



THE UNDER SECRETARY OF THE NAVY  
WASHINGTON DC 20350-1000

November 7, 2011

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

Dear Ms. Lerner:

Thank you for your letter of August 16, 2010, requesting an investigation of allegations that an employee of the Morale and Welfare Recreational Center, Naval Air Station (NAS), Whiting Field Florida, engaged in theft and related improprieties. Your letter also indicated the attempts of Complainant, a NAS police officer, to investigate these matters were improperly thwarted and threats of reprisal were made against him if he attempted to continue those efforts. The Secretary of the Navy has authorized me to sign out the report on his behalf.

The inquiry led by the Naval Inspector General (NAVINSGEN) determined the NAS employee did operate an improper "can money" fund and used money from the fund to make unauthorized purchases. The inquiry did not establish he engaged in theft with respect to that fund or other government property. Nonetheless, the employee resigned during the course of the investigation.

The inquiry also found the Police Officer was not improperly hindered or threatened with reprisal. Rather, his superiors, who were aware of an ongoing criminal investigation of similar allegations being conducted by the Naval Criminal Investigative Service (NCIS), properly were attempting to prevent the Police Officer, who did not have investigative authority, from interfering with the ongoing NCIS investigation.

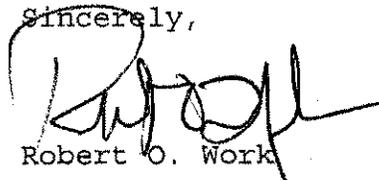
NCIS referred its investigative findings to Assistant U.S. Attorney (AUSA), Northern District of Florida, Pensacola, FL, who declined prosecution due to weak and insufficient admissible evidence. Although the AUSA chose not to prosecute this case, the inquiry concluded the NAS employee improperly allowed some contractor employees to take for their personal use surplus recreational equipment that had been scheduled for disposal through the Defense Reutilization and Marketing Office.

I am enclosing two versions of the report of investigation. The first contains names of witnesses and is for your official use. I understand that you will provide a copy of this version to the Complainant, the President, and the House and Senate Armed Services Committees for their review.

The second version excludes the names of witnesses and is suitable for release to the general public. As has been the case with other reports that the Department has provided to your office since September 11, 2001, I request that you make only this redacted version available to members of the public.

Again, thank you for bringing this matter to our attention. If I may be of any further assistance, please let me know at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert O. Work". The signature is stylized and written over the printed name below it.

Robert O. Work

Enclosures: (1) For Official Use Copy of Report of Investigation  
(2) Public Release Copy of Report of Investigation

**Office of the Naval Inspector General**

OSC Case Number DI-10-2479/3213

NAVINGEN Case Number 201002144

**Report of Investigation**

**19 October 2011**

ALLEGED MORALE WELFARE AND RECREATION DEPARTMENT FUNDS AND  
EQUIPMENT IMPROPRIETIES AT Naval Air Station, Whiting Field

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**Preliminary Statement**

1. This report is issued pursuant to a 16 August 2010 Office of Special Counsel (OSC) letter tasking the Secretary of the Navy (SECNAV) to conduct an investigation under 5 United States Code (USC) § 1213.

2. OSC is an independent federal agency whose primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices. OSC also serves as a channel for federal workers to make allegations of: violations of law; gross mismanagement or waste of funds; abuse of authority; and a substantial and specific danger to the public health and safety.

3. Reports of investigations conducted pursuant to 5 USC 1213 must include: (1) a summary of the information for which the investigation was initiated; (2) a description of the conduct of the investigation; (3) a summary of any evidence obtained from the investigation; (4) a listing of any violation or apparent violation of law, rule or regulation; and (5) a description of any action taken or planned as a result of the investigation, such as changes in agency rules, regulations or practices, the restoration of any aggrieved employee, disciplinary action against any employee, and referral of evidence of criminal violations to the Attorney General.

**Information leading to the OSC Tasking**

4. The OSC tasking stems from a complaint alleging that Mr. Vance "Bear" Quillin (hereafter "Subject"), former Boat Dock Manager, Morale, Welfare and Recreation (MWR) facilities, Naval Air Station Whiting Field (NASWF), usurped rental fees on government-owned recreational equipment and stole government

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property. OSC identified the two complainants as Lieutenant John Conner, a civilian Navy police officer (hereafter Complainant One), who also alleged that he was improperly instructed to abort his investigation into the Subject's activities; and Mr. James Barnes, a civilian Marine Technician, (hereafter Complainant Two). OSC stated that both complainants consented to the release of their names.

5. The OSC provided the following summary of the complainant's allegations:

*"[Complainants] alleged that [Subject] improperly seized between \$15,000 and \$20,000 in governmental rental income; used the misappropriated money to pay for travel, lumber, and parties; and stole government supplies and gasoline. On multiple occasions [Complainant One] was prevented from investigating these allegations ... These individuals told [Complainant] he did not have the authority to investigate the [Subject]; and that if he wanted to pursue investigating these issues [Subject] would initiate a civil lawsuit against him on the basis of a personal vendetta. That if [Complainant One's] name was even mentioned in the same context as [Subject], that [Complainant One] would face a civil lawsuit; and that [Complainant One's] career would be impacted if he attempted to investigate [Subject] or visited the boat docks area."*

6. The OSC tasking letter stated the Special Counsel had determined there was a "substantial likelihood that the information provided by the Complainants disclosed a violation of law, rule, or regulation, gross mismanagement, and an abuse of authority."

#### **Description of Naval Air Station Whiting Field (NASWF)**

7. NASWF is located approximately 7 miles Northeast of Milton, Florida (FL), between Florida route 87 and County road 191.

8. NASWF Security Department is located in building 3026 on the West side of Enterprise Street in between Langley and Long Island Streets.

9. NASWF MWR department operates Naval Air Station Whiting Park (hereafter NASWP); a marina located at 5499 Old River Road, just outside the town of Milton, FL, north of Caroline Street on the Blackwater river. Authorized patrons of the marina can rent various outdoor equipment such as, water craft and camping

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equipment including jon boats; kayaks; canoes; pontoon boats; power boats; and mobile campers. Other amenities at the park include pavilions with charcoal grills, wading areas, a playground, basketball, volleyball, and horseshoe pits. From 1 October 2007 to 10 April 2010, Subject was the NASWP Manager and Complainant Two worked for Subject as a civilian Marine Technician.

10. The NASWP recreation area is a program within the NASWF MWR Department. NASWP rents boats, campers and outdoor equipment, and only operates on Friday, Saturday, Sunday and Monday.

11. MWR personnel are responsible and accountable for all financial transactions associated with funds received from resale or rental activities.

#### **Description of Conduct of Investigation**

12. SECNAV referred the OSC 16 August 2010 tasking letter to the Office of the Naval Inspector General (NAVINGEN) for investigation. NAVINGEN assigned case number 201002144 to the matter and forwarded the complaint to the Inspector General (IG), Commander, Navy Installations Command (CNIC), directing the CNIC IG to conduct an investigation. CNIC IG, in turn, assigned investigative responsibility to Navy Region Southeast (NRSE) IG, who assigned a Navy Region Southeast Investigating Officer (NRSE IO).

13. During the course of this investigation, it was discovered that since 2007, the Department of the Navy (DoN) has conducted five investigations/reviews, to include this one, into the same and/or similar allegations against Subject.

14. In May 2008, Commanding Officer (CO), NASWF, directed a Judge Advocate General Manual (JAGMAN) command investigation into allegations that the Subject misused MWR funds, MWR rental equipment, improperly allocated MWR rental equipment and authorized the improper disposition of government property. The command completed the investigation in June 2008 and concluded that MWR employees kept an unauthorized "Can Money" fund, mismanaged inventories and records, improperly allowed employees to travel outside the local area without authorized orders, and improperly disposed of excess equipment. The information obtained from this report will be used to respond to allegation one and four.

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15. In March 2010, the Naval Criminal Investigative Service (NCIS) received information from the NASWF Criminal Investigative Division (CID) that the Subject illegally provided Project Resources Inc./Del-Jen Inc. (PRI/DJI) employees government MWR equipment scheduled for turn-in to Defense Reutilization and Marketing Office (DRMO), NASWF. In addition, Subject was suspected of misuse of MWR funds and rental equipment, and stealing gasoline from the gasoline pump located at NASWF and storing barrels of it at his residence. The information obtained from this report will be used to respond to allegation one and four.

16. In March 2010, NRSE IG Rep, NASWF, reviewed the MWR, NASWF, Non-Appropriated and Petty Cash/Change Funds, and found no major discrepancies; however, the petty cash fund was over by ten cents. An unscheduled cash count was conducted and revealed no discrepancies. The information obtained from this report will be used to respond to allegation one and four.

17. In October 2010, the NASWF CID initiated an investigation into allegations that the Subject illegally provided PRI/DJI employees government MWR equipment scheduled for turn in to DRMO, NASWF. The investigation found that several PRI/DJI employees were told by Subject they could have equipment slated for DRMO. The information obtained from this report will be used to respond to allegation two.

18. On 04 May 2011, NCIS conducted another investigation in response to this OSC complaint alleging the same violations and subsequent to NCIS IG's request for additional information. The information obtained from this report will be used to respond to allegation two through five.

19. For this investigation, the NRSE IO conducted 23 interviews, including the Complainants and Subject; and reviewed 28 documents which included the NASWF JAGMAN investigation dated 12 June 2008; two NCIS Reports of Investigation (2008 and 2011); and a 2010 NRSE IG command evaluation review. The investigators also researched statutory, regulatory, and contract provisions that could be used as standards by which to examine Subject's conduct.

#### **Allegations Summary**

20. **Allegation One:** That Subject improperly operated an unauthorized petty cash fund referred to as "Can Money" between 2006 and January 2010 and used the money to make unauthorized

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purchases in violation of BUPERSINST 1710.11C Sec.

414. Substantiated

21. Allegation Two: That Subject improperly provided PRI/DJI employees government MWR equipment scheduled for "turn in" to the DRMO, NASWF from 2007 to 2008 in violation of DOD 4160.21-M, Chapter 3, paragraph (B). Substantiated

22. Allegation Three: That on various occasions between 2008 and 2010, NASWF Deputy Security Director interfered with the attempts of Complainant One to investigate suspicious activity committed by the Subject, NASWF, NASWP Manager, MWR facility, in violation of 18 USC Chapter 73 § 1503, Obstruction of Justice. Not substantiated

23. Allegation Four: That Subject stole government property, including gasoline and household supplies, from NASWP in violation of Title 18, CRIMES AND CRIMINAL PROCEDURE, PART I, CRIMES, CHAPTER 31, EMBEZZLEMENT AND THEFT, Section 641. Public money, property and records. Not Substantiated

24. Allegation Five: That on or about 12 March 2010, NASWF Deputy Security Director, threatened Complainant One, Supervisory Police Officer, by suggesting that his career would be impacted if he continued to investigate Subject, in violation of 5 United States Code (U.S.C.) § 2302 (b)(8)(B). Not Substantiated

#### Summary of Evidence Obtained During Investigation

##### Allegation One

That Subject improperly operated an unauthorized petty cash fund referred to as "Can Money" between 2006 and January 2010 and used the money to make unauthorized purchases in violation of BUPERSINST 1710.11C Sec. 414

##### Findings

25. This allegation was addressed by the JAGMAN and NCIS investigations of May 2008 and March 2010; and the March 2010 NRSE IG Rep, NASWF, review of the MWR, NASWF, Non-Appropriated and Petty Cash/Change Funds. The facts and conclusions of this allegation are in support of the findings identified by those investigations and reviews.

26. In their complaint to OSC, the Complainants alleged the following:

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"That [Subject] improperly seized between \$15,000 and \$20,000 in government rental income." Beginning in 2006, [Subject] who was the supervisor of [Complainant Two], instructed him to rent out government-owned campers, power boats, pontoon boats, jon boats, kayaks, canoes, generators, and other equipment on Tuesdays, Wednesdays, and Thursdays when the boat docks were scheduled to be closed for cleaning and repairs on equipment. Customers who rented items on these days were required to pay for their rentals with cash. Subject altered the rental check-out sheets after equipment was returned to reflect lower totals. The difference between the amount of money customers paid and the amount listed on the check-out sheets was set aside and referred to as "Can Money." In some cases, Complainant Two stated that the Subject discarded check-out sheets and converted a portion of the amounts paid by customers to "Can Money." Complainant Two estimated that he collected approximately \$300 per week engaging in this activity. Complainant Two continued to collect "Can Money" for Subject until January 2010, at which point the boat docks remained open on Tuesdays, Wednesdays, and Thursdays, but the rental revenue was properly given to the government."

27. According to testimony provided in the JAGMAN investigation, Subject used "Can Money" to pay for equipment, travel, and parties with upwards of 100 guests. Under the direction of Subject, Complainant Two purchased two generators for use at the boat docks using "Can Money". In 2008, Subject gave the generators to cashier and customer service representative (hereafter CCSRP One) and Complainant Two. Complainant Two turned the generator he was given into the security office. Similarly, the Subject acknowledged to Complainant Two that he used "Can Money" to purchase lumber. Complainant Two observed Subject both taking the lumber to his residence and using it for a landscaping project at the boat docks. Complainant Two stated that "Can Money" was also used to pay for his travel to Orlando, Florida, in 2007 to procure a Craig Cat, a two-seater recreational boat, for the boat docks, which was used for rental until it was removed from service due to safety concerns.

28. During his interview with the NRSE IO, Complainant Two stated there were at least five parties thrown at the boat docks since 2006 by the Subject, CCSRP One, Complainant Two, and a former Recreational Aide who is now a cashier and customer service representative at NASWP (hereafter CCSRP Two).

