

March 30, 1999

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SUBJECT: Allegations of Retaliation at the Garden Grove Post Office
Audit Report Number LR-AR-99-006

This report presents the results of our review of allegations of retaliation against a letter carrier by management at the Garden Grove Post Office (Project Number 99-EA-011-LR-000). The report responds to a complaint received by the Office of Inspector General concerning these allegations.

The audit disclosed that there was retaliation, and the evidence strongly indicates it was based in significant part on the employee's participation in an Office of Inspector General investigation and on ██████ demonstrating and picketing at the Garden Grove Post Office and other Postal facilities. Management disagreed with one recommendation and agreed with three recommendations. Management's comments and our evaluation of these comments are attached to the report.

We appreciated the cooperation and courtesies provided by your staff during the audit. If you have any questions, please contact me, at (703) 248-2300.

//Signed//
Billy Sauls
Assistant Inspector General
for Employee

Attachments

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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EXECUTIVE SUMMARY

Introduction

This report addresses the results of an Office of Inspector General (OIG) review of alleged retaliation against a letter carrier because of ██████ participation in a February 1998 OIG investigation at the Garden Grove Post Office, Garden Grove (Santa Ana District), California.

The Inspector General Act of 1978, as amended, prohibits retaliation against any employee for making a complaint or disclosing information to the OIG. Also, the Deputy Postmaster General, in a March 19, 1998, memorandum stated that no retaliatory action is to be taken against a postal employee for alleging wrongdoing to the OIG.

The review disclosed that there was retaliation, and the evidence strongly indicates it was based in significant part on the employee's participation in an OIG investigation, and on ██████ demonstrating and picketing at the Garden Grove Post Office and other Postal facilities. ██████ were aware of the employee's complaints against management. Specifically, management denied the employee's requests of light duty and advance sick leave, and also delayed ██████ injury claim with the Office of Workers' Compensation Programs. We were unable to determine any credible reasons, other than retaliation, for management's denial of the request for light duty and the delay of the injury claim. Management had no explanation for the delay of the injury claim.

Recommendations

1. The Vice President, Pacific Area Office, should review the actions of the Garden Grove ██████ to determine whether corrective and/or disciplinary action is warranted for this inconsistent treatment.
2. The Vice President, Pacific Area office, and the Vice President, Human Resources, should ensure that Garden Grove ██████ implement procedures to comply with the *Employee and Labor Relations Manual*, Section 355.14, and the National Association of Letter Carriers national agreement, Article 13, Sections 2.A and 4.A, in approving or denying light duty assignments.

3. The Vice President, Pacific Area office, and the Vice President, Human Resources, should reiterate to all management that retaliation against employees is prohibited.
4. The Vice President, Pacific Area office, and the Vice President, Human Resources, should take action to ensure that all Office of Workers' Compensation Programs injury compensation claims are timely processed in accordance with Form CA-2 instructions.

Summary of Management Response

Management disagreed with Recommendation 1 and agreed with Recommendations 2, 3 and 4. We summarized these responses in the report and included the full text of the comments in the Appendix.

Evaluation of Management Response

We do not agree with management's comments on Recommendation 1. Our finding of retaliation against the employee is supported by credible evidence. However, we have agreed to make several changes to the report based on management's comments. These changes are detailed in the body of the report.

INTRODUCTION

Background

Citing work-related injuries, a letter carrier at the Garden Grove Post Office filed an Office of Workers' Compensation Programs injury claim in April 1998. In connection with the injury, the employee requested light duty work and advance sick leave. The Garden Grove ██████ denied these two requests on May 20 and May 21, respectively. When the requests were denied, the employee filed grievances against postal management. The employee stated to management and to the OIG in May 1998 that ██████ requests were denied in retaliation for ██████ participation in an OIG investigation at the Garden Grove Post Office during February 1998.

In July 1998, OIG requested that the United States Postal Service (USPS) Headquarters ██████, Safety and Workplace Assistance, conduct an independent investigation into the employee's allegations. The ██████ appointed a Human Resources ██████ from another district to conduct the investigation. On August 10, 1998, the Human Resources ██████ submitted a report to the ██████, Safety and Workplace Assistance. The report consisted of "findings of fact" and supporting documentation, but it contained no conclusions or recommendations. Based on this report, the Headquarters ██████ concluded, in an August 18, 1998, letter to the OIG, that ██████ at the Garden Grove Post Office and at the Santa Ana performance cluster did not retaliate against the employee for participating in the OIG investigative process. The ██████ provided a copy of the investigative report to OIG.

