

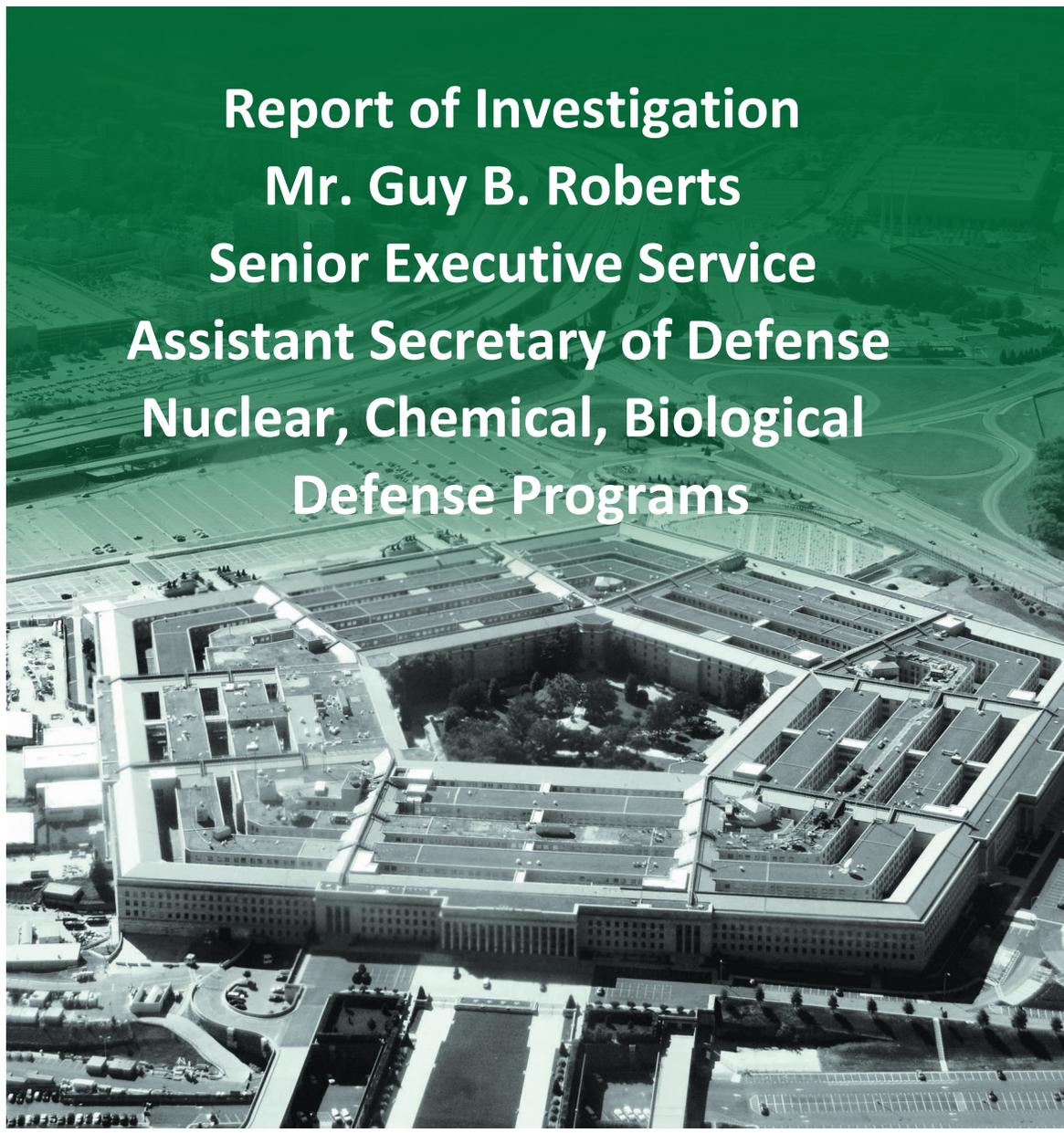
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INVESTIGATIONS OF SENIOR OFFICIALS

INSPECTOR GENERAL

U.S. Department of Defense

DECEMBER 10, 2019



**Report of Investigation
Mr. Guy B. Roberts
Senior Executive Service
Assistant Secretary of Defense
Nuclear, Chemical, Biological
Defense Programs**

INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE

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**REPORT OF INVESTIGATION:
MR. GUY B. ROBERTS
ASSISTANT SECRETARY OF DEFENSE
FOR NUCLEAR, CHEMICAL, AND BIOLOGICAL DEFENSE PROGRAMS**

I. INTRODUCTION AND SUMMARY

Complaint Origin and Allegations

On February 7, 2019, the Office of the Under Secretary of Defense for Acquisition & Sustainment referred a complaint to the DoD Office of Inspector General (DoD OIG) alleging that Mr. Guy B. Roberts, Assistant Secretary of Defense (ASD) for Nuclear, Chemical, and Biological Defense Programs (NCB), sexually harassed a woman on his staff.¹

On February 22, 2019, we initiated an investigation into the allegations.

On April 2, 2019, Mr. Roberts resigned from his position. Although Mr. Roberts resigned, we completed our investigation consistent with our standard practice.

Scope and Methodology of the Investigation

During our investigation, we interviewed Mr. Roberts and 18 witnesses who had information about the allegations, or who were identified as potentially having knowledge relevant to our investigation. We also reviewed 4,053 official e-mails, other documents relevant to this investigation, and applicable standards.

Several witnesses told us about additional allegations that Mr. Roberts sexually harassed two other women on the NCB staff. Throughout this report, we refer to the women Mr. Roberts allegedly sexually harassed as "Employee 1," "Employee 2," and "Employee 3." Witnesses also alleged that Mr. Roberts made repeated, public comments that were sexual in nature. We expanded the scope of our investigation to include these additional allegations.

Conclusions

We substantiated the allegations that Mr. Roberts engaged in a pattern of misconduct in which he sexually harassed women on his staff. Specifically, he frequently hugged them, touched them, and made sexual comments. In addition, he made jokes that many found inappropriate and offensive and which caused employees to feel uncomfortable.

