

**COMPLAINT OF POSSIBLE PROHIBITED PERSONNEL PRACTICE
OR
OTHER PROHIBITED ACTIVITY**

IMPORTANT

Before filling out this Office of Special Counsel (OSC) form, please read the following information about:(1) the required complaint format; (2) the scope of OSC's jurisdiction; and (3) certain OSC policies. OSC cannot investigate a complaint if it lacks jurisdiction over the subject matter. Further, filing a complaint with OSC will not extend any time limits that may exist under any other complaint procedures that may be available. It is important, therefore, that you consider whether OSC may lack jurisdiction over your complaint.

If you plan to file a complaint alleging reprisal for whistleblowing, important information about the elements required by law to establish such a violation is provided in Part 2 of this form (at page 4).

INFORMATION ABOUT FILING A COMPLAINT WITH OSC

Required Complaint Form. Complaints alleging a prohibited personnel practice, or a prohibited activity other than a Hatch Act violation, must be submitted on this form. OSC will not process complaints (except a complaint alleging only a Hatch Act violation) that are not submitted on this form. OSC will return the material received, with a blank complaint form to complete and return to OSC. The complaint will be considered to be filed on the date on which OSC receives the completed form. 5 C.F.R. § 1800.1, as amended.

No OSC Jurisdiction. OSC has no jurisdiction over complaints filed by employees of –

- the Central Intelligence Agency, Defense Intelligence Agency, National Security Agency, or other intelligence agency excluded from coverage by the President;
- the armed forces of the United States (*i.e.*, uniformed military employees);
- the General Accounting Office;
- the Postal Rate Commission; and
- the Federal Bureau of Investigation.

Limited OSC Jurisdiction. OSC has jurisdiction over certain types of complaints filed by employees of some agencies, as follows –

- Federal Aviation Administration employees alleging reprisal for whistleblowing;
- employees of government corporations listed at 31 U.S.C. § 9101 alleging reprisal for whistleblowing; U.S. Postal Service employees alleging nepotism; and
- Transportation Security Administration (TSA) employees alleging reprisal for whistleblowing: TSA non-screener employees may file complaints alleging retaliation for protected whistleblowing under 5 U.S.C. § 2302(b)(8). OSC will process these complaints under its regular procedures, including filing petitions with the Merit Systems Protection Board, if warranted. TSA security screeners may also file complaints alleging retaliation for protected whistleblowing under 5 U.S.C. § 2302(b)(8) pursuant to a Memorandum of Understanding (MOU) between OSC and TSA executed on May 28, 2002. The MOU and TSA Directive HRM Letter No. 1800-01 provide OSC with authority to investigate whistleblower retaliation complaints from screeners and recommend that TSA take corrective and/or disciplinary action when warranted. Additional information on OSC procedures for reviewing security screener whistleblower complaints under the MOU is available at <http://www.osc.gov/tsa-info.htm>.

(over)

**VISIT WWW.OSC.GOV
FOR MORE INFORMATION ABOUT OSC JURISDICTION AND COMPLAINT PROCEDURES**

INFORMATION ABOUT FILING A COMPLAINT WITH OSC *(cont'd)*

Election of Remedies for Employees Covered By a Collective Bargaining Agreement. Pursuant to 5 U.S.C. § 7121(g), if you are covered by a collective bargaining agreement, you must choose one of three possible avenues to pursue your prohibited personnel practice complaint: (a) a complaint to OSC; (b) an appeal to the Merit Systems Protection Board (MSPB) (if the action is appealable under law or regulation), or (c) a grievance under the collective bargaining agreement. If you have already filed an appeal about your prohibited personnel practice allegations with the MSPB, or a grievance about those allegations under the collective bargaining agreement, OSC lacks jurisdiction over your complaint and cannot investigate it.

Deferral of Certain Complaints Involving Discrimination. Although OSC is authorized to investigate discrimination based upon race, color, religion, sex, national origin, age, or handicapping condition, as well as reprisal for filing an EEO complaint, OSC generally defers such allegations to agency procedures established under regulations issued by the Equal Employment Opportunity Commission (EEOC). 5 C.F.R. § 1810.1. If you wish to report allegations of discrimination based upon race, color, religion, sex, national origin, age, or handicapping condition, or reprisal for filing an EEO complaint, you should contact your agency's EEO office immediately. There are specific time limits for filing such complaints. Filing a complaint with OSC will not relieve you of the obligation to file a complaint with the agency's EEO office within the time prescribed by EEOC regulations (at 29 C.F.R. Part 1614).

Note: This deferral policy does not apply to discrimination claims outside the jurisdiction of the EEOC, such as complaints alleging discrimination based upon marital status or political affiliation.

Complaints Involving Veterans Rights. By law, complaints alleging denial of veterans' preference requirements must be filed with the Veterans Employment and Training Service (VETS) at the Department of Labor. 38 U.S.C. § 4301, *et seq.*, and 5 U.S.C. § 3330a(a). Certain allegations of discrimination based on the past, current, or future performance of military service (*e.g.*, discrimination based on veteran or reservist status) may be filed with OSC. Thus, you are encouraged to contact OSC's Uniformed Services Employment and Reemployment Rights Act (USERRA) Unit by e-mail at userra@osc.gov or by telephone at 202-254-3600.

SEND COMPLETED COMPLAINT FORMS TO OSC -

By Mail: Complaints Examining Unit
Office of Special Counsel
1730 M Street, N.W. (Suite 218)
Washington, DC 20036-4505

By Fax: (202)254-3711

Electronically: WWW.OSC.GOV (AT "FILE COMPLAINTS ONLINE")

PLEASE KEEP A COPY OF YOUR COMPLAINT, ANY SUPPORTING DOCUMENTATION, AND ANY ADDITIONAL ALLEGATIONS SENT IN WRITING TO OSC NOW, OR AT ANY TIME WHILE YOUR COMPLAINT IS PENDING
REPRODUCTION CHARGES UNDER THE FREEDOM OF INFORMATION ACT MAY APPLY TO ANY REQUEST YOU MAKE FOR COPIES OF MATERIALS THAT YOU PROVIDED TO OSC.

IF YOU ARE FILING AN ALLEGATION OF REPRISAL FOR WHISTLEBLOWING,
PLEASE SEE PART 2 OF THE COMPLAINT FORM, AT PAGES 4-5, FOR OTHER RECORDKEEPING CONSIDERATIONS.

COMPLAINT OF POSSIBLE PROHIBITED PERSONNEL PRACTICE OR OTHER PROHIBITED ACTIVITY

(Please print legibly or type and complete all pertinent items. Enter "N/A" (Not Applicable) or "Unknown" where appropriate. (If more space is needed, use Continuation Sheet at page 12.)

PART 1: PROHIBITED PERSONNEL PRACTICES PROHIBITED ACTIVITY (GENERAL)

1. Name of person seeking OSC action ("Complainant"): Mr. (X) Ms. () Mrs. () Miss ()

Joseph P. Carson, PE

For USERRA complaints only - please provide the last digit only of your Social Security Number (SSN): (needed to determine jurisdiction under § 204(c)(2) of Public Law No. 108-454.)

2. Position, title, series, and grade: 65-14-801 Facility Representative

3. Agency name: U.S. Department of Energy

4. Agency Address: 200 Administration Road, Oak Ridge, TN 37830

5. Home or mailing address: 10953 Twin Harbor Drive, Knoxville, TN 37934

6. Contact information: Telephone number(s): (865) 300-5831 (Home); (865) 576-1478 (Office) Ext. _____

Fax number: (865) 675-0236

E-mail address: jpcarson@Eds.Net

7. If you are filing this complaint as a legal or other representative of the Complainant, please supply the following information:

Name and title of filer: Mr. () Ms. () Mrs. () Miss ()

N/A

Address: _____

Telephone number(s): () (Home)

() (Office) Ext. _____

Fax number: () _____

E-mail address: _____

8. Are you (or is the Complainant, if you are filing as a representative) covered by a collective bargaining agreement? (Check one.)