OIG reviewed the report with supporting documentation and determined that certain information was missing. The report contained no discussion of retaliation and no evidence of interviews with other employees who were given light duty work. To ensure that we had received the entire report, we contacted the Human Resources ██████ on October 1, 1998. ██████ told us that ██████ had not been tasked to determine whether Garden Grove ██████ had retaliated against the employee. ██████ said ██████ was asked to review two issues: (1) was the employee's light duty request improperly denied, and (2) was the employee's Office of Workers' Compensation Programs claim properly handled.

As a result of this conversation, OIG visited the Garden Grove Post Office in October 1998 to determine whether [REDACTED] had retaliated.

Objective, Scope and Methodology

We reviewed grievance, Equal Employment Opportunity, and Office of Workers' Compensation Programs records, Official Personnel Files, and unofficial personnel records, including medical documentation, maintained at the Garden Grove Post Office. We also reviewed applicable sections of the USPS rules and regulations, a March 19, 1998, memorandum on retaliation from the Deputy Postmaster General, and the National Association of Letter Carriers national agreement. In addition, we reviewed Section 7 (c) of the Inspector General Act of 1978, as amended (5 U.S.C. app. 3).

We interviewed and obtained statements from the employee alleging retaliation and eight other employees, including the local stewards of the National Association of Letter Carriers and American Postal Workers Union, the [REDACTED], and [REDACTED] at the Garden Grove Post Office.¹ At the district level, we spoke to the Santa Ana [REDACTED], the [REDACTED], and the [REDACTED] involved in the employee's injury compensation claim.

Our review was conducted between September 1998 and January 1999 in accordance with generally accepted government auditing standards.

¹We limited the number of interviews to seven craft employees who were identified in the USPS investigative case file [REDACTED]. We also interviewed an additional craft employee, [REDACTED].

AUDIT RESULTS

Denial of Light Duty

Section 355.14 of the USPS *Employee and Labor Relations Manual* requires that “installation heads show the greatest consideration for full-time regular...employees requiring light duty or other assignments, giving each request careful attention, and reassign such employees to the extent possible in the employee’s office.” Section 341.1 of USPS *Personnel Operations*, Handbook EL-311, states: “If such assignments are made, they must be in accordance with any applicable collective-bargaining agreement.”

Article 13, Section 2.A of the National Association of Letter Carriers national agreement states: “Any full time regular employee recuperating from a serious illness or injury and temporarily unable to perform the assigned duties may voluntarily submit a written request to the installation head for temporary assignment to a light duty or other assignment.” Section 4.A states: “Every effort shall be made to reassign the concerned employee within the employee’s present craft or occupational group, even if such assignment reduces the number of hours of work for the supplemental work force. After all efforts are exhausted in this area, consideration will be given to reassignment to another craft or occupational group within the same installation.”

The OIG review disclosed that the Garden Grove [REDACTED] and the [REDACTED] gave little consideration in providing the employee with light duty work. This lack of effort supports our conclusion that Garden Grove [REDACTED] retaliated against the employee. [REDACTED] were aware of USPS policy prohibiting retaliation.

The circumstances detailed below, as well as statements by Garden Grove [REDACTED], provided no credible reasons for the denial of the employee’s requests for light duty. [REDACTED] were aware of the employee's complaints. One admitted knowledge of the employee’s participation in the OIG investigation, and another was aware of [REDACTED] demonstrating at Postal facilities.

After filing the injury claim in mid-April, [REDACTED]. Before exhausting [REDACTED] [REDACTED], the employee requested

█████. The employee's doctor provided documentation stating that the employee could case (i.e. sort) █████ mail and perform other light duty. However, █████ interpreted the employee's medical restrictions so narrowly as to preclude █████ from casing █████ mail so that a substitute carrier could deliver it in a timely manner. █████ interpretation was that the medical documentation limited the employee to casing for only one hour per day. In fact, the medical documentation clearly showed that the employee could perform █████ casing duties as long as █████ took a five-minute break each hour.