DoD Directive 1440.1, "The DoD Civilian Equal Employment Opportunity (EEO) Program," May 21, 1987, states that sexual harassment is a form of sex discrimination that involves unwelcomed sexual advances and other verbal or physical conduct of a sexual nature when such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment. A civilian employee who makes deliberate or repeated unwelcomed verbal

¹ The complaint also contained additional matters. Based on our review, we determined that these matters did not warrant investigation. We discuss these matters in Appendix A.

comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

We determined that Mr. Roberts treated women on the NCB staff differently, and made deliberate, unwelcomed physical contact of a sexual nature by hugging, kissing, or touching Employees 1, 2, and 3. In addition, the evidence showed that Mr. Roberts made deliberate, repeated, and unwelcomed verbal comments of a sexual nature to Employees 1 and 2. Mr. Roberts' actions and comments created an intimidating, hostile, and offensive work environment for the three women. Mr. Roberts' physical interaction and statements caused the three women to fear damage to their professional reputations and to fear being fired if they rejected his physical contact or complained about his behavior.

Mr. Roberts stated that it was not his intent to sexually harass the female employees, and that the women did not tell him his behavior was inappropriate or made them uncomfortable. However, Employee 1 told Mr. Roberts on several occasions that his behavior and comments were unwelcomed and unacceptable. Further, we concluded that he knew or should have known, based on his experience and training, that the physical contact and sexually suggestive comments were completely inappropriate.

We also determined that Mr. Roberts made comments that created a hostile, intimidating, and offensive work environment for women on the NCB staff. Mr. Roberts made deliberate, repeated, and public comments of a sexual nature to members of his staff in meetings and in a town hall forum. He said he thought his comments were appropriate and acceptable and that they made people laugh or smile. However, his comments were perceived by others as offensive.

Additionally, his subordinates did at times tell him to stop. Some subordinates asked him not to repeat some of his comments; yet he still continued to make them.

Mr. Roberts' Response to our Tentative Conclusions Letter

We provided Mr. Roberts our Tentative Conclusions Letter (TCL) containing our preliminary conclusions and gave him the opportunity to comment on the results of our investigation before finalizing our report. Mr. Roberts responded that he disagreed with our conclusions. We carefully considered Mr. Roberts' comments regarding our preliminary conclusions, re-examined our evidence, and include his comments, in part, in this report.²

In his response to our TCL, Mr. Roberts wrote, "I am surprised and dismayed by the conclusions contained in the report; specifically, that I sexually harassed and inappropriately touched the three employees and others."

Mr. Roberts also wrote that he "categorically" rejected Employee 1's "version of events as described in the report" and that he was "surprised that her version of events gained credence over my perception of events." He added that he never solicited sexual favors from her, Employee 2, or Employee 3.

Mr. Roberts agreed that the jokes he made "were inappropriate." He stated:

² We recognized that summarizing Mr. Roberts' response risked oversimplification and omission. Accordingly, we included Mr. Roberts' comments in this report and provided the Under Secretary of Defense for Acquisition and Sustainment with a copy of Mr. Roberts' full response to our Tentative Conclusions Letter.

I have been telling those jokes and funny incidents for over 30 years to audiences large and small. In today's work place the fact that any one person would feel uncomfortable is enough to stop telling those kinds of jokes and I failed to appreciate that fact.

Finally, Mr. Roberts wrote that he relied on his military assistant and special assistant to "keep me informed about the appropriateness of my actions." He added that Employees 1, 2, and 3 never informed him that his behavior made them uncomfortable.

After considering Mr. Roberts' response to our TCL, we did not change our report and stand by our conclusions. We discuss Mr. Roberts' TCL response and provide analysis in Section IV of our report.

The following sections of this report provide the detailed results of our investigation. We first provide background information on Mr. Roberts, then present the complaint and facts associated with Mr. Roberts' hugging, kissing, and touching of Employees 1, 2, and 3. We also discuss the verbal comments he made to Employees 1 and 2. Next, we provide the facts associated with Mr. Roberts' public comments, which created a hostile, intimidating, and offensive work environment for women on the NCB staff. Finally, we present our overall conclusions.

II. BACKGROUND

Mr. Guy B. Roberts

On November 30, 2017, Mr. Roberts assumed duties as the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs. In that position, Mr. Roberts was the principal advisor to the Secretary of Defense, the Deputy Secretary of Defense, and the Under Secretary of Defense for Acquisition & Sustainment for matters concerning nuclear, chemical, and biological defense programs.

Prior to this assignment, Mr. Roberts served in the United States Marine Corps as an infantry officer, judge advocate, and staff officer. He also served as the Acting Deputy Assistant Secretary of Defense for Arms Control and Nonproliferation Policy for the Department of Defense, and then as the North Atlantic Treaty Organization's Deputy Assistant Secretary General for Weapons of Mass Destruction Policy and Director for Nuclear Deterrence Policy before becoming an independent consultant and adjunct professor.

III. ANALYSIS OF THE ALLEGATIONS

Chronology of Significant Events

Table 1 lists the timeline of events related to this investigation.

Table 1. Chronology of Significant Events

Date	Event
Nov. 30, 2017	Mr. Roberts assumes duties as the ASD, NCB.
Dec. 15, 2017	Employee 1 starts working for Mr. Roberts part-time in the NCB front office.
Aug. 2018	Employee 1 moves to another office away from Mr. Roberts' direct observation and supervision.
Feb. 7, 2019	The DoD OIG receives the complaint against Mr. Roberts.
Feb. 22, 2019	The DoD IG initiates this investigation.
Apr. 2, 2019	Mr. Roberts submits his resignation.

Complaint

The complaint alleged that Mr. Roberts sexually harassed Employee 1 by hugging and kissing her, making sexually suggestive comments, and placing his hand on her thigh. During the investigation, witnesses told us about additional allegations against Mr. Roberts, describing that he sexually harassed two other women on his staff, Employee 2 and Employee 3.

Table 2 lists the allegations of sexual harassment involving Employees 1, 2, and 3.

Table 2. Summary of Alleged Sexual Harassment

Alleged Victim	Alleged Misconduct
Employee 1	Mr. Roberts repeatedly greets or bids farewell to Employee 1 by hugging and kissing her while the two are alone.
Employee 1	Jan. 8, 2018 - Mr. Roberts puts his arm around Employee 1 and sits closely next to her at a social event; as Mr. Roberts departs the event, he embraces Employee 1, kisses her on the cheek, and whispers "I love you" in her ear.
Employee 1	Jun. 14, 2018 - Mr. Roberts touches Employee 1's thigh during a farewell party.
Employee 1	Mr. Roberts invites Employee 1 on dates for dinner or drinks; makes comments about living alone in an apartment without his wife that Employee 1 perceives as an invitation to visit Mr. Roberts in his apartment so the two could be alone; and expresses his desire to see Employee 1 in a bikini.
Employee 2	Mr. Roberts hugs Employee 2 on several occasions; touches her clothing; touches her skin while lifting a necklace from her collarbone in the NCB front office; and lifts a necklace from her collarbone during an NCB happy hour.
Employee 2	Mr. Roberts routinely comments on Employee 2 "looks" and tells her she is pretty.
Employee 3	Mr. Roberts hugs Employee 3 on several different occasions while the two travel on NCB business and at an NCB happy hour after work.