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Complainant Two attended all of the parties. Complainant One did not attend any of the parties but observed two of them take place. Complainant Two disclosed that "Can Money" was used to pay for expenses, such as food and alcohol. The Subject requested reimbursement from "Can Money" from Complainant Two for these purchases at one or two of the parties. In addition, MWR money was used to pay for expenses at these parties. However, it is unclear which money was used to pay for which expenses."

29. The NCIS investigation found that in July or August 2008, Complainant Two showed Complainant One the safe where "Can Money" was stored. Inside, Complainant One saw a two inch stack of U.S. Currency with a \$20 bill on top. Complainant One reported this observation to MA1, Command Investigator. However, MA1 told Complainant One to "leave Subject alone and not to report these matters to him in the future."

30. On 19 January 2011, NCIS interviewed Complainant One regarding the allegation that Subject misappropriated \$15,000 to \$20,000. Complainant One stated "[Subject] maintained the NASWP record book in pencil alleging [Subject] doctored the NASWP financial records. [Complainant One] stated [Subject] kept a "Can Money" account in the NASWP safe and that [Subject] used the "Can Money" to purchase unauthorized items for NASWP and for personal use." [Complainant One] stated he personally observed a "stack of bills" in the NASWP safe.

31. During the interview with NCIS, Complainant One stated that Subject instructed his workers, specifically Complainant Two, to open NASWP on Tuesdays, Wednesdays, and Thursdays for cash only transactions. Complainant One stated these three days were originally closed for maintenance. Complainant One stated Subject brought in approximately \$300 to \$500 USD from transactions of the three days. Complainant One further told NCIS that the Subject used the money from the three days for personal use.

32. Complainant One told NCIS that the Subject had provided free rentals to construction workers working on his residence after Hurricane Ivan, and that this was a common practice for the Subject. According to Complainant One, the Subject provided either free or reduced priced rentals to several individuals. Complainant One stated Complainant Two was the source of several of the allegations brought forth to him against the Subject.

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33. Complainant One told NCIS that prior to the allegations from Complainant Two that he utilized NASWP services regularly. Complainant One stated he received discounts from the Subject for equipment rentals. NCIS asked Complainant One if he had a "falling out" with the Subject. Complainant One explained that the Subject came to him and "yelled at him" after he found out that Complainant One was investigating him for misuse of government funds and equipment. Complainant One did not provide specific details on what the Subject said to him.

34. In his statement to NCIS, Complainant Two stated the Subject did not record the transactions from the closed days and put the money into the "Can Money" fund and ultimately purchased unauthorized equipment for NASWP.

35. On 18 October 2010, NRSE IO interviewed Complainant Two, who stated the Subject was his supervisor from 2004 to 2005. Complainant Two stated he knew about the "Can Money" fund because the Subject kept the money in his safe at work. Complainant Two added that the Subject always knew how much money was in the "fund" because he would count it as often as once a week.

36. Complainant Two stated that the "Can Money" fund "went away" sometime between the party in November 2006 and April 2007. He clarified saying that the money was accounted for and the practice of operating the slush fund was done away with.

37. CCSRP One told NCIS he was aware of the "Can Money" fund and also referred to it as the "tip jar." He also stated that the "Can Money" fund got to be no more than \$60.00 USD and that it was used to buy pizza for the employees.

38. NCIS interviewed the current NAWSF MWR Division Director (hereafter current MWR Division Director), about his knowledge of a "Can Money" fund and if it is the same as "Petty Cash." The current MWR Division Director stated NASWP has a \$150.00 USD 'Petty Cash' fund used for emergency purchases maintained in a safe that only the activity manager has access to. According to the current MWR Division Director, the manager must request permission to use the money from either the MWR Director or MWR accounting department; once approved and a purchase is made, a receipt is provided to accounting for reimbursement. The current MWR Division Director stated he believed the alleged "Can Money" fund was from revenue from rental contracts. He opined the "Can Money" was a fund from contracts not registered and further stated that using the alleged "Can Money" to

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purchase items for the Park was against policy and therefore was not authorized.

39. According to the testimony provided to NCIS by a former NASWF XO (hereafter the former XO), the Subject told her the "Can Money" fund was in place prior to his becoming manager. She stated that she believed the "Can Money" fund consisted of money from tips and was possibly used to purchase things for NASWP. She stated that when she became aware of the "Can Money" fund it was no longer being used.

40. The NASWF JAGMAN investigation concluded that, based on intensive research, cash money received from MWR customers was not being recorded as sales; at least \$1,300.00 in rental fees could not be accounted for and was probably used as "Can Money." There is no way to determine if and/or how much more MWR funds may have been stolen.

41. NRSE IG Rep, NASWF, reviewed the MWR, NASWF, Non-Appropriated and Petty Cash/Change Funds, and found no major discrepancies; however, the petty cash fund was over by ten cents. An unscheduled cash count was conducted and revealed no discrepancies. According to the report, records show the last unscheduled cash count was conducted on 16 March 2010 and 18 March 2010.

42. On 17 November 2010, NCIS interviewed the Subject at his residence. The Subject stated he was the NASWP manager for approximately four to five years prior to his resignation in April 2010. He stated that he worked as an employee before becoming the manager.<sup>1</sup> The Subject stated at that point in his life, the park was everything to him. He had taken his own money and bought equipment for the park. The Subject stated, "I make enough money so I can spend a couple hundred on the park," and "it was no big deal." The Subject stated before he took over as the NASWP manager, he did not receive indoctrination. He never did paperwork before and the former NASWP manager did not teach him or delegate any responsibility. The Subject stated he has done nothing other than help the Park and that it caused his mental and physical breakdown. He also stated he did not take "one dime" from NASWP and would take a "lie detector."

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<sup>1</sup> During 2004 and 2005, Complainant One worked for Subject.

43. In January 2011, NCIS re-interviewed the Subject, who stated that before he became NASWP Manager, the park already had the "Can Money" fund. He stated the "Can Money" was used to obtain items needed for the Park.

44. On 11 May 2011, NCIS re-interviewed the Subject regarding the allegations against him while employed as the NASWP manager. The Subject stated he used the "Can Money" to correct the register at NASWP.

#### **Use of "Can Money" to Purchase Oil**

45. During his 11 May 2011 interview with NCIS, the Subject stated that on a particularly very busy weekend the Park ran out of oil and he purchased oil with the "Can Money" also known as petty cash, for approximately \$150.00 USD. During his interview, the Subject explained that he bought oil with petty cash at the Bait and Tackle store out of his own pocket because MWR would not reimburse him for the purchase.

#### **Use of "Can Money" to Decrease the Price of Rentals**

46. In a January 2011 interview with NCIS, the Subject stated he also cut the price of rentals if a patron had a problem with the equipment and he put that money in the "Can Money" fund.

47. On 11 May 2011, in a subsequent interview with NCIS, the Subject stated a former MWR Director (hereafter Former MWR Director), knew the "Can Money" fund existed and that it was used to buy nuts and bolts and consisted of tips from customers. The Subject believed NASWP workers "pocketed" some of the tips they received. The Subject stated when the register count was low, he used "Can Money" to balance it out. According to the Subject, there is no documentation confirming he used "Can Money" to balance out the register. Initially, the Subject stated the "Can Money" mostly had a small amount in it, but got up to approximately \$80.00 USD at one time. The Subject then stated some Saudi Arabian males gave him a total of \$100.00 USD in tips, and that he gave it to the former NASWP manager because of the value of the tip. When NCIS RA asked the Subject to further explain the NASWP petty cash fund, the Subject stated petty cash was used on the weekends for incidentals. He stated he often reimbursed employees with his personal money.

48. During his interview, the Subject told NCIS that he believed Complainant Two brought the allegations against him to Complainant One year ago. The Subject stated he did not know

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what crimes Complainant Two specifically alleged he had committed. He further stated Complainant Two disliked him and his family. The Subject stated Complainant Two's way of doing "things" was if "someone said something that would get him in trouble he would run and tell on them first."

49. Subject stated Complainant One "hates" him because of an alcohol issue that happened at NASWP. The Subject stated he gave cops a break with rentals. According to the Subject, when Complainant One received a promotion he bought 100 proof Vodka and got Complainant Two "drunk." He also stated that Complainant One let Complainant Two drive home intoxicated. The Subject stated after that incident he told Complainant One no more deals and/or benefits for him. The Subject stated prior to the incident he gave Complainant One free boat rentals and/or 1/2 off them. The Subject stated he always submitted paperwork for rentals and that he would put "N/C" or discount on rental paperwork in such cases. He again stated everyone paid for fuel. The Subject stated after the falling out with Complainant One, Complainant One told him, "I am gonna get ya."

**Use of "Can Money" to Purchase Fuel, Lodging, and Food for a Trip to Orlando, FL**

50. Complainant Two alleged in his complaint to OSC that "Can Money" was used to pay for fuel, lodging, and food for a trip to Orlando, FL, in July 2007, to pick up four Craig Cat boats purchased by MWR. He stated he travelled in an MWR van with a trailer and this was a two-day trip.

51. There are no MWR records to show that travel orders were prepared or executed for Complainant Two for the July 2007 timeframe.

52. The Subject told NCIS that he paid for the travel of Complainant Two out of his personal funds; and that he was not aware he was required to put Complainant Two on travel orders. The Subject stated that he sent Complainant Two to Orlando, FL, to purchase and pickup four Craig Cat boats. The Subject initially stated MWR funded the Orlando, FL, travel but later remembered a possible mix up with whether it was funded by MWR or not. He stated he believed the current MWR Director or the MWR Program Manager verbally approved the trip. The Subject stated that he may have paid for the trip because he did not put Complainant Two on travel orders prior and might have not been reimbursed for the trip.

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53. The NASWF JAGMAN concluded the Subject wrongfully allowed an employee to travel out of the area without authorized travel orders and that the Subject used unauthorized funds to pay for said travel. The NASWF JAGMAN investigation further concluded Subject wrongfully allowed an employee to travel out of the area without authorized travel orders and that he used unauthorized funds to pay for said travel.

#### **Use of "Can Money" to Purchase Lumber**

54. In their OSC complaint, the Complainants alleged that the Subject acknowledged to Complainant Two that he used "Can Money" to purchase lumber. Complainant Two alleged that he observed the Subject taking the lumber to his residence and using it for a landscaping project at the boat docks.

55. On 26 May 2010, Complainant Two stated in his written statement prepared for an unnamed police officer at NASWF, "Sometimes I [Complainant Two] did not know what lumber belong [sic] to WP or [Subject]."

56. On 11 May 2011, in his interview with NCIS, the Subject stated that the command wanted him to put up a fence surrounding NASWP, but he did not receive instruction as to where to get the wood for the fence. The Subject stated he was told to get it done, and that when he is told to get something done, "then you get it done." He further stated that he went from E-1 to WO-3 because he did what he was told to do. The Subject also said nothing the CO told him to do was wrong. He did not specify as to where he received the wood, but did tell NCIS he did not use the wood for personal use.

57. NCIS asked the Subject if he purchased extra wood for projects at NASWP and ultimately took the extra wood to his residence and used it. The Subject stated he purchased wood with MWR funds, and used it for a retaining wall at NASWP; and that he did not purchase extra wood to use at his residence. He stated the NASWF command then wanted him to build a split rail fence at NASWP; and that he was told to go to the "Compound" on NASWF and get wood to build the fence (NFI). The Subject stated he believed the "Compound" belonged to MWR, and he later found out the "Compound," and ultimately the wood he used to build the split rail fence at NASWP, belonged to PRI/DJI, Services Contractor at NASWF. The Subject stated he told Complainant Two not to take wooden posts from the "Compound" after he had knowledge it belonged to PRI/DJI. He stated that Complainant Two continued taking wooden posts from the "Compound."

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**Use of "Can Money" to Purchase Generators**

58. According to the Complainants, under the direction of the Subject, Complainant Two purchased two generators for use at the boat docks using "Can Money" and that, in 2008, the Subject gave the generators to CCSRP One, and Complainant One. The complainants further state that Complainant One turned the generator he was given into the security office.

59. The Subject testified to NCIS about the allegation that he swapped a government generator with a non-government generator. The Subject stated a male<sup>2</sup> was selling a 4,000 watt Honda generator which was a better generator than the 5,500 watt generator, and that he informed the former MWR Director, and an individual<sup>3</sup> from the base legal office that he wanted to swap the two generators. The Subject stated he initially received authorization to conduct the swap of the generators, but ultimately he stated he was not authorized to swap the generators. He stated he tried to find the "guy" he swapped generators with but could not find him.

60. During an interview, NCIS asked CCSRP One if he received a generator from the Subject. CCSRP One denied receiving a generator. He had no further information to provide to NCIS.

61. On 11 May 2011, the Subject stated in his interview with NCIS that four generators were purchased from Pep Boys with MWR funds; however, he could not recall the make or model of the four generators, but stated they were 5500 watt generators. The Subject believed the generators that were purchased at Pep Boys were put on the NASWP inventory. The Subject stated he wanted to purchase a better generator to use at the Park for the winter season; therefore, he sent Complainant Two to the Navy Exchange, Corry Station, Pensacola, FL, to purchase one generator. The Subject stated he received a phone call from Complainant Two informing him he had bought a second generator because he was able to acquire a good deal on it. The Subject stated Complainant Two bought the second generator with his personal money and that he reimbursed Complainant Two for the second generator with his personal money. Additionally, the Subject stated he used his personal money to purchase the first generator.