In addition, we learned that the █████, Santa Ana District, supported the decision of the █████ not to allow the employee to return to work. Specifically, █████ advised OIG and the USPS █████ in May 1998 that there was no work for the employee at Garden Grove due to █████ medical restrictions. In May 1998, at OIG's request, the █████ inquired into the employee's allegation of retaliation and reported to both the employee and to OIG that █████ found no retaliation. The █████ told OIG in October 1998, that █████ treated the employee's claim as an off-the-job injury and that █████ did not want to aggravate the employee's injury.

Garden Grove █████ disregarded the advice of two other District officials, the Santa Ana █████, who stated that █████ should (1) treat the employee's claim as an on-the-job injury and (2) provide █████ light duty work within █████ medical restrictions. Instead, █████ did not provide the employee with light duty work from the period May 21 to June 27. Specifically, the █████ told the █████ that █████ had informed the Garden Grove █████ on May 20 that normally █████ would treat the type of █████ injury suffered by the employee as an on-the-job injury. Later, the Specialist stated to OIG that █████ had assumed that the Department of Labor would accept this claim, since many letter carriers sustain similar injuries in the performance of their duties. In July 1998, the employee's injury claim was accepted by the Department of Labor.

The District █████ told us that █████ had reviewed the employee's medical documentation in May 1998 and concluded that the medical restrictions were such that the

employee could be accommodated with light duty work. According to the postal [REDACTED], the District [REDACTED] had advised Garden Grove [REDACTED] on or about May 20 to provide the employee work within [REDACTED] medical restrictions.

Employee Treated Differently From Other Injured Employees

The OIG review revealed that [REDACTED] treated the employee different from the other seven injured employees by giving those employees light duty, to include: (1) providing light duty before approval of the on-the-job injury claims, (2) giving light duty to other employees with off-the-job injuries, and (3) allowing other employees to cross crafts, i.e. perform light duty outside their occupational group.

First, [REDACTED] gave two of the injured employees light duty before their on-the-job injury claims were approved by the Department of Labor. One letter carrier stated that [REDACTED] was allowed to case [REDACTED] mail for three to four hours daily before approval of his injury claim in June 1998. Another letter carrier told us that [REDACTED] was put on a four-hour schedule casing mail in the first week following [REDACTED] injury in March 1998 and on an eight-hour schedule in the second week. We analyzed payroll data for this employee and found that [REDACTED] was allowed full time light duty work. This occurred for several pay periods in April, May, and June, before [REDACTED] injury claim was approved.

Second, [REDACTED] approved light duty for two other employees who were injured off the job and made no claims for compensation. One of these employees broke [REDACTED] ankle in an off-the-job accident and was also allowed to case mail. The other employee, who was not one of the seven interviewed, was suffering from severe inflammatory arthritis and was allowed to case mail.²

Third, [REDACTED] told the employee claiming retaliation that [REDACTED] could not cross crafts, i.e. perform clerical duties instead of [REDACTED] letter carrier duties, but [REDACTED] did permit other injured employees to cross crafts. One of the seven employees interviewed was a [REDACTED] who stated that [REDACTED] performed light duty in both the carrier and clerk crafts. Our review of the payroll records confirmed

² We obtained this information from the [REDACTED].

that this occurred while [REDACTED] was awaiting approval of [REDACTED] Office of Workers' Compensation Programs claim. We also found that [REDACTED] used temporary employees for both letter carrier and clerk assignments during May and June, the time that the employee claiming retaliation was denied light duty work.

The other three employees interviewed were also given light duty following their injuries, although their circumstances varied from the above three categories.

From June 27 through July 13, the employee was allowed to case [REDACTED] mail for no more than four hours per day. However, [REDACTED] was not granted [REDACTED] request for full-time light duty. During this period [REDACTED] continued to request work at other light duty jobs, but [REDACTED] was told none was available. During this time [REDACTED] witnessed five other carriers performing these duties.

Recommendation 1

The Vice President, Pacific Area Office, should review the actions of the Garden Grove [REDACTED] to determine whether corrective and/or disciplinary action is warranted for this inconsistent treatment.

Management Response

"We disagree with Recommendation 1 of the report concerning the denial of light duty and believe that the finding of retaliation has not been supported."

Evaluation of Management Response

We do not agree with management's comments on this recommendation. Our finding of retaliation against the employee is supported by credible evidence. However, we have agreed to make several changes to the report based on management's comments.

