

EXECUTIVE SUMMARY

This investigation was initiated in 1994 by the former USIA Office of Inspector General in response to allegations by employees of management reprisals in the Office of Cuba Broadcasting (OCB). After State and USIA OIG offices merged in April 1996, this office completed the investigation.

[REDACTED] of Radio Marti, alleged that senior Office of Cuba Broadcasting management officials removed [REDACTED] supervisory responsibilities as a result of [REDACTED] reporting OCB mismanagement to USIA OIG and as a result of [REDACTED] cooperation with USIA OIG in an audit of OCB's hiring practices. [REDACTED] also alleged that beginning in May 1992 [REDACTED] had been prohibited from attending meetings of the Presidential Advisory Board (PAB) on Cuba Broadcasting in retaliation for [REDACTED] supporting OCB [REDACTED] on several contentious issues. [REDACTED] was excluded from the meetings at the specific request of Jorge Mas Canosa, the Board's Chairman.

After extensive interviews and records reviews, this inquiry found insufficient credible evidence to substantiate [REDACTED] claim of management reprisal as a result of [REDACTED] cooperating with USIA OIG on its audit or as a result of [REDACTED] reporting allegations of mismanagement in OCB to that office. OIG found that [REDACTED] problems with OCB management, which resulted largely from [REDACTED] [REDACTED], predated any contact [REDACTED] had with USIA OIG.

Separate and apart from [REDACTED] allegations were additional complaints of alleged management reprisals made by [REDACTED] [REDACTED]. [REDACTED] accused OCB management of manipulating the 1994 OCB reinvention plan to call for the termination of [REDACTED] in order to silence and punish [REDACTED] for [REDACTED] protests of politicization and mismanagement in Radio Marti. Additionally, [REDACTED] alleged five additional reprisal actions dating back to 1992, including News Department censorship of [REDACTED] analyses, removal from on-air broadcasting, restrictions on travel to Miami, failure to receive program credit for [REDACTED] contributions to broadcasts, and being forced to curtail [REDACTED] criticism of the editorial content of News Department broadcasting.

This inquiry found insufficient evidence to support any of [REDACTED] claims of reprisals. Rather, we found that OCB management had made a strong case for the elimination of [REDACTED] as a result of its assessment of the value added from [REDACTED] work product as weighed against more cost effective alternatives. Specifically, management found that [REDACTED] were too costly at a time when more cost effective, high-quality alternatives were readily available.

Notwithstanding the absence of management reprisal, our review uncovered a pattern of mismanagement deficiencies in OCB throughout the period covered by this review. The deficiencies noted underscore the need to ensure that OCB management is actively seeking to adhere to policies and regulations that govern the hiring and management of employees.

DETAILS

History of the Office of Cuba Broadcasting:

Radio Marti was created by Congress in 1983 with the enactment of the Radio Broadcasting to Cuba Act (Title 22 United States Code, Section 1465). Radio Marti began operating as an element within the Voice of America (VOA). This U.S. funded surrogate radio station began broadcasting news, commentary and general information to Cuba in 1985. Five years later, with Congressional approval and funding, TV Marti began operations. The Office of Cuba Broadcasting (OCB) was created to consolidate these two broadcasting entities and to oversee the operations of "the Martis." In July 1992 USIA's broadcast services, including VOA, Television and Film Service, and OCB were organized into a new International Bureau of Broadcasting.

Investigative Background:

Throughout this report of investigation, the Office of Inspector General of USIA that existed prior to its April 1996 merger with the Department of State Office of Inspector General will be referred to as the USIA OIG. The merged organization will be referred to throughout the report as the OIG.

In July 1993, the former Office of Inspector General of USIA initiated a review and audit of alleged improprieties of personnel practices at the OCB. The USIA OIG Audit Report, issued on May 19, 1994, found that the former "news director's appointments were inconsistent with OCB's excepted service personnel policies." For example, the audit found that when OCB disregarded the English fluency requirement for the deputy news director position, a new job announcement should have been issued to allow non-English speaking individuals the opportunity to apply for the position. In addition, OCB records reflected that the news director position into which [b7c, b6] was later assigned had promotion potential and should have been competed. The report recommended that "the appointments should be reevaluated and any deficiencies remedied." Subsequently, OCB detailed and later permanently reassigned the news director to the Miami Bureau as a senior journalist. Shortly thereafter, [b7c, b6] advised USIA OIG that OCB management was retaliating against [F] because of the disclosures [F] made to USIA OIG, which contributed to the critical audit findings. [b7c, b6] allegation was the basis for initiating the OIG investigation on June 8, 1994.

In March 1994, OCB released an organizational reinvention plan which called for the elimination of [b7c, b6] as well as other positions. In reaction to that reinvention plan, in June 1994, [b7c, b6] lodged a complaint of reprisal with

USIA OIG. USIA OIG incorporated [b7c, b6] retaliation allegations into its ongoing investigation of [b7c, b6] allegations of reprisal. As a result of the statutory consolidation of the OIGs of USIA and the Department of State, the investigation became the responsibility of the newly merged OIG on April 26, 1996.

OIG has not independently evaluated allegations of political bias or assessed Radio Marti's programming for evidence of bias during this investigation or in its most recent audit of OCB, dated May 1994. The May 1994 audit examined the process used by an external review committee that had already evaluated Radio Marti broadcasts and made recommendations for improving that process. A review now underway by OIG is examining the policies and procedures in effect for ensuring that Radio Marti's broadcast content adheres to VOA standards for objectivity and balance, and is consistent with the broad foreign policy objectives of the United States.

Key Issues:

The Inspector General Act of 1978, as amended, (5 U.S.C. App. 3) and the Whistleblower Protection Act of 1989 (WPA) (5 U.S.C. 2302) protect employees against reprisals for whistleblowing activity unless the disclosure of information was made with knowledge that it was false. This investigation was predicated upon the following allegations of acts of reprisals by OCB management officials against [b7c, b6] OCB employees:

- Alleged reprisal against [b7c, b6] for cooperating with USIA OIG in its audit of OCB hiring practices;
- Alleged reprisal against [b7c, b6] [b7c, b6] for reporting acts of mismanagement to senior OCB management, to the GAO, and to certain members of the Congress.

Guiding Principles:

OIG has carefully reviewed each of the allegations made by [b7c, b6] [b7c, b6] based on the following established principles as spelled out in federal statutes, regulations and court decisions:

In order to prevail on a claim of whistleblower retaliation, an employee must first demonstrate by a preponderance of the evidence that he/she made a disclosure described under WPA Section 2302(b)(8) which prohibits taking or failing to take personnel action, or threatening such, because of any disclosure of information by an employee which the employee reasonably believes evidences (i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. Similarly, section 2302(b)(9) of the WPA protects employees who (a) exercise any appeal, complaint, or

grievance right granted by any law, rule, or regulation; (b) testify for or lawfully assist any individual in the exercise of any right referred to in section (a); (c) cooperate with or disclose information to the Inspector General of an agency, or the Special Counsel in accordance with applicable provisions of law; or (d) refuse to obey an order that would require the employee to violate a law. Sections 2302 (b)(8) and (b)(9) of the WPA are separately analyzed to determine whether reprisal occurred. It is not necessary, however, for an employee to prove a violation of law or regulation for his or her disclosure to be protected. Instead, the employee must prove that a reasonable person in his/her position would believe that the disclosure evidenced a violation of law or regulation.

If an employee demonstrates that a disclosure or activity is protected under Section 2302 (b)(8) of the WPA, the employee must then demonstrate by a preponderance of the evidence that the protected disclosure was a contributing factor in the personnel action taken against them. Personnel actions are specifically defined under the WPA. One way to show retaliation for a protected disclosure was a contributing factor in the personnel action is by establishing that the agency official taking the action had actual or constructive knowledge of the disclosure and acted within such a period of time that a reasonable person would conclude that the disclosure was a factor in the personnel action. A preponderance of the evidence is that degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue (5 C.F.R. 1201.56(c)(2)). If the analysis is conducted under Section 2302(b)(9) of the WPA, an employee must demonstrate that the protected disclosure was a significant factor in the personnel action.

