

**September 11, 2018** - 17<sup>th</sup> anniversary of the catastrophic, law-breaking, failure of the Civil Service Reform Act of 1978, when the American Government abjectly failed to protect America

**To:** Department of Energy (DOE) Oak Ridge Office of Environmental Management (OREM), Oversight Management Division (OMD) Supervisors Brian DeMonia, Chelsea Hubbard and Larry Perkins

**From:** Joseph Patrick Carson, PE (Note: The original of this whistleblower disclosure is stamped and sealed with Engineer (Engr.) Carson's professional engineer (PE) stamp. He is licensed as a PE in Tennessee, no. 106350. By the legally binding rules of professional conduct of his PE licensing authority - as well as the professionally binding the code of engineering ethics of several engineering professional societies to which he is a long-time member - Engr. Carson has a positive duty to make whistleblower disclosures as these - as well as to be "truthful and objective" in such public statements. Engr. Carson will refer to himself in the third person in this whistleblower disclosure. Finally, Engr. Carson's related website, [www.merit-principles.org](http://www.merit-principles.org) has links to related documents, such as MSPB or other adjudicatory decisions, Congressional testimony, FOIA responses, etc. )

Engr. Carson's PE stamp and seal in original

**Subject:** Whistleblower Disclosure implicating President Donald Trump and his Presidential predecessors since 1978, Secretary of Energy Rick Perry and his predecessors since 1978, Mark Robbins, Acting Chair of the U.S. Merit Systems Protection Board (MSPB) and all preceding Chairs, Vice-Chairs and Members of the MSPB since 1978, and Special Counsel Henry Kerner of the US Office of Special Counsel (OSC) and his predecessors as Special Counsel of OSC since 1978.

**Summary of Engr. Carson's whistleblower disclosure and reasons he risks his federal employment and PE license in making it.**

Engr. Carson is a deeply concerned PE, federal agency employee, American, Christian and crew-member of planet earth. He is not optimistic those born in 2018 will get to die natural deaths, not given the deep-rooted corruption and dysfunction in the federal agencies, the resultant failure of the American government to protect American health, safety, security and welfare, and the attendant loss of trust of Americans in their government. Like it or not, our unprecedented global civilization faces unprecedented collective challenges and is UTTERLY dependent, now and forevermore, as long as it sustains on its engineered underpinnings. So engineering ethics is

relevant and important to each and every of planet earth's 7.5 billion crew and its future crews too.

Engr. Carson still considers America to be our civilization's indispensable Country. A trustworthy federal civil service is, in Engr. Carson's opinion, necessary for the 7.5 crew members of planet earth to make and execute the collective decisions humanity must make to sustain planet earth's life support systems, natural and manmade, so that posterity can "live well" - just as Engr. Carson and his family are, by any objective measure, "living well."

Engr. Carson publicly claims, whatever the risk to his federal employment and PE license, that the US Office of Special Counsel (OSC) is a decades-long, law-breaking, fraud of a federal law enforcement agency, the US Merit Systems Protection Board (MSPB) is its decades-long, law-breaking enabler, and that this continuing, compounded, federal agency law-breaking is an essential cause of the deep-rooted corruption and dysfunction present in many federal agencies and workplaces, that has been, in turn, a "but for" factor or proximate cause for much which has befallen and besets America in past 40 years, particularly including 9/11, and the illnesses and premature deaths of thousands of 9/11 recovery workers.

Engr. Carson is named for a NYC fireman, his grandfather, and grew up in Brooklyn, NY. He watched the erection of the WTC when walking to the subway to go to HS in late 1960s. He was in the WTC numerous times prior to 9/11. His strongest initial and lasting reaction to 9/11 is RELIEF - At Least It Was Not NUCLEAR - knowing firsthand how deeply corrupt and dysfunctional the Department of Energy is - while also being the custodian of America's nuclear arsenal and the lead federal agency for securing nuclear weapons material around the world.

This whistleblower disclosure, just as Engr. Carson's related litigation, now including three trips to US Supreme Court, evidence Engr. Carson's personal, post-9/11 mission, dedicated to the memory of Fireman Peter A. Bielfeld, the only 9/11 casualty from Ladder Co. 42 in the Bronx, where Engr. Carson's grandfather spent his career. Fireman Bielfeld voluntarily self-reported to the WTC on 9/11 while on medical leave. Many of the 343 NYC fireman who perished at the WTC on 9/11 voluntarily self-reported when off-duty.