*Mr. Roberts' Alleged Sexual Harassment of Employee 1**Hugging, Kissing, and Touching Employee 1*

Employee 1 told us she started working part-time in the NCB front office under the direct supervision of Mr. Roberts in December 2017. Employee 1 said that shortly after she started working for Mr. Roberts, he started routinely greeting her and bidding her farewell by hugging her and kissing her on the cheek and would press his crotch and his chest against her in an attempt to have full body contact. She said that "when he saw me ... he'd come over [to give her a hug] and sometimes I could avoid it." When she could not avoid the hug, Employee 1 told us she reacted by leaning back or "hollowing up" her body during Mr. Roberts' embrace. She demonstrated the movement to OIG investigators by arching her back in a backward motion. She described his conduct as inappropriate and said that his behavior continued through the duration of her employment in his front office.

Employee 1 said that after the first few instances of hugging and kissing in December 2017, she told Mr. Roberts to stop, and Mr. Roberts stopped his behavior for a couple of weeks. She thought that he understood that she did not want him to hug or kiss her. However, she said that he resumed hugging and kissing her and she made repeated requests to him to stop hugging and kissing her throughout her employment at NCB. She told us that despite her repeated requests, Mr. Roberts continued to hug and kiss her. Employee 1 stated:

So I felt like I ... couldn't like slap him. I mean it didn't warrant that. So that was the problem. In some ways, I almost felt like if he ... had been ... worse, you know, I could have been more like 'get the hell away from me.'

Employee 1 said that Mr. Roberts hugged and kissed her when he was alone with her in his office or before others arrived at meetings, and she did not know if other NCB employees saw this behavior. We examined the layout of the NCB front office. Mr. Roberts' office was located at the end of a hallway and the interior of his office could not be seen from the offices of his military assistant, his special assistant, or his deputy director. Although we could see inside Mr. Roberts' office if we stood in the doorway, we could not see inside the office when we stood in the hallway.

Employee 1 told us of a specific instance in the spring of 2018 when Mr. Roberts hugged and kissed her longer than he normally did while the two were standing in the doorway of his office. She told us that she was concerned that NCB staff would notice and told Mr. Roberts "... you cannot do this. You must stop doing this. You absolutely have to stop doing this." She said she told Mr. Roberts, "I work for you. People will think that ... we have an inappropriate relationship." She said that Mr. Roberts laughed at her when she asked him to stop and justified his actions by saying that he and Employee 1 were old friends. She said she responded with, "Sir, it's inappropriate. You can't do that here." Employee 1 worried about her reputation in the workplace because of Mr. Roberts' actions and did not know if other NCB employees were aware of Mr. Roberts' behavior toward her.

One witness told us that he saw Mr. Roberts hug Employee 1 in the Pentagon. This witness, one of Mr. Roberts' subordinates and an NCB Deputy Assistant Secretary of Defense (DASD 1), told us that he saw Mr. Roberts hug Employee 1 occasionally before NCB staff meetings.³ DASD 1

³ We interviewed three NCB Deputy Assistant Secretaries of Defense and refer to them as "DASD 1," "DASD 2," and "DASD 3."

described the hugs as not “a Pentagon hug” where a person had one arm extended and tapped another person on the back, but instead as full-body contact, and he told us that he found the action “unusual the first time it happened.”

Another witness, a colleague who worked with Employee 1, told us that over a period of 1 1/2 years, she had multiple conversations with Employee 1 about Mr. Roberts’ behavior, including conversations about him hugging Employee 1 in the office. The colleague said that Employee 1 usually called her within 24 hours of what Employee 1 described to her as Mr. Roberts’ inappropriate behavior to “vent” about his behavior. The colleague said:

[Employee 1] was very upset and very fearful that she would have to make a big deal about this. This is not what she wanted to do. She wanted to put the mission first and just do her job, and she struggled for a while, for months because she really wanted it to just go away. She felt if she kept rebuffing him, not putting herself alone with him in a room, making sure there was lots of distance that eventually it would stop because she didn't want to cause any trouble. She just wanted to do her job. That was most of the conversations we had.

The colleague also told us:

[Mr. Roberts] became more blatant, right, and as that happened she became firmer and firmer with him, like enough. And she started to get very worried that she was going to have to do like, not cause trouble but report it and make it a big issue. And she didn't want to do that. It is difficult for a woman when you report this. People look at you. You get judged. We wish that wasn't true, but it's always been all our experiences. She was mission focused. She wanted to just be left alone to do her job.

Mr. Roberts described Employee 1 to us as a “longtime friend.” He told us he hugged Employee 1 when “he first met her” and “a couple other times” when Employee 1 was in the office. He said that Employee 1 gave him hugs “from the very beginning [of her employment with him] in December 2017.” He described the hugs as normal, lasting a duration of “one or two seconds, with hands in [an] appropriate place on the back as you would give a normal person.”

Mr. Roberts said he could not recall initiating hugs with Employee 1 and said that because he couldn't recall, “I'm going to say ... I didn't initiate any hugs.” Mr. Roberts also said that “at best,” hugging was a “mutual thing.” He also told us:

Over the last 35 years, I've been to ... at least three or four courses on sexual harassment through the Department of the Navy and gone through various training programs, so I'd say I'm pretty knowledgeable and, you know, in the Navy, Department of the Navy, use the red, green, yellow light as a matrix on how-to [behave], and very familiar with it.⁴

⁴ Mr. Robert's reference to red, green, and yellow lights is found in SECNAV Instruction 5300.26D, January 3, 2006, which is the Navy policy on sexual harassment. The policy defines a “Range of Behaviors” which constitute sexual harassment by using a traffic light illustration: green light behavior is not considered sexual harassment; yellow light behavior may be considered sexual harassment; and red light behavior is considered sexual harassment.

