

Whistleblower Response to the Agency Report

OSC File DI-21-000728

Aircraft with Experimental Airworthiness
Certificates used in Commercial Operations



28 June 2022

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Whistleblower Response to Agency Report
June 28, 2022

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Safety Concerns

While reviewing (public) FAA Registry Data¹ I discovered that there were many aircraft listed in the Experiential Category. I compared the FAA registry data against the FAA Operations Specifications (OPSS) data and noted that several of these aircraft listed as experiential were also approved by the FAA for commercial operations in the D085 paragraph.

I then reviewed both FAA and public flight data and determined that many of these aircraft appear to have been operated commercially in the National Airspace System (NAS) even though FAA registry showed these aircraft possibly held a special airworthiness certificate in the experimental category. The applicable regulation states the following;

14 CFR §91.319 states that ***“No person may operate an aircraft that has an experimental certificate—***

- (1) For other than the purpose for which the certificate was issued; or*
- (2) Carrying persons or property for compensation or hire.”*

On July 22, 2021 I submitted to the Office of Special Counsel (OSC) a safety concern that *“Airlines may have carried persons or property for compensation or hire using an aircraft which the FAA Registry currently shows as Experimental- Research and Development”*.

In September 2021 the OSC requested that the Department of Transportation investigate the following allegations.

- Aviation Safety Inspectors (ASIs) have improperly approved operations specifications (OpSpecs) for commercial operations under 14 CFR Parts 121 and 135 that include aircraft with experimental airworthiness certificates; and
- The FAA’s failure to provide adequate oversight of commercial airlines’ creates a substantial and specific risk to the public

¹ <https://registry.faa.gov/database/ReleasableAircraft.zip>

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The FAA Report of Investigation (ROI) dated March 29, 2022 shows that the Agency substantiated the first allegation and partially substantiated the second allegation.

The Agency Report did not answer the allegation related to Airlines carrying persons or property for compensation or hire using aircraft which the FAA Registry showed as having an Experimental Special Airworthiness Certificate.

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Background

The FAA Aircraft Registry is the national repository for all information necessary to establish and maintain the record for all United States civil aircraft.²

The records within the FAA Aircraft Registry consists of three distinct elements; information about the registered owner of the aircraft, information about recorded aircraft security interests, and information concerning the airworthiness of the aircraft. In addition to the aircraft record, the Registry maintains certain ancillary files³ that contain related information maintained in support of registration/recordation.⁴

All of the aircraft referenced in the Whistleblower complaint were listed by the FAA Registry as having an Experimental category Special Airworthiness Certificate.

A Special Airworthiness Certificate in the experimental category is issued to operate an aircraft that does not have a type certificate or does not conform to its type certificate and is in a condition for safe operation⁵.

FAA Order 8130.2J, Chapter 10 titled Experimental Purposes of R&D/ Showing Compliance (§ 21.191(a)/(b)) provides policies and procedures for issuing special airworthiness certificates for the experimental purposes of research and development (R&D) under § 21.191(a) or showing compliance with regulations under § 21.191(b).

Paragraph 10-3 allows for the issuance of an experimental certificate for R&D and/or showing compliance with regulations for aircraft already issued a standard airworthiness certificate or special airworthiness certificate for restricted category or Special Light-Sport Aircraft (SLSA) aircraft. This procedure enables an applicant to conduct short term projects such as flight testing for an STC project or an LSA manufacturer flight testing major repairs or alterations without having to permanently surrender its original airworthiness certificate.

² As of June 2, 2022 the Registry is currently processing documents received almost 6 months ago on January 5, 2022.

³ The majority of Aviation Safety Inspectors do not have access to the FAA ancillary files.

⁴ https://www.faa.gov/licenses_certificates/aircraft_certification/aircraft_registry/about_aircraft_records/

⁵ https://www.faa.gov/aircraft/air_cert/airworthiness_certification/sp_awcert/experiment/

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To do so, the FAA must obtain the original airworthiness certificate from the applicant and hold it in suspension upon issuing an airworthiness certificate for R&D and/or showing compliance with regulations.

