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INSPECTOR GENERAL

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SEPTEMBER 19, 2024



REPORT OF INVESTIGATION:

U.S. AIR FORCE RESERVE 434TH AIRCRAFT MAINTENANCE SQUADRON GRISSOM AIR RESERVE BASE, PERU, INDIANA

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WHISTLEBLOWER RESTRICTION INVESTIGATION

[REDACTED]
U.S. AIR FORCE RESERVE
434TH AIRCRAFT MAINTENANCE SQUADRON
GRISSOM AIR RESERVE BASE, PERU, INDIANA

Executive Summary¹

We conducted this investigation in response to a complaint alleging that [REDACTED] [REDACTED] (the Subject), U.S. Air Force Reserve, Flight Chief, Grissom Air Reserve Base (ARB), Indiana, restricted [REDACTED] (the Complainant) from lawfully communicating with an Inspector General (IG).

A preponderance of the evidence indicates that the Subject restricted the Complainant from communicating with an IG. Therefore, we substantiated the allegation that the Subject restricted the Complainant from lawfully communicating with an IG.

We recommend that the Secretary of the Air Force take appropriate action against the Subject for restricting the Complainant from lawfully communicating with an IG.

We make no recommendation regarding remedial action for the Complainant. No action can remedy the fact that the Subject restricted [REDACTED] from lawfully communicating with an IG.

¹ This report contains information that has been redacted because it was identified by the DoD Office of Inspector General as Controlled Unclassified Information (CUI) that is not releasable outside the Executive Branch. CUI is Government-created or -owned unclassified information that allows for, or requires, safeguarding and dissemination controls in accordance with laws, regulations, and Government-wide policies.

Background

434th Aircraft Maintenance Squadron and Chain of Command/Supervision

The 434th Aircraft Maintenance Squadron (AMXS) is a subordinate unit of the 434th Maintenance Group, which is a subordinate unit of the 434th Air Refueling Wing (ARW), and is assigned to the Fourth Air Force, U.S. Air Force Reserve Command. The 434th ARW units conduct the various operations necessary to prepare for and conduct air-refueling missions using the KC-135R Stratotanker. [REDACTED] (Witness 1), Air Force Reserve, Air Reserve Technician (ART), [REDACTED] 434th Maintenance Group, Grissom ARB, from [REDACTED].² Then [REDACTED] (Witness 2), Air Force Reserve, [REDACTED] 434th Maintenance Group. [REDACTED] (Witness 3), Air Force Reserve, [REDACTED] 434th AMXS from [REDACTED], when [REDACTED] (Witness 4) took over [REDACTED].³

The following information provides the Complainant's chain of command. Each individual is a member of Air Force Reserve, 434th AMXS.

- The Complainant reported daily to [REDACTED] first-line supervisor and trainer, [REDACTED] (Witness 5), from May to August or September of 2019.⁴
- [REDACTED] (Witness 6), [REDACTED] (Witness 7), [REDACTED] (Witness 8), and the Subject were the Complainant's second line of supervision.
- In October or early November 2019, the Subject became the Complainant's direct supervisor.
- [REDACTED] (Witness 9), [REDACTED] (Witness 10), and [REDACTED] (Witness 11) were all the Complainant's upper leadership.⁵

² ARTs are Air Force Reserve members who work as civilians under title 5, United States Code, during the work week and title 10, United States Code, when performing their reserve military duty. According to the Complainant, she attempted to apply for an ART position in the fall of 2019, but 434th AMXS personnel did not accept [REDACTED] resume or offer [REDACTED] an ART position.

³ Only a traditional reservist can serve as the 434th AMX Squadron [REDACTED].

⁴ Witness 5 told us that they stopped being the Complainant's trainer sometime after a funeral in May 2020. However, that funeral occurred in May 2019. Therefore, we inferred that Witness 5 confused the years because of the time that had lapsed since the events and our interview.