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<sup>2</sup> No additional identifying information was provided.

<sup>3</sup> Subject could not recall who the individual was.

62. The Subject told NCIS that he did not get reimbursed from MWR and was told by the former MWR Director to "get rid" of the generators. The Subject stated that he told Complainant Two to take the second generator he bought. The Subject stated he gave the first generator to CCSRP One. The Subject stated his intention was to purchase the one generator and put it, along with the second generator, on the NASWP inventory. He stated he did not give a generator to his son.

63. The NASWF JAGMAN IO thoroughly reviewed the issue pertaining to the unauthorized purchase of generators and concluded MWR funds were being improperly utilized for unauthorized purchases; the two generators purchased with "Can Money" created an unauthorized commitment of funds; the Subject created an unauthorized commitment when he swapped a brand new MWR purchased 5500-watt generator for a lesser previously owned 4000-watt generator; and, he committed an unauthorized disposal of MWR equipment when he gave the two generators away.<sup>4</sup>

#### **Allegations Pertaining to Use of "Can Money" to Fund Parties**

64. According to the Complainants, the Subject used "Can Money" to pay for equipment, travel, and parties with upwards of 100 guests. Complainant Two alleged there were at least five parties thrown at the boat docks since 2006 by the Subject, CCSRP One, Complainant Two, and former CCSRP Two. Complainant Two stated he attended all of the parties and that Complainant One did not attend any of the parties but observed two of them take place.

65. Complainant Two disclosed to OSC that "Can Money" was used to pay for expenses, such as food and alcohol and that the Subject requested reimbursement for "Can Money" from Complainant Two for these purchases at one or two of the parties. According to Complainant Two, MWR money was used to pay for expenses at these parties but that it was unclear which money was used to pay for which expenses.

66. During his interview with the NRSE IO, Complainant Two clarified that only part of the supplies for the parties in question was purchased with funds from the "Can Money." He

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<sup>4</sup> Because the NASWF JAGMAN investigation was conducted into these allegations in June 2008, the evidence collected for the NASWF JAGMAN will not be included in this investigation although the conclusions are relied upon to address the Complainants' allegations.

stated the other part of the money was provided by MWR. Complainant Two stated the first party was on or about November 2006. He stated that alcohol and food was purchased with "Can Money." He stated Complainant One possibly had documentation regarding these purchases. Complainant Two testified that the second party he knew about was in April 2007. He stated that alcohol and food were purchased once again and that CCSRP One and Two had knowledge of this event and could speak to funds that were used to purchase the party supplies. Complainant Two stated that MWR provided beer for both parties; i.e. November 6 and April 7, 2008.

67. The Subject stated the parties at NASWP were sponsored events and that McKenzie Motors and Pollick's Heating and Air together sponsored four or five parties. He stated the companies paid for the events and no MWR or "Can Money" funds paid for the parties. The Subject further stated only Department of Defense (DoD) affiliated personnel participated in the events. He stated the Park made a profit off of the events because people would purchase items from the store at NASWP. The Subject stated at one event they ran out of shrimp and he bought more with his personal money. He stated he did not try to get reimbursed from MWR because he knew he would not get reimbursed.

**Collection of "Can Money" Received on Days Park was Supposed to be Closed**

68. Complainant Two stated in an interview with NCIS that the Subject instructed NASWP employees to open NASWP on Tuesdays, Wednesdays, and Thursdays when the Park was supposed to be closed for maintenance. Complainant Two stated the Subject did not record the transactions from the closed days and put the money into the "Can Money" fund and ultimately purchased unauthorized equipment for NASWP.

69. The allegation by Complainant Two that the Subject instructed employees to open NASWP when it was supposed to be closed is not corroborated by the current MWR Director, CCSRP One, or the Subject's statements. In fact, the Subject claimed NASWP was never closed on Tuesdays, Wednesdays, and Thursdays, but cash register employees were not there to accept transactions. He stated NASWP would accept cash only on those days and assumed the cash was put in the registers at a later time.

70. CCSRP One stated NASWP was always open on Tuesdays, Wednesdays, and Thursdays, but they were instructed, by the

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Subject, to accept cash only from customers. CCSRP Two stated Complainant Two had personally observed this.

71. The current MWR Director stated NASWP was closed on Wednesdays for maintenance, and suggested NASWP hours may change in the winter season.

72. The Subject stated he did not instruct his employees to open the park on Tuesdays, Wednesdays, and Thursdays. He stated the park was only scheduled to be closed on Mondays for maintenance. The Subject stated Complainant Two suggested since he was there working on Mondays anyway as a marine mechanic, that he could accept customers. Complainant Two did not work the register so he only accepted cash. The Subject opined a register worker was to record the transaction the next time they worked.

73. According to the Subject, old NASWP brochures stated the Park was open on Tuesdays, Wednesdays, and Thursdays. The Subject stated Complainant Two wanted to receive cash only on Mondays because there was not an employee present to work the register. The Subject stated he believed the money would be put in the register the next day.

74. The allegation by Complainant Two that the Subject instructed employees to open NASWP when it was supposed to be closed is not corroborated by testimony provided by the current MWR Director, CCSRP One, or the Subject's statements. In fact, the Subject claimed NASWP was never closed on Tuesdays, Wednesdays, and Thursdays, but cash register employees were not there to accept transactions. The Subject stated that he assumed NASWP would accept cash only on those days and the cash was put in the registers at a later time.

#### **Regulations**

75. BUPERSINST 1710.11C, Section 414, states, "Petty Cash and Change Funds. Petty cash and change funds, authorized in writing by the commanding officer, may be maintained in amounts consistent with the needs of the MWR program, and administered per sections C050601, C050602, C050603 and C050604 of reference (c).

a. The petty cash fund will be reviewed and reimbursed (i.e., replenished) each month when expenditures exceed \$100. When expenditures are less than \$100, reimbursement of the petty cash fund is required during the month that total expenditures

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exceed \$100, but not less than once per quarter (i.e., December, March, June, and September).

b. [Gapped]

c. The principal of accrual accounting (i.e., recording expenses in the month incurred) applies. For example, at the end of the month, unreimbursed petty cash expenditures are to be identified and recorded in the general ledger on an accrual journal voucher."

### Discussion and Analysis

76. In summary, the NCIS investigation revealed an unauthorized "Can Money" fund did exist at NASWP until January 2010. The fund consisted of tips from customers according to Subject. According to Complainant One, the funds consisted of rental transactions that were not recorded into the register. The NCIS investigations could not determine with certainty which equipment and/or travel was paid for with "Can Money," nor what money (tips or transactions) funded the "Can Money."

77. The NASWF JAGMAN investigation confirmed the existence of a "Can Money" petty cash fund. The NASWF JAGMAN investigation supports the conclusion that cash money received from MWR customers was not being recorded as sales; rental fees were unaccounted for and probably used as "Can Money"; MWR funds were being utilized for unauthorized purchases; and the two generators purchased with "Can Money" created an unauthorized commitment of funds.

78. The NASWF JAGMAN concluded that at least \$1,300.00 USD in rental fees was unaccounted for and was probably used as "Can Money"; there is no evidence that these expenditures were reviewed and reimbursed as required by BUPERSINST 1710.11C.

79. The NCIS investigation also confirmed the existence of a "Can Money" petty cash fund. Subject stated before he became the NASWP Manager, the "Can Money" fund already existed. He also admitted to NCIS that he adjusted the price of rentals if a patron had a problem with the equipment and then he would place that money in the "Can Money" fund. Subject also admitted to NCIS that he purchased \$150.00 USD of motor oil for the Park utilizing monies from the "Can Money" fund.

80. Other than statements from Complainant that funds were used for parties during the time period 2006 to 2007, four years

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prior to the Complainants' submission of their OSC complaint and prior to the discontinuation of the "Can Money" fund, no evidence was developed which would substantiate the allegations that "Can Money" was used for these parties. Due to the time lapse from the time Complainant One alleges these parties occurred and the OSC complaint submission and the lack of supporting evidence, no further investigation was conducted into this allegation.

81. Although the Complainants alleged that the Subject acknowledged to Complainant Two that he used "Can Money" to purchase lumber for a personal project, testimony provided by Complainant One indicated that he could not be sure to whom the lumber he witnessed the Subject use belonged. Subject denied using government lumber. Based on the preponderance of evidence, this aspect of this allegation could not be substantiated.

**Conclusion**

82. The allegation that Subject improperly operated an unauthorized petty cash fund referred to as "Can Money" between 2006 and Jan 2010 and used the money to make unauthorized purchases in violation of BUPERSINST 1710.11C Sec. 414 is Substantiated.

**Actions Planned or Taken**

83. In April 2010, the NRSE IG conducted a command evaluation review of the NASWF MWR petty cash and change funds and found no significant discrepancies.

84. In April 2010, Subject resigned from civil service. The NASWF JAGMAN IO recommended that the command hold the Subject accountable for his actions/behaviors at the Park and disciplined according to MWR Department guidelines. According to the NASWF JAGMAN IO, Subject not only failed to perform several of his major duties as the NASWP Manager, he fostered a *laissez faire* attitude in his employees.

85. Subject did not clarify if the "Can Money" fund was authorized and what items he was able to purchase with the funds. Subject stated he received a verbal counseling for operating the "Can Money" fund.

86. Recommend an audit be conducted of the accounting procedures at NASWP quarterly to include a review of processes for taking cash, accounting for rental fees, forms/documents

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maintained, daily record oversight by the manager and accurate accounting of resale items/funds.

**Personnel Actions Taken**

87. Although the NASWF JAGMAN IO concluded the facts developed during the investigation warranted disciplinary action against the Subject, no documentation of any disciplinary action could be located during the current investigations.

88. Subject and the current MWR Division Director told NCIS that Subject was counseled but neither could provide evidence that documented the counseling to investigators and no record could be located in any official files. No further action can be taken based on the fact that the Subject resigned from Federal service in April 2010, four months before the complainants brought this matter to the attention of OSC.

**Allegation Two**

That Subject improperly provided PRI/DJI employees government MWR equipment scheduled for "turn in" to the DRMO, NASWF from 2007 to 2008 in violation of DOD 4160.21-M, Chapter 3, paragraph (B).

**Findings**

89. This allegation was addressed by the JAGMAN and NCIS investigations of May 2008 and March 2010; and the March 2010 NRSE IG Rep, NASWF, review of the MWR, NASWF, Non-Appropriated and Petty Cash/Change Funds. The facts and conclusions of this allegation are in support of the findings identified by those investigations.

90. The NASWF JAGMAN investigation reported that, "In order to determine what MWR rental equipment was available, an inventory of the major equipment was conducted." In March 2010, with the assistance of an MWR representative, the NRSE IG conducted a wall-to-wall inventory. Attempting to match the rental equipment with the NASWF minor property log or the supply inventory list proved futile as less than 25% of the data was accurate. The MWR Director stated that "an inventory should be conducted quarterly and any discrepancies should be noted and brought to the attention of the business office."

91. The NASWF JAGMAN investigation reported that Subject stated, "He had noted a few discrepancies when conducting the inventory, but didn't believe it to be significant. He relied

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on his staff to conduct a thorough inventory, and he merely counted the total number of items, not verifying serial numbers or minor property numbers. The investigation further reported that CCSRP Two indicated he had not completed a thorough inventory because it was too difficult to access the serial numbers on the items. He too merely counted the total number of items and relied on the accuracy of previous inventories."

92. According to the NASWF JAGMAN investigation, CCSRP One stated "He had noted several discrepancies while conducting an inventory and reported same to Subject. He too only counted the number of items, not verifying the serial or minor property numbers."

93. According to the NASWF JAGMAN, the NASWF CO "authorized the disposal of twelve items from Whiting Park that were beyond economic repair." The NASWF JAGMAN stated "The Operations of MWR Programs manual provides that items being disposed will follow proper procedures through the Defense Utilization and Marketing Office (DRMO) program."

94. The NASWF JAGMAN investigation reported that "Subject approached [PRI/DJI Employee One]), during the weekend of 19 April 2008 at the Local Yocal gas Station in Milton, FL, and said that he was getting rid of some boats, and asked if he wanted one. PRI/DJI Employee One said 'yes,' and on April 22, 2008, he went to the boat docks (Whiting Park) and took an aluminum jon boat home."

95. According to the NASWF JAGMAN investigation, "In April 2008, Subject contacted PRI/DJI to transport the items from NAS Whiting Park to the DRMO lot at NAS Whiting Field." The NASWF JAGMAN further reported, "On 23 April 2008, [PRI/DJI Employee Two; PRI/DJI Employee Three, and PRI/DJI Employee Four] took a company vehicle to the Park to retrieve the items being disposed. When they arrived, they spoke to "[Subject]" 'who is the boss at the boat docks.' Subject told them 'they could have any of the property they wanted, as he had the paperwork for the property leaving the premises.' On the first trip, they towed a 17' Casita camper to the DRMO lot on NAS Whiting Field. Upon returning to the Park, they loaded the remaining items into the truck and drove to the residence of PRI/DJI Employee Two where they unloaded an 8hp motor, a jon boat, and a 150 hp motor. PRI/DJI Employee Two stated he planned to keep the 8hp motor and jon boat for himself, but had picked up the 150hp motor for a co-worker, [PRI/DJI Employee Five]. PRI/DJI Employee Five

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informed PRI/DJI Employee Two that the "Subject" had given him approval to take the motor."

