEDIATION DIRECTORATE (PROVISIONAL)
 5183 BLACKHAWK ROAD
 ABERDEEN PROVING GROUND, MARYLAND 21010-5424

Formatted: Bottom: 1"

AFCB-AR-DIR

Deleted: PECP-NER-G
 13 June 2007

MEMORANDUM FOR Commander, US Army Garrison, ATTN: AMSSB-GCP,
 2201 Aberdeen Boulevard, Aberdeen Proving Ground, Maryland 21005-5001

Deleted: Aberdeen Proving Ground

SUBJECT: Request for Approval of New Hazardous Duty Pay (HDP) Work Situation

1. The employees listed below perform a duty which I believe warrants hazardous duty pay.

Deleted: ed

Deleted: I believe

2. This duty matches a category outlined in Appendix A, subpart I, part 550, title 5, Code of Federal Regulations, but is not on a listed/approved certificate for this activity. The category is Explosives and Toxic Chemicals.

3. The duty performed is the excavation and handling of known and unknown ordnance items during CONUS and OCONUS missions. The items are US and foreign ammunition and explosives that have the potential to be chemically filled. These items have not been inspected nor certified as safe by qualified US personnel.

Deleted: also

4. This involves exposing the employee to the following hazard: the employees are exposed to known and unknown ordnance items during the excavation process on unexploded ordnance (UXO)/Recovered Chemical Warfare Material (RCWM) activities/sites. They handle non-stockpile ordnance items to identify and stop any leaks and package the item into an over pack container as part of an emergency response effort or remediation project. They conduct x-ray investigations of ordnance items of a highly sensitive nature, which may have been altered during ordnance testing or rough handling.

Deleted: Non

Deleted: ing

Deleted: s

Deleted: s

Deleted: C

Deleted: s

5. The protective measures taken include a full range of protective clothing and detection devices.

6. In my view, these do not completely eliminate the hazard.

7. This duty reoccurs on a daily basis and, if approved, should be placed on our list of approved hazardous work situations.

Deleted: e

AFCB-AR-DIR

SUBJECT: Request for Approval of New Hazardous Duty Pay (HDP) Work Situation

8. The following is employee related information:

NAME	SSN	TITLE/SERIES/GRADE/STEP
Maddox, Robert	[REDACTED]	Ordnance Removal Manager, 0301, GS-13/2
Mackeprang, Phillip	[REDACTED]	Ordnance Removal Specialist, 0301, GS-12/5
Budzinski, David J.	[REDACTED]	Equipment Specialist (EOD), 1670, GS-11/5
Marks, Scott A.	[REDACTED]	Equipment Specialist (EOD), 1670, GS-11/5
West, David H.	[REDACTED]	Equipment Specialist (EOD), 1670, GS-11/4
Pulliam, Adam K.	[REDACTED]	Equipment Specialist (EOD), 1670, GS-11/6
Versino, Anthony, Jr.	[REDACTED]	Equipment Specialist (EOD), 1670, GS-11/6
Rowan, Michael J.	[REDACTED]	Equipment Specialist (EOD), 1670, GS-11/4

9. The point of contact for this matter is Mr. Robert Maddox at 5-7193 or the undersigned at 5-9570.

Deleted: 8. See enclosure for employee-related information.¶
¶
¶
¶
¶
9

Encl

CHARLENE S. JENSEN
Director,

Deleted:
Deleted:
Formatted: Indent: Left: 3", First line: 0.5"
Deleted: , Analytical & Remediation Directorate