⁵ Witness 11 served as the [REDACTED] with Witness 9 and Witness 10 serving as the [REDACTED]. All members worked for Witness 3, [REDACTED]. Witness 10 worked as the [REDACTED] Witness 9 [REDACTED].

Complainant

The Complainant enlisted in the U.S. Air Force Reserve on August 22, 2018, as a Refuel/Bomber Aircraft Maintenance Technician. The Complainant completed technical training at the 362nd Training Squadron, Sheppard AFB, Texas, from January 15, 2019, through May 3, 2019, and then returned to the 434th AMXS.

In May 2019, the Complainant told Witness 5 that [REDACTED] (Witness 12), a member from 434th AMXS, sexually harassed [REDACTED]. On or about May 26, 2019, another 434th AMXS airman slapped the Complainant's buttocks three times while the Complainant exited a vehicle. On July 18, 2019, the Complainant reported to Witness 10 that the 434th AMXS airman had sexually assaulted [REDACTED]. On July 25, 2019, the Complainant met with [REDACTED] (Witness 13), [REDACTED] Grissom ARB, to make an unrestricted report of sexual assault. In July 2019, [REDACTED] (Witness 14), Air Force, [REDACTED] [REDACTED], Wright Patterson AFB, Ohio, was assigned as the [REDACTED].

Multiple witnesses testified that it was widely known by 434th AMXS members that the Complainant reported the sexual assault.

The Complainant alleged that the Subject restricted [REDACTED] from communicating with an IG in January 2020 when he advised [REDACTED] to stop taking appointments with the IG, the SARC, the SVC, behavioral health, and Air Force Readiness. The Complainant testified that the Subject also arranged a meeting in January 2020 with Witness 3 for [REDACTED] to tell Witness 3 that [REDACTED] wanted to end receiving support services, to include the IG, which [REDACTED] did.

Subject

Witness 9 hired the Subject in October 2019 from Travis AFB, California, to work as an aircraft mechanic supervisor and flight chief. The Subject worked at the 434th AMXS until he returned to Travis AFB on October 11, 2020, to work at the 749th AMXS, 349th Maintenance Group, 349th Air Mobility Wing, Travis AFB. Flight chiefs are responsible for supervising aircraft maintenance and personnel assigned to those aircraft.

Scope

This investigation covered the period from October 2019, when the Subject arrived at the 434th AMXS, through January 2020, when the Complainant met with Witness 3. We interviewed the Complainant and 16 witnesses under sworn oath or affirmation. The Subject declined to participate in this investigation or be interviewed and invoked his right to remain silent. We obtained a statement that the Subject provided during a later commander-directed inquiry involving the Complainant. We reviewed documentary evidence regarding commander directed investigations, military orders, departmental and organizational policies, written communications, emails, reports of investigation, and personnel files.

Whistleblower Protection for Members of the Armed Forces

The DoD Office of Inspector General conducts whistleblower restriction investigations involving members of the Armed Forces under section 1034, title 10, United States Code (10 U.S.C. § 1034), “Protected Communications; Prohibition of Retaliatory Personnel Actions,” as implemented by DoD Directive 7050.06, “Military Whistleblower Protection,” April 17, 2015.

Legal Framework

Restriction

Section 1034, title 10, United States Code, as implemented by DoD Directive 7050.06, prohibits any person from restricting a member of the Armed Forces from lawfully communicating with a Member of Congress or an IG. DoD Directive 7050.06 defines restriction as “[p]reventing or attempting to prevent a current Service member from making or preparing to make a lawful communication to a Member of Congress or an IG.”

Analytical Process

The DoD Office of Inspector General employs the following process in conducting military whistleblower restriction investigations. First, we establish the facts and circumstances of the subject’s words or actions that constituted the alleged restrictive event. Next, we determine whether what the subject actually said or did would have deterred a similarly situated Service member from lawfully communicating with a Member of Congress or an IG. The subject’s words or actions are evaluated from the perspective of a reasonable Service member—that is, an objective third person with knowledge of the essential facts known to and readily ascertainable by the Service member.⁶

Sufficient evidence that the subject prevented, or attempted to prevent, the Complainant from making or preparing to make a lawful communication to a Member of Congress or an IG, based on proof by a preponderance of the evidence, is necessary to prove restriction. On this basis, we will determine whether the evidence indicates that the subject restricted the Complainant from lawfully communicating with a Member of Congress or an IG.

