

March 26, 2019

President Donald J. Trump
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Attention: Mr. Pat Cipollone, White House Counsel

Copy:

Honorable Rick Perry, Secretary of Energy, Department of Energy
Honorable Henry Kerner, Special Counsel, US Office of Special Counsel
Tristan Leavitt, Acting Executive Director, US Merit Systems Protection Board

Subject: Whistleblowing and a Trustworthy Federal Civil Service

Dear President Trump,

Your attention is needed with respect to events within the Executive branch. We respectfully request that you direct the Attorney General to issue opinion letters as to how the civil service statutes cited in the September 11, 2018 whistleblower disclosure of Joseph Carson, PE are to be interpreted.¹ Mr. Carson's disclosure has gone unaddressed because the law is not being executed. The Attorney General's attention can correct that failure of enforcement.²

We understand that the Chief Executive's primary statutory duty to the two million members of the Federal civil service is "to take any action necessary so that the Federal civil service embodies the merit principles."³ A federal civil service that "embodies the merit principles" is one in which federal agency employees obtain a timely and objective resolution of their good-faith, reasonably evidenced, concerns while being adequately protected from reprisal and other prohibited personnel practices (PPPs).⁴

¹ Mr. Carson is a nuclear safety engineer in the Department of Energy. He alleges the U.S. Office of Special Counsel (OSC) is violating, in whole or part, the following statutes: 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 Engr. Carson alleges U.S. Merit Systems Protection Board MSPB is violating, in whole or part, 5 U.S.C. §1204(a)(3). See www.merit-principles.org and <https://whsknox.blogs.com/2018/carson-whistleblower-disclosure-9-11-18.pdf>.

² 28 U.S.C. section 511.

³ The nine merit principles are codified at 5 U.S.C. §2301 and can be found at <https://www.mspb.gov/msp/meritsystemsprinciples.htm>. 5 U.S.C. §2301 also codifies the President's duty to "take any action" necessary to defend and uphold them.

⁴ Prohibited personnel practices are agency violations of one of more merit principles. They are codified at 5 U.S.C. §2302 and can be found at <https://www.mspb.gov/ppp/ppp.htm>.

Mr. Carson’s whistleblower disclosures — and the government’s failure or refusal to resolve them, despite his many years of advancing them — evidence long-standing, fundamental, breakdowns in the statutory regime by which a Federal civil service that “embodies the merit principles” is to be achieved and maintained.

We understand that the US Office of Special Counsel (OSC), the agency tasked to proactively and not reactively protect Federal employees from agency violations of the merit principles (i.e. PPPs) is claiming, without citing any legal precedent or legal analysis, that Mr. Carson’s supervisory chain in the Department of Energy can ignore Mr. Carson’s whistleblower disclosures with impunity.⁵ This is why the Attorney General’s attention to this matter is required.

We cannot reconcile a Federal civil service that embodies the merit principles with one in which employees’ good-faith, reasonably evidenced, concerns can be ignored with impunity by agency supervisors. We ask that you can direct the Attorney General to issue opinion letters to resolve Mr. Carson’s whistleblower disclosures.

Respectfully,⁶

Tom Devine, Legal Director, on behalf of the Government Accountability Project
Sal Galetta, PE, Executive Director, on behalf of the American Engineering Alliance
Allen Johnson, Executive Director, on behalf of Christians for the Mountains

Whistleblowers

Mick Anderson, former Defense Department adjunct professor and whistleblower on American support for the coup in Honduras;

Paul Blanch, PE, nuclear whistleblower and nuclear and gas transmission expert witness;

Brandon Coleman, Department of Veterans Affairs whistleblower;

John R. Crane, former Defense Senior Executive Service official and whistleblower on wrongdoing by the Department of Defense Inspector General;

Billie Garde, whistleblower, advocate, and lawyer; in 1980 as a Federal Employee of the Department of Commerce, blew whistle on Hatch Act violations and politicization of Oklahoma 1980 Decennial Census Office;

John Kiriakou, former CIA intelligence officer and anti-torture whistleblower;

Robert MacLean, former DEA special agent and whistleblower on wrongdoing in the Federal Air Marshal service;

John Reidy, former CIA contractor and whistleblower;

David Tenenbaum, current DOD engineer and Light Armor Survivability Systems whistleblower.

⁵ See OSC’s letter to Mr. Carson of December 19, 2018, <https://whsknox.blogs.com/2018/osc-me-12-19-18.pdf>.

⁶ We list our organizational affiliations for identification purposes only, unless otherwise indicated with “on behalf of”.

Public Servants

Lawrence S. Criscione, Reliability & Risk Engineer, US Nuclear Regulatory Commission
George Mulley, NRC Office of Inspector General (ret.);

Other Stakeholders to a Trustworthy Federal Civil Service

Mary Barrie, spouse of sick Department of Energy contractor worker
Dr. Zena Crenshaw-Logal, Host and Producer, The Face of Vulnerability
Michael Dowd, Author, "Thank God for Evolution"
John Drummond, Chief of Staff New Order National Human Rights Organization
Dr. Andrew D. Jackson, Co-Administrator, Golden Badge
Brian Kinter, Founder and CEO, JAM (Judicial Accountability Movement),
Theresa Marasco, Parliamentarian, National Strategy and Management Board of National Forum
 On Judicial Accountability
Andrey Matveychuk, Founder and CEO, Report Injustice GA
Brian McLaren, Christian author
Sandy Nunn DM, Acting Director, Drum Majors for Truth
Marcel Reid, ACORN8
Sarah Roche, Creative Director, Theatre for Justice
Ira Scott, Administrator, Restoring Freedom
Gordon L Wiborg Jr., President - Board Executive Committee, National Judicial Conduct and
 Disability Law Project, Inc.