



Investigative Report of Falsification of Employment Records by the Deputy Director of the Office of Acquisition and Property Management

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SYNOPSIS

In May 2016, the U.S. Department of the Interior (DOI), Office of Law Enforcement and Security, referred an allegation to us from the Bureau of Safety and Environmental Enforcement's (BSEE) security office that the Deputy Director of the Office of Acquisition and Property Management (PAM), James McCaffery, Senior Executive Service (SES), falsified military and Federal employment records to improve his chances of gaining Federal employment.

During a 2013 U.S. Office of Personnel Management (OPM) background investigation required for the deputy director position, OPM investigators identified multiple discrepancies in McCaffery's background investigation. In 2014, the BSEE security office unfavorably adjudicated McCaffery's public trust background investigation. McCaffery held the position throughout his tenure without a favorably adjudicated public trust determination, which was required of his position.

During our investigation, McCaffery admitted that he falsified U.S. Army and Federal employment records and that he provided false statements to OPM investigators conducting his personnel background investigation. We determined that PAM Director Debra Sonderman, SES, knew about McCaffery's dishonesty while he was still in a probationary SES status and took no action to resolve his inability to obtain a favorable public trust determination. She chose neither to remove nor discipline him, nor to consult with her supervisor, despite the recommendation for removal from BSEE's Human Resources (HR) and security offices.

DETAILS OF INVESTIGATION

We opened this investigation on June 17, 2016, to investigate allegations that PAM Deputy Director James McCaffery falsified his military and Federal employment records. As part of our investigation, we reviewed McCaffery's military and Federal employment records. We also interviewed McCaffery and other appropriate departmental personnel. We confirmed that McCaffery submitted false employment records when seeking employment with DOI, and that PAM Director Debra Sonderman knew of McCaffery's dishonesty and chose neither to remove nor discipline him, despite a recommendation for removal from BSEE's HR office, which performs the HR functions under a contract with PAM.

Our review of BSEE security's adjudication documents, including OPM's investigations, identified that in 1999 the U.S. Army conducted an investigation that determined McCaffery provided false documents in order to claim unearned medals and decorations, including the Purple Heart and Bronze Star medals, on his 1992 Certificate of Release or Discharge from Active Duty (DD-214). While McCaffery left active duty in 1992, he later joined the U.S. Army Reserve in 1993. In 2000, after the Army completed its investigation into McCaffery's falsified medals, McCaffery resigned his reserve commission in lieu of involuntary separation and subsequently received an other than honorable discharge. In 1994, McCaffery was selected as a GS-7 contract specialist for the U.S. Department of the Navy using a 10-point veteran's hiring preference that he claimed based on his falsified Purple Heart medal.

In 2001, the Navy learned of McCaffery's other than honorable discharge, and sent him written notification of its intent to revoke his security clearance. The Navy gave McCaffery 90 days to submit a rebuttal prior to the revocation of his security clearance; instead, McCaffery sought employment with the U.S. Geological Survey (USGS). McCaffery was selected for a USGS contract specialist (GS-12) position, which did not require a security clearance, as a noncompetitive transfer from the Navy. McCaffery submitted a false Declaration for Federal Employment (OF-306) to USGS when he answered "No" to question 11, which states: "During the last 5 years, were you fired from any job for any reason, did you quit after being told that you would be fired, did you leave any job by mutual agreement because of specific problems, or were you debarred from Federal employment by the Office of Personnel Management."

McCaffery worked at USGS in various positions until 2006, when he received a position as chief of the Acquisition Branch (GS-14) with the U.S. Fish and Wildlife Service (FWS). In 2007, McCaffery received a position as chief of contracting and facilities management (GS-15) with FWS, a position that required a public trust background investigation. Finally, in 2012, McCaffery received an SES position as the PAM deputy director, a position that required a public trust background investigation.

McCaffery's Falsification of Military and Employment Records

When we interviewed McCaffery, he admitted that in 1992 he used his rank and position to improperly influence an Army personnel specialist to include the fictitious awards and decorations in his DD-214. McCaffery told us that he then used his false DD-214 to obtain Federal employment. In addition to creating two fictitious Purple Heart medals, McCaffery also falsely claimed that he received the Bronze Star for valor in combat, the Master Parachute Badge with a combat device, the Joint Service Achievement Medal, and the Legion of Merit.