The applicant must surrender the aircraft's airworthiness certificate to the FAA so it can be held in suspension by the responsible MIDO or FSDO. If testing will be completed in less time than required to send the airworthiness certificate to the MIDO/FSDO, the ASI or designee may hold the airworthiness certificate in suspension. **The owner or applicant does not retain the suspended airworthiness certificate.**

Critical Thinking Question- So if the FAA is “actually” physically holding the Standard Airworthiness Certificate while the aircraft was in the Experimental Category then why couldn't the FAA ensure the aircraft was properly returned to the Standard category before revenue service?

The probable causes and impacts of these deficiencies are:

- Poor Training,
- Poor Policy/Guidance
- Lack of Management oversight
- Poor Risk Based Decisions due to Known Data Quality Issues

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Safety Culture

For many years AVS and AFS/AFX Leadership has slowly permitted our important safety information/analysis/alerting systems to degrade to the point of no longer being functionally current.



The senior leadership cannot claim ignorance because I have alerted them multiple times that several FAA AVS safety databases/information systems contain obsolete, incomplete, inconsistent, and/or inaccurate data. I reminded them that if the quality / availability of the FAA data continues to remain poor, its inputs to safety-related decisions may not be reliable, and WILL impact the Agencies ability to effectively support its safety mission.

Another concern is that FAA Policies do not require FAA Aviation Safety Inspectors to acknowledge changes to regulations and/or National policy. Since the FAA changes national guidance many times each month or even several times in one day, a hazard exists where national policy may change and the inspector or management does not even know about the change.

Furthermore, FAA Training does not currently provide structured instruction on implementing new policy changes or understanding expectations.

On March 24, 2022 I submitted 5 Safety Recommendations to the FAA related to these hazards. The AVS Office of Accident Investigation & Prevention (AVP) outright rejected my safety recommendations within a few hours of submission

Finally, these types of problems are starting to receive national attention. After FAA whistleblowers kept identifying and reporting systemic failures, the United States Congress

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passed and the President signed 49 U.S.C. § 106(t)(7) which now requires the FAA to submit an Annual Report to Congress⁶. The law states the Director shall—

- (i) receive complaints and information submitted by employees of persons holding certificates issued under title 14, Code of Federal Regulations (if the certificate holder does not have a similar in-house whistleblower or safety and regulatory noncompliance reporting process established under or pursuant to a safety management system) and employees of the Agency concerning the possible existence of an activity relating to a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety;

The law requires the Director to include summaries of those submissions by FAA employees; summaries of the resolution of those submissions, including any further investigations and corrective actions recommended in response to the submissions the report is typically written at a very high level and do not include existing or emerging trends.

The FY2020 Report to Congress shows a total of only 162 disclosures⁷ were submitted to AAE by all persons/organizations. **This number may not be accurate since I personally submitted to the FAA Hotline approximately 290 safety, regulatory or policy concerns that same fiscal year.**

These types of public reports (and other internal records such as the Environmental Assessment Reports) and employee feedback⁸ should be reviewed in an effort to understand the changing safety culture within the FAA.

⁶ https://www.faa.gov/about/plans_reports/congress?combine=341&items_per_page=25

⁷ P.L. 112-095, § 341 Report to Congress for FY2020 shows there were more than 5,200 [Hotline] referrals to FAA organizations for investigation or other appropriate action. The number of referrals to FAA organizations increased by 12 percent over Fiscal Year 2019.

⁸ <https://www.commerce.senate.gov/services/files/8F636324-2324-43B2-A178-F828B6E490E8>

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Whistleblower Comments about Agency Report

Even though my reported safety allegations were substantiated (again), I am disappointed that the Agency report still fails to identify or recognize the root cause of the reported issues. I have reviewed the Agency Report and offer the following comments.

