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Oversight of the Office of the Inspector General, Department of Defense

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SELECTED ATTACHMENTS

Oversight of the
Office of the Inspector General
Department of Defense

By the
U.S. Senate Judiciary Subcommittee
On Administrative Oversight and the Courts
October 1999

[Response by Department of Defense
Acting Inspector General
Donald Mancuso](#)

Executive Summary

The Majority Staff for the Senate Judiciary Subcommittee on Administrative Oversight and the Courts has conducted an inquiry into the personnel practices and conduct of certain agents within the Defense Criminal Investigative Service (DCIS). The DCIS is an agency in the Office of the Department of Defense (DOD) Inspector General (IG). The former Director of DCIS - a sworn federal law enforcement officer - is now Acting DOD IG, Mr. Donald Mancuso. Mr. Mancuso was Director of DCIS from 1988-1997. Mr. Mancuso is currently a potential candidate for nomination to be the next DOD IG.

This staff report contrasts DCIS personnel management practices that condoned and encouraged maltreatment of rank and file agents, including the use of falsified investigative reports, while protecting and rewarding a fellow manager who was a convicted felon. Management's favorable treatment of the convicted felon, Mr. Larry J. Hollingsworth, will result in his receiving substantial sums of money in federal law enforcement retirement annuities between 1996 and the year 2008. If DCIS management had exercised good judgment and other more reasonable options, Mr. Hollingsworth would not have been allowed to retire on his 50th birthday and receive the \$750,000.00 in benefits. He would have had to wait 12 years to retire. In another

matter, a criminal investigator, who falsified reports, Mr. Mathew A. Walinski, also received a cash bonus award after his misconduct was brought to the attention of senior DCIS management.

The staff report cites three separate personnel cases brought to the Subcommittee's attention involving DCIS. Each of these cases involves questionable personnel practices that were either condoned or ignored by DCIS management between 1993 and 1996.

The Subcommittee on Administrative Oversight and the Courts has primary jurisdiction and oversight authority for administrative practices and procedures throughout the federal government. As part of the process of conducting its oversight responsibilities, the Subcommittee has been examining administrative procedures followed by various inspectors general. This report reflects the Subcommittee Majority Staff's review of questionable administrative decisions and misconduct within the criminal investigative branch in the DOD IG's office - DCIS, while Mr. Mancuso was the director of the organization.

● **Background**

In June of 1999, the Subcommittee Majority Staff was approached by a former agent of DCIS, Mr. Gary Steakley. Mr. Steakley alleged that a DCIS internal affairs Special Agent, Mr. Walinski, had a history of falsifying official reports to damage the reputations of fellow agents. Mr. Steakley also alleged that senior officials at DCIS were fully aware of this agent's questionable practices, yet failed to take appropriate corrective action.

It should be noted that an investigator in the Office of Special Counsel (OSC), Mr. William Shea, also looked into Mr. Steakley's allegations of DCIS misconduct. OSC concluded that Mr. Steakley was not a victim of prohibited personnel practices. While the staff examined the conduct of DCIS supervisors in regards to several specific decisions, it did not attempt to examine the numerous other allegations raised by Mr. Steakley.

While investigating Mr. Steakley's allegations, the staff learned that Mr. Walinski was supervised by Mr. Hollingsworth - the director of internal affairs. Mr. Hollingsworth was convicted of a felony in April 1996. Nonetheless, management allowed him to retire with full federal law enforcement retirement benefits six months after his felony conviction. Federal law enforcement agencies commonly remove an employee on criminal misconduct alone, or at a minimum, immediately after a felony conviction. Had management availed itself of other appropriate legal removal options, Mr. Hollingsworth would not have been allowed to retire on his 50th birthday, which gave him entitlement to benefits amounting to more than three quarters of a million dollars.

The staff reviewed numerous documents to include the above-referenced OSC investigation, DOD personnel files, DOD investigative reports, a Subcommittee-requested review by the Office of Personnel Management (OPM), State Department Diplomatic Security investigative reports, and public court papers registered in the U.S. District Court for the Eastern District of Virginia. The Subcommittee Majority Staff also conducted the following formal interviews:

Former DOD personnel:

Mr. Matthew Walinski	- DCIS Special Agent Internal Affairs
Mr. Larry Hollingsworth	- DCIS Director of Internal Affairs

Mr. William Dupree - Deputy Director of DCIS
Ms. Eleanor Hill - Former DOD Inspector General

Current DOD personnel:

Mr. Donald Mancuso - Former Director of DCIS and Current Acting IG for DOD
Ms. Jane Charters - DCIS Investigative Support
Ms. Donna Seracino - Director of Personnel for DCIS
Ms. Linda Martz - Employee Relations Specialist
Mr. Paul Tedesco - DCIS liaison agent in Hollingsworth criminal case
Mr. John Keenan - Current Director of DCIS, formerly Dir., DCIS Operations
Mr. Thomas Bonner - Current Agent in Charge Dallas Office, DCIS, Assist. Dir. DCIS Internal Affairs
Ms. Nancy Gianino - Air Force Payroll Specialist
Lt.Col Greg McClelland - DOD IG Administrative Investigator

State Department Personnel:

Special Agent Robert Starnes
Special Agent Sean O'Brien

Office of Special Counsel:

Investigator William Shea

Current and former DCIS Special Agents were also interviewed on a confidential basis. They requested confidentiality out of fear of reprisal. This report will show fears of such reprisal are plausible based on the facts developed by the Subcommittee.

