

Office of the Naval Inspector General

Navy Hotline Complaint 201601079

Report of Investigation

9 August 2016

1. **Background and Summary**

a. **Background.** On 28 March 2016, Department of Defense Inspector General (DOD IG) received a complaint alleging unsafe working conditions and regulatory violations at Naval Station (NAVSTA) Newport and assigned DOD IG Hotline Case 20160303-036145-CASE-01. On 8 April 2016, DOD IG forwarded this complaint to the Office of the Naval Inspector General (NAVINSGEN) as an Information Referral. On 12 April 2016, NAVINSGEN assigned case number 201601079 and transferred to case to Commander Navy Installations Command Inspector General (CNIC IG). On 16 May 2016, NAVINSGEN approved CNIC IG to conduct a Preliminary Inquiry (PI). Based on the results of the PI, on 14 June 2016 NAVINSGEN approved CNIC IG to conduct an investigation.

(1) The five known complainants, listed below, provided their names to DOD IG and indicated that they did not wish to remain anonymous and were willing to be interviewed.

- (a) (b) (6)
- (b) (b) (6)
- (c) (b) (6)
- (d) (b) (6)
- (e) (b) (6)

(2) The following additional background information is provided in order to establish relevant history, context and sequence of events that preceded NAVINSGEN's receipt of this complaint from DOD IG on 8 April 2016.

(a) On 11 September 2015 an *anonymous* complaint was submitted to DOD IG (Case 20150921-033260-CASE-01) alleging that CAPT Dennis Boyer, Commanding Officer (CO) NAVSTA Newport failed to ensure proper manning of civilian police force which resulted in unsafe, excessive levels of civilian overtime. The anonymous complainant alleged that CAPT Boyer forced supervisory civilian police employees to work nearly 150 hours of mandatory overtime per pay period in order to meet mission requirements with reduced manning. The anonymous complaint alleged that these actions created potential safety issues associated with fatigue and on-duty driving time in violation of DODI 6055.4, Enclosure (3) and OPNAVINST 5100.12J, paragraph 7.d.

(b) On 17 September 2015 the same collective group of five known complainants, listed above, (b) (6) reported

directly to their chain of command within Commander Navy Region Mid-Atlantic (CNRMA) that CAPT Dennis Boyer, CO NAVSTA Newport failed to ensure proper manning of civilian police force which resulted in unsafe, excessive levels of civilian overtime. These were virtually the same allegations as contained in the *anonymous* complaint submitted to DOD IG on 11 September 2015.

(c) On 23 September 2015 DOD IG forwarded Case 20150921-033260-CASE-01 (Anonymous) to NAVINSGEN as an Information Referral.

(d) On 19 October 2015 NAVINSGEN assigned case number 201502985 to DOD IG Case 20150921-033260-CASE-01(anonymous) and transferred the case to CNIC IG. Since virtually the same allegations had already been reported directly to CNRMA leadership (17 September 2015) by the five known complainants, NAVINSGEN closed case 201502985 as referred to the chain of command, CNRMA, for appropriate action.

(e) On 20 October 2015 the five known complainants again reported the allegations of unsafe, excessive levels of civilian overtime due to under-manning to CNIC and United States Fleet Forces Command (USFF) leadership.

(f) On 23 December 2015 CNRMA issued a 551-page internal Command Directed Investigation (CDI) report which concluded that there was merit to the complainants' allegation that CAPT Boyer required unsafe levels of overtime and violated traffic safety standards. The CDI sustained that CAPT Boyer had violated DODI 6055.04, DOD Traffic Safety Program, OPNAVINST 5100.12J, Navy Traffic Safety Program and OPNAVINST 3500.39C, Operational Risk Management during 2015.

(g) On 22 January 2016 CNRMA Regional Commander endorsed the CDI report dated 23 December 2015 directing that CO, NAVSTA Newport implement three recommendations and also that CNRMA N1 (Total Force Manpower) and CNRMA N3 (Operations and Public Safety) consider additional recommendations contained in the report intended to alleviate the unsafe overtime levels. CNRMA directed CO, NAVSTA Newport, CNRMA N1, and CNRMA N3 to provide their written responses within 60 days [22 March 2016].

(h) On 28 January 2016 the complainants submitted a Freedom of Information Act (FOIA) request for a copy of CNRMA's command investigation report.

(i) On 18 February 2016 the complainants submitted a memorandum to Honorable Ray Mabus, Secretary of the Navy and members of Congress including Senator Jack Reed alleging that despite CNRMA's CDI substantiating their allegations, effective corrective action to resolve their previously reported concerns and allegations had not been executed and the potentially unsafe overtime conditions and regulatory violations continued to exist at NAVSTA Newport.

(j) On 29 February 2016 Senator Jack Reed wrote a letter to DOD IG requesting NAVINSGEN's review of the information provided to him by the five complainants.

(k) On 10 March 2016, as recommended by CNRMA's CDI, the NAVSTA Newport Operational Risk Management (ORM) Safety Subcommittee issued a report which included recommendations to the CO, NAVSTA Newport intended to address the manning shortage, excessive overtime concerns and associated risks and safety violations.

(l) On 16 March 2016 the five complainants submitted a memorandum to members of Congress alleging that they had been reprised against in retaliation for reporting the allegations of excessive overtime and associated safety violations.

(m) On 25 March 2016 DOD IG responded to Senator Reed indicating that NAVINSGEN had conducted an inquiry, the complainants were dissatisfied with the outcome, and NAVINSGEN considered the Congressional inquiry closed. However, although CNRMA had conducted the CDI, as of 25 March 2015 NAVINSGEN had not conducted an inquiry or investigation of the allegations.

b. **Summary of Complaint.** The DOD IG Information Referral dated 8 April 2016 included three attachments: an inquiry submitted by Senator Jack Reed (RI) on behalf of the complainants (Attachment 1), separate reprisal complaints for each of the five complainants which were referred to the NAVINSGEN Whistleblower Reprisal Investigations (WRI) for review (Attachment 2) and DOD IG's response to Senator Reed dated 25 March 2016 which considered the Congressional inquiry closed (Attachment 3). The following was also included in the DOD IG Information Referral package:

(1) The complainants' correspondence to DOD IG in March 2016 alleged that despite CNRMA's previous CDI completed in December 2015, CAPT Dennis Boyer, CO, NAVSTA Newport continued to require civilian Supervisory Police Officers to work levels of overtime which resulting in violations of maximum driving time traffic safety standards and other safety risks. Based on results of the CNIC IG PI completed on 26 May 2016, we determined that this allegation was appropriate for IG investigation, as approved by NAVINSGEN on 14 June 2016.

(2) The information provided in the complaint also indicated that CNIC N3 failed to consistently enforce compliance with various requirements of CNICINST 5530.14A, CNIC Ashore Protection Program including violations of installation access control procedures, Physical Agility Test (PAT) requirements, Police Uniform requirements, and minimum law enforcement training standards. The complaint also alleged gross waste of government funds resulting from ineffective processes for leasing and equipping government police patrol vehicles. Based on results of the CNIC IG PI completed on 26 May 2016, we determined that these issues were appropriate for referral to CNIC N3 for action as deemed appropriate.

(3) The complaint package also indicated that CAPT Boyer inappropriately assigned an Auxiliary Security Force (ASF) Coordinator who did not meet the criteria of being an E-7 or above in violation of CNICINST 5530.14A. The results of the PI determined that this was

unfounded because (b) (6) testified that he actually serves as the NAVSTA Newport ASF Coordinator. Based on results of the CNIC IG PI completed on 26 May 2016, we determined no further action is warranted with regard to this matter.

(4) The complaint also stated that CDR Julie Sellerberg, Executive Officer (XO) NAVSTA Newport, inappropriately modified (b) (6) performance evaluation. Based on the PI, we concluded that this matter is related to (b) (6) Civilian Whistleblower Reprisal complaint and advised (b) (6) to provide the information to the DOD IG WRI investigator.

c. **Summary of outcome of the investigation.** The investigation resulted in one allegation against CAPT Boyer which was not substantiated, however additional safety and manning issues were identified which warrant the attention of senior Navy leadership.

2. Allegation 1: That CAPT Dennis Boyer required civilian police officers to work overtime during 2016 which resulted in exceeding maximum government motor vehicle (GMV) driving time requirements in violation of NAVSTANPTINST 5100.1F, paragraph 0103.

a. **Standard.** NAVSTANPTINST 5100.1F, paragraph 0103 states¹,

Maximum Driving and On-Duty Time. The following pertains to peacetime conditions and to full-time motor vehicle operators, such as over-the-road truck and bus drivers, school bus drivers, law enforcement/security vehicle operators and operators of vehicles carrying explosives or other hazardous cargo during peacetime conditions.

a. Government Motor Vehicles (GMVs).

(1) All military and civilian personnel shall adhere to applicable Federal, or State laws and guidelines regarding maximum driving time.

(2) Long distance or long duration driving should not be assigned or authorized without assessing the impact fatigue may have on the operation and personnel.

(a) No one may drive or require another person to drive a GMV more than a total of 10 hours in a 24-hour period. A 14-hour duty day, including driving and all other duties, should be the maximum allowed unless required under exceptional conditions. Any driving in excess of this standard should only be undertaken after a thorough risk assessment is completed. Risk assessment and acceptance should be documented to include one-time and routine alternative procedures as necessary.

(3) – (5) [GAP]

¹ NAVSTANPTINST 5100.1F references and reinforces requirements also stated within OPNAVINST 5100.12J, Navy Traffic Safety Program and DODI 6055.4 DoD Traffic Safety Program. DoDI 6055.04, Enclosure (3) paragraph 6.f states, GMV Operator Duty Time. To reduce the potential for crashes caused by operator fatigue, establish and enforce duty hour limits for motor vehicle operators based on operational risk management...DUTY HOUR LIMITS. Establish and enforce duty hour limits for GMV operators to reduce the potential for traffic mishaps caused by operator fatigue.

