



February 26, 2004

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Department of the Army
104 Army Pentagon
Washington, DC 20310-0104

Dear Mr Morello

The Office of Government Ethics (OGE) recently completed its review of the ethics program at Fort Huachuca, Arizona, including the US Army Intelligence Center and the Garrison (USAIC/FH) and the headquarters office of the Network Enterprise Technology Command (NETCOM)¹ This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the ethics program's effectiveness, measured largely by its compliance with applicable statutes and regulations. The review was conducted in October 2003. The following is a summary of our findings and conclusions.

HIGHLIGHTS

Fort Huachuca's ethics program generally complies with the applicable laws and regulations. We note that steps were taken prior to and during our review to address deficiencies in the confidential financial disclosure and enforcement areas of the ethics program. However, the confidential financial disclosure system should be monitored closely, especially with respect to the filing of new entrant reports and the performance of a final review and certification on all reports.

PROGRAM STRUCTURE

The Fort Huachuca ethics program is established in the Administrative Law Division of the Office of the Staff Judge Advocate (OSJA). The number of personnel assigned to the ethics program appears adequate. The Staff Judge Advocate (SJA), Deputy SJA, Chief of the Administrative Law Division (Chief), three attorney-advisors, and one Legal Assistant/Paralegal (LAP) staff the ethics program. With the exception of the LAP, each of the foregoing staff members is a designated ethics counselor. While the SJA ultimately exercises local oversight of the ethics program, the SJA

¹For simplicity, we will refer to all organizations which were reviewed collectively as Fort Huachuca, unless otherwise noted.

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entrusts the Chief with the daily oversight responsibilities. The Chief, in turn, entrusts the attorney-advisors and the LAP with the day-to-day ethics program duties. One Attorney-Advisor functions as the primary ethics counselor (PEC) and is responsible for performing the majority of the substantive ethics program duties, he expends approximately 15 to 20 percent of his time on the ethics program. The Deputy SJA and the other two attorney-advisors assist in the program on an as-needed basis. The LAP provides administrative support to the ethics program, he expends approximately 50 percent of his time on the program.

Support Of Senior Commanders Is Beneficial

There is a good working relationship between OSJA and the command officers. The ethics program has the full support of the commanding generals of USAIC/FH and NETCOM. The PEC assured us that he receives the cooperation he needs from these senior officials and their staff members. Such high-visibility support contributes to the viability of the ethics program.

FINANCIAL DISCLOSURE SYSTEMS

The financial disclosure systems will be fully compliant with the provisions of 5 C F R part 2634 and the Joint Ethics Regulation (JER) once procedures are implemented to ensure the timely filing of confidential financial disclosure reports by military employees. We noted that actions to address certain deficiencies, including the lack of final review and certification of many confidential reports, were taken as a result of a pre-OGE review inspection.

We were unable to assess the ethics agreement system, as no employees entered into ethics agreements.

Confidential Financial Disclosure System Should Be Monitored Closely

We examined a sample of 98 of the 630 confidential reports required to be filed in 2002, consisting of 69 annual and 29 new entrant reports. We found a few technical errors which we discussed with the ethics staff, but did not find any substantive deficiencies. With the possible exception of one new entrant and one annual report, all reports received an initial review in a timely manner.²

We were concerned that 18 (or 62 percent) of the new entrant reports in our sample were being filed from 1 to as many as 12 months late. The newly instituted standard operating procedure involving the Civilian Personnel Advisory Center (CPAC) should assist in alleviating this problem.

²These two reports lacked a date stamp of agency receipt. Therefore, the timeliness of the initial review could not be determined for these two reports.

Besides providing a list of all new employees, CPAC will provide the ethics staff with a list of those required to file confidential reports. Because CPAC deals only with civilian employees, we strongly encourage the ethics staff to implement a similar procedure with the office which in-processes Fort Huachuca's military employees. Eight (or 44 percent) of the late new entrant reports were filed by military personnel. These procedures should assist in the filing of a new entrant report within 30 days of an employee's assumption of a position requiring the filing of a confidential report. The timely filing of new entrant reports will assist the ethics staff's identification of any potential or actual conflicts of interest in a timely manner.

We trust that the actions already taken and any steps yet to be taken will ensure full compliance with subsections 7-306(l) and 7-303(a) of the JER, concerning the review of reports and the filing of new entrant reports, respectively. The training that the LAP has received and the training that the PEC plans on providing to supervisors and points of contact (POC) responsible for reviewing confidential reports should help to ensure full compliance. We suggest that the confidential system be monitored closely for full compliance.