(X) Yes () No () I don't know

9. How did you first become aware that you could file a complaint with OSC?

- () OSC Web site () OSC Speaker () OSC Brochure () OSC Poster
() NewsStory () Agency Personnel Office (X) Union () Co-worker
() Other (please describe): _____

Date (approximate): 1992

COMPLAINT OF POSSIBLE PROHIBITED PERSONNEL PRACTICE OR OTHER PROHIBITED ACTIVITY

10. What is the employment status of the person affected by the suspected prohibited personnel practice or other prohibited activity? (Check all applicable items - more than one item may apply.)

- a. () Applicant for Federal employment
b. (X) Competitive Service
() temporary appointment (X) career or career-conditional appointment
() term appointment () probationary employee
c. () Excepted Service
() Schedule A () Postal Service
() Schedule B () Tennessee Valley Authority
() Schedule C () VA Dept. of Medicine and Surgery
() National Guard Technician () Veterans Readjustment Act (VRA)
() Non-appropriated Fund () Other (Specify)
d. () Senior Executive Service (SES), Supergrade, or Executive Level
() career SES () Executive Level V or above (career) fund
() noncareer SES () Executive Level V or above (noncareer)
() career GS-16, 17, or 18 () Presidential appointee (Senate-confirmed)
() noncareer GS-16, 17, or 18
e. () Other
() civil service annuitant () military officer or enlisted person
() former civil service employee () contract employee
() competitive service () other (specify):
() excused service () unknown

11. What other action(s), if any, have you taken to appeal, grieve, or report this matter under any other procedure? (Check all that apply.)

- () None, or not applicable Date:
(X) Appeal filed with Merit Systems Protection Board (MSPB) Date: Numerous
() Petition for reconsideration of initial decision filed with MSPB Date:
Initial Decision No.
() USERRA claim filed with VETS (Department of Labor) Date:
(Form VETS/USERRA/VP-1010)
() Grievance filed under agency grievance procedure Date:
() Grievance filed under negotiated grievance procedure Date:
() Matter heard by arbitrator under grievance procedure Date:
() Matter is pending in arbitration Date:
() Discrimination complaint filed with agency Date:
() Agency or Administrative Judge (AJ) decision on discrimination complaint appealed Date:
to Equal Employment Opportunity Commission
() Appeal filed with Office of Personnel Management Date:
() Unfair labor practice (ULP) complaint filed with Federal Labor Relations Authority Date:
General Counsel
(X) Lawsuit filed in Federal Court Date: Numerous
Court name:
(X) Reported matter to agency Inspector General Date: Numerous
(X) Reported matter to member of Congress Date: Numerous
Name of Senator or Representative:
(X) Other (specify): See www.Merit-principles.org

12. What official is responsible for the violation(s) that you are reporting, and what is his/her employment status? (See question 10 for appropriate description of employment status. If space is needed to identify more than one official, use Continuation Sheet at page 12.)

Name: Secretary of Energy Rick Perry and every Supervisor
Position/Title: in my chain of command
Employment Status: _____

13. What are the actions or events that you are reporting to OSC? (To the extent known, specifically list: (a) any suspected prohibited personnel practices or other prohibited activity, other than reprisal for whistleblowing; and (b) any personnel actions involved. **(IF YOU ARE ALLEGING REPRISAL FOR WHISTLEBLOWING, SKIP TO PART 2 ON THE NEXT PAGE.)**)

See attached
NA - Whistle blower complaint

14. Provide details of the actions or events shown in your response to question 13. (Be as specific as possible about dates, locations, and the identities and positions of all persons mentioned. In particular, identify actual and potential witnesses, giving work locations and telephone numbers when possible. Also, attach any pertinent documents that you may have. Please provide, if possible, a copy of the notification of the agency's proposal and/or decision about the personnel action(s) covered by your request for OSC action. If more space is needed, use Continuation Sheet at page 12.)

See attached
NA - Whistle blower complaint

15. What action would you like OSC to take in this matter (that is, what remedy are you asking for?)

See attached NA - Whistle blower complaint.

PART 2: REPRISAL FOR WHISTLEBLOWING

This part of the form is solely for use by persons alleging reprisal for whistleblowing (that is, persons who believe that personnel actions were taken, not taken, or threatened because of a whistleblower disclosure). Please read the introductory material before answering the questions that follow. If more space is needed, use the continuation sheet at page 12.

Complainants not alleging reprisal for whistleblowing should proceed to Part 3 ("Consent to Certain Disclosures of Information"), at page 9.

Reprisal for Whistleblowing Allegations

As a general rule, it is a prohibited personnel practice to take or fail to take, or threaten to take or fail to take, a personnel action because of a protected disclosure of certain types of information by a Federal employee, former employee, or applicant for Federal employment. 5 U.S.C. § 2302(b)(8).

Legal Elements of a Violation

By law, certain elements must be present before OSC can establish that a legal violation of law has occurred. Two of the required elements that must be established are: (1) that a whistleblower disclosure was made; and (2) that an agency took, failed to take, or threatened to take or fail to take a personnel action because of the whistleblower disclosure. Your description of these elements will help OSC's investigation of your allegation(s).

Protected Disclosures

A disclosure of information is a protected whistleblower disclosure if a Federal employee, former employee, or applicant for Federal employment discloses information which he or she reasonably believes evidences: (a) a violation of any law, rule, or regulation; (b) gross mismanagement; (c) a gross waste of funds; (d) abuse of authority; or (e) a substantial and specific danger to public health or safety.

Covered Personnel Actions

The law prohibiting reprisal for whistleblowing requires proof that one or more of the following personnel actions occurred, or failed to occur, because of a protected disclosure:

- (1) an appointment;
- (2) a promotion;
- (3) an action under 5 U.S.C. chapter 75 or other disciplinary or corrective action;

- (4) a detail, transfer, or reassignment;
- (5) a reinstatement;
- (6) a restoration;
- (7) a reemployment;
- (8) a decision about pay, benefits, or awards, concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in 5 U.S.C. § 2302(a)(2);
- (9) a performance evaluation under 5 U.S.C. chapter 43;
- (10) a decision to order psychiatric testing or examination; or
- (11) any other significant change in duties, responsibilities, or working conditions.

Reporting Your Allegation(s)

In the section that starts below (pages 6-8), provide the information requested about all disclosures that you believe led to reprisal by the agency involved. If more space is needed, use extra copies of page 6-8, or the Continuation Sheet at page 12. **If any of the disclosures were in writing, please provide a copy of the disclosure with your complaint.**

IT IS IMPORTANT THAT YOU LIST ALL DISCLOSURES AND PERSONNEL ACTIONS INVOLVED IN YOUR COMPLAINT. This is because: (1) failure to list any disclosure or personnel action may delay the processing of your complaint by OSC; and (2) a comprehensive listing will avoid disputes in any later Individual Right of Action (IRA) appeal that you may file with the Merit Systems Protection Board (MSPB) about its jurisdiction to hear case.

Additional allegations of reprisal for whistleblowing may be added to this complaint while it is pending at OSC. Submission of any such additional allegations to OSC **in writing** will help you if you decide to file any later IRA appeal with the MSPB. Form OSC-11a is available for that purpose at OSC's web site, under "Forms."

Appeal to the Merit Systems Protection Board (MSPB)

If OSC fails to complete its review of your whistleblower reprisal allegation within 120 days after it receives your complaint, or if it closes your complaint at any time without seeking corrective action on your behalf, you have the right to file IRA appeal with the MSPB. 5 U.S.C. § 1214(a)(3).