First, management noted that a statement in the Executive Summary (page 4 of the draft report) was contradicted by a statement in the section on denial of advance sick leave (pages 9 and 10 of the draft report). The Executive Summary statement asserts that there was retaliation based on management's denial of the employee's requests for light duty and advance sick leave, whereas the section on denial of advance sick leave stated that the evidence on this issue did not support a finding of retaliation. This contradiction is resolved by changing the next to last sentence of the Executive Summary to read: "We were unable to determine

any credible reasons, other than retaliation, for [REDACTED] denial of the light duty request and the delay of the injury claim."

In addition, we have replaced the last paragraph on page 9 of the draft report with two revised paragraphs asserting that in isolation the denial of advance sick leave would not support a finding of retaliation because the [REDACTED] routinely denied advance sick leave. However, the employee's advance sick leave request was directly related to the denial of light duty in that [REDACTED] had no option but to exhaust all of [REDACTED] sick leave when [REDACTED] refused [REDACTED] request for light duty. Therefore, the denial of the advance sick leave request, added to the denial of light duty and the unexplained delay in the processing of [REDACTED] injury claim, is additional evidence of a pattern of disparate treatment supporting the allegation of retaliation.

Second, we agreed to revise a statement on page 9 of the report, asserting that light duty "became available to the employee as soon as [REDACTED] Office of Workers Compensation Program claim was approved in July 1998." [REDACTED] comments stated that Garden Grove [REDACTED] provided the employee four hours of light duty from June 27 through July 13, and also stated that the report confused the distinction between "light duty" and "limited duty." The revised statement reflects the fact that the employee was allowed to case [REDACTED] mail for no more than four hours per day but that [REDACTED] was still not granted [REDACTED] request for full-time light duty. During this period [REDACTED] continued to request work at other light duty jobs, but [REDACTED] was told none was available even though [REDACTED] witnessed other carriers performing these duties.

Recommendation 2

The Vice President, Pacific Area office, and the Vice President, Human Resources, should ensure that Garden Grove [REDACTED] implement procedures to comply with the *Employee and Labor Relations Manual*, Section 355.14, and the National Association of Letter Carriers national agreement, Article 13, Sections 2.A and 4.A, in approving or denying light duty assignments.

Management Response

"We agree that Garden Grove [REDACTED] should receive a review concerning proper implementation of light duty."

Evaluation of Management Response	This comment is responsive to our recommendation.
Recommendation 3	The Vice President, Pacific Area office, and the Vice President, Human Resources, should reiterate to all management that retaliation against employees is prohibited.
Management Response	"While we do not believe that retaliation was demonstrated here, we agree to reiterate through the vice president our policy against retaliation."
Evaluation of Management Response	Except for the disagreement with the OIG finding of retaliation, which is addressed in Recommendation #1 above, this comment is responsive to our recommendation.
Denial of Advance Sick Leave	<p>The <i>Employee and Labor Relations Manual</i>, Section 513.5 provides that sick leave, not to exceed 30 days (240 hours), can be advanced in cases of serious disability or ailments if there is reason to believe the employee will return to duty. It further states that sick leave may be advanced whether or not employees have annual leave to their credit. Every application, however, must be supported by medical documentation of the illness. Officials in charge of installations are authorized to approve the advances without reference to higher authority.</p> <p>OIG found that the Garden Grove ██████████ had denied two other employees' requests for advance sick leave at the Temple City Post Office in May 1997 and January 1998. Contrary to USPS policy, this ██████████ had ██████ own policy of denying advance sick leave requests. In fact, OIG found that the ██████████ wrote on a May 1997 sick leave request from the Temple City Post Office that it was "not my policy to approve advance sick leave."</p> <p>In isolation, these facts alone would not establish that USPS management treated the employee alleging retaliation differently in the denial of advance sick leave. However, the employee's advance sick leave request was directly related to the denial of light duty because when management refused ██████ request, ██████ had no option but to exhaust all of ██████ sick leave. Therefore, the denial of the advance sick leave request, added to the denial of light duty and the</p>

unexplained delay in the processing of [REDACTED] injury claim, is additional evidence of a pattern of disparate treatment supporting the allegation of retaliation.

In August 1998, the employee received a written settlement for reimbursement of all sick leave taken since May 11, 1998.