(6) Law Enforcement/Security personnel vehicle drivers are exempt from the above duty time restrictions during times of extreme emergency when declared by the NAVSTA Newport CO.

b. Facts

(1) **Testimony of the Complainants.** All five complainants stated that they were aware CNRMA had conducted a CDI in response to their previous complaint which they submitted in September 2015. All five complainants also testified that since the issuance of CNRMA's CDI, there has been no change in the overtime requirements and every week there is still overtime being worked, which especially becomes a problem when one of the Supervisory Police Officers takes leave. All of the complainants testified that since the issuance of CNRMA's CDI, no new Supervisory Police Officers have been hired and no other solutions have been implemented to alleviate the need for the levels of overtime. The complainants also explained that as a result of the CNRMA CDI, NAVSTA Newport established a Safety Sub-Committee which completed an ORM risk assessment in March 2016 which further validated the risks associated with the overtime within the Security Department and also recommended providing additional manpower. The complainants also expressed their understanding that the reason for CAPT Boyer's unsafe overtime requirements was related to manning shortages resulting from CNIC N3's implementation of the Chief of Naval Operations (CNO) 2012 Mission Profile Validation – Protection (MPV-P) staffing model as required by OPNAVINST 4430.14E, Appendix A.

(a) (b) (6), NAVSTA, Newport, RI interviewed on 19 May 2016, stated he is the Operations Officer who supervises the Patrol Supervisors. (b) (6) stated that the 2012 MPV-P's total elimination of billets for Supervisory Police Officers (also referred to as Watch Commanders) at NAVSTA Newport did not make sense because the installation simply cannot operate a shift without a supervisor on duty. According to (b) (6) there are other Navy law enforcement and security instructions, such as the Navy Tactics, Techniques and Procedures (NTTP), OPNAV 5530.14F, and CNICINST 5530.14A which all describe duties required to be performed by the Watch Commander/Patrol Supervisor. (b) (6) questioned if the MPV-P eliminates all those positions, who is going to perform the duties required by the instructions? (b) (6), (b) (5)

(b) (6) explained that so far, CAPT Boyer has used overtime to cover the shifts vacated by the two supervisors who have already left, which has resulted in safety risks. (b) (6) stated that the amount of overtime required, creates a safety risk associated with fatigue, both when driving while on duty and also at the end of the work shift when employees drive home after working 16 hours. There are occasions when the employees don't get eight hours of sleep because they have to be at work the next morning. (b) (6) stated that in March 2016 CAPT Boyer submitted RPAs to CNRMA N3 for two positions, one watch commander and one patrol supervisor but as of 19 May 2016 there has been no progress on filling the requested positions. (b) (6) explained that neither CAPT Boyer nor CNRMA has the authority to permanently fill the vacant Supervisory Police Officer positions because they have to be funded

by CNIC, and are restricted by the 2012 MPV-P. (b) (6) stated that the 2012 MPV-P affects many other installations besides NAVSTA Newport.

(b) (6), NAVSTA Newport, RI, interviewed on 19 May 2016, stated that he has been working at NAVSTA Newport for 32 years. (b) (6) stated he usually works two extra shifts each pay period and sometimes works a 16-hour shift. (b) (6) explained that the overtime has affected him personally because he has felt that he needs some rest and that he has a family and wanted to spend some time with them. (b) (6) explained that there have been times where he was not getting enough sleep because of his work schedule. (b) (6) explained that his understanding of the reason for all the overtime is due to a manning shortage. (b) (6) stated that he was a member of the Safety Sub-Committee which completed a risk assessment in March 2016 which identified the risks and came up with recommendations, one of which was to hire more Supervisory Police Officers. (b) (6), from the Safety Office, submitted the recommendations to (b) (6) NAVSTA Newport, and she was totally against it and told (b) (6) that they would not hire new people and they needed to come up with another plan. (b) (6) stated that (b) (6) relayed to (b) (6) that (b) (6) said she wanted (b) (6) to write a standard operating procedure (SOP) which would alleviate the overtime without hiring more people. (b) (6) stated that he does not work for (b) (6) and no one in his chain of command, to include (b) (6) or CAPT Boyer, ever tasked him with writing an SOP. (b) (6) stated that even if he had been tasked with coming up with this SOP, he does not see any way possible to alleviate the overtime without hiring more people. (b) (6) stated he is eligible to retire, but would not want to leave his co-workers in a situation where his position could not be back filled after he leaves, creating an even greater need for unsafe levels of overtime because they would then also have to cover his shift.

(c) (b) (6), NAVSTA Newport, RI interviewed on 18 May 2016, stated that overtime shifts are generally either 16 or 12 hours and stated that every Friday and Saturday one of the Supervisors will have to work overtime. (b) (6) explained that there are five civilian supervisors, including (b) (6) who is not on the Watch Bill because he is the Operations Supervisor. (b) (6) stated that there are times when (b) (6) will fill a shift, but this should not be necessary. There is also one qualified Military supervisor, (b) (6). (b) (6) gave an example, stating that about two pay periods ago, one of the supervisors was on leave and (b) (6) who was assigned to the mid-night shift had to unexpectedly call out sick due to an injury. (b) (6) explained that (b) (6) had already worked a double shift (16 hours) and would have had to work an additional 8 hours, for a total of 24 hour hours in order for her to cover (b) (6) absence, which was not reasonable. As a result, (b) (6), who had just come off a double shift, but had gone home and got a couple of hours of sleep, came back in to work in order to cover (b) (6) unexpected absence. (b) (6) stated that he does not think the management officials and people outside the Security Department really understand the situation or recognize the manning that is actually needed to properly cover these situations. (b) (6) explained that the overtime has affected him personally by the lack of sleep it creates. (b) (6) stated for

example, he wakes up at (b) (6) because he has to be at work by (b) (6) and the normal workday ends around (b) (6). However, when (b) (6) works a double shift, then his day does not end until (b) (6) and he does not get home until after 2300. (b) (6) explained if he has to be back at work at (b) (6) the next day, he is lucky if he is getting five hours of sleep, and this would be if he goes home and goes right to sleep, not counting time to eat and take a shower. (b) (6) stated he has experienced circumstances where he gets maybe three or four hours of sleep and then has to come back to work and do it all over again. (b) (6) explained that his base pay is around \$70,000, but last year he made \$96,000 because of the overtime. (b) (6) explained there are other instructions such as the NTTB which outline law enforcement operations and imply that there is a requirement for Watch Commander and Patrol Supervisor positions, but yet these positions are not funded or authorized by the MPV-P. (b) (6) stated that in the past NAVSTA Newport had more qualified Master-at-Arms (MAs) in addition to (b) (6), that could help cover the Supervisory shifts, but the number of properly trained and qualified MAs has dropped and there is a lack of MAs who qualify as Supervisory Police Officers. (b) (6) stated that he believes (b) (6) and CAPT Boyer are trying to fill the vacant Supervisory Police Office positions, but they may be getting pushback from CNRMA and/or CNIC, but the perception among the workforce is why has there been no movement on this and why is it so difficult? (b) (6) stated that it appears to him that both CAPT Boyer and (b) (6) are supportive of trying to get more manning but have indicated that making it happen is above their authority. (b) (6) stated someone has to have enough clout to push this issue. (b) (6) stated that in his opinion it would be unsafe to simply leave the shifts without a supervisor in accordance with the manning authorized by the 2012 MPV-P. (b) (6) explained that there are Patrolmen out there with weapons and making decisions on the use of deadly force and if something happens, who is going to guide them? If there was no Shift Supervisor on duty then the Security Director or Deputy would have to fill in, but he did not know if the administrative supervisory positions are even qualified to perform the same duties of the Shift Supervisors. (b) (6) added that this is a train that has been coming for a while, and CNRMA has seen it coming, and now the train has passed the station.

(d) (b) (6) NAVSTA Newport, RI interviewed on 18 May 2016, stated that last year (FY15) for the whole department, including the non-supervisory patrolmen, the cost of the overtime was approximately \$350,000, and half of that was just for four Supervisory Police Officers. (b) (6) stated that as of the current pay period she continues to work a double shift, 16 hours, every Friday, including last Friday (13 May 2016). (b) (6) stated that because the NAVSTA Newport Security Department is under-manned, every Friday and Saturday there is always overtime. (b) (6) stated when another Supervisor is out on leave, then that creates an additional need for overtime because someone has to cover that shift as well. For example a few weeks ago (unsure of exact date) (b) (6) had an accident and had to unexpectedly call out of work and (b) (6) came close to having to remain on duty for 24 hours, but thankfully (b) (6) ended up coming in on his day off and covered the shift. (b) (6) explained that the overtime has affected her personally because it is exhausting. (b) (6) stated that when she works a double, by the time she drives home 45 minutes and comes back, she is coming back to work on about four hours of sleep. (b) (6) stated she has to arm up in that situation,

drive², and oversee a shift of armed patrol personnel. (b) (6) stated that there has to be a supervisor on duty and there is just no way around it. (b) (6) stated that there needs to be someone available to answer patrol officer's questions and to provide leadership if an incident or emergency happens. (b) (6) stated that (b) (6) is qualified as a Supervisor and covers some of the shifts, but most of the military MAs do not meet the training requirement standards to perform the supervisory duties. (b) (6) stated that many of the MAs do not even meet the CNICINST 3502.2 standards to be a non-supervisory patrol officer. (b) (6) stated that CAPT Boyer has stated numerous times that he is going to fight to get more Supervisory Police Officers, but it is all smoke and mirrors and no additional Supervisory Police Officers have been hired. (b) (6) explained that through attrition, as the Supervisory Police Officer positions vacate they are not being backfilled. (b) (6) stated that the right hand does not know what the left hand is doing. On one hand you have the MPV-P that says the positions are not authorized or funded, but on the other hand there are operational requirements for Security Supervision. (b) (6) stated that everyone up the chain of command to include the Region and CNIC sees what is happening and yet no one is doing anything about it.