### **Engr. Carson's public claims about the personal and professional honor of DOE Secretary Rick Perry:**

Secretary Perry wrote a book about honor and is open about his Christian faith and worldview. Consistent with the law, the redemption of the world (presuming that includes civilization avoiding a large-scale, if not near-total civilizational collapse in coming decades, with billions of attendant unnatural deaths) and personal and professional honor, Engr. Carson publicly challenges Sec. Perry to either:

- 1) Use his unquestioned legal authority to direct the Attorney General to issue opinions as to how the disputed civil service laws (excepting 5 U.S.C. §§1213(b) and (c) as their disputed interpretation for wholly owned government corporations does not involve

DOE) are to be interpreted and applied - or if he listens to the advise of DOE attorneys, citing their sociopathic legal ethics, in not doing so, then

2) Direct a disciplinary action be taking against Mr. Carson for his then publicly stating Sec. Perry lacks the professional honor - his oath office taken “in name of God” - being just many empty words - to hold his position of great trust and responsibility for American health, safety, security and welfare.

The reason is that if a disciplinary action is taken against Mr. Carson, then DOE attorneys will not be able to get the resulting whistleblower appeal dismissed on jurisdictional grounds and MSPB will have to make a determination as to whether Mr. Carson has “reasonable belief” in his whistleblower disclosures about OSC and MSPB law-breaking - something DOE attorneys (as OSC and MSPB attorneys), citing sociopathic legal ethics, have successfully prevented for many years now.

**Engr. Carson’s whistleblower disclosures and why he publicly claims they are protected (i.e. why he publicly claims to have “reasonable belief” in them).**

Starting after 9/11 and up to the present, Mr. Carson has repeatedly disclosed information related to violations of law at the Office of Special Counsel (OSC) and US Merit Systems Protection Board (MSPB), regarding their respective, complementary, non-discretionary statutory duties to:

- 1) protect federal employees from reprisal and other types of prohibited personnel practices (PPPs) as well as it effectively perform its non-discretionary statutory duties as a confidential, secure disclosure channel (OSC),
- 2) determine and report to the President and Congress whether the President and heads of FBI and the nineteen intelligence community (IC) agencies or agency components were - or needed to - “take any action necessary” to ensure agency employees could effectively make whistleblower disclosures (they received a timely and objective resolution) while being adequately protected from reprisal and other types of PPPs (MSPB),
- 3) determine and report to the President and Congress whether OSC, in objective fact, was complying with its duties to protect federal agency employees from PPPs as well as effectively serving as a whistleblower disclosure channel for them (MSPB), and
- 4) determine whether there was an objective basis for other agency heads to claim they were complying with their duty to “prevent PPPs” in their agencies (OSC and MSPB).

Additionally, Engr. Carson alleges that senior Department of Energy (DOE) attorneys conspired with DOE line management and human resources to engage in reprisal against him for his “prevailing” multiple times in whistleblower reprisal litigation against DOE - and then unlawfully cited and abused “attorney-client” privilege in refusing to turn over incriminating evidence about their unlawful, retaliatory, conspiracy against him in response to his lawful and

proper discovery requests. This happened in the 1999-2003 time period. What could be more treacherous on the part of these attorneys, if Engr. Carson's allegations are correct, to their sworn oaths as attorneys and federal agency employees, to American health, safety, security and welfare - and with Rule of Law in America?

Engr. Carson's whistleblower disclosures about these above items include numerous letters to Congress, whistleblower disclosures to OSC, whistleblower reprisal complaints to OSC, letters to OSC, letters to Department of Energy officials (including Secretary Perry and his predecessors for past 10 or more years), letters to the President Obama and Candidate Trump, letters to MSPB, meetings with Department of Energy Officials, emails to Department of Energy Officials, whistleblower litigation at MSPB, and federal law suits.

