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March 9, 2011

VIA E-MAIL

Gordon Heddell  
Inspector General  
c/o John Crane  
Assistant Inspector General for Communications  
and Congressional Liaison  
Department of Defense  
400 Army Navy Drive  
Arlington, Virginia 22202-4704

Re: Lieutenant Colonel Michael D. Holmes, TX ARNG

Dear Mr. Heddell:

I am writing concerning my above referenced client and your office's decision, issued by M. Jane Deese, Director Military Reprisal Investigations ("MRI") and dated September 29, 2010, a copy of which is attached, declining to conduct a further inquiry into his allegations. Respectfully, I am asking for this determination to be subjected to oversight review and reconsideration for further investigation.

LTC Holmes' case recently became the subject of intense media attention with the publication on February 23, 2011, of a Rolling Stone article entitled "*Another Runaway General: Army Deploys Psy-Ops On U.S. Senators*". Unfortunately while the substance that LTC Holmes relayed to the reporter became sensationalized in this account (and the issue of Psy-Ops is not the subject of the inquiry we are seeking), the existence of whistleblower retaliation for calling into question the lawfulness of a military order was quite real.

The matter originally came to your office via the Inspector General at Camp Eggers, Kabul, Afghanistan. At no time did anyone from your office query my client for additional information, or that of anyone else we are aware was involved with the situation. On what basis your MRI section conducted a factual inquiry to reach any type of determination is completely unknown. Had a proper review been conducted MRI would have discovered that person(s) unknown

launched a massive retaliatory campaign within a short period of time, primarily utilizing the provisions of AR 15-6 (or similar provisions from the other Services), against no less than five officers who were associated with circumstances discussed in the Rolling Stone article, and that includes the Assistant Staff Judge Advocate (“ASJA”) who determined the order LTC Holmes received was unlawful.

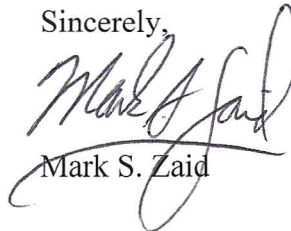
This ASJA was specifically designated as the point of contact for LTC Holmes to convey a protected communication which properly challenged an unlawful order. Where better to go for a legal determination than to a representative of the SJA? A determination that such a communication does not fall within the “chain of command” violates the spirit, if not the letter, of the relevant DoD Directives that guide your Office. Indeed, if such a communication is not deemed protected and/or establishes whistleblower protection under some relevant provision I daresay the entire notion that a member of the military can challenge an unlawful order without fear of reprisal, especially when proven right, would be eviscerated.

In any event, whether LTC Holmes is a “whistleblower” under a particular technical provision or not, I find it difficult to believe that this type of reprisal inquiry involving senior officers of the U.S. Military, possibly up to the level of Lieutenant General, can be so easily dismissed by your Office without any semblance of a legitimate factual or legal inquiry. Surely there is a facet of this case that merits review by an Office that holds as its mission to “Promote integrity, accountability, and improvement of Department of Defense personnel, programs and operations to support the Department’s mission and serve the public interest” and asserts as its core values the principles of Accountability, Integrity and Efficiency?

Therefore, I reiterate my request that your Office respectfully reconsider review of the circumstances surrounding the retaliation subjected upon LTC Holmes and others associated with justifiably calling into question an unlawful order to conduct information operations against U.S. Persons to include members of Congressional Delegations. We would be happy to provide your staff with documentation and sworn testimony to support our allegations.

I would appreciate the courtesy of a prompt response. I can best be reached via e-mail or my cell at 202-498-0011.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Zaid", written in a cursive style. The signature is positioned above the printed name "Mark S. Zaid".

Mark S. Zaid

Attachment

cc: LTC Michael D. Holmes



INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
400 ARMY NAVY DRIVE  
ARLINGTON, VIRGINIA 22202-4704

SEP 29 2010

Lieutenant Colonel Michael D. Holmes, ARNG  
180 NWestview Drive Vail, AZ 85641  
[mike.holmes@us.army.mil](mailto:mike.holmes@us.army.mil)

Dear LTC Holmes:

This letter responds to your allegation of military whistleblower reprisal you submitted on June 21, 2010, under Title 10, United States Code, Section 1034, "Military Whistleblower Protection Act," as implemented by DoD Directive (DoDD) 7050.06, "Military Whistleblower Protection." You alleged your command initiated an Army Regulation (AR) 15-6 investigation in reprisal for the communication you made to the Office of the Staff Judge Advocate (OSJA) at Camp Eggers, Kabul, Afghanistan in March, 2010, that resulted in your receipt of a General Officer Memorandum of Reprimand (GOMOR). The IG at Camp Eggers forwarded your allegation to DoD IG, Military Reprisal Investigations Directorate, for review and appropriate action.

We determined that there was insufficient evidence to warrant further inquiry into your reprisal allegation and have closed your case. During our review, we looked at documentation you provided as well as documentation and information from other sources. We found that your communication did not meet the criteria for protection under DoDD 7050.06 since the OSJA is not designated to receive such communications. Further, we determined that your seeking legal counsel did not influence your command's decision to conduct an AR 15-6 investigation that resulted in a GOMOR.

You can find additional information on military whistleblower complaints at [www.dodig.mil/hotline/hotline3.htm](http://www.dodig.mil/hotline/hotline3.htm). If you have any questions please contact Ms. Lisa Hodges at (703) 699-0202.

Sincerely,

A handwritten signature in cursive script that reads "M. Jane Deese".

M. Jane Deese  
Director Military  
Reprisal Investigations

cc:  
SAIG, Assistance Division (Whistleblower Investigation)