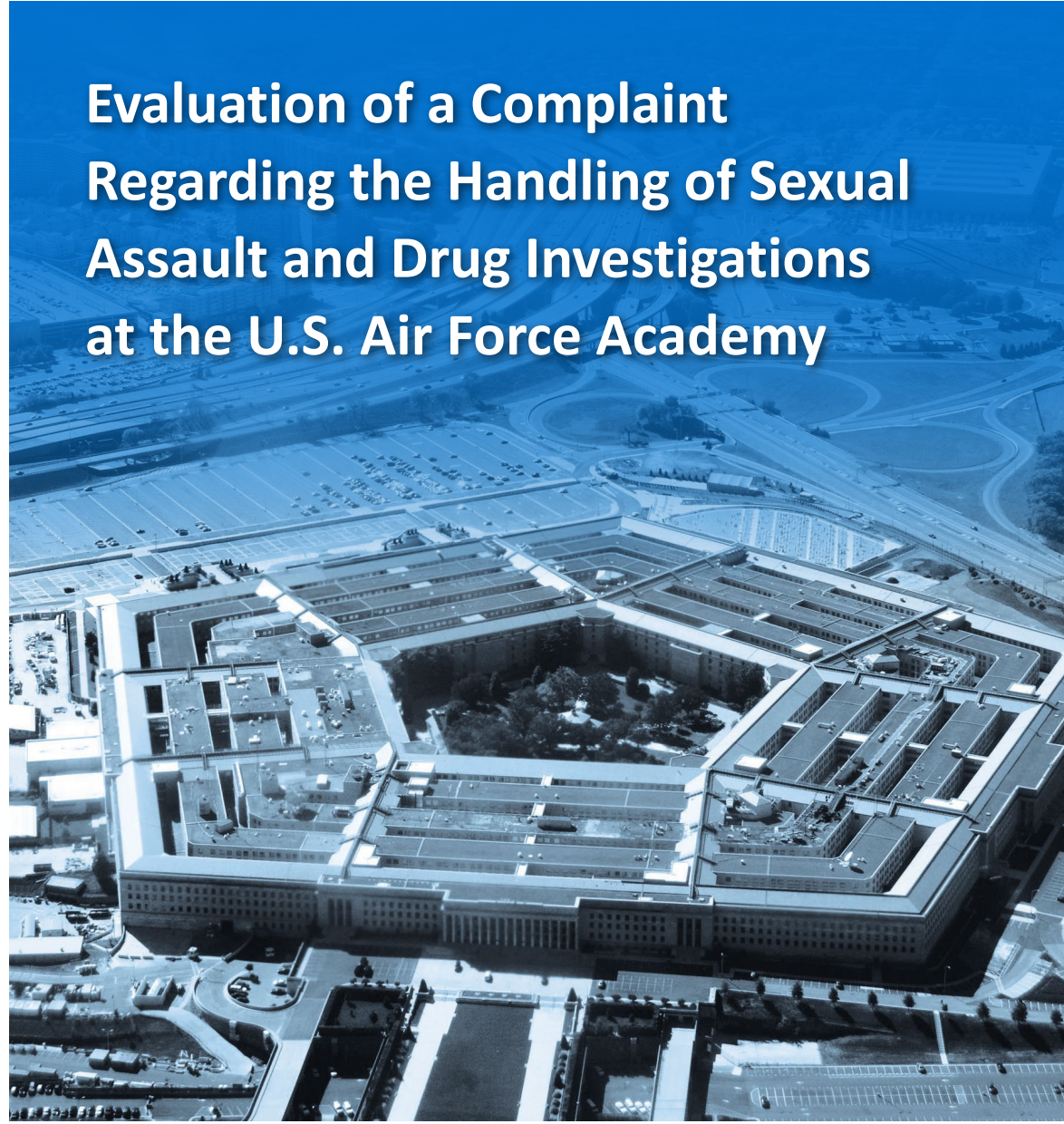




# INSPECTOR GENERAL

*U.S. Department of Defense*

JUNE 21, 2016



## Evaluation of a Complaint Regarding the Handling of Sexual Assault and Drug Investigations at the U.S. Air Force Academy

INTEGRITY ★ EFFICIENCY ★ ACCOUNTABILITY ★ EXCELLENCE

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# Results in Brief

## *Evaluation of a Complaint Regarding the Handling of Sexual Assault and Drug Investigations at the U.S. Air Force Academy*

June 21, 2016

### Objective

We initiated this evaluation based on a request from Senators Kirsten Gillibrand and John Thune. Their concerns were in response to a constituent's complaint that focused on the alleged mishandling of sexual assault and drug investigations at the United States Air Force Academy (USAFA). Based on our interviews conducted with the constituent (complainant), we focused on the following three areas.

- Whether the former USAFA Superintendent impeded Air Force Office of Special Investigations (AFOSI) investigations by denying AFOSI's request to interview the USAFA head football coach.
- Whether the former USAFA Superintendent impeded AFOSI criminal investigations when he allowed a "star" football player to play in a 2011 post-season football game even though the football player was the subject of an AFOSI criminal investigation for alleged drug use, in contravention to the USAFA's zero tolerance policy.
- Whether a USAFA Air Officer Commanding (AOC) impeded an AFOSI sexual assault investigation by informing a cadet suspect that he was the target of planned AFOSI investigative activity.

The constituent's complaint arose from the AFOSI proactive drug and sexual assault initiative known as "Operation Gridiron." Therefore, we also evaluated all sexual assault and drug investigations conducted by AFOSI at the USAFA between September 2011

### Objective (cont'd)

and December 2012, the time period identified in the constituent's complaint to Senators Gillibrand and Thune. Our objective was to determine whether AFOSI conducted the investigations in accordance with DoD and AFOSI guiding policies.

### Findings

We did not substantiate that the former USAFA Superintendent impeded AFOSI criminal investigations. We did determine that he denied an AFOSI special agent's request to interview the USAFA head football coach, an interview we determined to be a logical investigative step. Although the Superintendent's denial hindered the investigation, his action did not rise to the level of impeding the investigation, in violation of DoD Instruction 5505.03. AFOSI retained the authority and ability to insist on the interview. Instead, through a series of missteps and miscommunications between the AFOSI field units and AFOSI headquarters, AFOSI ultimately made the decision, within its authority, not to conduct the interview of the coach. Furthermore, we determined that AFOSI special agents and leadership did not document in the investigative case files their communications about the proposed interview or the reason they did not interview the USAFA head football coach.

We did not substantiate that the former USAFA Superintendent impeded AFOSI criminal investigations by allowing a USAFA cadet "star" football player to participate in the 2011 post-season Military Bowl football game even though the football player was the subject of an AFOSI criminal investigation for drug use. We determined that the reason the football player was not suspended and was allowed to play in the game was that AFOSI asked the Superintendent not take such action, which would have compromised the AFOSI investigation.

We also did not substantiate that a former USAFA AOC impeded an AFOSI sexual assault investigation by informing a cadet suspect he was the target of planned AFOSI investigative activity. We found no evidence that the AOC informed the suspect about the investigation, but that the AOC only informed the suspect that a restraint order against him was being rescinded.



# Results in Brief

## *Evaluation of a Complaint Regarding the Handling of Sexual Assault and Drug Investigations at the U.S. Air Force Academy*

### **Findings (cont'd)**

Additionally, we reviewed the conduct of AFOSI's investigations of USAFA sexual assault and drug cases between September 2011 and December 2012. We concluded that, in general, they were conducted in accordance with guiding policies. Specifically, we examined 56 drug and sexual assault investigations and determined that all but 4 drug investigations met investigative standards. In each of the four deficient drug investigations, the special agents failed to process a crime scene and failed to document in the investigative case files the reason they did not process the crime scene. We concluded that there was no systemic deficiencies in the investigations, and therefore, we are not making a recommendation regarding those cases.

### **Recommendation**

The Commander, Air Force Office of Special Investigations, should ensure that AFOSI special agents conducting criminal investigations document in the investigative case file when there is perceived command influence or the reason logical investigative steps were not conducted, as required by AFOSI Manual 71-121, "Processing and Reporting Investigative Matters."

