

U.S. Department of Justice
 Office of the Inspector General

REPORT OF INVESTIGATION

SUBJECT		CASE NUMBER	
[REDACTED] Chief Deputy U.S. Marshal [REDACTED]		[REDACTED]	
OFFICE CONDUCTING INVESTIGATION		DOJ COMPONENT	
[REDACTED]		United States Marshals Service	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office	DFO	<input type="checkbox"/> OPEN	<input type="checkbox"/> OPEN PENDING PROSECUTION
<input checked="" type="checkbox"/> AIGINV		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
<input checked="" type="checkbox"/> Component	USMS	Date of Previous Report:	
<input type="checkbox"/> USA			
<input checked="" type="checkbox"/> ODAG			

SYNOPSIS

The Office of the Inspector General (OIG) initiated this investigation upon the receipt of a complaint from [REDACTED] alleging that [REDACTED] Chief Deputy U.S. Marshal [REDACTED] and retired Senior Inspector and current Task Force Officer [REDACTED] retaliated in numerous ways against various employees in the [REDACTED] due to management's perception that the employees had cooperated with an OIG investigation. [REDACTED] alleged that while OIG agents were conducting interviews pursuant to OIG case [REDACTED] in October 2014, [REDACTED] and [REDACTED] held staff meetings and made retaliatory comments and assignment decisions in an effort to interfere with the OIG's investigation. The OIG substantiated that, [REDACTED], [REDACTED], and Supervisory Deputy U.S. Marshal [REDACTED] retaliated against employees in connection with an OIG investigation, in that, (1) [REDACTED] pressured a subordinate employee by suggesting that she should disclose to [REDACTED] her level of involvement with an OIG investigation, in violation of the USMS Code of Professional Policy (CPR), Department of Justice (DOJ) regulations, and Section 7(c) of the Inspector General Act of 1978; (2) [REDACTED] directed a subordinate employee to restrict [REDACTED] work assignments, in violation of Section 7(c) of the Inspector General Act of 1978 and 5 USC 2302(b)(8); (3) [REDACTED] made threatening statements directed towards employees perceived to have cooperated with the OIG, in violation of the USMS CPR, DOJ regulations, and Section 7(c) of the Inspector General Act of 1978; and (4) [REDACTED] made retaliatory statements attempting to dissuade employees from cooperating with the OIG investigation, in violation of the USMS CPR, DOJ regulations, and Section 7(c) of the Inspector General Act of 1978. The OIG also concluded that [REDACTED] and [REDACTED] lacked candor during their

DATE	February 13, 2017	SIGNATURE	[REDACTED]
PREPARED BY SPECIAL AGENT [REDACTED]			
DATE	February 13, 2017	SIGNATURE	Digitally signed by MONTE CASON DN: c=US, o=U.S. Government, ou=Dept of Justice, ou=OIG, cn=MONTE CASON 0.9.2342.19200300.100.1.1=150010010524 83 Date: 2017.02.13 14:27:35 -0600
APPROVED BY SPECIAL AGENT IN CHARGE		Monte A. Cason 	

respective OIG interviews by denying statements they had made in the presence of employees, in violation of USMS CPR and DOJ regulations.

During the OIG investigation, [REDACTED] retaliated against him by denying him an opportunity to participate in training with district personnel, [REDACTED]. The OIG substantiated the allegation that [REDACTED] retaliated against [REDACTED] by restricting him from participating in training with the rest of the district. [REDACTED]. The OIG did find, however, that in connection with [REDACTED] reassignment to the [REDACTED] sub-office, [REDACTED] improperly directed [REDACTED] to claim work hours during his daily commute in violation of USMS travel policy and Code of Federal Regulations.

[REDACTED]

The OIG has completed its investigation and is providing this report to the USMS and to the Office of the Deputy Attorney General for appropriate action. The OIG is referring its retaliation findings to the U.S. Office of Special Counsel.

ADDITIONAL SUBJECTS

[REDACTED]

[REDACTED]

[REDACTED]

DETAILS OF INVESTIGATION

Predication

The Office of the Inspector General (OIG) initiated this investigation upon the receipt of a complaint from [REDACTED] alleging that [REDACTED], Chief Deputy U.S. Marshal (CDUSM) [REDACTED], and retired Senior Inspector and current Task Force Officer [REDACTED] retaliated in numerous ways against various employees in the [REDACTED] due to management's perception that the employees had cooperated with an OIG investigation. [REDACTED] alleged that while OIG agents were conducting interviews pursuant to OIG case [REDACTED] in October 2014, [REDACTED] and [REDACTED] held staff meetings and made retaliatory comments and assignment decisions in an effort to interfere with the OIG's investigation.