Recordkeeping

To establish its jurisdiction over any later IRA appeal that you may file, the MSPB will require you to show that the appeal relates to the same whistleblower disclosure(s) and personnel action(s) involved in your complaint to OSC. **A copy of the whistleblower reprisal allegations in your complaint, any supporting documentation about those allegations that you sent with the complaint, and any additional allegation of reprisal that you submitted in writing to OSC while the complaint was pending, will serve as proof in any IRA of the disclosure(s) and personnel action(s) involved in your OSC complaint. IT IS IMPORTANT, THEREFORE, THAT YOU MAKE AND KEEP COPIES OF ALL THESE DOCUMENT FOR YOUR RECORDS.**

MUST BE COMPLETED FOR ALL DISCLOSURES REPORTED IN THIS COMPLAINT

<p>A. WHAT INFORMATION WAS DISCLOSED? (DESCRIBE WHISTLEBLOWER DISCLOSURE).</p> <p><i>See attached</i></p>	<p>1. WHEN WAS THE DISCLOSURE MADE? (MO/DA/YR) <i>See attached</i></p> <p>2. TO WHOM (NAME AND TITLE) WAS THE DISCLOSURE MADE? <i>See attached</i></p> <p>3. DISCLOSURE OF INFORMATION EVIDENCED (check all that apply): <input checked="" type="checkbox"/> VIOLATION OF LAW, RULE, OR REGULATION <input checked="" type="checkbox"/> GROSS MISMANAGEMENT <input type="checkbox"/> GROSS WASTE OF FUNDS <input type="checkbox"/> ABUSE OF AUTHORITY <input type="checkbox"/> SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR SAFETY <input type="checkbox"/> NONE OF THE ABOVE</p> <p>4. WHAT PERSONNEL ACTION(S) OCCURRED, FAILED TO OCCUR, OR WAS THREATENED BECAUSE OF THE DISCLOSURE? (List all applicable personnel action numbers from pages 4-5). <i>See attached</i></p> <p>5. WHEN DID PERSONNEL ACTION(S) OR THREAT(S) OCCUR? (MO/DA/YR) <i>See attached</i></p>
<p>B. WHAT INFORMATION WAS DISCLOSED? (DESCRIBE NEXT WHISTLEBLOWER DISCLOSURE).</p> <p><i>NA</i></p>	<p>1. WHEN WAS THE DISCLOSURE MADE? (MO/DA/YR)</p> <p>2. TO WHOM (NAME AND TITLE) WAS THE DISCLOSURE MADE?</p> <p>3. DISCLOSURE OF INFORMATION EVIDENCED (check all that apply): <input type="checkbox"/> VIOLATION OF LAW, RULE, OR REGULATION <input type="checkbox"/> GROSS MISMANAGEMENT <input type="checkbox"/> GROSS WASTE OF FUNDS <input type="checkbox"/> ABUSE OF AUTHORITY <input type="checkbox"/> SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR SAFETY <input type="checkbox"/> NONE OF THE ABOVE</p> <p>4. WHAT PERSONNEL ACTION(S) OCCURRED, FAILED TO OCCUR, OR WAS THREATENED BECAUSE OF THE DISCLOSURE? (List all applicable personnel action numbers from pages 4-5).</p> <p>5. WHEN DID PERSONNEL ACTION(S) OR THREAT(S) OCCUR? (MO/DA/YR)</p>

KEEP A COPY OF THIS PAGE FOR YOUR RECORDS

MUST BE COMPLETED FOR ALL DISCLOSURES REPORTED IN THIS COMPLAINT

<p>C. WHAT INFORMATION WAS DISCLOSED? <i>(DESCRIBE NEXT WHISTLEBLOWER DISCLOSURE).</i></p> <p style="text-align: center; font-size: 2em;">NG</p>	<p>1. WHEN WAS THE DISCLOSURE MADE? (MO/DA/YR)</p> <p>2. TO WHOM (NAME AND TITLE) WAS THE DISCLOSURE MADE?</p> <p>3. DISCLOSURE OF INFORMATION EVIDENCED (check all that apply): <input type="checkbox"/> VIOLATION OF LAW, RULE, OR REGULATION <input type="checkbox"/> GROSS MISMANAGEMENT <input type="checkbox"/> GROSS WASTE OF FUNDS <input type="checkbox"/> ABUSE OF AUTHORITY <input type="checkbox"/> SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR SAFETY <input type="checkbox"/> NONE OF THE ABOVE</p> <p>4. WHAT PERSONNEL ACTION(S) OCCURRED, FAILED TO OCCUR, OR WAS THREATENED BECAUSE OF THE DISCLOSURE?</p> <p>5. WHEN DID PERSONNEL ACTION(S) OR THREAT(S) OCCUR? (MO/DA/YR)</p>
<p>D. WHAT INFORMATION WAS DISCLOSED? <i>(DESCRIBE NEXT WHISTLEBLOWER DISCLOSURE).</i></p> <p style="text-align: center; font-size: 2em;">NG</p>	<p>1. WHEN WAS THE DISCLOSURE MADE? (MO/DA/YR)</p> <p>2. TO WHOM (NAME AND TITLE) WAS THE DISCLOSURE MADE?</p> <p>3. DISCLOSURE OF INFORMATION EVIDENCED (check all that apply): <input type="checkbox"/> VIOLATION OF LAW, RULE, OR REGULATION <input type="checkbox"/> GROSS MISMANAGEMENT <input type="checkbox"/> GROSS WASTE OF FUNDS <input type="checkbox"/> ABUSE OF AUTHORITY <input type="checkbox"/> SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR SAFETY <input type="checkbox"/> NONE OF THE ABOVE</p> <p>4. WHAT PERSONNEL ACTION(S) OCCURRED, FAILED TO OCCUR, OR WAS THREATENED BECAUSE OF THE DISCLOSURE? (List all applicable personnel action numbers from pages 4-5).</p> <p>5. WHEN DID PERSONNEL ACTION(S) OR THREAT(S) OCCUR?</p>

KEEP A COPY OF THIS PAGE FOR YOUR RECORDS

MUST BE COMPLETED FOR ALL DISCLOSURES INCLUDED IN THIS COMPLAINT

3. If you are **not** the person who actually made a disclosure described in boxes A, B, C, D above, please check below to specify the disclosure involved, and provide the name, address, and telephone number of the person who made the disclosure, if known. *(If space is needed to identify more than one person, use Continuation Sheet at page 12.)*

Disclosure: A (C) B (C) C (C) D (C)

Name: *NA*

Address: _____

Telephone number: () _____ Ext. _____

4. Explain why you believe that the personnel action(s) listed above occurred because of the disclosure(s) that you described. *(Be as specific as possible about any dates, locations, names, and positions of all persons mentioned in your explanation. In particular, identify actual and potential witnesses, giving work locations and telephone numbers, if known. Attach a copy of any documents that support your statements. Please provide, if possible, a copy of the notification of the agency's proposal and/or decision about the personnel action(s) covered by your complaint. If more space is needed, continue on page 12.)*

See attached

5. What action would you like OSC to take in this matter (that is, what remedy are you asking for)?

See attached

PART 3: CONSENT TO CERTAIN DISCLOSURES OF INFORMATION

OSC asks everyone who files a complaint alleging a possible prohibited personnel practice or other prohibited activity to select one of three Consent Statements shown below. ***IF YOU DO NOT SELECT ONE OF THE THREE CONSENT STATEMENTS BELOW, OSC WILL ASSUME THAT YOU HAVE SELECTED CONSENT STATEMENT 1.*** Please: (a) select and sign (or check, if filing electronically) one of the Consent Statements below; and (b) keep a copy of the Consent Statement you select (as well as a copy of all documents that you send to OSC) for your own records.

If you initially select a Consent Statement that restricts OSC's use of information, you may later select a less restrictive Consent Statement. If your selection of Consent Statement 2 or 3 prevents OSC from being able to conduct an investigation, an OSC representative will contact you, explain the circumstances, and provide you with an opportunity to select a less restrictive Consent Statement.