Public Financial Disclosure System Appears To Be Well-Managed

With the exceptions of 1 incumbent report from a filer who had been deployed, 2 incumbent reports from a filer who files with a different command, and 1 termination report for which review was still pending, we examined 12 public financial disclosure reports required to be filed in 2002 and 2003. Minor technical errors were brought to the attention of the ethics staff but no substantive deficiencies were found. With the possible exception of one incumbent report, all reports examined were filed and reviewed in a timely manner.³

EDUCATION AND TRAINING

The education and training program is fully compliant with the provisions of 5 C F R part 2638. We noted that action was taken to correct certain problems during our review.

Initial Ethics Orientation Program Is In Compliance

The initial ethics orientation (IEO) program at Fort Huachuca is fully compliant with the provisions of 5 C F R § 2638 703. The PEC advised us that the required copy of the Supplemental Standards of Ethical Conduct for Employees of the Department of Defense (DOD supplement) at 5 C F R part 3601 is not given to new employees. In addition, the required copy of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) at 5 C F R part 2635 or a summary of the Standards is not given to new employees. (Subsequently, the PEC took action to

³This report lacked a date for both the initial and final reviews. Therefore, the timeliness of review could not be determined for this report.

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address these issues) At the time of our review, IEO materials provided to new Government employees included a handout containing the 14 Principles of Ethical Conduct (14 Principles), an ethics quiz (based on actual situations which primarily involved certain provisions of the Standards), and a slide presentation which covered the 14 Principles and answers to the quiz We duly note the novel approach to the presentation of IEO topics via a quiz

Fort Huachuca requires that new Government employees receive IEO within 30 days In this respect, Fort Huachuca exceeds the regulatory requirement which provides that employees are to receive IEO within 90 days of beginning work IEO is also provided to non-Government personnel, they receive IEO via a training video The PEC estimated that he provided IEO to approximately 70 people during 2002

When told of the need to provide or make available all required ethics materials to new Government employees, the ethics staff drafted written standard operating procedures for the IEO program CPAC will instruct new employees to contact OSJA for IEO and will provide OSJA with a list of all new Government employees and their POC information The LAP will call the new employee and the POC to advise them of the need for the new employee to attend the next monthly IEO session Names on the CPAC list will be compared to sign-in sheets and the collected quizzes to confirm that training was received CPAC will also provide new employees with an ethics information sheet that includes references to where electronic copies of the Standards and the JER, the latter of which contains a copy of the DOD supplement, are available for review This will be in addition to receiving verbal training

Annual Ethics Training Program Is In Compliance

The annual ethics training (AET) program at Fort Huachuca is fully compliant with the provisions of 5 C F R §§ 2638 704 and 2638 705 In 2002, all 636 covered employees received annual ethics training The materials provided to employees included the 14 Principles, an ethics quiz, and a slide presentation which covered the 14 Principles and answers to the quiz

The PEC acknowledged that Fort Huachuca's requirement to have all confidential filers annotate their financial disclosure reports to reflect the date on which they were trained was not wholly reliable or efficient because not all filers annotated their reports prior to submission Therefore, the tracking of AET is now done via a comparison of the ethics quizzes collected and the signatures on the sign-in sheets to a newly-created database containing various categories of information regarding ethics requirements for each covered employee

All employees, regardless of whether they are required to receive AET, are encouraged to attend the sessions In this respect, Fort Huachuca exceeds the minimum annual training requirements The PEC estimated that one-third of attendees are not required to receive the training Additionally, several AET sessions are held each year

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Other Training Efforts
Are Noteworthy

We commend the ethics staff for providing additional training opportunities upon request, which further demonstrate support for the ethics program on post and the seriousness with which ethics education is regarded. The PEC is also available to conduct on-site training for other NETCOM office locations (off post) and provides quarterly ethics training at NETCOM Information Assurance Workshops. During our review, the PEC conducted a training session requested by the Joint Interoperability Test Command. We appreciate the opportunity to have observed this training session. It was apparent that the participants, in general, were familiar enough with ethics regulations to pose questions which resulted in clarifications to several questions on the ethics quiz.