If an employee proves by preponderance of evidence that a whistleblowing activity or disclosure was a contributing factor in a personnel action taken against him/her, the burden of proof shifts to the agency or department to demonstrate by clear and convincing evidence that it would have taken the same personnel action in the absence of the whistleblowing disclosure. Clear and convincing evidence is that measure or degree of proof that produces in the mind of those analyzing the facts a firm belief as to the allegations sought to be established (5 C.F.R. 1209.4(d)).

The Merit Systems Protection Board has considered several factors in determining whether an agency or department has proven, by clear and convincing evidence, that it would have taken the same personnel action in the absence of whistleblowing activity. Those factors include the strength of the agency's evidence in support of its personnel action; the existence and strength of any motive to retaliate on the part of agency officials involved in the decision; and any evidence that the agency took similar actions against employees who were not whistleblowers, but who are otherwise similarly situated. (See Smith v. Department of Agriculture, 64 M.S.P.R. 46, 66 (1994).

FINDINGS

Allegations Made by [b7c, b6]

While [b7c, b6] claims of reprisal stem mainly from [] alleged cooperation with the USIA OIG audit of personnel practices in OCB, [] alleged other acts of reprisal in [] earlier statement to the former USIA OIG unrelated to [] March 1994 disclosures to the OIG audit staff. According to [b7c, b6] statement of April 20, 1995, "the specific reprisals I claim are that OCB management has: (1) prohibited my attendance as a contributing management official at meetings of the President's Advisory Board (PAB) for Cuba Broadcasting; (2) repeatedly excluded me from management decisions for which I have had assigned authority; (3) progressively diminished my official duties so as to deprive my position of any actual authority or responsibility; (4) failed since July 1994 a) to provide me with a current position description with new duties to replace those denied me; and, b) to provide me with a performance evaluation for the most recent period, 1993-1994; and (5) allowed to exist a hostile work environment in which I have been the victim of libel, slander, intimidation, and harassment."

Many of [b7c, b6] allegations of reprisal center around events which [] admits occurred during a turbulent period of time for OCB, February 1994 through May 1994. It is during this same period of time, while [] duties were being reshaped by management, that [b7c, b6] had meetings with auditors from the former USIA OIG and with members of a Congressional Advisory Panel. Because [b7c, b6] claimed reprisals by management which allegedly occurred prior to [] contacts with the former USIA OIG, this inquiry reviewed all of [b7c, b6] allegations, which we separately address below.

1. Prohibited Attendance at PAB Meetings.

OIG found no evidence to support [b7c, b6] assertion that [] exclusion from PAB meetings was the result of management reprisal. On April 30, 1992, a PAB meeting was held and chaired by Jorge Mas Canosa. One of the board members, [b7c, b6], initiated a discussion on whether it was appropriate for [b7c, b6] to express [b7c, b6] personal opinions during on-air broadcasts. [b7c, b6] heard a rumor [b7c, b6] were doing just that and asked for an explanation. After some debate, board members tabled the discussion, agreeing with Rolando Bonachea, Radio Marti Director, that it was more appropriate for management and the station to deal with the alleged problem. [b7c, b6] attended this meeting and openly supported [b7c, b6] on-air participation. A month or so later, Mas Canosa decided to limit the number of participants attending the meetings. [b7c, b6] claims Mas Canosa took this action because he disagreed with [b7c, b6] position in favor of [b7c, b6].

On November 20, 1996, Mas Canosa was interviewed by OIG and asked about his motivation in limiting attendees in 1992. Mas Canosa stated he took the action because the meetings over time degraded into a circus atmosphere. He believed that there were simply too many people attending these meetings so he decided to keep attendees to the minimum necessary to conduct business. To accomplish that, Mas Canosa stated he told Bonachea he would prefer having in attendance only those OCB staff in a position to contribute to agenda items. Bonachea verified Mas Canosa's account. Mas Canosa stated there was never any intention to single out any one individual, but if a Director attended a meeting and could answer pertinent questions there was no need for a Deputy or other supervisors to attend. Mas Canosa stated that he simply wanted the meetings to run more efficiently.

Furthermore, Mas Canosa stated that he recalled the meeting in question, and [b7c, b6] participation, but he did not recall anything raised as being particularly contentious or even a matter in which he would have become personally involved. Lending some credence to Mas Canosa's observations, OIG's review of the minutes of PAB meetings did reflect a noticeable correlation between the number of attendees and the agenda items after the April 1992 PAB meeting. OIG has not been able to independently verify how OCB conveyed Mas Canosa's message regarding the limiting of attendees at these meetings since there were no documents or memoranda available for review. However, [b7c, b6] advised OIG that Bonachea told [] about Mas Canosa's decision to limit PAB meeting attendees shortly after the April 30, 1992, meeting.

Given Mas Canosa's statement as to why he limited participation at the meetings, Bonachea's verification, and OIG's review of meeting minutes, OIG found no evidence which would suggest that the action taken was specifically targeted at [b7c, b6]. Moreover, even assuming there were such evidence, OIG does not find that limiting participation in PAB meetings, specifically [b7c, b6] attendance, is a prohibited personnel action as defined under the Whistleblower Protection Act. Further, [b7c, b6] has produced no evidence to support [] position that the decision to limit [] attendance at the meetings is linked in any way to [] support of [b7c, b6] on-air participation in broadcasts. Accordingly, OIG does not find merit in this allegation of reprisal.

2. Repeatedly Excluded from Management Decisions

The allegations made by [b7c, b6] in this area relate to personnel decisions made by OCB management. After careful review, OIG finds no basis for this claim of reprisal. [b7c, b6] vigorously opposed the hiring and later selection by OCB management of [b7c, b6] to be [b7c, b6]. The issue of [b7c, b6] hiring and OCB personnel practices was addressed by a USIA OIG audit report dated May 19, 1994. The report found that [b7c, b6] hiring was inconsistent with OCB's expected service personnel practices. In February 1994, Richard Lobo was appointed the new OCB Director and made personnel selections for the Directors of News and Programming. [b7c, b6] alleged that [] was removed from decisionmaking in these selections. Lobo stated as the new Director of OCB he wanted to put together his own team and had plans of down-sizing and reforming OCB management.

Lobo said that he wanted to make his own personnel decisions and often did not ask for the input of others. Lobo stated that he was well within his managerial authority to make these decisions and asserts that this is simply a matter of senior OCB management pursuing legitimate administrative prerogatives with which b7c, b6 disagreed. OIG credits Lobo's assertions that he had the authority to make personnel decisions without a requirement to solicit b7c, b6 input. While Lobo may have ignored b7c, b6 advice on some personnel issues, we nevertheless find that Lobo's decisions and management style do not constitute a prohibited personnel action as defined under the Whistleblower Protection Act.