[Report Continued](#)

- **Summary of Significant Findings**

The Case of convicted felon Mr. Hollingsworth

Mr. Hollingsworth was the Director of internal affairs for DCIS from April 1991 to September 1996. This unit routinely conducted investigations regarding the integrity and conduct of agents in DCIS. As stated above, in at least two cases, DCIS management had knowledge of false witness statements by an internal affairs agent, Mr. Walinski.

Former Director of DCIS, Mr. Donald Mancuso, assisted Mr. Hollingsworth in remaining in an employed status - as Director of internal affairs - for six months after his felony conviction in U.S. District Court. Law enforcement authorities, who investigated Mr. Hollingsworth's criminal activities, believe that he committed at least 12 acts of overt fraud while head of the DCIS internal affairs unit.

Mr. Mancuso, a sworn federal law enforcement officer, aided in the defense of this particular subordinate at his criminal trial. At no time did Mr. Mancuso offer to recuse himself from administrative or personnel actions in regards to Mr. Hollingsworth - even though they were considered "close personal friends."

Mr. Mancuso endorsed an outstanding performance evaluation for Mr. Hollingsworth three weeks after he confessed to felonious activity to U.S. State Department special agents.

Using official DOD IG stationary, with DOD IG emblem, Mr. Mancuso wrote to the sentencing judge on the convicted felon's behalf, even though the State Department investigators opined Mr. Hollingsworth was an uncooperative defendant. Mr. Mancuso signed the letter in his official capacity as an Assistant Inspector General.

Former DOD Inspector General Eleanor Hill stated that Mr. Mancuso did not advise her of pertinent facts in this case. Ms. Hill had directed Mr. Mancuso to remove Mr. Hollingsworth from his position "as soon as legally possible."

Mr. Mancuso directly assisted Mr. Hollingsworth in obtaining over three quarters of a million dollars in full federal law enforcement retirement benefits six months after a felony conviction. OPM retirement experts, legal counsel at DOD's Washington Headquarters Service, and Inspector General regulations all state that Mr. Mancuso had options to remove this employee immediately after conviction. In fact, the law, DOD regulations, and an OPM opinion all suggest that Mr. Hollingsworth could have been removed based on the criminal conduct alone, and not on criminal court procedures.

The retirement benefits given to Mr. Hollingsworth were extremely generous, since federal law enforcement officials may retire at age 50 instead of age 62, and computation of their general schedule grade has law enforcement availability pay of up to 25% added in on top of regular pay. This resulted in a convicted felon being able to obtain approximately \$750,000.00 in additional annuity payments (excluding cost-of-living allowances) as compared to what he would have received had he been terminated immediately after conviction and allowed only non-law enforcement civil service retirement benefits commencing at age 62 in the year 2008.

Falsification of Witness Statements by Agent Walinski in Steakley Case

There were numerous claims of misconduct made by Mr. Steakley in regard to the conduct of the DCIS office of internal affairs. Several of Mr. Steakley's allegations were substantiated.

There is credible evidence that at least one agent assigned to DCIS internal affairs, Agent Walinski, falsified a witness statement in support of a tax evasion charge against Mr. Steakley, and was reprimanded and reassigned for a similar problem in another internal affairs case. Agent Walinski even acknowledged that the tax

evasion charge was "unresolved" and that his inconclusive findings were not made apparent in his report to the DCIS Administrative Review Board (ARB).

The false tax evasion charge in which Mr. Steakley was eventually exonerated was instigated by DCIS management, to include Mr. Mancuso, in an area in which DCIS had no authority or jurisdiction. The States of California and Virginia repeatedly informed DCIS that the agency could not obtain Mr. Steakley's tax records without a court order or authorization from the taxpayer involved. DCIS had neither.

In an interview with the Subcommittee staff, Lt. Col. Greg McClelland, an independent DOD IG investigator assigned to review allegations by Mr. Steakley, characterized the conduct of Agent Walinski in this case as "egregious." The Subcommittee staff has substantiated evidence that Agent Walinski made false statements to Lt. Col. McClelland in sworn testimony in 1997.

Mr. Steakley's attorney, Mr. Luciano A. Cerasi of the Federal Law Enforcement Officers Association (FLEOA), notified DCIS management that Agent Walinski's witness interview of an Air Force payroll technician was falsified. DCIS management ignored Mr. Cerasi's allegations despite the fact that it had received another FLEOA letter alleging that Agent Walinski had falsified witness statements in a separate internal affairs investigation.

Falsification of Witness Statements by Agent Walinski in Johanson Case

Prior to the adjudication of the Steakley case, Agent Walinski had falsified witness statements against another DCIS agent.

DCIS Agent Stephen Johanson had his undercover weapon stolen from his residence near Los Angeles, California while he was participating in the execution of a search warrant in another California city. In the investigation that followed the theft of Johanson's weapon, Agent Walinski falsified more witness statements. His false reports resulted in a recommendation that Agent Johanson be suspended without pay for 8 calendar days for failing to secure and return an issued weapon. DCIS supervisors and rank and file agents protested to management at DCIS headquarters in Washington that Agent Walinski's interviews were either inaccurate or never took place.