96. The NASWF JAGMAN investigation reported PRI/DJI Employee Two as stating he "... had previously talked to [the DRMO Supply Technician] that handles DRMO materials for NAS Whiting Field, on 18 April 2008 about obtaining a trailer that Whiting Park was sending to DRMO. The DRMO Supply Technician said as long as he had the proper paperwork, there wouldn't be a problem. On 23 April 2008, PRI/DJI Employee Two went to the Park and met with 'Subject' who gave him a list of items being sent to DRMO. Later in the afternoon, 'Subject' told PRI/DJI Employee Two that he could have the Casita trailer. PRI/DJI Employee Two returned after work and told Complainant Two that 'Subject' said 'it was okay to pick up the trailer.' PRI/DJI Employee Two took the trailer home, and then gave it to his sister on 24 April 2008."

97. According to the NASWF JAGMAN investigation, "On 25 April 2008, PRI/DJI Employee One went by DRMO and noticed two small (8hp) outboard motors. He asked the DRMO Supply Technician what he was going to do with the motors. The DRMO Supply Technician stated that they would be placed in aluminum scrap, and asked PRI/DJI Employee One if he wanted them. PRI/DJI Employee One said "yes," and took the two motors to his house. Subject approached PRI/DJI Employee Five to inform him that a 150 hp motor and a couple of small motors were being sent to DRMO. PRI/DJI Employee Five asked 'Subject' how to 'get first dibbs,' and was told to see the DRMO Supply Technician at supply (DRMO). The DRMO Supply Technician told PRI/DJI Employee Five that if they were beyond economic repair, they would be scrapped and he could just have one. PRI/DJI Employee Five stated he didn't want anyone to get in trouble over this. The DRMO Supply Technician stated that "he would just tell the CO it was for a good cause."

98. The NASWF JAGMAN investigation further reported that, "On 23 April 2008, Complainant Two notified security personnel that some of the items going to DRMO were not being taken to DRMO. He stated the items were being taken by some guys from PRI/DJI. Further, a man named "David" came in his personal vehicle to retrieve a 10' Casita trailer.

99. As reported in the NASWF JAGMAN investigation, "With the information received by Complainant One, the NASWF Investigator, conducted research and determined that 'David' was PRI/DJI Employee Three. The Investigator drove by the residence of PRI/DJI Employee Three and saw a Casita trailer with the marking

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'USN 44 6379.' On 30 April 2008, the investigator conducted an interview with PRI/DJI Employee Three, who provided a statement regarding taking the DRMO material from NASWP. He further provided information on PRI/DJI Employee Two and PRI/DJI Employee Five."

100. The NASWF JAGMAN investigation further reported, "On 30 April 2008, PRI/DJI Employee One heard about PRI/DJI Employee Three being questioned by security and asked 'Subject' if there was any trouble with the items he gave to PRI/DJI Employee Three and PRI/DJI Employee Five. 'Subject' stated he didn't give the items away, supply did. PRI/DJI Employee One stated that PRI/DJI Employee Three and PRI/DJI Employee Five told him that 'Subject' said they could have the camper and motor, the same way 'Subject' told him. He became concerned, called 'Subject' and told him he was bringing the jon boat and motors back. 'Subject' told him to put them beside the campers near the front gate. As PRI/DJI Employee One was leaving the Park, security patrolman stopped him, and detained him for questioning."

101. According to the NASWF JAGMAN investigation, "[DRMO Supply Technician], stated that if an item is coded to be 'beyond economic repair,' it would not be suitable for reclamation and should be scrapped. If it is marked for scrap, the item would be disassembled and disposed of locally. He also stated that he is responsible for receiving material to be disposed. The DRMO Supply Technician stated the DRMO process would be for the material to be delivered to the DRMO lot; he would inventory the material, and sign for it on a DD Form 1348-1. This signed document would be forwarded to the Supply Department, NAS Pensacola for recordkeeping."

102. The JAGMAN Investigation reported that a Supply Technician confirmed the statement made by the DRMO Supply Technician. However, she said she did not have signed DD Form 1348-1's for any of the material from Whiting Park on the 22<sup>nd</sup> or 23<sup>rd</sup> of April 2008. The DRMO Supply Technician signed the DD Form 1348-1's presented by Subject, but later realized that the property was never turned-in to DRMO.

103. The NASWF JAGMAN investigation determined that the DD Form 1348-1S for the equipment being sent to DRMO from NASWP, signed by the DRMO Supply Technician on 22 April 2008, was provided.

104. The NASWF JAGMAN IO concluded all of the items wrongfully taken from NASWP by PRI/DJI employees were either returned by the individuals or recovered by security. The NASWF JAGMAN

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investigation determined the operation of MWR Programs Manual clearly provides for the proper disposal of MWR equipment. In summary, the JAGMAN IO determined Subject conspired with the DRMO Supply Technician to give away MWR equipment to family and friends by obtaining proper signatures from DRMO on the required documents and circumvented the DRMO program when he arranged the unauthorized taking of MWR equipment from NASWP. Four individuals provided statements that Subject told them they could have whatever they wanted since he had the paperwork for taking the property off the premises; two of the arrangements were made off-base in a personal capacity.

105. In March 2010, CID referred their investigative findings to NCIS, which found that the Subject or the DRMO Supply technician told several PRI/DJI employees they could have equipment slated for DRMO. The CID investigation reflected testimony that the Subject stated the DRMO Supply Technician gave PRI/DJI employees authorization to take/steal DRMO equipment and according to the DRMO Supply Technician he did not give authorization to PRI/DJI employees to take/steal the DRMO equipment. Subject stated the DRMO Technician gave cameras and laptop computers to PRI/DJI employees in the past. Based on information provided by Project Manager (PM), PRI/DJI, all PRI/DJI employees were counseled for the incident. The DRMO Supply Technician and Subject continued employment in their positions following the CID investigation.

106. The NASWF JAGMAN investigation also found that the DRMO Supply Technician allowed the unauthorized taking of NASWP MWR equipment when, contrary to his testimony, he allowed PRI/DJI Employee One to wrongfully take two 8 hp motors from the DRMO lot. He further perpetuated the taking of the remaining equipment from NASWP when he told the individuals it was alright for them to take the equipment - as long as he had the paperwork and that he would just tell the CO it was for a good cause.

107. On 08 March 2010, NCIS conducted its first investigation into this and the other allegations of theft and presented its findings and presented its findings to the Assistant United States Attorney (AUSA) for a determination as to whether the case would be prosecuted. The AUSA declined to prosecute.

108. On 04 May 2011, as a result of NCIS IG's request for additional information, NCIS conducted another investigation in response to this OSC complaint alleging the same violations.

109. NCIS interviewed PRI/DJI Employee Two regarding the equipment he took from NASWP in April 2008.

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110. NCIS interviewed PRI/DJI Employee Two who stated he, along with PRI/DJI Employee Three and PRI/DJI Employee Four, were detailed to pick up equipment slated for submission to DRMO from NASWP and deliver it to the Supply Office in April 2008. PRI/DJI Employee Two stated he talked to Subject while he was there to pick up the equipment. Subject told him he could have the equipment they were there to pickup. PRI/DJI Employee Two stated Subject did not inform him of the paperwork process to receive the equipment.

111. PRI/DJI Employee Two told NCIS that he recalled the equipment slated for submission to DRMO consisted of a jon boat, little motor, and a 150 hp motor, but that he could not recall all the equipment slated for turn in due to the time that has past. PRI/DJI Employee Two stated he received the jon boat and little motor for himself and was holding the 150 hp motor for PRI/DJI Employee Five. PRI/DJI Employee Two stated he did not give PRI/DJI Employee Five the 150 hp motor, and that he did not talk to anyone from the Supply Office at NASWF. He also stated he did not know the DRMO policy and trusted Subject had authorization to give him the equipment.

112. PRI/DJI Employee Two further stated during his interview with NCIS that the PRI/DJI Project Manager spoke to him after he received the equipment and instructed him to turn in the equipment to NASWF Security. According to PRI/DJI Employee Two the PRI/DJI Project Manager told him NASWF Security was conducting an investigation on the equipment he received. He stated he took the equipment he received to the NASWF Investigator, NASWF Security, and provided a statement explaining what had happened.

113. On 02 May 2011, NCIS interviewed PRI/DJI Employee Five regarding the equipment that was provided to PRI/DJI employees in April 2008. He stated he approached Subject with the idea of getting a boat and motor for a friend in his Bass Club. PRI/DJI Employee Five stated he asked Subject to let him know if a boat and motor were to come up for submission to DRMO.

114. In his interview with NCIS, PRI/DJI Employee Five stated he asked Subject how he would get "first dibs" on the bidding process for the boat and motor. He stated Subject said a Johnson 150 motor and a couple of small motors were going to be submitted to DRMO. According to PRI/DJI Employee Five, Subject informed him to go see the DRMO Supply Technician about getting the motors.

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115. PRI/DJI Employee Five told the NCIS that he asked the DRMO Supply Technician what is the process to get the motors. PRI/DJI Employee Five stated that the DRMO Supply Technician told him to write his name on a board on the wall and that he would call him. PRI/DJI Employee Five stated that PRI/DJI Employee Two contacted him and told him the DRMO Supply Technician said he could have the 150 hp motor. PRI/DJI Employee Five stated he told PRI/DJI Employee Two to pick up the 150 hp motor and take it to PRI/DJI Employee Two's residence and he would pick it up from there. He was never in possession of the 150 hp motor.

116. NCIS asked PRI/DJI Employee Five if he knew of any other equipment Subject or the DRMO Supply Technician was giving away. The PRI/DJI Employee Five employee stated it was approximately two jon boats and six 8 hp motors. He stated he thought the DRMO Supply Technician made decisions on who can have equipment and thought it was ok to receive the motor. He further stated he provided a statement to NASWF Security. PRI/DJI Employee Five provided no further information to NCIS.

117. On 02 May 2011, NCIS interviewed PRI/DJI Employee One regarding the equipment he took from NASWP in April 2008. He stated that Subject approached him in April 2008 and told him he was getting rid of a damaged boat. According to PRI/DJI Employee One, Subject stated he could have the damaged boat if he wanted it. PRI/DJI Employee One stated the boat was a 10' to 12' jon boat with a hole in it, and after a couple days after the conversation with Subject he went to NASWP, picked up the jon boat, and took it to his residence.

118. On 01 May 2008, NCIS interviewed PRI/DJI Employee One regarding his previous statement to NASWF Security that the only equipment he took was the jon boat. NCIS asked PRI/DJI Employee One if he asked the DRMO Supply Technician what he was going to do with two small outboard motors that were in the supply yard. The PRI/DJI Employee One stated he "forgot" he asked about obtaining two small outboard motors. According to the PRI/DJI Employee, the DRMO Supply Technician stated he was going to place the motors in aluminum scrap, and that the DRMO Supply Technician asked him if he wanted the two outboard motors to which he replied "yes" he would take them. PRI/DJI Employee One stated he went back to the supply building later that afternoon and picked up the two outboard motors and took them to his residence. He did not recall the reason he went to supply and observed the small motors; but he did state that due to his position, he routinely visits the NASWF Supply building.

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119. PRI/DJI Employee One told NCIS that he found out that NASWF Security arrested PRI/DJI Employee Five for taking equipment from NASWP. PRI/DJI Employee One stated he contacted Subject and informed him he was bringing the jon boat and two outboard motors back to NASWP, and after he dropped off the equipment at NASWP, NASWF Security arrested and subsequently released him. PRI/DJI Employee One further stated in his interview with NCIS that he was not familiar with the DRMO policy and procedure to obtain equipment; and that he did not know of any other equipment that was taken either from NASWP or NASWF Supply.

120. On 02 May 2011, NCIS interviewed PRI/DJI Employee Three regarding the equipment that was provided to PRI/DJI employees in April 2008. He stated he was detailed to go to NASWP to pick up equipment slated for DRMO at NASWF and that he, along with PRI/DJI employees Two and Four, was detailed to pick up two or three boat motors and a jon boat from NASWP. PRI/DJI Employee Three stated he did not talk to anyone from NASWP when he went to pick up the equipment to take to DRMO; but that PRI/DJI Employees Two and Four went inside and may have talked to someone at NASWP. He stated they loaded the equipment and went back to the PRI/DJI office and that he got out of the truck and proceeded to do another job. He does not know what happened to the equipment after that.

121. PRI/DJI Employee Three told NCIS that his duty consisted of receiving a work order to pickup equipment from NASWP and deliver it to supply and/or DRMO. He stated it's not the responsibility for the detail to ensure the paperwork is correct in reference to the equipment submitted for turn in and that NASWF Security did not question him.

122. On 02 May 2011, NCIS interviewed PRI/DJI Employee Six regarding Subject supplying PRI/DJI employees with unauthorized equipment. PRI/DJI Employee Six stated that in November 2007 he was at NASWP and Subject approached him stating he had received new boats and had to get rid of a boat and trailer. PRI/DJI Employee Six stated the boat Subject was referring to was a 14 to 16 foot tri-haul fiberglass boat, Mercury motor, with a trailer.

123. PRI/DJI Employee Six stated he told Subject that he was not interested in taking the boat and trailer. PRI/DJI Employee Six stated he knew the procedure to obtain government owned equipment and Subject offering it to him was not the correct procedure. According to PRI/DJI Employee Six, a male in his

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30's to 40's approached Subject and asked if he was giving away the boat he just offered to someone else. PRI/DJI Employee Six did not identify the male as receiving the boat and trailer, but the boat and trailer were not in the same place he last saw it. PRI/DJI Employee Six suggested Subject gave the boat and trailer to the 30 to 40 year old male but that he did not see the male take the boat and trailer.