### **Management Comments and Our Response**

The Commander, Air Force Office of Special Investigations, agreed with our recommendation and stated that the requirement is long-standing policy that is already enforced. The Commander further stated that because the AFOSI agents did not document the perceived interference by the former Superintendent, the Commander does not view this as a lack of documentation but rather a lack of a substantive allegation of interference at the time of the investigation.

### **Comments (cont'd)**

Comments from the Commander, Air Force Office of Special Investigations, only partially address the specifics of the recommendation because he did not explain why logical investigative steps not conducted were not documented in the investigative case files. For example, the 8th FIR Commander, the senior commander in the FIR, believed that interviewing the head coach was a logical investigative step and should be pursued. We agree with that assessment and believe the decision not to interview the head coach should have been documented in the investigative case files. Therefore, we request that the Commander, AFOSI, provide comments in response to this final report that address the lack of investigative case file documentation by July 8, 2016.

The former USAFA Superintendent provided informal comments agreeing with our finding that he did not impede AFOSI's investigations.

We also received unsolicited comments from the current USAFA Superintendent. Although she did not comment on the evaluation itself, the Superintendent stated the recognition of prior cadet misconduct caused the USAFA to refocus and enhance its culture and climate. The Superintendent stated that as a result, the USAFA has instituted a series of initiatives directed at improving USAFA culture, climate, and diversity.

## ***Recommendations Table***

<b>Management</b>	<b>Recommendation Requires Comment</b>
The Commander, Air Force Office of Special Investigations	Yes

Please provide Management Comments by July 8, 2016.





**INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500**

June 21, 2016

MEMORANDUM FOR COMMANDER, AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS

SUBJECT: Evaluation of a Complaint Regarding the Handling of Sexual Assault and Drug Investigations at the U.S. Air Force Academy (Report No. DODIG-2016-096)

We are providing this report for review and comment. Based on a request from Senators Kirsten Gillibrand and John Thune regarding their concerns pertaining to the alleged mishandling of sexual assault and drug investigations at the United States Air Force Academy (USAFA), we evaluated whether:

1. The former USAFA Superintendent impeded Air Force Office of Special Investigations (AFOSI) investigations by denying AFOSI's request to interview the USAFA head football coach.
2. The former USAFA Superintendent impeded AFOSI criminal investigations when he allowed a "star" football player to play in a 2011 post-season football game even though the football player was the subject of an AFOSI criminal investigation for alleged drug use, in contravention to the USAFA's zero tolerance policy.
3. A USAFA Air Officer Commanding (AOC) impeded an AFOSI sexual assault investigation by informing a cadet suspect he was the target of planned AFOSI investigative activity.

We also evaluated all sexual assault and drug investigations conducted by AFOSI pertaining to Air Force Academy cadets between September 2011 and December 2012, the time period identified in the constituent's complaint to Senators Gillibrand and Thune, to determine if they were conducted in accordance with DoD and AFOSI guiding policies.

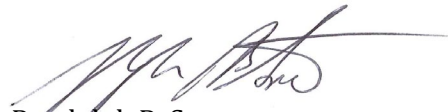
We determined that

- the former USAFA Superintendent did not impede AFOSI criminal investigations. We did determine that he denied an AFOSI special agent's request to interview the USAFA head football coach, an interview we determined to be a logical investigative step. Although the Superintendent's denial hindered the investigation, his action did not rise to the level of impeding the investigation, in violation of DoD Instruction 5505.03.
- the former USAFA Superintendent did not impede AFOSI criminal investigations by allowing a USAFA cadet "star" football player to participate in the 2011 post-season Military Bowl football game even though the football player was the subject of an AFOSI criminal investigation for drug use.
- a former USAFA AOC did not impede an AFOSI sexual assault investigation by informing a cadet suspect he was the target of planned AFOSI investigative activity.

Further, we concluded that all sexual assault and most drug investigations conducted by AFOSI between September 2011 and December 2012 were conducted in accordance with guiding policies.

DoD Instruction 7650.03 requires that all recommendations be resolved promptly. We considered management comments on a draft to this report when preparing the final report. Comments from the Commander, AFOSI, only partially address the specifics of the recommendation because he did not explain why logical investigative steps not conducted were not documented in the investigative case files. For example, the 8th FIR Commander, the senior commander in the FIR, believed that interviewing the head coach was a logical investigative step and should be pursued. We agree with that assessment and believe the decision not to interview the head coach should have been documented in the investigative case files. Therefore, we request that the Commander, AFOSI, provide comments in response to this final report that address the lack of investigative case file documentation by July 8, 2016.

We appreciate the courtesies extended to our staff. Please direct any questions to Supervisory Special Agent Brian Janysek at (703) 699-0211 or at [brian.janysek@dodig.mil](mailto:brian.janysek@dodig.mil).



Randolph R. Stone  
Deputy Inspector General  
Policy and Oversight

cc:  
Secretary of the Air Force/Inspector General, Director of Special Investigations  
Superintendent, U.S. Air Force Academy



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# Introduction

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## Objective

The objective of our evaluation was to determine whether:

- the former United States Air Force Academy (USAFA) Superintendent (hereafter referred to as “Superintendent”) impeded the Air Force Office of Special Investigations (AFOSI) investigations by denying AFOSI’s request to interview the USAFA head football coach,<sup>1</sup>
- the Superintendent impeded AFOSI criminal investigations when he allowed a “star” football player to play in a post-season football game even though the football player was the subject of an AFOSI criminal investigation for alleged drug use, in contravention to the USAFA’s zero tolerance policy, and
- a USAFA Air Officer Commanding (AOC) impeded an AFOSI sexual assault investigation by informing a cadet suspect he was the target of planned AFOSI investigative activity.

We also evaluated all sexual assault and drug investigations pertaining to Air Force Academy members conducted by AFOSI between September 2011 and December 2012, the time period identified in the constituent’s complaint letter to Senators Gillibrand and Thune. This was to determine whether the investigations were conducted according to DoD and AFOSI guiding policies. See Appendix A for our scope and methodology.

## Background

This evaluation was initiated in response to a request from Senators Kirsten Gillibrand and John Thune for an independent investigation of allegations of wrongdoing regarding the handling of sexual assault and drug cases at the USAFA. Their request was prompted by a letter from a former AFOSI special agent, hereafter referred to as “the complainant,” who was assigned to the AFOSI 8th Field Investigations Squadron (FIS) Operating Location - Alpha (OL-A), at the USAFA, who brought the matter to the Senators’ attention.<sup>2</sup> The complainant alleged that the Superintendent denied a request from AFOSI to interview the USAFA head football coach.

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<sup>1</sup> DoD Instruction (DoDI) 5505.03 states “[c]ommanders shall not impede an investigation or the use of investigative techniques that a DCIO [Defense Criminal Investigative Organization] considers necessary and that are permissible in accordance with law or regulation.”

<sup>2</sup> The complainant graduated from the Federal Law Enforcement Training Center’s Criminal Investigations Training Program and AFOSI Academy’s Basic Special Investigator’s Course in July 2011. He was assigned as a probationary criminal investigator and investigated installation-level general crimes at USAFA from August 2011 to September 2013.

Specifically, the complainant stated that beginning in November 2011, AFOSI opened a series of drug and sexual assault investigations under the title “Operation Gridiron.” [REDACTED]

[REDACTED] Therefore, AFOSI special agents believed they should interview the coaches of the football team to determine whether they had relevant information of drug use among cadet athletes. The complainant stated AFOSI approached the Superintendent, briefed him on the intended interview of the head football coach, and the Superintendent denied the interview.

A separate allegation contained in the complainant’s letter focused on alleged reprisal actions taken by AFOSI against the complainant and USAFA reprisal actions taken against the cadet confidential informant. We referred these allegations to the DoD Office of Inspector General (OIG) Whistleblower and Reprisal Investigations (WRI) unit. WRI contacted the complainant, who stated that he declined to file a formal complaint of reprisal; therefore, the OIG did not investigate that allegation. However, WRI contacted the cadet confidential informant, who alleged that USAFA leadership disenrolled him in reprisal for making protected communications. WRI investigated the alleged reprisal taken against the cadet. The WRI investigation is complete and is documented in a separate report of investigation.

