



U.S. Department
of Transportation
**Federal Aviation
Administration**

Assistant Administrator for Regions
and Center Operations
800 Independence Ave., SW.
Washington, DC 20591

AUG 17 2011

RCVD 8-22-11
(10p)

Mr. Jeff Lewis
28242 S. Salo Road
Mulino, OR 97042

RE: Freedom of Information Act (FOIA) Request 2011-003320WS-R

Dear Mr. Lewis:

This letter is in response to your February 8, 2011 FOIA request, which was remanded to the National FOIA Program Office (ARC-40) for further response.

In your initial request dated February 8, 2011, you asked for copies of the Conduct/Discipline and Watch Items pages from six AWP Terminal Reports. The requested Terminal Reports include two reports sent by Nina Dillard (4/7/08 and 4/22/08) and four Terminal Reports sent by Tymeka Walton (5/5/08, 6/3/08, 10/14/08, and 10/30/08). The FAA Western Service Area responded to your request on April 4, 2011, withholding information within the pages under Exemption 6 (privacy). Subsequently, you appealed the April 4, 2011 response. In your letter of appeal dated May 6, 2011, you assert that the records were excessively redacted and that pages provided to you from the October 14, 2011 Terminal Report are actually from the October 30, 2011 Terminal Report.

Since you appealed the Western Service Area's response to FOIA 2011-003320WS, the agency has responded to some of your other FOIA appeals and initial FOIA requests concerning AWP Terminal Reports. Our records show that complete copies of the 4/7/08 Terminal Report (as sent by Nina Dillard) and 5/5/08 Terminal Report (as sent by Tymeka Walton) were provided to you in response to the remanded FOIA Appeal 2011-000177A. Further, our records show that complete copies of the true 10/14/08 and 10/30/08 Terminal Reports (as sent by Tymeka Walton) were provided to you in response to FOIA 2011-006880WA. You have now received complete copies of the 4/7/08, 5/5/08, 10/14/08, and 10/30/08 Terminal Reports, including Conduct/Discipline and Watch Items pages, which partially satisfies FOIA 2011-003320WS-R.

As an enclosure to this response, please find copies of Conduct/Discipline and Watch Items pages from the 4/22/08 and 6/3/08 Terminal Reports. In reviewing these pages for releasability, we located two entries for Justin Lewis at CCR (Concord Tower). Having determined that these entries refer to you, Jeff Lewis, we are releasing the entries in full. We are withholding the facility name and employee name for entries within the spreadsheet other than your own under Exemption 6, which protects information that pertains to an

individual “the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. 552(b)(6)¹

We trust that this issue is adequately resolved. I am responsible for this partial denial. You may request reconsideration of this determination by writing the Assistant Administrator for Regions and Center Operations, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC, 20591. Your request for reconsideration must be made in writing within 30 days from the date of receipt of this letter and must include all information and arguments relied upon. Your letter must state that it is an appeal from the above-described denial of a request made under the FOIA. The envelope containing the appeal should be marked “FOIA.”

Sincerely,



for Douglas C. Taylor, Ph.D.
Director of Administration

Enclosure

¹ The withholding of facility name and employee name within the Terminal Report under Exemption 6 was upheld in FOIA Appeal 2010-005073A. The agency’s final determination in FOIA Appeal 2010-005073A found a viable privacy interest in non-disclosure of employees’ names in regard to alleged Conduct/Discipline charges. Further, the agency determined that there is a privacy interest in facility name as it may be possible to piece together the identities of individual employees. In any event, the same approach and reasoning is applicable here.

AWP CONDUCT/DISCIPLINE
4/22/08

LR Spec	LOB/FAC	Name	Charge	Proposed Action	Proposal Issue Date	Final Decision	Decision Issue Date	GFT/MSPB/NGP	Appeal Decision	Date of Appeal Decision	EEO Y/N	Comt	Open/ Closed
Marable, Ros			required medical information / Failure to	Removal	10/10/2007	Decision letter of Removal mailed to	11/10/2007						
Marable, Ros			Making disparaging, disrespectful and other inappropriate statements in the work place	Removal #2		Letter sent to facility manager to issue on 4-22-08							
Marable, Ros			Use of inappropriate language in the workplace	Removal	11/11/2007	30-Day suspension	2/2/2008	Received appeal to expedite arbitration - will schedule date w/ Union					
Marable, Ros			Unauthorized Absence	5-Day Suspension	10/11/2007	5-Day suspension	12/27/2007	Received appeal to expedite arbitration - will schedule date w/ Union					
Foster, Dick			1 Conduct: Intimidating, harassing, behavior, conduct unbecoming horseplay	Letter of Reprimand	7/12/2007								
Foster, Dick			1 Conduct: Insubordination, refusal to carry out orders, etc 2 Non-Disciplinary Actions: Unavailability for Duty, 3. Conduct	Suspension									
Foster, Dick			1 Conduct: Forging, falsifying, misrepresentation on government document	Removal									
Marshall, Owen			inappropriate Behavior	Letter of Reprimand			Sent to fac for issuance 4/7/08						