McCaffery admitted that he requested a 10-point veteran's hiring preference as a Purple Heart recipient, and that he submitted his false DD-214 as a substantiating document for the hiring preference when he was selected for his position with the Navy in 1994. McCaffery acknowledged that claiming the veteran's hiring preference was a lie, and that he did so to improve his chances of being selected.

McCaffery also confirmed that in 2001 the Navy notified him of its intent to revoke his security clearance and provided him 90 days to submit a rebuttal prior to revocation. McCaffery told us that he did not dispute the revocation and subsequently took the 90 days to look for a job that did not require a security clearance.

McCaffery said that in 2002 he received a contract specialist position (GS-12) with USGS. He admitted that he should have answered "Yes" to question 11—which covers mutual separation or removal from a Federal position within the last 5 years—on his OF-306. McCaffery told us that when he submitted his OF-306, he did not realize that his resignation in lieu of elimination proceedings from the U.S. Army Reserve correlated to question 11. He acknowledged, however, that he resigned from that position by mutual agreement because of specific problems. McCaffery also stated that if he had answered "Yes" to question 11, USGS may not have offered him the position.

Veteran's Hiring Preference Included on SF-50 Forms

We reviewed all of McCaffery's Notification of Personnel Action (SF-50) forms in his Official Personnel File and found that all forms since the start of McCaffery's Federal career in February 1994 until his SES appointment in December 2012 listed his falsely claimed 10-point veteran's hiring preference.

When asked about these forms, McCaffery admitted that he falsely claimed the 10-point veteran's hiring preference. McCaffery told us that he had been "living a lie" and that it did not occur to him to correct the forms. McCaffery acknowledged that he did not want to lose his job—and potentially be removed from Federal service—if he notified officials of the false information about his veteran's hiring preference.

We interviewed a USGS HR specialist who confirmed that McCaffery's employment with USGS began in 2002 when he was selected as a noncompetitive transfer from the Navy into a position at the same performance level (GS-12). The HR specialist told us that McCaffery had submitted six applications during his tenure with USGS. On two of those six applications, McCaffery falsely claimed the 10-point veterans' hiring preference as a Purple Heart recipient. In 2003, the HR specialist said, McCaffery was selected for one of those positions: a GS-13 lead contract specialist. According to the HR specialist, however, McCaffery did not request a noncompetitive appointment under a special appointing authority, meaning that he claimed his eligibility for the preference, but he did not request the preference for hiring consideration.

When we asked McCaffery about his application for this position, he told us that he believed he had applied under the merit promotion program and not veteran's preference. He acknowledged, though, that his application and the DD-214 that he submitted to USGS were false because he was not a Purple Heart recipient or a disabled veteran.

False Statements Submitted on SF-85P and SF-86 Forms

In 2007, McCaffery was selected for a GS-15 position as chief of contracting and facilities management with FWS. As part of this selection, McCaffery submitted a Questionnaire for Public Trust Positions (SF-85P) background investigation. We reviewed McCaffery's SF-85P, and found that he provided false statements regarding his employment record, military history, and investigations record (see Figure 1).

Form Section	False Statement
Employment Record	McCaffery answered “No” when asked if he had left a job within the past 7 years for reasons under unfavorable circumstances. McCaffery left his position with the Navy in 2002 for reasons under unfavorable circumstance when the Navy intended to revoke his security clearance.
Military History	Regarding his military service, McCaffery reported that he served in active duty with the Army from May 1981 through September 1992, and inactive reserve service from October 1992 through March 1993. He omitted his active Army Reserve service that resulted in his resignation in lieu of involuntary separation and his other than honorable discharge.
Investigations Record	McCaffery answered “Unknown” when asked if he had ever had a security clearance denied, suspended, or revoked and did not provide an explanation of the circumstances of the Navy’s intent to revoke his security clearance.

Figure 1. Summary of false statements McCaffery submitted on his SF-85P in 2007.

In December 2012, McCaffery began his employment in his SES position as the PAM deputy director, which required him to submit a Questionnaire for National Security Positions (SF-86) background investigation. We reviewed McCaffery’s SF-86, and found that he provided false statements regarding his military history and denied clearance (see Figure 2).

Form Section	False Statement
Military History	Regarding his other than honorable discharge from the Army Reserve for wearing unauthorized medals in an official photo, McCaffery stated that the Army Reserve gave him the option of retiring or resigning his commission. McCaffery did have a choice, but it was to either resign his commission or face involuntary separation.
Denied Clearance	McCaffery answered “No” in response to whether he had ever had a security clearance denied, suspended, or revoked.