You should be aware that the Privacy Act allows information in OSC case files to be used or disclosed for certain purposes, regardless of which Consent Statement you sign. See 5 U.S.C. § 552a(b). Information about certain circumstances under which OSC can use or disclose information under the Privacy Act appears on the next page.

(Please sign one)

Consent Statement 1

I consent to OSC's communication with the agency involved in my complaint. I agree to allow OSC to disclose my identity as the complainant, and information from or about me, to the agency if OSC decides that such disclosure is needed to investigate the allegation(s) in my complaint (for example, to request information from the agency, or seek a possible resolution through mediation or corrective action). I understand that regardless of the Consent Statement I choose, OSC may disclose information from my complaint file when permitted by the Privacy Act (including circumstances summarized in Part 5, below).

Complainant's Signature for Consent Statement 1

Date Signed

Consent Statement 2

I consent to OSC's communication with the agency involved in my complaint, but I do not agree to allow OSC to disclose my identity as the complainant to that agency. I agree to allow OSC to disclose only information from or about me, without disclosing my name or other identifying information, if OSC decides that such disclosure is needed to investigate the allegation(s) in my complaint (for example, to request information from the agency, or seek a possible resolution through mediation or corrective action). I understand that in some circumstances (for example, if I am complaining about my failure to receive a promotion), OSC could not maintain my anonymity while communicating with the agency involved about a specific personnel action. In such cases, I understand that this request for confidentiality might prevent OSC from taking further action on my complaint. I also understand that regardless of the Consent Statement I choose, OSC may disclose information from my complaint file when permitted by the Privacy Act (including circumstances summarized in Part 5, below).

Complainant's Signature for Consent Statement 2

Date Signed

Consent Statement 3

I do not consent to OSC's communication with the agency involved in my complaint. I understand that if OSC decides that it cannot investigate the allegation(s) in my complaint without communicating with that agency, my lack of consent will probably prevent OSC from taking further action on the complaint. I understand that regardless of the Consent Statement I choose, OSC may disclose information from my complaint file when permitted by the Privacy Act (including circumstances summarized in Part 5, below).

Complainant's Signature for Consent Statement 3

Date Signed

PART 4: CERTIFICATION AND SIGNATURE

I certify that all of the statements made in this complaint (including any continuation pages) are true, complete, and correct to the best of my knowledge and belief. I understand that a false statement or concealment of a material fact is a criminal offense punishable by a fine of up to \$250,000, imprisonment for up to five years, or both. 18 U.S.C. § 1001.

Signature

Date Signed

PART 5: PRIVACY ACT / PAPERWORK REDUCTION ACT STATEMENTS

Routine Uses. Limited disclosure of information from OSC files is needed to fulfill OSC's investigative, prosecutorial, and related responsibilities. OSC has described 18 routine uses for information in its files in the *Federal Register* (F.R.), at 66 F.R. 36611 (July 12, 2001), and 66 F.R. 51095 (October 5, 2001). A copy of the routine uses is available from OSC upon request. A summary of the routine uses appears below.

OSC may disclose information from its files in the following circumstances:

1. to disclose that an allegation of prohibited personnel practices or other prohibited activity has been filed;
2. to disclose information to the Office of Personnel Management (OPM) as needed for inquiries involving civil service laws, rules or regulations, or to obtain an advisory opinion;
3. to disclose information about allegations or complaints of discrimination to entities concerned with enforcement of antidiscrimination laws;
4. to the MSPB or the President, when seeking disciplinary action;
5. to the involved agency, MSPB, OPM, or the President when OSC has reason to believe that a prohibited personnel practice has occurred, exists, or is to be taken;
6. to disclose information to Congress in OSC's annual report;
7. to disclose information to third parties as needed to conduct an investigation; obtain an agency investigation and report on information disclosed to OSC's whistleblower disclosure channel; or to give notice of the status or outcome of an investigation;
8. to disclose information as needed to obtain information about hiring or retention of an employee; issuance of a security clearance; conduct of a security or suitability investigation; award of a contract; or issuance of a license, grant, or other benefit;
9. to the Office of Management and Budget (OMB) for certain legislative coordination and clearance purposes;

10. to provide information from an individual's record to a congressional office acting pursuant to the individual's request;
11. to furnish information to the National Archives and Records Administration for records management purposes;
12. to produce summary statistics and work force or other studies;
13. to provide information to the Department of Justice as needed for certain litigation purposes;
14. to provide information to courts or adjudicative bodies as needed for certain litigation purposes;
15. to disclose information to the MSPB as needed in special studies authorized by law;
16. for coordination with an agency's Office of Inspector General or comparable entity, to facilitate the coordination and conduct of investigations and review of allegations;
17. to news media or the public in certain circumstances (except when the Special Counsel determines that disclosure in a particular case would be an unwarranted invasion of personal privacy); and
18. to the Department of Labor and others as needed to implement the Uniformed Services Employment and Reemployment Rights Act of 1994, and the Veterans' Employment Opportunities Act of 1998.

If OSC officials believe that disclosure may be appropriate in a situation not covered by one of OSC's routine uses, or one of the 11 other exceptions to the Privacy Act's general prohibition on disclosure, OSC will seek written authorization from the complainant permitting the disclosure.

Purposes, Burdens, and Other Information. An agency may not conduct or sponsor a collection of information, and persons may not be required to respond to a collection of information, unless it: (a) has been approved by OMB, and (b) displays a currently valid OMB control number. The information in this form is collected pursuant to OSC's legal responsibility to investigate: (a) allegations of prohibited personnel practices, 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 (5 U.S.C. § 1214); and (b) other allegations of prohibited activity (5 U.S.C. § 1216). The information will be reviewed by OSC to determine whether the facts establish its jurisdiction over the subject of the complaint, and whether further investigation and corrective or disciplinary action is warranted. The reporting burden for this collection of information is estimated to be an average of one hour and 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the form. Please send any comments about this burden estimate, and suggestions for reducing the burden, to the Office of Special Counsel, Legal Counsel and Policy Division, 1730 M Street, N.W. (Suite 218), Washington, DC 20036-4505. Use of this form to file a complaint alleging a prohibited personnel practice or other prohibited activity is required; use of this to file a complaint alleging only a Hatch Act violation is not required. 5 C.F.R. § 1800.1(d), as amended. As stated in Part 3 of this form, complainants may request that OSC maintain their name, and information provided by them, in confidence.

CONTINUATION SHEET

<i>Part No.</i>	<i>Item/Question No.</i>	<i>Response Continuation</i>
<input type="text"/>	<input type="text"/>	<i>See attached</i>
<input type="text"/>	<input type="text"/>	
<input type="text"/>	<input type="text"/>	
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**KEEP A COPY OF THIS PAGE FOR YOUR RECORDS IF YOU ARE
ALLEGING
REPRISAL FOR WHISTLEBLOWING**

Part 2 (A) What information was disclosed?

Engineer Carson's 17 page-long whistleblower disclosure to his chain of command in the Department of Energy of September 11, 2018 details "what information was disclosed." Engineer Carson incorporates his September 11, 2018 whistleblower disclosure into this complaint, which contains a restatement and elaboration on his many years-long public claims of decades-long, compounded, continuing, civilization-threatening law-breaking in the US Office of Special Counsel (OSC) and US Merit Systems Protection Board (MSPB).

Engineer Carson's whistleblower disclosure cites about dozen specific laws he claims OSC and MSPB are violating. It claims that this combined, compounded, continuing law-breaking on the part of OSC and MSPB preclude the Secretary of Energy from compliance with his primary statutory duty to DOE employees - to "prevent prohibited personnel practices" - meaning he is VIOLATING his primary statutory duty to DOE employees, thereby putting civilization at unnecessary increased risk of a nuclear 9/11, given DOE singular duties for nuclear weapons materials, in America and around the world.