124. Subject told NCIS that he never gave PRI/DJI employees equipment slated for DRMO and that the DRMO Supply Technician gave equipment to PRI/DJI employees. He stated he submitted flooded engines, boats with trailers, and "torn up" trailers to DRMO through the Supply Office. Subject stated the DRMO Supply Technician gives camera and laptop computers to PRI/DJI employees; however, he stated he had no further information regarding the electronic equipment given to PRI/DJI employees. Subject stated the Complainant Two, NASWP mechanic, decided what equipment was coded "beyond repair" for submission to DRMO. Subject also stated a PRI/DJI employee asked him for a 150 hp engine and that he told the employee to "bid" on the engine through DRMO.

125. In his interview with the NCIS, CCSRP One stated that he personally did not observe Subject steal anything from NASWP, but stated it was "obvious." He claimed Subject gave DRMO equipment to PRI/DJI employees.

### Regulations

126. DoD 41620.21-M "DEFENSE MATERIAL DISPOSITION MANUAL," is applicable to all DoD Components. It implements requirements of the Federal Property Management Regulation and other laws and regulations relevant to the disposition of excess, surplus, and foreign excess personal property; and identifies the responsibilities of DRMO. Chapter 3 "RECEIPT, HANDLING AND ACCOUNTING," states that:

#### A. GENERAL

1. Excess and [Foreign Excess Personal Property] (FEPP), ... will be transported to DRMO for disposal processing.

....

3. Excess, surplus or FEPP turned in or reported to the DRMO/SDPDA shall be accompanied by the specified number of copies of the Disposal Turn-In Document (DTID), DD Form 1348-1A, Issue Release Receipt Document ....

#### B. TURN-IN TO THE DRMO

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1. Generating activities shall comply with this manual, MILSTRIP, and their Service/Agency retention and disposal policies and procedures when preparing property for turn-in.

a. DoD components shall physically turn in their property to the nearest DRMO when economically feasible and permitted by [Hazardous Waste] regulations ....

### **Discussion and Analysis**

127. NASWF CO authorized the disposal of twelve items from NASWP that were "beyond economic repair." The Operations of MWR Programs manual provides that items being disposed will follow proper procedures through the DRMO program.

128. The NASWF JAGMAN investigation concluded that the DRMO Supply Technician allowed the unauthorized taking of NASWP MWR equipment and perpetuated the taking of the remaining equipment from NASWF when he told the PRI/DJI employees it was alright for them to take the equipment - as long as he had the paperwork and that he would just tell the CO it was for a good cause. Subject stated he never gave PRI/DJI employees equipment slated for DRMO and that the DRMO Supply Technician gave away the equipment. According to four witnesses' statements, Subject told them they could have whatever they wanted since he had the paperwork for taking the property off the premises; two of the arrangements were made off-base in a personal capacity. The NCIS investigation revealed that the DRMO Supply Technician signed the DD Form 1348-1's presented by Subject but later realized that the property was never turned-in to DRMO. The DD Form 1348-1's for the equipment being sent to DRMO from NASWP shows the DRMO Supply Technician signed the forms on 22 April 2008.

129. In summary, while the NASWF JAGMAN IO determined Subject conspired with the DRMO Supply Technician to give away MWR equipment to family and friends by obtaining proper signatures from DRMO on the required documents and circumvented the DRMO program when Subject arranged the unauthorized taking of MWR equipment from NASWP, this investigation did not identify a preponderance of evidence to corroborate a "conspiracy" existed between the DRMO Supply Technician and Subject. However, it is evident that based on the facts, the Subject knowingly, and without authority, conveyed MWR equipment designated for DRMO to PRI/DJI employees by failing to appropriately dispose of the MWR equipment. It is also evident that while the Subject obtained proper signatures from the DRMO Supply Technician on the required documents, he circumvented the DRMO program by

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arranging the unauthorized taking of MWR equipment from NASWP in violation of DOD 4160.21-M, "DEFENSE MATERIAL DISPOSITION MANUAL," CHAPTER 3, "RECEIPT, HANDLING AND ACCOUNTING," PARA (B)."

130. According to a CID investigation initiated in October 2010, several PRI/DJI employees were told by the DRMO Supply Technician or Subject they could have equipment slated for DRMO. Because NCIS has Federal jurisdiction of NASWP, CID passed the information obtained during their investigation to NCIS for review and appropriate course of action.

131. Subsequent to their March 2008 initial investigation into these matters, NCIS interviewed six PRI/DJI employees. While these interviews reiterated previous statements made during the 2008 NASWF command investigation, they did not reveal any new information.

132. NCIS submitted the information obtained from its first investigation to AUSA, Northern District of Florida, Pensacola, FL, who declined prosecution due to weak/insufficient admissible evidence. NCIS subsequently closed the investigation. At the request of the NCIS IG Office, NCIS re-opened the investigation for further questioning of witnesses and to focus on specific allegations raised by the Complainants in the 16 August 2010 OSC letter. NCIS re-interviewed all witnesses, and the Subject. On 7 June 2011, NCIS completed the re-investigation and reported that they had exhausted all investigative leads and as a result, NCIS closed their investigation.

### Conclusion

133. The allegation that Subject improperly provided PRI/DJI employees government MWR equipment scheduled for "turn in" from 2007 to 2008 in violation of DOD 4160.21-M, Chapter 3, para (B) is Substantiated.

### Actions Planned or Taken

134. The 2008 NASWF JAGMAN IO concluded the DRMO process at NASWF should be investigated by proper authority at the NAS Pensacola supply department. The NASWF JAGMAN IO recommended the signed documents and statements regarding the actions of the DRMO Supply Technician be forwarded for their action, with disposition provided to NASWF CO. It further recommended the NASWF report be forwarded to PRI/DJI for proper action/discipline of the four employees who used their positions to gain an unfair advantage in acquiring NASWF MWR equipment,

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and that the use of a company truck on company time to commit these unauthorized transactions should be reported.

**Personnel Actions Taken**

135. According to PRI/DJI Project Manager, the company addressed the DRMO issue by counseling all PRI/DJI employees involved in this matter. The DRMO Supply Technician and Subject continued employment following the May 2008 NASWF Command Investigation. No further action is warranted

**Allegation Three**

That on various occasions between 2008 and 2010, the NASWF Deputy Security Director interfered with the attempts of Complainant One to investigate suspicious activity committed by the Subject, NASWF, NASWP Manager, MWR facility, in violation of 18 USC Chapter 73 § 1503, Obstruction of Justice.

**Findings**

136. Complainant One<sup>5</sup> alleged that "on multiple occasions between 2008 and 2010, he "attempted to investigate Subject" for various suspicious activities. He alleged that various NASWF Security Department personnel, including: the Master at Arms Chief (MAC); the Master at Arms Senior Chief (MACS) NASWF Security Department Operations Chief; the Master at Arms First Class (MA1); the NASWF Security Officer (SECO); and the NASWP Deputy Security Director; told him to stop investigating Subject because of "political limitations" and that Subject was "protected." Complainant One stated that the identified members of NASWF Security Department made comments to this effect during a meeting that occurred on or about 8 March 2010.

137. According to Complainant One, after Hurricane Ivan, Complainant Two alleged that the Subject stole fuel for himself and family members for personal use. Complainant One stated on multiple occasions he was approached by current and former command and base security personnel informing him to "cease and desist" any investigation involving the Subject. Complainant One stated base security supervisors expressed their concern of a civil suit from the Subject if Complainant One continued

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<sup>5</sup> Complainant One was promoted from Patrolman to Sergeant on 7 Dec 08, and from Sergeant to Lieutenant on 7 Jun 09.

investigating the Subject. Complainant One stated the NASWF Base Security and MWR command informed him that the Subject was a "protected person" and all action, if any, against the Subject would be handled by them. Complainant One implicated NASWF Deputy Security Director, NASWF Base Security, the former Executive Officer (hereafter former XO) NASWF, and the, former Command Master Chief, NASWF, now MWR Director (hereafter MWR Director), NASWF, as the personnel who informed him that the Subject was a "protected person."

138. Complainant One provided the NRSE IO documentation<sup>6</sup> as historical evidence of the Subject's improper actions. IR #615 documented that on 29 September 2008, the Subject reported batteries and propane tanks from travel trailers belonging to NASWP had been stolen. Complainant One informed the NRSE IO that sometime after this report was made, Complainant Two, told Complainant One that the Subject had bragged to him that the Subject had actually stolen the batteries and propane tanks. Complainant One told the NRSE IO that MAC stopped his attempts to investigate into this further. He stated MAC told him to "cease and desist" from investigating further because the case had been closed and that the former MWR Director was handling the situation. While Complainant One stated MAC directed him to cease and desist, he told the NRSE IO that he believed that MAC was following orders from the NASWF Deputy Security Director.

139. IR #344 documented that on 20 November 2009, a Santa Rosa County Sheriff's Office Lieutenant stopped two individuals who were towing a trailer that appeared to belong to the Government. According to the report, Complainant One responded to the scene as a result of the call to NASWF. Complainant One informed the NRSE IO that MAC directed him not to fill out a DD Form 1805 summons for the Subject to appear before the magistrate judge after this incident because the incident was going to be handled by the former MWR Director. Complainant One again asserted that MAC was acting on orders from the NASWF Deputy Security Director when he allegedly told him not to fill out a DD Form 1805.

140. On 01 March 2011, the NRSE IO interviewed the SECO, who stated he had been working as the SECO since December 2009. The

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<sup>6</sup> Documents consisted of Incident Reports (IR) 084932000615 and 094932000344, respectively. For ease in reporting the information contained in them, 08493200065 will be referred to as IR #615 and 094932000344 as #344.

SECO stated there was an investigation<sup>7</sup> that was started involving the Subject shortly after he reported for duty, possibly in March or April 2010. He stated Complainant One brought forward information he had received from the Subject's daughter-in-law and for some reason Complainant One kept trying to "run with the investigation." The SECO explained that Complainant One was a shift Lieutenant and Watch Commander but not an investigator, so he instructed Complainant One to refer the information to the investigators.

141. The SECO stated that shortly after that, they forwarded the information to the Naval Criminal Investigative Service (NCIS), which opened an investigation.<sup>8</sup> The SECO stated he instructed Complainant One to leave the investigation alone or else he would get himself into some trouble. The SECO clarified his statement saying that if a patrolman were to continually be down at the boat docks, it could ruin ongoing NCIS efforts. The SECO stated that Complainant One's attempts to bring forward more information while NCIS was conducting the investigation were "absolutely outside the scope of his duties."

142. The SECO went on to say that after talking with Complainant One, it became apparent that Complainant One believed he had some vested interest in the NCIS investigation and kept trying to conduct the investigation himself, or wanted to take part in the NCIS investigation. The SECO stated it appeared to him that Complainant One was so focused on the Subject that he would jump on even the slightest information that might suggest the Subject had done something wrong.

143. The SECO stated it appeared to him that Complainant One might have some kind of vendetta against the Subject and he tried to make him understand that he needed to stand down because NCIS was actively investigating the matters. The SECO further described how he tried to warn Complainant One that he

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<sup>7</sup> In February 2010 NASWF Criminal Investigation Division (CID), the authorized investigative arm of NASWF Base Security, initiated an investigation into allegations that the Subject illegally provided Project Resources Inc./Del-Jen Inc. (PRI/DJI) employees government MWR equipment scheduled for turn in to Defense Reutilization and Marketing Office (DRMO), Naval Air Station Whiting Field (NASWF ).

<sup>8</sup> In Mar 2010, NCIS initiated an investigation based upon allegations presented to it by CID that the Subject misused MWR funds and rental equipment, and stole gasoline from the Whiting Park gasoline pump, which he then stored in barrels at his residence.

could get into trouble. The SECO explained that his intent in saying this was to make Complainant One aware that he could get into trouble for doing investigative work beyond the limit of his official position.

144. The SECO explained that all Watch Commanders would have to do some preliminary investigative work, such as conducting interviews to determine how valid a complaint was, but the specific investigation involving the Subject had already been turned over to NCIS, so Complainant One would have known to turn anything new over to NCIS and not do anything with it himself.

145. On 1 March 2011, the NRSE IO interviewed MA1, who stated he was currently the NASWF Chief of Police. He stated he had been in his current position for the last two months. Prior to that time, he had been an investigator with the base CID since around September or October 2008.

146. MA1 stated that he continued to receive reports of activities at NASWP after NCIS had picked up the investigation at NASWP from Complainant One and other patrol personnel in Complainant One's shift. He stated that Complainant One and "his guys were constantly down there." MA1 believed they were "looking for things" because they believed "crooked things" had taken place at the boat docks.

147. MA1 stated he instructed personnel from Complainant One's shift to "please stay out of there" and to "leave it alone." MA1 stated he spoke to Complainant One separately because he didn't want his subordinates overhearing him tell Complainant One that there were "other agencies" looking into what was going on at the boat docks. MA1 stated he did not want to identify the specific agency because there were "a lot of loose lips" in the patrol section.

148. MA1 stated some of the personnel complained about being told not to go down there. He opined that they complained because they didn't know what was going on and did not realize the scope of the "bigger picture." MA1 stated he did not feel obligated or compelled to tell them why because the MA1 was an investigator and he "didn't answer to a GS-5 patrolman or a Shift Lieutenant" regarding the rationale behind his directions. In addition, according to MA1, NCIS had picked up the investigation and was actively working the case.

149. MA1 opined that Complainant One "took it very personally" that the Subject was not convicted and taken to jail as a result of the command JAGMAN investigation.<sup>9</sup> He further stated Complainant One seemed to constantly have something new to report about what the Subject was doing that he believed was inappropriate and he "really took this stuff personally."