**Delay of Office
Workers'
Compensation
Programs Claim**

Injury Compensation Handbook EL-505 states that the injury compensation form (Office of Workers' Compensation Programs Form CA-2) and supporting documentation must be forwarded to the Department of Labor within ten working days after receipt from the employee. Accordingly, the employee's supervisor must forward the form to the District Injury Compensation Office, which in turn must forward it to the Office of Workers' Compensation Programs office within the ten-day deadline.

The Headquarters [REDACTED], Safety and Workplace Assistance, in [REDACTED] August 18 memorandum to OIG, acknowledged that there was an "inordinate delay" in the forwarding of the injury claim form of the employee claiming retaliation. This process should only take ten days. It took 20 days for the form to reach the Santa Ana District Injury Compensation Office and another 24 days to reach the Department of Labor. Neither the [REDACTED] nor the USPS investigative report provided a reason for the delay.

The OIG review confirmed that the employee submitted [REDACTED] form to [REDACTED] immediate supervisor on April 15, 1998. The form reached the District Injury Compensation Office on May 5 (20-days) and the Office of Workers' Compensation Programs office on May 29 (an additional 24-days).

The Garden Grove [REDACTED] provided inconsistent statements related to the processing of this claim. [REDACTED] claimed in a signed statement to the OIG on October 7, 1998, that [REDACTED] did not remember the employee's claim being filed. However, in a July 16, 1998, declaration to the USPS management [REDACTED], the [REDACTED] had stated that [REDACTED] ensured that all injury compensation claim forms, including the employee's, were properly completed and forwarded to the Injury Compensation Office. In addition, the employee's immediate supervisor stated to OIG that [REDACTED] forwarded the claim form to the

██████████ in mid-April.

Our analysis of five other employees' compensation claims, filed in the past year, disclosed that supervisors had forwarded ██████ forms to the District Injury Compensation Office within an average of six days, as compared to twenty days for the form filed by the employee alleging retaliation. The ██████████ told us that ██████ did not know why it took so long for the claim to reach the District Injury Compensation Office.

The District ██████████ told us it took 24 days for ██████ office to forward the claim form to the Office of Workers' Compensation Programs office. ██████ needed the additional time to acquire all of the necessary documentation for the Department of Labor.

Recommendation 4

The Vice President, Pacific Area office, and the Vice President, Human Resources, should take action to ensure that all Office of Workers' Compensation Programs injury compensation claims are timely processed in accordance with Form CA-2 instructions.

**Management
Comments**

"We agree with Recommendation 4, that the are should take action to ensure the timely processing of claims."

**Evaluation of
Management
Comments**

This comment is responsive to our recommendation.

YVONNE D. MAGUIRE
Vice President
Human Resources



March 8, 1999

BILLY SAULS, ASSISTANT INSPECTOR GENERAL-EMPLOYEE

SUBJECT: Allegations of Retaliation at the Garden Grove Post Office (99EA0111 R00)

This response is in reference to your draft report dated January 29 concerning allegations of retaliation at the Garden Grove Post Office. We have completed our review and agree with three of the four recommendations stated. Our conclusions are based upon careful review of your draft report, Mr. Lang's investigation referenced in your report, the evidence presented, and follow up discussion with Mr. Reynolds of your staff.

In summary, we disagree with Recommendation 1 of the report concerning the denial of light duty and believe that the finding of retaliation has not been supported. As to Recommendation 2, we agree that Garden Grove managers should receive a review concerning proper implementation of light duty. In Recommendation 3, while we do not believe that retaliation was demonstrated here we agree to reiterate through the vice president our policy against retaliation. We agree with Recommendation 4, that this area should take action to ensure the timely processing of claims.

Attached is a more detailed explanation of our particular concerns. Based on our review, we believe there are significant issues that have been misinterpreted and that the evidence presented does not support the finding of retaliation.

A handwritten signature in blue ink, appearing to read "Yvonne D. Maguire".

Yvonne D. Maguire
Attachments

cc: Mr. Colenlin
Mr. Peltier
Mr. Vigilante
Mr. Dursze

HUMAN RESOURCES

 UNITED STATES

March 5, 1999

YVONNE D. MAGUIRE, VICE PRESIDENT, HUMAN RESOURCES

SUBJECT: Allegations of Retaliation at the Garden Grove Post Office (99EAD113 R00)

The following are our particular concerns regarding the Inspector General's (IG's) Office report of retaliation at Garden Grove.