Mr. Carson make a similar claim for President Trump - that the combined, compounded, continuing law-breaking at OSC and MSPB preclude him from compliance with this primary statutory duty to over 2 million federal agency employees - to "take any action necessary" to ensure federal agency employment "embodies" the merit principles (which, as MSPB has explicitly acknowledged, requires federal employees to be adequately protected from reprisal and other types of prohibited personnel practices).

The law does not allow an agency employee to make a whistleblower reprisal complaint against the President, while it does allow them to make one against their agency head. In this complaint, Engineer Carson claims whistleblower reprisal against him by his chain of command in the Department of Energy, up to the Secretary of Energy.

Additionally, Engineer Carson claimed, in his September 11, 2018 memo (pages 3-4), that DOE attorneys had colluded/conspired to engage in reprisal against him in the 1999-2003 time period and then betrayed their oaths to their profession and federal civil service by doing something attorneys representing heads of drug cartels cannot or will not do - hide their law-breaking behind attorney-client privilege.

Engineer Carson realizes that Congress did not anticipate such extraordinary agency malfeasance in creating the statutory scheme to protect federal employees from reprisal - not in the Pendleton Act of 1883, not in the Civil Service Reform Act of 1977, nor the Federal Whistleblower Protection Act of 1989. However, OSC has the legal tools of subpoena, recently reinforced by law, to pierce this veil of attorney-client privilege and determine whether agency attorneys willfully conspired or colluded with agency managers and personal specialists to engage in

reprisal against an agency employee and then used attorney-client privilege to prevent exposure of their law-breaking. If OSC makes such a determination, it will be the first time in the history of the federal civil service, since its creation by the Pendleton Act of 1883, that such extraordinary agency corruption has been uncovered.

(A)(1) - When was the disclosure made:

Engineer Carson has been making these whistleblower disclosures for many years, as detailed in his whistleblower disclosure of September 11, 2018. To his knowledge, no one, anywhere, now claims he “lacks reasonable belief” in them. Instead, it seems to Engineer Carson that everyone, everywhere, who has a responsibility to do other than bystand to his whistleblower disclosures, lacks the moral courage to do other than bystand.

(A)(2) - To Whom Was the Disclosure Made:

Engineer Carson made this disclosure to his chain of command, up to Secretary Perry. This includes: his Branch Director, Chelsea Hubbard, his Division Director, Larry Perkins; his Office Manager, Jay Mullis; the Assistant Secretary for Environmental Management, Ann Marie White; and the Secretary of Energy, Rick Perry.

(A)(4) - What personnel actions occurred, failed to occur, or was threatened because of the disclosure.

The “catch-all” personnel action of “any other significant change in working conditions - 5 U.S.C. §2302(a)(2)(A)(xii).

Engineer Carson’s chain of command, to this point, is ignoring his whistleblower disclosures - they will not, to this point, even talk to him about them, despite his requests. ¹

The National Defense Authorization Act for Fiscal Year 2018, Pub. L. 115-91 also re-authorizes OSC, in section 1097. Section 1097(d), “Protection of Whistleblowers as Criteria in Performance Appraisals,” explicitly requires Engineer Carson’s supervisors to do other than bystand to his whistleblower disclosures, but bystand they continue to do. ²

This new law, requiring federal agency supervisors to do other than bystand to the whistleblower disclosures of their subordinates, resulted from November 2011 MSPB “Special Study” on

¹ See the two attached related email strings between Engineer Carson and the Manager of Oak Ridge Office of Environmental Management, Jay Mullis as part of this complaint.

² Engineer Carson’s supervisors in Oak Ridge have yet to tell him, despite his repeated asking, whether their FY 19 performance plans: 1) are implemented and/or 2) contain this new, critical, performance element, as now required by 5 U.S.C. §4302(b).

“Barriers to Whistleblowing,” which identified a top barrier to making whistleblower disclosures in federal agencies was the fear that the employee’s supervisors would bystand to them.³

Additionally, testimony from leaders of MSPB and OSC in subsequent Congressional hearing underscored the importance of federal agency supervisors doing other than bystand to the whistleblower disclosures of their subordinates.

There is no precedent at MSPB as to whether the bystanding of supervisors to the whistleblower disclosures of their subordinates can, in any circumstances, create the personnel action of “any other significant change in their working conditions.” However, by this new law, it seems clear that it can - why else would a critical element be placed in their performance plan, requiring them to do other than bystand to the whistleblower disclosures of their subordinates, if their bystanding would not be a barrier to their subordinates making whistleblower disclosures, thereby creating, by definition, “any other significant change to their working conditions?”⁴

A(5) When did the personnel action occur?

It is ongoing.

Part II (4) - Explain why you believe that the personnel action listed above occurred because of the disclosure that you described:

Engineer Carson made the whistleblower disclosures, his supervisors, to this point, bystand to it, contrary to law and their professional duty, creating a barrier to whistleblowing - by definition, a “significant change to (his) working conditions.”

Part II (5) - What action would you like OSC to take in this matter (that is, what remedy are you asking for)?

OSC can do a number of things, but it would take a moral courage Engineer Carson has yet to see of anyone at OSC, in his over quarter-century of interacting with it.

³ the associated press release from MSPB is attached as an exhibit to this complaint and is available at

<https://www.mspb.gov/MSPBSEARCH/viewdocs.aspx?docnumber=662550&version=664522&application=ACROBAT>

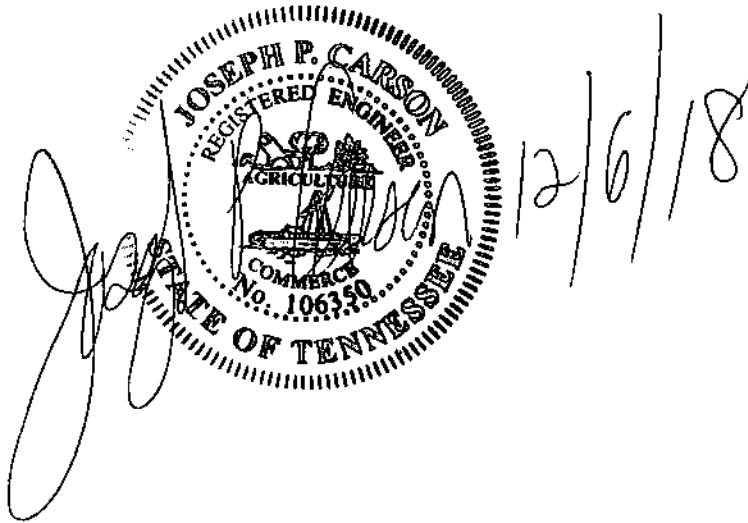
⁴ By applying the reasoning of a Supreme Court decision in a private sector EEO retaliation case, Burlington North. & Santa Fe Ry. Co. v. White, 126 S.Ct. 2405 (2006), anything that would dissuade an employee from making a protected disclosure or engaging in protected activity - such as the bystanding of supervisors to the whistleblower disclosures of a subordinate, is a significant change in working conditions.

- 1) Find the moral courage to stop bystanding to Engineer Carson's whistleblower disclosures of OSC and MSPB law-breaking - formally determine as part of your investigation of this complaint that he has at least "reasonable belief" in them.
- 2) Find the moral courage to stop bystanding to Engineer Carson's whistleblower disclosures of OSC and MSPB law-breaking - formally REQUEST the Attorney General to issue an opinion regarding the interpretation of the involved civil service statutes.
- 3) Find the moral courage to stop bystanding to Engineer Carson's whistleblower disclosures of OSC and MSPB law-breaking - comply with your statutory duties to him and explicitly determine whether or not there is "reasonable grounds to believe" that the bystanding of his supervisors to his whistleblower disclosures is a "significant change in my working conditions" and, therefore, unlawful whistleblower reprisal.
- 4) Find the moral courage to determine whether Engineer Carson's supervisors are violating their critical performance element requiring them to do other than bystand to his whistleblower disclosures.
- 5) Find the moral courage to investigate, using OSC's recently strengthened subpoena power to pierce the "attorney-client privilege" veil, Engineer Carson's whistleblower disclosure that DOE attorneys used "attorney-client privilege" to evade exposure of their colluding/conspiring with DOE managers and personnel specialists to engage in reprisal against him in the 1999-2003 time period.
- 6) Find the moral courage to advocate to Department of Energy Secretary Rick Perry, just as have a number of other stakeholders to a trustworthy federal civil service, that he DIRECT the Attorney General to issue opinions on the interpretation of the involved civil service statutes.⁵

⁵ Their letter of November 7, 2018 is attached as part of this complaint.