Restriction can be substantiated even if the subject’s attempt at preventing a lawful communication failed to deter the Service member from subsequently contacting a Member of Congress or an IG.

⁶ DoD Instruction 7050.09, “Uniform Standards for Evaluating and Investigating Military Reprisal or Restriction Complaints,” October 12, 2021, paragraph 3.2.2(2).

Findings of Fact

The Subject Hired as Aircraft Mechanic Supervisor

On October 15, 2019, the Subject began working at the 434th AMXS as an Aircraft Mechanic Supervisor. A few days after the Subject joined the 434th AMXS, Witness 10 told the Subject that he would be in charge of and responsible for all communications between the Complainant and 434th AMXS leadership.⁷ Witness 10 told us that when the Complainant asked why the Subject was assigned as [REDACTED] supervisor, Witness 10 told the Complainant the reason was that the Subject was neutral. Witness 10 stated that the thought process included the Subject being new and not having “any skin in the game.” Additionally, Witness 10 said that the Subject would “be a neutral person that we can assign [REDACTED] to that will kind of look over [REDACTED] and protect [REDACTED].”

The Complainant told us that Witness 10 told [REDACTED] that they made the Subject [REDACTED] supervisor to cut down on the misinformation within the unit. The Complainant told us that the Subject told [REDACTED] that all communication with [REDACTED] chain of command had to go through him because the Complainant’s communications with other members of [REDACTED] chain of command were causing problems. The Complainant told us that [REDACTED] had to speak with the Subject first concerning any issues, and he would route the information to higher leadership.

Letter of Reprimand and Letter of Counseling

On December 6, 2019, the Subject issued the Complainant a Letter of Reprimand (LOR) for being late and taking unexcused absences from work. The Complainant asked the Subject for permission to go to an IG to discuss the LOR. The Complainant then met with [REDACTED] (Witness 15), Air Force, [REDACTED], 434th ARW, who determined that the Area Defense Counsel was the proper office to assist the Complainant.

Instead of the Area Defense Counsel, the Complainant met with Witness 14 about the LOR, and Witness 14 set up a meeting with 434th AMXS leadership, including the Subject, to discuss the LOR. During that meeting, the Subject confirmed that the Complainant had coordinated absences with [REDACTED] supervisor and had received permission to attend appointments, or to be late or miss work.

⁷ The Complainant answered to a number of 434th AMXS supervisors in the fall of 2019. The Complainant told us that [REDACTED] had been orally informing [REDACTED] supervisors of various appointments. However, when those supervisors forgot about [REDACTED] appointments, the Complainant decided to email [REDACTED] appointment schedule to everyone in [REDACTED] chain of command. Thereafter, the Subject became [REDACTED] point of contact for such information.

According to Witness 9, they directed the Subject to prepare the LOR, which the squadron commander would have given the Complainant.⁸ After Witness 9 learned that the Subject had previously excused the Complainant from work, Witness 9 rescinded the LOR and directed him to issue the Complainant a letter of counseling because the Complainant had missed work while assigned to the unit's alert mission. Witness 9 also told us that they were sure they had a meeting with the Subject about being forthcoming with the information related to the Subject's approval of the Complainant's absences.

According to the Complainant, the Subject did not react well to the meeting with Witness 14 and the 434th AMXS leadership to challenge the December 6, 2019, LOR. The Complainant stated to us that, on December 7, 2019, the Subject angrily yelled at [REDACTED] because Witness 14 grilled him and acted like he was lying, which embarrassed him.