- **FAA Statement** - *The WebOPSS User Guide (revised 10/2015) states that WebOPSS is the next generation of application software utilized by AFX to collect data on operator activities, to disseminate FAA policies to the certificate holder and inspector communities, and to generate and manage authorizing documents on behalf of the operator, which includes OpSpecs. This system contains some of the most up-to-date data on the airline industry.*

Whistleblower Response – For too many years I have reported that several FAA AVS safety databases/information systems including WebOPSS contain obsolete, incomplete, inconsistent, and inaccurate data. If the quality / availability of the FAA data continues to remain poor, its inputs to safety-related decisions may not be reliable, and WILL impact the Agencies ability to effectively support its safety mission.

A March 11, 2021 Memo from AAE-1 to [WHISTLEBLOWER] states, “*In June 2019, after unsuccessful attempts to report discrepancies, or organizational and operational vulnerabilities through various AVS reporting means, you recommended the FAA establish an “employee safety reporting program.” In response, I encouraged you to utilize the FAA Hotline for such reports. Since then, you have filed over 650 reports on varying systemic issues centric to the use of Flight Standards’ Web-Based Operations Safety Systems (WebOPSS) and currency of data collected and maintained therein. To date, substantiated reports clearly point to a systemic weakness with WebOPSS that appears to hinder optimal*”

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*operator oversight by the certificate holding office.*⁹

On May 3, 2022 the Director, Office of Audit and Evaluation (AAE-1) sent to the Acting FAA Administrator a memo titled Report of Internal Whistleblower Contribution, Management of Operations Specifications – AAE File #IWB21802. This memo contained the following comments;

- *investigation substantiated the allegation and identified systemic discrepancies within multiple OpSpecs paragraphs, including, : active paragraphs issued on obsolete templates, paragraphs containing expired content, and missing paragraphs that are required based on the scope of the certificate holder's operation.*
- *there is no effective process within AFX for reporting matters requiring attention or correction by an organization in AFX with oversight authority.*
- *The only existing process is reporting to the office where the problem originated, and that process is severely flawed.*
- *The whistleblower in this case has established beyond all reasonable doubt that there is a serious process flaw, [Redacted] is not being addressed with sufficient urgency.*
- *Since 2019, the whistleblower has filed over 800 Hotlines on various matters, over 450 specifically related to OpSpecs.*
- *Recommendation 6: Augment efforts within AFX to eliminate hostility against whistleblowers.*

➤ **DOT Statement** - *The report includes a total of eight recommendations for corrective action to the Associate Administrator of Aviation Safety (AVS-1). AVS' response to the recommendations is expected by April 20, 2022. Working with the*

⁹ FAA Internal Whistleblower Case 21802

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FAA Administrator and, in turn, AAE, my office will ensure that AVS adequately responds to the recommendations.

Whistleblower Response – In an effort for transparency and accountability the Agency Report should show all specific actions and firm dates on when the FAA expects each of these issues to be resolved. This report should require that the action be:

- a. **Specific** (what exactly will be accomplish and by whom?),
 - b. **Measurable** (how will anyone know when the FAA has reached this goal?),
 - c. **Achievable** (is achieving this goal realistic with effort and commitment?),
 - d. **Relevant** (will this goal resolve the issue?) and
 - e. **Timely** (what date will the FAA achieve this goal?).
- **FAA Statement** - *If the proper data entry procedures are followed, an experimental certificate would not be recorded in the Aircraft Registry database and the standard airworthiness status will remain in effect.*

Whistleblower Response – “If proper procedures are followed”...., that may be part of the problem. Where are these procedures located? Many policies related to the Flight Standards (AFX) organization can be found within the Dynamic Regulatory System (DRS)¹⁰, however the processes related aircraft registry are not included this system or any other accessible location.

In fact it is difficult to find any published guidance used by the Aircraft Registration organization to processes aircraft records including registration. The FAA should incorporate the Aircraft Registry policies and procedures into DRS.

- **FAA Statement** - *Each of the aircraft identified had been involved in major*

¹⁰ <https://drs.faa.gov/browse>

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alteration projects that required an experimental airworthiness certificate. In some instances, the airworthiness record supported a current standard airworthiness certificate while the Aircraft Registry database inappropriately reflected the airworthiness class as experimental. There were also aircraft records that supported the experimental airworthiness class in the database. Those records were confusing and did not reflect the actual airworthiness status of the aircraft.