At the onset of our evaluation, we interviewed the complainant, who related three specific allegations that, if substantiated, would meet the criteria of creating barriers to, or impeding, a criminal investigation. These allegations were:

- the Superintendent denied AFOSI’s request to interview the USAFA head football coach,
- the Superintendent impeded AFOSI criminal investigations when he allowed a “star” football player to play in a 2011 post-season football game even though the football player was the subject of an AFOSI criminal investigation for alleged drug use, in contravention to the zero tolerance policy, and
- a USAFA AOC impeded an AFOSI sexual assault investigation by informing a cadet suspect he was the target of planned AFOSI investigative activity.

## Finding A

### **We determined that the former USAFA Superintendent denied the AFOSI Special Agent's request to interview the football coach, which was a logical investigative step**

Through a series of missteps and miscommunications between AFOSI field units and AFOSI headquarters, AFOSI leadership ultimately made the decision, within its authority, not to interview the coach. Therefore, we concluded that the Superintendent's denial of the interview request did not "impede" the investigations; rather AFOSI decided not to interview the coach. We further determined that AFOSI special agents and leadership did not document in the investigative case files their communications or the reason they did not interview the coach, as required by their policy.

### **We did not substantiate the allegation that the former USAFA Superintendent improperly allowed a "star" football player to play in a game even though he was under investigation or that a USAFA AOC informed a cadet suspect he was the target of a planned investigative activity**

#### **Allegation 1**

Our objective was to determine whether the former USAFA Superintendent (hereafter referred to as the "Superintendent") impeded the investigation of criminal misconduct when he reportedly denied AFOSI's request to interview the USAFA head football coach, in violation of DoDI 5505.03, "Initiation of Investigations by Defense Criminal Investigative Organizations," March 24, 2011. The status of the USAFA head football coach and his coaching staff as "witnesses" who logically should be interviewed comports with AFOSI Manual 71-118, Volume 4, "General Investigative Methods," which defines a witness as an individual, other than a Victim or Subject, who may have knowledge that is relevant and material to a matter under investigation.

Based on the suspected misconduct by members of the USAFA football team, the AFOSI special agents thought it was reasonable to believe that the USAFA head football coach and his coaching staff may have knowledge that was relevant and material to their investigations. Therefore, they believed that interviewing the head coach and the coaching staff was a logical investigative step.



[REDACTED]  
[REDACTED] He also passed this information along to his fellow AFOSI special agents and the Branch Chief.

As part of our evaluation, we reviewed all investigative case files and confidential informant files initiated between September 2011 and December 2012, the time period identified in the constituent's complaint to Senators Gillibrand and Thune. This period included all the investigations associated with Operation Gridiron, including the file of the confidential informant named by the complainant. We reviewed 56 AFOSI investigations, 32 of which involved cadet athletes and 12 of those investigations involved USAFA football players.

We did not find any documentation of the complainant's claim that members of the coaching staff told the cadet football players they would "take care" of them until the investigation "blew over." Additionally, we interviewed the confidential informant identified by the complainant, who stated he never heard, nor did he tell the complainant, that the football team coaches spoke to the cadets about criminal misconduct, drug use, or warning the cadets to "lay low" until the investigations "blew over."

### ***Interview of the Former 8th Field Investigations Region Vice Commander***

We interviewed the former 8th Field Investigations Region (FIR) Vice Commander (hereafter referred to as "8th FIR Vice Commander"), who is the second-in-command of the next higher headquarters above the Branch Chief level. He stated that during a meeting with the former 8th FIR Commander (hereafter referred to as "8th FIR Commander") they discussed Operation Gridiron and the confidential informant's information that the coaches were aware of cadet drug use. During the meeting, they discussed interviewing the USAFA coaching staff. The 8th FIR Vice Commander said, based on this line of thinking, he and the 8th FIR Commander thought interviewing the USAFA head coach and coaching staff was a logical investigative step.

The 8th FIR Vice Commander said he told the 8th FIR Commander it would be best to interview the head football coach first to inform him of their intent to interview the assistant coaches and to determine whether the head coach had any knowledge of cadet misconduct. Additionally, the 8th FIR Vice Commander said he thought it would be appropriate to coordinate the interviews with the Superintendent before conducting the interviews. The 8th FIR Vice Commander said he did not personally direct the Branch Chief or anyone else to contact the Superintendent and request an interview of the head football coach.

## ***Interview of the Branch Chief***

The Branch Chief told us that agents developed information from a confidential informant that the USAFA football team coaching staff may have knowledge of alleged cadet drug use and that the coaches may have covered it up. The Branch Chief stated,

[w]e kind of heard some rough allegations that, not rough, but some light allegations that maybe some of like the [Defensive Back] coaches or the linebacker coaches may have known about these off-base residences, may have known about some of the stuff going on. And that more particularly that maybe some of the assistant coaches had covered up some of the stuff.

The Branch Chief said he did not believe the head football coach had knowledge of any alleged cadet misconduct and therefore had no plan to interview him. He explained that when he was a USAFA cadet football player, the football players generally had little interaction with the head coach. Most players interacted with the assistant coaches, so he thought it was highly unlikely that the head football coach had any information pertinent to the investigation. However, he thought the assistant coaches may have information about cadet misconduct taking place at off base residences and planned to interview them.

The Branch Chief stated that following the mass interviews of the cadet subjects of Operation Gridiron, the 8th FIR Commander directed him to contact the Superintendent and request an interview of the USAFA head football coach. The Branch Chief said he telephoned the Superintendent and informed him that he was directed by his “higher-ups” to request an interview of the head football coach. The Branch Chief stated he could not provide the exact date and time of the telephone call; however, we determined through records reviews it was between January 12 – 20, 2012.<sup>5</sup> The Superintendent then asked why and he informed the Superintendent that the reason for interviewing the head football coach was to determine whether “he had any information and knowledge about the cadets using any drugs in off base residences.” The Branch Chief stated,

I remember I was sitting. I remember what I was looking at. I remember his words were “Why?” I explained why. He said, “No, you’re not talking to Coach ... or anybody on the football team. And you can tell anyone above you, tell everyone above you that you’re not calling -- not talking to Coach.

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<sup>5</sup> We determined through our interview of the Branch Chief and investigative case file reviews that the Branch Chief’s phone call to the Superintendent was sometime between January 12, 2012, the date of the mass interviews, and January 20, 2012, the date of the 8th FIR Commander’s notification to AFOSI Headquarters of the Superintendent’s refusal to allow the interview.



The Branch Chief told us that based on this conversation, he believed that he was prevented from interviewing any of the coaching staff.

Immediately following the telephone conversation with the Superintendent, the Branch Chief telephoned the 8th FIR Commander and informed him of the Superintendent's refusal to permit the interview.

According to the Branch Chief, he did not document his conversation with the Superintendent in an investigative file or memorandum for record.<sup>6</sup> We confirmed this through our case file reviews.

### ***Interview of the Former 8th FIR Commander***

During our interviews with the 8th FIR Commander, he stated he recalled having discussions with the Branch Chief about interviewing the head football coach pertaining to football players using drugs. He said interviewing the head football coach was a logical first step before interviewing the assistant football coaches. However, he stated he did not recall instructing the Branch Chief to conduct an interview of the USAFA head football coach.

Although he was not clear on the exact details, the 8th FIR Commander stated he was notified by the Branch Chief that the Superintendent refused his request to interview the head football coach. The 8th FIR Commander then notified the 8th FIR Vice Commander of the Superintendent's interview refusal. The 8th FIR Commander said to the best of his knowledge, the 8th FIR Vice Commander then notified the Director, AFOSI Investigations, Collections, and Operations Nexus (ICON), AFOSI headquarters (hereafter referred to as "ICON Director"), that the Superintendent refused a request by the Branch Chief to interview the USAFA head football coach. The 8th FIR Commander said he and the 8th FIR Vice Commander were hopeful AFOSI headquarters would exercise its authority and push for the interviews.

Sometime after the Superintendent's interview refusal being elevated to the ICON Director, the 8th Fir Commander received a telephone call from the 8th FIR Vice Commander informing him AFOSI headquarters deemed the interview unnecessary and telling him not to pursue an interview of the head football coach. The 8th FIR Commander stated he did not know who relayed the information to the 8th FIR Vice Commander. We asked the 8th FIR Commander if he agreed with the decision of AFOSI headquarters not to interview the coaches. His reply was "absolutely not." He said nevertheless, he acquiesced to the guidance from headquarters.

