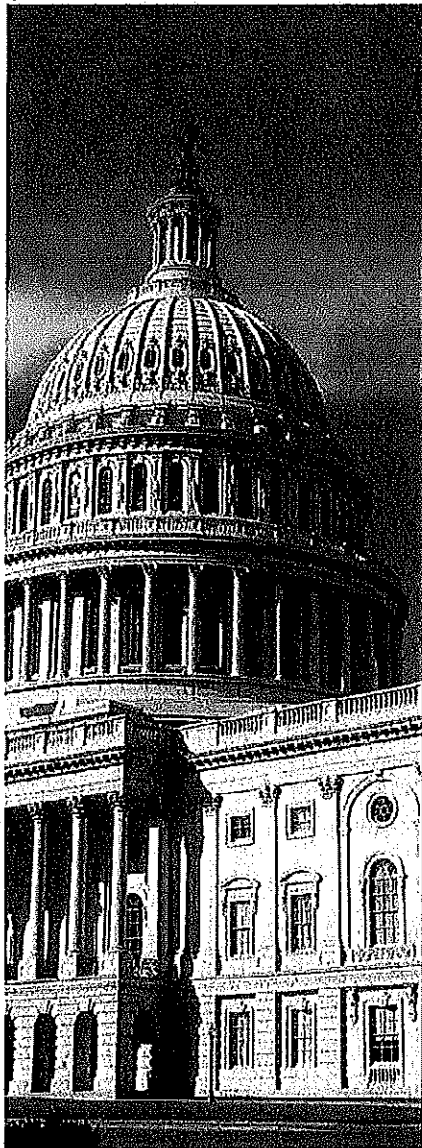


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# INSPECTOR GENERAL

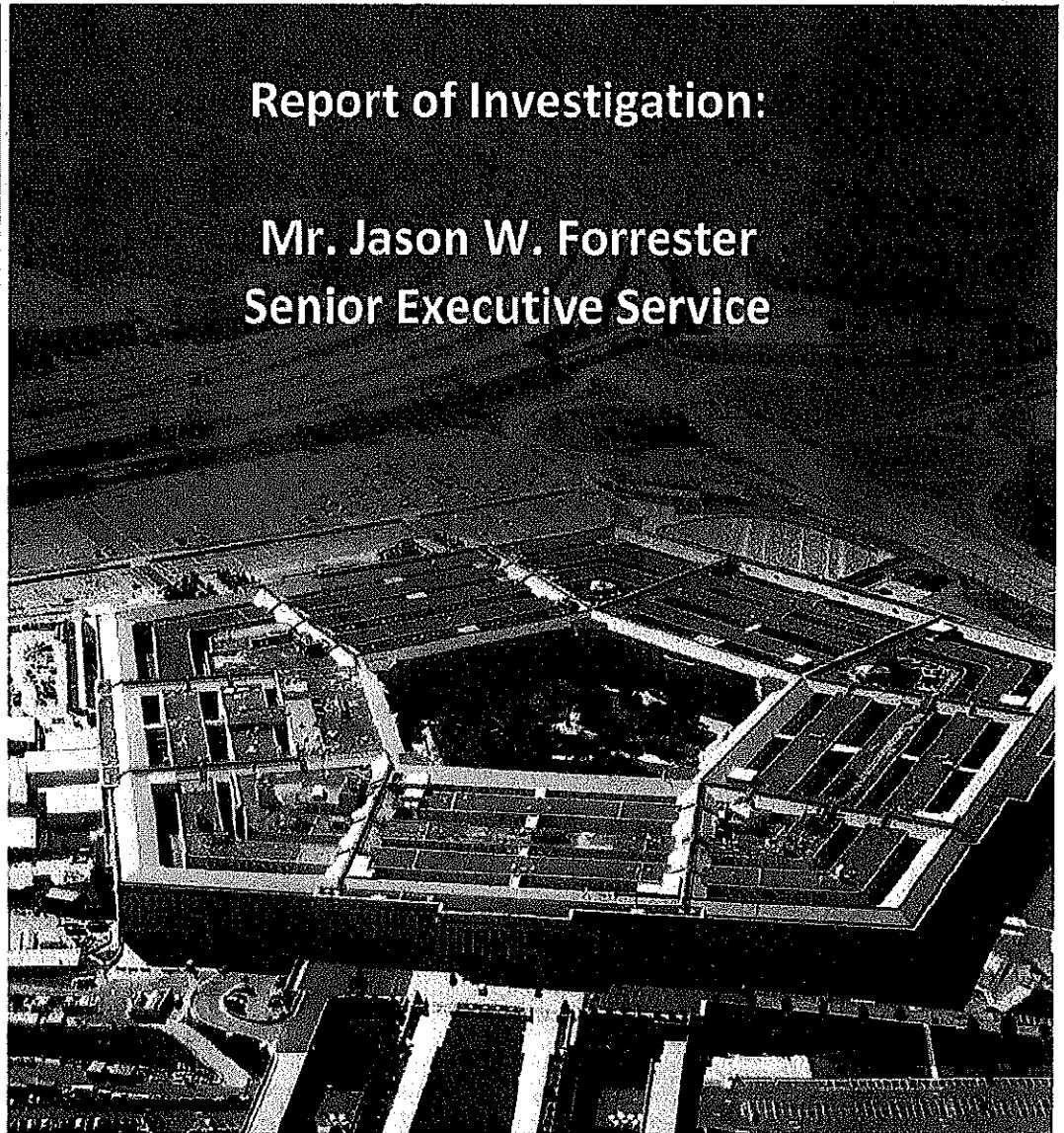
*U.S. Department of Defense*

December 23, 2014



## Report of Investigation:

**Mr. Jason W. Forrester**  
**Senior Executive Service**



INTEGRITY ★ EFFICIENCY ★ ACCOUNTABILITY ★ EXCELLENCE

The document contains information that may be exempt from  
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INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500

DEC 23 2014

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE, PERSONNEL AND  
READINESS

SUBJECT: Report of Investigation Concerning Mr. Jason W. Forrester, Senior Executive  
Service (Case 20140412-024788)

We recently completed our investigation to address allegations that Mr. Forrester, while serving as Deputy Assistant Secretary of Defense (DASD), Reserve Affairs, Manpower and Personnel (M&P), Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), misused subordinates' time and did not properly and accurately account for his time and attendance in violation of DoD 5500.07-R, "Joint Ethics Regulation" (JER); DoD Financial Management Regulation (DoD FMR); and various DoD Instructions (DoDI). We substantiated the allegations.

A copy of our report is attached for your review and appropriate action. In addition, we are providing a second copy of our report, which has been redacted to protect witness confidentiality, and which includes citations showing the sources of the evidence that we considered in rendering our conclusions. That version of the report is found in the attached "fact book," marked "FOR OFFICIAL USE ONLY," which contains redacted copies of relevant testimony and documents cited as evidence, as well as the full text of Mr. Forrester's response to our preliminary results. You may release the redacted report and any of the documents and testimony in the fact book to Mr. Forrester at your discretion. Should you wish to review additional documentation, please submit a written justification to this Office so we may make appropriate arrangements.

We recommended you take appropriate action regarding Mr. Forrester. We also recommended you report the allegation that Mr. Forrester mishandled classified material to the security manager for appropriate investigation; review the procedures for documenting OASD(RA) civilian employee time and attendance; and inform Mr. Forrester that he should compensate his subordinate for the fair market value of one taxi ride to DCA.

We request a response within 60 days of the date of this letter addressing actions, if any, taken with regard to the recommendations. Please contact me or Mrs. Marguerite C. Garrison, Deputy Inspector General for Administrative Investigations, at 703-604-8500, should you have any questions.

Jon T. Rymer

Attachments:  
As stated

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DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22304-1500

DEC 23 2014

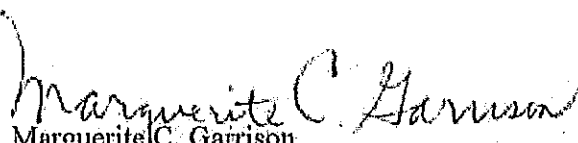
**MEMORANDUM FOR INSPECTOR GENERAL**

**SUBJECT:** Report of Investigation Concerning Mr. Jason W. Forrester, Senior Executive Service (Case 20140412-024788)

We recently completed our investigation to address allegations that Mr. Jason W. Forrester, Senior Executive Service, while serving as Deputy Assistant Secretary of Defense (DASD), Reserve Affairs, Manpower and Personnel (M&P), Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), misused subordinates' time and did not properly and accurately account for his time and attendance in violation of DoD 5500.07-R, "Joint Ethics Regulation" (JER); DoD Financial Management Regulation (DoD FMR); and various DoD Instructions (DoDI).

We substantiated the allegations. In accordance with our established procedure, by letter dated October 15, 2014, we provided Mr. Forrester the opportunity to comment on the results of our investigation. In his response through counsel dated November 21, 2014, he disputed the report's summarized evidence and tentative conclusions and requested that the findings and conclusions "not be sustained." After carefully considering Mr. Forrester's response and reevaluating all the evidence, we stand by our conclusions. The report of investigation is attached.