Ethics Staff Keep Abreast
Of Ethics Issues

We also commend the ethics staff for their effort to remain current with developments on the ethics front. All of the Fort Huachuca ethics counselors and the LAP subscribe to OGE's Ethics News and Information e-mail list service and the DOD Standards of Conduct Office's e-mail list. They also receive ethics counselor broadcast messages issued by the Department of the Army's Standards of Conduct Office (DA SOCO).

ENFORCEMENT

Fort Huachuca is in compliance with the provisions of 5 C F R § 2638 203(b)(9), ensuring that prompt and effective action, including administrative action, is taken to remedy ethics violations, and § 2638 203(b)(12), ensuring that the services of inspectors general (as well as the resident office of the U S Army Criminal Investigation Command (CID)) are utilized when appropriate. We were unable to assess compliance with § 2638 603, requiring agencies to notify OGE of referrals to the Department of Justice (DOJ) of alleged violations of the conflict of interest statutes and the disposition of referrals, as Fort Huachuca had made no referrals in the past two years.

From 2002 to the time of our review, Fort Huachuca took administrative action against four employees who had violated 5 C F R § 2635 101(b)(5), which states that "[e]mployees shall put forth honest effort in the performance of their duties." The actions taken in these cases were demotion, removal from position, transfer, and an agreement to meet specific work-related standards. Removal was sought for a fifth employee who violated 5 C F R §§ 2635 101(b)(7) and 2635 702, which state that employees shall not use public office for private gain. At the time of our review, the resolution of this case was pending. Despite the apparent promptness and effectiveness of the actions taken, newly adopted memorandums of agreement (MOA) between OSJA and both Offices of Inspector General are meant to ensure that prompt and effective action is taken to remedy ethics violations.

Although OSJA maintains a good working relationship with both Offices of Inspector General and CID, the MOAs solidify the enforcement responsibilities of these offices. Moreover,

a written standard operating procedure was developed between OSJA and CPAC for informing OSJA of any case involving violations of the conflict of interest statutes referred to but declined by DOJ which might warrant administrative action

31 U S C § 1353 TRAVEL PAYMENTS

The acceptance of travel payments appears to comply with the applicable procedures and regulations. Procedures in the JER exist to ensure proper acceptance and reporting of travel payments accepted by Fort Huachuca employees under 31 U.S.C. § 1353 and the implementing General Services Administration regulation at 41 C.F.R. Chapter 304.

We examined Fort Huachuca's two most recent semiannual reports of travel acceptances of more than \$250 per event, which were forwarded to DA SOCO for submission to OGE. Only one acceptance of a travel payment was reported, it appeared to comply with the statute and regulation.

ADVICE AND COUNSELING SERVICES

Ethics advice and counseling services meet the requirements of 5 C.F.R. § 2638.203(b)(7) and (8). We examined a sample of 31 pieces of ethics-related advice and counseling rendered by the ethics staff. Based on our examination, we concluded that all of the written advice complied with applicable ethics laws and regulations.

Although all of the ethics counselors are authorized to issue advice, the bulk of the advice we examined was dispensed by the PEC and the Attorney-Advisor for contract law. On the occasions when the SJA or Deputy SJA renders advice, it is done with input from the PEC or the Attorney-Advisor for contract law. According to the PEC, ethics advice is provided both orally and in writing (the PEC estimated that 35 percent of the advice is provided in writing). Based on our sample, the topics that are most prevalent are gifts and post-employment.


A weekly post-employment briefing is available to employees. An information paper is provided at the briefing. A post-employment video, created by the PEC, is available for viewing. Post-employment issues are also addressed in the regular ethics training sessions. According to the PEC, OSJA intends to have itself added to the personnel out-processing list to ensure that all departing employees will seek post-employment counseling.

We commend the ethics staff for disseminating regular communications to employees regarding current ethics issues via publication in the post's newspaper, on NETCOM's intranet, and through global e-mails to all employees. Such regular communications to all employees underscore the importance of the ethics program at Fort Huachuca.

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In closing, I would like to thank everyone involved in this review for their cooperation on behalf of the ethics program. No six-month follow-up is necessary in view of the fact that we have no recommendations for improving Fort Huachuca's program at this time. We are sending a copy of this report by transmittal letter to the inspectors general of the U S Army, USAIC/FH, and NETCOM and to the commanding generals of USAIC/FH and NETCOM. Please contact Traci M Quan at 202-482-9271 if we may be of further assistance.

Sincerely,


Jack Covaleski
Deputy Director
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cc Colonel Anthony Helm
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