We note that we requested additional information from the IG's Office on February 10 (orally) and February 11 (in writing) to assist us in reviewing and understanding the report. Specifically, we asked for information to support two conclusions stated in the report and for a summary of information provided by employees interviewed who had been granted light duty. On February 25, the IG's office responded and provided the questions asked of the employees but declined to provide any summary of the responses. However, the response confirmed that the report's key finding that [REDACTED] gave little consideration in providing light duty" (Draft Report, page 8) was based in part on the responses of employees that the IG's office declined to provide. While we believe that there are other more significant issues that support a conclusion that retaliation has not been shown, the refusal to provide information relied upon impairs our ability to adequately respond.¹

We address our comments below to the relevant portions of the report: the Executive Summary, the denial of light duty, and the delay of the CA-2.

The Executive Summary

The Executive Summary states that "[t]he review disclosed that there was retaliation" then states: "Specifically, [REDACTED] denied the employee's requests of light duty and advanced sick leave, and also delayed [REDACTED] injury claim with the Office of Workers Compensation Program. We were unable to determine any meritoric reasons, other than retaliation, for [REDACTED] denial of these requests." However, pages 9 and 10 of the report confirm that the evidence did not support a finding that the denial of sick leave was based on retaliation. We request that this contradiction stated in the Executive Summary be changed to correctly reflect the findings of the report.

¹ We did not seek the identities of any employees interviewed and the IG's office declined to provide any names. However, the report appears to acknowledge that those interviewed were chosen because they were referred to in [REDACTED] report. Draft Report, page 5, note 1. Therefore, their identities are already in the record.

Denial of Light Duty

Our primary concern about the report is that the finding of retaliation in the denial of light duty is not supported by the facts. Page 6 of IG's report states in paragraph 5,

"The OIG review disclosed that the Garden Grove [redacted] and the [redacted] [redacted] gave little consideration in providing the employee with light duty work."

As noted above, some of the evidence that serves as the basis of this finding, interviews with certain employees, was not provided to us by G's office. However, based on the questions asked and our review of the evidence, we do not believe the finding is supported for the following reasons:

First, the questions for interviews with employees do not demonstrate that any inquiry was made into the nature of the injury for the comparative employees. We do not believe that a proper comparison can be made of various light duty requests without knowing what limitations were involved. As explained further below, we believe that the evidence shows that the medical limitations were the key drivers of the denial in this case.

Second, the finding suggests that [redacted] was not provided light duty at any time. In fact, the record shows that [redacted] was provided light duty work on two occasions: informally from April 16 through April 23, 1998; and formally from June 27 through July 13, 1998 (the date that the Postal Service learned that the CA-2 was accepted by the US Department of Labor).

From April 15-23, [redacted] allowed [redacted] case to be reconfigured in accordance with [redacted] doctor's preliminary statement. Exhibit 4D, pages 1, 2, [redacted]. This was discontinued on April 23 when [redacted] doctor stated that [redacted] "should not return to work until this has been resolved." Exhibit 4D, [redacted] report. [redacted] confirms this in [redacted] declaration at Tab 3A, page 2 and at Tab 3B, page 2 of [redacted] report, and [redacted] reports a finding to his effect on page 1 of Tab 2 of his report. The report makes no mention of this accommodation.

From June 27 through July 13, the date the Postal Service learned that the Department of Labor approved [redacted]'s claim, [redacted] was provided light duty based on a revised medical submission dated June 16. [redacted] report, Tab 4G, page 2. This revised submission clearly states that [redacted] can perform the required activities for working for four hours. The form shows the difference, in the doctor's view, between [redacted] condition on May 14 and June 16. Again, the report fails to include any reference to this revised medical submission, rather, at page 9, the draft report suggests that the light duty "became available to the employee as soon as [redacted] QWOP claim was approved in July 1998." However, this duty was provided June 27; the Postal Service received notice that the claim was approved by the Department of Labor on July 13, sixteen days after light duty had been granted. [redacted] report, Exhibit 4X.