In addition, we also identified a potential classified spillage incident as well as several administrative issues pertaining to time and attendance for civilian personnel. We recommend the Under Secretary of Defense for Personnel and Readiness consider appropriate corrective action with regard to Mr. Forrester and the other matters identified.

  
Marguerite C. Garrison  
Deputy Inspector General for  
Administrative Investigations

**REPORT OF INVESTIGATION:  
MR. JASON W. FORRESTER**

**I. INTRODUCTION AND SUMMARY**

We initiated this investigation to address allegations that Mr. Jason W. Forrester, Senior Executive Service (SES), Deputy Assistant Secretary of Defense (DASD), Reserve Affairs, Manpower and Personnel (M&P), Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), misused subordinates' time and did not properly and accurately account for his time and attendance.<sup>1</sup> If substantiated, his conduct would violate DoD 5500.07-R, "Joint Ethics Regulation" (JER); DoD Financial Management Regulation (DoD FMR); and various DoD Instructions (DoDI).

We substantiated the allegations.

We conclude Mr. Forrester misused subordinates' time. We found that he solicited and accepted a ride from a subordinate from the Pentagon to the Ronald Reagan Washington National Airport (DCA) prior to departing on leave. We also found that Mr. Forrester tasked a subordinate to drive him to meetings and events outside the Pentagon on two occasions and that the subordinate had no official role in the event. We further found that Mr. Forrester on four occasions tasked subordinates to escort his personal lunch guests during their visits to the Pentagon and that those visits served no official purpose. The JER requires that subordinates' official time is used only for official purposes. We determined Mr. Forrester's direction to his subordinates to use their official time for unofficial purposes driving him to events or escorting his personal guests at the Pentagon violated the JER. We further determined that in soliciting and accepting a ride from a subordinate to DCA without compensation, Mr. Forrester improperly accepted a gift from a lower-paid employee who was also his subordinate.

We also conclude Mr. Forrester did not properly and accurately account for his official time and attendance. We found two instances in which Mr. Forrester submitted timesheets indicating he worked a specific number of work hours, when his office calendar indicated he was en route to and at DCA for personal travel in a leave status or attending a baseball game for large portions of the workday. We also found that Mr. Forrester did not have a written, approved work schedule authorizing flexible work hours. We further found that Mr. Forrester frequently worked from his home and did not have a written, approved telework agreement from his supervisor to work from home.

The DoD FMR requires each employee to attest to the correct number of hours worked. The JER requires employees to put forth an honest effort in the performance of their duties. DoDI 1035.01 requires that DoD employees obtain authorized determination of their telework eligibility, complete telework training, and obtain signed supervisory approval before they work in a telework status from an alternate work site. We determined Mr. Forrester submitted two inaccurate timesheets that did not properly account for his time away from the office for personal

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<sup>1</sup> The incoming complaint contained additional allegations we determined did not warrant investigation. We discuss these in Section III of this report.

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matters and that he routinely performed telework from his home without meeting the requirements to do so.

By letter dated October 15, 2014, we provided Mr. Forrester the opportunity to comment on the results of our investigation. In his response through counsel dated November 21, 2014, Mr. Forrester "strongly and respectfully dispute[d] the Report's summarized evidence and tentative conclusions" and requested the findings and conclusions "not be sustained."<sup>2</sup>

With respect to the allegation of misusing subordinates' official time, specifically accepting a ride from a subordinate to DCA, Mr. Forrester contended that having his subordinate drive him to DCA was not "a major detour" for his subordinate, because the subordinate was "headed in the general direction of DCA on his way home." Mr. Forrester also stated the ride did not constitute accepting a gift from a subordinate because "any expense for the gasoline necessary for diverting from his normal route home" was "*de minimis*." Mr. Forrester added that he "never again made such a request" of his subordinate when he learned such requests "might be inappropriate."

With regard to having his subordinate drive him to meetings and ceremonies outside the Pentagon, Mr. Forrester stated that the events were official business for both the subordinate and him, the subordinate "was carrying out the duties of an administrative assistant," and "accompanying [the senior official] on official business" is "a standard duty for administrative assistants."

Concerning the use of subordinate military personnel to escort his personal lunch guests, Mr. Forrester did not deny that subordinates escorted his guests in the Pentagon. He stated that "criticisms of escort duty by officers who suggested that this task was beneath the stature of military officers" are "irrelevant" to his case, and that "one or two individuals' griping demonstrates either a lack of character or an inadequate understanding of job responsibilities." Mr. Forrester challenged our determination that four lunch meetings were personal events and not official business, and he offered information and rationales that he believes demonstrate the lunches were official in nature.

Mr. Forrester stated that the allegation he did not properly account for his time and attendance "lacks any factual support" and "is without merit." He stated he "had permission to telework and now has a formal telework agreement." Regarding an alleged time and attendance discrepancy on August 8, 2013, Mr. Forrester stated he "continued to work well past the time" he "left the building." With respect to the alleged time and attendance discrepancy for April 4, 2014, when Mr. Forrester attended the opening day of the Washington Nationals' baseball season, he stated that "in his position" he is able to "divide his workday." Mr. Forrester added that as an SES member, he is expected to "work the necessary additional time to advance the mission of his office."

<sup>2</sup> While we have included what we believe is a reasonable synopsis of Mr. Forrester's response, we recognize that any attempt to summarize risks oversimplification and omission. Accordingly, we incorporated comments from the response throughout this report where appropriate and provided a copy of his response to the Management Official together with this report.

After carefully considering Mr. Forrester's response and reevaluating the evidence, we stand by our initial conclusions that Mr. Forrester misused subordinates' time and did not properly and accurately account for his time and attendance.

We recommend the USD(P&R) consider appropriate corrective action regarding Mr. Forrester.

We also identified a potential classified spillage incident as well as several administrative issues pertaining to time and attendance for civilian personnel. We recommend the USD(P&R) address these additional matters.

## **II. BACKGROUND**

On June 3, 2013, Mr. Forrester assumed duties as the DASD for M&P. M&P resides within the Office of the Assistant Secretary of Defense for Reserve Affairs (OASD(RA)).

M&P's mission is to develop policies, programs, and procedures concerning National Guard and Reserve Manpower utilization and requirements; to analyze National Guard and Reserve personnel programs, trends and accession and retention plans; to develop management policies and procedures for Guard and Reserve personnel data systems; and to develop, coordinate, and manage legislation affecting Guard and Reserve manpower, personnel, and compensation.

M&P is comprised of 18 staff members, including civilian employees and military officers. Mr. Forrester is assisted in leading and managing M&P by a principal director (an SES billet, currently unfilled) and two directors. One director is a civilian GS-15 employee. The other director is an active duty colonel.

## **III. SCOPE**

We interviewed Mr. Forrester and nine other witnesses. We reviewed applicable standards. Additionally, we evaluated documents obtained from OASD(RA), the Pentagon Force Protection Agency (PFPA), and witnesses, including office calendars, civilian employee timesheets, Pentagon visitor control records, a selective sample of Pentagon swipe card records, and emails.

During our investigation, we identified two issues, presented in Section V, "Other Matters," that merit consideration by OASD(RA) management officials.

In evaluating the complaint, we determined five allegations did not warrant further investigation, as described below.

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*Failure to obtain pre-clearance review*

The incoming complaint alleged Mr. Forrester did not get a pre-clearance review before delivering two public lectures in April 2014. We obtained confirmation that Mr. Forrester obtained the required pre-clearance reviews. We determined the allegation did not warrant further investigation.

*Hatch Act*

The incoming complaint alleged Mr. Forrester violated the Hatch Act by discussing his career in politics and asking M&P personnel about their political experiences during an October 2013 office "brown bag" lunch. Also, on November 21, 2013, Mr. Forrester forwarded a White House email to his M&P staff that discussed the U.S. Senate's vote to adopt a simple majority vote on Presidential nominations (the so-called "nuclear option"). In both instances, we found no evidence Mr. Forrester attempted to influence his subordinates' participation in a political campaign or in the political process, nor did he advocate for a political party or issue position. Accordingly, we determined that the allegation did not warrant investigation or referral to the Office of Special Counsel.

*Alleged whistleblower reprisal*

The incoming complaint alleged Mr. Forrester reprisal against a whistleblower. On May 19, 2014, the DoD IG Directorate for Whistleblower Reprisal Investigations analyzed the complaint and determined it lacked sufficient credible evidence to open an investigation.

*Mistreatment of subordinates*

The incoming complaint alleged Mr. Forrester mistreated subordinates by "ridicule" and "harassment." No witness corroborated the allegation, and we found no evidence to warrant further investigation.

*Failure to perform duties as senior rater*

The incoming complaint alleged Mr. Forrester failed to perform his duties as a senior rater of military officers. We found no evidence to warrant further investigation.

#### IV. FINDINGS AND ANALYSIS

##### A. Did Mr. Forrester misuse subordinates' official time?

###### Standards

**DoD 5500.07-R, Joint Ethics Regulation, August 30, 1993, including changes 1-7 (November 17, 2011)**

The JER provides a single source of standards of ethical conduct and ethics guidance for DoD employees. Chapter 2 of the JER, "Standards of Ethical Conduct," incorporates Title 5, Code of Federal Regulations (CFR), Part 2635, "Standards of Ethical Conduct for Employees of the Executive Branch," in its entirety.