FLEOA attorney Cerasi wrote a second letter to top DCIS management supporting rank and file agents' complaints about Agent Walinski's reports in the Johanson case. Mr. Cerasi alleged that Agent Walinski had falsified his interview of Agent Jon Clark.

DCIS officials claim that Agent Walinski was reprimanded for "failing to show due diligence and accuracy" in reporting witness interviews in the Johanson case. Agent Walinski reported an interview of DCIS Agent Clark that never took place. Despite these allegations, personnel records indicate that Agent Walinski received a cash award - at least 18 days after rank and file agents had formally complained to senior management at DCIS headquarters that Agent Walinski falsified reports. The staff could find no evidence that DCIS management ever attempted to determine if the allegations about Mr. Walinski's reports had merit. In fact, immediately following the first Johanson investigation and while the re-investigation was in progress, Mr. Walinski was assigned a leadership role in the inspection of the field office where the complaints about his reports had originated. This could be viewed as a retaliatory measure to silence the agents who had "blown the whistle" on Agent Walinski.

DCIS now records all witness interviews for accuracy. Some DCIS Agents refer to this new practice as "the Walinski rule."

- **Report Format**

This report has been divided into three separate DCIS personnel cases as follows:

- --[The Case of Mr. Hollingsworth](#)
- --[The Case of Mr. Steakley](#)
- --[The Case of Mr. Johanson](#)

In addition, the report includes written comments from the Acting DOD IG, Mr. Mancuso, along with an extensive list of the source documents used in preparing the report.

On September 27, 1999, Mr. Mancuso requested that he be given the opportunity to review this report prior to its release and to provide written comments. In response, the Subcommittee Chairman, Senator Charles E. Grassley, assured Mr. Mancuso that his written response would be attached to the staff report. Consistent with the Chairman's commitment, Mr. Mancuso's written response, dated October 1, 1999, is included at the end of the report.

The attachments listed at the end of each section of the report are far too voluminous to reproduce in the printed report. A complete set of the attachments will be maintained in the Subcommittee files and available on the Judiciary Committee's web site along with other Committee documents.

● **Conclusions**

The three personnel cases, which the staff reviewed, demonstrate disparate treatment given to DCIS employees by senior management.

Mr. Hollingsworth, a high ranking DCIS official, was convicted of a felony but protected by Mr. Mancuso and allowed to retire 6 months later - on his 50th birthday - with a full law enforcement annuity. Mr. Walinski falsified reports to such a degree that several witness statements appearing in his investigative reports never took place. He even claimed in sworn testimony in 1997 that a DOD employee, whom he had interviewed and reported absent from her office due to "extended illness," had ovarian cancer, despite the fact there was no evidence that this person suffered from such a disease. Mr. Walinski received a cash bonus award weeks after allegations about his falsified reports reached senior DCIS management. DCIS management never attempted to determine whether those allegations had merit, and Mr. Walinski was allowed to transfer to another law enforcement agency - Treasury IG - with no record of accountability.

Two other DCIS employees were the subject of disciplinary action by DCIS management for significantly less serious offenses, and in one case, based on no evidence. Mr. Steakley, repeatedly and unjustly accused of numerous misconduct charges, is now retired with a damaged reputation among the federal law enforcement community that was undeserved. Similarly, Mr. Johanson was undeservedly punished for having a gun stolen from his residence during a burglary. This gun was issued to him by his own agency. The initial punishment proposed for Mr. Johanson was based on false witness interviews and a distorted interpretation of disciplinary guidelines.

The Office of the DOD Inspector General is a position that requires a very high standard of integrity, with equal treatment for all departmental employees. When information is developed on the criminal misconduct of a senior employee such as Mr. Hollingsworth, that employee should be removed "as soon as legally possible" to ensure that the morale of all employees is maintained. When allegations are made of misconduct such as against Mr. Walinski, the IG's office should ensure that allegations are professionally and thoroughly investigated, and all discrepancies are resolved. When allegations are made against employees such as Mr. Steakley and Mr. Johanson, charges should be investigated, witnesses should be accurately interviewed, and bias should not interfere with the integrity or facts in the investigation.

If DCIS - under Mr. Mancuso's management - could not investigate its own employees honestly and fairly, then how could the much larger Office of the DOD IG - if managed by Mr. Mancuso - be expected by the American people to investigate honestly and fairly misconduct and fraud within the entire Department of Defense?

Given Mr. Mancuso's poor judgment and his irresponsible handling of the three cases examined in this report, it is reasonable to question: 1) Whether Mr. Mancuso should now be nominated and confirmed as the DOD IG - an office that demands the highest standards of integrity, judgment, and conduct; and 2) Whether Mr. Mancuso should be allowed to remain in the post of Acting DOD IG. In addition, given the evidence that Mr. Walinski falsified several witness interviews, it is reasonable to question whether Mr. Walinski should be assigned to a position in which he is responsible for conducting criminal or administrative inquiries.

- **Recommendations**

1. The Majority Staff recommends that Members consider a change in legislation regarding federal law enforcement officers convicted of felonies. Consideration should be given to whether federal law enforcement officers should be immediately dismissed after their conviction of a felony.

Under current law, agencies have considerable discretionary authority in determining how to handle such cases. In the Hollingsworth case, a series of personnel actions approved by DOD Acting Inspector General Mancuso raise serious questions about his integrity and judgement. The proposed change in legislation could eliminate any discretionary authority on the part of individual law enforcement agencies in dismissing employees convicted of felonies.