Whistleblower Response – “*In some instances...*” What about the other instances?

The Agency report did not answer the allegation that Airlines may have carried persons or property for compensation or hire using an aircraft which the FAA Registry showed as having an Experiential Special Airworthiness Certificate.

- **FAA Statement** - *A review of the applicable guidance revealed an absence of concise instructions for adding aircraft to certificate holders’ authorized aircraft lists (OpSpecs D085).*

Whistleblower Response – For many years I have been proactively and reactively raising concerns related to aircraft being approved by the FAA for commercial service.

Unfortunately the FAA has difficulty seeing patterns or trends. Even the FAA Annual Reports to Congress related Hotline Complaints fail to identify any existing or emerging issues.

Only AFTER a significant accident, incident or occurrence such as a whistleblower submission does the Agency “*see the light*”. Many times the Agency will drag its feet to implement any comprehensive fix. Below are a few OSC recommendations/submission related to adding aircraft to OPSS D085.

- DI-17-1298 Recommendations 2 and 3 - Revise FAA Order 8900.1 to provide better clarity on ASI responsibilities to review limitations placed on aircraft as a result of limitations in associated exemptions and establish

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procedures to ensure exemptions are reviewed prior to aircraft addition to 14 CFR 135 Op Specs.

- DI-19-2560 Recommendation 5 - Add an element/question in the Safety Assurance System to require an inspectors' confirmation of insurance verification through either WebOPSS (when applicable, eAIM) or AFS-260 prior to adding an aircraft to an air carrier's OpSpecs.
- DI-22-000520 Allegation- A review of both internal and external FAA data appear to show many aircraft are listed on more than one FAA Approved OPSS D085 paragraph at the same time without the required OPSS A029 (Aircraft Interchange Agreements) approvals.

Please review the Gross Mismanagement section of this response.

- **FAA Statement** - *The instructions fail to require that the final and current airworthiness certificate to be recorded is clearly specified in the submission. This lends to confusion for the Aircraft Registry data entry clerk.*

Whistleblower Response – Where are these instructions located? Many policies related to the Flight Standards (AFX) organization can be found within the Dynamic Regulatory System (DRS)¹¹, however the process and instructions related aircraft registry are missing from this system.

In fact it is difficult to find any published guidance used by the Aircraft Registration organization to processes aircraft records including registration. The FAA should incorporate the Aircraft Registry policies and procedures into the DRS.

- **FAA Statement** - *Flight Standards (AFX) is also lacking a process to periodically audit and correct deficiencies in its Aircraft Registry and OpSpecs systems. The lack of an audit process contributed to the inaccurate data identified in this investigation.*

¹¹ <https://drs.faa.gov/browse>

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Whistleblower Response – The Gross Mismanagement section of my response clearly shows this is a true statement.

- **FAA Statement** - *A sampling of the records for the aircraft identified were reviewed and it was noted that even though database showed that the current airworthiness certificates were in the experimental category, they actually did have standard airworthiness certificates issued to them.*

Whistleblower Response – The Agency Report also stated "*There were also aircraft records that supported the experimental airworthiness class in the database. Those records were confusing and did not reflect the actual airworthiness status of the aircraft.*"

The Agency report did not answer the allegation that Airlines may have carried persons or property for compensation or hire using an aircraft which the FAA Registry currently shows as Experimental- Research and Development.

- **FAA Statement** - *Therefore, one of the recommended corrective actions in this report is that FAA validate that all of the aircraft identified in this report are appropriate for commercial use.*

Whistleblower Response – The Agency did not identify any aircraft in this report. The Whistleblower can provide a list upon request.

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FAA Safety Recommendations

I will always do my best to help the FAA identify and address known safety concerns but it is extremely frustrating when AVP often dismiss safety recommendations from both the NTSB and FAA employees.