Subpart A, "General Provisions," Section 2635.101, "Basic obligation of public service," states in paragraph (b)(5), employees shall put forth honest effort in the performance of their duties.

Subpart B, "Gifts From Outside Sources," Section 2635.201, "Overview," prohibits an employee from soliciting or accepting any gift from a prohibited source or given because of the employee's official position unless an exception exists.

Subpart C, "Gifts Between Employees," Section 2635.302, "General standards," states:

An employee shall not, directly or indirectly, accept a gift from a lower-paid employee, unless the donor and recipient have a personal relationship and are not in an official superior-subordinate relationship.

Subpart G, "Misuse of Position," Section 2635.705, "Use of official time," states:

(b) *Use of a subordinate's time.* An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.

**DoDI 4500.36, "Subject: Acquisition, Management, and Use of Non-Tactical Vehicles (NTVs)," December 11, 2012 (Incorporating Change 1, October 25, 2013)**

NTVs shall be pooled to ensure effective utilization, and may not be assigned exclusively to one official or employee, except when the Head of the DoD Component determines that it is essential to mission accomplishment and results in the most economical use of manpower and equipment.

Further, within the National Capital Region, there shall be no individually assigned NTVs with drivers, except for the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the Military Departments, the Chairman and Vice Chairman of the Joint Chiefs of

Staff, the Under Secretaries of Defense, the Chiefs of Staff of the Army and Air Force, the Chief of Naval Operations, the Commandant of the Marine Corps, and the Chief of the National Guard Bureau.

### Facts

The incoming complaint alleged Mr. Forrester "frequently tasks subordinates to perform personal services." The complaint also alleged that Mr. Forrester tasked a subordinate to drive him to the airport and that he tasks subordinates to escort his personal guests during their visits to the Pentagon.

### *Ride to DCA*

Both Mr. Forrester and (b)(6), (b)(7)(C), testified that (b)(6), (b)(7)(C) drove Mr. Forrester to DCA on one occasion.<sup>3</sup> Neither Mr. Forrester nor (b)(6), (b)(7)(C) could recall the precise date.<sup>4</sup> Mr. Forrester testified he asked (b)(6), (b)(7)(C) "if it would be okay" to take him to the airport and (b)(6), (b)(7)(C) agreed. Mr. Forrester stated that he had "been working through the day" and "had some personal travel coming up."

(b)(6), (b)(7)(C) testified they left the Pentagon between 2:00 and 3:00 p.m. and drove to DCA in (b)(6), (b)(7)(C) personal vehicle. (b)(6), (b)(7)(C) stated that his regular workday ends at 4:00 p.m. and that he does not normally drive past DCA on his way home. He also stated that after he dropped Mr. Forrester off at DCA, Mr. Forrester released him for the remainder of the workday and that he drove home after being released.

Mr. Forrester stated that he did not compensate (b)(6), (b)(7)(C) for costs associated with the ride to DCA. The approximate taxi cab fare from the Pentagon to DCA is \$9.00 plus a \$3.00 airport fee, according to the Metropolitan Washington Airports Authority website<sup>5</sup>.

Witnesses testified that on or about October 25, 2013, Mr. Forrester again asked (b)(6), (b)(7)(C) to drive him to DCA from the Pentagon prior to departing on leave. (b)(6), (b)(7)(C) informed (b)(6), (b)(7)(C) about Mr. Forrester's request. (b)(6), (b)(7)(C) told (b)(6), (b)(7)(C) he did not think he could drive Mr. Forrester to the airport "on government time" and suggested (b)(6), (b)(7)(C) consult a DoD ethics counselor. (b)(6), (b)(7)(C) emailed (b)(6), (b)(7)(C)

<sup>3</sup> In a memo to the Army National Guard Bureau (NGB) dated November 29, 2012, OASD(RA) requested a special duty detail to (b)(6), (b)(7)(C) M&P. (b)(6), (b)(7)(C) received the detail and reported to M&P on (b)(6), (b)(7)(C). The NGB orders included the provision that (b)(6), (b)(7)(C) could receive "administrative duties as assigned." At the time of this investigation (b)(6), (b)(7)(C) divided his workday between his NGB-assigned (b)(6), (b)(7)(C) detail and serving as Mr. Forrester's administrative assistant. At all times relevant to this investigation (b)(6), (b)(7)(C) work station was located in the DASD office suite.

<sup>4</sup> The complainant alleged the event occurred in fall 2013. (b)(6), (b)(7)(C) testified he drove Mr. Forrester to DCA one time between March and November 2013. Mr. Forrester became the DASD in June 2013. Mr. Forrester testified that the drive to DCA happened in the latter part of 2013.

<sup>5</sup> <http://www.metwashairports.com>.

the ethics counselor's contact information. (b)(6), (b)(7)(C) testified he consulted an ethics counselor and reported his concerns to Ms. Elizabeth Wilson, SES, who was then the M&P Principal Director. Ms. Wilson later told (b)(6), (b)(7)(C) to "stand down" from driving Mr. Forrester to the airport.

Mr. Forrester testified that Ms. Wilson told him it would be better for (b)(6), (b)(7)(C) to take him to the airport rather than (b)(6), (b)(7)(C) and that she offered to drive him to DCA. Mr. Forrester stated he found another means of transportation to the airport that day and thereafter "handled [his] own transportation to the airport."

#### *Rides to meetings and ceremonies*

Mr. Forrester and (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) drove Mr. Forrester to two meetings and two ceremonies using Mr. Forrester's personal vehicle. They stated it was easier to use his car than to request a government vehicle through the motor pool. The first event occurred on August 19, 2013, when (b)(6), (b)(7)(C) drove Mr. Forrester to Arlington Hall for a meeting known as the Deployment Readiness Center Update Brief (DRC Brief) and to meet senior officials. Arlington Hall is the headquarters for the U.S. Army National Guard Bureau (NGB) and is approximately a 10-minute drive from the Pentagon.

(b)(6), (b)(7)(C) testified that he previously worked at the NGB as (b)(6), (b)(7)(C), and since it was Mr. Forrester's first visit to Arlington Hall, (b)(6), (b)(7)(C) oriented Mr. Forrester to the National Guard personnel and the meeting rooms. At the conclusion of the meetings, (b)(6), (b)(7)(C) drove Mr. Forrester back to the Pentagon.

On August 21, 2013, Mr. Forrester asked (b)(6), (b)(7)(C) to drive him to Arlington Hall to attend a farewell ceremony for a Canadian Army liaison officer. (b)(6), (b)(7)(C) drove Mr. Forrester to the ceremony in Mr. Forrester's personal vehicle, and Mr. Forrester read paperwork in the car during the ride to Arlington Hall. Although Mr. Forrester was invited to attend, he did not have an official role in the ceremony. (b)(6), (b)(7)(C) drove them back to the Pentagon after the event. There is no evidence that Mr. Forrester invited any other M&P staff members to attend the event.

On February 3, 2014, (b)(6), (b)(7)(C) again drove Mr. Forrester to Arlington Hall to attend the DRC Brief and then back to the Pentagon. During the DRC Brief, Mr. Forrester sat with the senior leaders near the front of the room, while (b)(6), (b)(7)(C) sat in the back of the room. (b)(6), (b)(7)(C) did not assist Mr. Forrester during the DRC Brief, and during the visit, he did not attend two other small meetings that Mr. Forrester had with senior NGB leaders.

Mr. Forrester stated that (b)(6), (b)(7)(C)'s role for the DRC Brief was "helping me get there," arranging the parking, "facilitate[ing] the initial introduction and making me aware of this brief."

On April 24, 2014, (b)(6), (b)(7)(C) drove Mr. Forrester to the U.S. Coast Guard headquarters to attend a retirement ceremony for (b)(6), (b)(7)(C). Mr. Forrester, (b)(6), (b)(7)(C), and other M&P staff members were invited to the event, but none had an official role in the

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ceremony. Mr. Forrester and (b)(6), (b)(7)(C) testified that after the ceremony, other M&P members returned to the Pentagon in Mr. Forrester's car. Mr. Forrester stated he was "pretty sure" he drove back to the Pentagon. (b)(6), (b)(7)(C) could not recall driving Mr. Forrester's car on the return trip to the Pentagon.

#### *Escorting Mr. Forrester's guests*

Witnesses testified that Mr. Forrester frequently invites lunch guests who require an escort throughout the duration of their visits to the Pentagon. We examined Mr. Forrester's office calendars for listed lunch guests from June 3, 2013 through July 11, 2014. The calendars listed guests for 75 lunch dates at a Pentagon executive dining facility.<sup>6</sup> We identified 59 listed lunch guests who either were Pentagon employees or had Pentagon access and did not require an escort. Escort information we obtained from Mr. Forrester, other M&P personnel, and PFPA showed that M&P staff members escorted Mr. Forrester's invited lunch guests during their visits to the Pentagon on 14 occasions. Records showed that Mr. Forrester escorted his guests personally on two occasions.