Exhibits to Whistleblower Reprisal Complaint of Joseph Carson, PE, which he incorporates into his complaint

1. His whistleblower disclosure of September 11, 2108
2. Two email strings with Jay Mullis about meeting to discuss his whistleblower disclosures
3. Letter of November 7, 2018 from stakeholder Groups to Secretary of Energy Rick Perry about Engineer Carson's whistleblower disclosures
4. MSPB press release of November 14, 2011 about its "Special Study" on "Barriers to Whistleblowing."
5. Email from Joseph Carson, PE, to Larry Perkins, his second level supervisor of 12/03/2018 (Mr. Perkins was acting for Chelsea Hubbard, his first level supervisor). As of COB on 12/06/2018, Mr. Carson received no response from Mr. Perkins. However, Virginia Grebasch, the Department of Energy Whistleblower Protection Coordinator, informed Mr. Carson that she understood all supervisors in the Department of Energy would have the new performance element in their FY19 performance plans.



12/6/18

Carson, Joseph P.

From: Mullis, Jay
Sent: Friday, November 09, 2018 8:38 AM
To: Carson, Joseph P.
Cc: Hubbard, Chelsea D; Perkins, Larry D; Mullis, Jay
Subject: RE: request meeting per open-door scwe policy

Joe,

As I stated in my previous reply to your request to meet on this particular topic, I do not believe there is any reason for us to meet. Again, I appreciate you bringing your concerns to my attention; however, the matter that you wish to meet with me about does not relate to or identify a particular person, place, or thing that demonstrates a specific danger to health, safety, or the environment that is within my authority as OREM manager to potentially resolve. Accordingly, I am declining your request to meet to discuss this particular concern.

Jay

Jay Mullis
Manager
Oak Ridge Office of Environmental Management
United States Department of Energy
865-241-3706 (o)
865-201-3952 (c)



From: Carson, Joseph P.
Sent: Wednesday, November 07, 2018 3:25 PM
To: Mullis, Jay <Jay.Mullis@orem.doe.gov>
Cc: Hubbard, Chelsea D <Chelsea.Hubbard@orem.doe.gov>; Perkins, Larry D <LarryD.Perkins@orem.doe.gov>
Subject: request meeting per open-door scwe policy

Dear Mr. Mullis,

Per my understanding of the OREM open door policy, I request a meeting to discuss my plans to obtain a "reasonable belief" determination of my years-long, public claims, of decades-long, compounded, continuing, law-breaking in US Office of Special Counsel and US Merit Systems Protection Board.

As you know, I suspect (I think with at least reasonable evidence) that DOE attorneys, likely including Don Thress and Eric Fygi, conspired/colluded to engage in reprisal against me in 1999-2001 period and then used "attorney-client privilege" to protect themselves. If my suspicions are correct (and no DOE attorney has taken exception to them to my knowledge), then they betrayed everything they claim to stand for as lawyers, federal agency employees and Americans.

I hope to finalize the attached group letter to DOE Secretary Perry in next few days. After it goes out, based on the results (or lack thereof) in obtaining an objective resolution of my whistleblower disclosures, I may file a related

whistleblower reprisal complaint with OSC, based on my 9/11/18 whistleblower disclosure (also attached) which DOE has apparently ignored. If OSC refuses to make a "reasonable belief" determination about my underlying whistleblower disclosures (or request that the attorney general review the contested laws), I will possibly send out a mass email to my colleagues in DOE, calling out my chain of command for its lack of moral courage and integrity in protecting the public health, safety, and security. Basically, I'll be prodding DOE to take a clearly defined personnel action against me, so I can appeal it and, hopefully, finally get a "reasonable belief" determination about my claims of OSC/MSPB law-breaking. In my opinion, the system is broken when such extreme actions are necessary to get a resolution to good-faith whistleblower disclosures of such wide-reaching import.

I'll be 65 in a few months, I have been and am enjoying a privileged and pleasant life by any objective measure. However, I'm not optimistic those born in 2018 will get to die natural deaths, not given the unprecedented collective challenges facing our unprecedented global civilization. So on I trudge, trying to improve the odds civilization sustains, more or less intact, to year 2100 and beyond. So if it costs me my job to pursue a peaceful and lawful resolution of my whistleblower disclosures, so be it. I am composed to paying a high price to do my duty – as a PE, federal agency employee, American, Christian, and crew member of planet earth - to expose and end what I now consider to normalized institutional evil – or obtain a determination that my claims are not at least reasonably evidenced.

Respectfully,

Joseph Carson, PE
Facility Oversight Branch, EM-931
Oak Ridge Office of Environmental Management (OREM)
Office: 865-576-1478
Cell/Text: 865-300-5831
E-mail: Joseph.Carson@orem.doe.gov

Carson, Joseph P.

From: Carson, Joseph P.
Sent: Wednesday, September 26, 2018 5:01 PM
To: Mullis, Jay
Cc: Thress, Don Frederick; Skubel, Stephen (HQ); Perkins, Larry D; DeMonia, Brian Craig; Hubbard, Chelsea D; cmcmullen@osc.gov; sandra.dalton@ettp.doe.gov; 'Kenneth.Rueter@ettp.doe.gov'
Subject: RE: Joseph Carson, PE, whistleblower disclosures of violations of OREM/UCOR joint SCWE policy
Attachments: SCWEpolicy.pdf

Hi Jay,

I appreciate your consideration of my request. Thank you.

However, I hope you will reconsider your decision or direct me elsewhere to get an objective resolution of my whistleblower disclosure/concern. MSPB determined that OSC's position that it lacked statutory authority to receive, evaluate and refer whistleblower disclosures from DOE contractor employees, per 5 USC section 1213(g)(1), is legally incorrect – it has that authority, even as it still apparently denies having it. I did not propose that Secretary Perry or others in DOE/DOE contractors "demand" OSC refer whistleblower disclosures it receives from DOE contractor employees. I proposed that Secretary Perry request OSC make liberal use of its statutory discretion to do so.

From the joint OREM/UCOR policy statement on SCWE (it is attached):

All members of the OREM and UCOR leadership team, up to and including the OREM Manager and the UCOR President and Project Manager, have an open door policy, especially pertaining to safety.

Employees have, and are encouraged and expected to use, multiple venues to express safety concerns. These include, but are not limited to, their management chain and Employee Concerns.

....The OREM/UCOR leadership team will address and resolve issues and concerns in a timely manner while exhibiting behaviors that foster employee confidence to raise concerns.

To my knowledge, the 1213(g)(1) whistleblower disclosure venue offers a concerned DOE contractor employee a singular combination of attributes, including:

1. No other disclosure mechanism provides a statutory mandated confidentiality to the whistleblower on the part of party (OSC) that is a separate federal agency. (5 USC section 1213(h))
2. OSC can receive classified whistleblower disclosures of the highest classification (compartmentalized) and involving foreign intelligence and counter-intelligence (5 USC section 1213(a)(2) and (j))
3. If OSC refers such a whistleblower disclosure to DOE, then the Sec. of Energy must respond and the response becomes a permanent, publicly available record. (5 USC section 1219(a)(4), and
4. If OSC does not refer the whistleblower disclosure, it will tell the whistleblower, who can then try another disclosure mechanism.