(e) (b) (6), NAVSTA Newport, RI, interviewed on 19 May 2016, stated that he has been doing the job of Supervisory Police Officer for 27 years. (b) (6) explained that he views the overtime level as a problem because it tires the supervisors out and requires them to work up to 16 hour days. (b) (6) stated that police officers have to be on top of their game constantly and from a safety standpoint they have to make decisions on countless issues and could have emergency life-threatening situations arise. (b) (6) stated that there are many types of threats to deal with in the course of a 16-hour shift, and the mind gets fatigued after working so many hours. (b) (6) explained that you have to be mentally sharp to do this job, aware of everything, and able to make split-second decisions and you never know what you are going to face. (b) (6) stated when you have been working 16 hours, or even 12 or 14 hours, your decision-making process is going to be impacted by the fatigue. (b) (6) stated that during an eight-hour shift you work at your optimum, and once you get over 12 to 14 you get fatigued. (b) (6) clarified that you can have a guy come to the gate with a car full of drugs, or a weapons violation or even a shooter incident. (b) (6) explained that when he works a double shift (16 hours) he stated he is armed up and carrying a gun for the entire shift, as well as driving a patrol car, which he is in and out of while he is out and about on the installation. (b) (6) explained that it takes him an hour to get home from NAVSTA Newport. (b) (6) stated for example, on a typical night if he is working a double shift he will get home around (b) (6) and gets about three hours sleep and then gets back up around (b) (6) in order to make it back to work by (b) (6) for the next shift. (b) (6) stated that CAPT Boyer has never left a shift without a supervisor and that would never happen. (b) (6) stated that the Supervisory Police Officers all know that they need to keep the installation safe and that supervision is necessary and they all step up to the plate to make sure the mission is met. (b) (6) explained that due to under-manning, the non-supervisory Police Officers, for example (b) (6) and (b) (6), are also required to

² (b) (6) clarified by e-mail on 21 June 2016 that the amount of time she spends driving varies and that it could be an hour or it could be the majority of the shift (up to 16 hours).

³ Attempts to reach (b) (6) for interview were unsuccessful, on leave until 25 July 2016.

work a significant amount of overtime, including 16 hour shifts, during which they need to drive and handle a firearm as well.

(2) (b) (6), NAVSTA Newport, RI, interviewed by telephone on 7 July 2016 stated that as a Patrolman his job is being in a police car. (b) (6) stated that the amount of overtime he works is usually voluntary, but there have been occasions when he was ordered to work overtime because no one else volunteered. (b) (6) stated that amount of overtime hours he works is usually up to his own discretion as long as it is not more than 16 hours. (b) (6) stated that he personally does not want to burn himself out or overload himself so he uses his judgment as to how much overtime he works. (b) (6) stated that everybody has to personally gauge themselves as to how much overtime they can work before it affects their judgment, reaction time and so forth. (b) (6) stated that as a patrolman you have to be on your toes. (b) (6) stated that he has worked double shifts, 16 hours, in which there is a possibility that he might be driving a vehicle for up to 12 of the 16 hours, but it varies and depends on the duties assigned. (b) (6) explained that during some shifts he could be standing at the gate and other shifts on patrol, each day is different. (b) (6) stated that when he works a double shift he paces himself and although he does not usually drive for 16 hours straight, he is assigned responsibility for the patrol vehicle during the entire shift. (b) (6) stated that it is his understanding that the rule is that patrolmen cannot work more than 16 hours in a row, but other than that he is not aware of any restrictions on overtime. (b) (6) stated that responsibility for the patrol vehicle and driving it, as needed, during the shift is part of the job and he commented: What am I supposed to do? Pull over and say I can't drive anymore because I met my driving limit?

(3) (b) (6), NAVSTA Newport, RI, interviewed on 23 May 2016, stated he is the Deputy Security Director NAVSTA Newport and also the Anti-Terrorist Officer for the installation. (b) (6) stated there is a lot of overtime required within the Security Department and the employees get worn down. (b) (6) stated that one of the big things about carrying weapons is that you have to be alert. (b) (6) stated that, for example, if individuals are downloading and uploading their weapons and they don't have enough rest they could possibly cause a negligent discharge. (b) (6) stated there have not been any such incidents, but the potential is there. (b) (6) explained that the non-supervisory patrolmen work long hours just as the Supervisors do. (b) (6) stated he has submitted RPAs in the past [October 2015] to hire more Supervisors, but they got shot down by CNRMA N3. About three months ago [March 2016] CAPT Boyer told (b) (6) to re-submit the RPAs. (b) (6) stated that he was aware that the 2012 MPV-P eliminated the supervisor billets at NAVSTA Newport, but he feels that it does not make sense to not have supervisors and he does not think the Security Department could operate without having supervisors in place. (b) (6) stated that CAPT Boyer knows about this issue and he routinely reports it in his bi-weekly report that goes to the CNRMA Admiral, but (b) (6) doubts that CAPT Boyer is really pushing it. (b) (6) stated he thinks CAPT Boyer could do more, such as initiate temporarily promotions until the problem is fixed, until permanent people can be hired in the positions. (b) (6) explained that (b) (6) from Security and (b) (6) from Safety provided the (b) (6), with a report on the

risks associated with the overtime in Security and she threw it back and said it was not what she was looking for.

(4) (b) (6), NAVSTA Newport, RI, interviewed on 18 May 2016, stated that (b) (6) and CAPT Boyer directed him to complete an ORM assessment related to the overtime in Security. (b) (6) explained that the Safety Sub-Committee did not previously exist and was created specifically for this purpose. (b) (6) stated it is not unusual for the Safety Program (N35) to provide an ORM assessment for something like this and that it is one of the standard functions provided by Safety. (b) (6) stated that in the six years he has worked at NAVSTA Newport, this occasion in March 2016 was the first time his office had evaluated risks associated with NAVSTA Newport Security overtime. (b) (6) stated that the big issue with the overtime in the Security is the long working hours with no sleep. (b) (6) stated that if an employee is pulling a 16-hour shift, it just opens the door for mishaps to occur, whether it's with a firearm or an administrative mistake on paperwork. (b) (6) stated that per the traffic safety instruction [OPNAVINST 5100.12J and NAVSTANPT 5100.1F] employees are more likely to have a traffic accident if fatigued and his report recommended that supervisors should rotate driving responsibilities every couple of hours. (b) (6) stated that he gave the report to the (b) (6), on 10 March 2016 and she was not happy with it. (b) (6) stated that (b) (6) said it wasn't what the committee was tasked with and she wanted him to go back and redo it. (b) (6) told (b) (6) that it was outside of the Safety scope of duties to develop a work schedule or SOP for Security employees and that Safety's role was to identify the risks and make recommendations for management. (b) (6) stated that (b) (6) directed him to give the ORM report to (b) (6) and have him implement a formal process for managing overtime, however (b) (6) stated that (b) (6) does not work for him and he did not view this as his responsibility to direct tasks to (b) (6). (b) (6) stated that as far as he was concerned he and (b) (6), as the representatives from Safety, had fulfilled the safety aspect of the project on 10 March 2016 and since he did not hear anything further from the XO after their initial meeting, he considered the project complete. (b) (6) stated that his report offered recommendations including hiring additional qualified personnel, obtain additional manpower, and rotating driving responsibilities, but did not follow up on the status of management's implementation of these recommendations.

(5) (b) (6), NAVSTA Newport, RI, interviewed on 23 May 2016, stated that he works in the NAVSTA Newport Safety Office and in February 2016 he was tasked to participate as a member of the Safety Sub-Committee to conduct an ORM assessment of Security overtime. (b) (6) stated that he discussed the committee assignment with (b) (6) and they both agreed that it was out of the swim lane of the Safety Department to develop a formal process for assigning overtime to Security employees. (b) (6) stated that the longer the overtime goes on the more likely that it will become a safety issue. The risks are associated with employees being tired and making mistakes. (b) (6) stated when the employees carry a firearm around, you don't know to what level that mistake is going to be. (b) (6) stated that these employees are driving vehicles and if they are working shift after shift after shift that becomes an issue. (b) (6) stated that the regulations require a certain set level of driving that you don't want to

exceed and if somebody were to come in and work two shifts in a row and they had to drive the entire time, then they would be exceeding those limitations. (b) (6) stated that he and (b) (6) could not find any instructions about maximum time limitations on fire arm handling similar to driving. (b) (6) stated that he reviewed the Safety mishap records and determined that there had not been any mishaps in Security to date, but the results of their ORM assessment showed that there were significant risk factors present that could lead to mishaps in the future. (b) (6) stated that he and (b) (6) went to (b) (6) office and met with her about the ORM report dated 10 March 2016. (b) (6) reminded them that she was looking for a formal process to be implemented around the overtime. (b) (6) stated that he and (b) (6) explained to (b) (6) that development of a process to manage the overtime was outside of their authority as the Safety Office.

(6) (b) (6), NAVSTA Newport, RI, interviewed on 23 May 2016, stated that he started in his position as the Security Director at NAVSTA Newport on 28 March 2016. (b) (6) stated he is a retired Navy Master Chief, Master-at-Arms from Fleet Forces Command and has been working in the Navy Security field since 1993.

(a) (b) (6) stated that he read CNRMA's CDI report of December 2015 and the same problems with the overtime identified in that report still exist. (b) (6) explained that because of the 2012 MPV-P, the NAVSTA Newport supervisor billets are unfunded and undermanned. (b) (6) stated that if he loses another supervisor, there will not be another one to take his place. (b) (6) stated one of the current Supervisory Police Officers is eligible to retire at any moment and some of the others are looking for other jobs. (b) (6) explained that although the MPV-P eliminates all NAVSTA Newport shift supervisors through attrition, there is still a need for supervisors.

(b) (b) (6) stated that he would absolutely not leave a section unsupervised. (b) (6) also explained that there are certain specific training qualifications required to perform the duties of a shift supervisor. (b) (6) explained that he has one qualified Military, (b) (6), who fills one of the supervisory shifts, and he is going to be leaving soon. (b) (6) stated that he has employees pulling doubles, working 16 hours. (b) (6) stated if Navy leadership is going to say that security is our number one priority, then security should be funded. (b) (6) explained that non-supervisory patrolmen are also working overtime due to the manning shortage. (b) (6) stated that he has armed patrolmen empowered to enforce the law and they need to be supervised. The shift supervisors are the ones who actually drive out and verify that all their people are doing what they are supposed to be doing.