150. On 02 March 2011, the NRSE IO interviewed NASWF Deputy Security Director, who stated he had been working in his current position since 18 April 2008.

151. The NASWF Deputy Security Director stated that shortly after he assumed his duties, two of his investigators informed him of some questionable activities that had taken place down at NASWP. He stated that he briefed the SECO, CO, and XO and was directed to follow up on the preliminary inquiry and keep the chain of command updated on the progress of the JAGMAN investigation.

152. The NASWF Deputy Security Director stated that Complainant One came forward with additional information after the JAGMAN investigation had been initiated. He further stated he did not know that Complainant One was involving himself in the JAGMAN investigation until one of his investigators informed him that two witnesses/informants mentioned they had talked to Complainant One.

153. The NASWF Deputy Security Director stated that, based on this information, it appeared to him that Complainant One was conducting his own investigation and he did not know why since Complainant One was a GS-05 patrolman at the time, and not an investigator. The NASWF Deputy Security Director indicated that he had heard talk that Complainant One and the Subject had some type of falling out before the JAGMAN investigation started and he theorized that may have motivated Complainant One to get involved with gathering information about the Subject.

154. The NASWF Deputy Security Director admitted that he had instructed Complainant One to "stand down" and "cease and desist" on more than one occasion. He qualified this statement saying he and others gave these directions "to the whole department, not just Complainant One." He stated that these

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<sup>9</sup> MA1 was referring to the JAGMAN investigation discussed earlier in this report. The Subject was counseled as a result of the substantiated findings against him resulting from that investigation.

directions were given because either NCIS or CID was actively investigating various matters at NASWP. Furthermore, the NASWF Deputy Security Director stated he gave direction to "stand down" because he didn't want to limit what he could turn over to be used for any criminal investigation. In addition, he was concerned about the rumors of personal issues between the Subject and Complainant One so he did not want to risk compromising any part of ongoing investigations.

155. The NRSE IO reviewed the Position Description for a NASWF GS-0083-05 Police Officer and found that it identifies "preliminary investigation" of accidents, disturbances, complaints, unauthorized acts and criminal incidents" as part of the duties and responsibilities of the position. The description also states that the Investigative duties are preliminary in nature and do not include the full range of investigative responsibilities.

156. The NRSE IO reviewed the Position Description for a NASWF GS-0083-08 Supervisory Police Officer and found that it identifies the "supervision of preliminary investigation of accidents, disturbances, complaints, unauthorized acts and criminal incidents" as part of the duties and responsibilities of the position. The description also indicates the investigative duties are "preliminary in nature and do not constitute the full range of investigative responsibilities."

#### **Regulations**

157. OPNAVINST 5530.14E, Navy Physical Security and Law Enforcement Program, states that Command Criminal Investigators (CCI) are primarily tasked to conduct criminal investigations involving UCMJ violations and other criminal acts that are not pursued by NCIS. CCI shall be either military (MA with Navy Enlisted Classification (NEC) 2002) or civilian personnel (job classification codes of 1801, 1810, 1811). A CCI assigned to ashore and afloat billets will fall under the operational and administrative control of the security officer and will not simultaneously be assigned to another branch in the security department.

158. Title 18 USC Chapter 73 § 1503 states in part that "whoever corruptly...endeavors to influence, intimidate, or impede any officer who may be serving at any examination or other proceeding before any United States magistrate judge, in the discharge of his duty, or by any threatening letter or communication influences, obstructs, or impedes, or endeavors to

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influence, obstruct, or impede, the due administration of justice, shall be punished as provided in subsection (b)."

### **Discussion and Analysis**

159. The preponderance of evidence and testimony supports the conclusion that Complainant One's statement that his attempts to "investigate" the Subject is somewhat misleading. The wording of the complaint submitted to OSC as well as the tone of conversation during various telephone interviews with Complainant One suggested he thought he had the authority to investigate suspicious activities allegedly undertaken by the Subject. However, Complainant One's position descriptions and series during the period in question (GS-0083-05 Police Officer and GS-0083-08 Supervisory Police Officer) state that any investigative duties he might carry out would be preliminary in nature only. While Complainant One was authorized to conduct preliminary investigations, OPNAVINST 5530.14E clearly states that MAs or civilian investigators in the 1800 series are primarily tasked to conduct criminal investigations involving UCMJ violations and other criminal acts.

160. The preponderance of testimony suggests that Complainant One may have been motivated by some personal interest to involve himself in the various investigations into the Subject's alleged improper activities at NASWP.

161. The majority of Complainant One's claims about direction he received to "stand down" and to "cease and desist" investigating the Subject appear to have resulted from discussions during the 8 March 2010 meeting attended by various NASWF Security Department managers. The preponderance of evidence supports the conclusion that the NASWF Deputy Security Director and others within the NASWF Security Department properly directed Complainant One to discontinue his investigate efforts because NCIS had assumed control of the investigation and members of Complainant One's supervisory chain of command reasonably were attempting to ensure NASWF Security Department personnel did nothing that might compromise the ongoing NCIS criminal investigation.

162. An NCIS investigation takes precedence over other investigations; therefore, Complainant One should have ceased his efforts to investigate the matters involving Subject.

### **Conclusion**

163. The allegation that on various occasions between 2008 and 2010, NASWF Deputy Security Director, interfered with the attempts of Complainant One, to investigate suspicious activity committed by the Subject, Naval Air Station, Whiting Park (NASWP) Manager, NASWF Morale, Welfare, and Recreation (MWR) facility, in violation of 18 USC Chapter 73 § 1503, Obstruction of Justice is not substantiated.

### **Actions Planned or Taken**

164. MWR Management has developed an SOP for MWR equipment rented from NASWP. Additionally, several inventories and reviews of equipment and financial practices have been completed at NASWP over the last three years.

### **Personnel Actions Taken**

165. None.

### **Allegation Four**

That Subject stole government property, including gasoline and household supplies, from NASWP in violation of Title 18, CRIMES AND CRIMINAL PROCEDURE, PART I, CRIMES, CHAPTER 31, EMBEZZLEMENT AND THEFT, Section 641, Public money, property and records.

### **Findings**

166. This allegation was addressed by the JAGMAN and NCIS investigations of May 2008 and March 2010; and the March 2010 NRSE IG Rep, NASWF, review of the MWR, NASWF, Non-Appropriated and Petty Cash/Change Funds.

167. The Complainants alleged the following:

"That [Subject] stole government property, including gasoline and household supplies. [Complainant Two] observed [Subject] and [Subject's son] and [ex daughter-in-law] fill their personal vehicles with gasoline at the boat docks on at least three occasions between 2006 and 2007. [Complainant Two] believes the amount stolen was at least 40 gallons total. In addition, [Complainant Two] is in a position to know that hundreds of gallons of gasoline have been unaccounted for at the boat docks between 2006 and 2010. [Subject] told [Complainant Two] that he had a blue 55 gallon plastic drum filled with

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gasoline in his garage. In 2006, [Complainant Two] saw this drum in [Subject's] garage. However, [Subject] never admitted to [Complainant Two] that the gasoline contained in this drum was stolen from the boat docks. On 2 March 2010, [Complainant One] received a telephone call from the Subject's ex daughter-in-law, in which she stated that [Subject] siphoned gasoline from the boat docks and stored it in barrels in his garage. In addition, she reported that her former father-in-law routinely over-ordered supplies, such as zip-lock bags, towels, toilet paper, and garbage bags, for the boat docks. According to the former daughter-in-law, for several years the Subject's family converted these government-purchased items for their personal use. Again, Complainant One reported this incident to [MA1]. [MA1] asked Complainant One to draft a statement regarding the call. Complainant One provided the statement to [MA1] who then told Complainant One not to tell anyone about the telephone call and to inform [MA1] if the ex daughter-in-law made a formal statement."

#### **General Background Information**

168. On 10 May 2011, NCIS interviewed the Subject's son, who stated that approximately two years ago he and the Subject went to NASWP to make a formal complaint against Complainant One for harassment. After making the complaint, two Security Officers escorted them off base.

169. The Subject's son told NCIS that he believed the Subject did not steal anything from NASWP and that he never witnessed the Subject steal anything from NASWP. He stated that the Subject sometimes spent his personal funds on things for NASWP.

170. On 23 May 2011, NCIS interviewed CCSRP One about his knowledge of misuse and theft of government equipment and funds by the Subject. CCSRP One stated he worked as a recreation aid from April 2005 until he quit in January 2010. He claimed he quit working at NASWP because he believed the Subject was stealing from NASWP and that the Subject was always "scheming" on how to steal money from NASWP.

171. The former XO stated in her interview with NCIS that the predecessor of the current CO wanted to "shut down" NASWP and said that funds available for NASWP would "dry up." She stated that she subsequently informed the Subject he had to make NASWP a viable business. The former XO told NCIS that she believed Complainant One was "out to get" her and the command because the command did not authorize "special compensation pay" for base

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security employees. The former XO stated Complainant One's "stories," referring to allegations against the Subject, changed constantly and Complainant Two wanted to get attention by making allegations against the Subject.

172. Between 28 April 2011 and 03 May 2011, NCIS interviewed the current MWR Director about the allegations against the Subject and NASWP Standard Operating Procedures (SOP) on equipment purchase and usage. The current MWR Director stated MWR employees are authorized to use NASWP equipment and rentals free of charge, except campers and party boats. He stated MWR employees must pay for such rentals to include purchasing fuel for any motorized equipment.

173. NCIS questioned the current MWR Director about the policy concerning the way in which NASWP purchases equipment. The current MWR Director stated a Purchase Request must be filled out when the Park Manager orders equipment or supplies; the request is then vetted through either the Recreation Program Manager or the MWR Director for approval and then the Accounting Technician (AT) for processing. He stated if the purchase is via a purchase card request, he must approve and the AT will complete the transaction, either directly at the location of purchase or via telephone, as the Program Manager has not been issued a purchase card.

#### **Alleged Theft of Generators**

174. The 2008 NASWF JAGMAN inquired into the allegation that the Subject stole government property, including gasoline and household supplies. The NASWF JAGMAN reported that in May 2007, the Subject assigned Complainant Two to purchase a generator for the NASWP. The Subject stated that Complainant Two insisted on purchasing a second generator. The Subject stated he purchased both generators with personal funds and ultimately reimbursed Complainant Two from his personal funds for the second generator.

175. The NASWF JAGMAN reported, "[Complainant Two] contends that [Subject] told him to go to the Naval Exchange (NEX) in the MWR van and purchase two generators for NASWP. The [Subject] had given him cash from the "Can Money" to pay for them. However, [Complainant Two] did not have enough cash to purchase two generators, so he put the second generator on his own personal credit card. When he returned to NASWP, the [Subject] reimbursed him out of the [Subject's] petty cash safe." [Complainant Two] stated, "The [Subject] told him to give him the cash back once there was enough in the "Can Money".

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176. Complainant Two told the NASWF JAGMAN investigator that the generators were at NASWP for a couple of months and marked with a red "WP" for Whiting Park. According to the NASWF JAGMAN, when the Subject mentioned to the former MWR Director the generators were purchased, the former MWR Director instructed the Subject to dispose of the generators because the generators were not properly purchased with MWR funds and he could not reimburse him for the personal purchase. The Subject stated he gave one of the generators to Complainant Two and disposed of the second one himself.

177. According to the NASWF JAGMAN investigation, "In July 2007, MWR purchased five 5500-watt generators for use by the Park and other MWR activities in emergency situations. They were also intended to be used as rentals for customers or used with travel trailers. According to the NASWF JAGMAN, four of the generators were still in their original containers in 2008 having never been opened, used or added to the MWR inventory. The fifth generator was swapped by the Subject for a personally-owned, previously-used 4000-watt generator. The Subject stated this swap occurred because the 5500-watt units were too big to be used with the travel trailers. CCSRP Two stated that he has only seen two rentals of the 4000-watt generator."

178. The NASWF JAGMAN investigation reported that, "The [former MWR Director] mentioned to [Subject] in early April 2008 about returning the MWR purchased 5500-watt generator, the 5500-watt generator in (sic) not at Whiting Park."

179. NCIS requested documentation of the make, model, and serial numbers of all MWR generators appropriated and/or purchased. They also requested receipts and/or documentation of said generators. The current MWR Director stated the generators in question were provided after Hurricane Ivan with Appropriated Funds (APF) and are valued at approximately \$500.00 USD; because they cost less than \$1,000.00 USD they are not required to be on the inventory. Additionally, there was no documentation of receipt of these generators. Below is the data listed on the generators currently maintained at NASWP:

WEN POWER PRO/MODEL 5500/SER HY188FB6025791

WEN POWER PRO/MODEL 5500/SER HY188FB5015054

WEN POWER PRO/MODEL 5500/SER HY188FB1026128

WEN POWER PRO/MODEL 5500/SER HY188FB5015135

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BRIGGS & STRATTON PRO 4000/MODEL 01932/1014144341

ELECTRA/8200/050671235

180. On 10 May 2011, NCIS asked the Subject's son what he knew about the allegation that the Subject stole a generator from NASWP. He stated that the Subject did not steal a generator because he already had one at his residence which was natural gas and attached to the house. The Subject's son further stated he did not receive a generator from the Subject.

