OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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MEMORANDUM FOR: The Honorable Jeh C. Johnson
Secretary

FROM: John Roth
Inspector General

SUBJECT: Allegations of Misuse of United States Secret Service Resources

The Office of Inspector General is conducting an investigation into allegations that the United States Secret Service initiated a protection operation of one of its employees, resulting in Secret Service personnel, resources, and assets being utilized for activities outside the scope of the Secret Service mission. Specifically, we received allegations that the Secret Service used its personnel to protect a Secret Service employee at her home – described by the Secret Service as a "welfare check" – and that it conducted law enforcement database queries in conjunction with these visits. The investigation is substantially complete, and this memorandum details the investigative findings regarding these allegations.

We reviewed documents and Secret Service policies, interviewed the employee and Secret Service supervisors involved in approving the welfare checks, Secret Service Counsel, as well as all eight agents involved in conducting the checks.

Background

On June 30, 2011, a Secret Service employee, who was an assistant in the Office of the Director, was involved in an altercation with a neighbor. According to the employee, she had been harassed by her neighbor and the neighbor had assaulted her father, which resulted in the loss of several of her father's teeth. The local police arrested the neighbor as a result. Early on the morning of July 1, 2011, the employee received an Interim Peace

Order against the neighbor in state court. This "Peace Order" directed the employee's neighbor to refrain from further harassment, not to contact the employee or her father, and not to go on the employee's property. On July 5, 2011 a Temporary Peace Order was issued against the neighbor.

Secret Service Response

On July 1, 2011, the employee related her situation to her supervisor, who was the Executive Assistant to the Director of the Secret Service. He, in turn, relayed it to Keith Prewitt, Deputy Director of the Secret Service, and the second in command at the Secret Service at the time (who has since retired). When we interviewed the employee, she told us that she considers Prewitt a friend of her family. Prewitt, in turn relayed the information to A.T. Smith, the Assistant Director for Investigations (who currently holds the position of Deputy Director) and told him that he thought that the Secret Service should do something to assist the employee. Smith told us that it was his idea to have agents go to her home to check on her. Smith directed the Special Agent in Charge (SAC) of the Washington Field Office to have agents conduct welfare checks on the employee. Secret Service Director Mark Sullivan and Prewitt were both made aware that the Washington Field Office agents were conducting these visits to the employee's home.

Officials in the Washington Field Office decided to utilize the Secret Service's "Prowler" team to conduct visits to the employee's home, located in rural Maryland. The Prowler assignment consists of a rotating team of two Special Agents assigned to the Washington Field Office who respond to suspicious persons and situations in and around the White House and the National Capital Region. The Prowler team agents use unmarked, fully-equipped Secret Service vehicles and wear civilian clothes without Secret Service identifiers. They are not part of the Presidential Protective Division, but rather assigned to the Washington Field Office Protective Intelligence Unit.

The operation, which was variously referred to as "operation moonlight" and "operation moonshine," commenced on July 1, 2011, when the employee was able to obtain an Interim Peace Order in Charles County, Maryland. The welfare checks consisted

of two agents driving to the employee's home, a 50 minute drive (without traffic) from the White House, and remaining in their car outside of her house, parked on the road that the employee and the neighbor shared. The agents would also sometimes call the employee shortly before or upon their arrival to determine if there were any issues. The duration of these visits could not accurately be determined. Some agents told us that they remained there between 15 minutes and 2 hours, to include drive time.

The log records[1] that we were able to obtain, however, show that on at least one occasion, on July 5th, two different teams of agents conducted welfare checks at different times and locations during the day, specifically her residence and the Charles County Court House in LaPlata, Maryland. Our investigation did not reveal any instances in which the Secret Service agents approached the neighbor involved in the dispute, nor could we conclude that the neighbor's house was ever under direct surveillance. As reportedly is their practice, the Secret Service conducted criminal history and commercial database checks on the neighbor, the results of which were given to the agents doing the welfare checks.

Recollection of the agents involved vary as to how long the operation lasted; some thought it had lasted approximately one week, others thought it had lasted up to two weeks, while one agent speculated that it lasted up to a month. The SAC of the Washington Field Office told us that the operation only lasted five days, from Friday to the following Tuesday. The employee told us that it had lasted only until she was able to obtain a Temporary

[1] We were able to find two different log records during our investigation. The first, entitled "Command Post Protectee Log," was a handwritten sign-in sheet, on a single sheet of paper, in which the assigned agents would list the times and activities in which they were engaged in the operation. This record reflected visits on July 1st, 2nd, 3rd, 4th, and 5th. The times of arrival and departure were incomplete. The second record we obtained was the "Prowler Daily Field Activity Report," a printed form, with a single page for each day, listing the activities, times and location of the agents assigned. Of the forms provided to us, only July 2nd, 3rd, and 5th appeared to include information relevant to the operation.