(c) (b) (6) stated that the Supervisory Police Officer duties absolutely involve operating vehicles and they routinely drive out to inspect the posts throughout their shifts. The supervisors may also drive out to the housing areas to check on the housing patrols. (b) (6) stated that driving is a safety issue when the supervisor has been working for 16 hours because the likelihood of falling asleep behind the wheel is there. In addition (b) (6)

stated that the Supervisory Police Officers are making decisions every day that impact people and an agitated supervisor who has been at it for 16 hours is not a good thing.

(d) (b) (6) stated that the solution to this overtime problem is to start funding the billets for the Supervisory Police Officers. (b) (6) stated that RPAs to fill the Supervisory Police Officer positions have been submitted to CNRMA and to Human Resources and they are aware of the situation. (b) (6) stated that he keeps hearing from his chain of command that they are working on filling the Supervisory Police Officer vacancies, but he is not sure what that means. (b) (6) stated that he questioned whether “working on it” means it is on someone’s desk and they read it every day or it’s in the back of someone’s mind and they remember it once in a while. (b) (6) stated that he does not think anyone is really working on it. (b) (6) further explained that this is not just a Newport problem. (b) (6) stated that he interviewed for the position of Security Director at NSA Mechanicsburg and during the interview he was asked whether he would be prepared to manage a security department with three sections and no supervision. (b) (6) stated that this question blew him away and the interviewer (could not recall name) explained to him that CNIC was not funding the supervisory positions at Mechanicsburg.

(e) (b) (6) explained that the MPV-P comes from OPNAV. (b) (6) stated that he has often thought that possibly the elimination of the Supervisory Police Officer billets could have been something like a mistake that no one caught, but whether it was a mistake or purposeful, it does not matter, somebody needs to fix it. (b) (6) stated that this is a CNIC-wide problem.

(f) (b) (6) stated that in his opinion, while exceeding maximum driving standards creates a safety risk, the more significant safety risk associated with the overtime is that these employees are all carrying weapons and are authorized to use deadly force. (b) (6) specifically stated, “Do you want somebody who’s been on watch for 16 hours (b) (6) to make the decision whether or not to use their weapon? I don’t think that’s right. I think that’s - quite frankly, I think that’s dangerous. Or worse yet, they are not on their game because they are so tired and then their slow response leads to their death. And, see, we talk about this and then we say, ‘Well, you know, nobody’s moving on it.’ Well why is that? Well because nobody’s died yet. It takes somebody to die before somebody actually takes these things seriously.”

(7) Subject Matter Expert Testimony. (b) (6) [REDACTED], CNRMA N3, Norfolk, VA, interviewed by telephone on 25 May 2016, stated that he believes it is necessary to have supervisors on all Security shifts at all installations, although the 2012 MPV-P document indicates that it is not necessary or authorized. (b) (6) explained that the 2012 MPV-P was issued in collaboration between CNIC N3 and OPNAV N46 and that compliance with the MPV-P is required by OPNAVINST 5530.14E. (b) (6) explained that the reason supervisors are needed is to provide operational guidance to the patrol officers and for administrative support such as during situations where patrol officer gets sick while on duty and needs to go home, there needs to be someone on duty to approve the leave request and call in someone else to cover his post.

(a) (b) (6) explained that at NSA Mechanicsburg there was previously only one Supervisory Police Officer (Watch Supervisor) position funded in the past, but since 2012 it was no longer validated by the MPV-P. (b) (6) stated that at some of the smaller installations they have left the Supervisory shift unmanned, for example at NSA Crane, the only crime is traffic accidents and NSA Philadelphia pretty much closes up at 1800. However, (b) (6) stated that he still thinks there should be validated Supervisory Police Officer billets at these installations. (b) (6) stated that it is his belief that when there are three to five personnel working on a base at night (i.e., gate guards, patrolmen, dispatchers) you really need some supervision.

(b) (b) (6) stated that the Supervisory Police Officers at NAVSTA Newport do not drive 12 or 16 hours, but they do drive after having worked 12 hours and that is not good, and they do it three and four days in a row. (b) (6) also affirmed that there is an additional issue with the use of deadly force and fire arm safety associated with the police supervisors and patrolmen not getting sufficient rest. (b) (6) stated that at other CNRMA installations aside from NAVSTA Newport they have the supervisory shifts unmanned for the most part, but at NAVSTA Newport, CAPT Boyer believes that he needs supervisors on each shift and he is willing to pay overtime to do it.

(c) (b) (6) explained that during 2016 CNRMA obtained permission from CNIC to hire Temporary or Term Supervisory Police Officers at NAVSTA Newport and five other installations as a temporary measure until the MPV-P is revised. (b) (6) explained that hiring Temporary or Term employees is an experiment and he is not convinced that this will be the solution. (b) (6) stated that typically police supervisors come up through the ranks so they know the nuances of the base and have experience. (b) (6) stated that the idea of bringing someone in that has never worked on the installation who is immediately in the role of a supervisor, will require that person to be taught how to do their job presumably by some of the people that going to be working for them. (b) (6) stated that he is just not sure if this is going to work or not and that it is an experiment, at best. (b) (6) stated that nobody should be hanging their hat on all the problems are going to be solved as a result of this. (b) (6) clarified that announcing permanent Supervisory Police Officer positions is prohibited because of the MPV-P and until that is changed they cannot fill the positions with permanent employees.

(8) Subject Matter Expert Testimony. (b) (6), Norfolk, VA, interviewed on 25 May 2016, stated that security manning has been a continuing challenge for CNIC and CNRMA for several years. (b) (6) explained that there is a manning model called the MPV-P from 2012 which eliminated a lot of the supervisory positions across the whole enterprise. (b) (6) stated that this created a wholesale change to the security posture and resourcing.

(a) (b) (6) explained that following the USS Mahan shooting in Norfolk [March 2014] an investigation report was issued which identified that there were not enough supervisors on all the Security watch sections to allow for the right level of leadership to help people late at night and on the weekends because the MPV-P did not make allowances for that. (b) (6)

explained that what came out of the USS Mahan investigation was that clearly the MPV-P model was not working and it was a bad idea to eliminate the Supervisory Police Officer billets. (b) (6) stated that after this report came out, the CNIC Commander put out a directive that he wanted supervisors on every shift. (b) (6) explained that the manpower personnel were caught in the quandary between the CNIC directive and the validated MPV-P document. The manpower requirement said one thing and the operational commander said another thing.

(b) (b) (6) also stated that there is no dispute or disagreement that there should be supervisors on all police shifts and it appears to him that NAVSTA Newport is working their supervisors a lot of hours to try to make sure they have supervisory coverage. (b) (6) stated he is working with CNRMA N3 to try to generate additional supervisors within the funding and full time equivalent (FTE) billets that are available.

(c) (b) (6) explained that the CNRMA CDI report issued 23 December 2015 pertaining to NAVSTA Newport directed him to figure out if there were other ways to get supervisors on board at Newport. (b) (6) stated that he exceeded the 60 day period to respond to this direction, but has been working on a plan. (b) (6) explained that this issue extends beyond Newport and this is a problem across CNIC because the MPV-P does not provide for enough supervisors. (b) (6) stated that he has been working with CNRMA N3 on how to promote people to be temporary supervisors.

(d) (b) (6) stated that CNRMA N1 and N3 are working out the details on how best to fill the requirements without having to wait until the MPV-P gets changed, and do something temporary. (b) (6) stated that hiring Temporary employees not to exceed (NTE) one year would relieve some of the pressure on the existing supervisors who are working a lot of overtime. (b) (6) stated that there is still fundamentally a limitation on funding and hiring, but using Temporary NTE 1 year appointments would not create additional positions it simply moves existing Patrolmen who are already on the rolls into Supervisory positions. (b) (6) stated that the idea is that this may buy some time as a temporary mitigation until the MPV-P is adjusted.

(e) (b) (6) explained that the issue in Newport is one little piece of a much bigger problem and that within CNRMA there are approximately six installations affected by this MPV-P manning issue. (b) (6) stated that it is his understanding that any Navy regions that implemented the 2012 MPV-P would be experiencing exactly the same problems.

(9) **Witness Testimony. CDR Julie Sellerberg, O-5, Executive Officer, NAVSTA Newport, RI, interviewed on 20 June 2016** stated that she the Security watch bill reflecting the overtime assignments does not get routed through her only through CAPT Boyer.

(a) CDR Sellerberg stated that following the CNRMA CDI (Jan 2016), she tasked (b) (6), and (b) (6) with conducting an ORM assessment of Security overtime and discussed the resulting report with (b) (6). CDR Sellerberg explained that the Safety Committee's recommendations were to add more people to Security and that there should be a supervisor on every shift. This was the same recommendation that was made in

CNRMA's CDI. CDR Sellerberg stated that she is all for hiring more people and explained that everyone, including CAPT Boyer and his chain of command at CNRMA already agrees that more supervisors are needed, however at the installation level CAPT Boyer and CDR Sellerberg have no hiring authority whatsoever.

(b) CDR Sellerberg stated that she was expecting the Safety Committee to come up with creative ways to change the Security watch bill to alleviate the overtime since the installation was unable to hire more people, but they never came up with any creative solutions. CDR Sellerberg stated that Security could add (b) (6) and (b) (6) to the schedule rotation, but did not recall that this was ever implemented. The only answer ever submitted was to hire more people. CDR Sellerberg stated that she is sure the current watch bill still includes scheduling police officers for 16 hour work shifts and she guessed that this occurs approximately once a week. CDR Sellerberg stated that she has not followed up or discussed the status of the ORM recommendations since her meeting with (b) (6) in March 2016 and never received any further feedback.