I realize that you are the manager of OREM, but if Secretary Perry were to request OSC to make "liberal" use of its statutory discretion to receive, evaluate and refer whistleblower disclosures from DOE contractor employees, it could have implications for public health, safety, security and welfare far beyond OREM.

DOE is singular in federal agencies in its dependence on contractors, including for the security of America's nuclear stockpile, its role as lead federal agency for securing nuclear weapons materials around the world, its role in nuclear non-proliferation and counter-proliferation. DOE's environmental remediation program is the largest, by far, of any and all other federal agencies, which is the third largest financial liability of the US Government. DOE's environmental restoration program is also, according to GAO, "high risk" – and has been for many years now. DOE's challenges with environment, safety, health and security still manifest regularly with sick, contaminated, or injured workers.

Secretary Perry made a video about SCWE for the complex, it is available at: <https://www.energy.gov/safety-culture/doe-safety-culture>. I think his requesting OSC make "liberal" use of its statutory discretion to refer DOE contractor whistleblower disclosure is consistent with his message about SCWE. OSC is essentially a conduit in this role, so such a request would not make much work for it. OSC, if requested, would possibly allow Secretary Perry to delegate the responsibility to respond to such disclosures too.

Finally, if Secretary Perry made such a request, it might encourage heads of other agencies to do so too. Could the unfolding TVA contractor employee health and safety disaster at the fly ash spill clean-up been prevented if one of the safety professionals or technicians there were able to use this mechanism? I certainly think so.

Thank you again for your attention to my concern.

Respectfully,

Joseph Carson, PE
Facility Oversight Branch, EM-931
Oak Ridge Office of Environmental Management (OREM)
Office: 865-576-1478
Cell/Text: 865-300-5831
E-mail: Joseph.Carson@orem.doe.gov

From: Mullis, Jay
Sent: Monday, September 24, 2018 7:49 AM
To: Carson, Joseph P. <Joseph.Carson@orem.doe.gov>
Cc: Thress, Don Frederick <Don.Thress@Science.doe.gov>; Skubel, Stephen (HQ) <stephen.skubel@hq.doe.gov>; Perkins, Larry D <LarryD.Perkins@orem.doe.gov>; DeMonia, Brian Craig <Brian.DeMonia@orem.doe.gov>; Hubbard, Chelsea D <Chelsea.Hubbard@orem.doe.gov>; cmcmullen@osc.gov; sandra.dalton@ettp.doe.gov; 'Kenneth.Rueter@ettp.doe.gov' <Kenneth.Rueter@ettp.doe.gov>; Mullis, Jay <Jay.Mullis@orem.doe.gov>
Subject: RE: Joseph Carson, PE, whistleblower disclosures of violations of OREM/UCOR joint SCWE policy

Joe,

Allow me to make it very clear that as the OREM Manager I remain steadfast in my commitment to ensuring that all activities undertaken by OREM employees are done so in a compliant and safe manner. I encourage all OREM employees to meet with me or any member of the management staff in order to promptly report all instances in which they perceive a specific and tangible threat to health, safety, and/or the environment, including to one's fellow co-workers, contractor employees, or the public at large. This includes behavior or activities that may potentially be illegal, fraudulent, or an abuse of position/authority. Likewise, employees of DOE contractors are encouraged to come forward with information that they in good faith believe evidences unsafe, unlawful, fraudulent, or wasteful practices at DOE

facilities. Employees providing such information are entitled to protection by 10 CFR Part 708 from consequent discrimination by their employers with respect to compensation, terms, conditions, or privileges of employment.

I appreciate you bringing your concerns to my attention; however, the matter that you wish to meet with me about, i.e., demanding the Office of Special Counsel exercise its lawful discretion to accept disclosures from contractor and subcontractor employees, does not relate to or identify a particular person, place, or thing that demonstrates a specific danger to health, safety, or the environment that is within my authority as OREM manager to potentially resolve. Accordingly, there does not appear to be any reason for us to meet regarding this particular concern.

Jay

Jay Mullis
Manager
Oak Ridge Office of Environmental Management
United States Department of Energy
865-241-3706 (o)
865-201-3952 (c)



From: Carson, Joseph P.

Sent: Friday, September 14, 2018 11:21 AM

To: 'Kenneth.Rueter@ettp.doe.gov' <Kenneth.Rueter@ettp.doe.gov>; Mullis, Jay <Jay.Mullis@orem.doe.gov>

Cc: Thress, Don Frederick <Don.Thress@Science.doe.gov>; Skubel, Stephen (HQ) <stephen.skubel@hq.doe.gov>; Perkins, Larry D <LarryD.Perkins@orem.doe.gov>; DeMonia, Brian Craig <Brian.DeMonia@orem.doe.gov>; Hubbard, Chelsea D <Chelsea.Hubbard@orem.doe.gov>; cmcmullen@osc.gov; sandra.dalton@ettp.doe.gov

Subject: Joseph Carson, PE, whistleblower disclosures of violations of OREM/UCOR joint SCWE policy

Dear Mr. Rueter and Mr. Mullis,

I am making a whistleblower disclosure that you are both in violation of the OREM/UCOR joint Safety Conscious Work Environment Policy Statement of January 2018, which you both signed and which is widely posted at ETPP.

The attached, final, decision of the US Merit Systems Protection Board at paragraphs 2, 4, 8, 9, 10, 11 and footnotes 5 and 6, make clear that the US Office of Special Counsel (OSC), without question, **HAS** the statutory discretion to receive, evaluate, and refer to the Secretary of Energy - thereby requiring him to respond with a permanent, publicly, available record (see 5 USC 1219(a)(5)), whistleblower disclosures from UCOR employees (and UCOR subcontractor employees), per 5 U.S.C. section 1213(g)(1).

Despite this, if you call Catherine McMullen, Chief of OSC whistleblower disclosure unit at (202) 804-7000 or (800) 872-9855 or email her at cmcmullen@osc.gov (I am copying her with this email), she will tell you that OSC is prohibited by law (as OSC still interprets the law) from receiving, evaluating, or referring such disclosures. If this is not the case, then why has UCOR and DOE not requested OSC to make liberal use of its statutory discretion to receive, evaluate, and refer such concerns from UCOR employees and subcontractor employees, given the words of your SCWE policy?

I have been bringing this concern forward for many years now. My reward? An August 2013 reprimand based on the false, unfounded, and baseless claims of the UCOR employee concerns manager Sandra Dalton alleging misconduct on my part in an unwitnessed meeting between us. My counter-claim remains unevaluated – her misconduct against me

was her response to my telling her, just as I am telling you, that you have a duty to do other than bystand to this concern (unlike her, I am letting her know about my claims of her misconduct directly, by copying her with this.)

I respectfully request a meeting with each of you, per the "open door" pledge of the your SCWE policy, to discuss this whistleblower disclosure.

Respectfully,

Joseph Carson, PE
Facility Oversight Branch, EM-931
Oak Ridge Office of Environmental Management (OREM)
Office: 865-576-1478
Cell/Text: 865-300-5831
E-mail: Joseph.Carson@orem.doe.gov

November 7, 2018

Honorable Rick Perry
Secretary of Energy
1000 Independence Avenue, SW
Washington, DC 20585
The.Secretary@hq.doe.gov

Subject: Request for Your Direct Involvement in Resolving the Whistleblower Disclosures of Joseph P. Carson, PE

Dear Secretary Perry,

We understand you are an advocate for a “safety conscious work environment (SCWE)” in the Department of Energy (DOE).¹ We understand you have a positive statutory duty for “preventing (reprisal and other types of) prohibited personnel practices (PPPs)” in DOE.² We understand that as of October 1, 2018, the annual performance plan of supervisors in DOE includes a new critical element about their advocacy for resolution for their subordinates’ whistleblower disclosures.³

We also understand that a long-time DOE employee, Joseph P. Carson, PE, has been making whistleblower disclosures for over 15 years that, contrary to law, rule or regulation, DOE does not have an adequate SCWE; you, as your predecessors, have no objective basis to claim you are “preventing PPPs” because DOE employees are adequately protected from them; and his supervisors have been bystanders to his concerns and engaged in reprisal against him for making them.⁴

We understand this is now undisputed: 1) Mr. Carson’s whistleblower disclosures involve the interpretation of approximately a dozen civil service statutes, there are no disputed facts, and 2) no one is now apparently claiming Mr. Carson lacks reasonable belief in his whistleblower disclosures.