3. Progressively Diminished Official Duties, Authority, and Responsibilities

OIG Audit

b7c, b6 of Radio Marti, b7c, b6
b7c, b6 By b7c, b6 own account, [-] duties as b7c, b6 of Radio Marti diminished over time for various reasons which neither b7c, b6 nor senior OCB management agree upon. b7c, b6 allegations of reprisals in this area center around events which [-] says occurred between February 1994 and May 1994. As previously noted, this was a particularly turbulent time in OCB because a new Director had arrived, an advisory panel had scheduled hearings, and a USIA OIG audit was underway. b7c, b6 stated that [-] vehement opposition to b7c, b6 appointment as b7c, b6 in January 1993 and [-] long term ongoing disagreements with b7c, b6 were contributing factors to [-] problems with Bonachea. b7c, b6

b7c, b6

b7c, b6

With respect to the USIA OIG audit issue, b7c, b6 claims that [-] initially was contacted by USIA OIG by telephone in late fall of 1993. b7c, b6 claims [-] was formally interviewed by the former USIA OIG audit staff in February 1994. A review of USIA OIG audit records reveals only one contact by the auditors with b7c, b6 which occurred on March 11, 1994, the day [-] was actually interviewed by them. b7c, b6 stated [-] made

Bonachea aware of [redacted] contacts with USIA OIG before and after [redacted] meeting. [redacted] b7c, b6 stated Bonachea did not object to [redacted] contacts with USIA OIG. Bonachea stated he was not aware of any contacts [redacted] b7c, b6 may have had with USIA OIG in the fall of 1993, and, when he was informed of [redacted] b7c, b6 scheduled meeting with the auditors in March 1994, he inquired if it would be appropriate for him to attend the meeting. [redacted] b7c, b6 advised that it would not be appropriate for Bonachea to attend and the discussion was terminated. [redacted] b7c, b6 stated [redacted] made Bonachea aware of what [redacted] told the auditors. Bonachea denied that such a discussion ever occurred and further stated he never asked for such a briefing.

On May 19, 1994, USIA OIG issued a report critical of OCB's hiring and appointment practices. The audit also faulted OCB for selecting [redacted] b7c, b for a management position even though [redacted] b7c, b6 [redacted] b7c, b6 selection was made despite [redacted] b7c, b6. Subsequent to the USIA OIG audit finding, in March 1995, [redacted] b7c, b voluntarily accepted a lateral transfer to a senior journalist position in Miami. Bonachea and Lobo strongly deny ever taking or considering any adverse action against individuals who cooperated with the USIA OIG audit.

Strauss Advisory Panel

The Strauss Advisory Panel was established on December 28, 1993, with a mandate to report to Congress and to the Director of USIA within 90-days on allegations of mismanagement in OCB that had been referred to GAO, to Members of Congress, and had been widely reported in the press. Specifically, "the Panel was asked to study all the 'purposes, policies and practices of radio and TV broadcasting to Cuba,' and to offer specific findings and recommendations in regard to the quality and objectivity, the cost-effectiveness and the potential redundancy of such broadcasting."

According to Bonachea, to ensure full cooperation with the panel and to prevent any complaints of possible stonewalling on any of the panel's requests, he instructed his staff to coordinate all requests from the Panel through Martha Vilarchao, his Special Assistant. All OCB staff were made aware of the directive in a memorandum from Bonachea dated December 3, 1993, announcing the appointment of Robert Leiken as the Executive Director of the Advisory Panel for Radio and TV Marti. Bonachea told OIG that it was his belief that [redacted] b7c, b6 signaled [redacted] understanding of the directive by saying to him "don't worry about it, Rolando."

OIG ascertained that in February 1994, a month before [redacted] meeting with OIG auditors, [redacted] b7c, b6 met with members of the Strauss Advisory Panel. According to Leiken, he was provided [redacted] b7c, b6 name as someone who might be in a position to provide information to the Panel. Leiken told OIG he initiated the contact with [redacted] b7c, b6 either by telephone or

perhaps a meeting after one of the hearings. Leiken stated he would have initiated a preliminary contact with [b7c, b6] to determine whether [] had any relevant information to provide. Leiken stated he arranged a luncheon meeting at [b7c, b6] request because [b7c, b6] was hesitant to come to the panel's office and wanted to be away from the Marti offices.

Leiken stated [b7c, b6] told him and panel members, Peter Strauss and Sydney Lipset, that [] was concerned about unspecified reprisals and requested confidentiality. According to Leiken, [b7c, b6] discussed [b7c, b6] views about the influence of Jorge Mas Canosa on the Marti. Leiken stated [b7c, b6] believed that Mas Canosa influenced editorial issues and news reporting. Leiken noted that the information [b7c, b6] provided was useful, but not crucial, since several other people came forward with the similar opinions of Mas Canosa's influence. The panel did not report any findings on the allegations concerning Mas Canosa. However, the panel did recommend that the chairperson, as well as the other members of the PAB, be rotated every three years in compliance with the legislation which created the PAB and in order to "eliminate any appearance of improper influence."

When Bonachea became aware of [b7c, b6] luncheon meeting with the Strauss panel he confronted [b7c, b6]. Bonachea places this confrontation on or about February 1, 1994, and is certain it occurred before Lobo's arrival on February 14, 1994. Bonachea stated he is certain of this because he told Lobo immediately upon his arrival that [b7c, b6] had "broken his trust" and purposely disobeyed his directive on contacts with the panel. Bonachea stated he asked Lobo to accept responsibility for supervising [b7c, b6] because of this incident and made this request one of his highest personnel priorities. Bonachea stated that he did not document the event because he did not want to hurt [b7c, b6] career and because Lobo agreed to supervise []. Bonachea advised OIG that when he confronted [b7c, b6] about the meeting with the Panel that [b7c, b6] initially denied that the meeting took place. Later, [b7c, b6] acknowledged to Bonachea that the meeting had occurred, but claimed that it was at Leiken's behest and that it had been Leiken who had suggested the private meeting. [b7c, b6] also told Bonachea [] previously had denied that the meeting took place because Leiken had requested the meeting, had said it was confidential in nature and was for background purposes only, and, therefore, [b7c, b6] did not feel compelled to inform Bonachea.

Bonachea stated he reminded [b7c, b6] of the directive to which [] had agreed. Bonachea said that he told [b7c, b6] he was not concerned about the context or nature of [] conversations with Leiken or the Panel, but was upset with [] for violating his directive and then being less than truthful about it when asked. According to Bonachea, he advised [b7c, b6] he had lost all confidence and trust in [] and could no longer supervise []. Bonachea stated he advised [b7c, b6] he would ask Lobo to take over the responsibility of supervising [b7c, b6]. [b7c, b6] denies this conversation with Bonachea took place and claims [] was never informed of any such change in supervisors until July 1994, at a

breakfast meeting with Lobo. Lobo disputes this and recalls having several conversations with b7c, b6 about [-] situation. Lobo stated that he started supervising b7c, b6 shortly after arriving in OCB. Lobo recalls having several discussions with b7c, b6 about creating a new OCB position for [-] during this time involving strategic planning for the organization.

Leiken, acknowledges that he initiated the contact with b7c, b6 but disavows the remaining portion of b7c, b6 claims. Leiken is certain b7c, b6 requested confidentiality and that is why he agreed to a luncheon meeting away from the Martis. Leiken did not recall any discussions about their meeting being on "background." Leiken stated the discussion during lunch with b7c, b6 occurred sometime in February 1994 and probably before the hearings ended on February 18, 1994. Leiken stated his initial contact with b7c, b6 could have possibly been in January 1994. Leiken stated it was impossible for their lunch to have occurred in March or April 1994 because the Panel completed its public hearings in February 1994 and concentrated its efforts in March 1994 on writing its report.

b7c, b6 maintains that the luncheon meeting with Leiken did not occur until after [-] meeting with USIA OIG in late March or early April 1994. b7c, b6 stated that Leiken had requested that [-] testify publicly before the Panel on March 16, 1994, and that [-] had agreed to testify. b7c, b6 asserts that [-] notified Lobo and Bonachea on March 15, 1994, of [-] intention to testify, but that [-] testimony was inexplicably canceled at the last minute by Leiken. b7c, b6 informed Lobo and Bonachea of the cancellation and provided them with [-] proposed written testimony.

b7c, b6 statement regarding requesting confidentiality from the panel conflicts with [-] assertions to OIG that [-] had been requested and had agreed to testify publicly. b7c, b6 also stated that [-] made [-] proposed written testimony available to Lobo and Bonachea after [-] testimony was canceled. Lobo and Bonachea denied ever having been provided with the alleged testimony and stated they were unaware [-] was scheduled or called to testify. Although requested by OIG, b7c, b6 failed to provide OIG with either [-] notes or a copy of [-] written testimony. OIG, through discussions with panel members and a review of their records, determined that hearings were not held in March 1994, but rather in January and February 1994. OIG located the panel's documents stored in USIA archives. An extensive review of the panel's working papers revealed the dates of the hearings to be: January 13, 1994, in Washington, D.C.; February 1, 1994, in Washington, D.C.; February 7-8, 1994, in Coral Gables, Florida; and February 17-18, 1994, in Washington, D.C. Panel members were in travel status from February 6 through 12, 1994, in the Miami, Florida area.