(b) CDR Sellerberg stated that she views the overtime in Security as a problem and agrees that there are risks associated with it due to fatigue. CDR Sellerberg also stated that although the Supervisory Police Officers are not driving patrol cars the whole time they are on a shift and they spend a significant portion of their work shift in an office, they are handling firearms, need to be alert, and when they are tired they might make decisions that are not good. CDR Sellerberg stated that she has not discussed acceptance of these risks with CAPT Boyer, but she does not know what alternative CAPT Boyer has because leaving the shifts with no supervision is not an option.

(c) CDR Sellerberg stated that CAPT Boyer has voiced to his chain of command multiple times that NAVSTA Newport needs more Supervisory Police Officers and that the Security Department is not manned where it should be. CDR Sellerberg stated that her understanding is that the 2012 MPV-P eliminated all the shift supervisor billets at NAVSTA Newport. CDR Sellerberg stated that in her view the risk of leaving a shift unmanned, as per the MPV-P direction, is greater than the risk associated with the overtime. CDR Sellerberg stated that about eight years ago a group surveyed what they believed was appropriate manning in Security and they came up with a number, but CDR Sellerberg stated she does not know how the installation could function without a shift supervisor on duty. CDR Sellerberg stated she believes every Security shift needs supervision because it is important for safety, training, and just about everything. CDR Sellerberg stated that since she first arrived at NAVSTA Newport in approximately November 2014 this Security manning issue has been on the NAVSTA Newport bi-weekly report submitted to CNRMA. CDR Sellerberg stated she has never specifically discussed this issue with other installation representatives, but can only assume that NAVSTA Newport is not the only installation experiencing this problem.

(d) CDR Sellerberg explained that NAVSTA Newport has one Military MA who is qualified to serve as a Supervisory Police Officer. CDR Sellerberg explained that the military personnel go to MA school and the civilians go Fleet Law Enforcement Training Center

(FLETC). CDR Sellerberg stated that there has been an effort to provide additional training to the MAs locally at the installation, but the MAs have to pass a test to qualify as supervisors.

(e) CDR Sellerberg stated that (b) (6) from CNRMA N3 visited NAVSTA Newport in March 2016 and provided input about conducting physical agility tests, uniform requirements, access controls to supply areas and other suggestions, but the visit did not result in actions to alleviate the civilian overtime. CDR Sellerberg stated that (b) (6) talked about putting (b) (6) and (b) (6) on the watch rotation, but that never happened. CDR Sellerberg stated that she believes putting (b) (6) and (b) (6) on the watch bill could mitigate some of the overtime problem.

(e) CDR Sellerberg stated that recently [May 2016] CNRMA N3 issued RPAs to hire Term appointments of Supervisory Police Officers. CDR Sellerberg stated that this action made the current Supervisory Police Officers very unhappy and they have expressed that they believe it is a conspiracy by the Region to keep them from applying for those jobs. CDR Sellerberg stated that she would have preferred CNRMA to announce the jobs as permanent positions. CDR Sellerberg has not received any explanation from CNRMA as to the reason why the positions were announced as Term appointments. CDR Sellerberg stated that if the Security Department can get the Term incumbents trained, then it could potentially be a solution to the overtime problem.

(10) Testimony of the Subject. CAPT Dennis Boyer, O-6, Commanding Officer, NAVSTA Newport, RI interviewed on 20 June 2016, stated that he was aware that CNRMA conducted a CDI regarding overtime in Security. CAPT Boyer stated that CNRMA gave him three action items as a result of the CDI report which he responded to. CAPT Boyer stated that the first item was conducting the command climate assessment which was completed and would have occurred anyway, the second item was to post the watch schedule and that has also been completed, and the third item was completing an ORM assessment. CAPT Boyer stated that the ORM assessment was completed and that he discussed the results with CDR Sellerberg.

(a) CAPT Boyer stated that he agreed with the content and findings of the ORM report submitted by (b) (6) and that it accurately addressed the fact that there are manning shortfalls. CAPT Boyer stated that any solution that involves hiring people is not executable for him and he has to work with what he's got. CAPT Boyer stated that the MPV-P model says if an installation has less than 15 personnel per shift it does not rate Supervisory Police Officers, so therefore NAVSTA Newport does not rate Supervisory Police Officers. CAPT Boyer further stated that going without supervisors does not appear to be executable either.

(b) CAPT Boyer stated that the overtime has not gone down as a result of the ORM report and overtime continues to be required each week to cover the shifts.

(c) CAPT Boyer stated that the Supervisory Police Officers should not be doing that much driving because their duties as supervisors require them to do paperwork. CAPT Boyer stated that he cannot see how it is possible that the Supervisory Police Officers drive for ten hours during a 16-hour shift. CAPT Boyer stated that for the non-supervisory Police

Officers, driving would be an issue, although the overtime is manageable for them. CAPT Boyer stated that the ORM process⁴ he put in place focused on the entire team, not just the supervisors, because the non-supervisory patrolmen are the ones that are most likely to push up against that ten-hour limit. CAPT Boyer explained that some of the patrolmen will take on a follow-on shifts where they will actually drive through the housing areas, but that is what the ORM process was intended to address. CAPT Boyer stated that he does not believe the employees are driving 10 hours per shift in violation of OPNAVINST 5100.12 J and NAVSTAINST 5100.1F, but agrees that there are other risks which are not quantified by instruction.

(d) CAPT Boyer stated that he agrees that there are other risks in addition to driving, as described in the ORM report. CAPT Boyer stated he and (b) (6) are concerned more about firearms than driving. CAPT Boyer stated that he thought the risks were accurately identified in the ORM report and that the recommended mitigations were also appropriate.

(e) CAPT Boyer stated that he continues to review the watch bill on a regular basis and is very much aware of the overtime being worked in Security. Since around mid-April the (b) (6), began approving the watch bill but CAPT Boyer receives the watch bill electronically every week and specifically looks for overtime concerns. CAPT Boyer clarified that if he disagreed with the watch bill he could push it back and reject it.

(f) CAPT Boyer stated that the 2012 MPV-P plan is for all the civilian supervisors to be gradually eliminated through attrition, but on the operational side he has not received any guidance that says it is ok not to have a supervisor on a shift. CAPT Boyer stated that in his view he needs to have the shift supervisors, even though the MPV-P says he does not. CAPT Boyer stated that the MPV-P's elimination of the Supervisory Police Officer billets is completely out of step with the operational chain of command and there has been no guidance from the operational side that it would be okay to reduce the level of effort in security. CAPT Boyer indicated that he has accepted the level of risk of the overtime because the alternative is to leave the supervisory shift unmanned.

(g) CAPT Boyer explained that he does have a lot of military Auxiliary Security Force (ASF) support and MAs, but they are not trained, qualified patrolmen, they are simply qualified to manage the entry control points, so they need supervision.

(j) CAPT Boyer stated that he has been told by his chain of command to use overtime to cover the manning shortfalls. CAPT Boyer did not recall specifically who told him that, but stated that it came from the Region and CNIC⁵.

(k) CAPT Boyer stated that he thinks the risk is manageable for NAVSTA Newport and it is his understanding that the Supervisory Police Officers have volunteered to work the overtime. CAPT Boyer stated that he has told (b) (6) and (b) (6) that if the

⁴ Note the ORM report included recommendations for proposed mitigations, but according to other testimony there was no subsequent follow up and the report did not result in any actual changes to procedures or processes within Security which would mitigate the hazards.

⁵ CAPT Boyer did not provide any documentary evidence (e-mail, etc.) supporting this statement.

overtime is an issue, then they should personally stand watch and they indicated that this is not necessary. CAPT Boyer stated that (b) (6) has occasionally worked extra shifts in the past, but has not done that in about six months. CAPT Boyer stated (b) (6) could work Saturdays which would alleviate some of the overtime for his subordinate shift supervisors, but he does not want to do that. CAPT Boyer stated he has also suggested that (b) (6) split up the overtime and have two Supervisors each work four additional hours to cover the extra shifts, but the response he gets is that the Supervisors want the overtime.

(l) CAPT Boyer stated that he has asked Security personnel to provide him with a list of functions that can no longer be performed due to the manning shortage, to capture what is it that Security cannot do anymore, but has not received anything meaningful.

(m) CAPT Boyer stated that within CNRMA there are six installations in the same situation at NAVSTA Newport, and he does not know how many additional installations may be affected outside of CNRMA in the other Regions. CAPT Boyer stated that all of these COs are feeling the same pain and having to accept the risks resulting from the manning shortages created by the MPV-P.

(n) CAPT Boyer stated that over a year ago he submitted RPAs and has been consistently trying to find out why he could not hire Supervisors, forwarded his questions to CNRMA, and other then other COs piled on. CAPT Boyer stated that recently, within the last two weeks (May 2016), CNRMA asked him to resubmit the RPAs and CNRMA has finally gotten CNIC's blessing and forwarded the RPAs to hire Term Supervisory Police Officers. CAPT Boyer explained that since the MPV-P model still prohibits hiring permanent positions, the Term appointments are being used as a temporary measure to allow the MPV-P process to catch up. CAPT Boyer stated that it is important that the incumbents who fill these Term positions are qualified and trained. CAPT Boyer stated that the best solution would be to obtain more permanent, qualified manpower, whether military or civilian.

(11) Position Description (PD) Number E9877, Supervisory Police Officer, GS-0083-09, applicable to (b) (6) and (b) (6), states, in part:

Responsible for apprehending, disarming, subduing, questioning, and/or disarming persons suspected of committing misdemeanors and felony crimes (aggravated assaults robberies), security violations as well as those involved in hostage and terrorist situations.

During threat conditions and ASF recall, has the additional responsibility of supervising 10-20 military Auxiliary Security Force members. Supervises and coordinates actions and procedures to protect the installation and its personnel against major natural or man-made disasters or catastrophes, such as terrorist and hostage situations, hurricanes, blizzards floods, civil disobedience, hostile threat conditions or actions by forces unfriendly to the United States of America.