Mr. Roberts told us that “there would be [an] occasion where” Employee 1 came into his office, approached him, and gave him a hug. Mr. Roberts said that he and Employee 1 hugged each other “Maybe three or four times” in the front door of his office, which was “always open.” He also told us:

And certainly, since she initiated it or and I, likewise, I mean, I felt very comfortable. I didn't feel that it was, you know, it wasn't even a yellow-light thing. It was a green [light thing], because of the prior relationships and the friendship that we felt for each other, so I you know, I got no warning signs at all from it.

Hugging, Touching and Kissing Employee 1 at Restaurant – January 2018

Employee 1 also told us about an instance at an event outside the Pentagon when Mr. Roberts hugged, touched, and kissed her.

Employee 1 arranged a meeting for January 8, 2018, to introduce Mr. Roberts to a senior official (representative) from another Government agency. After the meeting, Employee 1, Mr. Roberts, and the representative met at a restaurant near the Pentagon. Employee 1 and the representative told us that the three sat in a booth, with Mr. Roberts next to Employee 1 and the representative directly across the table from Employee 1 and Mr. Roberts. Employee 1 and the representative told us they were at the restaurant for “about an hour” to “no more than an hour and a half.” Employee 1 told us everyone had one drink:

I think I had a glass of wine. I think [the representative] had a cocktail, and I think [Mr. Roberts] had a beer. I mean I've never seen [Mr. Roberts] drink to excess or anything.

Employee 1 told us that Mr. Roberts pressed his body up against her while they sat in the booth and at one point he put his arm around her. She said she leaned away to avoid physical contact with Mr. Roberts: “I just kept moving over, and he kept following me.” She also told us that Mr. Roberts' actions were unwelcome, inappropriate, and uncomfortable and:

my biggest reaction to this was I was mortified. I mean that really was my biggest reaction. I just, I was embarrassed, and I definitely did not want to be drawing anybody else into my little drama. So it was embarrassing to me that [the representative] witnessed this.

The representative told us that he noticed:

a couple of times during the conversation where [Employee 1] would give me a look ... kind of like, ... you could just see a facial expression, ... an eye bulge or whatever. So I don't know whether he was either accidentally brushing her or not. I just don't know, right, not at that point at least ... [but Mr. Roberts' physical interaction with Employee 1 was] probably a little too close.

As the three were leaving the restaurant, Employee 1 said that Mr. Roberts grabbed her by the shoulders, pulled her to him, hugged her, and kissed her cheek. While hugging Employee 1, Mr. Roberts whispered “I love you” to her. Employee 1 told us that she was shocked by Mr. Roberts' action. She told us:

Nothing compared to the kissing and the hug and the "I love you." That just, that was way over the top. Because who does that? I mean I'm married. He's married. I work for him. The list goes on of reasons he shouldn't ever say something like that to me ever, in any circumstance whatsoever, ever. I mean it's wrong.

The representative said that Employee 1 "went to give [Mr. Roberts] a polite hug" which he described as a "half hug." The representative also said, "I'm going to couch this as I believe I recall" that Mr. Roberts kissed Employee 1 on the lips while Mr. Roberts had his arm around her back. The representative said that Employee 1 was definitely surprised, that he perceived Mr. Roberts' behavior that evening as awkward, and stated:

The idea of personal space is very different between people and the idea of what is appropriate ... I think the first thing that came to my mind was, that was kind of a weird, old school kind of thing that probably you shouldn't do as a political appointee. Probably you shouldn't do period

The representative also told us that after Mr. Roberts departed, he asked Employee 1, "... so what's that all about?" The representative told us "[Employee 1] told me, 'yeah, I'll be able to handle that, I will talk to him.' So I assumed that that would be the end of it, because ... [Employee 1] can handle herself."

Employee 1's colleague told us that Employee 1 called her twice that evening. She said the first call was from the restaurant bathroom, and the second call came a few minutes after Employee 1 left the restaurant. According to the colleague, during the first call, Employee 1 told the colleague that she (Employee 1) was uncomfortable and was trying to leave the restaurant because Mr. Roberts was sitting too close and moved closer to her when she moved away from him. The colleague told us, "[Employee 1 said] that she was uncomfortable and [Mr. Roberts] was sitting too close again, and [Employee 1 said] 'I keep moving, but he keeps moving too.'"

According to the colleague, in a second call Employee 1 told her that about 5 minutes previously, Mr. Roberts pulled Employee 1 to him, hugged and kissed her, and whispered "I love you" to her. The colleague said "[Employee 1's] perception ... was that he was emotionally, you know, like using the word 'love' so that there was some kind of emotional connection there for him as well, as he was trying to sleep with [Employee 1]."

Mr. Roberts told us that he, Employee 1, and the representative met at the restaurant and stayed for no more than 2 hours. He said that the three were discussing business while standing very close to each other around a small standup table in the crowded restaurant. He told us that he thought he had only "a beer." When we asked Mr. Roberts if he put his arm around Employee 1 at the restaurant, he stated, "I may have done it, but I don't remember." Mr. Roberts also said that he, Employee 1, and the representative "probably walked out together ... it's very vague. I don't really recall that, but it seems logical we would."

Mr. Roberts initially told us that he did not remember hugging Employee 1, but later in our interview said that he did not hug, kiss, or whisper "I love you" to Employee 1. Mr. Roberts said that he would not whisper to Employee 1, nor could he "imagine ... doing that because anything I would say to [Employee 1] I would say out loud."

Employee 1 told us that after the incident in the restaurant, "I was pretty sure I was going to have to leave the Pentagon, and I had just gotten there, so I was pissed. I was unhappy." She said

she believed Mr. Roberts would “try to fire me because I was not going to acquiesce [to his sexual overtures and] ... I’m just not going to put up with this.” She also stated, “I was embarrassed. If I had to leave, what was I going to tell people about why I had to leave? So I just, I didn’t want to deal with any of this.”

Employee 1 said she started avoiding Mr. Roberts, and because she worked on a part-time basis, she spent more time working for her other employer and working from her home so she would not have to be near Mr. Roberts. Employee 1 also said she wore body-hiding clothing and physically changed her appearance so Mr. Roberts would stop paying attention to her. She told us, “I call it the burka months.” She stated:

I just, I wanted him to stop paying attention to me, and I wanted him to think I wasn’t attractive. I mean I consciously thought about what I was wearing and how I was behaving. It was awful. I mean it was bad. It was really uncomfortable.