Figure 2. Summary of false statements McCaffery submitted on his SF-86 in 2012.

When we asked McCaffery why he responded “No” on his SF-86 regarding the Navy’s revocation of his security clearance, he told us that he did not follow up with the Navy to determine if his security clearance had actually been revoked. He stated that he “should have understood” that it would be revoked and that claiming otherwise was a false statement.

We interviewed an OPM executive program director who confirmed that OPM considered McCaffery’s dishonesty on his SF-85P and SF-86 material and intentional. The executive program director told us that OPM coded McCaffery’s SF-86 as “D” for dishonesty. He added that this rating could be reason enough for denial or revocation of a security clearance. Furthermore, the executive program director explained that if an individual knew they were going to lose their security clearance, their failure to disclose that information to OPM would be considered a material omission.

Actions Taken by BSEE Security and BSEE Human Resources

In March 2012, Sonderman designated the PAM deputy director position as public trust, but in October 2012, BSEE’s HR office erroneously designated the position as critical sensitive. As a result, on October 24, 2012, BSEE’s security office initiated a background investigation on McCaffery based on a Questionnaire for National Security Positions (SF-86) instead of a Questionnaire for Public Trust Positions (SF-85P).

To expedite McCaffery’s employment with PAM, Sonderman signed a waiver to allow McCaffery to begin employment pending a favorable adjudication from the BSEE security office. An official from the Office of Policy, Management and Budget approved Sonderman’s waiver on November 5, 2012; McCaffery began his employment with PAM on December 2, 2012.

OPM completed McCaffery’s background investigation on January 7, 2013, and submitted its findings to the BSEE security office. After reviewing OPM’s investigative findings, on January 31, 2013, the BSEE security office requested that McCaffery provide additional information to mitigate the derogatory information identified by OPM.

McCaffery told us that he discussed his background investigation with Sonderman sometime in early February 2013. He said that he told her he “basically failed” his background investigation and explained the circumstances of his other than honorable discharge from the Army Reserve. He said that he wanted to talk to Sonderman before she received notification from BSEE because he thought it would help explain the situation and save his job.

On March 18, 2013, the BSEE security office contacted OPM and requested that the agency accept a suitability analysis and recommendation (SAR) request—meaning that OPM would have determined McCaffery’s suitability for employment—based on the pattern of dishonesty disclosed in McCaffery’s background investigation and employment records. An OPM lead personnel security specialist confirmed that the BSEE security office requested a SAR on McCaffery. The security specialist told us that OPM did not accept the SAR because at that time OPM was not accepting SARs on Federal employees with more than 1 year of Federal service. On April 15, 2013, the BSEE security office completed the adjudication review and sent a

memorandum to an official with BSEE HR, stating that McCaffery's conduct directly conflicted with the integrity expected of an SES employee.

We interviewed an employee in BSEE's personnel security branch who told us that he sent the April 15, 2013 memorandum detailing McCaffery's suitability determination to the BSEE HR official. The personnel security branch employee acknowledged, however, that he should have been more specific in his wording to make it clear that he had determined McCaffery was unsuitable for the position.

When we interviewed the personnel security branch employee's supervisor, she told us that she considered the April 15, 2013 memorandum to be an unfavorable suitability determination, even though it was not specifically called that. A BSEE official told us that he also considered the memorandum to be an unfavorable suitability determination.

In the 5 months after the BSEE security office issued its April 15, 2013 memorandum, an employee from BSEE's Employee Labor and Relations Branch and a former BSEE HR specialist prepared a recommendation packet to present to Sonderman. The packet included OPM's report, the BSEE security office's adjudication review, and a memorandum that recommended Sonderman either discipline or remove McCaffery. The Employee Labor and Relations Branch employee said that in September 2013, she and the former HR specialist met with Sonderman to discuss resolution on McCaffery. The BSEE HR official also met with Sonderman and recommended that Sonderman remove McCaffery from his position. The official said Sonderman told her that she was very impressed with McCaffery's performance, that he had changed his life, and that his issues were in the past.