AWP CONDUCT/DISCIPLINE

4/22/08

LR Spec	LOB/FAC	Name	Charge	Proposed Action	Proposal Issue Date	Final Decision	Decision Issue Date	GFT/MSPB/NGP	Appeal Decision	Date of Appeal Decision	EEO Y/N	Comt	Open/Closed
Marshall, Gwen			Failure to immediately carry out orders/ assignments given by a superior official and inappropriate remarks/rowd act info and the LOR will be change to a Susp currently being prepared by HR gm 4/22/08										
Marshall, Gwen			Failure to properly staff positions	Letter of Reprimand	1/28/2008		Sent to fac for issuance 2/14/08						
Marshall, Gwen			Leaving an operational control posn w/o authorization and Using disrespectful language in the tower cab	Suspension (3)			Sent to fac for issuance 4/7/08					Waiting from background info from fac	
Harris, Joseph			False Information	Removal	11/8/2007	Sustained the removal	1/3/2008						
Harris, Joseph			Inappropriate comments	Suspension								Pending status verification from facility	
Hicks-Moffatt			Training Failure (CPC in training)	Removal	1/8/2008	Proposer issued. Mgmt granted extension to 3/29/08 for employee to reply. A/m 3/25/08. Egm has applied for dis. Ret. He is also applying for an ATA position 4/7/08							
Hicks-Moffatt			Training Failure (Developmental)	Removal		Being worked by a/m 4/21/08							

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WATCH ITEMS

4/22/08

Facility	Employee Name	Issue	Status
[REDACTED]	[REDACTED]	FMLA	FMLA granted for a serious health condition. Emp. also requested advanced s/I for another ailment which was denied. Medical certificate and employee's statement did not support that this was a serious ailment. Gm 4/22/08
		ODP completed	Sustained performance for one year was deleted from the congratulatory letter based on recent guidance from HQ-Field. Gm 4/22/08
		Misuse of gov't card, Insubordination & disrespectful conduct	
CCR	Lewis, Justin	AWOL	Pending medical revocation with Aerospace Medicine
[REDACTED]	[REDACTED]	ReaAc Req.	Pending
		OSC MSPB	Currently on hold pending the Fed Dist. Ct decision on his initial appeal of the removal action. 8/22/07 ahm given an ext. by courts ahm 3/25/08, no change ahm 4/7/08
		Training Failure	Awaiting the Training Package from Facility ahm 4/7/08

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AWP CONDUCT/DISCIPLINE

6/3/08

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L marked 5/20/08

LR Spec	LOB/FAC	Name	Charge	Proposed Action	Proposal Issue Date	Final Decision	Decision Issue Date	GFT/MSPB/NGP	App Deci	
Marable, Ros			Inappropriate Conduct	Drafting a 14-day suspension.						
Marable, Ros			Failure to immediately carry out orders / Inappropriate Behavior	Draft of 10-day suspension sent for review by FLM						
Marable, Ros			Failed to fully investigate and find operational error	Letter of Reprimand						
Marable, Ros			Failure to maintain medical clearance	Drafting a non-disciplinary removal.						
Marable, Ros			Failure to successfully complete NATC Training Program	Issued non-disciplinary removal	Removal issued to employee and while waiting for response, a job offer was accepted to FE Letter of decision will be issued after employee reports to new facility.					
Marable, Ros	Concord ATCT	Loves, Jeffrey	Inappropriate Behavior / Providing Misleading information during an official investigation	Previously drafted a 14-day. Management now requests a Removal		Still drafting removal and waiting for manager to complete Douglas factors.				
Marable, Ros			Unauthorized absence charged to AWOL	Letter of Reprimand		Being review by LOB				
Marable, Ros			Misuse of a government computer / Misrepresentation during an investigation	N/A	N/A		Probation Termination issued April 10, 2008			Yes filed on April 18, 2008
Marable, Ros			Inappropriate Behavior	Proposed Removal	Manager will sign tapes and information to review to support his request for a reprimand					

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F11-3320WS-R, rcd 8/22/11
signed by YONE