**Related litigation includes:**

Carson v. Department of Energy, 77 MSPR 453 (1998)  
Carson v. Dept. of Energy, 85 MSPR 171 (2000)  
Carson v. Dept. of Energy, 88 MSPR 260 (2001)  
Carson v. Dept. of Energy, 398 F.3d 1369 (Fed. Cir. 2005)  
Carson v. Office of Special Counsel, docket no. 04-0315, Not Reported in F. Supp. 2d, 2006 WL 785292 (D.D.C., March 27, 2006)  
Carson v. Office of Special Counsel, 2006 WL 5085253 (D.D.C., Oct. 30, 2006) and decision on remand, Carson v. U.S. Office of Special Counsel, 2008 WL 2640283 (D.D.C., July 7, 2008)  
Carson v. Merit Systems Protection Board, 257 Fed. Appx. 268, 2007 WL 3333475 (C.A. Fed.)  
Carson v. Merit Systems Protection Board, docket no. 09-1207, U.S. Supreme Court  
Carson v. Office of Special Counsel, 514 F. Supp. 2d (D.D.C. 2007)  
Carson v. Office of Special Counsel, 2008 WL 441532 (D.D.C., Feb. 19, 2008)  
Carson v. Office of Special Counsel, 2008 WL 474251 (D.D.C., Feb. 19, 2008)  
Carson v. Office of Special Counsel, 2009 WL 1346052 (E.D. Tenn., May 11, 2009)  
Carson v. Office of Special Counsel, 633 F.3d 487 (6th Cir. 2011)  
*Carson v. Office of Special Counsel*, docket no. 11-575, U.S. Supreme Court  
*Carson v. Merit Systems Protection Board*, docket no. 14-1306, U.S. Court of Appeals for D.C. Circuit.  
*Carson v. Merit Systems Protection Board*, docket no. 15-1286, U.S. Court of Appeals for D.C. Circuit (still pending).  
*Carson v. Merit Systems Protection Board*, docket no. 15-3135; -3211, U.S. Court of Appeals for the Federal Circuit  
*Carson v. Merit Systems Protection Board*, docket no. 17-1434, U.S. Supreme Court

Despite all the litigation listed above, the fundamental determination - does Engr. Carson have "reasonable belief" in his claims of decades-long, compounded, continuing, civilization-threatening, law-breaking, detailed below - remains open. Why? Because federal agency attorneys in DOE, OSC, and MSPB have done everything they can - in the name of their

sociopathic legal ethics - certainly not in the name of American health, safety, security and welfare - to prevent any such determination, because such a determination, even if it could prevent a nuclear 9/11, might not be in the interests of their clients - their employing agencies!

**The sections of law Engr. Carson alleges OSC is violating, in whole or part, include:**

5 U.S.C. §§ 1213(g)(1) and (g)(2)

5 U.S.C. §§ 1213(b) and (c) for employees of Tennessee Valley Authority (TVA) and other wholly-owned government corporations

5 U.S.C. §§ 1214(a)(1)(A), (a)(1)(C), (a)(1)(D), (a)(2)(A), (a)(4), (b)(2)(A)(i) and (ii), (b)(2)(D), (e), and requirements of the “termination statement” found in endnotes of § 1214, citing Pub. L. 103-424 §12(b).

Engr. Carson alleges MSPB is violating 5 U.S.C. §1204(a)(3)

Engr. Carson alleges the President is unable, refusing and/or failing to comply with 5 U.S.C. § 2301(c).

Engr. Carson alleges the heads of the FBI and intelligence community agencies are unable, refusing and/or failing to comply with 5 U.S.C. § 2301(c).

Engr. Carson alleges the law-breaking by OSC, MSPB and/or the President precludes DOE Secretary Perry (as other agency heads) from being able to comply, in any objective way, with their duty at 5 U.S.C. § 2302(c)(2)(A) in “preventing prohibited personnel practices (PPPs)” in their agencies.

**The specifics of the violations of these law and evidence of Engr. Carson’s “reasonable belief” in his whistleblower disclosures:**

**The law:**

**5 U.S.C. § 1213(g)(1):**

*If the Special Counsel receives information of a type described in subsection (a) from an individual other than an individual described in subparagraph (A) or (B) of subsection (c)(2), the Special Counsel may transmit the information to the head of the agency which the information concerns. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action shall be completed. The Special Counsel shall inform the individual of the report of the agency head.*

**How Engr. Carson believes it is being violated and the basis of that belief:**

OSC interprets the “individual” in subparagraph (A) or (B) in ways inconsistent with US Constitution and common sense by claiming only current federal agency employee, former

federal agency employees, or current or past applicants for federal employment can make whistleblower disclosures to it by this law. For instance, if a contractor employee of the Department of Energy at the Waste Isolation Pilot Plant (WIPP) or Los Alamos National Lab were aware that a drum being sent to WIPP or stored at WIPP was improperly packaged and could, as a result, undergo an exothermic reaction, spreading contamination and costing over a billion dollars to remediate; or that trucks used at WIPP were not being inspected as required, causing a risk of a deadly (or nearly deadly) underground fire, they can disclose it to OSC, by OSC's interpretation of the law, **only** if they were ever an applicant for employment at a federal agency, at any point in their lives, or an employee of any federal agency, even if only for a short period of time (even if a seasonal or part-time worker). Otherwise, they cannot, according to OSC attorneys. There is no logical reason for this interpretation and it is contrary to "equal treatment under law," a fundamental concept of US Constitution.

