

Comments to OSC Investigation File No. DI-08-1905

Pursuant to U.S.C. § 1213(e)(1), I, Kevin C. Toth, wish to add these comments as part of the U.S. Office of Special Counsel report DI-08-1905, which was based on my allegations against the TSA. I believe that there are several salient points that need to be clarified and included as part of this investigation.

There should be no doubt that TSA management at DFW did create and foster a hostile work environment. Although the main perpetrators, AFSD-I Phil Zagloul and STSI Wes Crow have since retired, there is still a legacy of personnel that took active roles and willingly contributed to the hostile environment and who benefited by their participation. Specifically, Aaron Dietz was an active participant and benefited, (exhibit 11).

Wes Crow and Phil Zagloul employed several accomplices who contributed to the hostile work environment, and Aaron Dietz played a critical role in supporting their actions, specifically targeting myself, Jerisa Baptist, Arnie Salinas and Angela Lowry. It is a fact that Dietz spread false rumors and innuendo about us with our peers, stating that "we were trouble" and "that it would be better for them to avoid us" and other remarks that pushed Wes Crow's and Phil Zagloul's agenda. Furthermore, Dietz was rewarded for his efforts not only financially, by being awarded larger and more frequent cash awards and bonuses, but also by being offered training and special assignments over others.

A more disturbing point is that TSA management has viewed and treated my reports to the OSC as acts of disloyalty. The report clearly shows that the highest levels within TSA management are aware of my filing, and contrary to DFW FSD Cedric Alexander's statements that he was unaware of my filing he was informed on May 7, 2008 (exhibit 11) by Michael McMullen.

It is quite apparent the TSA management at both the FSD level and headquarters continue to address malfeasance and incompetence by employing a "kill the messenger" mentality. Since the retirement of Zagloul and Crow, the FSD has selected replacement personnel who have very little, if any, experience in aviation security matters. This contributes to the ongoing concerns of incompetent personnel managing the investigators and their critical work. How can these people train and mentor new agents let alone provide critical guidance of the regulations? Simply put, they can not. This is a contributing factor in why the quality of inspections and investigations is poor and superficial, and why major security violations go undetected.

This is demonstrated in their responses to the allegations and the facts. TSA historically refused to admit or take responsibility when confronted and opt to continue to bury their heads in the sand and offer excuses instead of solutions. This is emblematic in their responses in following examples.

Point: Michael Donnelly, when told about the vulnerability associated with the louvers within DFW terminal B agreed initially to allow the airport to continue operations as

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normal for up to a period of six months until he was *ordered* by TSA headquarters that this was not acceptable.

Point: The facts support my conclusions that improper aircraft inspections are a systemic problem. TSA leadership discounts this and believes this is isolated to DFW. How can this be; I have inspected [redacted] flights [redacted]

[redacted] finding [redacted] have not been inspected.

Each new air carrier I was assigned, I found similar findings. Once again, in November 2008, I was assigned another air carrier [redacted]. Once again I found that they were not inspecting the [redacted]

[redacted] In emails (attached) to Kevin [redacted] Corporate Security

Manager, he stated that I was the first to require [redacted] to be searched, [redacted] Since this air carrier has been operating flights to and from DFW [redacted] since September 11, 2001, why was this not addressed prior to my assignment? Furthermore, why was this not discovered from their hub airport at [redacted]

In conclusion, the evidence clearly shows that air carriers are not inspecting [redacted] the aircraft as required in the AOSSP or the Emergency Amendments. The evidence further demonstrates that TSA inspectors and management, both locally at the airports and at Headquarters, are negligent in their oversight responsibilities. I also believe that this proves the point that TSA fails to promote the best qualified but instead based on cronyism, favoritism and misdirected loyalty.

Point: TSA states in exhibit 30 (Memorandum dated November 3, 2008 from Lee R. Kair, Assistant Administrator, Security Operations to K. David Holmes, Jr., Assistant Administrator, Office of Inspections) states the following:

“Several actions were taken by OSO Compliance Programs in response to this matter including revisions to procedures and aircraft operator-approved security programs, additional enforcement actions (strikes), and development of additional training.”

These actions are further articulated in the memorandum dated November 3, 2008 from Alan Paterno, Eastern Area Inspector to Pete Garcia, General Manager (Acting), Office of Security Operations – Compliance Programs states in their paragraph entitled Action Taken/Planned.

As of this date, February 24, 2009, I am not aware of, nor have I seen of any of these grand plans noted in these two reports. The Special Emphasis Inspection protocols (SEI) referenced in this response is actually directed at foreign air carries, only at domestic airports, and is optional, not required. I have attached a copy as part of my comments. This is absurd, particularly since most of the findings are against DOMESTIC air carriers. If TSA wanted to properly evaluate the extent of this issue, why not require that

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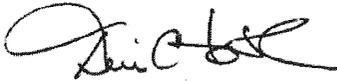
the SEI be implemented at all airports and of all air carriers required to comply, this would include those foreign airports servicing flights to the U.S.

During the week of February 16, 2009 TSA release a revised edition of the AOSSP, not one change to the inspection language in Chapter 12. Contrary to TSA statements, no additional guidance or information has been developed or released. Furthermore, TSA has not developed any On-Line training for Transportation Security Inspectors, nor has TSA released additional guidance for air carrier operators. As is typical TSA fashion, say a lot, promise a lot, but in reality do nothing.

As a final comment, I have paid a significant price for doing the right thing. The information clearly shows that TSA management is aware of my allegations, thus I have been marked and labeled. Based on my filing, I have unintentionally sabotaged my career and any chance of promotion has been short circuited. This is demonstrated by the past three supervisors and management positions filled in the DFW Inspections Division: 1) Stakeholder Michael McMullen was promoted to the AFSD-I position; 2) Screening Manager Vernon Johnson was promoted to Supervisor; and 3) Aaron Dietz was promoted to fill the vacancy of retired Supervisor Wes Crow.

Position pre-selection is a fact of life at DFW and is clearly demonstrated in the report when TSI Stephanie Craine was advised two weeks prior to Mr. Johnson's selection, that Johnson was going to get the supervisory position, even though he was the least qualified (exhibit 11).

Respectfully submitted,



Kevin C. Toth

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