[REDACTED] (Witness 16) testified that while working the night shift, they witnessed the Subject take the Complainant into the office, close the door, and yell at [REDACTED] on more than one occasion. Witness 16 also testified that the Subject only did this to the Complainant.

The Subject Restricts the Complainant

According to the Complainant, in January 2020, the Subject told [REDACTED] that if [REDACTED] wanted to be hired as an ART, [REDACTED] would need to stop having appointments with outside entities. Specifically, the Complainant told us that the Subject told [REDACTED] that [REDACTED] needed to tell Witness 3 that [REDACTED] no longer wanted to meet with the SARC, SVC, or IG, and that [REDACTED] agreed to do so.

The Complainant Met with Witness 3

According to the Complainant, sometime in January 2020, the Subject arranged for [REDACTED] to meet with Witness 3 to tell them [REDACTED] no longer needed support services from the SARC, SVC, or IG. The Complainant said that on the day of the meeting, the Subject sat next to [REDACTED] as [REDACTED] told Witness 3 that [REDACTED] no longer needed support services from the IG, Sexual Assault Prevention and Response, Director of Physiological Health, SVC, or Air Force Family Readiness and that the Complainant wanted a job to support [REDACTED] and [REDACTED]. According to the Complainant, after the meeting, the Subject took the Complainant aside and told [REDACTED] that he was proud of [REDACTED] had done a good job, and things were going to get better.

Witness 3 confirmed to us that the Complainant told them [REDACTED] wanted to cancel [REDACTED] appointments with outside services. Witness 3 said that it was "odd" because, with everything [REDACTED] had going on, [REDACTED] abruptly said that [REDACTED] did not want any more support.

⁸ Air Force Instruction 36-2907, "Adverse Administrative Actions," October 14, 2022, states that supervisors can administer LORs. However, the 434th AMXS followed a different process. According to Witness 9, they instructed the Subject to write the LOR. However, the squadron commander would have given it to the Complainant.

The Complainant Ends [REDACTED]

Witness 14 told us that sometime after January 2020, the Complainant contacted them to terminate their [REDACTED]. According to Witness 14, the Complainant doubted Witness 14's ability to [REDACTED]. The Complainant also gave Witness 14 the impression that the Complainant's command let [REDACTED] know that it was in [REDACTED] best interest to terminate their relationship and to "keep [REDACTED] head down" and not involve outside agencies. Witness 14 told us that it felt like a "breakup."

Witness 14's [REDACTED] (Witness 17) told us that they vaguely remembered the Complainant contacting the [REDACTED] office and mentioning that [REDACTED] could not talk to them anymore because [REDACTED] would get in trouble. Witness 17 also told us that the Complainant said [REDACTED] leadership became very upset when they visited [REDACTED]. The next year, in the spring of 2021, the Complainant contacted Witness 14 and Witness 17 to reinitiate their [REDACTED].

Analysis

As described in greater detail in the Legal Framework section, proving restriction requires establishing by a preponderance of the evidence that the subject prevented, or attempted to prevent, a member of the Armed Forces from making or preparing to make a lawful communication to a Member of Congress or an Inspector General. Restriction can be substantiated even if the subject's attempt to prevent a lawful communication failed to deter the member of the Armed Forces from subsequently contacting a Member of Congress or an IG. When analyzing the fact-pattern, our focus is on whether a reasonable person would believe the subject's actions or statements would deter the member from talking to an IG. Below, we analyze each element.

We conclude, based on a preponderance of the evidence that the Subject restricted, or attempted to restrict, the Complainant from lawfully communicating with an Inspector General.

Restrictive Event

We could not analyze the Subject's version of events or reasons for advising the Complainant to stop meeting with other officials, including the IG, because he invoked his right to remain silent.

We found the Complainant's assertion of events of January 2020 to be credible based on the recollections of Witness 3, Witness 14, Witness 9, and Witness 10. The Subject's pattern of conduct, including multiple instances of yelling at the Complainant in his office as described by Witness 16, supports that he used his position and rank to discourage the Complainant's communications with the IG and others and dictated that [REDACTED] meet with [REDACTED] so [REDACTED] could inform them that she no longer needed the support services of outside entities, including the IG.