The basis for Engr. Carson's contentions include correspondence with OSC, discussions with OSC, and MSPB initial and final decisions that explicitly stated that OSC can receive such contractor whistleblower disclosures and has complete discretion to refer them to the head of the involved agency.

The Department of Energy's workforce is 90% contractor - no other agency even comes close. Secretary Perry, if he would only swat down DOE attorneys when they cite their sociopathic code of ethics focused solely on "the good of DOE," could request OSC to make liberal use of its MSPB-affirmed discretion to refer any whistleblower disclosure it receives from DOE contractor employee regarding environment, safety, health, security or contract fraud. Then DOE contractor employees could make statutory mandated confidential disclosures to an entity outside of DOE and its contractors and, if referred to DOE, DOE would have a statutory obligation to respond in a publicly available record, by 5 U.S.C. section 1219. No other employee concern disclosure channel available to DOE contractor employees has such features - or anything approaching them.

This, by itself, could well prevent a nuclear 9/11, if only DOE attorneys would stop citing their sociopathic code of ethics in arguing against it.

**Law:**

**5 U.S.C. § 1213(g)(2):**

*If the Special Counsel receives information of a type described in subsection (a) from an individual described in subparagraph (A) or (B) of subsection (c)(2), but does not make a positive determination under subsection (b), the Special Counsel may transmit the information to the head of the agency which the information concerns, except that the information may not be transmitted to the head of the agency without the consent of the individual. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action will be completed. The Special Counsel shall inform the individual of the report of the agency head.*

**How Engr. Carson believes it was violated for many years and the basis of that belief:**

From OSC's creation to 2013, OSC did not comply with this law. Instead of making the referrals of such disclosures as the law describes, OSC would make informal referrals to the agency inspector general and not require a response. Apparently because of Engr. Carson's whistleblower disclosures to OSC about its long-standing violations of this law, OSC came into compliance with this law in 2013.

A number of OSC's annual reports to Congress prior to 2013 openly detailed OSC's practice of making such informal referrals of some disclosures it received to the agency IG. A letter OSC wrote Engr. Carson's Congressman, John Duncan, also described how OSC changed its practice in 2013 to comply with this section of law.

**The law:**

**5 U.S.C. section 1213(b) and (c)** (for employees of Tennessee Valley Authority (TVA) and other wholly-owned government corporations listed at 31 U.S.C. §9101)

*(b) Whenever the Special Counsel receives information of a type described in subsection (a) of this section, the Special Counsel shall review such information and, within 45 days after receiving the information, determine whether there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety.*

*(c)*

*(1) Subject to paragraph (2), if the Special Counsel makes a positive determination under subsection (b) of this section, the Special Counsel shall promptly transmit the information with respect to which the determination was made to the appropriate agency head and require that the agency head—*

*(A) conduct an investigation with respect to the information and any related matters transmitted by the Special Counsel to the agency head; and*

*(B) submit a written report setting forth the findings of the agency head within 60 days after the date on which the information is transmitted to the agency head or within any longer period of time agreed to in writing by the Special Counsel.*

*(2) The Special Counsel may require an agency head to conduct an investigation and submit a written report under paragraph (1) only if the information was transmitted to the Special Counsel by—*

*(A) an employee, former employee, or applicant for employment in the agency which the information concerns; or*

*(B) an employee who obtained the information in connection with the performance of the employee's duties and responsibilities.*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

OSC claims that employees, former employees, or applicants for employment of wholly-owned government corporations are outside this law's purview. OSC's position is directly contradicted by 5 U.S.C. §§ 2302(a)(2)(C)(i) and (b)(8) which, together, explicitly state that employees, former employees and applicants for employment in government corporations (including wholly owned ones) can make whistleblower disclosures to OSC.

