

October 25, 2017

The Honorable Ryan D. McCarthy
Acting Secretary of the Army
101 Army Pentagon
Washington, DC 20310-0101

General Joseph L. Lengyel
Chief
National Guard Bureau
111 South George Mason Drive, AHS2
Arlington, VA 22204

Dear Acting Secretary McCarthy and General Lengyel:

The undersigned organizations urge the Army and the National Guard to implement the Department of Defense Inspector General's (DoD IG's) recommendation to make whole contractor whistleblower Michael Sandknop.

In 2015, Sandknop raised concerns to the Missouri National Guard Joint Forces Headquarters Inspector General about the management of his employer Bio-Medical Personnel Services Incorporated's (BPSI) contract with the Missouri National Guard. Specifically, he believed that he was not given the proper equipment to do his job and had been assigned tasks outside the scope of the contract. Multiple government investigations have confirmed Sandknop was illegally retaliated against by BPSI officials after he made disclosures protected under contractor whistleblower laws.

The Army IG substantiated his complaint in 2014, but he did not receive any remedy, with the Guard telling Senator Claire McCaskill (D-MO) that his complaint had "fallen through the cracks."¹ Following pressure from Senators McCaskill and Chuck Grassley (R-IA) and Representative Ann Wagner (R-MO), DoD IG reopened the case. In June, the DoD IG substantiated the reprisal allegations again, and recommended the Secretary of the Army direct National Guard bureau officials to consider appropriate action against BPSI and to order BPSI "or any possible successor in interest" to reinstate Mr. Sandknop and award him compensatory damages, including back pay.²

¹ Tony Messenger, "Messenger: Fired Missouri Guard employee seeks justice as military stonewalls," *St. Louis Post-Dispatch*, December 27, 2015. http://www.stltoday.com/news/local/columns/tony-messenger/messenger-fired-missouri-guard-employee-seeks-justice-as-military-stonewalls/article_d936d0b7-6775-5bdd-ba8a-0a7268b35560.html

² Department of Defense Inspector General, *Bio-Medical Personnel Services Missouri National Guard Public Affairs Office*, June 6, 2017, p. 1. <https://media.defense.gov/2017/Jun/13/2001762141/-1/-1/1/DODIG-2017-088.PDF>

Under the law, the head of the Army should have acted on the IG’s recommendation no later than 30 days after receiving the report.³ It has been over 120 days, and yet again it appears the Army will fail to hold accountable a contractor who has broken the law.

The Army and the National Guard have a unique opportunity to show leadership and demonstrate that whistleblowers who expose contractor waste, fraud, and abuse through protected channels will not be illegally punished. The DoD IG rarely substantiates whistleblower reprisal—this is only the second case of contractor whistleblower reprisal substantiated in the past decade.⁴ The failure to act on this report sends a troubling message that will discourage others from coming forward.

The Army and the National Guard, like the rest of the federal government, increasingly relies upon contractors to provide goods and services. Whistleblowers are essential to ensuring the military pays fair and reasonable prices, and that the vendors it works with act responsibly. But the Army and the Guard will only be able to benefit from those whistleblower disclosures if the individuals who come forward are protected from reprisal, those who illegally retaliate against them are punished, and whistleblowers harmed are made whole.

Sincerely,

Defending Rights & Dissent

Government Accountability Project

The Multiracial Activist

National Medical Malpractice Advocacy Association

National Whistleblower Center

Project On Government Oversight

Public Citizen

³ 10 U.S.C. § 2409(c).

⁴ Government Accountability Office, *Whistleblower Protection: Opportunities Exist for DOD to Improve* p. 80-81. <http://www.gao.gov/assets/690/687531.pdf>; Table created by the Project On Government Oversight for the House Oversight and Government Reform Subcommittee on National Security hearing on “Oversight of the Department of Defense Office of Inspector General’s Military Whistleblower Reprisal Investigations,” September 7, 2016, p. 2. http://www.pogoarchives.org/m/wi/pogo_testimony_appendix_a.pdf