The timing of many of these events was crucial to this inquiry and to our findings because OCB management did initiate a personnel action against [b7c, b6] in February 1994 by removing Bonachea as [b7c, b6] supervisor and by placing [b7c, b6] under the direct supervision of Lobo. This action, however, was taken by OCB management a month before [b7c, b6] meeting with and any documented disclosures to USIA OIG auditors and three months prior to the release of the audit report in May 1994. This time line directly conflicts with [b7c, b6] claims that the personnel actions initiated by management in February 1994 were the direct and proximate result of [b7c, b6] disclosures to the USIA OIG.

The Strauss Panel's report was scheduled to be released on March 28, 1994, but was delayed until March 31, 1994, when the Panel was dissolved. This information appears to support Bonachea's recollection of events, and that of [b7c, b6], who submitted a chronology noting [b7c, b6] attendance at Panel hearings during the first week of February 1994. The only mention of [b7c, b6] in the Panel's work papers is in a memorandum to Leiken from Bonachea dated January 10, 1994. Bonachea advises Leiken of the roster of individuals from OCB who would be attending the January 13, 1994, hearing and lists [b7c, b6] as one of the attendees. There is no documentation in the papers of any contacts Panel members may have had with [b7c, b6]. Thus, based upon the weight of the evidence, OIG can only conclude that [b7c, b6] luncheon meeting with Leiken occurred sometime before Lobo's arrival on February 14, 1994, a fact which is in conflict with [b7c, b6] claims of a meeting with the panel after [b7c, b6] contact with USIA OIG.

Evaluation of [b7c, b6]

Also in February 1994, Bonachea met with and urged [b7c, b6] to complete [b7c, b6] 1992-1993 performance evaluation. [b7c, b6] refused to complete [b7c, b6] rating because Bonachea had already submitted a rating with which [b7c, b6] disagreed. As will be discussed further below, this "temporary" rating by Bonachea was standard practice for other reasons in OCB and was not unique to [b7c, b6]. Further, "temporary" ratings were frequently lowered in the final formal evaluations and, indeed, [b7c, b6] own "temporary" rating was reduced when [b7c, b6] was finally rated by Lobo. [b7c, b6] voiced concern about [b7c, b6] performance primarily as a result of [b7c, b6] [b7c, b6]. [b7c, b6] told USIA OIG that "rather than enter into falsehoods, I demurred on [b7c, b6] evaluations. I was the appropriate and responsible official to rate [b7c, b6]; however, there was never any way to do this without the risk of reprisals should I rate [b7c, b6] performance as unacceptable. [b7c, b6] [b7c, b6]

[b7c, b6]

[b7c, b6]

. Such

anecdotal evidence, even if fully credited, is insufficient for OIG to draw the conclusion that OCB management felt that as a result of [b7c, b6] [b7c, b6], it could not properly rate [redacted] on the merits of [redacted] performance.

Moreover, [b7c, b6] theory of [b7c, b6] is not at all consistent with the fact that [b7c, b6] was rated lower by Lobo in [redacted] final review than [redacted] had been rated by Bonachea, or the fact that [b7c, b6] was subsequently removed as [b7c, b6] [b7c, b6] by OCB management and transferred to Miami. Finally, OIG's review of the facts causes it to question whether [b7c, b6] refusal to rate [b7c, b6] is appropriate conduct given the fact that preparing the [b7c, b6] rating was one of the established duties and responsibilities of [b7c, b6]. It is insufficient, in our view, that [b7c, b6] should refuse to carry out an assigned responsibility to prepare an official rating for [b7c, b6] simply because [redacted] feared future reprisal by management. Given the facts, OIG finds it to be more likely that [b7c, b6] refused to rate [b7c, b6] as a result of [redacted] very strong personal dislike for [redacted] and less likely that [redacted] feared reprisal by OCB management as a result of a fair rating.

Informing our view on this issue is the fact that OIG learned during the course of this inquiry that OCB had developed an inappropriate rating practice which enabled managers, incapable of meeting the rating deadline, to submit "temporary" employee ratings without the required supporting written documentation. The written documentation would then be submitted at a later date because, as management noted, the main objective was to get ratings into the system on time so that performance awards could be received. Indeed, some ratings were either raised or lowered after the temporary rating was presented for performance award purposes. For example, [b7c, b6] received a temporary rating which was higher than the level [redacted] received when the rating was finally prepared. As a result of the temporary rating being submitted, however, [b7c, b6] received a performance bonus to which [redacted] would not have been entitled had the final rating been presented to the performance award panel.

[b7c, b6] was one of about 8 or 9 OCB staff who would have missed cash awards or other pay incentives if this informal temporary rating system had not been established. Therefore, in order to ensure that a rating was on file for performance bonus purposes, Boyd asked Bonachea for a rating on [b7c, b6] and was provided with one. It was Bonachea's understanding from Boyd, that this rating could be changed when the actual documentation was submitted at a later time. Bonachea stated that when he received the paperwork he tried on several occasions to persuade [b7c, b6] to complete the evaluation form but [b7c, b6] refused. Bonachea believed he had his last discussion with [b7c, b6] on [b7c, b6] evaluation in February 1994.

Bonachea stated he raised the problem about the b7c, b rating with Lobo who agreed to write the evaluation. Shortly thereafter, a decision was made to transfer responsibility for b7c, b6 supervision from b7c, b6 to Bonachea. There is no documentation in support of this decision, which management claims was made in April or early May 1994. According to Lobo and Bonachea, this decision was based on a number of factors having nothing to do with the rating issue including b7c, b6 b7c, b6; Bonachea's request to transfer supervision of Sherman to Lobo in light of the Leiken incident; Lobo's plans for down-sizing and reducing management-to-employee ratios in OCB which included elimination of most deputy positions; and Lobo's desire to eliminate some of the more pressing personnel problems he faced upon his arrival. Lobo stated he felt these supervisory changes would be beneficial to all parties and to the organization as a whole.

b7c, b6 disputes the timing of these events, stating [-] was not told by Bonachea, until a May 25, 1994 meeting, that [-] would no longer supervise b7c, b. According to b7c, b6, Bonachea provided no explanation for this decision and reportedly told b7c, b6 "you should be happy with this." b7c, b6 also claims [-] was not informed of management's decision to move [-] into a strategic planning position supervised by Lobo until late July 1994 when [-] was informed by Lobo directly. b7c, b6 attributes both decisions to OCB's consternation over the USIA OIG audit report which was released on May 19, 1994. OIG has been unable to locate documentation which would accurately place the dates and times of the meetings as recalled by either b7c, b6 or Bonachea. Furthermore, we uncovered no evidence which would suggest that these actions had any nexus to the release of the USIA OIG audit findings. The concurrent timing of these events and prior contentious history of those involved suggest to OIG that these disputes festered until Lobo assumed leadership of OCB and began to address some of the long-standing personnel problems.

OIG found no evidence which would support b7c, b6 claims that OCB management progressively diminished [-] official duties, authority and responsibilities as an attempted reprisal for [-] cooperation with the OIG audit, as a result of [-] clandestine meeting with the Strauss Advisory Panel or as a result of [-] refusal to write a performance evaluation for [-].