Engr. Carson has discussed this situation with the TVA and TVA agrees that OSC apparently does not allow its employees to make whistleblower disclosures to it and that OSC has not discussed its interpretation with TVA. Engr. Carson has discussed this matter with OSC and it does not dispute that it does not allow employees of wholly owned government corporations as TVA to make whistleblower disclosures to it.

Right now, there is a TVA contractor employee workplace health and safety disaster at a TVA site - the clean-up of the 2008 fly ash spill at its Kingston plant. Engr. Carson's public testimony is that this disaster, now impacting hundreds, would possibly have been prevented if OSC complied with the law, as interpreted by MSPB, in allowing these contractor employees to make whistleblower disclosures to it and if TVA exorbitantly paid executive put the health and safety of their and their contractors employee ahead of their greed - it they directed TVA attorneys to stop citing their sociopathic code of ethics as a reason for them to "take their money and run" at the expense of innocent life in East Tennessee.

Engr. Carson's public testimony is that he brought this issue to the TVA Board in a public meeting and was blown off, because TVA attorneys, citing their sociopathic code of ethics, did not contest OSC's absurd position - which, in turn, is driven by OSC's attorneys citing sociopathic legal ethics - that TVA, as employees of other wholly-owned government corporations, cannot make whistleblower disclosures to it.

**The law:**

5 U.S.C. § 1214(a)(1)(A):

*The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

OSC fails or refuses to investigate many, if not most or almost all, PPP complaints it receives "to extent necessary to determine whether there are reasonable grounds to believe (the allegation of the PPP)."

Instead, based on 25 years of his dealing with OSC and his independent study of OSC, it uses the term "insufficient evidence" in closing an investigation without stating the evidentiary standard by which it was "insufficient." The law is explicit about the evidentiary standard for OSC

investigation determinations “reasonable grounds to believe.” When OSC closes an investigation by merely citing, “insufficient evidence,” it could well mean that OSC has determined there is “insufficient evidence” by the “incontrovertible” evidentiary standard or some other evidentiary standard above, if not far above, the “reasonable grounds to believe” evidentiary standard.

Mr. Carson has litigated this point with OSC, written to OSC, spoken to OSC and no one at OSC disagrees with his claims. A review of OSC annual reports to Congress will also show that OSC does not state it uses “reasonable grounds to believe” as its evidentiary standard to make a positive PPP determination, unlike how it stresses it uses the “substantial likelihood” evidentiary standard to refer a whistleblower disclosure to the agency head.

When Engr. Carson litigated this point with OSC, OSC failed to take any exception to his claim it was violating the law. Instead, its lawyers, consistent with their sociopathic code of ethics, got the case dismissed by claiming that OSC failure or refusal to comply with each or every of its non-discretionary statutory duties to protect a federal agency employee from a PPP would not deter any reasonable federal employee from making a whistleblower disclosure or seeking OSC’s protection from workplace reprisal.

**The law:**

**5 U.S.C. § 1214(a)(1)(C):**

*Unless an investigation is terminated under paragraph (2), the Special Counsel shall—*  
*(i) within 90 days after notice is provided under subparagraph (B), notify the person who made the allegation of the status of the investigation and any action taken by the Office of the Special Counsel since the filing of the allegation;*  
*(ii) notify such person of the status of the investigation and any action taken by the Office of the Special Counsel since the last notice, at least every 60 days after notice is given under clause (i); and*  
*(iii) notify such person of the status of the investigation and any action taken by the Special Counsel at such time as determined appropriate by the Special Counsel.*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

Engr. Carson has received many of these letters - they simply do not inform the complainant of “any action” taken by OSC since the previous letter, instead they, as a rule, only state the investigation is ongoing.

When Engr. Carson litigated this point with OSC, OSC failed to take any exception to his claim of its law-breaking. Instead, its lawyers, consistent with their sociopathic code of ethics, got the case dismissed by claiming that OSC failure or refusal to comply with each or every of its non-discretionary statutory duties to protect a federal agency employee from a PPP would not

deter any reasonable federal employee from making a whistleblower disclosure or seeking OSC's protection from workplace reprisal.