2. The Majority Staff recommends that the Chairman forward this report to appropriate committees, the Secretaries of Defense and the Treasury and other officials who must evaluate Mr. Mancuso's fitness as a potential candidate to be DOD IG, as well as Mr. Walinski's continued assignment as a GS-1811 criminal investigator.

THE CASE OF MR. HOLLINGSWORTH

Mr. Larry J. Hollingsworth, former GS-15 Director of internal affairs, DCIS, was convicted of a felony charge in 1996 in U.S. District Court for the Eastern District of Virginia. Mr. Hollingsworth was never terminated by DCIS and allowed to retire on his 50th birthday - six months after a felony conviction. He is currently receiving full federal law enforcement retirement benefits totaling approximately \$750,000.00 he would not otherwise have received had management exercised other more reasonable options.

Background on felonious activity by Mr. Hollingsworth

According to State Department law enforcement agents, Mr. Hollingsworth's criminal activity in this case commenced on or about September, 1992, when he reviewed the local obituaries in Florida and obtained the name of Charles W. Drew, who was born in 1944 and died in 1958. Mr. Hollingsworth, with a Top Secret security clearance, requested from the State of Florida a copy of the death certificate, representing himself as the deceased's half-brother. Mr. Hollingsworth leased a mailbox in Springfield, Virginia under the alias of Charles and Maureen Drew and Harold Turner.

Mr. Hollingsworth then obtained a birth certificate for Charles Drew from the State of Georgia and had it sent to the mailbox in Springfield, Virginia. Mr. Hollingsworth then leased another mailbox under the alias of Charles and Mary Drew in Arlington, Virginia. Mr. Hollingsworth submitted an application and received a social security card under the alias Charles Drew Jr. by posing as the applicant's father. Mr. Hollingsworth, accompanied by his spouse, applied for and received a Virginia Department of Motor Vehicles identification card in the name of Charles Drew. Using the DMV identification card in the name of Charles Drew, Mr.

Hollingsworth applied for a U.S. Passport. It should be noted that his wife, Mrs. Maureen Hollingsworth, a DOD IG employee at the time, was never implicated or charged in this felonious activity. She was not a suspect in the investigation by the U.S. State Department. Mr. Hollingsworth stated to State Department law enforcement agents that he procured approximately eight to ten false identity documents, to include an international drivers license and a priest ID, by means of mail order.

In April of 1995, U.S. State Department law enforcement officials placed a photo of Mr. Hollingsworth in law enforcement bulletins as an unidentified suspect in passport fraud. The local Philadelphia office of DCIS notified DCIS headquarters in Washington D.C. that a photo of Mr. Hollingsworth was found in a bulletin. Officials at DCIS in Washington D.C. notified Mr. Mancuso who in turn immediately notified Inspector General Eleanor Hill. Mr. Mancuso was then ordered by DOD IG Eleanor Hill to notify the State Department Office of Inspector General.

[\[See Attachment # 1 - Sentencing memorandum date stamped 06/04/96\]](#)

[\[See Attachment # 2- State Department Investigative Timeline\]](#)

Statements made by State Department law enforcement agent

On July 16, 1999, the Subcommittee Majority Staff interviewed Sean O'Brien, Special Agent with the State Department Diplomatic Security Service. Agent O'Brien was one of the agents assigned to the Hollingsworth case. Agent O'Brien stated that there were at least 12 overt acts of fraud perpetrated by Mr. Hollingsworth over the course of several years. Agent O'Brien felt that the actions of Mr. Hollingsworth were disturbing in light of the fact that passport fraud is usually committed in furtherance of a more serious crime, and a credible motive had never been established.

Mr. O'Brien added that family members of the deceased boy, Charles Drew, whose identity was used by Mr. Hollingsworth, were very upset and prepared to testify at trial. Agent O'Brien also opined that various motions to dismiss the case were delaying tactics used by Mr. Hollingsworth until he reached his 50th birthday - when he could retire with law enforcement benefits.

The State Department Supervisor of the Hollingsworth case, Special Agent Robert Starnes, stated that DCIS management initially refused to let him examine the contents of Mr. Hollingsworth's government computer under the pretense that Mr. Hollingsworth may have had personal and/or classified material on a government computer. Despite possessing a Top Secret security clearance, Agent Starnes had to raise the possibility of a search warrant with DCIS management before they acquiesced and allowed a consent search of the computer.

DCIS management assigned DCIS Agent Paul Tedesco as the point of contact in this case for the State Department. Relevant information regarding Mr. Hollingsworth's criminal conduct was provided by State Department investigators directly to DCIS Agent Tedesco during all criminal proceedings. Agent Tedesco also provided certified court documents to then Director of Operations and current Director of DCIS John Keenan. These court documents described the criminal conduct of Mr. Hollingsworth. Agent Tedesco stated that DCIS management was kept fully informed of the criminal conduct of Mr. Hollingsworth from the time of his confession through sentencing.

In the experienced opinion of State Department Case Agent Sean O'Brien, State Department Special Agent Case Supervisor Starnes and DCIS Case Liaison Agent Paul Tedesco, this fraudulent activity was most probably in furtherance of another crime that was never discovered or proven.