4(a) Failure Since July 1994 to Obtain a New Position Description

In addition to these previously described incidents which occurred, according to b7c, b6, between February and July 1994, b7c, b6 cites management's failure to create a new position description and to rate [-] in the 1993-1994 rating cycle as other acts of reprisal by management. b7c, b6 claims no attempt was ever made to secure a new position and duties for [-]. Lobo stated otherwise, and Boyd acknowledged being tasked with contacting other VOA bureaus for a position description to fit the strategic planning

position Lobo envisioned for Sherman. Lobo wanted to ensure that b7c, b6 would not lose [-] grade or salary and maintain a key position in the organization. Lobo stated that the position he envisioned for b7c, b6 was one that would be most beneficial to the organization. Lobo noted that b7c, b6 had strengths and weaknesses that he felt [-] needed to attend. b7c, b6 background was in academia and [-] was hired originally as an analyst. b7c, b6 did not possess managerial experience or a broadcasting or journalism background. Additionally, b7c, b6 was not considered a "people person" by anyone on the staff. Lobo stated that he wanted to exploit b7c, b6 unique analytical mind and maintain [-] talents within OCB as a long term strategist. According to Lobo, when his proposal of having b7c, b6 work directly for the Directorate was discussed with [-], b7c, b6 agreed to the proposal and understood Lobo's rationale for the change as well as his restructuring plans. Lobo stated his plans to "delay" the number of managers between the rank and file staff were well known to b7c, b6 and the managing staff. Lobo maintains b7c, b6 duties were not eliminated but enhanced.

Boyd stated that he did come up with a draft position description which he eventually shared with Lobo. Lobo stated he was extremely busy trying to stay on top of things his first year, noting the restructuring plan and the Cuban rafters crisis, and may not have paid enough attention to Boyd's drafting of the position description. According to Lobo, b7c, b6 was on leave in September 1994 and the early part of October 1994. Upon [-] return to OCB, Lobo recalls b7c, b6 discussing b7c, b6 b7c, b6. Lobo stated that in December 1994 or January 1995, b7c, b6 made it clear [-] would be taking a "buy-out" offer and leaving the Federal Government. In March 1995, b7c, b6 applied for a "buy-out" option and requested an extension of [-] departure to December 31, 1995, which Lobo approved. b7c, b6 stated that [-] requested a "buy-out" in March 1995 because [-] did not see a resolution to [-] grievance with management. b7c, b6 added that [-] later felt that [-] should not have to leave [-] position or the department so decided to rescind [-] "buy-out" option in September 1995. A review of b7c, b6 personnel file indicates that b7c, b6 rescinded [-] "buy-out" on December 29, 1995.

In [-] affidavit dated April 20, 1995, b7c, b6 stated: "Since I arrived back to the office in October, there have been no further, significant instances of intimidation or harassment against me, except that my isolation and diminished status is now established and ongoing. The only routine tasks I perform now are to attend the daily OCB editorial meetings and to participate in a Bureau of Broadcasting task force on strategic planning. Mr. Lobo occasionally asks my assistance to draft a document or attend a meeting. Such ad hoc assignments are very sporadic. I still have not received a new position description."

Because b7c, b6 intended to take a "buy-out" Lobo stated he no longer pursued the position description in 1995 because it appeared to be a moot issue and b7c, b6 continued performing [-] strategic planning duties. However, Lobo stated that in the summer of 1994

Boyd furnished him a draft position description for [b7c, b6]. Lobo stated that in hindsight his failure to complete the position description may have been a mistake but an inadvertent one. Lobo stated this issue was never something [b7c, b6] complained about. OIG has obtained a copy of the draft position description proposed by Boyd and has determined that [b7c, b6] failure to receive a new position description was more the result of negligent or deficient management practices rather than an act of reprisal by management.

4(b) Failure to Obtain a Performance Evaluation for the 1993-1994 Rating Cycle

Lobo, under considerable stress for his reinvention plans and dealing with numerous allegations of mismanagement, resigned as Director in May 1995. Lobo acknowledges he did not complete an employee performance rating for [b7c, b6] before he hastily departed. When asked to do so a few weeks later by Bonachea and/or Boyd, he agreed to do so. [b7c, b6] strenuously objected and refused to accept a rating from Lobo. Lobo stated he would have given [b7c, b6] a good rating because he appreciated [b7c, b6] assistance and thought highly of [] work product. Lobo stated he always considered [b7c, b6] an asset to OCB and that is why he wanted to keep [] in the organization. Lobo stated he could not understand [b7c, b6] position on this matter and respectfully rescinded his offer to rate [] once he was told how strongly [b7c, b6] felt about the subject. Lobo maintains that he and [b7c, b6] worked well together and often shared rides to and from work. Lobo stated that when he learned [b7c, b6] had objected to his writing [] evaluation he was perplexed not only because he thought that they had a good relationship, but because of the unkindly statements [b7c, b6] made about him.

OIG finds that [b7c, b6] refusal to accept an evaluation from [] supervisor and rating officer was inappropriate under the circumstances. When added to [] refusal to evaluate [b7c, b6] actions also reflect a pattern of improperly refusing legitimate requests from [] supervisors. At the same time, we find OCB management's failure to properly address [b7c, b6] conduct to be equally deficient. Nevertheless, OIG finds no basis to credit [b7c, b6] claims of reprisal with respect to [] performance evaluation. Rather, we find the absence of a rating to be the result of management negligence which was further compounded by [b7c, b6] uncooperative attitude.

5. Victim of Libel, Slander, Intimidation and Harassment within the Work Environment

Undoubtedly, the entire OCB staff was working under difficult and contentious conditions for several years. [b7c, b6] did not provide documentation or other evidence to support this allegation and OIG was unable to independently obtain information lending credence to this allegation. However, when OIG questioned the OCB staff on the veracity of [b7c, b6] complaints, almost universally they replied that the staff, not [b7c, b6]

b7c, b6, were the true victims of intimidation and harassment. A majority of the staff complained to OIG about poor morale as a result of the numerous inquiries stemming from "libelous and slanderous" accusations made by b7c, b6. Many claim the baseless questioning of the staff's professionalism and objectivity as journalists has hurt their careers because outside contacts are less willing to cooperate out of concern about the bad publicity to which the Martis have been subjected. professional staff stated that just doing their jobs has become increasingly difficult because they fear the second guessing from b7c, b6 and the complaints that usually follow. In May and June 1994, b7c, b6 and the News Department staff sent a petition, in the form of a memorandum, to Lobo and to Dr. Joseph Duffey, the Director of USIA, voicing their concern and frustrations of repeated attacks questioning their professionalism and news programs. The professional staff told OIG that it had become increasingly difficult to perform their duties because they feared the second guessing from b7c, b6 and the complaints and inquires which usually followed. Further, many surmised the accusations were an orchestrated attempt to destroy and/or discredit the Martis.

Other Acts of Reprisal Alleged by b7c, b6

b7c, b6 cites other acts of reprisal as follows: 1) Finding indications of an EEO complaint b7c, b6 and 2) an inquiry by Lobo about a Radio Marti News contract with a stringer journalist who became the subject of a Congressional inquiry amid allegations of procurement irregularities with the contract. These allegations of reprisal can not be sustained since there is no prohibited personnel actions or practices evident from the events that b7c, b6 chronicles.

b7c, b6 came upon b7c, b6 chronology which had been left in one of the printers. b7c, b6 however dismissed b7c, b6 claim because [-] was not present the day b7c, b6 claimed [-] found the document in the printer. b7c, b6

With respect to the stringer incident, Lobo stated he had been told by administrative personnel that b7c, b6 had been inquiring about the stringer journalist contract. Lobo stated a few days later he received a congressional inquiry on the subject and decided to ask b7c, b6 about [-] inquiry. Lobo stated he was not accusatory but wanted to know why b7c, b6 had inquired about a matter that was not under [-] responsibility.

b7c, b6

b7c, b6 had every right to inquire about the

contract amid rumors of problems. Lobo strenuously disagrees and maintains that [b7c, b6] was in no way responsible for [b7c, b6] at this time and had no business questioning the procurement staff on a matter which no longer concerned [b7c, b6]. Furthermore, Lobo stated he never accused [b7c, b6] of being the Congressional source of the complaint, but [b7c, b6] stated that [b7c, b6] thought that was the clear implication.