**The Law:**

**5 U.S.C. § 1214(a)(1)(D):**

*No later than 10 days before the Special Counsel terminates any investigation of a prohibited personnel practice, the Special Counsel shall provide a written status report to the person who made the allegation of the proposed findings of fact and legal conclusions. The person may submit written comments about the report to the Special Counsel. The Special Counsel shall not be required to provide a subsequent written status report under this subparagraph after the submission of such written comments.*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

Engr. Carson has received many of these letters. They do not report the required proposed findings of fact and legal conclusions. They do not report “OSC has determined there is (or “there is not”) reasonable grounds to believe the alleged PPP occurred.” Instead, they almost always report “OSC has determined there is insufficient evidence for OSC to seek corrective action.” Given that OSC’s determination to seek corrective action is always discretionary, the statement is irrelevant to OSC’s non-discretionary statutory duties to protect the federal employees who file PPP complaints with it - to perform investigation adequate to makes the required determination and to report that determination to the complainant (and, if positive, to the head of the agency too, so they can use it to take the necessary action to comply with their duty in “preventing PPPs”).

Nothing in any of OSC’s annual reports to Congress is inconsistent with this claim. When Engr. Carson litigated this point with OSC, OSC failed to take any exception to his claim of its law-breaking. Instead, its lawyers, consistent with their sociopathic code of ethics, got the case dismissed by claiming that OSC failure or refusal to comply with each or every of its non-discretionary statutory duties to protect a federal agency employee from a PPP would not deter any reasonable federal employee from making a whistleblower disclosure or seeking OSC's protection from workplace reprisal.

**The Law:**

**5 U.S.C. § 1214(a)(2)(A):**

*If the Special Counsel terminates any investigation under paragraph (1), the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of—*  
*(i) the termination of the investigation;*

- (ii) a summary of relevant facts ascertained by the Special Counsel, including the facts that support, and the facts that do not support, the allegations of such person;*
- (iii) the reasons for terminating the investigation; and*
- (iv) a response to any comments submitted under paragraph (1)(D).*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

Engr. Carson has received many such letters from OSC. OSC's investigation closure letters do not provide a summary of facts ascertained by OSC, particularly including the facts that support the complainant. There is only one allowable reason for OSC to terminate an investigation - it has investigated the complainant to the extent necessary to determine whether there are reasonable grounds to believe the alleged PPP occurred and its reporting that determination and how and why it reached it to the complainant.

Nothing in OSC's annual reports to Congress is inconsistent with this claim. When Engr. Carson litigated this point with OSC, OSC failed to take any exception to his claim of its law-breaking. Instead, its lawyers, consistent with their sociopathic code of ethics, got the case dismissed by claiming that OSC failure or refusal to comply with each or every of its non-discretionary statutory duties to protect a federal agency employee from a PPP would not deter any reasonable federal employee from making a whistleblower disclosure or seeking OSC's protection from workplace reprisal.

**The law:**

**5 U.S.C. § 1214(a)(4):**

*If an employee, former employee, or applicant seeks a corrective action from the Board under section 1221, pursuant to the provisions of paragraph (3)(B), the Special Counsel may continue to seek corrective action personal to such employee, former employee, or applicant only with the consent of such employee, former employee, or applicant.*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

OSC is open it stating that it routinely ends investigations of PPPs if the employee files an IRA. Nothing in the law allows OSC to end its investigation for this reason - its continuing investigation may uncover evidence helpful to the employee and OSC should share it with the employee.

Not only that, if the employee files an IRA and seeks discovery from OSC about its investigation, OSC will not provide it and MSPB will take no exception to OSC's refusal. By law, OSC has a mandate to "act in the interest" of federal agency employees who seek its protection from PPPs. OSC attorneys, consistent with their sociopathic legal ethics, blow that off too as not being "in the interests" of their client - OSC. Catastrophes as 9/11, not unexpectedly, result from OSC attorneys citing sociopathic legal ethics in putting the interests of

law-breaking federal agencies ahead of foolhardy federal agency employee who actually take risks to defend American health, safety, security and welfare.

Nothing in any OSC annual reports to Congress is inconsistent with this claim. When Engr. Carson litigated this point with OSC, OSC failed to take any exception to his claim of its law-breaking. Instead, its lawyers, consistent with their sociopathic code of ethics, got the case dismissed by claiming that OSC failure or refusal to comply with each or every of its non-discretionary statutory duties to protect a federal agency employee from a PPP would not deter any reasonable federal employee from making a whistleblower disclosure or seeking OSC's protection from workplace reprisal.