Listed below are just a few of the Safety Recommendations I have submitted to the FAA that are related to improving policy, automation and safety oversight.

- **(Status- Not accepted)** - In an ongoing effort to continuously improve aviation safety, I recommend that AVS-1 and/or AFX-1 host an annual (on-site or virtual) organizational level Safety Stand Down (similar to ATO) with all employees to identify, discuss and resolve safety issues.
 - AVP response to [WHISTLEBLOWER] stated in part *“having all of Flight Standards stand down for an entire day has no safety merit as a whole”*.
- **(Status- Not accepted)** Several recommendations related to concerns with FAA Information Technology (IT) and the potential impact on Aviation Safety
- **(Status- Not accepted)** I recommended that the FAA should modernize SPAS to provide ALERTS or FLAGS highlighting potential problem areas identified with FAA Data/Systems.
- **(Status- Not accepted)** I recommended that the FAA should modernize SPAS to provide SAS data and Other Performance Measures that compares the performance of a certificate holder to the performance of similar certificate holders, to itself, and/or to preset limits.
- **(Status- Not adopted)** - 20.076 I recommended that FAA Automation should be modified to alert (at the certificate level) assigned inspectors, managers and analyst about coming due and overdue validation date(s).
- **(Status- Not accepted)** I recommended that FAA identify the FAA office with

responsibility for conducting formal review of the FAA Hotline System/Program
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to ensure the Agency has the tools and resources necessary to address the growing gap between the number of open and closed cases.

- **(Status- Not accepted)** I recommended that FAA identify the office with responsibility for continuously reviewing FHIS and related Information Technology (IT) system data for hazards and emerging trends.
- **(Status- Not accepted)** I recommended that FAA identify the FAA office with responsibility for developing a written process to determine the root cause(s) related to all substantiated and/or partially substantiated Safety, Hotline & Whistleblower allegations and develop strategies to prevent reoccurrence.
- **(Status- Not accepted)** I recommended that FAA identify the FAA office with responsibility for to providing the FAA Executive Leadership Team a written summary each quarter showing at a minimum all open, extended and overdue FAA Hotline/Safety and Whistleblower Cases.
- **(Status- Not accepted)** I recommended that FAA identify the FAA office with responsibility for providing the FAA Executive Leadership Team an annual briefing about FAA Hotline System/Program, cases and trends.
- **(Status- Not accepted)** I recommended that FAA identify the FAA office with responsibility for providing FAA employees an Annual Report summarizing all internal/external FAA Hotline/Safety and Whistleblower Cases/Trends for the previous FY.
- **(Status- Not accepted)** I recommended that FAA provide formal initial training for persons who investigate or support the investigation of FAA Hotline/Safety and Whistleblower Submissions.
- **(Status- Not accepted)** I recommended that FAA provide formal recurrent training or workshops for persons who investigate or support the investigation of FAA Hotline/Safety and Whistleblower Submissions.

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- **(Status- Not accepted)** FAA Consider changing existing guidance or processes to require employees in the Aviation Safety (AVS) Line of Business (LOB) to positively affirm/acknowledge critical & routine policy changes.
- **(Status- Not accepted)** In an effort to ensure standardization and consistency the AVS Management Team should determine if KSN is a proper place to store or host policy documents (that may be restricted from the public and FAA employees).
- **(Status- Not accepted)** FAA Review the Cancellation of Non-Official Guidance Documents Memo dated December 3, 2013 to ensure it is still meets the spirit and intent of section 313 of the FAA Modernization and Reform Act of 2012 (Public Law 112-95), as revised.
- **(Status- Closed/Not accepted)** FAA Safety Recommendations 21.103 proposed the following:
 1. Regularly analyze the FAA Service Difficulty Reporting System (SDRS) data and produce public reports showing systemic trends.
 2. Regularly analyze the FAA Service Difficulty Reporting System (SDRS) data and produce public reports showing emerging trends
 3. Regularly analyze the Malfunction or Defect (M or Ds) data and produce public reports showing systemic trends.
 4. Regularly analyze the Malfunction or Defect (M or Ds) data and produce public reports showing emerging trends.
 5. Resume the publication of the Aviation Maintenance Alerts on a public web site.
 6. Analyze the FAA Service Difficulty Reporting System (SDRS) / Malfunction or Defect (M or Ds) data submitted between 2013 and 2021 and publish a public report showing systemic & emerging trends.
 7. Discontinue the Aviation Maintenance Alerts web site if the Agency no longer finds value in the exchange of potentially safety-critical information.

