



U.S. OFFICE OF SPECIAL COUNSEL

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November 15, 2004

Mr. Leroy A. Smith, Jr.  
2708 Fifth Street  
Atwater, CA 95301

Re: OSC File No. DI-04-2815

Dear Mr. Smith:

We have transmitted your allegations of violations of law, rule, or regulation, abuse of authority, and a substantial and specific danger to public health and safety by employees at the Federal Bureau of Prisons, United States Penitentiary, Atwater, California (USP Atwater), and Federal Prison Industries, Inc. (UNICOR) to the U.S. Department of Justice for an investigation and report pursuant to 5 U.S.C. § 1213(c). With your consent, we identified you as the source of the information so that a representative of the Attorney General may speak with you directly.

OSC is authorized by law to refer protected disclosures to the involved agency for an investigation and report. Disclosures OSC may refer for investigation must include information that establishes a substantial likelihood of violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. OSC does not have the authority to investigate disclosures and, therefore, does not conduct its own investigations.

You alleged that factory and warehouse workers in the computer recycling facility at USP Atwater and other federal correctional institutions are being exposed to hazardous materials, including lead, cadmium, barium, and beryllium, without adequate safety precautions. You further alleged a violation of 29 C.F.R. § 1910.141 insofar as the computer recycling facility at USP Atwater contains a food service area that is exposed to the factory floor and toxic contaminants. Finally, you alleged abuses of authority by USP Atwater and UNICOR personnel who, in contravention of Federal Bureau of Prisons Program Statement 1600.08(1)(D), regularly ordered the reactivation of operations in the computer recycling facility without implementation of the safety measures you prescribed and without your written authorization.

We have provided the Attorney General 60 days to conduct an investigation of these allegations and to report back to us. You should be aware, however, that these matters may take somewhat longer and agencies may request an extension of the reporting date. After we have reviewed the report, unless it is classified or otherwise not releasable by law, we will send you a copy and give you an opportunity to comment. The report and your comments will be transmitted to the President and the appropriate congressional oversight committees, and will be maintained by OSC in a public file.