Investigative Process

The OIG's investigative efforts consisted of reviewing official e-mails, text messages, and USMS policies and directives. The OIG conducted interviews of the following USMS personnel:

[REDACTED], U.S. Marshal

[REDACTED], Chief Deputy U.S. Marshal

[REDACTED] Senior Inspector (retired), Task Force Officer (current)

[REDACTED] Deputy U.S. Marshal

Standard Applied in Reaching OIG Conclusions Regarding Retaliation

Under the Whistleblower Protection Act, 5 U.S.C. § 2302(b)(8)(B), to establish a retaliation claim, an employee bears the initial burden of showing that the protected disclosure was a contributing factor in the agency's decision to take the adverse personnel action against the employee. To make this showing, an employee must only show that the deciding official knew of the protected disclosure and that the action was initiated within a reasonable time after the disclosure. Once an employee makes this showing, the burden shifts to the agency to prove by clear and convincing evidence that it would have taken the personnel action even in the absence of the protected disclosure. Evidence such as responsiveness to the suggestions in a protected disclosure or lack of animus against the employee may support an agency's rebuttal position. *See Kewley v. Dep't of Health and Human Services*, 153 F.3d 1357, 1363 (Fed. Cir. 1998). The OIG applied this legal standard in analyzing each of the retaliation claims addressed in this investigation.

██████████ and ██████████ Made Threatening Statements; ██████████ Lack of Candor

██████████ alleged that on October 16, 2014, the day the OIG came to the district to interview senior management in the ██████████ (in connection with OIG case number ██████████, and several days before an office meeting held by ██████████ about the OIG's investigation, Supervisory Deputy U.S. Marshal ██████████ held a squad room meeting and told employees that ██████████ and ██████████ had the right to face their accusers through FOIA requests. Additionally, during this same meeting, Senior Inspector ██████████ was alleged to have made a statement to the effect that those who cooperated with the OIG, "would regret the day we ever came to the ██████████

The OIG interviewed ██████████, ██████████, ██████████, and ██████████ all of whom had knowledge concerning the alleged statements made by ██████████. Their testimony on these topics is summarized below:

- ██████████ heard ██████████ state in the meeting that he knew who the alleged whistleblowers were and would never trust them again. However, he did not recall ██████████ making any statement to the effect that those who cooperated with the OIG would regret coming to the ██████████
- ██████████ recalled that during this meeting, ██████████ stated that ██████████ had the ability to determine employee testimony to the OIG, but she did not perceive his statement as a threat. ██████████ denied hearing ██████████ make a statement to the effect that the alleged whistleblowers would regret coming to the ██████████
- ██████████ heard ██████████ make a statement that ██████████ had the ability through the Freedom of Information Act (FOIA) to find out who was involved in the OIG investigation; however, he did not perceive ██████████ statement as a threat. ██████████

- [REDACTED] recalled that FOIA was mentioned in the meeting, but he could not recall if [REDACTED] or [REDACTED] made reference to FOIA in connection with a statement about [REDACTED] being able to identify those cooperating with the OIG, and in any event, he did not perceive the statements about FOIA as a threat.
- [REDACTED] said [REDACTED]. However, he did recall [REDACTED] naming [REDACTED] and [REDACTED] as the alleged whistleblowers, and [REDACTED] saying that if the alleged whistleblowers “survive” the OIG investigation, they should, “start looking for a new home” adding that they would regret coming to the [REDACTED].
- [REDACTED] said that [REDACTED] told employees that they needed to be truthful in any potential OIG interview, a statement that [REDACTED] did not perceive as a threat. [REDACTED]
- [REDACTED] recalled [REDACTED] describing the [REDACTED] as a family and any issues the office was going through should be discussed openly, with a caveat that [REDACTED] and [REDACTED] would have the ability to review any witness testimony through FOIA.
- [REDACTED] recalled [REDACTED] making a statement that those who went to the OIG “pissed him off” and he hoped those involved in the investigation would regret coming to the [REDACTED]. [REDACTED] [REDACTED] said he believed that [REDACTED] was a messenger for upper management and his statements were retaliatory in nature.