[\[See Attachment # 3 - Subcommittee memorandum of 07/16/99 interview with agent O'Brien\]](#)

Chronology of judicial and personnel actions in the case of Mr. Hollingsworth:

07/28/95: Larry J. Hollingsworth's home is searched by U.S. State Department law enforcement agents and he subsequently confesses to fraudulently applying for a U.S. Passport.

[\[See Attachment #4 - Time line provided by DOD 7/27/95-9/20/96\]](#)

01/27/96: Larry J. Hollingsworth is indicted in U.S. District Court on two felony counts.

03/18/96: Larry J. Hollingsworth pleads guilty and is convicted of a felony, 18 USC 1001.

06/4/96: Convicted felon Larry J. Hollingsworth is sentenced to 30 days imprisonment on weekends, 2 years probation, 200 hours community service and a \$5,000.00 fine.

[\[See Attachment #5 - U.S. District Court Criminal Docket\]](#)

08/12/96: Larry J. Hollingsworth is notified by DOD DCIS of a "Proposed Removal" and given thirty days to respond.

[\[See Attachment # 6 - DOD OIG notice of Proposed Removal dated 08/12/96\]](#)

09/19/96: Larry J. Hollingsworth retires on his 50th birthday citing a reason of "pursuing other interests".

[\[See Attachment # 7 - DOD Notice of Personnel Action form 50-B dated 09/19/94\]](#)

09/20/96: Larry J. Hollingsworth's attorney notifies then DOD Assistant Inspector General Mancuso that he waives his right to appeal the removal.

[\[See Attachment #8 - Letter from Hollingsworth's attorney to Mr. Mancuso dated 09/20/96\]](#)

DOD General Counsel claims conditional plea prevented removal of Mr. Hollingsworth

On September 14, 1999, Mr. Mancuso and the Deputy General Counsel (Inspector General), Mr. Kevin Flanagan, stated to the Subcommittee that the reason Mr. Hollingsworth was never removed and allowed to retire, was that his guilty plea was "conditional" and that he could withdraw his plea at any time at his own initiative.

The Federal Rules of Criminal Procedure Rule 11 (A) (2) states; "with the approval of the court and the consent of the government, a defendant may enter a conditional plea of guilty or nolo contendere, reserving in writing the right, on appeal from the judgement, a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal shall be allowed to withdraw the plea."

The plea agreement in this case acknowledges a conditional plea by Mr. Hollingsworth reserving "his right to appeal the Court's adverse March 8, 1996 ruling denying defendant's motion to suppress his statement to State Department Agents". The plea agreement also states; "the defendant knowingly waives his right to appeal any sentence."

Therefore, Mr. Hollingsworth never had unilateral authority to withdraw his plea at anytime, as Mr. Mancuso and DOD General Counsel argued. Their reason for not terminating Mr. Hollingsworth after conviction appears to be invalid.

[\[See Attachment # 20 - Rules of Criminal Procedure 11 \(a\) \(1\)\]](#)

[\[See attachment #21 Plea Agreement dated 03/15/96 page 3\]](#)

Mr. Hollingsworth was never removed by DOD and as stated in the chronology, remains a convicted felon despite the numerous motions to dismiss. Federal Law, DOD IG regulations, legal counsel at the DOD

Washington Headquarters Services (WHS) and OPM General Counsel stated that Mr. Hollingsworth could have been removed based on his criminal misconduct alone. The misconduct must be proved with a "preponderance of the evidence" and not "beyond a reasonable doubt." Preponderance of the evidence is a much lower threshold than a criminal court procedure wherein criminal conduct must be proved "beyond a reasonable doubt."

Federal law states Mr. Hollingsworth could be dismissed within 7 days

5 U.S.C. 7513, (b), regarding removals of federal employees states:

1. At least 30 days advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action.

2. A reasonable time, but not less than seven days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.

[\[See Attachment # 9 - 5 United States Code 7513\]](#)

The DOD Time Line cites this law as reason for a 60 day delay in issuing a 30 day "proposed removal." Mr. Hollingsworth had already served a considerable amount of time in jail before the proposed removal was issued.

DOD Inspector General Regulations state Mr. Hollingsworth could have been terminated after Indictment

IGDR 1400.4, Disciplinary and Adverse Action dated December 30, 1994, page 7, states an immediate removal can be initiated "when the agency has reasonable cause to believe that an employee has committed a crime for which a sentence of imprisonment may be imposed. Reasonable cause to believe is not established by the mere fact either of an arrest or an ongoing agency investigation of possible criminal misconduct. A criminal indictment will usually constitute reasonable cause."

[\[See Attachment # 10 IGDR - dated 12/30/94, Page 7\]](#)

DOD WHS Legal Counsel advises Mr. Hollingsworth may be terminated after his guilty plea

On March 14, 1996, Gilda Goldsmith, legal counsel at the DOD WHS, advised that "the indefinite suspension, which suspends Mr. Hollingsworth from duty until final disposition of criminal charges and any administrative proceedings, does not bar the agency from terminating him based on his guilty plea.....the agency could remove Mr. Hollingsworth for both the guilty plea and underlying conduct, but would have to prove the conduct by a preponderance of the evidence if the conviction is reversed."

[\[See Attachment #11 - DOD WHS Legal Counsel memo dated 03/14/96\]](#)

OPM General Counsel cites other options available to DCIS management

The Subcommittee Majority Staff requested the assistance of OPM in determining whether Mr. Hollingsworth, a convicted felon, was entitled to a federal law enforcement retirement six months after conviction and two months after serving his sentence of jail on weekends. He received retirement credit and remained in an employed status as Director of Internal Affairs during the six months in question to include two months of jail time on weekends.