<sup>6</sup> As required by AFOSI Manual (AFOSIMAN) 71-121, October 12, 2012, paragraph 7.14.1.4, the Branch Chief should have documented the sensitive information and perceived command pressure in the Internal Data Page of the case file.

### ***Interviews of the Former USAFA Superintendent***

We interviewed the Superintendent about these matters. During our interviews with the Superintendent, he said he recalled receiving periodic briefings from AFOSI about Operation Gridiron, but he did not recall receiving a telephone call from the Branch Chief requesting an interview of the head football coach. He also said he did not recall the Branch Chief ever requesting permission from him to interview the head football coach or any of the coaching staff. He stated he did not get into the investigative affairs of AFOSI and does not know why AFOSI would believe it needed to go through him to request an interview of anyone regarding a criminal investigation. The Superintendent stated he was a busy person and he relied on AFOSI to present him with the facts of the investigations and that he did nothing to impede the AFOSI investigations.

When we informed the Superintendent there was an allegation that he refused a request by AFOSI to conduct an interview of the head football coach, he denied the allegation. He stated,

I have told you all along, my responsibility as a Superintendent was to learn the facts. I knew we had lots of allegations of problems. I wanted to get to the ground truth. I relied on [AFOSI] investigators to feed me what I needed to know. I, in no way, did anything to impede their investigation, or to slow it down, or anything else. I don't know what else to tell you.

When asked what historical circumstances or previous events led AFOSI to believe it needed to go through him to request an interview, the Superintendent replied,

I can't understand where these allegations are coming from. It's like, I don't know, I'm being repetitive, like, you said you were---I don't recall getting in their business whatsoever.

### ***Interview of the AFOSI ICON Director***

We interviewed the ICON Director who was serving in this position at the time of Operation Gridiron. The ICON Director stated that he received weekly Operation Gridiron updates and kept the AFOSI Commander and Vice Commander informed of the investigative progress. He provided us with a January 20, 2012, e-mail from the 8th FIR Commander, which documented the Superintendent's refusal and the 8th FIR Commander's opinion that the interview of the head football coach should take place.

The e-mail stated, in part, that the Superintendent:

[h]as directed 8 FIS (Field Investigation Squadron) not to interview the [head coach], saying that he's got nothing to do with these investigations. To date, we've not uncovered anything that would suggest he knew about these parties or what was happening at them; however, there were some vague comments made that the coaches would take care of any problems. Consequently, I believe that interviewing [the head coach] is still a logical investigative step and should be pursued. If nothing else, it alleviates any perception that the USAFA is attempting to cover this up.

The ICON Director said he spoke with the 8th FIR Commander sometime later and discussed the Superintendent's direction not to interview the coaches. The ICON Director stated that he and the 8th FIR Commander agreed that the Superintendent could not influence the investigative process because if AFOSI wanted to interview the coach, they would do so. The ICON Director said that subsequent to the January 20, 2012, e-mail, the ICON Director and the 8th FIR Commander conferred and decided while it may be a logical investigative step to interview the head coach, both agreed there would be no benefit to interview the head coach. He stated both thought there was no evidence to suggest that he had information concerning cadet misconduct. The ICON Director said that neither he nor the 8th FIR Commander took the Superintendent's "no interview" comment seriously. The ICON Director stated there were several other higher priority interviews that AFOSI needed to conduct before interviewing the head coach and coaching staff. He said he told the 8th FIR Commander that, in his opinion, the coaching staff interviews were a low priority. He stated he never told anyone not to interview the coaches, only that he thought there was no probative value for the interviews.

The ICON Director further told us he did not specifically recall briefing the AFOSI Commander or Vice Commander that the Superintendent denied AFOSI's request to interview the head football coach or of the actual content of the 8th FIR Commander's e-mail. The ICON Director said his briefings to them were updates on the investigations, such as the status of the cases, the number of subjects, and violations involved.

### ***Interview of the Former AFOSI Vice Commander***

We interviewed the former AFOSI Vice Commander (hereafter referred to as "AFOSI Vice Commander"). He said that Operation Gridiron was a high-profile series of investigations and, as such, he was aware of them. He said that during Operation Gridiron, a case agent, whose name he could not recall, telephoned him stating that he wanted to report undue command influence by the Superintendent. He said the

agent told him that AFOSI contacted the Superintendent requesting interviews of the football coaches. According to this agent's account, the Superintendent told the Branch Chief that the football coaches were on temporary duty (TDY) away from the USAFA and asked that the interviews be delayed until the coaching staff returned from their TDY.<sup>7</sup> According to the AFOSI Vice Commander, the agent told him that the AFOSI case agents wanted the coaches recalled in order to interview them immediately.

The AFOSI Vice Commander said he asked the agent if the coaching staff had any information of probative value necessitating their immediate return from TDY; the agent replied, "We don't know." The AFOSI Vice Commander told us that it was his opinion that the unit had no specific information necessitating the recall of the USAFA coaching staff. He said he believed the Superintendent's counteroffer of interviewing the coaching staff when they returned was practical and was an example of a "commander being a commander."

The AFOSI Vice Commander said he also called the 8th FIR Commander to discuss the matter. The AFOSI Vice Commander said he told the 8th FIR Commander that he did not believe the information merited the allegation of undue command influence. He recommended AFOSI interview the coaching staff upon their return to the USAFA as requested by the Superintendent. He said the 8th FIR Commander agreed with his assessment.

The AFOSI Vice Commander also stated he never instructed anyone not to interview the coaches, only that the AFOSI field unit wait to interview the coaching staff until they returned as scheduled. Moreover, the Vice Commander said, based on what he was told by the agent, he thought the Superintendent acted appropriately by requesting to delay the interviews until the team returned from TDY.<sup>8</sup>

The AFOSI Vice Commander said the conversation with the 8th FIR Commander was over the telephone and not documented.

The 8th FIR Commander told us, however, that he did not recall a telephone call or any conversation between himself and AFOSI Vice Commander pertaining to the interviews of the coaches on Monday instead of Friday because the coaches were TDY.

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<sup>7</sup> Although the specific details vary between witness accounts, we maintain that based on the context and the timing of the agent's telephone call to the AFOSI Vice Commander, the interview mentioned by the AFOSI Vice Commander is the same interview referenced by the Branch Chief. Both interviewees discuss the pending football coach interviews and both reference the interviews in relation to Operation Gridiron.

<sup>8</sup> During our interviews with the 8th FIR Commander, the ICON Director, the Branch Chief, and the complainant, no one recalled being told the football coaching staff was TDY when AFOSI special agents wanted to interview them.

We reinterviewed the complainant, who denied making a telephone call to anyone at AFOSI headquarters regarding Operation Gridiron investigations or the USAFA Superintendent. The complainant provided the name of a former USAFA agent he said might have contacted AFOSI headquarters.

We interviewed the agent identified by the complainant. The agent also said he did not and has never contacted AFOSI headquarters regarding any matter, including Operation Gridiron or the USAFA Superintendent.

### ***Interview of the Former AFOSI Commander***

The former AFOSI Commander (hereafter referred to as “AFOSI Commander”) stated he too received briefings about Operation Gridiron since it was a high-profile investigation. He said the Operation Gridiron updates were either in person or telephonic from the AFOSI Vice Commander or the ICON Director. He said he recalled that either the AFOSI Vice Commander or the ICON Director briefed him that AFOSI agents wanted to interview the coaching staff; however, the coaches were TDY at the time. He said his recollection of the briefing was that the Superintendent requested the interviews wait until the coaching staff return from TDY. The basic premise explained to him for interviewing the coaches was to ask them if they had knowledge of any wrongdoings by the cadet football players. The AFOSI Commander thought the interviews were a “fishing expedition” and did not see any logical reason why the Superintendent should order the coaches to return early from their TDY for AFOSI to interview them.

The AFOSI Commander stated that at no point was he ever informed that the Superintendent refused to allow AFOSI to interview the coaches. Moreover, he added he did not remember seeing or being briefed about the January 20, 2012, e-mail from the 8th FIR Commander, which documented the Superintendent’s refusal and the 8th FIR Commander’s opinion that the interview should take place. He said he was always under the impression that it was a disagreement over the timing of the interviews, not whether AFOSI should conduct the interviews. Further, the AFOSI Commander denied telling anyone not to interview the coaches and did not know if AFOSI special agents ultimately interviewed them for Operation Gridiron. He said that he did not document any information, conversations, or briefings regarding Operation Gridiron.