**The Law:**

**5 U.S.C. § 1214(b)(2)(A)(i) and (ii):**

- (i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.*
- (ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation.*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

Engr. Carson has filed many PPP complaints with OSC. Never has it informed him of its “determination whether there are reasonable grounds to believe that a PPP has occurred.” Instead, it has always reported “there is insufficient evidence for OSC to seek corrective action for the complaint,” a statement it could make even if the evidence for the PPP was incontrovertible, because OSC has complete discretion, regardless of its required determination, about seeking corrective action.

OSC Annual Reports to Congress are consistent with this claim. When Engr. Carson litigated this point with OSC, OSC failed to take any exception to his claim of its law-breaking. Instead, its lawyers, consistent with their sociopathic code of ethics, got the case dismissed by claiming that OSC failure or refusal to comply with each or every of its non-discretionary statutory duties to protect a federal agency employee from a PPP would not deter any reasonable federal employee from making a whistleblower disclosure or seeking OSC's protection from workplace reprisal.

**The law:**

**5 U.S.C. §1214(b)(2)(D):**

*If the Special Counsel finds, in consultation with the individual subject to the prohibited personnel practice, that the agency has acted to correct the prohibited personnel practice, the Special Counsel shall file such finding with the Board, together with any written comments which the individual may provide.*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

Based on FOIA responses, conversations with OSC personnel, MSPB responses to FOIA, conversations with MSPB personnel, this just doesn't happen - OSC makes no such report. There is no OSC nor MSPB regulation that mentions it.

OSC and MSPB annual reports to Congress are consistent with this claim of OSC law-breaking too.

**The Law:**

**5 U.S.C. §1214(e):**

*If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred other than one referred to in subsection (b) or (d), the Special Counsel shall report such violation to the head of the agency involved. The Special Counsel shall require, within 30 days after the receipt of the report by the agency, a certification by the head of the agency which states—*

- (1) that the head of the agency has personally reviewed the report; and*
- (2) what action has been or is to be taken, and when the action will be completed.*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

OSC violates this statute by claiming it has total discretion, contrary to the explicit wording of this (and other laws that require it to report, to the complainant and head of involved agency, when its statutory required determination of every PPP complaint it receives is positive) to:

- 1) whether to investigate a PPP complaint to “extent necessary to determine whether there are reasonable grounds to believe a PPP occurred.”
- 2) whether to report its determination, if the instances in which it deigns to make it, to the complainant
- 3) whether to report its determination to anyone else, in particular the head of the complainant's agency.

Instead, OSC, with no basis in law and contrary to law, will approach agencies, in some PPP complaints and offer to “make it all go away,” if the agency will toss the employee some bone.

Then OSC destroys all the investigative files a short time later - unique and unlawful for a law enforcement agency, but OSC is a fraud of a law enforcement agency.

Nothing in the law allows OSC to be such a “black box” - instead the law requires OSC to be a transparent agency - so that federal agency employees have objective basis to think it will (or will not) protect them - or other federal agency employees - from PPPs.

When Engr. Carson litigated this point with OSC, OSC failed to take any exception to his claim of its law-breaking. Instead, its lawyers, consistent with their sociopathic code of ethics, got the case dismissed by claiming that OSC failure or refusal to comply with each or every of its non-discretionary statutory duties to protect a federal agency employee from a PPP would not deter any reasonable federal employee from making a whistleblower disclosure or seeking OSC's protection from workplace reprisal.

**The requirements of the “termination statement” found in endnotes of §1214, citing Pub. L. 103-424 § 12(b).**

*The Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations.*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

Engr. Carson has repeatedly cited this law to OSC attorneys in efforts to obtain information from OSC about its investigations and their findings of his PPP complaints. Even when a federal judge took exception to OSC’s failure to comply with this law, OSC continued to violate it.

When Engr. Carson litigated this point with OSC, OSC failed to take any exception to his claim of its law-breaking. Instead, its lawyers, consistent with their sociopathic code of ethics, got the case dismissed by claiming that OSC failure or refusal to comply with each or every of its non-discretionary statutory duties to protect a federal agency employee from a PPP would not deter any reasonable federal employee from making a whistleblower disclosure or seeking OSC's protection from workplace reprisal.

**The Law:**

**5 U.S.C. §1204(a)(3):**

*The Merit Systems Protection Board shall conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

A review of every MSPB Annual Report to Congress and every of MSPB's "special studies" will show MSPB has not - in 40 years - conducted the "special studies" necessary to make and report this determination. Instead, MSPB attorneys, based on sociopathic legal ethics, have apparently determined that it is not in MSPB's interest to conduct a special study that could make such a determination, because a negative determination would implicate MSPB's effectiveness, which would not be in their client's - MSPB - interests. And national catastrophes as 9/11 follow.