#### *Process of escorting personal guests into and out of the Pentagon*

The M&P offices are located in the E-ring on the opposite side of the Pentagon from the visitor control center (VCC) and the main entrance to the Pentagon. PFPA regulations require all visitors who require an escort to process through security screening prior to entering the building. PFPA instructions also require the escort to stay with guests "at all times."<sup>7</sup>

(b)(6), (b)(7)(C) testified that he and Mr. Forrester had discussions about outside personal lunch guests visiting the Pentagon. He added that Mr. Forrester asked him "to put it on the calendar," "to escort the person" to Mr. Forrester's office, "and then sometimes back out." (b)(6), (b)(7)(C) testified that he performed the bulk of the escort duties for Mr. Forrester's personal guests, including contacting the guests, arranging rendezvous times, waiting for them at the VCC, and escorting them to Mr. Forrester's office or to the lunch location within the Pentagon. (b)(6), (b)(7)(C) also coordinated with the various Pentagon executive dining facilities to make lunch reservations. If a guest wanted to drive to the Pentagon instead of taking public transportation, (b)(6), (b)(7)(C) arranged for parking. (b)(6), (b)(7)(C) testified that when (b)(6), (b)(7)(C) was unavailable for escort duty, the tasking fell to other M&P staff members, "typically" by an email "notification from Mr. Forrester" or from the acting principal director. Mr. Forrester testified (b)(6), (b)(7)(C) coordinated the escort duty through M&P's military or civilian director when he was not available.

One witness testified that Mr. Forrester walked into the M&P office in May 2014 and specifically requested someone to escort a personal visitor. Another witness testified, "there's a lot of communication" involved in escorting a guest. The witness added that the M&P office

<sup>6</sup> Some lunch meetings involved more than one guest.

<sup>7</sup> "Access to Pentagon" from PFPA homepage, <http://www.pfpa.mil/access.html>.

spaces are located "on the other side of the building, so it takes a few minutes to get to the [VCC]."

One witness testified that typically he "had a minimum of two contacts" with a guest and "sometimes more." The witness stated that he provided initial instructions, such as identification requirements, modes of transportation, and how much time to allot, "and then I would try to follow up with a phone call or email." Another witness testified that he normally "will allow a half hour" for a guest to show up and that he has "waited up to 20, 25 minutes on a number of occasions." The witness stated he has "gotten a little more efficient" at coordinating guest escort procedures and added that he now asks guests for a physical description or for their Facebook or LinkedIn profile picture "rather than holding a sign" with the guest's name.

### *Specific lunch events*

We identified three specific lunch meetings as representative of Mr. Forrester's taskings to subordinates to support personal guest visits. In each instance, Mr. Forrester's guests required a Pentagon escort. Mr. Forrester invited his former college (b)(6), (b)(7)(C) (now his alma mater's "major gift officer") to have lunch with him at the Pentagon on November 7, 2013.

(b)(6), (b)(7)(C) was unavailable to escort the guest, and the escort duty fell to another M&P (b)(6), (b)(7)(C). Mr. Forrester emailed his guest's contact information to the escort (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) testified that he sent emails and made a phone call to the guest to coordinate his visit to the Pentagon. He added that on the day of the event, the guest was late in arriving. (b)(6), (b)(7)(C) testified that he spent approximately 1 hour and 45 minutes of his workday escorting the guest into and out of the Pentagon. (b)(6), (b)(7)(C) testified that the guest self-identified as Mr. Forrester's former (b)(6), (b)(7)(C) and said that in his current position he solicits monetary gifts for the university. The escort (b)(6), (b)(7)(C) added that after the lunch event, Mr. Forrester told him that his guest "goes out and looks for donations."

In another example of escort duty tasking, on October 31, 2013, Mr. Forrester had lunch at the Pentagon with a former colleague who now works at a non-Governmental organization (NGO) focusing on Asia-Pacific issues. Mr. Forrester emailed the guest on August 22, 2013, inviting him to lunch and directing (b)(6), (b)(7)(C) to schedule a date. (b)(6), (b)(7)(C) and the guest exchanged several emails between September 11 and October 21, 2013, and finally scheduled the lunch for 1:00 p.m. on October 31, 2013. PFPA records showed (b)(6), (b)(7)(C) escorted Mr. Forrester's guest into the Pentagon on that date. Mr. Forrester testified that he is not necessarily a close friend of the guest but that they are on friendly terms. Mr. Forrester's email exchanges with the guest were informal and on a first-name basis. When the lunch date was confirmed, Mr. Forrester wrote in an email to his guest, "Looking forward to it, my man." Mr. Forrester testified that he and his guest did not discuss how the NGO could directly benefit M&P.

In a third instance, Mr. Forrester invited two guests to lunch at the Pentagon on November 13, 2013. The guests required a Pentagon escort. In an email supplement to our interview with Mr. Forrester, he wrote that the purpose of the lunch meeting was to "discuss various professional matters." He also indicated he worked previously with the guests at a public

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interest foundation from 2001-2003. Mr. Forrester stated that he did not recall who escorted his guests. In an email supplement to our interview with (b)(6), (b)(7)(C), he wrote that he "most likely" escorted them during the visit.

#### *Other events requiring Pentagon escorts*

We examined two other events in which all available M&P personnel were required to escort multiple guests Mr. Forrester invited to the Pentagon. The first event occurred in June 2013, when Mr. Forrester was sworn in as the DASD. M&P personnel escorted approximately 40 visitors into and out of the Pentagon. No witness complained about the escort duty as each viewed the swearing-in ceremony as an official event.

The second event occurred on October 30, 2013, in which all available M&P personnel escorted approximately 30 college students and a college professor from the University of California system who were studying in Washington, DC, for the fall semester.<sup>8</sup> Mr. Forrester testified he knew the professor. Mr. Forrester annotated his office calendar "Q&A with (b)(6), (b)(7)(C) students." Mr. Forrester briefed the students for 45 minutes to an hour on the DoD Reserve Components. Mr. Forrester did not utilize any M&P personnel for the brief itself.

#### *M&P staff members' testimony*

Several witnesses complained about escorting Mr. Forrester's lunch guests and the college students. One witness testified that he reviewed the Code of Federal Regulations and told a colleague, "If this [escorting a guest] is unofficial business, I don't think this is the right thing to do." Another witness testified that after he heard about guests who "weren't work related," he told Ms. Elizabeth Wilson, then M&P's Principal Director, that "this is wrong" and "shouldn't be happening." He stated he "could understand if Mr. Forrester was busy," but in one instance he brought guests to Mr. Forrester's office only to find him "reading the newspaper." Another witness stated that escorting one particular guest "just smacked of personal servitude." The witness recalled holding up a sign while waiting for a guest who was late and thinking to himself, "You know, this is ridiculous."

Some M&P members viewed escort duty as demeaning. One witness who had not been assigned to escort lunch guests but had heard discussion about it in the office testified, "Most people don't like it. They feel like it's not part of their official duty and that Mr. Forrester should go get his guests." Another witness stated that escort duty made him feel "like a private" and that he refused to hold up a name sign for a visitor "like an airport chauffeur." Another witness heard M&P personnel discuss the escort issue "a couple times" and testified that "escorting non-business or non-official folks for someone is like personal service."

<sup>8</sup> Pentagon personnel are limited in the total number of guests they may escort at any one time under Pentagon security standards.

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One witness testified he was uncomfortable having Mr. Forrester's guests linked to his Pentagon security badge, "because once I turned that visitor over to Mr. Forrester I didn't know where they would go and I didn't know how they would get back to the [VCC]."

Several witnesses perceived that Mr. Forrester treated civilian staff qualitatively differently than he treated M&P military staff. An M&P respondent to a climate survey conducted in April 2014 wrote that Mr. Forrester "has required military members to escort his lunch guests around the building" but has "never done this to his civilian employees."

#### *Senior leadership comments*

The acting M&P Principal Director testified that "the issue of escorting personal versus business guests had come up" in discussion with Mr. Forrester. He added that he told Mr. Forrester, "You've got to separate the two." He stated that the escort of the former college (b) (6), (b) (7)(C) "was one of the two or three [instances]" that he considered "personal versus the 90 percent professional." Ms. Wilson, the former M&P Principal Director, testified that the number of Mr. Forrester's personal guests seemed "excessive." She also stated that she could not link his outside visitors to a DoD outreach program that would benefit M&P.

At Mr. Forrester's suggestion, we interviewed his immediate supervisor, Mr. Richard Wightman, the Assistant Secretary of Defense for Reserve Affairs (ASD(RA)). In response to a general question about the use of officer personnel to escort personal guests, Mr. Wightman testified, "It's inappropriate to use your staff to escort somebody who is just a friend, who is just coming in for lunch, and it's not an official kind of thing."