### ***Reinterview of the 8th FIR Vice Commander***

The 8th FIR Vice Commander told us he recalled he spoke with the ICON Director several times about the coaching staff interviews. The 8th FIR Vice Commander stated during one such conversation, the ICON Director informed him that AFOSI headquarters directed the AFOSI field unit not to pursue the interviews of the coaches. The 8th FIR Vice Commander stated he then told the Branch Chief not to pursue the coaching staff interviews based on the guidance from AFOSI headquarters.

### ***Reinterview of the AFOSI ICON Director***

During our reinterview with the ICON Director, he told us he did not tell anyone not to interview the coaching staff. He said he told the 8th FIR Commander and AFOSI Vice Commander that he did not see the probative value in interviewing the coaches at the time the issue was raised, but that was based on higher priority interviews he believed needed to be conducted first. He said he discussed this with the 8th FIR Commander, who the ICON Director said agreed with that assessment. However, he said he could understand how the 8th FIR Commander may have misinterpreted his response that he did not see the probative value in interviewing the coaches as saying AFOSI headquarters did not support the interviews at all. He added that if either the 8th FIR Commander or the 8th FIR Vice Commander thought the interviews were necessary, they should have contacted the AFOSI Commander or AFOSI Vice Commander to discuss the matter.

### ***Additional Interviews***

We also interviewed the USAFA head football coach and an assistant coach, both of whom were members of the football team coaching staff at the time of Operation Gridiron. Both stated to us that they had no knowledge of cadets using off-base residences to use drugs or any other kind of misconduct by the USAFA cadet football players during the period of Operation Gridiron or any other time.

We interviewed the former and current USAFA Commandants, and the former and current Staff Judge Advocates. All said they did not have any knowledge of the Superintendent's reported refusal to allow AFOSI to interview the coaching staff. No one interviewed cited any knowledge of investigative barriers or impediments to AFOSI conducting criminal investigations at the USAFA.

We also interviewed former and current AFOSI agents assigned to the AFOSI office at the USAFA. None of the agents described any personal concerns regarding undue command influence or barriers to conducting criminal investigations by the Superintendent or his staff.

## ***Review of Documentation***

We reviewed 56 criminal investigations conducted during the period identified by the complainant and [REDACTED] AFOSI confidential informant files opened during the same period. Except for the January 20, 2012, e-mail sent by the 8th FIR Commander to the ICON Director, which was never added to any investigative file, none of the files contained documentation pertaining to the Superintendent's reported refusal or any indication of obstruction by USAFA commanders or other personnel.

In summary, we were unable to locate documentation detailing communications between the AFOSI office at the USAFA, the 8th FIR commanders, or the AFOSI headquarters personnel, which led to the decision not to interview the coaching staff. Additionally, we did not find any documentation indicating the coaching staff had any knowledge of cadet athletes' alleged drug use or criminal misconduct.

## **Conclusion**

We concluded that the Superintendent did deny the AFOSI special agent's request to interview the USAFA head football coach. We determined that this denial hindered the AFOSI investigation. However, we believe the Superintendent's denial did not rise to the level of impeding the investigation, a violation of DoDI 5505.03. Rather we determined that through a series of missteps and miscommunications between the AFOSI field unit, the AFOSI intermediate headquarters in Colorado, and AFOSI headquarters, AFOSI ultimately made the decision, within its authority, not to interview the head football coach. However, AFOSI special agents and leadership did not document in the investigative case files the reason they did not interview the USAFA head football coach.

We based our conclusion that the Superintendent denied AFOSI's request to interview the head coach, an interview that the 8th FIR commander concluded (and we agree) was a logical investigative step, and with which we agree, on the following factors.

- The Branch Chief told us he immediately telephoned his commander to report the results of his conversation with the Superintendent. This is supported by the 8th FIR Commander's testimony and his e-mail to AFOSI headquarters. The 8th FIR commander's e-mail documented the Superintendent's denial of AFOSI's request to interview the USAFA head football coach and the 8th FIR commander's determination that the interview was a logical investigative step.

- The Branch Chief told us that after the telephone call with the Superintendent, the Branch Chief informed his subordinate special agents of the Superintendent's denial. This is supported by testimony from a special agent.

We concluded that it is unlikely that the Branch Chief made up his testimony, or that the 8th FIR Commander fabricated an e-mail about the call with the Superintendent. We also find it unlikely that the Branch Chief misinterpreted the conversation with the Superintendent at the time. We found the Branch Chief and 8th FIR Commander's testimony credible and supported by the evidence.

We further determined that AFOSI's missteps and miscommunication ultimately led to the decision that the interview of the head coach was not necessary.

We based this determination on the following factors:

- The 8th FIR Commander, in his position as the senior commander in the FIR, failed to ensure the Superintendent had a clear understanding of AFOSI's authority to interview the coach and the reason the 8th FIR Commander considered the interview to be a logical investigative step.
- The ICON Director failed to inform the AFOSI Commander or Vice Commander of the 8th FIR Commander's e-mail, which documented the USAFA Superintendent's denial of AFOSI's request to interview the head coach. Both the AFOSI Commander and Vice Commander stated that had they been advised of the denial, they would have taken action to resolve the Superintendent's action.
- The AFOSI Commander and Vice Commander stated they were under the impression the reason the coaches could not be interviewed was a timing issue because the coaches were off USAFA grounds when AFOSI special agents wanted to conduct the interviews. The AFOSI Commander and Vice Commander both thought the interviews were eventually conducted and were not advised otherwise. Therefore, they did not follow-up to determine whether the interviews were conducted.
- The ICON Director failed to clearly articulate to the 8th FIR Commander and Vice Commander his position regarding AFOSI interviewing the head coach and the coaching staff. The ICON Director stated he did not see the probative value of interviewing the coaches. He stated when he discussed the matter with the 8th FIR commanders, he stated his position but did not tell them not to conduct the interviews. However, the ICON Director stated he could understand how the 8th FIR commanders could have misinterpreted his position to mean he did not support interviewing the head coach and the coaching staff.



- The 8th FIR Commander and Vice Commander stated the ICON Director told them not to pursue the interviews of the coaches. The 8th FIR Commander stated he disagreed with that decision; however, he did not appeal the decision to the AFOSI Commander or Vice Commander.

Our evaluation found a lack of documentation at all levels within AFOSI regarding the decision not to interview the football coach and the communications pertaining to the decision. Multiple conversations took place between personnel at the AFOSI office at the USAFA, their AFOSI regional headquarters, and AFOSI headquarters regarding the request to interview the football coach and the Superintendent's response. Yet only the single January 20, 2012, e-mail documented the conversation about the Superintendent's response.

Additionally, we noted a failure to document, in the investigative case files, the Superintendent's denial and the reason the coaching staff interviews were not conducted, as required by AFOSI Manual 71-121, "Processing and Reporting Investigative Matters," October 12, 2012. Specifically, AFOSI Manual 71-121, paragraph 7.14.1, requires that AFOSI special agents document when the investigation involves sensitive information such as command pressure or when a logical investigative step is not conducted or could not be conducted. This was a logical investigative step, given the number of football players under investigation and the potential that the head coach or his assistant coaches had information relevant to the investigation. At the least, conducting this investigative step could have provided information regarding the coaches' knowledge or determined the coaches had no information to provide relevant to the cases. This was a logical investigative step, and the denial by the Superintendent of the initial request should have been documented.

Specific examples of lack of documentation included the following:

- The complainant did not document the information pertaining to the USAFA football team coaching staff's alleged knowledge of cadet misconduct that he said he obtained from his confidential informant.
- AFOSI special agents did not document in the investigative case files the reason AFOSI thought interviewing the football team coaching staff was a logical investigative step and the reason they did not conduct the investigative step.
- AFOSI special agents did not document the Superintendent's denial of AFOSI's request to interview the football team head coach in their investigative case notes.

- AFOSI special agents did not document the perception of command influence by the Superintendent in their investigative case notes, as required by AFOSI policy.
- AFOSI senior staff members did not document, by way of e-mail or memorandums for the record, conversations they had relating to the USAFA football team coaching staff interviews or the reason not to conduct such interviews after the prospect of such interviews was raised.