Touching Employee 1 at Restaurant – June 2018

Employee 1 also told us about another specific instance when Mr. Roberts acted inappropriately toward her. Employee 1 said that Mr. Roberts inappropriately touched her on June 14, 2018, during a farewell party for another DoD employee at a restaurant near the Pentagon. According to Employee 1, Mr. Roberts pushed himself into a booth to sit next to her at the party and then placed his right hand on her left thigh. Employee 1 told Mr. Roberts to “behave yourself” in the same tone of voice she used for her children and Mr. Roberts replied, “I’m trying, but I can’t.” Employee 1 said that she pushed Mr. Roberts’ hand away, asked Mr. Roberts to let her out of the booth, and left immediately. She told us she was mortified and felt embarrassed and angry by Mr. Roberts’ unwelcome behavior.

DASD 1 told us that he attended the farewell party at the restaurant and he saw Mr. Roberts as he “squished” himself next to Employee 1 on the bench. DASD 1 said he was standing at a 45-degree angle from Employee 1, “almost directly across from” Mr. Roberts, and saw Mr. Roberts reach his hand down toward Employee 1’s thigh. DASD 1 stated:

If there had been any space between [Mr. Roberts and Employee 1], I would have said he was putting his hands next to him, but it was not on his own leg. In other words, it was not within the confines of his shoulder; it was within the confines of her shoulder. His hand went out, down, and right.

DASD 1 said that he saw Employee 1 shove Mr. Roberts’ hand away with her left hand and noticed that Mr. Roberts whispered to her. DASD 1 walked toward them, but saw Employee 1 put up her hand in a motion that he perceived as a signal to stop. DASD 1 waited, approached Employee 1, asked if she needed a ride to her car, and walked out of the bar with her. DASD 1 told us that he considered Mr. Roberts’ conduct as “way beyond normal professional relation[s]” and described Mr. Roberts’ actions as a grab and “not accidental.” After the farewell party, Employee 1 told DASD 1 that she did not want to file a complaint against Mr. Roberts but she was considering quitting her job. Employee 1 told us that she went on leave for the remainder of the month of June, and through the end of July.

Employee 1’s colleague told us that Employee 1 called her after the farewell party. “She probably called me the next morning,” and told the colleague that “Mr. Roberts came and sat beside

her ... and he put his hand on her leg ... and she tried to move ... get away. And [DASD 1] had come up to the table ... he was standing there looking And then [Employee 1] finally was able to get up and just walk away and go talk to somebody else.”

Mr. Roberts told us that did not remember or recall many of the details of the farewell party. He stated, “If [Employee 1] was there, then we obviously may have talked.” Mr. Roberts also said he did not recall any physical interaction with Employee 1 and stated, “it’s quite possible that I gave her a hug, but I just don’t know.” Mr. Roberts said that he did not place his hand on her leg while the two were sitting in the booth or anytime during the evening.

Employee 1 told us that Mr. Roberts’ behavior created an intimidating, hostile, and offensive working environment. Employee 1 stated that she moved to another office in NCB in August 2018 because of Mr. Roberts’ inappropriate physical behavior toward her. She told us, “I left because Guy Roberts was making me uncomfortable.”

Mr. Roberts’ Comments to Employee 1

Employee 1 also told us that Mr. Roberts made comments to her that she perceived as sexually suggestive. She said that Mr. Roberts told her that he rented an apartment near the NCB office; that he lived there alone and apart from his spouse; and living apart from his wife was “liberating.” Employee 1 considered Mr. Roberts’ statements about his apartment and his wife’s separate residence as “suggesting that we could be alone in his apartment without his wife.”

Employee 1 also told us that Mr. Roberts invited her to dinner or “drinks” with him three or four times. We asked Employee 1 what she thought Mr. Roberts’ intentions were when he invited her to dinner or drinks. She stated:

If a man asked me out for drinks alone ... it seems like it’s a date. ... [I] didn’t want to go out on a date with him And certainly didn’t want to encourage him to think that I had any interest in anything in any sort of sexual or romantic relationship with him. So accepting an invitation to go to drinks would give entirely the wrong message

Employee 1 told us that in the spring of 2018, Mr. Roberts made another sexually suggestive comment to her. She said that after she returned to work from a vacation with a noticeable suntan, Mr. Roberts asked about her suntan and said, “I wish I had seen you in your bathing suit. Do you wear a bikini?” Employee 1 said that she ignored his question and changed the subject, but Mr. Roberts repeated his statement. She replied to him, “I don’t think [my spouse] would’ve liked [your statement].”

Mr. Roberts told us that he “ ... asked no one to ever come to my apartment” and denied telling Employee 1 that living apart from his spouse was liberating. Mr. Roberts told us that one of the reasons he was happy to resign from his position was to “go back to [Richmond], where my wife is at.”

Mr. Roberts said he did not recall asking Employee 1 to go out “one on one” for drinks and “definitively never asked her out for dinner.” He said that “the only time I ever would have” invited Employee 1 out for drinks would have been for a group social gathering.

Mr. Roberts told us that he “absolutely did not” tell Employee 1 that he wanted to see her in her bathing suit or ask Employee 1 if she wore a bikini.

Mr. Roberts’ Alleged Sexual Harassment of Employee 2

Hugging and Touching Employee 2

Employee 2 told us that she worked in a subordinate directorate of NCB, volunteered to work in the NCB front office, and started working there in January 2018. She said, “I decided that it would be beneficial for my career” and she believed that senior leadership was doing her a favor by allowing her to gain experience in the front office.

She told us that Mr. Roberts would hug her when he returned to the office after a lengthy absence; when he was departing the office; or when they attended NCB social events. Employee 2 described the hugs as “full body, arms wrapped around me, his hands on the mid- or upper part of my back, chests touching.” She said that when Mr. Roberts would “reach around” and hug her, she did not feel that she could refuse his hugs because she was the subordinate and “something bad would happen.” She added that she did not complain about Mr. Roberts’ behavior because of her concern about being “DoD fired.” Employee 2 defined “DoD fired” as being removed from her position in NCB and assigned to do “something that just sucks.”

Employee 2 also told us that she felt uncomfortable when Mr. Roberts hugged her, but she did not “say no,” “ward off the advances,” or complain, because she was concerned about damage to her reputation. She stated:

you're conditioned to just accept the behavior. And then if you were to ever say something, you've never seen a good outcome. You've never seen someone like, oh, I was redeemed. No. You are now the woman that has said you've been sexually harassed. I have to change my appearance. I have to wear not red lipstick. I can't wear anything showing like, any sort of skin. That is what happens. So why would I ever think it was acceptable for a 34-year-old who's getting the favor of this voluntary detail, that they wouldn't immediately put me back in [my former office]?