Allegations Made by [b7c, b6]

[b7c, b6] alleged claims of management reprisals which go back as far as 1992. [b7c, b6] allege that management's 1994 and 1995 reinvention plans, which called for the elimination of [b7c, b6], was the final and ultimate reprisal. [b7c, b6] [b7c, b6], alleged that management took this action because of repeated complaints by [b7c, b6] of mismanagement and the politicization of Radio Marti's News Department. Further, [b7c, b6] believe the reprisals are a direct result of undue influence of Jorge Mas Canosa in Radio Marti affairs.

Other specific allegations of reprisal cited by [b7c, b6] include the following: prohibiting direct participation in on-air programming; News Department censoring of [b7c, b6] news analyses; management's denial of travel to Miami; restricting direct access and communication with the News Department staff; and exclusion from on-air program credits.

On December 6, 1994, [b7c, b6] submitted a nine page sworn affidavit to the USIA OIG investigators alleging these acts constituted reprisals and reiterated the same to OIG on August 1, 1996. [b7c, b6] alleges reprisal resulting from disclosure of information to the GAO and to members of Congress that ultimately prompted OCB management to eliminate [b7c, b6]. Thus, OIG did not restrict its inquiry solely to events of 1994 and addressed each separate allegation below. [b7c, b6] colleagues in [b7c, b6] - believe [b7c, b6] are being reprisal against and have been included in OCB's reinvention plan, in large part, due to [b7c, b6] mere association with [b7c, b6] claim that the retaliation against [b7c, b6] was to "cover" the elimination of [b7c, b6].

1. OCB's Reinvention Plan

On March 31, 1994, [b7c, b6] were advised of Lobo's plan to eliminate [b7c, b6] [b7c, b6] by receiving notice of the OCB reinvention plan. [b7c, b6] believes this action was taken in retaliation of [b7c, b6] repeated complaints of mismanagement and of the politicization of Radio Marti. [b7c, b6] also contend [b7c, b6] included due to management's

ineptness in dealing with [b7c, b6] believe that OCB management realized that it could not single [b7c, b6] out in the reinvention plan so [b7c, b6] included to conceal management's true motive.

OIG's review of documents related to the plan and discussions with individuals involved in its conception reveal a down-sizing effort which pre-dated the 1992 Presidential election. After President Bush lost the election, a Clinton transition team arrived at USIA and reinforced the new administration's commitment to down-sizing government. In 1993, to conform with the Vice President's National Performance Review (NPR), USIA directed its Bureaus to submit plans on the best means of accomplishing the goals of NPR. Dr. Joseph Duffey, who became the Director of USIA in May 1993, confirmed that his office set reinvention goals for the Bureaus. Accordingly, OCB created a panel to address the reinvention goals of the administration.

In OCB, the reinvention panel Bonachea created consisted of Boyd, [b7c, b6], Lippe, William Valdez (TV Marti), Sharon Oakley (Administrative Officer), and Rick Cooley (Deputy Director of Personnel). Boyd was the chair of the panel, but according to Cooley and other panel members, played a limited role in the meetings. Cooley, however, told OIG he accepted full responsibility for the reinvention plan Lobo initially presented to the PAB and Director Duffey. Cooley stated that while he believes the plan was sound and justifiable, by the time Lobo made his presentation the funding and savings figures he used were probably outdated. Nevertheless, Cooley maintains the plan would still be fiscally sound if Lobo had updated the figures in his 1994 presentation. Cooley stated the negotiations between panel members were tense with everyone maneuvering to protect their own turf - their own "sacred cows and favorites." Cooley stated that the idea of eliminating [b7c, b6] and other high graded positions was always on the table. He speculated that OCB management may have been more inclined to pursue the elimination of [b7c, b6] in light of allegations over the years attributed to [b7c, b6] [b7c, b6]. However, OIG found no corroborating evidence to support Cooley's contention that management was predisposed to eliminate [b7c, b6] [b7c, b6] because of [b7c, b6] complaints.

Cooley stated that in late 1993, the panel went to Warrenton, Virginia, for a manager's retreat to discuss the plan. Cooley stated that everyone agreed that [b7c, b6] [b7c, b6] were expendable because [b7c, b6] functions were no longer necessary. Cooley stated the panel proposed to eliminate [b7c, b6] [b7c, b6]. According to Cooley, even the Director of Research, Lippe, agreed [b7c, b6] [b7c, b6] were the most expendable and concurred with the proposed plan. Cooley stated that Boyd had apprehensions but took the position that OCB could potentially find other positions within USIA or VOA for [b7c, b6] and other displace employees.

Lobo stated that when he was offered the OCB position by Director Duffey he was given a mandate to reduce costs and down-size the Martis. Director Duffey confirmed he had given a mandate to Lobo seeking targeted savings of \$5 to \$6 million from the OCB budget within the first 18 months of Lobo's stewardship of OCB. Lobo stated that when he accepted the Director's position he took Duffey's mandate seriously and felt he could be an asset to the organization because his career encompassed extensive senior level broadcast management experience and hands-on television news and program experience. Lobo stated that he ran operations at stations in major markets of New York, Chicago and Miami, with annual budgets in the hundreds of millions of dollars. In every case, management's concern was always the station's profit margins. Lobo hoped his extensive experience would instill the business side of broadcasting into the organization and help it reap real savings. With the exception of Radio and TV Marti's size, Lobo stated he saw the Martis no differently from other stations in which he worked and was very confident he could tackle the stations' problems and implement the necessary budget disciplines to meet at least a majority of Duffey's goal.

Lobo stated that in spite of other pressing issues awaiting him in OCB, the reinvention plan demanded his immediate attention. It became a priority not only because it was the Director's mandate, but because the Clinton Administration was pressuring all government agencies to reinvent themselves and "do more with less." Lobo stated he welcomed the challenge and strove to get his management team behind his efforts. Lobo stated that when he arrived Bonachea had a panel working on cost savings initiatives for almost a year. The panel presented their reinvention plan and, according to Lobo, he developed his own plan. Lobo stated that his goal was to seek the elimination of unnecessary layers of management, such as deputies, and support staff. Lobo stated he wanted to improve the supervisory to employee ratio in OCB while reducing the number of high grades.

Lobo stated that he wanted to accomplish this downsizing while sustaining, indeed enhancing, the Martis broadcast mission. However, Lobo stated that he realized that as in any reorganization or cost cutting plan, management looks for weaknesses and/or luxuries in the organization that are no longer affordable or required. Once those are identified, a decision must be made to either eliminate or reprogram. For Lobo, [b7c, b6] were too costly to maintain. Lobo rationalized that [b7c, b6] expertise was no longer as crucial as it had been ten years earlier when Radio Marti first started its broadcasts since OCB had hired reporters and writers in News and Programs with Cuba expertise equivalent to [b7c, b6]. With respect to cost effectiveness, Lobo stated that [b7c, b6] were extremely high paid for the function [b7c, b6] performed. Lobo stated that with the technology available today, and with their library and other on-line resources at the disposal of OCB personnel, [b7c, b6] were no longer cost effective. Furthermore, Lobo considered the effect that the loss of [b7c, b6] may pose to the organization. Lobo determined that the

loss would have no adverse effect upon broadcasting operations because b7c, b6 b7c, b6 served in support positions. Also, Lobo and Bonachea believed that b7c, b6 work product was not serving the needs of the staff because b7c, b6 reports tended to be untimely and not particularly helpful to the broadcast staff.