Responds to emergencies such as life threatening situations, terrorists and hostage situations, assaults involving deadly weapons or serious injury, armed suspects, riots, arson and accidental fires, domestic violence, serious traffic accidents and any other serious crimes.

Must be proficient and qualify semi-annually with assigned weapons and equipment such as 9-millimeter pistol, 12 gauge shotgun, high-risk police baton, chemical spray and police handcuffs.

Must meet all position qualification standards (e.g.: physical/mental) to maintain employment as a police officer. Must maintain a current telephone and address for recall purposes. Must attend and pass an emergency police vehicle course and possess a valid operator license.

(12) PD Number E9898, Supervisory Police Officer, GS-0083-08, applicable to (b) (6) and (b) (6) states, in part:

The incumbent is normally assigned as a work shift Watch Sergeant but may be assigned to a specialized law enforcement position as directed by the Operations Division Officer.

The incumbent is subject to rotating duty hours and assignment to any work day schedule. He or she will be required to wear and maintain an official uniform, and carry a firearm and other weapons while on duty.

Responsible for the direct supervision of a particular work shift of uniformed, armed, civilian military police officers, sentries, small boat coxswains and others, as assigned.

Responsible for coordinating and supervising work to safeguard the installation against sabotage or any incident or situation which might jeopardize the normal operation of the command, such as theft, robbery, burglary, riot, lawlessness, civil disobedience, political or criminal demonstrations, etc.

Responds to emergency situations as necessary, such as shootings, barricaded suspects, injured patrol officers, hazardous material spills, etc. Takes immediate action to ensure protection of life and property, acts as the on-scene commander until relieved, and ensures immediate notification to the Watch Commander is made regarding such incidents.

Approves leave for subordinates for short periods of time in emergency situations according to regulations and departmental directives, and ensures documentation of such leave is promptly accomplished and forwarded to the appropriate supervisor for inclusion in departmental timekeeping records.

Ability to use sound judgment, discretion, tact, and diplomacy in applying the law, base regulations, internal directives, and negotiated union proceedings to a myriad of circumstances and situations. Incumbent must have the ability to meet and stressfully deal with a wide spectrum of persons and personalities under stressful conditions.

Ability to meet departmental qualification standards with firearms, such as pistols, shotguns, and other weapons commonly associated with law enforcement and security operations to include crew served weapons.

Ability to safely operate a motor vehicle and emergency police vehicle, and possess a valid state driver's license

(13) PD Number NV52088, Police Officer, GS-0083-05, applicable to (b) (6) and (b) (6) states, in part:

Performs traffic law enforcement duties including those related to excessive speed, reckless and drunken or impaired driving. As required, become certified in the utilization of speed measuring devices and drug/alcohol testing equipment. Investigate noncriminal cases involving traffic violations, industrial accidents (e.g. fork lift incidents), etc. Fills out accident reports as required. Sets up and conducts checkpoints/roadblocks at various locations throughout the installation in support of Random Anti-terrorism Measures (RAMS) and to reduce criminal activity and ensure

motor vehicle safety. Conducts traffic management as required. Ensures the removal of hazards from roadway surfaces or any structure that may be detrimental to safe public transport.

Operates motor vehicles (i.e. sedans, cargo trucks, pickup trucks) having gross vehicle weights of 7,000 pounds or less, loading capacities of 1 ton or less, manual transmissions, and 2 or 4 wheel drive in support of operations and to transport personnel and materials throughout the installation and on public roads. May be required to qualify on police bicycles and other rough terrain vehicles such as ATVs and snow mobiles.

Conducts vehicle searches, inspect packages and personal belongings when admitting personnel into controlled areas or during increased FPCONs or a specific security incident. Conducts random inspections of vehicles to detect the unauthorized removal of classified material, government property, contraband, weapons, explosives or any other items detrimental to installation security.

Informs supervisor of any change or reduction in the capability of security safeguards/physical security aids such as lighting, signs, fencing, barriers, sensors, alarms, and locks. Detects and responds to threats to restricted areas, and detains, apprehends, applies restraints and transports violators as required.

Watch begins with a shift briefing from the Watch Commander during which the employee receives general information and direction on known conditions that affect the officers operating environment, heightened surveillance, suspected criminal activity, etc.

Position is subject to shift work, recall and/or unplanned overtime work. Employees are required to provide accurate contact information to supervisor. Reporting requirements are outlined in local procedures, instructions and/or Collective Bargaining Agreements.

Must maintain the applicable weapons qualification standards at the assigned installation.

Must possess and maintain a valid driver license.

The incumbent must carry firearms and maintain proficiency in the use of assigned equipment.

(14) E-mail of 22 June 2016 from (b) (6) to the IO stated that the duties of the Supervisory Police Officers include driving a patrol vehicle. However, there is no average/percentage of the work shift that is spent actually driving the vehicle. I cannot give you an estimate of how many hours an average patrol officer spends actually driving. They make stops, are out of the vehicle taking complaints, come to the station to do reports, etc. The same can be said for the supervisors. Daily supervisory post checks are recorded in the CLEOC Desk Journal, but other than that there is no record, form or log to document actual driving time (like commercial truck drivers).

(15) E-mail of 20 May 2016 from (b) (6) to CAPT Boyer forwarded the watch bill for 22-27 May 2016 reflecting overtime hours scheduled.

(16) E-mail of 20 May 2016 from (b) (6) to (b) (6) acknowledged (b) (6) e-mail forwarding the watch bill, stating "Rgr. Thanks."

(17) Analysis of Standard Labor Data Collection and Distribution Application (SLDCADA) Records for 12 pay periods from 1 January through – 11 June 2016 show that (b) (6)

(b) (6) and (b) (6) have continued to routinely work overtime to include up to 16 hour work shifts. It was noted that (b) (6) has cumulatively worked the most overtime hours, with some pay periods including up to 12 consecutive work days with no days off. (b) (6) consistently worked at least one 16 hour shift during each of 11 out of the 12 pay periods reviewed. It was also noted that (b) (6), as the (b) (6) (not a Shift Supervisor) has not worked the same high levels of overtime (or credit hours) as the other four employees. Details are provided in the table below.

OVERTIME HOURS WORKED					
Pay Period Ending	(b) (6)	(b) (6)	(b) (6)	(b) (6)	(b) (6)
9-Jan-16	7.5	27.50*	14.75	10.75*	44.25*
23-Jan-16	3.00	16.25	32.00 *	2.50	32.25*
06-Feb-16	3.50	18.25	28.00*	14.50	16.25
20-Feb-16	2.00	17.75*	21.50*	5.00	39.50*^
05-Mar-16	3.75	15.75*	18.50*	12.50	21.50
19-Mar-16	2.00	22.00*	27.50*	2.00	42.25*
02-Apr-16	5.00	12.25	16.50*	12.25	26.75
16-Apr-16	5.75	6.25	21.00*	13.00	13.00
30-Apr-16	0.50	6.25	19.00*	20.00*	45.75*^
14-May-16	1.50	6.25	17.00*	3.50	30.00
28-May-16	4.50	14.00	15.25*	17.75	38.75
11-Jun-16	4.75	7.75	24.25*	4.50	36.75*
Total	43.75	170.25	255.25	118.25	387.00
* Includes at least one 16-hour day (double shift)					
^ Worked more than 60 hours in 7 consecutive days					
Note: Analysis included all SLDCADA Overtime Codes (OU-Unscheduled, OS-Scheduled, CE-Compensatory Time earned, CD- Credit Hours Earned)					

(18) Analysis of SLDCADA Records for the two non-supervisory Police Officers referenced by (b) (6), (b) (6) and (b) (6) for 12 pay periods from 1 January through – 11 June 2016, shows that both of these Police Officers routinely worked overtime to include up to 16 hour work shifts. It was noted that during pay period ending 28 May 2016, (b) (6) worked a 17 hour shift, and also that during pay period ending 20 February 2016, (b) (6) worked 13 consecutive days in a row with no day off. During this time (b) (6) also worked more than 60 hours within 7 days. It was noted that during three of the 12 pay periods reviewed, (b) (6) worked three 16-hour shifts within one pay period.

Pay Period Ending	TOTAL OT (b) (6)	TOTAL OT (b) (6)
09-Jan-16	33.5*	30.25*
23-Jan-16	32*	5.25
06-Feb-16	16.50	21.75
20-Feb-16	37*	35^

05-Mar-16	12.5*	21.5*
19-Mar-16	23*	22
02-Apr-16	13*	17.75*
16-Apr-16	5	16*
30-Apr-16	22*	10.75*
14-May-16	13.25*	7.25
28-May-16	15.25*	33.25*
11-Jun-16	29*	27*
Total	21.50	56.25
*Includes at least one 16-hr day (double shift)		
^Worked more than 60 hours in 7 consecutive days		

(19) Excerpts from the CNRMA CDI report of 23 December 2015 (550+ pages) are provided as follows:

Regarding specific violations of safety and health requirements, the preponderance of evidence indicates that the CO did violate guidance requiring appropriate rest and limits on operating vehicles during assigned shifts. Specifically CAPT Boyer was aware that supervisors were being forced to operate vehicles in violation of OPNAVINST 5100.12J, but failed to take reasonable and required measures to mitigate the impact of that use on their safety, to include operation of a meaningful ORM program.

It should be noted that although the allegations were substantiated against CAPT Boyer, there may be mitigating circumstances that should be considered by leadership when deciding on actions to be taken.

(b) (5)

Supervisors and patrolman are required to operate GMVs during their duty hours as a course of their normal duties.

When security personnel are performing patrolmen duties, they may operate a vehicle in excess of 10 hours during a 24-hour period when they work OT shifts.

Supervisors and patrolmen are required to operate GMVs when working over 14 hours (OT shifts).

Aside from an unfulfilled request by the CO for a description of duties, there has been no risk assessment done with respect to operation of GMVs when working in excess of 14 hours.

CAPT Boyer took no significant action to either mitigate the risks or perform a risk assessment with regard to the guidelines or their violation.