Mr. Roberts told us he hugged Employee 2 “maybe once” and that he “distinctly remember[ed]” hugging Employee 2 “one time, but that was it.” Mr. Roberts described the hug as a “mutual thing” and added that he did not recall the circumstances, but that Employee 2 was “very upset about something and came up” to him.

In addition to hugging, Employee 2 also told us about a specific incident in February or March 2018 when Mr. Roberts touched her bare skin near her neck while the two were in the NCB front office. She told us, “If I was wearing something cool or different ... he would just reach out and touch it.” According to Employee 2, she was standing and talking to Mr. Roberts and he noticed a necklace she was wearing. He then commented that it was beautiful, reached out and lifted the necklace’s pendant away from her body, and touched her bare skin. Employee 2 told us that the necklace hung around her neck in the clavicle or collarbone area and that the necklace pendant was flat against her skin.

Employee 2 described Mr. Roberts' lifting of her necklace and touching her bare skin as traumatic. She told us that the event was seared into her memory and was something that was hard to forget because she was shocked that he had touched her. She stated:

traumatic is the fact that it is seared into my brain, that one event. Right? So, a trauma is something that it's hard to get over because you are so shocked that it happened ... I distinctly remember where I was standing, that it was bare skin. So, traumatic isn't -- is you can't forget it ... And not in a good way.

Employee 2 added that she did not recall whether Mr. Roberts asked to touch or lift the necklace, but she was concerned about being "DoD fired." She also told us that she experienced feelings of helplessness because she could not refuse Mr. Roberts touching her because he was a senior-level official. She stated that she was very uncomfortable with his actions and that the memory of him touching her was upsetting when she thought about it.

She also told us that Mr. Roberts would touch her clothing or jewelry if she was "wearing something weird or cool or different." Although Employee 2 said she did not recall the next incident, two witnesses told us that Mr. Roberts touched Employee 2's necklace at an NCB happy hour event in the summer of 2018. DASD 1 attended the happy hour and sat at an angle from Mr. Roberts and Employee 2. DASD 1 could not hear the conversation between them but saw Mr. Roberts adjust Employee 2's necklace. DASD 1 observed Mr. Roberts look at the necklace, "... then adjusted [it] to the center of her open shirt ... he reached in and moved it back to the center as he replaced it." DASD 1 said that Employee 2 seemed surprised by Mr. Roberts' action.

DASD 2 told us that during the happy hour, he also saw Mr. Roberts touch the pendant on Employee 2's necklace. DASD 2 sat at one end of a rectangular table across from Employee 2 and Mr. Roberts. DASD 2 told us he could not hear the conversation between them and said that Employee 2 "was showing" the necklace to Mr. Roberts. DASD 2 did not consider Mr. Roberts' actions as "inappropriate" or "wrong," but said he would not have engaged in the behavior because the action could be misconstrued and that he "wouldn't want to get in someone's personal space like that."

Mr. Roberts said he did not recall touching Employee 2's necklace, but said he complimented her necklace while they were in the front office. He also told us that he believed that he lifted a pendant necklace from Employee 2's chest during an NCB happy hour. He said he remembered that she wore "a very unique necklace" and he wanted to look at it. Mr. Roberts considered his behavior as welcomed by Employee 2 because he asked to look at the necklace and "that's what happened."

Mr. Roberts' Statements to Employee 2

Employee 2 told us that Mr. Roberts sometimes commented on her "looks" and told her she was "pretty." She said that Mr. Roberts did not make comments on a daily basis, but that she found his statements inappropriate. She also said that after Mr. Roberts said "something about [my] looks" he added, "please don't file a sexual harassment claim," and she interpreted his responses as "making light" of his inappropriate statements. She added that Mr. Roberts "joked with me about my looks. ... it made me uncomfortable. But I didn't say anything to anyone because he's just an old man, and this is what we have to deal with in our work environments."

Mr. Roberts told us that he did not recall “any specific thing I said” about Employee 2’s physical appearance. He said that he “might have said something [but] I just don’t recall.”

Mr. Roberts’ Alleged Sexual Harassment of Employee 3

Employee 3 worked at NCB since 2015. She said that Mr. Roberts hugged her infrequently but recalled it was “more often” while the two were traveling on NCB business and once at an NCB happy hour after work. She told us it is not “appropriate to interact that way with coworkers.” She described the hugs as “face to face,” with Mr. Roberts placing one arm around her back because she “very quickly tried to get out.” She stated, “I found it uncomfortable in that it was always me. It would be shaking hands [with others] and then a hug to me.”

Employee 3 said that at the NCB-wide happy hour event, Mr. Roberts shook everyone’s hands, including other women, but “came in for the hug with me.” She told us that his behavior at the NCB happy hour made her feel “singled out.” Employee 3 also said that when Mr. Roberts hugged her, she felt that it “was as if he was playing” favorites and he was “singling” her out “like [they had] a personal relationship.” She didn’t “want to be singled out, for good or for bad, but just be seen as more of an equal.”

Employee 3 told us that after Mr. Roberts hugged her at the happy hour, a co-worker texted her and told Employee 3 that Mr. Roberts’ behavior was awkward. Employee 3 said she also “complained” to her spouse about Mr. Roberts’ behavior.

Employee 3 said she did not feel that she could discuss Mr. Roberts’ actions with senior leaders in NCB because the discussion would “negatively” impact her career. She told us, “As a young female growing up in this business, you have to, whether right or wrong ... be careful about what you say.”

Employee 3 described Mr. Roberts’ hugs as “offensive but tolerated.” She said she did not hug other colleagues, but didn’t stop his actions. She also said his behavior was “unwelcome.”

Mr. Roberts told us that “it’s quite likely” that he hugged Employee 3, but he could not remember a specific incident. He said that after meetings he and Employee 3 attended during official travel, he was “sure” he gave her a hug with a laudatory comment about her work. Mr. Roberts described the hugs as “something I would give in front of my wife” and it was likely that he had both arms around her upper back with her arms encircling him and their chests touching.

Mr. Roberts said that Employee 3 reacted with a smile and “thank you.” He stated:

She’s one of the best ones we have in [a directorate] and she spends an incredible amount of time on the road above and beyond the call of duty. So I’m sure she’d much prefer a bonus, but [giving her a hug] was just my way of expressing my gratitude for such a great job that she did and she does.