Lobo stated that the reinvention plan was never intended to single out b7c, b6 but acknowledged b7c, b6 in Radio Marti did take a major cut. Lobo stated that his goal was to maintain the integrity and operational viability of the broadcast function and targeted only positions which were not critical to this mission. Lobo stated that is why the reinvention plan included 6 other encumbered positions, in addition to [-] b7c, b6, ranging in grades from GS-12 through GS-14 in an attempt to realize \$600,000 in salary and benefits savings in FY 95. The other positions included in the reinvention plan included an administrative officer, a position in audience research, a TV Marti news writer, a producer, as well as two temporary technical operation positions. Lobo noted that eight of the ten proposed positions targeted for elimination were expendable support staff and that these positions were selected because they had minimal impact on OCB's ability to broadcast and produce TV and Radio programs of the highest quality.

In a report to Bonachea, dated November 15, 1993, b7c, b6 appears to concur with Bonachea's assessment of b7c, b6 based on a cost-effectiveness study of the department. b7c, b6 concluded that, "Barring a management decision to authorize additional research products and services, it would seem that the per-unit cost to Radio Marti of some of the current research work is very high."

In addition, OIG learned from Robert Coonrod, former Director of VOA, that when the budget cuts were announced in 1992, b7c, b6 were not on the high priority staff list. Coonrod stated b7c, b6 were expendable because b7c, b6 were best qualified to be involved in b7c, b6 and less so in direct broadcasting. This b7c, b6 could have been obtained outside the Martis at considerable savings. In addition, the fact that Radio Marti began a 24-hour news format meant that there was a greater need for staff members who were qualified to handle broadcasting operations. Further, Coonrod reported that b7c, b6 resisted working with TV Marti and wanted to remain only with Radio Marti, which was not cost effective. Coonrod stated that the issue was not b7c, b6 because he stated that he felt that b7c, b6 were very talented. The assessment was that [-] b7c, b6 role was no longer critical to the operation of the Martis.

Based on a review of all available documentation, and based on the extensive number of interviews conducted during the investigation, OIG finds that OCB management has made a compelling case for the elimination of b7c, b6. Moreover, [-] b7c, b6 were unable to provide evidence to support b7c, b6 position on this issue.

OIG also finds that there is convincing evidence to support the decision based on the variables Lobo outlined. The decision was based largely on management's assessment of the value added from [b7c, b6] work product against more cost effective alternatives to augment radio broadcasts. Even assuming that [b7c, b6] presented a prima facie case of reprisal for whistleblowing activity, OIG finds that OCB management has made a clear and convincing case to support their decision.

2. Prohibited from Participating in On-Air Programming

The issue of on-air participation of [b7c, b6] arose in an April 30, 1992, PAB meeting. One of the Board members had been told [b7c, b6] were presenting personal views during programming in violation of VOA editorial guidelines and requested an explanation. [b7c, b6] had had a role in on-air programming since 1986.

The issue of [b7c, b6] role in the 1992 PAB meeting was tabled after Bonachea and others agreed it was an operational matter best dealt with by station management and by a separate panel which convened shortly after the PAB meeting to study the matter. The panel consisted of Coonrod, then Deputy Director of VOA, Bonachea, as Deputy Director of Radio Marti, and Antonio Navarro, the Director of Radio Marti in 1992.

Coonrod stated that this was a difficult issue to address but that voicing personal opinions on the air was inappropriate and violated editorial guidelines. The role of OCB employees as independent analysts and broadcasters of news could not include the expression of personal opinions. According to Coonrod, [b7c, b6] failed to distinguish a difference between [b7c, b6] roles as Marti employees and [b7c, b6] right to express themselves. Coonrod believed [b7c, b6] information on Cuba and that [b7c, b6] should never have had a role in on-air broadcasting. Coonrod stated that [b7c, b6] expression of personal opinion conflicted with established VOA editorial guidelines. In addition, OIG has learned that participation in on-air programming was never a component of the 1986 or 1991 revised mission statement for [b7c, b6] department.

Coonrod stated that after looking further into the matter, he and Bonachea drafted a memorandum recommending [b7c, b6] removal from on-air reporting. Coonrod stated this decision was made shortly before his departure from VOA in December 1992, and received the clearance of the VOA Policy Office. Again, Coonrod reiterated that he used the VOA editorial guidelines as a model for OCB to follow, as well as the policies used for Radio Free Europe and Radio Liberty. He further stated that the panel believed that if they did not take action, [b7c, b6] personal views might overshadow actual news reporting. Bonachea provided OIG with a memorandum dated December 9, 1992, announcing the programming change consistent with VOA policy. Bonachea stated these guidelines were subsequently provided to [b7c, b6].

OIG finds that the decision seems to reflect careful deliberation and is consistent with the policies applicable to other VOA staff. OCB management endeavored to clear the policy through the appropriate channels within USIA and there are well articulated factors that support the decision as one well within management's discretion to make. Accordingly, OIG does not find that [b7c, b6] allegation of reprisal meets statutory elements of reprisal.

3. News Department Censoring of [b7c, b6] Analysis

[b7c, b6] complained that [b7c, b6] on-air analyses have been censored by [b7c, b6] and the News Department since 1991. [b7c, b6] and Bonachea stated that News Department from time to time would edit work products, including [b7c, b6], and often those edits were discussed at daily editorial board meetings. If time was of the essence, the News Department would make the necessary changes but this did not occur often. However, both Bonachea and [b7c, b6] stated that they were concerned with [b7c, b6] airing personal opinions in [b7c, b6] analysis and felt compelled to make editorial changes as necessary. [b7c, b6] made clear that the News Department shared [b7c, b6] concerns with [b7c, b6] airing personal opinions, a problem the News Department did not have with [b7c, b6].

[b7c, b6] alleged that [b7c, b6] censored [b7c, b6] work on orders from Mas Canosa. [b7c, b6] denies this allegation, and stated that while [b7c, b6] knew Mas Canosa personally, Mas Canosa never influenced [b7c, b6] judgment or the news stories reported by Radio Marti. Mas Canosa strenuously denied attempting to influence [b7c, b6] or anyone else in OCB with respect to news reporting. Neither [b7c, b6] able to provide OIG with any evidence or documentation, other than hearsay, to substantiate this allegation. Moreover, OIG found evidence that [b7c, b6] had complained to a previous director about inappropriate editing of [b7c, b6] work. OIG reviewed a 1988 memorandum to [b7c, b6] from Ernesto Betancourt, a former Director of Radio Marti. In that memorandum, Betancourt convincingly refuted [b7c, b6] allegations that [b7c, b6] work was maliciously and inappropriately edited. Betancourt forcefully stated that both he and [b7c, b6] supervisors exercised their legitimate authority to challenge certain aspects of an article [b7c, b6] had submitted. OIG found significance in this memorandum in that [b7c, b6] had previously asserted that [b7c, b6] work was inappropriately edited at a time when there was no allegation on [b7c, b6] part of retaliation, and management appropriately responded in a clear and convincing fashion that [b7c, b6] should expect appropriate management oversight of [b7c, b6] work.

OIG also found that the censorship issue was addressed by the Strauss Panel which rejected the assertion that one sector of the Cuban American community was controlling news dissemination. Additionally, the Panel particularly noted the unhealthy atmosphere of

suspicion and hostility which pervaded the station and led one faction or another to believe that its views were being censored. The Strauss Panel noted in its March 1994 report, “. . . that the station’s staff embodies a wide spectrum of competing political viewpoints. This fact alone suggests that Radio Marti is far from a monolithic reflection of one sector of the Cuban American community. But what in another context could produce healthy debate and more balanced programming produces at Radio Marti politicized journalistic decisions and an atmosphere of suspicion, cronyism, and hostility.”

OIG finds that there is insufficient evidence to support a finding of reprisal with respect to this allegation. Moreover, [b7c, b6] did not provide OIG with a single document which would support [] claim of censorship or which could be linked in any way to a reprisal for whistleblowing activity.