E-mail and Text Review

The OIG conducted a comprehensive review of [REDACTED] and [REDACTED] official e-mails and text messages which did not provide evidence that [REDACTED] or [REDACTED] personally made or were aware of other employees making the above statements, or any other statements directed towards those perceived to have cooperated with the OIG investigation.

Response

When interviewed by the OIG, [REDACTED] [REDACTED] said that he learned of the allegation through the OIG investigation and was unsure of its origins. [REDACTED] further told the OIG he never was made aware that [REDACTED] made any statements directed towards employees indicating that he and [REDACTED] had the ability to review witness testimony related to the OIG investigation through FOIA. .

Response

[REDACTED] denied hearing any allegation that [REDACTED] made threatening statements directed toward employees; [REDACTED] [REDACTED] told the OIG that he recalled discussing reviewing witness testimony through FOIA with [REDACTED] as a matter of “speculation

about, you know, who inside in the outfit, or who outside the outfit, or who, you know, what's this all about"; however, he denied ever making any threats directed toward employees regarding FOIA matters.

Response

When interviewed by the OIG, [REDACTED] denied making the statement to the effect that those employees who cooperated with the OIG would regret coming to the [REDACTED]. [REDACTED] further denied that he or [REDACTED] made statements that [REDACTED] had the ability through FOIA to discover employee testimony to the OIG.

Response

[REDACTED] told the OIG that during the squad meeting [REDACTED] denigrated the OIG investigation and said that those employees who cooperated with the OIG would regret coming to the [REDACTED]. [REDACTED] confirmed telling employees that [REDACTED] and [REDACTED] had the right to face their accusers through FOIA requests, but said his statements were not intended to be retaliatory. He explained that he was simply advising employees to tell the truth if questioned by the OIG. [REDACTED] further stated that he was not directed by [REDACTED] or [REDACTED] to make the statements to employees to influence their testimony to the OIG.

OIG's Conclusion

[REDACTED] the OIG did find evidence to substantiate that [REDACTED] and [REDACTED] both made other highly inappropriate statements to employees at the squad room meeting on the same day that the OIG was undertaking interviews in the office. The OIG found those statements could reasonably be viewed as discouraging cooperation with the OIG investigation and threatening retaliation against those prospective witnesses who did cooperate with the OIG, contrary to employees' obligation under DOJ regulation and order.

At least five witnesses, including [REDACTED] heard [REDACTED] make a statement to the effect that those who cooperated with the OIG would regret coming to the [REDACTED] and a fifth witness referenced a separate derogatory statement made by [REDACTED] towards whistleblowers. The OIG also found that [REDACTED] lacked candor during his interview when he denied making such statements, a violation of 28 Code of Federal Regulations (CFR) 45.13, addressing duty to cooperate in an official investigation and USMS Code of Professional Responsibility (CPR), Section E Paragraphs 23, 26, 28, and 29 addressing statement of fact, personal activities, conduct, and high standards.

By his own admission to the OIG, [REDACTED] told employees that [REDACTED] and [REDACTED] had the right to face their accusers and learn the identity of the whistleblowers through FOIA requests. This was confirmed by several witnesses, who said that [REDACTED] made clear at the squad meeting that [REDACTED] had the ability to determine what employees said to the OIG during the investigation. Similar to [REDACTED] the OIG concluded that [REDACTED] made highly inappropriate statements to employees, which could reasonably be viewed as discouraging them from cooperating with the OIG or from making any derogatory comments about [REDACTED] to the OIG, contrary to

employees' obligation under DOJ regulation and order. Moreover, [REDACTED] took no action at the squad meeting, or afterwards, to address [REDACTED] highly inappropriate and arguably even more threatening comments, despite the fact that he was [REDACTED] supervisor. As such, [REDACTED] was responsible for [REDACTED] comments and his inaction could only have sent the unmistakable message to attendees that he was supportive of [REDACTED] statements. In contrast to [REDACTED] however, [REDACTED] was candid during his OIG interview about his own conduct and that of [REDACTED] which may serve to mitigate the consequences for his actions. The OIG determined [REDACTED] misconduct violated USMS Code of Professional Responsibility (CPR), Section E Paragraphs 26, 28, and 29 addressing personal activities, conduct, and high standards. The OIG further concluded that both [REDACTED] and [REDACTED] misconduct violated the Inspector General Act of 1978, Section 7(c), which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action, from taking or threatening to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, and 5 USC § 2302 (b) (8) (B) which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action, from taking or threatening to take any action against any employee as a reprisal for disclosing information to the Special Counsel or Inspector General