We understand you have the undisputed legal authority, as the head of an Executive Department, to direct the Attorney General to issue, on behalf of the Executive Branch, binding opinions on the interpretation of these disputed civil service laws.⁵

We understand if you fail or refuse to do this, Mr. Carson intends to force the matter, by publicly claiming his supervisors are violating their duties and lack the commitment and/or moral courage to protect the public and workplace health and safety as their positions require. He will take this

¹ Your two minute long video address about "safety culture" in DOE is available at <https://www.energy.gov/safety-culture/doe-safety-culture>.

² 5 U.S.C. §2302(c)(2)(A)

³ 5 U.S.C. §4302(b)

⁴ See www.merit-principles.org and, in particular, Mr. Carson whistleblower disclosure of 9/11/18.

⁵ 28 U.S.C. §512

action in order to spur a disciplinary action against him, so he will have an opportunity to demonstrate, in a resultant whistleblower reprisal appeal, that he has at least “reasonable belief” in his whistleblower disclosures.

For all the above reasons, we, stakeholders to a trustworthy federal civil service and DOE, respectfully call upon you to take the necessary actions to obtain an objective resolution of Mr. Carson’s whistleblower disclosures.⁶

Respectfully,

Tom Devine, Legal Director
Government Accountability Project
www.whistleblower.org

Steve Kohn, Executive Director
National Whistleblower Center
www.whistleblowers.org

Tom Carpenter, Executive Director
Hanford Challenge
www.hanfordchallenge.org

Dr. Zena Crenshaw, Executive Director
National Judicial Conduct Disability Law
Program, Inc.
www.njcdlp.org

David Williams, President
Taxpayers Protection Alliance
www.protectingtaxpayers.org/

Police Chief Gordon L. Wiborg, Jr. (ret),
Administrator
Golden Badge (Law Enforcement
Whistleblower Support)
<http://goldenbadge.tumblr.com/>

Dr. Sandra Nunn, Acting Director
Drum Majors for Truth
www.dm4t.org

Sarah Roche, Creative Director
Theatre for Justice
www.t4j.co

Gerald Rose, Founder & CEO
New Order National Human Rights
Organization
www.nonhro.org

Dr. Andrew D. Jackson, Co-Administrator
The Third Degree featuring Opt IN USA
www.thethirddegree.net

⁶ Samantha Feinstein at the Government Accountability Project samanthaf@whistleblower.org can be contacted about this letter.



U.S. MERIT SYSTEMS PROTECTION BOARD



Contact: Annette Butler
(202) 254-4496
V/TDD 1-800-877-8339
(Federal Relay Service)

FOR IMMEDIATE RELEASE
November 14, 2011

MSPB Reports Progress for Whistleblowers, but More Can be Done

There are laws in place to protect Federal whistleblowers from retaliatory personnel actions. However, according to a recent report issued by the U.S. Merit Systems Protection Board (“MSPB”), titled *Blowing the Whistle: Barriers to Federal Employees Making Disclosures*, a fear of retaliation may not be the biggest barrier to employees blowing the whistle. The report contains the results of a recent survey of Federal employees conducted by the MSPB.

The survey data indicate that the most important factor for employees when deciding whether to report wrongdoing is not the personal consequences for the employee. Saving lives was more important to survey respondents than whether they would experience punishment or a reward, and whether the agency would act on a report of wrongdoing mattered more than any fear of an unpleasant consequence for the employee making the report.

“This is an important finding,” explains Chairman Susan Tsui Grundmann, “because it means that agencies have the power to make a difference. If an agency creates a culture where its employees believe that management wants to be told about wrongdoing and will address issues raised by the employees, then the employees are more likely to report it.” The MSPB report notes that it is better for both the agency and the public if wrongdoing is addressed early, and the agency’s culture is a critical factor in achieving this.

MSPB based its survey questions, in part, on a survey that it conducted in 1992 and the report offers a look at the environment for Federal whistleblowers now and then.

MSPB's data indicate that since 1992, the percentage of employees who perceive any wrongdoing has decreased; and for those who perceive wrongdoing, the frequency with which they observe the wrongdoing has also decreased. However, among those individuals who indicated that they reported wrongdoing and were identified as the source of the report, perceptions of retaliation remained a serious problem with approximately one-third of such respondents in both 1992 and 2010 perceiving either threats or acts of reprisal, or both.

According to Chairman Grundmann, "this report shows that there has been progress in reducing fraud, waste, and abuse in the Government, but it also shows that more needs to be done to create a safe environment for employees to report wrongdoing. This includes making certain that employees receive training about how they can disclose wrongdoing and how they can exercise their rights if they perceive that they have experienced or been threatened with retaliation for making a protected disclosure.

This report is one in a series of reports that MSPB is undertaking under its studies authority to draw attention to the prohibited personnel practices (PPPs) and merit systems principles. In addition to this new report, MSPB recently released reports on whistleblower rights and prohibited personnel practices. MSPB is currently working on a study of employee perceptions related to the merit system principles. MSPB studies are available at no cost on its website at www.mspb.gov/studies.

MSPB is an independent, quasi-judicial agency that protects Federal merit systems and the rights of individuals within those systems. MSPB also conducts studies of the civil service and other merit systems in the Executive Branch. To request a printed copy of this report, e-mail studies@mspb.gov; call (202) 254-4802, extension 4802 or write to: Merit Systems Protection Board, Office of Policy and Evaluation, 1615 M Street NW, Washington, DC 20419. MSPB studies are also available on the web at www.mspb.gov/studies.

Carson, Joseph P.

From: Carson, Joseph P.
Sent: Monday, December 03, 2018 11:14 AM
To: Perkins, Larry D
Cc: Hubbard, Chelsea D; Mullis, Jay; Grebasch, Virginia (HQ)
Subject: still draft Joe Carson whistleblower reprisal complaint to OSC
Attachments: osc-complaint-perry-1202.pdf

Larry,

This is still draft as I would like to know before I submit it whether the performance element now required by law for DOE supervisors has been implemented for you and/or Chelsea. Please let me know. Otherwise, I will edit a bit and submit to OSC later this week.

Also, if you are aware of any factual accuracy issues with the complaint, I would prefer to resolve them before I submit it.

My objective is to obtain a "reasonable belief" determination about my whistleblower disclosures as a result of this complaint to OSC and/or their objective resolution because the Attorney General issues opinions on the interpretation of the disputed civil service laws

If OSC determines that the bystanding of my supervisory chain to my whistleblower disclosure is not a personnel action and, using that as a pretext, refuses to make a "reasonable belief" determination about my whistleblower disclosures – and the Attorney General does not issue opinions on the interpretation of the laws, then I will likely make a whistleblower disclosure to everyone in OREM, taking open issue with the competency and fidelity of my supervisory chain in DOE, openly challenging them to take a disciplinary action against me so that OSC cannot use that pretext to evade making a "reasonable belief" determination about my whistleblower disclosure.

I hope it does not have to come to that - but I really, truly, do think America/civilization are now at unnecessarily increased risk of a nuclear 9/11 or other catastrophe because of the OSC/MSPB law-breaking I allege. Please understand.

Respectfully,

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