Mr. Wightman testified that Mr. Forrester "has an incredible network not just in the building [the Pentagon], but outside in the political world." We asked Mr. Wightman to illustrate how Mr. Forrester's network has supported M&P's mission accomplishment. He stated:

I'm not sure that there's any example I can give you for the M&P side of that. I think the network is more on the strategic level and about what's going on in different parts of the building, or in terms of the White House, and those kinds of things. . . . But in terms of his own particular job as the DASD for M&P, boy, I'd have to say I can't imagine there's anything.

Mr. Wightman added that Mr. Forrester provides him verbal input about his network at most on a monthly basis, generally "after a staff meeting."

#### *Mr. Forrester's testimony*

Mr. Forrester testified that (b) (6), (b) (7)(C) drove him from the Pentagon to DCA on one occasion. He stated he asked (b) (6), (b) (7)(C) for a ride to DCA and that (b) (6), (b) (7)(C) agreed to take him. He also testified that he has asked his personnel to make sure he stays within applicable rules

governing the requests he makes of subordinates. He stated that after Ms. Wilson, the former Principal Director, identified a concern with Mr. Forrester asking subordinates to drive him to the airport, he never again asked anyone in M&P for a ride to the airport.

Mr. Forrester also confirmed that on four occasions (b)(6), (b)(7)(C) drove him to meetings and events in Mr. Forrester's personal vehicle. He stated that the first trip to Arlington Hall served to orient him to the facility. Mr. Forrester added he found it "helpful" for (b)(6), (b)(7)(C) to drive so he could review material during the transits.

Mr. Forrester testified about the use of M&P personnel to escort his lunch guests. He stated that as "a representative" of the Secretary of Defense, the USD(P&R), and the ASD(RA), and in his "role as a senior official," he "interact[s] with a variety of officials." He acknowledged having guests to the Pentagon "on a regular basis." Mr. Forrester stated, "It is somewhat unpredictable getting people into the Pentagon given the lines that can crop up at the visitor's entrance." He added that (b)(6), (b)(7)(C) "has been the primary person who has escorted individuals [into the Pentagon]" and that "it's very helpful for (b)(6), (b)(7)(C) to do and perform that service for me – as well as others." Mr. Forrester testified that for "the times that others have done it [escorted guests] rather than (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) handed off the task to another team member."

We asked Mr. Forrester to describe the purpose of his November 7, 2013, lunch meeting with his former colleague (b)(6), (b)(7)(C). Mr. Forrester responded that he used the lunch as an opportunity to inform (b)(6), (b)(7)(C) "about the work of the Department of Defense." He added that they discussed possibly "spreading the word of the Department of Defense" the "next time" (b)(6), (b)(7)(C) comes to Washington." He stated, "We also caught up on some – some matters of mutual personal interest and experience and history." Mr. Forrester testified that the purpose of the gift officer's trip to Washington was not solely to meet with him. He stated, "I presume he was here talking with donors and other – other potential donors."

We asked Mr. Forrester to describe his October 31, 2013, lunch meeting with his former colleague now employed by the NGO and to identify any benefit the organization could provide to M&P. Mr. Forrester testified that he "wasn't asking specifically" what his former colleague's employer could do for M&P. He stated:

I was trying to get more of an understanding of the inner workings between State Department and the Defense Department, as well as his – his workings and their workings with the White House Staff, as part of sort of my ongoing education process of how – how the Federal Government works.

Mr. Forrester stated he used the lunch as "one way of tapping into his [guest's] knowledge. So we didn't talk about how his company could provide a service to [M&P]."

Mr. Forrester stated his October 30, 2013, briefing to the University of California students and their professor was "part of my spreading the word of what we do in the Manpower

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and Personnel deputate and what the Department of Defense does in general." Mr. Forrester acknowledged not using any of his senior M&P military or civilian personnel during the briefing, but he noted the students "got to meet" and "have at least a hallway chat with these gentlemen" while being escorted to the meeting.

#### *Post-interview lunch escort*

On July 28, 2014, prior to having lunch with an invited guest in the Pentagon, Mr. Forrester asked an officer in M&P to come to the Army Mess at 1:15 p.m. to escort his guest out of the Pentagon. The guest was a recently retired military officer whom Mr. Forrester formerly worked with prior to becoming the DASD. The guest was not a DoD employee. The guest told the escort officer he had recently re-connected with Mr. Forrester on Facebook and that Mr. Forrester had invited him to lunch.

#### Discussion

We conclude Mr. Forrester misused subordinates' time. We found Mr. Forrester solicited and accepted a ride from a subordinate to DCA during a workday. Mr. Forrester did not compensate the subordinate for the fair market value of driving him to the airport. We also found that a subordinate drove Mr. Forrester, in Mr. Forrester's vehicle, to two meetings and two ceremonies held outside the Pentagon. We further found that Mr. Forrester had access to a government vehicle to drive himself to official meetings outside the Pentagon.

The JER prohibits an employee from encouraging, directing, coercing, or requesting "a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation." The JER also prohibits an employee from soliciting or accepting a gift from a lower-paid employee, unless the donor and recipient have a personal relationship and are not in an official superior-subordinate relationship. Per DoDI 4500.36, government vehicles are available but are pooled to ensure effective utilization. Also per DoDI 4500.36, Mr. Forrester is not among the officials who are assigned government vehicles and drivers.

We determined that when Mr. Forrester solicited and accepted a ride from a subordinate to DCA, he misused the subordinate's official time and improperly accepted a gift from a lower-paid employee who was also his subordinate.

By letter dated October 15, 2014, we provided Mr. Forrester the opportunity to comment on the results of our investigation. In his response through counsel dated November 21, 2014, Mr. Forrester stated that it was not "a major detour" for his subordinate to drive him to DCA because the subordinate was "headed in the general direction of DCA on his way home." Mr. Forrester also stated the ride did not constitute accepting a gift from a subordinate because "any expense for the gasoline necessary for diverting from his normal route home" was "*de minimis*." Mr. Forrester added that he "never again made such a request" of his subordinate when he learned such requests "might be inappropriate."

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We considered both points made by Mr. Forrester prior to making our initial determination. We stand by our conclusions. The JER requires that a subordinate's official time be used for official purposes. By authorizing his subordinate to leave work prior to the end of the normal workday to drive him to DCA, Mr. Forrester misused his subordinate's official time. Additionally, we are not persuaded by Mr. Forrester's argument that any gas expenses incurred by the subordinate were "de minimis." The JER provides no authorization for a superior to solicit and accept such a gift from a subordinate under these circumstances regardless of cost.

We also determined that when (b)(6), (b)(7)(C) drove Mr. Forrester in Mr. Forrester's personal vehicle on August 19, 2013, and April 24, 2014, the subordinate fulfilled an official purpose. For the August 19, 2013, DRC Briefing at Arlington Hall, (b)(6), (b)(7)(C) ensured Mr. Forrester knew where to go, what to expect, and whom to meet in connection with Mr. Forrester's official role in attending the event. We further determined that when (b)(6), (b)(7)(C) drove Mr. Forrester to the April 24, 2014, retirement ceremony for an M&P staff member, he did so to facilitate their attendance at an official event to which the M&P office was invited. We conclude that on those two occasions Mr. Forrester's use of his subordinate's official time was appropriate in that it served an official purpose.

However, we also determined that when (b)(6), (b)(7)(C) drove Mr. Forrester in Mr. Forrester's personal vehicle to Arlington Hall on August 21, 2013, for the farewell ceremony, and to Arlington Hall on February 3, 2014, to attend a second DRC Brief, (b)(6), (b)(7)(C) had not been invited to either event and that Mr. Forrester's primary purpose in inviting (b)(6), (b)(7)(C) was for (b)(6), (b)(7)(C) to drive Mr. Forrester. We further determined that Mr. Forrester was not trying to maximize M&P staff attendance at the August 21, 2013, farewell ceremony when he asked his subordinate to drive him to that event. Accordingly, we conclude that on those two occasions Mr. Forrester misused his subordinate's official time.

In Mr. Forrester's response of November 21, 2014, he contended that the meetings and ceremonies outside the Pentagon constituted official business for both himself and his subordinate, that the subordinate "was carrying out the duties of an (b)(6), (b)(7)(C)," and that "accompanying [the senior official] on official business" is "a standard duty for (b)(6), (b)(7)(C)." We considered the argument that all of the events in question were official business prior to reaching our initial findings and conclusions, and we determined that as to (b)(6), (b)(7)(C), only two of the four events were for official purposes for him. We stand by our conclusion that two of the four events were not for official purposes for (b)(6), (b)(7)(C). The evidence established that (b)(6), (b)(7)(C) from the NGB assigned him to be (b)(6), (b)(7)(C), not the (b)(6), (b)(7)(C) for the DASD (M&P). Notwithstanding the fact Mr. Forrester assigned (b)(6), (b)(7)(C) the additional duty of serving as his administrative assistant, Mr. Forrester is still required to use his subordinate's official time for official purposes. He did not do so for two of the four events.

We found that of the 14 instances Mr. Forrester used subordinates to escort his invited lunch guests during their visits to the Pentagon, on four occasions the guests' visits served no official purpose and were thus personal visits. We also found that M&P personnel felt escorting Mr. Forrester's personal guests was demeaning. We further found that Mr. Forrester's

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subordinates expended official time coordinating meeting times with his personal guests, walking to the VCC, waiting for the guests to arrive, waiting for the guests to receive access credentials, and escorting them inside the Pentagon.