In summary, we determined that although the Superintendent hindered AFOSI's investigations, his action did not rise to the level of impeding the investigations, in violation of DoD directives. However, interviewing the head coach in connection with the numerous investigations of cadet football players was a logical investigative step and one that we believe should have been conducted. AFOSI's decision that it was not necessary to interview the head coach was the result of a series of missteps and miscommunications at all levels of the organization. Moreover, the communications and the reasons for the decision not to conduct that step should have been documented.

## Management Comments on the Report and Our Response

### *Commander, Air Force Office of Special Investigations, Comments*

The Commander, AFOSI, agreed with our conclusion that the former Superintendent did not impede AFOSI's investigations. He stated that AFOSI had all the authority and ability to conduct any interviews AFOSI deemed necessary to conduct AFOSI investigations. Additionally, he asserted that there was no information collected during the investigations that indicated the head coach had testimony that could be pertinent to any of the AFOSI investigations.

### *Our Response*

AFOSI's investigation did not discover any conclusory evidence that the head coach knew of the ongoing parties or the alleged criminal activity happening at the parties. However, given the number of football players under investigation, the amount of time the coaching staff spent with the football players, and the vague comments made by a witness that suggested the coaches would "take care of any

problems,” it was reasonable to believe that the head coach may have information relevant to the investigation. Therefore, interviewing the head coach was a logical investigative step that AFOSI should have conducted. The 8th FIR Commander’s e-mail to the ICON Director stated as much. The 8th FIR commander stated,

[t]o date, we’ve not uncovered anything that would suggest he knew about these parties or what was happening at them; however, there were some vague comments made that the coaches would take care of any problems. Consequently, I believe that interviewing [the head coach] is still a logical investigative step and should be pursued.

We agree with that assessment.

#### *Former Superintendent, USAFA, Comments*

The former USAFA Superintendent provided informal comments agreeing with our finding that he did not impede AFOSI’s investigations.

#### *Superintendent, USAFA, Comments*

Although not required to comment, the current USAFA Superintendent stated that the recognition of prior cadet misconduct caused the USAFA to refocus and enhance its culture and climate. As a result, the USAFA Superintendent stated that the USAFA has instituted a series of initiatives directed at improving USAFA culture, climate, and diversity.

## **Recommendation, Management Comments, and Our Response**

**We recommend that the Commander, Air Force Office of Special Investigations, ensure that AFOSI personnel conducting criminal investigations, as well as those involved in making investigative decisions, document when there is perceived command influence or the reason logical investigative steps were not conducted.**

#### *Commander, Air Force Office of Special Investigations, Comments*

The Commander, Air Force Office of Special Investigations, agreed and stated that the requirement is long-standing policy that is already enforced. The Commander further stated that because the AFOSI agents did not document the perceived interference by the former Superintendent, the Commander does not view this as a lack of documentation but rather the lack of a substantive allegation of interference at the time of the investigation.

### *Our Response*

Comments from the Commander only partially address the specifics of the recommendation because he did not explain why logical investigative steps not conducted were not documented in the investigative case files. For example, the 8th FIR Commander, the senior commander in the FIR, believed that interviewing the head coach was a logical investigative step and should be pursued. We agree with that assessment and believe the decision not to interview the head coach should have been documented in the investigative case files. Therefore, we request that the Commander, AFOSI, provide comments in response to this final report that address the lack of investigative case file documentation.

## **Allegation 2**

The Superintendent impeded AFOSI criminal investigations when he allowed a “star” football player to play in the 2011 post-season Military Bowl football game even though the football player was the subject of an AFOSI criminal investigation for drug use, in contravention to the USAFA’s zero tolerance policy.

### ***Policy***

Air Force Cadet Wing Manual 36-3501, “The Cadet Sight Picture,” Chapter 1, 1.5.1., “Illicit Drugs,” defines the “zero tolerance” policy for the use of illicit drugs. Specifically, it states:

[a]ny cadet who manufactures, possesses, distributes, or uses any illicit drug, including Ecstasy, Spice or any synthetic substances designed to create an altered state of mind may be subject to court-martial or other UCMJ [Uniform Code of Military Justice] actions and disenrollment from USAFA.

## **Our Evaluation**

In his correspondence to the Senators, the complainant identified one particular football player as “well protected” who thus may have received preferential treatment. The complainant further alleged that USAFA leadership was more concerned with the player being eligible to play in a post-season Military Bowl football game rather than suspending him from the team for alleged drug use. The complainant believed the Superintendent disregarded the status of the ongoing investigation in favor of allowing the star player to participate in the game.

Our interviews of the Branch Chief, the Superintendent, and Staff Judge Advocate did not support this allegation. We found that AFOSI cadet informants notified AFOSI special agents of the football player’s alleged use of Synthetic Marijuana (Spice). However, we determined that when the

Superintendent was briefed of this allegation, he wanted to suspend the player from the team immediately. Only at the urging of AFOSI did he relent and allow the player to continue to play. AFOSI's request was based on the fact that there were additional ongoing investigations that might have been compromised if the football player was suspended. Consequently, the Superintendent agreed to allow the football player to play in the game.

## Conclusion

We did not substantiate the allegation that the Superintendent impeded AFOSI criminal investigations when he allowed a USAFA cadet football player to participate in the 2011 post-season Military Bowl football game while the cadet was the subject of an AFOSI criminal investigation. We based this determination on the fact that the Branch Chief and USAFA Staff Judge Advocate, both of whom were present at the briefing to the Superintendent, verified that it was the Branch Chief who asked the Superintendent to allow the football player to continue playing football until the conclusion of Operation Gridiron.

Additionally, AFOSI's request to allow the cadet to play in the game was not made or granted to treat the cadet football player more favorably than any other cadet who was the subject of an investigation. It was to ensure that ongoing Operation Gridiron investigations, which were covert, were not compromised.

## Allegation 3

A USAFA AOC impeded an AFOSI sexual assault investigation by informing a cadet suspect he was the target of planned AFOSI investigative activity.

### ***Policy***

DoDI 5505.03, "Initiation of Investigations by Defense Criminal Investigative Organizations," March 24, 2011, enclosure 2, states, "[c]ommanders shall not impede an investigation or the use of investigative techniques that a DCIO [Defense Criminal Investigative Organization] considers necessary and that are permissible in accordance with law or regulation."

AFOSI Manual 71-121, "Processing and Reporting Investigative Matters," October 12, 2012, directs AFOSI agents to document or create investigative case file notes when the investigation involves sensitive information such as command pressure (paragraph 7.14.1.4).

## Our Evaluation

During our interview of the complainant, he alleged that an AOC warned a cadet who was a suspect in a sexual assault investigation of pending investigative activity targeting the cadet. The complainant alleged that the AOC was briefed before the planned activity and “tipped off” the suspect who then avoided AFOSI’s attempt to obtain an incriminating statement. The complainant, who was an assisting agent, stated the case agent asked the AOC to remove a “no contact order” that was in place intended to prevent the subject from contacting the victim. The complainant claimed the AOC failed to lift the no contact order and the case agent told the complainant the AOC alerted the subject about the investigation.

We reviewed the investigative case file and learned that the sexual assault victim reported that the suspect sexually assaulted her. Three days later, the AOC issued the suspect a no contact order directing the suspect to have no contact of any kind with the victim. [REDACTED]

[REDACTED]

The AOC notified the suspect that he was rescinding the no contact order, although the AOC told us he could not recall the reason he gave the suspect for rescinding the order. [REDACTED]

[REDACTED]

Additionally, the case file did not contain any documentation stating AFOSI suspected the AOC alerted the subject about the investigation or planned investigative activity.

The former AFOSI special agent, who led the sexual assault investigation, told us that the investigative activity was an effort to corroborate the victim’s allegation. Although the case agent recalled briefing the AOC that the suspect was under investigation for sexual assault, he could not recall if he ever briefed the AOC of the planned investigative activity. He added that he had no direct proof, only a suspicion, that the AOC alerted the subject of the on-going investigation; however, he did not articulate a reason for his suspicion.