(20) CNRMA CDI report of 23 December 2015 included the following five recommendations [paraphrased/abbreviated]:

Recommendation 1 - CO NAVSTA Newport conduct a risk assessment of security operations with regard to OT...

Recommendation 2 - Ensure unit climate assessment scheduled for December is well publicized and supported...

Recommendation 3 - Consideration should be given to developing TERM government employment positions to bridge the gap as further attrition occurs with security supervision...

Recommendation 4 - Send inbound MAs to Federal Law Enforcement Training Centers for advanced Law Enforcement training...

Recommendation 5 – Publish the order list for fill OT slots...

(21) CNRMA Regional Commander Endorsement to Command Investigation Report dated 22 January 2016 to CAPT Boyer, (b) (6) (CNRMA N3), and (b) (6) (CNRMA N1) stated:

1. The findings of fact, opinions, and recommendations of the subject investigation are hereby approved.
2. The Commanding Officer, Naval Station Newport, is hereby directed to execute recommendations 1, 2, and 5 of the investigation and shall report implementation status to me within 60 days of the date of this letter.⁶ Prior to execution, substantive consultation with Region Mid-Atlantic Labor and Employee Relations experts must be completed to ensure compliance with existing labor and collective bargaining unit agreements.
3. Region N3 shall consider recommendation 4 and provide a memorandum to me within 60 days of the date of this letter addressing the feasibility of providing advanced law enforcement training to inbound Master-at-Arms personnel to assume and execute supervisory responsibilities in the NAVSTA Newport Security Department. This memorandum should include consideration of the costs and availability of such training, its potential impact on timely PCS rotation, and potential application to other installations.
4. Region N1 shall consider recommendation 3 and provide a memorandum to me within 60 days of the date of this letter addressing the potential hire of "term" employees to fill current manning gaps in the NAVSTA Newport Security Department focused on supervisory responsibilities. This memorandum should include consideration of the likely costs and timeline required to effect temporary hires.

(22) Letter (undated) from CAPT Boyer to CNRMA stated,

1. In accordance with Reference (a), recommendations 1, 2, and 5 have been implemented.
2. Implementation of recommendation 1 included establishment of a safety sub-committee, delineated in enclosure (1) and accomplishment of a risk assessment. The sub-committee was comprised of representatives from safety, security, and human resources. Their findings, noted in enclosure (2), have been directed by NAVSTA leadership to be implemented by the Security Department.
3. In regards to recommendation 2, NAVSTA Newport conducted its annual Command Managed Equal Opportunity survey in December 2015. A significant increase in participation as well as positive survey responses was noted from the survey.

⁶ 22 March 2016

4. Implementation of recommendation 5 was accomplished by publishing the "order list" for filling overtime slots beginning on 21 December 15.

(23) E-mail of 26 May 2016 from (b) (6) to the IO stated,

I don't recall developing a memo for RADM Williamson, however as a CNIC Enterprise MAs do not attend FLETC - I believe it is a funding / capacity issue at FLETC itself. CNIC has mandated this for new hires only, while MAs are provided a compliance course to make up the short falls. The school house would be of great benefit pending on the timing of the MA and would baseline all Security Forces with the same standardized and quality training. Attached is a trip report from my Regional Security Officer that provides some additional insight.

(24) E-mail of 27 May 2016 from (b) (6) to the IO stated,

We have not responded to the memo from RADM Williamson yet because we are continuing to work the issue of temporary supervisors with our N3 and they have yet to identify the positions they want to temporarily promote.

(25) Results of ORM Sub-Committee Findings of 10 March 2016 from (b) (6) to CAPT Boyer stated, in part,

...List the Hazards.

Excessive and repeated reliance on overtime may lead to the physical and mental fatigue and exhaustion of affected personnel.

Potential long term effects of fatigue and exhaustion included decreased vigilance, inattention, mood changes, perceptual and cognitive decrements...

With specific regard to the working environment, the following are potential considerations for concern

(1) For Patrol personnel conducting their assigned duties requires exceeding mandated maximum driving requirements as stated in NAVSTANPTINST 5100.1f, paragraph 0103.a(2)(a). Provisions of NAVSTANPT 5100.1F paragraph 103.a(6) do not apply as the process in place is not implemented as the result of extreme emergency.

(2) For Patrol and Supervisory personnel exposure to heat/cold related injuries, slips trips and falls related to exterior ground conditions.

(3) For Patrol and Supervisory personnel; weapons issue/turn-in, clearing barrel activities and overall firearm safety.

(4) For Patrol and Supervisory personnel; interaction with the public (both under routine and emergency conditions)

(5) For Supervisory personnel; potential lapses in focus, judgment, execution of planning, accountability, along with command and control functions.

With regard to supervision, available daily operational manning is consistently below acceptable levels to address routine or emergency leave considerations...With only five personnel available to support supervisory functions for a t 24/7 3-shift operation, it is easy to conclude that overtime requirements for supervisors are overwhelming.

Determine the Hazard Root Cause. These occurrences are a direct result of operating under an adverse work-rest schedule due to manpower shortfalls.

(26) OPNAVINST 5530.14E, Appendix A, Post Validation Model and Staffing states:

1. Post Validation Model

a. Mission Profile Validation - Protection (MPV-P) is the CNO (N4) developed model used to determine posts required to meet protection requirements, associated staffing and resource options. This model and security staffing process enables installations, claimants, and resource sponsors to identify and prioritize requirements, capabilities, and resources. MPV-P incorporates the Required Operational Capability (ROC) construct, FPCONs, validates technology as a resource capability, and contains both workload and resource based requirements to provide layered defense to assets through FPCON Bravo.

b. MPV-P is the only approved model authorized for use to determine and validate shore installation and activity security post and staffing requirements.

c. All shore installations and activities will be validated using MPV-P. Once validated, MPV-P results (post validations) should be reviewed routinely for modification, specifically when triggered by a change in:

(1) Mission (ex: ROC, assets, base realignment and closure affects)

(2) Resources (ex: technology install/removal)

(3) Significant increase in workload/throughput data

d. Post validations will be conducted every 5 years.

e. Post validations, including interim changes, will be submitted to Ashore Readiness Division (OPNAV (N46) for

approval. OPNAV (N46) will establish and publish a process to enable region commander; BSO, NCC, and claimant review and comment prior to signature

2. [GAP]

3. a-f. [GAP]

3.g. Patrol and watch section supervisors will be validated based on section size (minimum 15/section) and/or complexity of operations (ROC 1/2 installations).

(27) 2012 MPV-P Summary Staffing With Details, Enclosure (1), page 365 of 419, dated 28 November 2012 reflects the following information:

CNRMA-NS Newport UIC 3204B

Staffing Areas: Non-Reimbursable, Reimbursable, Total

All Force Protection Conditions (FPCON)

Watch Section Supervisors Total = 0.00

Supervisors Total = 0.00

Notes: Supervisors are calculated automatically by the MPV-P. Supervisors added from reclama. Exception was included. Additional supervisors FPCON C/D will be supported by RPN (Reserve Personnel Navy).

(28) E-mail of 26 May 2016 from (b) (6) (CNRMA N3) to Mr. (b) (6) stated,

The following RPAs were initiated and submitted to N1 for processing:

Recruit/Fill RPA# 3204B409351- Supervisory Police Officer, GS-0083-08 NTE 3 Years

Recruit/Fill RPA# 3204B407574 - Supervisory Police Officer, GS-0083-09 NTE 3 Years

Recruit/Fill RPA# 3204B410078 - Police Officers (6)

c. Analysis and Discussion

(1) A preponderance of evidence shows that despite previous findings reported in CNRMA's CDI of 23 December 2015 and the subsequent NAVSTA Newport ORM Safety Sub-Committee of 10 March 2016, as of June 2016 CAPT Boyer has continued to require Security personnel to work levels of OT resulting in various safety risks associated not only with driving, but also with firearms and other safety risks.

(2) However, the traffic safety standards set forth in NAVSTANPTINST 5100.1F and OPNAVINST 5100.12J *require* that “no one *may* drive or require another person to drive a GMV more than a total of 10 hours in a 24-hour period.” Based on this regulation, CAPT Boyer was not permitted to require the Police Officers to “drive more than 10 hours in a 24 hour period.” (b) (6) testified that it is *possible* that personnel who work a double shift could operate the GMV assigned to them for more than 10 hours within a 24 hour period in violation of NAVSTANPTINST 5100.1f, paragraph 103, but offered no vehicle logs or other documentation to support this possibility. CAPT Boyer testified that although he did not concur that the Supervisory Police Officers could spend 10 hours driving in a shift, he acknowledged that the non-supervisory patrolmen would be *more likely to* “push up against” the driving time limit. Due to the lack of vehicle logs or other verifiable information supporting the number of hours that the Police Officers actually spent driving during a work shift (as stated in e-mail of 22 June 2016 from (b) (6)), we concluded that there was insufficient evidence to substantiate that a violation of the specific requirement as it is stated in the standard occurred as a result of the overtime. Therefore, we concluded that the allegation that CAPT Boyer violated the technical maximum driving time requirement as stated in NAVSTANPTINST 5100.1F was not substantiated.

(3) However, the traffic safety standards (NAVSTANPTINST 5100.1F and OPNAVINST 5100.12J) also include additional *guidance* which states that, a 14-hour duty day, including driving and all other duties, *should be* the maximum allowed *unless required under exceptional conditions*. A preponderance of the evidence does support that the police officers are responsible for the operation of GMVs assigned to them as needed throughout work shifts for up to 16 hours (i.e., exceeding 14 hours) which is not in accordance with this guidance (“should” vice “must”) portion of the regulation. It was also noted that the manning shortage created by the MPV-P, which was outside of the control of CAPT Boyer, could be considered an “*exceptional condition*” requiring the deviation from the “maximum 14 hour duty day” guidance included in NAVSTANPTINST 5100.1F.

(4) Testimony, including that of CAPT Boyer, and review of watch bills and related e-mail correspondence, supported that CAPT Boyer personally reviewed and approved the Security Department work schedules during 2016 authorizing the continuing levels of overtime hours in Security.