We interviewed the former HR specialist, who said that the BSEE security office contacted her after McCaffery began his employment and told her that McCaffery had issues on his background investigation, though she could not recall who had contacted her or the specific issues they identified. The former HR specialist said that she met informally with Sonderman to inform her that McCaffery's background investigation had disclosed some issues. She said that Sonderman told her she already knew about the issues and did not intend to remove McCaffery from his position. The former HR specialist added that she formally met with Sonderman several months later and provided her with documentation of McCaffery's issues, in addition to presenting discipline options ranging from a written reprimand to removal from his position. She said Sonderman reiterated that she would not remove McCaffery from the position.

We also interviewed the employee with BSEE's Employee and Labor Relations Branch who told us that her office had worked with the BSEE security office when it received derogatory information from OPM regarding McCaffery's background investigation. The employee said that she and the former HR specialist met with Sonderman and recommended disciplinary action against McCaffery. The employee could not recall if she recommended removal or a specific charge against McCaffery, but she did recall telling Sonderman that her office identified a basis for disciplinary action against McCaffery.

Sonderman took no action against McCaffery, despite the recommendations from BSEE's HR office. On February 28, 2014, the BSEE HR official sent the BSEE security office a

memorandum stating that BSEE HR would not take action against McCaffery because McCaffery had obtained 1 year of continuous service (meaning he was no longer in a probationary status) and that the information provided by the BSEE security office did not warrant adverse action (5 U.S.C. Chapter 75). Several months later, on July 18, 2014, a former BSEE security officer notified OPM that the BSEE security office unfavorably adjudicated McCaffery's public trust background investigation. An OPM personnel security specialist confirmed that the BSEE security officer notified OPM and reported that McCaffery's public trust background investigation was unfavorably adjudicated.

When we interviewed the employee with BSEE's Personnel Security Branch, he claimed that he unfavorably adjudicated McCaffery's public trust investigation after he received the February 28 memorandum from the BSEE HR official. The Personnel Security Branch employee told us that he could not recall if he or anyone in his office specifically notified BSEE HR that McCaffery was unfavorably adjudicated, but he believed he had discussed it during one of his meetings with BSEE HR. The employee said that he knew McCaffery was still in his position without the required favorable adjudication. He told us that he disagreed with Sonderman's decision not to remove McCaffery from his position and elevated his disagreement to his supervisor. Due to a backlog in unadjudicated background investigations within the BSEE security office, the employee did not revisit McCaffery's file until 2016. He subsequently reported his concerns to DOI's Office of Law Enforcement and Security.

The Personnel Security Branch Employee's supervisor confirmed that the employee disagreed with Sonderman's decision not to remove McCaffery and that he subsequently brought his concerns to her attention. In addition, the supervisor told us that while she spoke with a BSEE official about the decision not to remove McCaffery, she did not suggest to him that action be taken. The official confirmed that the supervisor told him about McCaffery's situation but that none of his subordinates elevated the issue to his level.

Actions Taken by Debra Sonderman

When we interviewed Sonderman, she confirmed that McCaffery spoke to her about the derogatory information disclosed in his background investigation. She said that she believed McCaffery showed contrition and that he recognized that he had done something "really stupid" and "had paid the price" for his actions. Sonderman said that despite a "pretty emphatic" recommendation from BSEE to remove McCaffery, she decided not to remove him from his position, even though he could not obtain the required public trust determination. Furthermore, Sonderman acknowledged that she did not consult with DOI's Office of the Solicitor prior to making her decision. She added, however, that she "probably" talked to her supervisor about her decision.

The Employee Labor and Relations Branch employee told us that because Sonderman was a senior management official, Sonderman was not required to seek concurrence from her supervisor about her decision not to remove McCaffery. The employee said that BSEE HR could not direct Sonderman to take disciplinary action against McCaffery, and while the employee addressed Sonderman's decision not to remove or discipline McCaffery with her own supervisor, she did not address the issue with an official in Budget, Finance, Performance and Acquisition.

When we interviewed the Budget, Finance, Performance and Acquisition official, she said that she did not recall a discussion with Sonderman regarding McCaffery's dishonesty issues and did not know about the issues. She said that Sonderman acted within her authority when she decided not to remove McCaffery. The official added, however, that she had the authority to direct Sonderman to either remove McCaffery or take some other action. She said had Sonderman discussed McCaffery's issues with her, she would have followed up with Sonderman to determine what action was taken, which is why she believed Sonderman never discussed McCaffery's situation with her.

SUBJECT(S)

James McCaffery, III, Deputy Director, PAM
Debra Sonderman, Director, PAM

DISPOSITION

We provided this report to the Office of Policy, Management and Budget for action.