AWP CONDUCT/DISCIPLINE

6/1/08

LR Spec	LOBIFAC	Name	Charge	Proposed Action	Proposed Issue Date	Final Decision	Decision Issue Date	GFT/MS/PER/NGP	Appeal Decision	Date of Appeal Decision	EO Y/N	Crnty	Open/Closed
Marble, Rog			Failure to follow directions, Forging government documents	5-Day Suspension	Draft being reviewed								
Marble, Rog			Required medical information / Failure to	Removal	10/02/2007	Decision letter is Removal issued to	11/10/2007						
Marble, Rog			Making unpeeling, disreputable, and other statements in the work place	Removal #2	Letter sent to facility manager to issue on 4-22-08								
Marble, Rog			Use of inappropriate language in the workplace	Removal	11/11/2007	30-Day suspension	2/27/2008	Received appeal to arbitration - will schedule date w/ Union					
Marble, Rog			Unauthorized Absence	5-Day Suspension	10/11/2007	5-Day suspension	12/27/2007	Received appeal to arbitration - will schedule date w/ Union					
Marble, Rog			Unauthorized Behavior	Letter of Reprimand			10/18/2008						
Marshall, Gwen							4/7/08 - Letter issued						

AWP CONDUCT/DISCIPLINE

6/2/08

LR Spec	LOB/FAC	Name	Charge	Proposed Action	Proposal Issue Date	Final Decision	Decision Issue Date	GFT/MSPB/NGP	Appeal Decision	Date of Appeal Decision	EEO Y/N	Comts	Open/Closed
Marshall, Gwen			Failure to immediately carry out orders/ assignments given by a superior official and Inappropriate remarks/Revised info and the LOR will be chge to a Susp currently being prepared by HR gm 4/22/08	Letter of Reprimand modified to Suspension based on charges			Revised info and the LOR will be chge to a Susp currently being prepared by HR gm 4/22/08. HR modified LOR to a Three-day Susp. Letter sent to Service Area 5/1/08. [redacted] informed me that they are considering a higher penalty and needed a few more on 5/2/08. Sent to [redacted] for issuance 05/12/08.						
Marshall, Gwen			Leaving an operational control post w/o authorization and Using disrespectful language in the tower cab	Suspension (2)			Sent to fac for issuance 4/7/08. Mitigated to two day suspension. Ltr sent to fac 5/15/08.					Waiting from background info from fac	
Marshall, Gwen			Inappropriate behavior and language in the tower cab	Letter of Reprimand			sent draft LOR on 4/28/08. Fac Mgr submitted by memo on 5/2/08.						

AWP CONDUCT/DISCIPLINE

6/2/08

LR Spec	LOB/FAC	Name	Charge	Proposed Action	Proposal Issue Date	Final Decision	Decision Issue Date	GFT/MSPB/NGP	Appeal Decision	Date of Appeal Decision	EOC Y/N	Comts	Open/Closed
Marshall, Gwon				Letter of Reprimand									
Marshall, Gwon				Suspension (10)									
Marshall, Gwon			Insubordination or refusal to carry out orders, directions, assignments, etc. given by a superior official; defiance of authority	Suspension (10)									
Hams, Joseph			Inappropriate comments	reprimand	11/8/2007	reprimand	11/8/2007	none	na		no		closed
Hicks-McCall			Training Failure (CPC in training)	Removal	1/8/2008								
Hicks-McCall			Training Failure (Developmental)	Removal									

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WATCH ITEMS

6/2/08

JUNE 3, 2008
Term Rpt

Facility	Employee Name	Issue	Status
[REDACTED]	[REDACTED]	FMLA	FMLA granted for a serious health condition. Emp. also requested advanced sll for another ailment which was denied. Medical certificate and employee's statement did not support that this was a serious ailment. Gm 4/22/08
		ODP completed	Sustained performance for one year was deleted from the congratulatory letter based on recent guidance from HQ-Field. Gm 4/22/08
CCR	Lewis, Justin	AWOL	Pending medical revocation with Aerospace Medicine
[REDACTED]	[REDACTED]	OSC MSPB	Currently on hold pending the Fed Dist Ct decision on his initial appeal of the removal action. 8/22/07 ahm given an ext. by courts ahm 3/25/08, no change ahm 4/7/08
		Training Failure RB7S FROM HQ	Awaiting the Training Package from Facility ahm 4/7/08
		Responded to inquiries concerning termination during probationary action. No further inquiry from HQ. Case Closed.	Removal was ok'd gm 4/22/08
		Attendance	
		Incapacitated since	Drafting a cook letter, prior to non-disciplinary removal. Employee was denied disability retirement and is filing an appeal.
Leave Abuse	Recvd draft Leave Restriction ltr and b/g on 5/8 and 5/16/08		

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