The JER prohibits an employee from directing or requesting "a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation."

We determined that Mr. Forrester's use of M&P personnel to escort multiple visitors for his swearing-in ceremony in June 2013 and for his presentation to college students on October 30, 2013, were for official purposes. However, we also determined Mr. Forrester's use of M&P personnel to escort his personal lunch guests for four events did not serve an official purpose.

Mr. Forrester argued in his November 21, 2014, response that the four lunch events we identified as personal meetings were in fact "to conduct business." After carefully considering his contention and reviewing the evidence, we disagree and stand by our original conclusions.

We determined Mr. Forrester directed or requested his subordinates to drive him to the airport, to drive him on two occasions to meetings or events outside the Pentagon, and to escort his personal guests during their visits to the Pentagon, none of which was required in the performance of the subordinates' official duties. Accordingly, we conclude Mr. Forrester's misuse of his subordinates' official time violated the JER.

**B. Did Mr. Forrester properly and accurately account for his official time and attendance?**

**Standards**

**DoD FMR, Volume 8, "Civilian Pay Policy and Procedures," dated June 2013**

Volume 8, Chapter 2, "Time and Attendance," provides that timekeepers shall ensure that employees attest to the accuracy of the current pay period's time and attendance. Such attestation requires the employee's written or electronic signature or initials or automated or electronic record affirming the correctness of time and attendance data.

Paragraph 020206, "Work Schedules," states the basic work requirement is defined as the number of hours, excluding overtime hours, an employee is required to work or to account for by charging leave. Generally, a full-time employee's basic work requirement is 80 hours in a pay period. Additionally, an approved work schedule for each employee will be maintained showing the planned arrival and departure for each day.

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**DoD 5500.07-R, Joint Ethics Regulation, August 30, 1993, including changes 1-7  
(November 17, 2011)**

Subpart G, "Misuse of Position," Section 2635.705, "Use of official time," states:

*Use of an employee's own time.* Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under 5 U.S.C. 6301(2), has an obligation to expend an honest effort and a reasonable proportion of his time in the performance of official duties.

**Title 5, Code of Federal Regulations (CFR)**

Under 5 CFR Section 550.101(b)(18), SES members are excluded from premium pay, including overtime pay. Per section 534.408, since SES members are not eligible for overtime pay, they are also ineligible for compensatory time in lieu of overtime pay for work performed. Section 610.408 states that SES employees may not accumulate credit hours under an alternative work schedule.

**Director of Administration and Management Administrative Instruction Number 28  
(AI 28), "Subject: Overtime, Prescribed Hours of Duty, and Alternative Work Schedules  
for Civilian Employees," January 5, 2011**

Provides for alternative work schedules (AWS), flexible work schedules (FWS), and compressed work schedules (CWS).

AI 28 applies to OSD and implements policies and procedures regarding hours of duty and overtime pay administration for civilian employees. AI 28 does not apply to SES members regarding the accumulation of credit hours. AI 28 provides definitions of key terms in its glossary, including:

- Basic workweek. The 40-hour workweek for full-time employees that includes the officially prescribed days and hours during which full-time employees are entitled to basic pay. Unless otherwise designated, the basic workweek for full-time employees consists of 5 8-hour days, Monday through Friday.
- Basic workweek requirement. The number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise (that is, an 8-hour day, a 40-hour workweek, or an 80-hour pay period).
- Flexible hours. The times during the workday, workweek, or pay period within which an employee covered by an FWS may choose to vary his or her times of arrival to and departure from the work site consistent with the duties and requirements of the position.

- Hours of work. All time spent by an employee performing an activity for the benefit of the agency and under the control or direction of the agency.
- Official work site. The location of an employee's position of record where the employee regularly performs his or her duties, or if the employee's work involves regular travel or the employee's work location varies on a daily basis, where his or her work activities are based, as determined by the Department of Defense.
- Suffered or permitted work. Any work performed by an employee for the benefit of an agency, whether requested or not, provided the employee's supervisor knows or has reason to believe that the work is being performed and has an opportunity to prevent the work from being performed.
- Tour of duty. The hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.

Pursuant to AI 28, organizations establish an administrative workweek or official hours of duty, changes to which are approved or disapproved by Washington Headquarters Services. AI 28 authorizes organizations to establish an AWS program that allow for flexible and compressed schedules. It states an organization should designate hours "during which an employee on a flexible schedule may elect his or her time of arrival to and departure from work." AI 28 authorizes three types of FWS: Flexitour, Gliding, and Maxiflex. A Gliding schedule is "an FWS in which a full-time employee has a basic work requirement of 8 hours in each day and 40 hours in each week, may elect an arrival and departure time each day, and may change starting and stopping times daily within the established flexible hours."

**DoDI 1400.25, "DoD Civilian Personnel Management," December 3, 1996  
(Administratively reissued April 13, 2009)**

Under Chapter 1406, "Attendance and Leave," the "basic workweek shall not exceed 40 hours, exclusive of meal times." Also, "regular meal or lunch periods shall usually be established at no less than 30 minutes or in excess of one hour, and shall not be considered as time worked." Further, "no employee shall be required to work more than six consecutive hours without a meal period."

**DoDI 1035.01, "Subject: Telework Policy," April 4, 2012**

DoD policy actively promotes and implements telework "throughout the DoD in support of the DoD commitment to workforce efficiency, emergency preparedness, and quality of life." Telework requirements include determination of eligibility; notification to employee; completion of training by supervisor and employee; and supervisor's approval of employee's completed DD Form 2946.

### Facts

The incoming complaint alleged Mr. Forrester "frequently works less than a basic workweek of 40 hours and elects not to take accrued leave or go into a leave without pay status." The complaint further alleged Mr. Forrester arrives late to work but departs at 5:00 p.m.

#### *M&P time and attendance process*

M&P Federal civilian personnel use the DoD Automated Time Attendance and Production System (ATAAPS) to document their time and attendance. While many DoD personnel submit their time and attendance into individually assigned ATAAPS accounts, the M&P office submits a consolidated paper timesheet per pay period to the OASD(RA) administrative office for the M&P civilian staff members, and an OASD(RA) employee inputs the data for each civilian employee.<sup>9</sup> The consolidated timesheet includes Mr. Forrester's time and attendance data. Mr. Forrester submits his time and attendance information to the M&P principal director (Mr. Forrester's subordinate) who signs the timesheet attesting to the accuracy of the data. Witnesses testified that this is an established practice for all OASD(RA) offices.

#### *OASD(RA) policies for civilian employees*

We requested additional documentation from OASD(RA). The Chief of Staff for OASD(RA) confirmed that Mr. Forrester does not have either an approved, written work schedule (tour of duty) or an approved, written telework agreement.<sup>10</sup> At the time of our information request to OASD(RA), three of six SES officials in OASD(RA) had approved telework agreements.

Mr. Wightman, the ASD(RA), testified that he has not established core hours for OASD(RA) staff, but expects every civilian employee (including SES members) to work 80 hours per pay period. He testified that he treats his employees as adults and does not micro-manage his personnel. He stated that prior to this investigation he routinely gave verbal approval for his SES employees to take leave. He added that OASD(RA) recently implemented the use of the Standard Form 71 to process and document leave requests from civilian personnel.

#### *Mr. Forrester's documented use of leave*

We reviewed Mr. Forrester's office calendars and timesheets from June 2013 through May 2014. From June 3 through December 28, 2013, Mr. Forrester used (and was charged for) 104.5 hours of (b) (6), (b) (7)(C) leave, 56 hours of leave (b) (6), (b) (7)(C), and 14 hours of (b) (6), (b) (7)(C) leave. Additionally, Mr. Forrester was furloughed (a non-pay status) for 6 workdays between the pay period ending July 13, 2013, and the pay period ending August 24, 2013.

<sup>9</sup> Military staff members are not required to submit timesheets for their pay periods.

<sup>10</sup> The U.S. Office of Personnel Management's "Guide to the Senior Executive Service," dated April 2014, states: "As a general rule, it is necessary to establish a 40-hour basic administrative workweek for SES members on a full-time work schedule in the same way agencies must for other employees who are subject to the leave system."

*Mr. Forrester's work schedule*

Mr. Wightman testified that he approved Mr. Forrester's verbal request for flexibility to his work schedule in order to assist with (b) (6), (b) (7)(C). Per the verbal agreement, Mr. Forrester's arrival time to work could vary between 9:00-9:30 a.m. Witnesses testified that M&P personnel generally arrive to work between 7:00 and 8:00 a.m., and generally depart work starting at 4:00 p.m. The witnesses added that Mr. Forrester generally arrives to work after 9:00 a.m. One witness testified that Mr. Forrester is "not in the office most of the day," that "he has a lot of lunch guests," that his lunches are "hour-and-a-half, two hours," and that many appointments "don't appear work-related."

Mr. Wightman testified that while he is happy with Mr. Forrester's work product, he acknowledged hearing concerns about Mr. Forrester's work schedule prior to the start of this investigation. He stated he is satisfied Mr. Forrester works at least 8 hours per workday.