[REDACTED]

[REDACTED] in [REDACTED] Presence, Intimidated [REDACTED]; [REDACTED] Lack of Candor

[REDACTED] reported that [REDACTED] confided in him about an “uncomfortable” meeting she had with [REDACTED] witnessed by [REDACTED] during which [REDACTED] questioned her regarding her involvement in the OIG investigation. [REDACTED] stated that, following her meeting with [REDACTED] [REDACTED] was one of the few deputies that [REDACTED] and [REDACTED] allowed to support special assignment details.

[REDACTED] told the OIG that, in March 2015, she had a conversation with [REDACTED] who told her that [REDACTED] confided in him about a meeting [REDACTED] had with [REDACTED]. According to [REDACTED] expressed to [REDACTED] that she was summoned to the basement area of the office by [REDACTED] and [REDACTED] where they both began to ask [REDACTED] about her level of involvement, if any, in the OIG investigation. [REDACTED] went on to say [REDACTED] also told [REDACTED] that both [REDACTED] and [REDACTED] told her that she needed to approach [REDACTED] and give him her support if she wished to be assigned to any future special details.

[REDACTED] told the OIG that [REDACTED] confided in him about the meeting she had with [REDACTED] and [REDACTED] in which they both asked [REDACTED] where her loyalties lie and whose side she was on regarding the OIG investigation. [REDACTED] said [REDACTED] told him that [REDACTED] suggested [REDACTED] tell [REDACTED] that she was on his side and that she was a good deputy. [REDACTED] said that he could not recall if [REDACTED] told him who initiated the meeting.

[REDACTED] told the OIG that sometime in February 2015, she felt increasingly frustrated because [REDACTED] denied several requests to support her counter surveillance collateral duty assignments, while other deputies in the district were given the opportunities to support their collateral duties, [REDACTED]. [REDACTED] said that on one occasion, she spoke to [REDACTED] about her concerns and [REDACTED] said that [REDACTED] made the decision not to send employees out on special assignments; however, he would talk to [REDACTED] about her request. [REDACTED] said later that day [REDACTED] came to her and said, “Let’s take a walk.” [REDACTED] said that she and [REDACTED] walked to a vacant café down in the basement of the building where [REDACTED] met them. [REDACTED] allegedly told [REDACTED] that [REDACTED] was present as a witness because he did not know who he could trust in the district, a statement which she assumed was related to the OIG investigation.

[REDACTED] told [REDACTED] that the ensuing conversation was not to leave the room, adding that her name was continuously coming up in the OIG investigation as a person who might be involved. [REDACTED] expressed to [REDACTED] that she was not involved in the OIG investigation, to which [REDACTED] replied that he believed there were employees who were

involved and other employees who are “sitting on the sidelines watching the show getting a kick out of it.” Regarding supporting special assignments, ██████ said that ██████ asked her why he should reward employees who are involved with the OIG investigation with special assignment details, to which ██████ responded that her collateral duties were her job and not a special favor. ██████ said that ██████ told her that he needed to know where her loyalties lie regarding the OIG investigation, adding that ██████ needed to hear her say something to that effect. ██████ said that she told ██████ that she was loyal to the district, had a good work experience in the office, and if asked by the OIG, she would state she never witnessed any sexual harassment, misuse of any government vehicles, or time and attendance fraud, which ██████ expressed to the OIG was the truth. ██████ said that ██████ told her that she needed to let ██████ know that she was a “team player” and thank him for letting her go out on her special assignment. ██████ told the OIG that shortly after her meeting with ██████ and ██████ she was allowed to support a special mission. ██████ also sent an e-mail to ██████ dated February 16, 2015, thanking ██████ for allowing her to support her special assignment and expressing her support for the district.