**Alleged Theft of Fuel, Garbage/Zip lock bags from NASWP**

181. On 10 May 2011, NCIS interviewed the Subject's ex daughter-in-law, civilian, regarding the allegations against the Subject and his son. She claimed that the Subject ordered extra supplies such as zip-lock baggies, garbage bags, and plastic wrap, and gave them to her family. The ex daughter-in-law also claimed that the Subject filled a barrel of fuel at his residence from the NASWP fuel tank and ultimately used the fuel to fill up his and his son's vehicles. During the same interview, the Subject's ex daughter-in-law stated that neither the Subject or his son ever stated the fuel came from NASWP and she did not know if the equipment, supplies, and fuel came from NASWP. She also stated she "put two and two together" and "assumed" that the Subject stole equipment, supplies, and fuel from NASWP. The Subject's ex daughter-in-law did not know firsthand from the Subject or his son that any equipment, supplies, and fuel came from NASWP.

182. NCIS asked the Subject's son if the Subject ever supplied him with garbage and zip lock bags from NASWP. He stated that although he had received and/or taken bags from the Subject's residence, but could not confirm if the bags came from NASWP.

183. NCIS asked the Subject's son if he or his ex-wife took fuel from NASWP and if the Subject provided them with fuel from NASWP. He stated he never took any fuel from NASWP and that when he took out boats from NASWP, he would pay for the fuel. He further claimed that he had no knowledge if the Subject ultimately paid for the fuel was used by him (the Subject's son).

184. NCIS interviewed CCSRP One, who stated that he personally did not observe the Subject steal anything from NASWP, but stated it was "obvious." He claimed that the Subject stole fuel from NASWP, destroyed rental agreements, and did not ring up the transactions. CCSRP One claimed NASWP was open on Tuesdays,

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Wednesdays, and Thursdays, and the Subject instructed employees to accept only cash from customers. Again, CCSRP One stated he had not personally witnessed any of these activities. He stated that Complainant Two told him he personally observed these activities against the Subject. According to CCSRP One and the MWR Director, the former MWR Director wanted to fire the Subject but he was protected by the former XO. CCSRP One stated the Subject picked up the XO's children and took them to NASWP several times in a government vehicle.

185. On 19 May 2011, NCIS interviewed the former XO about the allegations against the Subject for misuse and/or theft of government equipment and funds.

186. The former XO stated she was the XO for NASWF from April 2007 to June 2010, and that she had not seen the Subject since her farewell in June of 2010. She stated she started to go to NASWP with her family in the summer of 2007 and that the Subject offered her, along with other NASWF COs, "no charge rentals." The former XO stated she informed the Subject he could not offer "no charge" rentals and the activity needed to cease.

187. The former XO told NCIS that the NASWP equipment inventory was not in good order and that two Ensigns were assigned to conduct a full inventory at NASWP, circa spring 2010. She stated that although the inventory revealed serial and VIN numbers were not accurate, there were no major discrepancies identified.

188. The former XO explained that Complainants One and Two came forward several times alleging the Subject was misusing government equipment and funds. She stated several investigations were conducted - NASWF Base Security, IG, and NCIS - into the Subject's activities.

189. In her interview with NCIS, the former XO stated the Subject was removed from NASWP pending the results of the CO's and IG's investigation and then subsequently returned as the NASWP manager. She stated that she believed the allegations did not warrant any action against the Subject. The former XO stated that the Subject was not a protected employee and nothing was covered up regarding the allegations and investigations against the Subject. She stated the Subject may have broken MWR policy but did not do anything criminal.

190. The former XO also stated that the SECO contacted her regarding alleged equipment and/or fuel at the Subject's residence. She stated the Subject's ex daughter-in-law alleged

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the Subject had taken the equipment and fuel. The former XO stated the allegations were old and the issue was already handled and the allegations were not substantiated. She further stated that the Subject's son was going through a vicious divorce and the issue was ultimately custody over their children. The former XO believed the Subject's ex-daughter-in-law fabricated the allegations because of the vicious divorce. The former XO stated that the Subject's son was awarded custody of the children.

191. The former XO told NCIS that the Subject brought forth an issue with missing fuel at NASWP. She stated that he believed the amount to be in the couple of hundreds of gallons, but ultimately it was only around 86 gallons of fuel that was missing and/or stolen. The former XO stated MWR did not identify what happened to the missing or stolen fuel.

192. On 11 May 2011, NCIS interviewed the Subject's son about the allegations against the Subject for theft and misuse of government funds and/or equipment. He suggested the allegations against the Subject were initiated by the son's ex-wife because of their vicious divorce. He claimed Subject did not steal a generator and he did not receive a generator from his father. He also stated he has received and/or taken bags from the Subject's residence, but could not confirm if the bags came from NASWP. The Subject's son stated he never witnessed the Subject steal anything from NASWP nor did he have any knowledge of the Subject stealing equipment from NASWP. The Subject's son stated he never took any fuel from NASWP and sometimes the Subject spent his personal funds on things for NASWP.

193. On 11 May 2011, NCIS interviewed the Subject, who stated Complainant Two went to purchase a generator in Orlando, FL, some time back. Complainant Two found a refurbished generator and called the Subject and told him he wanted to purchase it for NASWP. According to the Subject, he told Complainant Two he could not purchase another generator with the funds he had allocated for the purchase of one generator. The Subject stated he ultimately went to the bank and withdrew \$219.00 USD and gave it to Complainant Two to purchase the extra generator. The Subject believed there were four new generators purchased for NASWP and that he believed the Park should have three new generators and one old generator on the floor in the NASWP building. He further stated that the campers at the Park had narrow doors and he wanted to purchase better, more expensive, generators to use for the campers. The Subject stated he

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received authorization for the purchase and did not swap a used generator for a new generator.

194. The Subject stated he swapped a 5500 watt generator with a 4000 watt generator under the authorization of the former MWR Director. He claimed he never stole equipment and/or money from NASWP. The Subject stated he purchased with his own money the two generators that were bought at the NEX, Corry Station, by Complainant Two.

195. CCSRP One stated the Subject did not give him a generator. The Subject stated that with authorization from the former MWR Director, he swapped a government 5500 watt generator with a 4000 watt generator. The Subject stated he tried to retrieve it, but had no success in locating the individual. He again stated he and his family never took anything from NASWP.

196. NCIS asked the Subject about missing soda and alcohol. He said he conducted a count of the sodas and alcohol everyday at NASWP. The Subject stated he discovered discrepancies with the count and that sodas were missing. He stated some teenagers he had working at NASWP could have stolen the sodas and/or beer. The Subject stated he investigated but did not discover who was stealing the sodas. He further stated he had purchased approximately 100 sodas monthly for VIPs and sometimes would give them to workers.

197. The NASWF JAGMAN investigation concluded that as manager, the Subject failed to maintain an accurate inventory of the MWR equipment at NASWP and that he allowed his personnel to count items by nomenclature, not matching serial numbers or minor property numbers, resulting in less than 25% of the items at the Park being listed on the MWR inventory.

198. The NASWF JAGMAN stated the Subject failed to: (a) provide guidance and leadership to subordinate employees in order to ensure that Department policies and directives are carried out correctly; (b) take responsibility for inventory and accountability for all Park supplies and equipment; initiate procurement requests for supplies and equipment; and, use judgment to comply with all directives.

#### **Regulations**

199. Title 18, CRIMES AND CRIMINAL PROCEDURE, PART I, CRIMES, CHAPTER 31, EMBEZZLEMENT AND THEFT, Section 641. Public money, property and records states:

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Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted - Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

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

#### **Discussion and Analysis**

200. The majority of the events which are the subject of this investigation and all investigations conducted prior to initiating this investigation into the same allegations occurred in 2008, so witnesses' recollection of events recounted to NCIS in 2010 and 2011 is stale and at times appears to contradict statements they provided three years prior.

201. In accordance with 18 USC 641, the investigations into the Complainants' allegations would need to prove, based on the preponderance of evidence, that the Subject embezzled, stole, or converted to his or another's use, or sold, conveyed, disposed of any record, voucher, money, or thing of value to substantiate this allegation.

202. Regarding the purchase and "swapping" of generators, each witness has a different recollection of what transpired. Allegations against the Subject suggested MWR purchased five 5500 watt generators and the Subject traded one for a 4000 watt generator. Based on the most recent NCIS investigation, NASWP's inventory of generators in 2011 shows NASWP has four Power Pro 5500 watt generators and one Briggs and Stratton 4000 watt generator. The Subject admitted to swapping out one 5500 watt generator with the 4000 watt generator and asserted that the former MWR Director gave him authorization to make the swap. According to the Subject, Complainant Two purchased two generators at the NEX, one using his personal credit card, for

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which he received reimbursement in cash from the Subject, and another with cash Subject gave him, which the Subject maintained was his personal money. Complainant Two alleged both generators were purchased using "Can Money" but no other evidence or statements can corroborate the cash used to purchase the generators came from that source.

203. The issue that raises the most concern about the purchase of these generators is the lack of internal controls to ensure they were being purchased using the appropriate purchase card process, as the current MWR Director described. He stated if the purchase is via a purchase card request, he must approve and the AT will complete the transaction either directly at the location of purchase or via telephone, as the Program Manager has not been issued a purchase card. The Subject and Complainant Two appear to have used personal credit cards or "Can Money," neither of which is an authorized method of purchasing equipment for use by the government.

204. Complainants alleged that the Subject stole fuel from NASWP and provided it to his family, namely his son and the Subject's ex daughter-in-law. The NCIS investigation revealed the ex daughter-in-law had no personal knowledge of the Subject or the Subject's son stealing fuel from NASWP. She stated that she assumed that the fuel and other supplies her family received were from NASWP. The Subject's son stated he did not receive or steal any fuel or supplies from NASWP.

205. Complainant Two stated he observed the Subject's son and the Subject's ex daughter-in-law at NASWP fill up a MWR five gallon gas can to fill up their vehicles. He also stated he observed the Subject's son and the Subject's ex daughter-in-law steal NASWP fuel on three separate occasions between 2006 and 2007. The Subject's ex daughter-in-law stated she had no knowledge of the origin of the fuel at the Subject's residence and Complainant Two and the Subject's son could not state with certainty that the fuel at the Subject's residence was from NASWP. The Subject's son and the Subject's ex daughter-in-law denied ever filling up their vehicles or gas cans at NASWP and the Subject's son stated he never took any fuel from NASWP; and that when he took boats out from NASWP, he would pay for the fuel. The former XO stated the Subject made her aware that 86 gallons of fuel went missing or had been stolen, but no one was able to identify what happened to the fuel. She stated the MWR inventory revealed serial and VIN numbers were not accurate, but that no major discrepancies were indentified. The former XO

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stated that the Subject may have broken MWR policy but, in her opinion, did not do anything criminal.

206. The Subject's son stated he received supplies, such as garbage and zip lock bags, from his father at the Subject's residence, but did not say the bags came from NASWP.

207. CCSRP One stated that he personally did not observe the Subject steal anything from NASWP, but stated it was "obvious," adding that he had relied on information provided to him by Complainant Two.

208. Allegations suggested that the Subject allowed workers to steal soda and alcohol from NASWP. The Subject stated he investigated but did not discover who was stealing the sodas, but thought teenagers were responsible. There is no evidence to conclude the Subject allowed these workers to steal these beverages.

209. The Subject denied misusing government funds and equipment, stating he and his family never took anything from NASWP.

210. Upon conclusion of the first NCIS investigation, MWR and the NRSE IG conducted a full inventory of equipment and funds at NASWP. They found no major discrepancies.

211. The NASWF JAGMAN concluded that the Subject failed to maintain an accurate inventory of the MWR equipment at NASWP and that he allowed his personnel to count items by nomenclature, not matching serial numbers or minor property numbers resulting in less than 25% of the items found at the Park being listed on the MWR inventory. The NASWF JAGMAN further concluded that the Subject failed to: provide guidance and leadership to subordinate employees in order to ensure that Department policies and directives were carried out correctly; take responsibility for inventory and accountability for all Park supplies and equipment; initiate procurement requests for supplies and equipment; and, use judgment to comply with all directives. The NASWF JAGMAN and subsequent reviews of the Subject's actions concluded that the Subject failed to properly account for the NASWP inventory but none concluded that he received, concealed, retained government property with the intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted, as required by 18 USC 31, EMBEZZLEMENT AND THEFT, Section 641.

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212. Additionally, the two NCIS investigations concluded that the Subject's actions were not criminal. The first did not substantiate allegations against the Subject. Assistant U.S. Attorney, Northern District of Florida, Pensacola, FL, declined prosecution due to weak/insufficient admissible evidence. The investigation was subsequently closed. At the request of the NCIS IG Office the investigation was re-opened for further questioning of witnesses and to focus on specific issues raised by the Complainants in the 16 August 2010 OSC letter. NCIS re-interviewed all witnesses, and the Subject. According to the NCIS report completed on 7 June 2011, all investigative leads were exhausted and, as a result, they closed the investigation.

213. Based on all evidence gathered and reported in the NASWF JAGMAN investigation, the CID investigation, the two NCIS investigations, and review of all testimony and documents, there is insufficient evidence to prove that the Subject's actions were in violation of 18 USC Section 641.

#### **Conclusion**

214. The allegation that the Subject stole government property, including gasoline and household supplies, from NASWP in violation of Title 18, CRIMES AND CRIMINAL PROCEDURE, PART I, CRIMES, CHAPTER 31, EMBEZZLEMENT AND THEFT, Section 641, Public money, property and records is not Substantiated.

#### **Actions Planned**

215. The JAGMAN report recommended the two generators purchased through an unauthorized commitment be returned to the Park and added to the inventory and the 5500-watt generator (which was swapped) be returned to NASWP and added to the inventory.