Mr. Wightman stated that when he arrives to work at the Pentagon he does not see Mr. Forrester's car in the Pentagon parking lot "90 percent of the time," but when he departs from work he sees Mr. Forrester's car still parked "90 percent of the time." Mr. Wightman did not recall Mr. Forrester ever asking him for permission to work from home. When asked about whether an SES could work more than 8 hours one day to compensate for not working 8 hours the next, he stated, "I mean, the 8 hours is kind of sacrosanct. You really can't work 6 hours one day and then 10 hours the next day."

*Mr. Forrester's timesheets*

We reviewed Mr. Forrester's calendars and timesheets for his entire tenure as DASD. We also requested selective Pentagon access card records for Mr. Forrester from PFPA. Some PFPA records for Mr. Forrester's card swipes did not indicate exit times from the Pentagon at the end of workdays. A PFPA representative informed us this was not out of the ordinary and that (b) (7)(E)

We noted two instances in which Mr. Forrester's reported time and attendance was inconsistent with available data showing his entry into and exit from the Pentagon. We discuss these instances below.

*Thursday, August 8, 2013*

Mr. Forrester's office calendar for August 8, 2013, showed the following events:

- 1100 – JWF [Mr. Forrester] departs office
- 1200 – 1245 Terminal A – AC305 – Washington National
- 1230 – Forrester half-day leave

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Mr. Forrester's timesheet for the pay period including August 8, 2013, showed Mr. Forrester took 4 hours of (b)(6) (b)(7)(C) leave on August 8. PFFA card swipe data showed that on August 8, 2013, Mr. Forrester entered the Pentagon at 8:58 a.m., and departed the Pentagon at 11:35 a.m., a total of 2 hours and 37 minutes.

*Week of March 31-April 4, 2014*

Mr. Forrester's timesheet submitted for March 31 – April 4, 2014, showed that he claimed 8 hours of work per day, Monday through Friday. Mr. Forrester's office calendar for Friday, April 4, 2014, noted the following:

1305 hrs: Nationals opening day v. the Braves (Forrester will work additional hours earlier in week)

We obtained Mr. Forrester's Pentagon access badge swipe information that showed his Pentagon entry and exit data for 5 workdays between March 31 – April 4, 2014. The data reflected the following:

- On March 31, 2014, Mr. Forrester was in the Pentagon 8 hours and 34 minutes. His calendar showed a lunch appointment with a guest in the Army Executive Dining facility from 12:00-1:00 p.m.
- On April 1, 2014, he was in the Pentagon 8 hours.
- On April 2, 2014, Mr. Forrester entered the Pentagon at 8:22 a.m. No exit data was recorded.
- On April 3, 2014, Mr. Forrester was in the Pentagon 9 hours and 37 minutes with his calendar showing a lunch appointment from 11:30 a.m. – 12:30 p.m.<sup>11</sup>
- On April 4, 2014, the day of the Washington Nationals baseball game, Mr. Forrester entered the Pentagon at 8:31 a.m. and departed at 11:48 a.m. PFFA records showed Mr. Forrester again entered the Pentagon at 4:50 p.m., but there was no exit time recorded. Mr. Forrester's calendar noted "Private Appointment" for 5:00 – 6:00 p.m.

*Mr. Forrester's testimony*

Mr. Forrester acknowledged that he does not have an approved, written tour of duty (work schedule) or telework agreement. He stated that when he reported to OASD(RA), no one asked him to submit a tour of duty (work schedule) or telework agreement. He testified he accomplishes his work from the office or his home whether he has a telework agreement in place or not. He added he does so, "because I've got responsibilities." Mr. Forrester testified he has a government-issued MobiKEY device to do government work from his home computer, and he has a government-issued Blackberry device. He stated that before going to work, he often reads the new version of the "Early Bird" using his Blackberry, and that he sends work-related emails from home with his Blackberry.

<sup>11</sup> The card data only accounts for total time in the Pentagon. It does not account for lunch time Mr. Forrester took during the respective duty days.

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Mr. Forrester testified he is "perplexed" by the allegation and added that "I certainly live up to the minimum if not far exceed the minimum requirements of time and attendance for this job." He stated that he helps (b) (7)(C), (b) (6) prior to coming to work, which accounts for his arriving to work later than his personnel and that Mr. Wightman verbally approved his flexible arrival times. He added that "in an effort to not be excessively disruptive," he did not make M&P personnel "shift" to meet his work schedule. When asked to explain the apparent anomalies from his August 8, 2013, timesheet and PIPA card swipe data, Mr. Forrester stated that his work schedule is "a very expansive thing" because "[he is] frequently doing things very early and very late." He added that "in addition to my time in the Pentagon, the time that I spent working the 4 hours before I came into the Pentagon and spent after hours" would "be greater than 40 hours [per week]."

Mr. Forrester acknowledged attending the Washington Nationals home opener on April 4, 2014, which started at 1:05 p.m. Mr. Forrester testified that the game took place during "one of those weeks when I worked later earlier in the week. Both in the office as well as out of the office. To make up for being out of the office for the opening day." He stated that after the game "I doubt if I went back to the Pentagon."

#### Discussion

We conclude Mr. Forrester did not properly or accurately account for his official time and attendance on two documented occasions. We found that Mr. Forrester did not have an approved tour of duty (work schedule) or an approved telework plan. We also found that Mr. Forrester's place of duty was the Pentagon and that he never requested or received his supervisor's authorization to work from home. We further found that on August 8, 2013, Mr. Forrester was present at the Pentagon for 2 hours and 37 minutes and that he claimed 4 hours of regular work on his timesheet. We found that during the week March 30 – April 4, 2014, Mr. Forrester claimed 40 hours of regular work on his timesheet at 8 hours per day, and PIPA card swipe data and office calendar annotations indicate he was not present for duty in the Pentagon for 8 hours per day during that period.

The DoD FMR requires that each employee have an approved written work plan showing the times of arrival and departure. The DoD FMR also requires employees to attest to their time and attendance. The JER requires employees to put forth an honest effort in the performance of their duties. DoDI 1035.01 requires an approved, written telework plan in order to conduct telework from home. AI 28 provides options for flexible work schedules for employees that have an approved flexible schedule. AI 28 also defines "suffered or permitted work" as work performed on behalf of an agency with the supervisor's knowledge and ability to prevent.

Mr. Forrester contended in his November 21, 2014, response to this report that the allegation he "did not properly and accurately account for his time and attendance lacks any factual support" and "is without merit." He stated that on August 8, 2013, he "continued to work well past the time he left the building" by "discuss[ing] a possible site visit to Joint Base Fort Bragg/Pope Airfield" and "[by] review[ing] a memo concerning the individual ready reserve (IRR)." Mr. Forrester added, "This work accounted for more time than the alleged missing 1

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hour and 23 minutes necessary to support [my] claimed four hours work that day." With respect to the week of March 30 - April 4, 2014, Mr. Forrester acknowledged "taking off during the middle of the day to attend opening day of the baseball season" on April 4, 2014, but argued that he "can divide his workday" and that his "calendar clearly states that he would work additional hours to compensate for the time he was away from the office for the baseball game."

For the reasons discussed herein, we disagree with Mr. Forrester's arguments and stand by our original conclusions.

Mr. Forrester in effect asserts that he worked in a telework status on August 8, 2013, in order to attain an 8-hour workday. We determined he did not have an approved telework agreement authorizing him to work from home or, on August 8, 2013, from another remote work site. Further, we determined the August 8, 2013, "site visit" discussions took place via email exchanges, several of which occurred after his 12:45 p.m. scheduled departure from DCA for annual leave. In fact, the first three emails occurred over a 15-minute period (from 12:24 p.m., to 12:39 p.m.).

With respect to Mr. Forrester's contention that he could divide his workday on April 4, 2014, in order to work the required number of hours, we determined Mr. Forrester did not have an approved gliding work schedule enabling him to leave the office for several hours during the established standard work schedule and return at a later time to complete work after the end of the standard schedule. We also determined Mr. Wightman's acquiescence in Mr. Forrester's later arrival to work resulting from (b)(6), (b)(7)(C) did not confer upon Mr. Forrester the requisite authority to adjust his daily work hours to meet the particular needs of his schedule.

With respect to the two instances discussed above, we determined that regardless of whether Mr. Forrester totaled 40 duty hours during the workweek, he was not authorized to do so by mobile telework, working from home, or with a flexible work schedule. Accordingly, we conclude Mr. Forrester did not comply with the DoD FMR and the JER for his submitted timesheets in those two instances.

## V. OTHER MATTERS

We refer two issues to OASD(RA) management for consideration.

### *Alleged classified spillage incident*

The incoming complaint alleged that sometime in February 2014, Mr. Forrester "failed to report a classified information spillage incident." We could not determine from witness testimony whether the alleged spillage occurred, but in light of the seriousness of the issue and the limited evidence we obtained concerning the matter, we refer it to the senior management official to report it to the OASD(RA) Security Manager.