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Gross Mismanagement

The DOT Strategic Plan for Fiscal Years (FY) 2022-26¹² shows a Department goal to *“Use data and data analytics to take proactive actions to address emerging safety risks and support compliance”*.

I have been an advocate for this type of risk based decision making for over two decades. Unfortunately the FAA has a long way to go to meet this goal. For too many years I have reported that several FAA AVS safety databases/information systems contain obsolete, incomplete, inconsistent, and inaccurate data.

If the quality / availability of the FAA data continues to remain poor, its inputs to safety-related decisions may not be reliable, and WILL impact the Agencies ability to effectively support its safety mission.

The examples shown below were identified by (me) a single whistleblower. Individually each example should raise concern, however collectively these examples clearly show any reasonable person of possible systemic Gross Mismanagement by the FAA. The DOT should consider the broader implications of these submissions and its potential effect on public safety

Definition of Gross Mismanagement

- White v. Department of the Air Force, 63 M.S.P.R. 90, 95 (1994) (**gross mismanagement means a management action or inaction which creates a substantial risk of significant adverse impact upon the agency’s ability to accomplish its mission**)¹³.

FAA Internal Whistleblower (IWB) Case 21802- FAA Operations Specifications

- A March 11, 2021 Memo from AAE-1 to [WHISTLEBLOWER] states, *“In June 2019, after unsuccessful attempts to report discrepancies, or organizational and*

¹² https://www.transportation.gov/sites/dot.gov/files/2022-03/US_DOT_FY22-26_Strategic_Plan.pdf

¹³ [MSPB JUDGES’ HANDBOOK](#)

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operational vulnerabilities through various AVS reporting means, you recommended the FAA establish an “employee safety reporting program.” In response, I encouraged you to utilize the FAA Hotline for such reports. Since then, you have filed over 650 reports on varying systemic issues centric to the use of Flight Standards’ Web-Based Operations Safety Systems (WebOPSS) and currency of data collected and maintained therein. To date, substantiated reports clearly point to a systemic weakness with WebOPSS that appears to hinder optimal operator oversight by the certificate holding office. As a result of the number of substantiated allegations, I have asked my Chief Investigator to assess and summarize the findings related to your disclosures and I will make appropriate recommendations to the Administrator, pursuant to the provisions of Title 14 USC Section 106(t)(3)(A)(iii) under case number IWB21802”. (See Appendix)

On May 3, 2022 the Director, Office of Audit and Evaluation (AAE-1) sent to the Acting FAA Administrator a memo titled Report of Internal Whistleblower Contribution, Management of Operations Specifications – AAE File #IWB21802. This memo contained the following comments;

- *investigation substantiated the allegation and identified systemic discrepancies within multiple OpSpecs paragraphs, including, : active paragraphs issued on obsolete templates, paragraphs containing expired content, and missing paragraphs that are required based on the scope of the certificate holder’s operation.*
- *there is no effective process within AFX for reporting matters requiring attention or correction by an organization in AFX with oversight authority.*
- *The only existing process is reporting to the office where the problem originated, and that process is severely flawed.*
- **The whistleblower in this case has established beyond all reasonable**

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doubt that there is a serious process flaw, [Redacted] is not being addressed with sufficient urgency

- *Since 2019, the whistleblower has filed over 800 Hotlines on various matters, over 450 specifically related to OpSpecs.*
- *Recommendation 6: Augment efforts within AFX to eliminate hostility against whistleblowers.*

Office of Special Counsel Cases linked to Poor Oversight and Data Quality

OSC File No. DI-17-1298 - Aircraft Airworthiness (OPSS Paragraph D085)

- **SUBSTANTIATED** - ASIs are improperly approving aircraft for addition to Operations Specifications (Ops Specs) under Part 135 without appropriately reviewing the exemptions of the aircraft.
- **SUBSTANTIATED** - Aircraft had operated in the National Airspace System without the authority to operate due to expired registration and airworthiness certificates.