In fact, the IG's report contains no reference to the series of different medical documents submitted by [redacted]. In addition to the documents noted above (the initial April 15 submission, the April 22 submission, and the June 16 submission), [redacted] submitted three other medical documents to the Postal Service for consideration of light duty. The report makes no reference or distinction between any of these submissions but rather suggests there was only one submission. As explained below, the result of this omission is that the most logical non-retaliatory rationale for denying the light duty is entirely lost.

Page 7 of the IG's report indicates in paragraph 1 that [redacted] misinterpreted [redacted] medical documents for in concluding that [redacted] could only work mail for one hour per day. Findings state "In fact, the medical documentation clearly showed that the employee could perform [redacted] duties for an average of 4 hours per day." These statements are not

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different medical documents. On May 5, [redacted] submitted a one-line medical slip requesting light duty. [redacted] report, Exhibit 4F. [redacted] properly requested [redacted] to submit additional information on the appropriate light duty request form. [redacted] submitted that form on May 11, as requested. [redacted] report, [redacted] Declaration, Tab 3A, page 2. That form clearly showed that [redacted] could case mail for one hour per day, given the fact that casing involves some standing, twisting and lifting. [redacted] report, Exhibit 4-I. Only later, on May 20, did [redacted] submit the documentation that the IG's report references which stated that [redacted] could case mail for one hour intervals with five-minute breaks between hours. [redacted] report, Exhibit 4P, page 14.

This later document was properly reviewed by [redacted] and [redacted]. [redacted] states at Tab 3K, page 2 of the [redacted] report that [redacted] have reviewed the medical evidence again and specifically the May 20, 1998 slip from [redacted]. The medical does not properly address the work limitation. [redacted] continues, "I concurred that [redacted] should not be returned to duty until these issues were answered." [redacted] declaration is consistent with the declaration provided by [redacted] at Tab 3G, page 2, paragraph 2 of the [redacted] report and [redacted]'s statement at Tab 3J, pages 3 and 4. [redacted] statement is ambiguous because he did not reference which May document [redacted] reviewed, but his views would not generally be expected to override those of the [redacted].

The statements in the IG's report are not consistent with these facts. The report states at paragraph 3 on page 7 that "Garden Grove management disregarded the advice of two other district officials, the Santa Ana District Senior Injury Compensation and Labor Relations Specialists who stated that management should (1) treat the employees' claim as an on-the-job injury and (2) provide him light duty work within his medical restrictions." This characterization of the views of the relevant officials is misleading when not understood in the context of the various medical documents.

The report highlights a common confusion in the Postal Service between "light duty" and "limited duty." Light duty is governed by Article 13 of the national agreements, but it makes no distinction in terms of eligibility between on and off the job injuries. It simply requires that every effort be made to offer light duty, consistent with good business practices, if properly requested with appropriate medical documentation. Examination of each light duty request is on a case by case basis and is consistent with regulations by the Department of Labor and with management training conducted by U.S. Postal Service Injury Compensation Office. This is done to protect the employee from further injury and to protect the employee from additional liability which could occur whether that injury occurred on or off the job. Medical restrictions, identified by a qualified practitioner, are critical to whether or not light duty is granted. Additionally, the availability of light duty is a subject of local negotiations in many local areas and individual facilities thus have different agreements concerning what light duty work is available.

Limited duty refers to the practice of finding work for employees injured on the job in an effort to reduce to some extent workers' compensation liability. There is no contractual or legal requirement to find such work for employees, which frequently involves tasks that together would not constitute a full position. Limited duty is not an issue in this matter as there is no dispute that [redacted] was provided limited duty when [redacted] claim was approved.

In summary, our findings do not agree with Recommendation 1 of the report concerning the denial of light duty because the finding of retaliation has not been supported. As to Recommendation 2, we agree that Garden Grove [redacted] should receive a review concerning proper implementation of light duty. As to Recommendation 3, while we do not believe that retaliation was demonstrated here,

Delay of the CA-2

The Postal Service acknowledges that there was an unacceptable delay in submitting the initial CA-2 report to Injury Compensation (20 days as opposed to the required 10 day limit). However, the section of the report concerning the delay in the CA-2 provides no information to support a finding of retaliation as a motivation for the delay. Nevertheless, we agree with Recommendation 4 that the Area should take action to ensure timely processing of claims.



Workplace Environment Improvement

 Suzanne H. Milton, Manager
Workplace Environment Improvement