216. The JAGMAN report stated that Investigator Lutz had retrieved all the NASWF equipment that was wrongfully acquired.

217. The former XO told NCIS that she believed the former MWR Director formally counseled the Subject regarding any work related issues. She also believed any written counseling's were removed from Subject's file when the former MWR Director retired.

218. No further investigation is warranted into these matters.

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**Personnel Actions Taken**

219. Although no documentation could be located, the uncontested statements of the former XO and the Subject reasonably support the conclusion that Subject was counseled at the conclusion of the NASWF JAGMAN investigation. No action can be taken based on the Subject's resignation from Federal service in April 2010, four months prior to the complainants bringing this issue to the attention of OSC.

**Allegation Five**

That on or about 12 March 2010, THE NASWF Deputy Security Director threatened Complainant One by suggesting that his career would be impacted if he continued to investigate Subject, in violation of 5 United States Code (U.S.C.) § 2302 (b)(8)(B).

**Findings**

220. On page 3 of the 16 August 2010 letter from OSC to SECNAV, Complainant One alleged that on 12 March 2010, the NASWF Deputy Security Director advised him that if his name was "even mentioned in the same context as [Subject's]" Complainant One "would face a civil lawsuit." Complainant One stated the NASWF Deputy Security Director continued saying that Complainant One's "career would be impacted if he attempted to investigate [Subject] or visited the boat docks area."<sup>10</sup>

221. On 19 October 2010, the NRSE IO conducted a telephone interview with Complainant One regarding information he provided in the 16 August 2010 letter from OSC to SECNAV. Complainant One did not provide any information or further clarification about threats or actions that he believed threatened his career.

222. On 01 March 2011, the NRSE IO interviewed the MA1 who stated that he remembered that Complainant One became "huffy" when he was told not to go down to the boat docks and to keep his shift personnel away from the docks other than to do normal duties. He further stated that Complainant One was advised that it looked as though he held a personal vendetta against the Subject because of previous incidents when they "got into things" with one another. MA1 opined that part of the reason

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<sup>10</sup> The "boat docks" is a common reference to the NASWP MWR recreation area on the Blackwater River in Milton, FL.

Complainant One was instructed not to go down to the docks was for his own protection. However, he did not believe Complainant One understood that intention or "saw it that way."

223. MA1 did not hear or have knowledge of anyone telling Complainant One that the Subject might sue him for harassment if he continued to go down to the boat docks. However, MA1 stated he would understand the reason why someone would make that statement to Complainant One. MA1 intimated this had to do with his belief that Complainant One and the Subject did not like one another.

224. On 1 March 2011, the NRSE IO interviewed the SECO, who stated NCIS assumed investigative control over an investigation involving the Subject sometime around March or April 2010. The SECO stated he instructed Complainant One to leave the investigation alone or else he would get himself into some trouble. The SECO clarified his statement saying that if a patrolman were to continually be down at the boat docks, it could ruin ongoing investigative efforts by NCIS. The SECO stated that Complainant One's attempts to bring forward more information while NCIS was conducting the investigation were "absolutely outside the scope of the duties" of Complainant One.

225. The SECO further described how he tried to warn Complainant One that he could get into trouble; and that he explained that his intent in saying this was to make Complainant One aware that he could get into trouble for doing investigative work beyond the limits of his official position. The SECO stated it appeared to him that Complainant One might have some kind of vendetta against the Subject. He stated he tried to make Complainant One understand that if the Subject believed Complainant One had a personal agenda or vendetta against the Subject then he might have sufficient grounds to initiate a civil lawsuit for harassment.

226. On 1 March 2011, the NRSE IO interviewed the current MWR Division Director, who stated that, in his opinion, the command's perception was that all of the information coming forward about "what was going on" at NASWP originated with Complainants One and Two.<sup>11</sup> He further stated the command's

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<sup>11</sup> The current MWR Director was the NASWF Command Master Chief (CMDCM) immediately prior to assuming his current position. Any comment he made regarding his opinion of the "command's perspective" is a reference to his knowledge and/or understanding of comments made by or opinions held by himself as the CMDCM, and the NASWF CO and XO.

perception and understanding was that Complainant One was manipulating Complainant Two into reporting on the Subject because Complainant One had some personal issues against the Subject.

227. On 02 March 2011, the NRSE IO interviewed the NASWF Deputy Security Director, who stated that he had no recollection of telling Complainant One that his job would be impacted if he attempted to investigate the Subject or visit the boat docks. He did remember that he had instructed Complainant One to "stand down" and "cease and desist" on more than one occasion. He further explained this statement saying he and others gave these directions "to the whole department, not just Complainant One." The NASWF Deputy Security Director stated that he gave these directions because either NCIS or CID was actively investigating various matters at NASWP. He further stated that he gave direction to "stand down" because he didn't want to limit what he could turn over to be used for any criminal investigation. In addition, the NASWF Deputy Security Director was concerned about the rumors of personal issues between the Subject and Complainant One so he did not want to risk compromising any part of the ongoing investigations.

228. The NASWF Deputy Security Director stated that he had overheard comments that led him to believe Complainant One had possibly filed a complaint to the IG about him sometime around January 2010. His understanding was that Complainant One informed "everyone on his shift" that the "IG was going to come down" and remove him from his position as the Deputy Security Director.

229. During the interview with the NRSE IO, the NASWF Deputy Security Director provided a copy of a Memorandum for the Record (MFR) he had prepared regarding a conversation he had with Complainant One on 18 February 2011 "at or around 1615 hours" in the NASWF NEX/Commissary parking lot. According to the MFR, Complainant One told the NASWF Deputy Security Director that he had called and/or filed a complaint to the IG concerning the way in which the MWR boat docks investigation from 2008 and 2010 was handled.

230. The NASWF Deputy Security Director stated that Complainant One should not have any conflicts with management because he had been promoted twice; once in 2008 and again in 2009. Additionally, the NASWF Deputy Security Director stated he had high hopes for Complainant One despite the fact that it was now apparent to him that Complainant One had an agenda

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against him. The NASWF Deputy Security Director stated he promoted Complainant One with the intention of trying to get him involved with the department and motivated to do good things so he could be a positive influence on junior personnel; however, "it went 100% the other direction." He stated that Complainant One's current behavior was starting to affect the morale of the department as he tried to discredit him personally and professionally. Nevertheless, the NASWF Deputy Security Director stated he never "wrote [Complainant] One up for anything" and never "talked down" to him because he wanted to develop him.

231. The NASWF Deputy Security Director provided copies of two SF50s in support of his statement regarding Complainant One's promotions. The effective date of the first SF50 is 12/7/2008 and the effective date of the second is 6/7/2009. Block 5-B (Nature of Action) is listed as Promotion and Reassignment for 2008 and 2009 respectively. The 2008 Promotion is from a Police Officer to a Supervisory Police Officer. The 2009 Reassignment was from one position description (PD) to another.<sup>12</sup>

232. The following table provides a summary of Complainant One's personnel actions taken from the Total Workforce Management System (TWMS) database:<sup>13</sup>

ACTION	ACTION DATE	AMT or HOURS
Performance Award	12/23/2010	\$300.00
Special Act or Service Award	5/19/2010	\$200.00
On the Spot Cash Award	1/19/2010	\$250.00

<sup>12</sup> From Supervisory Police Officer YPAKF-621797 to Supervisory Police Officer YPAKE-705364

<sup>13</sup> The TWMS database is an application designed to assist in manpower management. TWMS currently allows users to manage human resources type information for APF and NAF Civilian employees including, but not limited to, running reports regarding employee SF75 and SF50 history. According to NRSE Labor and Employee Relations personnel, TWMS captures unfavorable personnel actions starting with Letters of Reprimand. Documents regarding informal employee counseling are not included in TWMS and no record pertaining to Subject was located in TWMS.

NSPS Performance Bonus	1/3/2010	\$294.00
NSPS Performance Increase	1/3/2010	\$696.00
Individual Time Off Award	7/25/2009	8 hrs
Individual Cash Award	7/24/2009	\$150.00
Indv. Cash Award	4/17/2009	\$250.00
Indv. Cash Award	8/22/2007	\$750.00
Special Act or Service Award	8/8/2007	\$750.00

**Regulations**

233. 5 U.S.C § 2302 (b)(8)(B) 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 - (8) take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of - (B) any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences - (i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety".

**Discussion and Analysis**

234. The preponderance of the evidence supports the conclusion that the NASWF Deputy Security Director was aware that Complainant One may have submitted a statement to an IG before the meeting between him and Complainant One which took place on or about 08 March 2010.

235. One could argue the statement allegedly made by the Deputy Security Director to Complainant One that his "career could be impacted if he continued to investigate Subject" was a threat to take an unfavorable personnel action, and Complainant

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One may have perceived any such comments to be a threat. However, the more reasonable conclusion, supported by the preponderance of evidence developed during the investigation, is that if the NASWF Deputy Security Director made a comment similar to that alleged by Complainant One, he simply was re-stating or emphasizing the SECO's concern that the Subject might pursue legal action against Complainant One in a civilian court of law if the Subject perceived that Complainant One had a personal agenda or vendetta against him. In any case, as explained in Allegation Three, Complainant One's attempts to investigate these matters were beyond the scope of his duties and if he persisted in those actions after being warned not to do so, disciplinary action would have been appropriate, especially if anything he did impeded the NCIS investigation.

236. The preponderance of evidence supports the conclusion that no unfavorable personnel action was threatened or taken against Complainant One. As a matter of fact, the summary table set forth in this report clearly demonstrates that Complainant One received nothing but positive personnel actions in the form of performance and individual cash awards and bonuses. There was no evidence or testimony to support the conclusion that the NASWF Deputy Security Director took, or threatened to take, an unfavorable personnel action against Complainant One at any time for any reason.

#### **Conclusion**

237. The allegation that on or about 12 March 2010, the NASWF Deputy Security Director threatened Complainant One by suggesting that his career would be impacted if he continued to investigate Subject, in violation of 5 United States Code (U.S.C.) § 2302 (b)(8)(B), is not substantiated.

#### **Actions Planned or Taken**

238. None.

#### **Personnel Actions Taken**

239. None.

**Appendix A - Reference Documents**

1. Mr. Kevin Wilson, Attorney, Disclosure Unit, 16 August 2010 letter to Lieutenant Conner
2. Final NASWF Manual of the Judge Advocate General (JAGMAN) investigation dated 12 June 2008
3. NCIS Report of Investigation (Final) dated 22 February 211
4. NCIS Report of Investigation (Final) dated 7 June 2011
5. Morale, Welfare, and Recreation (MWR) Non-Appropriated Fund (NAF) fixed assets inventory policy and procedures at dated 2 August 2010
6. Summary of NRSE IG Interview of NASWF Security Officer on 01 March 2011
7. Summary of Interview of NASWF Business Manager (former Legal Officer) on 01 March 2011
8. Summary of NRSE IG Interview of NASWF MWR Division Director (former NASWF Command Master Chief) on 01 March 2011
9. Summary of NRSE IG Interview of MA1 NASWF Security Department Chief of Police on 01 March 2011
10. Summary of NRSE IG Interview of NASWF Deputy Security Director on 02 March 2011
11. Summary of NRSE IG Interview of Mr. James Barnes on 18 October 2010.
12. Summary of NCIS Interview of Lt. Conner on 19 January 2011
13. Summary of NCIS Interview of Mr. Vance Quillin on 17 November 2010
14. NASWF Deputy Security Director Memorandum for the Record (MFR) regarding conversation with Lt. Conner on 18 February 2011
15. NASWF Police Officer, GS-0083-05, Position Description (YPAAN)
16. NASWF Supervisory Police Officer, GS-0083-07, Position Description (YPAKF)
17. NASWF Supervisory Police Officer, GS-0083-08, Position Description (YPAKE)
18. NASWF Security Department Consolidated Law Enforcement Operations Center (CLEOC) Journal
19. Incident Reports filed on 29 September 2008 (IR #615) and 20 November 2009 (IR #344) provided to NRSE IG by Lt. John Conner

20. DD Form 1348-1S for the equipment being sent to DRMO from Whiting Park, signed by DRMO Supply Technician on 22 April 2008
21. 18 USC Chap 73 § 1503
22. 5 United States Code (U.S.C.) § 2302 (b)(8)(B)
23. OPNAVINST 5530.14E Navy Physical Security and Law Enforcement Program manual
24. BUPERSINST 1710.11C Sec. 414
25. DoD FMR Vol. 8 Chapter 2 Section 020102 B.1., Approving Official's Responsibilities
26. DoD FMR Vol. 8 Chapter 2 Section 020208
27. Lieutenant John Conner SF50 dated 12/7/2008
28. Lieutenant John Conner SF50 dated 6/7/2009

**Appendix B - Witness List**

1. Complainant One
2. Complainant Two
3. Chief, NASWF
4. Master at Arms First Class (MA1) USN, Security Department  
Chief of Police, NASWF
5. former Executive Officer (XO), NASWF
6. NASWF Business Manager
7. former Command Master Chief, NASWF, now MWR Director (NASWF  
NAF-05), and Child Development Center Director
8. NASWF Deputy Security Director
9. NASWP Recreational Aide
10. Marine Engine Technician, NASWP
11. Cashier and Customer Service Representative, NASWP
12. MWR Director, NASWF
13. Subject's son
14. Subject's former daughter-in-law
15. Lead Plumber/Painter, PRI/DJI, NASWF
16. Employee, PRI/DJI, NASWF
17. Truck Driver, PRI/DJI, NASWF
18. Plumber, PRI/DJI, NASWF
19. Project Manager, PRI/DJI, NASWF
20. Laborer, PRI/DJI, NASWF
21. DRMO Supply Technician