We asked Mr. Roberts if he gave hugs to men on the NCB staff to show his appreciation for their work. He replied that he did not hug men on the NCB staff. He stated, “I think I treat women differently than I treat men. So I guess I’m a Joe Biden kind of guy.”

Mr. Roberts said he believed that hugging Employee 3 was acceptable behavior. He stated:

[O]ver the last 35 or 40 years that's kind of behavior I've engaged in with my coworkers and workers at the end of a big meeting ... it was quite common for everybody to give everybody hugs for a job well done. I never once received a negative response as far as doing that. It was just something that was very normal and whenever we came to the conclusion of any major event whether it was signing a treaty, or finishing up a conference, or having a significant meeting with allies, it was very common for the team to give each other a hug for a job well done, and I've always done that ... I've never received any negative reactions. Nobody ever once said for me not to do that or I don't do hugs, or whatever. So quite honestly if anybody would've said that to me I would have stopped immediately. But, I had always thought it was acceptable behavior.

Mr. Roberts said that if Employee 3 felt uncomfortable about his behavior, she never told him. He told us that his intent was not to sexually harass Employee 3 by hugging her and "all she had to say was I'm uncomfortable with you hugging me and I would [have] never done it again."

Other Public Comments

Other witnesses also told us that Mr. Roberts made deliberate, repeated, and public verbal comments of a sexual nature. These comments included:

- a joke in which he said, "If you're bald up front, that means you're a great thinker. If you're bald in back, that means you're a great lover. And if you're bald all over, that means you think you're a great lover;"
- a joke in which he said, "A Japanese ambassador couldn't say 'congratulations on your election' and would pronounce the phrase as 'congratulations on your erection;" and
- a joke in which he referred to the last name of one of his employees as the French word for butt.

Joke About Bald Men

According to several witnesses, during his initial town hall meeting with approximately 100 NCB staff members, Mr. Roberts made the following statement:

If you're bald up front, that means you're a great thinker, and if you're bald in back, that means you're a great lover, and if you're bald all over, that means you think you're a great lover.

Mr. Roberts said that the audience laughed at his joke and that he considered the statement appropriate because his baldness is "a very prominent feature." He said he thought that the statement allowed NCB employees to "feel more relaxed with me because I'm making fun of myself."

Employee 1 and Mr. Roberts' military assistant spoke to him about the comment after the town hall meeting. Employee 1 asked Mr. Roberts not to repeat the statement because it was "inappropriate." The military assistant told Mr. Roberts, "you have to watch [yourself] in telling jokes." Mr. Roberts told us that he reasoned that the statement was acceptable because "if you tell jokes about yourself, you can never get in trouble."

Witnesses told us that Mr. Roberts made the same statement on several other occasions at other meetings. DASD 1 told us that the statement was so “unusual” that individuals outside of the DoD heard about it, such as the president of a military contracting company. DASD 1 said that people within and outside of the DoD were still talking about Mr. Roberts’ town hall comment a “year later.”

DASD 3 told us that Mr. Roberts’ comment “shocked” many people because of his position as an Assistant Secretary of Defense. The DASD added that the comment “offended” several of his staff, especially “female members.”

An NCB front office employee said that he “cringed” when Mr. Roberts made the statement. He told us that he would not have “shared” the comment because it was “off-color” and not appropriate for a professional environment.

Japanese Election Joke

DASD 1 told us about one of Mr. Roberts’ favorite jokes that he “used ... on a regular basis.” DASD 1 said that Mr. Roberts would state the following, “A Japanese ambassador ... couldn’t say ‘congratulations on your election’ and pronounced the phrase as ‘congratulations on your erection.’” DASD 1 also said the he and the other DASDs “kind of winced and said, boss, you can’t say jokes like that.”

Mr. Roberts said that he did make the joke and it was a true story. He said that he attended a conference in 1991 and the Japanese ambassador could not pronounce the word “election.” When the ambassador congratulated another delegate on election results, the ambassador said, “I want to congratulate you on your erection.” Mr. Roberts told us that he thought the statement was humorous and told the story many times, including while he was NCB Director. He said that when he told NCB staff members, people laughed and smiled. He stated:

I’ve never received a negative [response] -- nobody ever came up to me and said, “You know, I wish you hadn’t told me of that.” And like I said it’s a true story. It’s what happened.

‘Le Derriere’ Joke

DASD 3 told us about an instance in which Mr. Roberts mocked the last name of one of DASD 3’s senior staff. DASD 3 introduced [REDACTED] to Mr. Roberts. During the introductory meeting, Mr. Roberts called her “Ms. Le Derriere.” DASD 3 said that Ms. [REDACTED] reacted politely but “she had a little bit of [a] time recapturing her composure” and expected better of Mr. Roberts because of his position.

Ms. [REDACTED] said that Mr. Roberts told her that he remembered her name by thinking of ‘La Derriere.’ She said that at the time Mr. Roberts made the comment, she did not “make an issue of it” because she perceived Mr. Roberts’ statement as socially awkward. She stated:

After the meeting, I was counseled privately by my boss not to let comments like that go without challenge. [My boss] didn’t say anything when the comment was made, but it was clear that he was upset about it when we spoke. In hindsight I realized that he was right, it wasn’t

appropriate, and even if the comment had been meant innocently I shouldn't have let someone sexualize my name.

Mr. Roberts said he referred to Ms. [REDACTED] as Ms. "Le Derriere" "because ... that's what French for butt is." He said it was a joke and "thought it was amusing because I've never met anybody with the name [REDACTED] before."

IV. OVERALL CONCLUSIONS

We substantiated the allegations that Mr. Roberts engaged in a pattern of misconduct in which he sexually harassed women on the NCB staff. Specifically, he frequently hugged them, touched them, and made sexual comments to them. In addition, he also made jokes that many found inappropriate and offensive and which caused employees to feel uncomfortable.

DoD Directive 1440.1 prohibits discrimination based on sex. Sexual harassment is a form of sex discrimination that involves unwelcomed sexual advances and other verbal or physical conduct of a sexual nature when such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment. A civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

We determined that Mr. Roberts treated women on the NCB staff differently, and made deliberate, unwelcomed physical contact of a sexual nature by hugging, kissing, or touching Employees 1, 2, and 3. In addition, the evidence showed that Mr. Roberts made deliberate, repeated, and unwelcomed verbal comments of a sexual nature to Employees 1 and 2. Mr. Roberts' actions and comments created an intimidating, hostile, and offensive work environment for the three women. Mr. Roberts' physical interaction and statements caused the three women to fear damage to their professional reputations and to fear being fired if they rejected his physical contact or complained about his behavior.