When asked if she felt threatened during this meeting with ██████ and ██████ ██████ responded, “A little bit, yes.” ██████ further elaborated as to why she felt threatened by saying “Well, it was definitely clear that my work, quality of work life was going to be based on how I reacted to that conversation.” ██████ said she felt that if she told ██████ she sided with the OIG investigation, she would not be allowed to support her counter surveillance collateral duty special assignment, thus exacerbating her feeling that she would be rewarded or punished depending on who she sided with. ██████ said that the only other two employees she confided in concerning the aforementioned meeting was ██████ and ██████

When interviewed by the OIG, ██████ recalled being present at the meeting with ██████ and ██████ ██████ said the meeting was related to ██████ ability to support an upcoming counter surveillance collateral duty assignment, and that prior to the meeting, ██████ pulled him aside and told him that he needed to talk to ██████. Once they found ██████ ██████ described that he and ██████ brought her into the “snack bar.” ██████ said that since ██████ was being investigated for an inappropriate sexual relationship with a subordinate female employee, he interpreted his presence at the meeting as that of a witness, because ██████ did not want to be alone with another female employee. ██████ stated that during this meeting, ██████ told ██████ that her name kept being brought up in the OIG investigation. ██████ also confirmed that ██████ told ██████ that some employees were on the sidelines watching the “show,” referencing the OIG investigation. ██████ could not recall if ██████ ever asked ██████ which “side” she was on in relation to the OIG investigation; however, he did recall ██████ telling ██████ that she had not spoken to or cooperated with the OIG. ██████ recalled ██████ telling ██████ that she wanted to do her job, which included her counter surveillance collateral duties; however, ██████ could not recall if ██████ ever posed the question to ██████ of why he should “reward” employees that assisted the OIG with special assignment details. ██████ said ██████ asked ██████ where her loyalties lie regarding the OIG investigation, and ██████ also told ██████ that she needed to tell ██████ that she was a team player. ██████ said that shortly after this meeting, ██████ was allowed to go on a counter surveillance collateral duty assignment. ██████ recalled feeling a little “weird” being present at the meeting and that he was only listening to about half of the conversation between ██████ and ██████. Toward the conclusion of his OIG interview, ██████ said that he does not believe ██████ is lying about her testimony to the OIG, adding, “is Deputy ██████ a liar, absolutely not. Is that Deputy ██████ statement, is it 100% true, if she said it, I would venture to say yes it’s probably correct, but do I recall it, no I don’t [sic].” ██████ did not know if ██████ ever went to ██████ to express her loyalty as ██████ suggested she should.

█ *Response*

During his OIG interview, █ said that he recalled the meeting between him and █ with █ as a witness, but denied that the meeting was a “loyalty test,” or that he tried to ascertain █ level of cooperation with the OIG investigation. █ said that █ initiated the meeting in an effort to speak with him about participating in an upcoming special assignment, adding that during this conversation, it was █ not he, who brought up the OIG investigation. █ maintained that █ volunteered to him that she had nothing to do with the OIG coming into the district; however, █ did acknowledge that, “I may have mentioned that her name had been rumored, or had come up. But not kept coming up.” █ said that he told █ that he appreciated her comments and added that █ would appreciate her support as well. █ denied ever directing █ to go to █ in a show of her support with respect to the OIG investigation. █ further told the OIG that he never questioned █ about her level of participation in the OIG investigation nor did he instruct her to go to █ and tell him that she was a “team player.” █ denied questioning █ about which side she was on in the OIG investigation. █ claimed that he never posed any question to █ concerning rewarding employees with special assignments versus cooperating with the OIG.

█ *Response*

█ told the OIG that he only became aware of the meeting between █ and █ through the OIG investigation. █ denied that █ came to him to express that she was “loyal to the District” or a “team player.”

OIG’s Conclusion

The OIG determined that █ intimidated █ by questioning her about her level of participation in the OIG investigation, by bringing another supervisory DUSM with him when he did so, and by suggesting that future special assignments depended on whether she sided with management or the OIG. The OIG determined █ could reasonably have construed these circumstances and █ highly inappropriate comments as chilling her from cooperating with the OIG investigation, and as threatening retaliation if she did not side with management in the OIG investigation. The OIG’s conclusion is supported by the greater credibility of █ account to the OIG, which was largely corroborated by █ testimony, and in part, by █ testimony about the encounter. To the extent that █ account is inconsistent with █ and █ the OIG considered the differences to be self-serving and not credible. The OIG also considered the location and the circumstances under which the discussion occurred, which supported an inference that █ knew that topics discussed were inappropriate and that his conduct was not proper. In addition, █ supported the credibility of █ and the OIG did not learn of any witnesses reporting derogatory information about █. Furthermore, █ told the OIG that, “I like █ █ has all of the tools and skills to be a star. I think █ has grown a lot in the last three or four years since she’s been there.”