Peace Order, on Tuesday, July 5, 2011. Our review of the log sheets reflecting Prowler activity showed that visits were conducted on July 1st, 2nd, 3rd, 4th, and 5th. A Secret Service schedule of protectee movements for July 7th reflected a notation that the Prowler runs to the employee's area had been discontinued. From our review of the records provided by the Secret Service, we have no evidence that the welfare checks lasted beyond the receipt of the Temporary Peace Order on Tuesday, July 5th.

Secret Service Justification

Smith, who directed that these welfare checks be made, explained to us his rationale for the use of these resources. He explained that the rural location of the employee's residence, the lack of police coverage, and the employee's previous history with the neighbor presented concern for the welfare of the employee. These concerns, coupled with her status as a White House pass holder and her access to the Secret Service Director's Office were also determining factors, according to Smith.

The three main Secret Service officials involved -- Prewitt, the SAC of the Washington Field Office, and the supervisor of the Protective Intelligence Unit -- each told us that they believed that the assignment was within Secret Service policy and an appropriate use of Secret Service resources. Prewitt said he would make the same decision again, stating, "You look after your people."

The agents we interviewed were mixed in their beliefs as to the propriety of the assignment. Some thought it was an appropriate use of government resources and within Secret Service policy, while others thought that this was best left to the local police department.

None of the Secret Service personnel we interviewed – supervisors or line agents – believed that the actions compromised the security of the President or the White House.

We were unable to find Secret Service policy or regulation either approving or prohibiting the assignment of Secret Service resources

to protect an employee as a result of a matter unrelated to her status as a government employee.

Agency counsel was not consulted in advance of the assignment, but stated that such an action could be justified either under the Secret Service's authority to investigate violations of federal criminal law, involving assault on a federal employee, or under the broader context of a welfare check. Counsel thought that welfare checks were common practice among federal law enforcement agencies and that it was neither unusual nor improper for federal agents to look out for one another and for other agency employees. Counsel did not believe that the activities constituted an ethics violation, since it was not undertaken for personal gain.

Analysis

We examined whether the use of Secret Service resources to provide for welfare checks unrelated to an employee's official position violated the Office of Government Ethics, Standards of Ethical Conduct for Employees of the Executive Branch. Specifically, 5 CFR 2635.704 states that "An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes." An "authorized purpose," in turn is defined as "those purposes authorized in accordance with law or regulation."

There is no specific statutory or regulatory authorization for the use of Secret Service resources to protect an employee involved in an unrelated private dispute. Title 18, United States Code, section 3056, entitled "Powers, authorities, and duties of United States Secret Service," lists the permissible activities of the Secret Service: protection of certain listed persons, including the President; investigating the violation of certain listed criminal statutes, including counterfeiting and fraud; coordinating events of national significance; and making arrests for federal felonies.

The Prowler agents were not investigating a potential assault on a government employee, which is a violation of 18 USC §115. The Secret Service has the power to arrest an individual for such an assault, but has no explicit statutory authority to investigate it.

(For example, assaults on Secret Service protectees are conducted by the FBI.) In any event, to be a federal crime, the assault would have to have occurred in the course of the employee's duties or as a result of being a federal employee. We did not find that to be the case here, and it was apparent to those involved that it was not the case. First, it was the employee's father, not the employee herself, who had been assaulted. Second, the employee acknowledged that the original incident was unrelated to her status as a federal employee, although the neighbor may have known of her status. Third, we found no evidence that the event was treated by the agents as an assault investigation – no reports were written, nor were there any investigative steps taken that would lead us to conclude that the agents were engaged in a criminal investigation. Moreover, none of the agents we interviewed said that they were conducting a criminal investigation.

The conduct is made more problematic by virtue of the employee's position within the Secret Service. She was a long-term employee of the Secret Service and at the time was an Assistant in the Director's office. Her husband was also a long-term employee of the Secret Service, and she considered Prewitt and the Assistant to the Director to be her personal friends.

Section 2635.101 of the Standards of Ethical Conduct states that "employees shall act impartially and not give preferential treatment to any private organization or individual," and further states that they must avoid any actions that create the appearance of violating ethical standards. Section 2635.702 of the Standards of Ethical Conduct states that a government employee shall not use his public position for his own private gain, or for the private gain of friends or relatives. Here, the employee's position as working in the Director's office and her friendship with high-level Secret Service officials created the appearance that it was that relationship, rather than furthering official government functions, that motivated the assignment of the Prowler team.

Every Secret Service employee we interviewed, without exception, maintained that their protective function was not compromised by assigning the Prowler team to this duty. Nevertheless, the Prowler team exists to provide roving support for the Secret Service's

protection mission and is within the Washington Field Office's Protective Intelligence Unit. The records we reviewed show that, other than the welfare checks, they focused primarily on the area around the White House. Based on the records we were able to obtain, the Prowler team was diverted for a considerable period of time: July 2nd - 3.5 hours; July 3rd - 5 hours; and July 5th – over 4 hours and 8 hours (in two shifts). In each of these instances, the Prowler team would have been unable to respond to exigencies at the White House. On at least two of the days in question (July 1st and July 5th), the President was in the White House at the same time that the Prowler team was engaged in welfare checks in rural Maryland, at least 50 minutes away.