On July 20, 1999, DOD Personnel Director Donna Seracino stated that Mr. Hollingsworth could not be immediately removed after his guilty plea and felony conviction because "he had rights to due process under OPM guidelines".

On September 13, 1999, OPM General Counsel Suzanne Seiden stated in her legal opinion: "Instead of seeking to remove him because of the criminal conviction, it is possible that DCIS appropriately could have

charged him with, among other things, an action under 5 U.S.C., 7513, on grounds of general criminal misconduct or failure to maintain his security clearance. Further, DCIS might have chosen to expedite his removal following Mr. Hollingsworth's guilty plea".

[\[See Attachment # 12 - OPM General Counsel opinion dated 09/13/99\]](#)

Outstanding evaluation for Mr. Hollingsworth endorsed by Director of DCIS Mancuso

On August 18, 1999, approximately three weeks after Mr. Hollingsworth's home was searched and he confessed to at least three years of felonious activity (07/28/95), Mr. Mancuso signed and approved an "outstanding" performance evaluation for Mr. Hollingsworth. Mr. Hollingsworth replied on the evaluation form; "I appreciate your comments on my appraisal, especially in light of my recent actions."

[\[See Attachment # 13 - Employee Performance rating signed by Mr. Mancuso 08/18/95\]](#)

Mr. Mancuso places Mr. Hollingsworth on Paid Leave

On November 22, 1995, Mr. Mancuso decided to hold indefinite suspension of Mr. Hollingsworth in abeyance and advised "Mr. Hollingsworth he would be carried on sick leave for any period of time that was supported by acceptable medical documentation, carried on annual leave as long as he had an annual leave balance and requested such leave, and that the indefinite suspension would become effective when his annual leave was exhausted and he no longer met the requirements for sick leave."

[\[See Attachment # 4 Time line provided by DOD 7/27/95-9/20/96\]](#)

Mr. Mancuso advises Mr. Hollingsworth to meet with a physician

On November 22, 1995, "Mr. Mancuso advises Mr. Hollingsworth to schedule an appointment with the Independent Medical Evaluation (IME) physician. The agency would approve sick leave through November 30, 1995, and any request for additional sick leave would be held in abeyance pending receipt and review of the additional medical documentation."

[\[See Attachment # 4 Time line provided by DOD 7/27/95-9/20/96\]](#)

Assistant United States Attorney opposes use of physician as Defense Witness

On March 8, 1996, Assistant United States Attorney Thomas G. Connolly for the Eastern District of Virginia stated in his legal brief to the U.S. District Court in regards to the testimony of the IME physician for the defense:

"This testimony is not relevant to a determination of any issue to be tried in this case. It is a patent attempt at jury nullification by presenting evidence in the hope of making the defendant sympathetic to the jury. It is a backdoor attempt to raise issues of mental condition prohibited by law; and it is prejudicial, confusing, and misleading. This court should exclude any proposed psychiatric testimony from evidence at trial."

[\[See Attachment #14 - Government's motion to exclude psychiatric testimony_page 2\]](#)

Mr. Seldon, Attorney for Mr. Hollingsworth, contacts DOD Employee Relations concerning retirement

On February 7, 1996, the defense attorney for Mr. Hollingsworth contacts DOD Employee Relations Specialist Linda Martz. She states the attorney said "he wanted to ensure that his client was technically on the agency rolls. I said yes. Mr. Seldon said the U.S. Attorney wanted his client to plead guilty to one felony count. He said he understood that if the criminal matter ended and Mr. Hollingsworth was convicted, removal was probable. He asked if that was correct. I said most likely. He said his client's hope was to stay on the agency rolls

until September 1996 at which time he would retire. I said he could retire now, but not under law enforcement. Mr. Seldon said he understood that, but there would be a substantial reduction."

[\[See Attachment #15 - Memorandum for the record of Linda Martz dated 02/07/96\]](#)

Defendant Hollingsworth makes motion to dismiss case

On March 12, 1996, Mr. Hollingsworth's defense attorney made a motion in U.S. District Court to dismiss the charges, citing Mr. Mancuso's request for medical information. He said Mr. Mancuso had "directed him to provide sufficient medical information which will be reviewed by the medical consultant for the Office of Inspector General, to assist him in making a decision on the proposed suspension."

[\[See Attachment # 16 - Motion to dismiss indictment page 3 section 7\]](#)

Assistant United States Attorney comments on sick leave status and use of a physician

On March 12, 1996, Assistant United States Attorney Thomas G. Connolly for the Eastern District of Virginia stated in his legal brief to U.S. District Court:

"The defendant's motion to dismiss the indictment is not only untimely, it is frivolous...The government (in the form of the United States Attorneys Office) was not party to any negotiations concerning the defendants sick leave. In fact, the first time we heard about this was on March 7, 1996, when defense counsel faxed us a letter detailing Dr. Holland's findings."

"The United States Attorneys Office had no opportunity, whatsoever to be heard in the negotiations between Mr. Hollingsworth's lawyers and the Department of Defense concerning whether Mr. Hollingsworth should be granted sick leave because he was allegedly suffering from depression a year-and-a-half after he had committed the crimes and 4 months after he had been caught."