Moreover, the OIG concluded that █ lacked candor in his statements to the OIG by denying he questioned or pressured █ regarding her level of involvement in the OIG investigation, a violation of, 28 Code of Federal Regulations (CFR), addressing duty to cooperate in an official investigation, and USMS Code of Professional Responsibility (CPR), Section E Paragraphs 23, 26, 28, and 29 addressing statement of fact, personal activities, conduct, and high standards. The OIG further determined that █ misconduct against █ violated Section

7(c) of the Inspector General Act of 1978, which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action from taking or threatening to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, and 5 USC § 2302 (b) (8) (B) which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action, from taking or threatening to take any action against any employee as a reprisal for disclosing information to the Special Counsel or Inspector General

For his part, [REDACTED] as a supervisory DUSM who observed [REDACTED] misconduct, had an obligation to report [REDACTED] actions pursuant to USMS CPR, Section E Paragraph 36, addressing failure to report violations of prescribed regulations, statutes or laws to appropriate management officials. He failed to do so. [REDACTED] shortcomings under these circumstances are mitigated by his candor during his OIG interview about this incident.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED] and [REDACTED] told the OIG that in response to the task force experiencing a backlog of warrants, a decision was made that deputies assigned to the general operations squad would carry a case load of Class 1 warrants. [REDACTED] agreed that when deputies assigned to general operations were finished with court early they could work their Class 1 warrants and were welcome to support the task force after hours. Neither [REDACTED] nor [REDACTED] was directed by management to single out [REDACTED] and restrict him to work only Class 1 warrants, and [REDACTED] was free to assist the task force after hours. [REDACTED] described an incident where [REDACTED] questioned his decision to allow [REDACTED] and [REDACTED] to assist the task force on a warrant during working hours. [REDACTED] explained to [REDACTED] that [REDACTED] and [REDACTED] were the only two deputies who were available to support the request that day. [REDACTED] said that [REDACTED] “asked me why is [REDACTED] out with the warrants, and I was like, there were only two guys in the office; I sent who I had. They needed help.” When asked why he would be reprimanded by [REDACTED] for letting [REDACTED] help [REDACTED] on this case, [REDACTED] responded, “That would be an interesting question. That would be a deputy -- or a Chief [REDACTED] question.” [REDACTED] told the OIG that his interpretation of [REDACTED] line of questioning was, if given the same scenario in the future, [REDACTED] should send another available deputy instead of [REDACTED] thus giving the appearance that [REDACTED] was singling out [REDACTED] for reasons unknown to [REDACTED]. [REDACTED] admitted that he told [REDACTED] that he was reprimanded by [REDACTED] for allowing him to assist the task force.

E-mail and Text Review

The OIG conducted a comprehensive review of [REDACTED] and [REDACTED] official e-mails and text messages, which did not result in evidence showing that [REDACTED] or any other employee retaliated against [REDACTED] by restricting him to only work his assigned Class 1 warrants. The OIG did discover numerous e-mails sent by [REDACTED] to all [REDACTED] deputies, including [REDACTED] requesting their availability to assist the task force after hours.

Response

When interviewed by the OIG, [REDACTED] denied directing any supervisor to exclude [REDACTED] from working with the task force as a form of retaliation. [REDACTED] explained that all deputies assigned to the general operations squad, including [REDACTED] are assigned Class 1 warrants and are expected to work their caseload before participating with the task force. [REDACTED] said that all deputies are allowed to assist the task force after hours; however, it is his understanding that [REDACTED] does not routinely participate with the task force after hours. [REDACTED] could not recall any conversation where he reprimanded [REDACTED] for allowing [REDACTED] and [REDACTED] to assist the task force during working hours.

Response

During his OIG interview, [REDACTED] said the only time he inquired about the warrant rotation was to ensure all employees were available for any potential OIG interviews.