**Engr. Carson's public testimony is that President Trump (as his predecessors since 1978), because of the law-breaking at OSC and MSPB, is unable, refusing and/or failing to comply with his primary statutory duty to the 2 million members of the federal civil service at 5 U.S.C. § 2301(c).**

**The Law:**

*In administering the provisions of this chapter-*

*(1) with respect to any agency (as defined in section 2302(a)(2)(C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and*

*(2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives;*

*which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles.*

**Engr. Carson publicly claims all this law-breaking precludes the Secretary of Energy (as other agency heads) from being able to comply with their primary statutory duty to their employees - to "preventing prohibited personnel practices" - per 5 U.S.C. § 2302(c)(2)(A) and (B):**

**The Law:**

*"The head of each agency shall be responsible for preventing prohibited personnel practices; complying with and enforcing applicable civil service laws, rules, and regulations, and other aspects of personnel management;"*

**How Engr. Carson believes this law is being violated and the basis of that belief:**

Based on FOIA responses from DOE, communications with many DOE officials, 25 years of continual litigation, "prevailing" in no fewer than eight separate whistleblower related decisions at MSPB, filing employee concerns, differing professional opinions, etc., Mr. Carson knows that no one in DOE will represent there is any objective basis for Secretary Rick Perry (as his predecessors for past 40 years) to claim he is, in a meaningful sense, discharging his duty to be

“responsible for preventing PPPs” because there is no objective basis for him to claim that DOE employees are adequately protected from them.

Engr. Carson litigated this point with DOE at MSPB. DOE failed to take any exception to his claims that the Secretary of Energy cannot demonstrate meaningful compliance with this primary statutory duty to DOE employees or that responsible DOE official simply ignored or failed to respond to all the above whistleblower disclosures. Instead, its lawyers, consistent with their sociopathic code of ethics, got the case dismissed at MSPB by claiming it could ignore each and every whistleblower disclosure any DOE employee might make to their supervisors without deterring any reasonable DOE employee from making a whistleblower disclosure. This case is now pending at the US Court of Appeals for the DC Circuit, *Carson v. MSPB*, docket no. 15-1286.

Additionally, in December 2017, the law at 5 U.S.C. §4302(b) was changed to require supervisors in DOE (as other agencies) to do other than bystand to the whistleblower disclosures of their subordinates. Engr. Carson has repeatedly brought this new law to the attention of his supervisors, but, to this point, they continue to bystand to his whistleblower disclosures.

**Other empirical facts about OSC, consistent with Engr. Carson’s public claims that it is a 40 year-long, law-breaking, fraud of a federal law enforcement agency, the most corrupt and corrupting federal agency (at least relative to size) in America’s history.**

Based on a review of every OSC Annual Report to Congress, FOIA responses, examination of OSC’s permanent, publicly available, records per section 1219, and communication with OSC officials, OSC has apparently never (or fewer than a handful of times) during its 40 year history:

- Reviewed OPM rules and regulations issued by OPM and filed a complaint about them with MSPB per section 1212(a)(4).
- Issued subpoenas per section 1212(b)(2).
- Enforce its subpoena per section 1212(b)(3)(A).
- Referred a whistleblower disclosure per section 1213(g)(1).
- Referred a classified whistleblower disclosure involving foreign intelligence or counter-intelligence (such as about American torture, warrantless wiretapping, “black sites,” etc. ) to Congress per section 1213(j).
- Sought disciplinary action related to an agency failing or refusing to comply with an order of the MSPB per section 1215(a)(1)(C).
- Investigated or sought disciplinary action related to agency violations of FOIA, per section 1216(a)(3).
- Used a finding by any court or administrative authority of prohibited discrimination on the part of a federal manager as a basis to seek disciplinary action against them per section 1216(a)(5) and 1216(c).

Copy:

President Donald Trump

Secretary of Energy Rick Perry  
Assistant Secretary for Environment Management Anne White  
OREM Manager Jay Mullis  
OSC  
MSPB  
Congressional Committees with oversight of DOE and federal civil service  
DOE Inspector General (IG)  
US Defense Nuclear Facilities Safety Board (DNFSB)