[\[See Attachment # 17 - Opposition to Defendant's Motion to Dismiss page 3\]](#)

Attorney for Mr. Hollingsworth contacts DOD Employee Relations one day after motion to dismiss and complements Mr. Mancuso for assistance.

On March 13, 1996, Linda Martz, DOD Employee Relations Specialists took a call from Mr. Seldon, attorney for Mr. Hollingsworth. She stated; "Mr. Seldon wanted to know what Larry's sick and annual leave balances were....I went on to explain that when he was indicted the situation took on another look. He said he understood and believed Mr. Mancuso did what he could to help Mr. Hollingsworth".

[\[See Attachment #18 - Linda Martz memo dated 03/13/96\]](#)

Mr. Mancuso acknowledges Mr. Hollingsworth's criminal conduct was perpetrated in furtherance of another unknown crime

On September 14, 1999, during a Subcommittee Majority Staff interview regarding the criminal misconduct of Mr. Hollingsworth, Mr. Mancuso stated he now believes that logically, the criminal misconduct of Mr. Hollingsworth appeared to be in furtherance of another crime.

Mr. Mancuso writes letter to sentencing judge on behalf of Mr. Hollingsworth

Mr. Mancuso wrote a letter dated April 29, 1996, to sentencing Judge Ellis on official DOD Assistant Inspector General stationary. Mr. Mancuso wrote this letter "on behalf of Mr. Hollingsworth.....one of the few individuals in whom I placed complete confidence and trust." In writing the letter, Mr. Mancuso asked the judge to consider extenuating circumstances. For example, he told the judge that Mr. Hollingsworth took a half day's leave to file the fraudulent passport application. Mr. Mancuso said he was not surprised by this action. He said: "Mr. Hollingsworth could have come and gone as he pleased," but he "took leave to commit a felony." Mr.

Mancuso went on to say: "To this day, there is no evidence that Mr. Hollingsworth has ever done anything improper relating to his duties and responsibilities as a DCIS agent and manager."

In concluding the letter, Mr. Mancuso added: "I do ask, however, that you consider all these things as well as his stated remorse and acceptance of responsibility for his actions.....it is our intention to consider removal action against him after the conclusion of the criminal charges. In this regard, I would ask that you consider the severity of these administrative actions as you pronounce sentencing."

The letter was signed; "Sincerely, Donald Mancuso, Director, Defense Criminal Investigative Service".

[\[See Attachment # 19 - Letter from Mr. Mancuso to Judge Ellis dated 04/29/96\]](#)

Mr. Mancuso comments on letter to Judge Ellis

In a Majority Staff interview on September 14, 1999, Mr. Mancuso claimed that the stationary used in the letter to Judge Ellis was "personal, bought with my own money" and not official DOD Inspector General stationary. It was pointed out to Mr. Mancuso that the letterhead had a government seal which contained the words; "Inspector General - Department of Defense." In addition, Mr. Mancuso signed the letter in his official capacity as an Assistant Inspector General. The letter was made a part of the sentencing report by Judge Ellis.

[\[See Attachment # 19 - Letter from Mr. Mancuso to Judge Ellis dated 04/29/96\]](#)

[\[See Attachment # 1 - Sentencing memorandum date stamped 06/04/96\]](#)

Assistant United States Attorney comments on lack of remorse by Mr. Hollingsworth

On March 12, 1996, Assistant United States Attorney Thomas G. Connolly for the Eastern District of Virginia stated in his legal brief to U.S. District Court:

" The defendant's appreciation of the wrongfulness of his conduct in April of 1994 has never been determined in any hearing at which the United States Attorneys Office (or any other government agency, including the Department of Defense) was a party."

[\[See Attachment # 17 - Opposition to Defendant's Motion to Dismiss page 3\]](#)

Assistant United States Attorney comments on Mr. Hollingsworth's mental state

"Mr. Hollingsworth's condition, whatever it is, is not found in DSM IV, the 886-page tome that lists every psychosis, neurosis, syndrome, and personality disorder known to man."

[\[See Attachment #14 - Government's motion to exclude psychiatric testimony page 5\]](#)

Mr. Dupree, former Deputy Director of DCIS, stated Mr. Hollingsworth was considered a cooperative defendant by DCIS management

On August 24, 1999, Mr. Dupree, a former Deputy Director of DCIS, and under the direct supervision of Mr. Mancuso, was interviewed by the Majority Staff . Mr. Dupree reviewed proposals to remove DCIS employees for misconduct based on internal investigations. He characterized Mr. Hollingsworth as a "cooperative defendant". Mr. Dupree also stated that it would have been easier to remove Mr. Hollingsworth if he had misused a government vehicle.

9/13/96 - Mr. Hollingsworth requests extension on proposed removal

On August 23, 1996, Mr. Hollingsworth asks Mr. Mancuso for an extension of his proposed removal pending an oral reply to be made on 09/13/96.

[\[See Attachment # 4 Time line provided by DOD 7/27/95-9/20/96\]](#)

Mr. Mancuso grants requested extension and schedules oral response for 09/23/96, four days after Mr. Hollingsworth's 50th Birthday.

On August 26, 1996, Mr. Mancuso grants the extension request and schedules the oral reply for September 23, 1996, the first available date because Mr. Mancuso claimed that he would "be on travel much of September and will not be available to hear Mr. Hollingsworth's oral response" until that date.