OIG's Conclusion

The OIG investigation found that there was sufficient evidence to substantiate the allegation that [REDACTED] retaliated against [REDACTED] by directing a subordinate employee to restrict [REDACTED] to work only his assigned Class 1

warrants, further denying him the opportunity to participate with the task force. The OIG's conclusion is supported by [REDACTED] lack of candor with the OIG during this investigation (as described previously) and the greater credibility of [REDACTED] account, where [REDACTED] acknowledged that it appeared [REDACTED] had singled out [REDACTED] when he instructed [REDACTED] to send another deputy to assist with task force warrants in the future. Furthermore, [REDACTED] corroborated [REDACTED] assertion that [REDACTED] told [REDACTED] that he ([REDACTED] was reprimanded by [REDACTED] for allowing him to work with the task force during his duty hours. Based on this corroboration of the contemporary account by [REDACTED] the OIG also found that [REDACTED] lacked candor during his interview when he denied making such statements to [REDACTED] a violation of 28 Code of Federal Regulations (CFR) 45.13, addressing duty to cooperate in an official investigation and USMS Code of Professional Responsibility (CPR), Section E Paragraphs 23, 26, 28, and 29 addressing statement of fact, personal activities, conduct, and high standards. Additionally, the OIG concluded that [REDACTED] misconduct violated the Inspector General Act of 1978, Section 7(c), which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action, from taking or threatening to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, and 5 USC § 2302 (b) (8) (B) which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action, from taking or threatening to take any action against any employee as a reprisal for disclosing information to the Special Counsel or Inspector General.

[REDACTED]

During his OIG interview, [REDACTED] stated that [REDACTED]

[REDACTED] Additionally, [REDACTED] directed [REDACTED] to utilize his GOV and commute to and from his residence [REDACTED] to the [REDACTED] sub-office, [REDACTED] [REDACTED] further provided the OIG with an e-mail exchange between him and [REDACTED] dated November 4, 2014, where [REDACTED] advised [REDACTED] not to leave his residence before 7:30 a.m. and ensure he is back at this residence no later than 5:30 p.m., thus incorporating a segment of [REDACTED] commute into his hours of work.

It is a violation of U.S. Marshals Service Travel Policy Manuel, Chapter 301-Temporary Duty (TDY) Travel Allowances, 301-2.5.3, Authorizing Officials' Responsibilities, if an authorizing official does not limit an authorization which may constitute an inefficient management of travel and a waste of USMS resources, and a violation of 5 Code of Federal Regulations (CFR) 550.112(j) (2), Computation of Overtime Work, FLSA-exempt employees, normal commuting time from home to work and work to home cannot count as hours of work.

[REDACTED]

E-mail and Text Review

The OIG conducted a comprehensive review of [REDACTED] and [REDACTED] official e-mails and text messages [REDACTED]

[REDACTED] In an e-mail, dated November 4, 2014, in reference to [REDACTED] commute from his residence to the [REDACTED] sub-office, [REDACTED] instructs [REDACTED] to, "Make sure you leave so you're home no later than 1730. Conversely I don't expect you to leave your house before 0730." Additionally, the OIG did discover e-mail exchanges between [REDACTED] and [REDACTED], between November 2014 and April 2015, and subsequent to [REDACTED] reassignment to the [REDACTED] sub-office, where the two specifically comment on [REDACTED] timeliness to work. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] admitted that he addressed [REDACTED] commute time via e-mail instructing him to leave his residence no later than 7:30 a.m. and to ensure he is back at this residence at 5:30 p.m., thus allowing [REDACTED] to include his commute time into his work schedule. Additionally, regarding [REDACTED] commute, [REDACTED] told the OIG, "You know, I said make sure, make sure you're home by 5:30, and, and, you know, so I don't expect you to leave before 7:30. Yeah, it was all, it was all based on, I think, knowing how far I thought that it would be, so." The OIG read [REDACTED] USMS policy Directive 7.2(D) (2)(d), which specifically states that mileage for home to work travel must be no greater than the mileage of the commute as indicated on the employee's USM Form-90 (home to work transportation authorization). In addition, these certifications have to be completed every year for each employee or if there is a change in address. [REDACTED] acknowledged that he was aware of the aforementioned and when asked why [REDACTED] USM Form-90 was not updated to reflect his new commute to the [REDACTED] sub-office, [REDACTED] did not provide any explanation, stating that [REDACTED] USM Form-90 also may have other "inaccuracies."

[REDACTED]

OIG's Conclusion

[REDACTED] the OIG determined that [REDACTED] violated U.S. Marshals Service Travel Policy Manual, Chapter 301-Temporary Duty (TDY) Travel Allowances, 301-2.5.3, Authorizing Officials' Responsibilities, by unilaterally authorizing [REDACTED] to commute in his GOV in excess of 200 miles each day from his residence to his place of duty, which constitutes an inefficient management of travel and a waste of USMS resources, and 5 CFR 550.112(j) (2), Computation of Overtime Work, by allowing [REDACTED] to include a segment of his commute as hours of work.