Mr. Roberts stated that it was not his intent to sexually harass female employees, and that the women did not tell him his behavior was inappropriate or made them uncomfortable. Mr. Roberts asserted that he relied on the three women to tell him that his actions and comments were unwelcome and unacceptable. However, Employee 1 told Mr. Roberts on several occasions that his behavior and comments were unwelcomed and unacceptable, but he did not stop. Moreover, he knew or should have known based on his experience and training in the Navy, that the physical contact and sexually suggestive comments were inappropriate.

We also determined that Mr. Roberts made comments that created a hostile, intimidating, and offensive work environment for women on the NCB staff. Mr. Roberts made deliberate, repeated, and public comments of a sexual nature to members of his staff in meetings and in a town hall forum. He said that he perceived his comments as appropriate and acceptable and that they made people laugh or smile. However, his comments were perceived by others as offensive. Additionally, his subordinates did at times tell him to stop. Some subordinates asked him not to repeat some of his comments; yet he still continued to make them.

Mr. Roberts' Response to our Tentative Conclusions Letter

In his response to our Tentative Conclusions Letter (TCL), Mr. Roberts wrote that he was “surprised and dismayed by the conclusions contained in the report; specifically, that I sexually harassed and inappropriately touched the three employees and others.”

Although Mr. Roberts said he was apologetic for causing Employees 1, 2, and 3 to feel uncomfortable, he did not present any evidence in his TCL that changed our conclusions.

Mr. Roberts also wrote that he “categorically” rejected Employee 1’s “version of events as described in the report” and that he was “surprised that her version of events gained credence over my perception of events.” However, in substantiating Mr. Roberts’ misconduct involving Employee 1, we considered Employee 1’s testimony as well as statements from three other witnesses in concluding that the evidence clearly showed that Mr. Roberts sexually harassed Employee 1.

Mr. Roberts also wrote that he “never and would never solicit sexual favors” from Employee 1 and stated, “Nothing I did was intended or designed to solicit sexual favors” from Employee 2 and Employee 3. However, we did not conclude that Mr. Roberts solicited sexual favors. We determined that Mr. Roberts’ actions and comments created an intimidating, hostile, or offensive environment for his three subordinate women employees and that his public comments in meetings and in a town hall forum created a hostile, intimidating, and offensive work environment for women on his staff.

Mr. Roberts also wrote:

I thought a hug was a method of inclusion vice exclusion and was never [sic] intended to make anyone feel uncomfortable. I very much regret that my actions made them uncomfortable. No one indicated in any way that they objected to my actions nor did I sense anyone was intimidated by my rank and position ... Any "touches" or hugs I may have done were done because I interpreted their behavior as welcoming and appropriate. If I sensed or they had indicated they considered it inappropriate I would have stopped immediately and apologized. Consequently, I am shocked by the subsequent statements contained in the report that claimed they were extremely uncomfortable with my actions. This is certainly a wake up call for me.

However, Mr. Roberts’ “method of inclusion” was targeted exclusively at women and consisted of hugs, kisses, touching, and sexual innuendo. He did not hug or touch the men on his staff.

Mr. Roberts’ response also included an erroneous assertion that “no one indicated in any way that they objected to my actions.” In fact, Employee 1 did tell Mr. Roberts that his behavior was inappropriate, but he continued to hug, kiss, touch, and make sexual innuendos. Additionally, the DoD Directive does not require employees to complain before sexual harassment violates the standard. Furthermore, Mr. Roberts had extensive training on sexual harassment and should have known the requirements of the DoD Directive.

Mr. Roberts’ response to our report concluded with the following statement:

Nevertheless, I will, however, review my past and current behavior to ensure that I never again create a hostile work environment for my female staff and not act in a manner that anyone would consider inappropriate or intimidating.

In sum, we concluded that that Mr. Roberts committed misconduct and sexually harassed women on the NCB staff. His response did not cause us to alter this conclusion.

V. RECOMMENDATIONS

Mr. Roberts resigned from his position. Accordingly, we forward our report to the Under Secretary of Defense for Acquisition and Sustainment for inclusion in his personnel file.

Appendix A

Reprisal Allegation

Employee 1 also alleged that Mr. Roberts and another NCB employee requested the Washington Headquarters Services (WHS) Office of General Counsel (OGC) and WHS Contracting Officer (CO) investigate whether Employee 1 was involved in contractual improprieties, and that they filed a DoD OIG Hotline complaint against her in reprisal for reporting that Mr. Roberts sexually harassed her.

We found that neither Mr. Roberts nor the other NCB employee requested an investigation by WHS OGC or the WHS CO. Rather, on Mr. Roberts' behalf, the other NCB employee consulted the WHS OGC and then contacted the WHS CO about whether Employee 1 was performing duties within the scope of a contract. Ultimately, the other NCB employee drafted and submitted an anonymous complaint about the matter to the DoD Hotline, alleging that an NCB senior official used Employee 1 to perform inherently governmental functions.

The DoD OIG investigation that ensued was based on allegations exclusively against the NCB senior official, not Employee 1. Thus, Mr. Roberts and the other NCB employee did not request an investigation against Employee 1 from WHS OGC, the WHS CO, or the DoD OIG. Moreover, Employee 1 suffered no personnel action as a consequence.⁵ Accordingly, we determined that this reprisal allegation did not warrant further investigation.

⁵ Generally, the initiation of an investigation does not qualify as a personnel action, unless a personnel action based on the findings and conclusions of that investigation is subsequently taken. That is, if an investigation is so closely related to a personnel action that it could have been a pretext for gathering evidence to use to retaliate against an employee, then it can be considered a retaliatory investigation.

Appendix B

DoDD 1440.1, "The DoD Civilian Equal Employment Opportunity (EEO) Program," May 21, 1987
Section 4.5 prohibits sex discrimination and applies to civilian employees and applicants in the Office of the Secretary of Defense (OSD) and activities supported administratively by OSD, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Defense Agencies, the Army and Air Force Exchange Service, the National Guard Bureau, the Uniformed Services University of the Health Sciences, the Office of Civilian Health and Medical Programs of the Uniformed Services, and the DoD Dependents Schools.

Section E2.1.10. defines Sexual Harassment as a form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

E2.1.10.1. submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career;

E2.1.10.2. submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or

E2.1.10.3. such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

Whistleblower Protection

U.S. DEPARTMENT OF DEFENSE

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