The AOC (now retired) told us that AFOSI briefed him on the specific details of the investigative activity before the activity was scheduled to take place. At the request of AFOSI, he rescinded the no contact order and took no further action regarding the suspect. After AFOSI briefed him on the results of the activity, he informed the suspect he was reinstating the no contact order. He emphatically

denied informing the suspect of the planned investigative activity and said he had no idea why someone would accuse him of doing so. He said he was very supportive of AFOSI's investigative efforts and cooperated with AFOSI's efforts. It was the AOC's opinion that despite the suspect's poor academic record, he was "street smart" and may have suspected something was amiss once the AOC removed the no contact order.

## **Conclusion**

We did not substantiate the allegation that the former USAFA AOC impeded a criminal investigation. There was no evidence that the now-retired AOC informed the suspect of the planned investigative activity. In addition, the lead case agent told us he had nothing more than mere suspicion that the AOC may have alerted the cadet to the existence of the investigation. Finally, the case file lacked any documentation that this was even suspected by AFOSI special agents.

## Finding B

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### **AFOSI Conducted USAFA Sexual Assault Investigations and Most Drug Investigations Between September 2011 and December 2012 in Accordance with Guiding Policies**

#### **Policy**

Air Force Policy Directive (AFPD) 71-1, "Criminal Investigations and Counterintelligence," January 6, 2010, Incorporating Through Change 2, September 30, 2011, states that AFOSI performs as a federal law enforcement agency with responsibility for conducting independent criminal investigations, counterintelligence activities, and specialized investigative and force protection support for the Air Force under the direction of the Commander, AFOSI.

AFOSI Manual 71-121, "Processing and Reporting Investigative Matters," January 13, 2009, Incorporating All Changes Through Change 5, October 12, 2012, identifies investigative and administrative requirements for AFOSI personnel.

AFOSIMAN 71-122, volume 1, "Criminal Investigations," September 28, 2012, discusses investigative considerations unique to criminal violations AFOSI investigates.

AFOSI Handbook 71-105, "An Agent's Guide to Conducting and Documenting Investigations," March 9, 2009, Certified Current April 11, 2012, provides guidance for the processing and reporting of investigative matters received by AFOSI units.

#### **Our Evaluation**

The complainant asserted that between September 2011 and December 2012, sexual assault and drug cases were mishandled while he was assigned to AFOSI 8th FIS. He stated the AFOSI office at the USAFA concentrated its investigative efforts on the drug investigations at the expense of the sexual assault investigations.

Based on that assertion, we conducted a review of all drug and sexual assault investigations opened during the time frame the complainant was assigned at that location. In total, there were 56 investigations – 24 sexual assaults and 32 drug investigations. We conducted this review to determine whether AFOSI 8th FIS OL-A, at the USAFA, complied with investigative standards and guiding policies, irrespective of the type of investigation or cadet's status as an athlete or nonathlete.



Specifically, we reviewed the AFOSI investigative standards identified in DoDI 6495.02; AFI 71-101, volume 1, "Criminal Investigations Program"; AFPD 71-1; AFOSIMAN 71-121; AFOSIMAN 71-122, Volume 1; and AFOSI Handbook 71-105, which is used by AFOSI special agents when investigating all manners of criminal violations.

## Case Evaluation Protocol

We developed a case evaluation protocol based on DoD, Military Service, and AFOSI's investigative policies and procedures. The evaluation protocol addressed, in detail, the investigative steps that are essential to complete thorough sexual assault and drug investigations ensuring compliance with applicable DoD, Military Service, and AFOSI policies in effect during the time period the investigations were conducted.

AFOSI headquarters provided the 56 sexual assault and drug investigations initiated at USAFA during September 2011 and December 2012, including 39 investigations initiated during Operation Gridiron. We determined that of the 56 criminal investigations reviewed, 52 (93 percent) met investigative standards or had only minor investigative deficiencies and four investigations (7 percent) had significant deficiencies. Of the 52 investigations which met investigative standards, 32 (57 percent) of the investigations had no deficiencies and 20 (36 percent) had only minor deficiencies. Subjects listed in the 56 investigations included 42 current or former cadet athletes and 14 nonathletes or "unknown subject" investigations. Of the 42 investigations with current or former cadet athletes, the subjects of 12 investigations were cadet football players.

We considered a "minor deficiency" to be a task or step the AFOSI special agent did not perform or performed not in conformity with DoD, Service, or AFOSI policies and procedures, but the deficiency was not likely to affect the outcome or have a negative impact on the investigation.

Examples of minor investigative deficiencies we identified during our case file reviews include:

- delays in completing certain logical investigative steps,
- victim was not issued a DD Form 2701, "Initial Information for Victims and Witnesses of Crime,"
- routine briefs to the victim about the status of the investigation were not provided, and
- record fingerprint impressions, mugshot photographs, and sample deoxyribonucleic acid of subjects were not obtained.

We considered a “significant deficiency” to be one or more deficiencies, or a series of minor deficiencies, resulting from a failure or failures in the execution of elements of DoD, Service, or AFOSI policies and standards of investigations. A significant deficiency indicates a breakdown in practices, programs, or policies having actual notable adverse impact on, or having a likelihood of materially affecting, the integrity of the investigation, or adversely affecting or having a high probability of adversely affecting the outcome of an investigation. If our evaluation identified one or more significant deficiencies within an investigation, we returned that investigation to AFOSI with an explanation of the deficiency as well as the supporting guidance and policies not followed.

Examples of significant deficiencies we identified during our case file reviews included:

- key evidence not collected from the crime scene, the victim, or the subject, and
- crime scene examinations were not completed, not completed thoroughly, or not completed before the loss of crucial evidence.

We identified four drug investigations with significant deficiencies. Those investigations originated from one cadet’s off-base party. The investigations lacked crime scene processing and lacked attempts to identify and collect evidence. Specifically, the victims alleged they ingested, without their consent, a drug that rendered them unable to recall the events of the evening. However, AFOSI special agents did not go to the crime scene (the party location) to search for evidence or collect evidence from the victims. We noted there were no sexual assault investigations linked to the four drug investigations. We addressed the crime scene deficiency with AFOSI headquarters who determined, and we agreed, the cases could not be re-opened at this point to obtain additional evidence due to the amount of time that had passed since the offense. Sufficiency rates regarding AFOSI cadet investigations are shown in the table below.

*Table. Sufficiency of AFOSI Cadet Investigations*

Type of Investigation	Number	Minor Deficiencies	No Deficiencies	Sufficient	Significant Deficiencies	Percent Sufficient
Sexual Assault	24	10	14	24	0	100%
Drug	32	10	18	28	4	88%
<b>Total</b>	<b>56</b>	<b>20</b>	<b>32</b>	<b>52</b>	<b>4</b>	<b>93%</b>

## Conclusion

We concluded that AFOSI completed 52 of the 56 sexual assault and drug investigations conducted between September 2011 and December 2012 as required by guiding policies, irrespective of the type of investigation or the cadets' status as an athlete or nonathlete. We determined that 32 had no deficiencies and 20 had minor deficiencies. Four drug investigations had significant deficiencies.

In the four deficient drug cases, we identified the lack of crime scene processing as the common deficiency. We agreed with AFOSI's determination that these cases should not be re-opened based on the perishable nature of the crime scene and the amount of time that has elapsed. Based on our evaluation of the investigative case files, we do not believe this is a systemic issue and are not making a recommendation.

Finally, we do not find that the AFOSI office at the USAFA concentrated its investigative efforts on the drug investigations at the expense of the sexual assault investigations.

## Appendix

### Scope and Methodology

We conducted this evaluation between October 2014 and March 2016 in accordance with the Council of the Inspectors General on Integrity and Efficiency, “Quality Standards for Inspections and Evaluations,” January 2012. We planned and performed the evaluation to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives.

We interviewed the complainant at the beginning of the evaluation and again before the conclusion of our evaluation. Our intent was to clarify information he provided to Senators Gillibrand and Thune in his letter and information he provided to us during our initial interview.

In addition, we contacted AFOSI and requested the case files of all sexual assault and drug cases initiated at USAFA between September 2011 and December 2012, including those cases initiated during Operation Gridiron. In total, there were 56 cases; 24 sexual assault cases and 32 drug cases. In addition to reviewing investigative files, we interviewed over 32 individuals, including former and current USAFA personnel, AFOSI special agents, and former cadets identified by the complainant to validate information the complainant provided in his congressional letter.