(5) Analysis of the SLDCADA time and attendance records for both the Supervisory Police Officers and non-supervisory Police Officers indisputably supported that CAPT Boyer has

continued to require high levels of overtime, routinely including over 16 hour shifts which is contrary to the *guidance* contained in NAVSTANPTINST 5100.1F. All witnesses interviewed, to include the five complainants, (b) (6) and (b) (6) collectively confirmed that the continued level of overtime creates a potentially dangerous, unsafe situation associated with fatigue and lack of rest.

(6) As an example, to illustrate the circumstances created by requiring Supervisory Police Officers to work this level of overtime, consider (b) (6) work schedule during pay period ending 11 June 2016. During this particular pay period (b) (6) worked a total of 104.25 hours. On Friday 10 June 2016, (b) (6) worked a 16.5 hour shift and then returned to work the next morning and worked another 8.5 hour shift. (b) (6) testified that after her commute, she is often left with very little time to sleep between work shifts. (b) (6) reported that she works at least one double shift (16 hours) almost every pay period, and that the amount of time she spends driving varies and could be an hour or it could be the “majority of the shift.” (b) (6) did not provide specific examples or evidence documenting when she has actually driven a GMV for 10 hours in a shift.

(7) The traffic safety standards also offer further *guidance* which states that, any driving in excess of this standard *should* only be undertaken after a thorough risk assessment is completed. Risk assessment and acceptance *should be* documented to include one-time and routine alternative procedures as necessary.

(8) The CNRMA CDI endorsement letter of 22 January 2016 directed CAPT Boyer to establish a Safety Sub-Committee and complete a risk assessment. CAPT Boyer completed this action which resulted in issuance of the ORM Safety-Sub Committee Report on 10 March 2016. The ORM Report further validated unsafe levels of overtime within Security and associated risks, but did not result in a documented acceptance of risk or implementation of substantive actions to alleviate the overtime.

(9) The results of the ORM assessment, as supported by testimony from (b) (6) and (b) (6), further validated the potential hazards associated with the overtime in Security and highlighted the serious nature of not only driving risks, but other risks associated with fatigue, including firearm safety, judgment, and decision making. Despite the lack of sufficient evidence to substantiate a violation of the specific “10 hours maximum driving time standard”, the overtime levels required by CAPT Boyer do represent significant safety risks that warrant management’s immediate attention.

(10) Testimony of all five complainants and (b) (6) consistently reported that although the ORM assessment was completed in March 2016, it did not result in substantive changes or actions implemented to alleviate the risks associated with the continuing overtime. Although CAPT Boyer stated that as a result of the ORM assessment, he put an ORM process in place that focused on the entire team, this was inconsistent with other testimony and there was no evidence or documentation of ORM procedures in Security established to mitigate the risks associated with the overtime.

(11) The PDs for both Supervisors and Non-Supervisory Police Officers describe driving and numerous other responsibilities such as responding to various types of emergencies, including terrorism, and handling firearms, which would reasonably require the incumbent to be rested and alert in order to safely and successfully perform the duties of their PD. We were unable to identify another regulation or standard that establishes maximum hour limitations pertaining to handling firearms or performance of the other high risk duties described in the PDs of the Police Officers.

(12) CAPT Boyer openly acknowledged during his interview that he is aware and recognizes the risks associated with the overtime he requires, but as a result of the 2012 MPV-P manning restrictions, he views overtime as the only alternative to leaving the shifts totally unmanned as per the 2012 MPV-P and OPNAVINST 5520.14E, Appendix A. CAPT Boyer and (b) (6) both stated that they view the risk of leaving the shifts unmanned as greater than the risks created by requiring the overtime to cover the shifts. As a consequence of the 2012 MPV-P manning reductions, CAPT Boyer was forced to either require the overtime to cover supervisory operational mission requirements or leave patrol shift supervisory duties unmanned, both of which increase the risk of potential safety mishaps. CAPT Boyer and (b) (6) emphasized that CAPT Boyer has proactively requested additional manning and consistently made the manning shortage problem known to his chain of command within CNRMA.

(13) The CNRMA CDI endorsement of 22 January 2016 also directed CNRMA N1, (b) (6), to provide a memorandum by 22 March 2016 addressing the potential hire of “Term” (b) (6) employees to fill current manning gaps in the NAVSTA Newport Security Department focused on supervisory responsibilities. E-mail of 27 May 2016 from (b) (6) indicated that the memorandum had not been submitted to the Regional Commander as directed because he was working the issue of “Temporary” appointments of supervisors with CNRMA N3.

(14) The CNRMA CDI endorsement of 22 January 2016 also directed CNRMA N3, CAPT Nette to provide a memorandum by 22 March 2016 addressing the feasibility of providing advanced law enforcement training to inbound Master-at-Arms (MA) personnel to assume and execute supervisory responsibilities in the NAVSTA Newport Security Department. E-mail from CAPT Nette of 26 May 2016 indicated that this memorandum had not been submitted to the Regional Commander as directed, but explained that CNIC Enterprise MAs do not attend FLETC due to a funding /capacity issue at FLETC.

(15) This investigation focused on NAVSTA Newport, however it revealed a potentially much wider systemic problem with regard to Security manning levels across the CNIC enterprise.⁷ The 2012 MPV-P has resulted in the gradual elimination of Supervisory Police Officer billets at NAVSTA Newport and other installations across CNIC, which is inconsistent with operational guidance contained in OPNAVINST 5530.14E, Chapter 5, NTTP 3-07.2.3 and the expert opinion and advice of the Antiterrorism Force Protection (ATFP) subject matter experts interviewed during this investigation, such as (b) (6) and (b) (6).

⁷ As previously alleged in NAVINSGEN Case 201501012

(16) The results of this investigation indicate that the 2012 MPV-P has resulted in a disservice to installation COs across CNIC, to include CAPT Boyer, who are ultimately responsible for the safety and security of their installations. The MPV-P places the COs in the position of needing to find an alternative solution to the lack of adequate Security Supervision authorized. Based on the results of this investigation, we concluded that the 2012 MPV-P directly impacted CAPT Boyer's authorization of levels of overtime resulting in various safety risks as described in the ORM Report.

(17) In an effort to temporarily mitigate the manning shortage created by the MPV-P, as evidenced by e-mail from (b) (6) of 26 May 2016, CNRMA has processed RPAs for Term Supervisory Police Officer positions at NAVSTA Newport, which demonstrates some progress by CNRMA toward implementing an interim solution to mitigating the unsafe overtime at NAVSTA Newport. However, due to the potential risks associated with Security duties and far-reaching impact of the 2012 MPV-P, this is an issue that which warrants senior leadership's attention and resolution for all installations CNIC wide.

d. **Conclusion.** Based on a preponderance of evidence, we concluded that, despite the findings reported in CNRMA's CDI and results reported by the NAVSTA Newport ORM risk assessment, CAPT Boyer has continued to require civilian police officers to work levels of overtime resulting in significant safety risks. However, there was insufficient evidence to support that he specifically required personnel to exceed the required maximum GMV driving time standards in violation of the requirement as stated in NAVSTANPTINST 5100.1F, paragraph 0103 and therefore the allegation was **not substantiated**.

e. **Recommendations.**

(1) Commander, Navy Installations Command (N3) implement timely and effective action to reduce the levels of overtime and associated safety risks within NAVSTA Newport Security and all other affected installations across CNIC as a result of implementation of the 2012 MPV-P.

(2) Commander, Navy Installations Command (N3) provide written guidance to Regions and Installations on expectations with regard to continued implementation of the 2012 MPV-P and strategies to mitigate the risks associated with the gradual elimination of Supervisory Police Officer billets.

(3) Commander, Navy Installations Command (N3) consult with CNO on revising and updating the 2012 MPV-P and take appropriate action to ensure timely, proper and safe permanent manning of Supervisory Police Officer billets across CNIC.

4. Interviews and Documents

a. Interviews conducted

- (1) (b) (6), NAVSTA Newport
- (2) (b) (6), NAVSTA Newport
- (3) (b) (6), NAVSTA Newport
- (4) (b) (6), NAVSTA Newport
- (5) (b) (6), NAVSTA Newport
- (6) (b) (6), NAVSTA Newport
- (7) (b) (6), NAVSTA Newport
- (8) (b) (6), NAVSTA Newport
- (9) (b) (6), NAVSTA Newport
- (10) (b) (6), NAVSTA Newport
- (11) (b) (6), CNRMA N3, Norfolk
- (12) (b) (6), CNRMA N1, Norfolk
- (13) CDR Julie Sellerberg, Executive Officer, NAVSTA Newport
- (14) CAPT Dennis Boyer, Commanding Officer, NAVSTA Newport

b. Documents reviewed

- (1) PD Number E9877, Supervisory Police Officer, GS-0083-09
- (2) PD Number E9898, Supervisory Police Officer, GS-0083-08
- (3) PD Number NV52088, Police Officer, GS-0083-05
- (4) E-mail of 22 June 2016 from (b) (6)
- (5) SLDCADA Records for 12 pay periods from 1 January through – 11 June 2016
- (6) CNRMA CDI report of 23 December 2015
- (7) CNRMA Regional Commander Endorsement to CDI dated 22 January 2016
- (8) Letter (undated) from CAPT Boyer to CNRMA reporting responses to CDI
- (9) E-mail of 26 May 2016 from (b) (6)
- (10) E-mail of 27 May 2016 from (b) (6)
- (11) Results of ORM Sub-Committee Findings of 10 March 2016
- (12) OPNAVINST 5530.14E, Appendix A, Post Validation Model and Staffing
- (13) CNICINST 3502.2, Navy Security Force Shore Training Manual of 8 Sep 15
- (14) 2012 MPV-P Summary Staffing With Details, Enclosure (1), dated 28 Nov 12
- (15) E-mail of 26 May 2016 from (b) (6) (CNRMA N3) to (b) (6)