Mr. Forrester's office suite is located in room (b)(7)(E) in the Pentagon. There are (b)(7)(E) in the suite, and the suite entrance requires (b)(7)(E)

(b) (7)(E) have access to the suite — (b) (7)(E), (b) (7)(C), (b) (6)

(b) (7)(E) The DASD office suite is not authorized for

(b) (7)(E) Personnel are permitted to review classified material (b) (7)(E)

(b) (7)(E) personnel must store the classified material in (b) (7)(E)

(b) (7)(C), (b) (6) testified that sometime in February 2014, at midday, he entered the office (b) (7)(E) and saw unattended classified material on Mr. Forrester's desk. No one else was in the suite. The material was classified (b) (7)(E) and was most likely the (b) (7)(E) (b) (7)(C), (b) (6) reported his discovery to his (b) (7)(E), (b) (7)(C), (b) (6) supervisor, (b) (7)(C), (b) (6), who told him he would take care of the matter.

(b) (7)(C), (b) (6) testified that he viewed the possibility of the material being compromised as remote, but he felt it was important enough to discuss with (b) (7)(C), (b) (6)

(b) (7)(C), (b) (6) testified that he did not think the event merited reporting to the OASD(RA) security manager, but he asked (b) (7)(C), (b) (6) to speak with Mr. Forrester about the matter. (b) (7)(C), (b) (6) did not recall the event or the conversation with (b) (7)(C), (b) (6)

(b) (7)(C), (b) (6) testified that he told Mr. Forrester about leaving the classified document on his desk unattended and that he reminded him about the proper procedures for handling classified material. Mr. Forrester testified that he had no recollection of leaving any classified material on his desk unattended, or anyone speaking to him about it. Mr. Forrester did recall the (b) (7)(C), (b) (6) reporting to him that during a routine evening security patrol, a PFPA security officer noted the DASD office suite was (b) (7)(E)

#### *OASD(RA) time and attendance procedures*

During the course of this investigation, we discovered several administrative issues pertaining to time and attendance for civilian personnel:

- OASD(RA) has not established and documented core hours for its work force.
- Mr. Forrester did not have a written, approved tour of duty (work plan).
- Only three of six SES officials in OASD(RA) had approved telework plans.
- OASD(RA) employees do not have individual accounts in ATAAPS. M&P civilian personnel submit one consolidated timesheet for four civilian employees, including Mr. Forrester.
- A subordinate to the DASD attests to and signs the consolidated timesheet.

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In view of our findings and conclusions, and given DoD standards and policy governing civilian employees' regular and alternative work schedules, telework plans, and the proper accounting for time and attendance, we refer the foregoing to USD(P&R) for consideration with respect to systemic compliance with applicable standards.

## **VI. CONCLUSIONS**

**A.** Mr. Forrester misused subordinates' time in violation of the JER.

**B.** Mr. Forrester did not properly and accurately account for his official time and attendance in violation of the DoD FMR, JER, and DoDI 1035.01.

## **VII. RECOMMENDATIONS**

We recommend USD(P&R):

**A.** Consider appropriate action regarding Mr. Forrester.

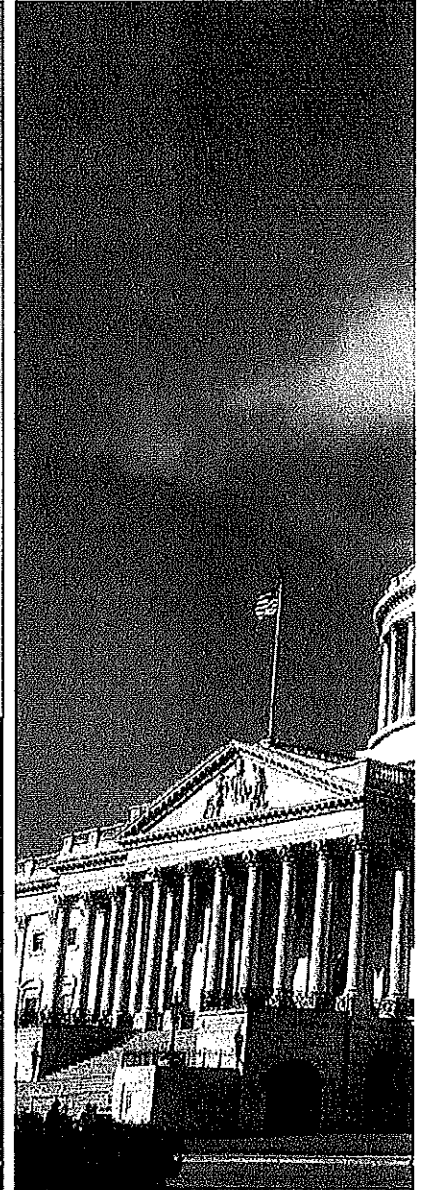
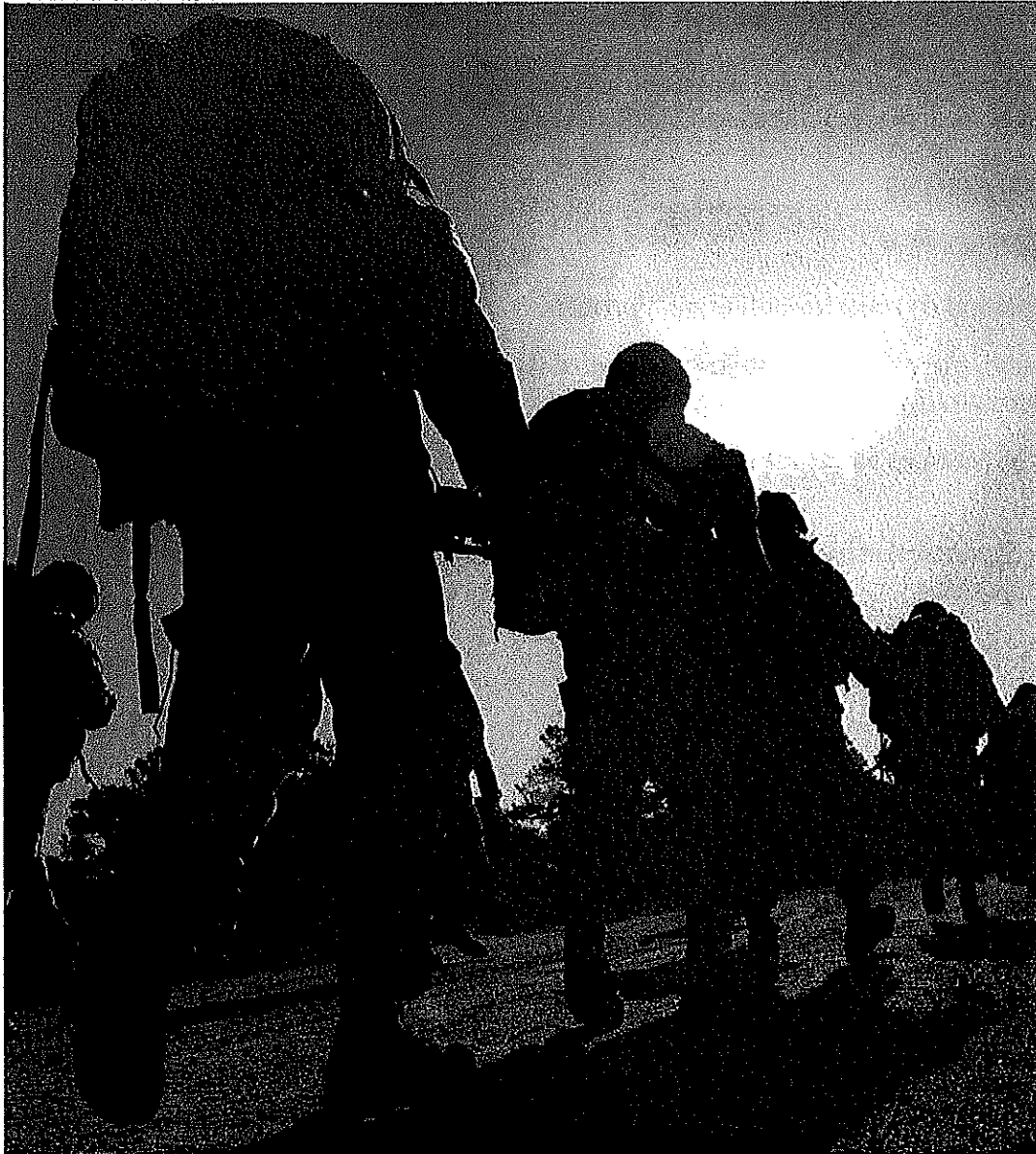
**B.** Report the allegation that Mr. Forrester mishandled classified material to the security manager for appropriate investigation.

**C.** Review the procedures for documenting OASD(RA) civilian employee time and attendance.

**D.** Inform Mr. Forrester that he should compensate his subordinate for the fair market value of one taxi ride to DCA.

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DEPARTMENT OF DEFENSE | INSPECTOR GENERAL

4800 Mark Center Drive  
Alexandria, VA 22350-1500

[www.dodig.mil](http://www.dodig.mil)

Defense Hotline 1.800.424.9098

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