Restrictive Effect of the Subject's Words or Actions

The preponderance of the evidence established that in January 2020, the Subject instructed the Complainant to terminate all services with outside entities, including the IG, if the Complainant wanted to get a permanent position as an ART. Additionally, the evidence established that the Subject dictated and attended the meeting in which the Complainant would inform Witness 3 of [REDACTED] desire to terminate all outside services. The Complainant complied with his direction at the meeting and shortly thereafter also informed [REDACTED] (Witness 14) that [REDACTED] no longer required [REDACTED]. Specifically, Witness 17 remembered the Complainant stating that she could not talk to them anymore, because [REDACTED] would get in trouble. Witness 3 said that they thought the Complainant's decision was "odd," and Witness 14 told us that it felt like a "breakup."

The evidence also established that the Subject had motive to restrict the Complainant and expressed animosity at ■■■ reporting his actions to persons other than him. It was the Complainant's interaction with the IG that led to the meeting in which the Subject's improper actions regarding the LOR were exposed. This brought to light that not only did the Subject not have proper authority to issue the LOR, as that was the squadron commander's prerogative, he also failed to mention to Witness 9 that the basis for the LOR was not sound, as he (the Subject) had previously excused the Complainant for the same absences he cited in the LOR. Additionally, the Subject's yelling at the Complainant immediately after the meeting that exposed his malfeasance indicates animosity and would provide further motive to attempt to restrict the Complainant from involving outside entities. Witness 17 told us that the Complainant mentioned that ■■■ could not talk to them anymore because ■■■ would get in trouble and ■■■ leadership became very upset when they visited in ■■■■.

Therefore, we determined that a reasonable person would have believed that the Subject was attempting to deter them from communicating with an IG. Specifically, we considered that at the time of the allegation, the Complainant was a junior enlisted Service member. Military customs and courtesies require all personnel of junior rank to be respectful in their mannerisms and speech toward senior personnel. The Subject's rank and position allowed for him to directly exercise authority over the Complainant and have a direct influence over the Complainant's duties, orders, and assignments if the Complainant did not comply with his instructions.

DoDD 7050.06 defines restriction as "preventing or attempting to prevent a current Service member from making or preparing to make a lawful communication to a Member of Congress or an IG." As such, and due in part to the Subject's higher rank and actions, we found by a preponderance of the evidence that the Subject's January 2020 words and actions had the effect of restricting the Complainant from lawfully communicating with an IG.

Preliminary Conclusion

A preponderance of the evidence indicates that the Subject restricted the Complainant from lawfully communicating with an IG by his comments and actions in January 2020. We conclude, based on the preponderance of the evidence, that the Subject restricted the Complainant from lawfully communicating with IG.

Subject's Response to Preliminary Conclusion

We provided a preliminary report of investigation to the Subject on August 7, 2024, and gave him the opportunity to respond to our preliminary conclusion. The Subject did not respond to our letter or our subsequent follow-up email communications. Absent a response or additional information for our consideration, our conclusion remains unchanged.

Overall Conclusion

Absent any response from the Subject to our preliminary report of investigation, our conclusion remains unchanged. A preponderance of the evidence established that the Subject restricted the Complainant from lawfully communicating with an IG by his comments and actions in January 2020.

Recommendation

We recommend that the Secretary of the Air Force take appropriate action against the Subject for restricting the Complainant from lawfully communicating with an IG.

We make no recommendation regarding remedial action for the Complainant. No action can remedy the fact that the Subject restricted [REDACTED] from lawfully communicating with an IG.

Acronyms and Abbreviations

AMXS Aircraft Maintenance Squadron

ARB Air Reserve Base

ART Air Reserve Technician

ARW Air Refueling Wing

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

LOR Letter of Reprimand

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

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