[REDACTED] Retaliated Against [REDACTED] by Denying [REDACTED] Participation in Training

This allegation was developed during the OIG investigation when [REDACTED] was interviewed.

During his OIG interview, [REDACTED] stated that on April 3, 2015, he inquired with [REDACTED] about upcoming firearms training and [REDACTED] denied [REDACTED] the opportunity to participate in the training located approximately 20 minutes from his residence. [REDACTED] stated that [REDACTED] said he was to receive the training alone at the [REDACTED] sub-office. [REDACTED] further believed [REDACTED] refused to allow him to participate in the aforementioned training out of retaliation for his perceived cooperation with the OIG investigation.

The OIG interviewed [REDACTED] [REDACTED] and [REDACTED] regarding [REDACTED] participation in the training.

- [REDACTED] said that shortly after he sent his district wide e-mail on April 3, 2015, related to firearms training, he contacted [REDACTED] regarding whether [REDACTED] should also participate in the training in light of his reassignment to [REDACTED]. [REDACTED] said that, “the only thing that I remember the Chief saying more consistently is that we have to, like, we have to isolate [REDACTED] from the district in light of everything that’s going on [in reference to the OIG investigation].” [REDACTED] went on to say that, “He [REDACTED] definitely is, since, in the wake of the investigation, he has definitely said we’re, he’s isolating [REDACTED]. He’s handling his training and everything independently of everyone else.” [REDACTED] could not definitively recall if his conversation with [REDACTED] regarding the aforementioned was in person or via phone. [REDACTED] then told [REDACTED] that [REDACTED] at a later date, would travel to [REDACTED] and qualify [REDACTED]. According to [REDACTED] it was not out of the ordinary for employees assigned to the [REDACTED] sub-office to be trained separately. When asked if he believed [REDACTED] comment regarding [REDACTED] being “isolated” from the training as a result of the OIG investigation, [REDACTED] said, “More or less, yes.” Additionally, [REDACTED] corroborated [REDACTED] testimony to the OIG by acknowledging he had told [REDACTED] that he would be trained separate from the district at the [REDACTED] sub-office. A review of [REDACTED] e-mail, dated April 3, 2015 to “[REDACTED]”, subject “Training,” indicated that the training would have occurred during normal duty hours, with the exception of low-light training, which was to commence at 6:00 a.m.
- Sometime in March or April 2015, [REDACTED] recalled [REDACTED] instructing him that in addition to conducting an inspection in the [REDACTED] sub-office, he would also have to qualify [REDACTED]

E-mail and Text Review

The OIG conducted a comprehensive review of [REDACTED] and [REDACTED] official e-mails and text messages and found no evidence to support the allegation that [REDACTED] denial of a training opportunity was a retaliatory measure in response to his perceived cooperation with the OIG investigation.

Response

When interviewed by the OIG, [REDACTED] said that historically the employees assigned to the [REDACTED] sub-office were trained in [REDACTED]. [REDACTED] explained that, “I know [REDACTED] and [REDACTED] are the two guys that basically run all the training. So, they would've any time there's going to be a training they're going to be sending those e-mails out.” When asked if he advocated [REDACTED] to be trained alone, [REDACTED] said, “He wouldn't have been told to train alone. It's just that we always train the [REDACTED] guys in [REDACTED]. And so that would've been the only reason.” [REDACTED] went on to say he was unaware of any proximity issues between this specific training and [REDACTED] residence. When asked if he had any conversation with [REDACTED] regarding [REDACTED] training request, where he told [REDACTED] that [REDACTED] was to be isolated and trained alone, [REDACTED] responded, “No.no,” adding that, “I would never have told him [REDACTED] that.” [REDACTED] also stated that having [REDACTED] trained independently was not retaliation in response to the OIG investigation.

OIG's Conclusion

The OIG investigation found that there was sufficient evidence to substantiate the allegation that [REDACTED] retaliated against [REDACTED] by directing a subordinate employee to restrict [REDACTED] from participating in training, further denying him the opportunity to participate in training with the rest of the district. The OIG’s conclusion is supported by [REDACTED] previous lack of candor to the OIG and the greater credibility of [REDACTED] account, where

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The OIG has completed its investigation and is providing this report to the USMS and to the Office of the Deputy Attorney General for appropriate action. The OIG is referring its retaliation findings to the U.S. Office of Special Counsel.