A review of Mr. Mancuso's travel vouchers suggests that the projected travel conflicts - outlined in his August 26, 1996 memo - never materialized and that he would have been available to hear the case at any point during the month of September - with several minor exceptions. During an interview on September 14, 1999, Mr. Mancuso was asked if he was aware of Mr. Hollingsworth's birthday when he signed the August 26, 1996 memo. Initially, he denied having that knowledge, but with coaching from Deputy DOD General Counsel Flanagan, he admitted that he did, in fact, know that Mr. Hollingsworth's 50th birthday was in September 1996.

[\[See Attachment # 4 Time line provided by DOD 7/27/95-9/20/96\]](#)

Convicted Felon Mr. Hollingsworth retires with full federal law enforcement retirement benefits totaling over \$750,000.00

On September 19, 1996, Mr. Hollingsworth retired on his 50th birthday and first date of eligibility for federal law enforcement retirement, citing his desire "to pursue other interests." Mr. Hollingsworth currently receives full federal law enforcement retirement benefits.

[\[See Attachment #7 notice of personnel action\]](#)

According to OPM, if Mr. Hollingsworth had been removed immediately after his felony conviction, he would have been entitled to an annuity commencing at age 62. Since Mr. Hollingsworth was not removed by DOD after his conviction and was allowed to retire six months after his conviction at age 50, Mr. Hollingsworth immediately began receiving a federal law enforcement yearly annuity of over \$60,000. Not including cost of living adjustments, these annuities will total over \$750,000.00 for 1996-2008 - annuities he would not have received had DCIS management exercised other more reasonable options.

On September 20, 1996, Mr. Hollingsworth's attorney "waives his right to any further proceedings in connection with the proposed removal due to his retirement."

[\[See Attachment # 8 - Letter from Hollingsworth Attorney dated 09/20/96\]](#)

Mr. Mancuso characterizes State Department Investigators as "Horse's Asses".

On September 14, 1999 the Majority Staff interviewed Mr. Mancuso to review his role in Mr. Hollingsworth's retirement.

Mr. Mancuso claimed that State Department investigators did not brief DCIS on the details of the criminal case against Mr. Hollingsworth until after sentencing. The State Department's failure to share this information in a timely manner was another reason for delay in removal action against Mr. Hollingsworth. Mr. Mancuso characterized State Department investigators in this case as "Horse's Asses."

DCIS Agent Tedesco keeps DCIS management informed and complements performance of State Department investigators in the Hollingsworth case

As stated previously, DCIS Agent Tedesco provided all relevant certified court documents to DCIS Director of Operations John Keenan throughout the judicial proceedings against Mr. Hollingsworth. These documents were passed to senior DCIS management as they became available. These documents fully described the criminal conduct for which Mr. Hollingsworth was being prosecuted. Agent Tedesco described his

relationship with State Department investigators as "excellent," resulting in a timely, accurate, and professional flow of information between the two law enforcement agencies. Agent Tedesco refutes any assertion that DCIS management was not informed during any part of the judicial process.

DOD Inspector General Eleanor Hill orders Mr. Hollingsworth to be removed "as soon as legally possible"

Eleanor Hill was the DOD Inspector General during the Hollingsworth criminal procedures. On September 21, 1999, Eleanor Hill stated to the Subcommittee Majority Staff that shortly after Mr. Hollingsworth confessed, she had ordered IG personnel, including Mr. Mancuso, "to remove Hollingsworth as soon as legally possible."

DOD Inspector General Eleanor Hill was unaware of several decisions by Mr. Mancuso regarding Mr. Hollingsworth

Ms. Hill stated she was unaware that DCIS management initially refused to allow State Department investigators a consent search of Mr. Hollingsworth's government computer.

Ms. Hill stated she was unaware that Mr. Mancuso endorsed an outstanding evaluation of Mr. Hollingsworth after his confession to criminal conduct.

Ms. Hill stated she was unaware that Mr. Mancuso wrote a letter as an Assistant Inspector General on official stationery to the sentencing judge on Mr. Hollingsworth's behalf.

Hollingsworth Case - Attachments

- 1. Sentencing Memorandum filed in U.S. District Court, dated 06/04/96
- 2. State Department Investigative Time line
- 3. Subcommittee interview of State Department Special Agent O'Brien
- 4. Timeline provided by DOD 7/27/95-9/20/96
- 5. U.S. District Court Criminal Docket
- 6. DCIS Proposal for Removal
- 7. Notice of Personnel Action
- 8. Letter from Mr Hollingsworth's attorney waiving right to appeal removal
- 9. Copy of 5 U.S.C. 7513
- 10. DOD IG Regulations on Disciplinary and Adverse Action Page 7
- 11. DOD General Counsel memo dated 3/14/96
- 12. OPM response to subcommittee request
- 13. Evaluation of Mr. Hollingsworth dated 08/18/95.
- 14. Government's motion to exclude Defendant's Proposed Psychiatric Testimony
- 15. Memorandum of Linda Martz dated 02/07/96
- 16. Motion to Dismiss Indictment
- 17. Opposition to Defendant's Motion to dismiss
- 18. Memorandum of Linda Martz dated 03/13/96
- 19. Letter to Judge Ellis written by Mr. Mancuso on behalf of Mr. Hollingsworth dated 04/29/96
- 20. Rules of Criminal Procedure 11 (a) (1)
- 21. Plea Agreement dated 03/15/96