We evaluated AFOSI’s processes for investigating sexual assaults at the USAFA for compliance with DoDI 6495.02, “Sexual Assault Prevention and Response (SAPR) Program Procedures,” June 23, 2006, Incorporating Change 1, November 13, 2008, as well as AFI 71-101, volume 1.

To assess the compliance of the AFOSI sexual assault and drug investigations with guiding policies, we developed a case review database and protocol for reviewing cases. The database contained a set of standards designed to assess the compliance of the investigations with guiding policies. The standards were developed to measure compliance with DoDI 6495.02; AFI 71-101, volume 1; and other AFOSI investigative manuals.

### **Quality Assurance**

To ensure consistent application of evaluation methodology, the project manager or team leader performed secondary quality assurance evaluations of all 56 investigations reviewed. We used a nonstatistical methodology for quality control reviews and conducted supervisory quality assurance reviews of 56 cases. We chose this method as our case population of 56 cases was too small for a statistical stratified random sampling as determined by the DoD Office of the Inspector General Quantitative Methods Division.

## ***Data and Deficiency Analysis***

At the conclusion of the case evaluation phase, we analyzed the data we collected and stored in a case file review database. We analyzed the data using numerous queries that were built into the database to efficiently identify investigative tasks and steps that were not completed by AFOSI. The queries displayed what investigative tasks or steps were deficient and the number of instances of each occurrence.

## **Use of Computer-Processed Data**

We used computer-processed data to perform this evaluation as detailed in the preceding data analysis and deficiency analysis section. AFOSI personnel provided data obtained from their Investigative Information Management System (I2MS). The data identified the number of cases, subjects, and investigative steps taken during the investigation. AFOSI provided this information in Excel spreadsheets.

We tested the reliability of the data during our site visits to AFOSI. Specifically, we validated the information provided by reviewing the hard copy case files and the I2MS database.

We used all other computer-processed data for contextual purposes; therefore, we determined the data were sufficiently reliable for our purposes.

## **Prior Coverage**

There was no prior coverage related to this evaluation during the last 5 years.

## Management Comments

### Commander, Air Force Office of Special Investigations Comments



DEPARTMENT OF THE AIR FORCE  
AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS  
QUANTICO VIRGINIA

19 May 16

MEMORANDUM FOR DOD DEPUTY INSPECTOR GENERAL, POLICY AND  
OVERSIGHT

FROM: HQ AFOS/CC  
27130 Telegraph Road  
Quantico, VA 22134

SUBJECT: AFOSI/CC Response to Evaluation of Complaint (Project No. 2014C016)

1. I concur that the USAFA Superintendent did not impede AFOSI's investigation by denying AFOSI's request to interview the USAFA head football coach. AFOSI had all the authority and ability to conduct any interviews we deemed necessary to conduct our investigation. Additionally, there was no information collected during the investigations(s) that indicated the head coach had potential testimony that would be pertinent to any of the AFOSI investigations.
2. The recommendation for the AFOSI Commander to "ensure that AFOSI special agents conducting criminal investigations document in the investigative case file when there is perceived command influence or obstruction of criminal investigations and the reason logical investigative steps were not conducted as required by AFOSI Manual 71-121" is a long-standing policy that is already enforced. By virtue of the fact it already is in policy, I concur with that portion of the recommendation and point out current policy states that if "the investigation involves sensitive information such as command pressure" we are to document that fact in the Internal Data Page of the Report of Investigation. In this case, the fact that the complainant, they AFOSI Operating Location Chief at USAFA or the Region 8 Commander decided not to document this perceived interference by the USAFA Superintendent speaks volumes. The case agent, the unit leadership, Regional leadership and HQ AFOSI all have the ability to independently document investigative interference, yet there was no such entry. I see this as not a lack of documentation by AFOSI, but a lack of substantive allegation (whether real or perceived) of interference at the time of the investigation.
3. I am available to discuss this further if it would prove useful to your efforts.

A handwritten signature in black ink, appearing to read "Keith M. Givens".

KEITH M. GIVENS  
Brigadier General, USAF  
Commander

"EYES OF THE EAGLE"

## Superintendent, U.S. Air Force Academy Comments



**DEPARTMENT OF THE AIR FORCE**  
HEADQUARTERS UNITED STATES AIR FORCE ACADEMY

31

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

FROM: HQ USAFA/CC  
2304 Cadet Drive, Suite 3300  
USAF Academy CO 80840-5001

SUBJECT: Management Comments, Draft Report of Evaluation of a Complaint Regarding the Handling of Sexual Assault and Drug Investigations at the U.S. Air Force Academy (Project No. 2014C016).

1. This reports' findings again highlight one specific Air Force Office of Special Investigations (AFOSI) investigation in 2011-2012 stemming from a party in December 2011, which led to the disenrollment and prosecution of several cadets.
2. It is important to highlight the report concluded that there is no systemic problem here; and therefore, did not make any recommendations for the Academy. However, it does allow us to reflect on our process improvements and how we can better work with our AFOSI teammates. While we prefer to look forward and cannot control things that happened in the past, we acknowledge the subculture of cadet behavior described was inconsistent with the culture of commitment and climate of respect that we work hard to uphold here.
3. Recognition of this prior cadet misconduct caused us to refocus and enhance our culture and climate. We have taken a number of actions to ingrain a culture consistent with our Air Force Core Values. One key measure we implemented was realignment of a senior position to work directly for the Superintendent as the sole point of contact for culture, climate and diversity issues. When it was established nearly two years ago, this office began the work of aligning and monitoring our cultural sensors across the installation, and it continues to do so today. Additionally, we have continued to emphasize accountability not just with the cadets, but with the permanent party, civilians and all Team USAFA members.
4. The Athletic Department also implemented several programs and hired a Director of Culture and Climate to better ensure all cadet-athletes and staff members are living up to our Core Values. The department, in partnership with USAFA's Sexual Assault Prevention and Response Office, developed leading edge training on healthy relationships that all cadet-athletes participated in. Each team met individually with facilitators to discuss the foundations of a healthy relationship, mutual respect and effective communication. This training was highlighted as a best practice in the NCAA's "Champion Magazine."

*Integrity - Service - Excellence*

## Superintendent, U.S. Air Force Academy Comments (cont'd)

5. Importantly, we have tangible proof demonstrating that these and our other many initiatives and constant focus are making an impact. Results from the most recent bi-annual "Defense Manpower Data Center Survey" show an upward trend in "yes" answers to questions like people at USAFA "make honest and reasonable efforts to stop sexual harassment and sexual assault." In the AD alone, "yes" responses rose by nearly 10% in 2014 from 2012.

6. Despite all of our efforts, we are not unlike any other college or university that confronts this national, societal issue. However, we continue to pledge transparency and an emphasis on cadet, faculty and staff development which provides the right culture and climate so we can remain focused on developing leaders of character here at the United States Air Force Academy.

7. The point of contact for this memorandum is [REDACTED] U.S. Air Force Academy Inspector General [REDACTED]



MICHELLE B. JOHNSON  
Lieutenant General, USAF  
Superintendent



## Acronyms and Abbreviations

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<b>AFI</b>	Air Force Instruction
<b>AFOSI</b>	Air Force Office of Special Investigations
<b>AFOSIMAN</b>	Air Force Office of Special Investigations Manual
<b>AFPD</b>	Air Force Policy Directive
<b>AOC</b>	Air Officer Commanding
<b>DCIO</b>	Defense Criminal Investigative Organization
<b>DoDI</b>	Department of Defense Instruction
<b>FIR</b>	Field Investigations Region
<b>FIS</b>	Field Investigative Squadron
<b>I2MS</b>	Investigative Information Management System
<b>ICON</b>	Investigations, Collections, and Operations Nexus
<b>IG</b>	Inspector General
<b>MCIO</b>	Military Criminal Investigative Organization
<b>OIG</b>	Office of Inspector General
<b>OL-A</b>	Operating Location - Alpha
<b>TDY</b>	Temporary Duty
<b>UCMJ</b>	Uniform Code of Military Justice
<b>USAFA</b>	United States Air Force Academy
<b>WRI</b>	Whistleblower Reprisal Investigations



# **Whistleblower Protection**

## **U.S. DEPARTMENT OF DEFENSE**

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