4. Denied Access to Travel to Miami

In July 1992, [b7c, b6] met with GAO officials regarding the issue of politicization at Radio Marti. According to [b7c, b6], GAO told [] the information [] provided might pique the interest of a Member(s) of Congress, who may request an investigation. Instead, in November 1992, GAO referred allegations of politicization at Radio Marti to VOA for review. VOA asked Radio Marti to respond. The list of allegations which [b7c, b6] had provided to GAO was given to VOA, and subsequently to the staff members of Radio Marti’s News Department to prepare responses. As a result, [b7c, b6] stated that OCB and VOA management became aware that [] was the author of the allegations. [b7c, b6] also states that shortly after this [] requested authorization to travel to Miami to interview incoming refugees and was refused due to lack of funds. [b7c, b6] maintains that there were funds available and that Stuart Lippe, [b7c, b6], confirmed this to be so. [b7c, b6] stated that [] requested authorization to travel to Miami in March 1993 to interview defectors and was advised by Lippe that Bonachea would not approve the trip.

VOA and OCB management officials stated they were concerned about budget cuts in 1993 and 1994 and curtailed travel, training and other expenses they thought that they could do without. OCB Budget Officer, Almeda Schrupp, advised OIG that these budget cuts indeed were across the board and affected all OCB employees, not just [b7c, b6] [b7c, b6] unit. There is documentation concerning management’s concerns about the budget. OIG has obtained documentation indicating that Bonachea provided restructuring plans to Joseph Bruns, Acting Associate Director Bureau of Broadcasting, in 1993 and drafts of a reinvention plan in 1994. Bonachea stated while he did not recall specific incidents when he may have denied travel, he did not single out any one individual or group. Bonachea also stated he was not aware [b7c, b6] was the author of the allegations to GAO until [b7c, b6] advised him so, but denies any connection between his decision on [b7c, b6] travel request to the allegations [] made.

Travel restrictions were in place throughout OCB and other OCB employees complained they were also denied trips for training and conferences they would normally have been able to attend. OIG has learned that OCB management issued a memorandum in March 1993 proposing a reduction in all categories of travel to realize a savings of \$92,000 in the fiscal year. OIG is persuaded by this memorandum and the fact that there is no other evidence suggesting that the prohibition on travel was primarily targeting [b7c, b6] [f] intention to travel. Moreover, OIG finds that the travel restriction was not a prohibited personnel practice as defined under the WPA.

5. Restricted Access to News Department Staff

[b7c, b6] alleges that Lobo singled out [b7c, b6] in a memorandum to Stuart Lippe which limited [b7c, f] access to the News Department Staff. The memorandum required that all communication with the News Staff be coordinated through respective supervisors. [b7c, b6] also alleges that Lippe's subsequent meeting with [b7c, b6] on this subject, at Bonachea's request, was also an act of reprisal. Bonachea advised OIG that he requested that Lippe meet with [b7c, b6] to ensure that [b7c, f] understood the directive. [b7c, b6] were the only employees to meet with [b7c, b] supervisor about the memorandum.

Lobo advised he sent the memorandum to Lippe and to the entire Radio Marti staff because there was an ongoing Cuban crisis. On July 13, 1994, Cuban naval authorities attacked a tugboat carrying 72 would be refugees, inflicting 40 or more casualties. Shortly thereafter, an exodus of rafters attempted their escapes from Cuba and U.S. immigration policy was being revamped. For the first time ever, Cubans were not automatically granted refugee status into the U.S. and were being detained in refugee camps, such as Guantanamo Naval Station. These events became Lobo's number one priority and the Martis' top broadcast news story. Lobo stated that he sent the memorandum to Lippe to ensure that [b7c, b6] would follow his instructions because he did not want the news staff disrupted. Lobo stated he was aware [b7c, b6] had a contentious relationship with news employees and wanted to avoid any problems or potential disruptions. The News Department sent a petition to Lobo in June 1994 voicing their frustration and concern over repeated attacks on their professionalism and news programs. They also sought relief from responding to the allegations because it was so time consuming. Bonachea stated he wanted to reinforce Lobo's directive and asked Lippe to discuss it with [b7c, b6] because [b7c, f] had in the past ignored such management requests. Bonachea stated the entire Radio Marti staff was informed of Lobo's request and was well aware that this action was being taken because they were in the midst of a crisis.

Other OCB staff that OIG interviewed felt [b7c, b6] were too sensitive about the issue. Margarita Rojo, Director of News at the time defended Lobo's action. Rojo stated that she firmly believes the directive, which covered all employees, was a necessary but temporary restriction. Rojo stated it was management's prerogative to take such action and that it was taken in the best interest of Radio Marti, its audience, and USIA. Based on its review of relevant documents, and based on interviews with OCB management and staff, OIG does not find that the allegation of management reprisal is substantiated. OCB management seems to have operated within its prerogative to handle a crisis that required emergency news coverage. Moreover, the restriction does not constitute a prohibited personnel action as defined under the WPA.

6. Elimination of On-Air Program Credits

[b7c, b6] consider that management's decision to deny program credits for [b7c, b6] collaboration on the program "Las Noticias Como Son" was another act of reprisal. OCB management's decision to discontinue such credits was conveyed to [b7c, b6] by Rojo in November 1994. According to [b7c, b6], "[t]he standard practice at Radio Marti was to give credit to all those who collaborate with a specific program, including support personnel."

Rojo and senior OCB management stated it was practice to give credit to individuals on the staff who provided substantial collaboration on programs and not simply to people lending support to a program, which is what they claim [b7c, b6] were providing on this program. OIG could not independently quantify the extent of [b7c, b6] contribution to particular programs nor dispute management's position. However, in a memorandum to [b7c, b6] and the Programs Department, dated March 15, 1994, [b7c, b6] clarifies that Radio Marti policy on giving credits for employee performance in on-air programs. [b7c, b6] stated that, "Credits themselves exist to recognize those employees who make a direct contribution to programs, whereas there are always many other employees and supervisors from various departments working behind the scenes in support roles whose names can not practically be included." [b7c, b6] further stated that, "Radio Marti policy on credits in on-air programs is as follows: Only the names of those employees directly responsible for working on our on-air programs shall be mentioned in the credits. With few exceptions, this has been Radio Marti policy since our start-up in 1985."

Even if [b7c, b6] made program contributions of a substantial nature, OIG has determined that in the absence of documentation to the contrary from [b7c, b6], that such a decision is clearly one of management discretion. Accordingly, there is no prohibited personnel practice and therefore no finding of reprisal.

CONCLUSION

OIG reviewed each of the allegations of reprisal from [b7c, b6] and concluded that in each instance there is insufficient credible evidence to support the allegations of reprisal lodged either by [b7c, b6]. Specifically, with respect to [b7c, b6] allegation that [redacted] was prohibited by Mas Canosa from attending PAB meetings, OIG found [redacted] allegation to be without merit and Mas Canosa's version of events credible. [b7c, b6] also alleged that after [redacted] cooperated with USIA OIG auditors, [redacted] was repeatedly excluded from personnel management decisions, experienced progressively diminished duties and responsibilities, and was denied a new position description and performance evaluation. OIG investigation found no basis to substantiate these allegations. Additionally, OIG found no basis to [b7c, b6] allegation that [redacted] was a victim of slander and harassment by management and other elements of OCB's staff.

With respect to [b7c, b6], OIG found that management made a compelling case for the elimination of [b7c, b6] and found no evidence to support [b7c, b6] claims of reprisal. As for the remaining allegations of reprisal made by [b7c, b6], OIG found insufficient evidence to substantiate a finding of reprisal.

Notwithstanding the absence of management reprisal, our review uncovered a pattern of mismanagement in OCB which was evident throughout the period covered by this review. We found deficiencies, for example, in the process and procedures for hiring staff, establishing and documenting duties, and conducting performance appraisals. While management practices within OCB were often lacking and frequently could have been improved, our review concludes that management actions were not based upon an attempt to retaliate against any of the complainants. The deficiencies noted, however, underscore the need for OCB management, the International Bureau of Broadcasting, and the Broadcasting Board of Governors to ensure that OCB management is actively seeking to adhere to policies and regulations that govern the hiring and management of employees.