OSC File No. DI-19-2560 - Aircraft Insurance (OPSS Paragraph D085)

- **SUBSTANTIATED** - Aviation Safety Inspectors have failed to verify that all aircraft on carriers' operations specifications are properly insured.
- **SUBSTANTIATED** - Aircraft have operated in the national air system (sic) without a certificate of liability insurance on file with the FAA.

OSC File No. DI-19-3959 - Pilot Training (OPSS Paragraphs A005, B001, B002, B003, B011, B501 & T308)

- **SUBSTANTIATED** - Principal Inspectors have failed to ensure that training centers are conducting only FAA-approved training curriculum.
- **SUBSTANTIATED** - Pilots and flight crewmembers may have obtained certification based upon expired training courses.

Because of previous (substantiated) and ongoing retaliation by the FAA the **WHISTLEBLOWER DOES NOT CONSENT** to name or other identifying information from being released into the public files.

OSC File DI-21-000728
Whistleblower Response to Agency Report
June 28, 2022

OSC File No. DI-20-000393 - Operations Specifications Non-Standard Text

- **SUBSTANTIATED** - The Department of Transportation Office of Inspector General (DOT-OIG) Report showed that the “*OIG found areas where FAA does not have adequate oversight and approval from the Flight Standards Service policy divisions when authorizing nonstandard OpSpecs templates and text in WebOPSS...*”

OSC File No. DI-20-000536 - FAA continued failure to ensure airlines modified passenger and carry on weights (OPSS Paragraphs A097, A098 and A099)

- **Referred to the Secretary of Transportation** - The FAA has not addressed a 2004 National Transportation Safety Board (NTSB) recommendation that the agency require airlines to periodically sample passenger and baggage weights to determine appropriate statistical distribution characteristics.
- Despite receiving safety recommendations from the NTSB in 2004, the FAA has failed to complete and issue guidance or require corrective action by airlines to ensure the accuracy of their weight and balance programs.
- The FAA has failed to adequately oversee air carriers and commercial operators’ weight and balance programs to ensure the safety of the aviation industry
 - **SUBSTANTIATED** -FAA Case AAE10-12-0024 (c) FAA Report of Internal Whistleblower Contribution, Aircraft Weight and Balance Control, Advisory Circular 120-27E
 - *On February 25, 2014, we issued a report of investigation based upon a disclosure made by a supervisory aviation safety inspector. The inspector alleged that the standard average weights (SAW) for passenger, carry-on baggage and personal items in FAA Advisory Circular (AC) 120-27 were inaccurate, necessitating revision. Most airlines instituted a checked baggage fee which significantly altered a passenger’s travel profile by maximizing the use of carry-on baggage and personal items. Additionally, nationally published information reflects that passenger body weights have*

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OSC File DI-21-000728
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increased. Finally, the inspector asserted that there was little action by Flight Standards Service to revise the Advisory Circular despite an FAA working group's findings and recommendations in 2010. Our investigation substantiated the allegation and found that AFS was slow to respond to the new information introduced by the inaccurate SAW, even though there was Flight Standards leadership support for revising AC120-27 following the 2010 workgroup's findings and recommendations.

- *Flight Standards has acknowledged the need to revise weight and balance guidance and published a draft revision to AC120-27 in November 2013, and are reviewing public comments prior to formal publication. The revised AC is designed to address outstanding National Transportation Safety Board recommendations related to the same issues and the allegation in this investigation.*
- *Our recommendations included: training for impacted personnel on the revised Advisory Circular; require collaboration and conduct data analysis by FAA personnel to validate data provided by operators as well as to identify any system-wide trends; and a requirement for a finite and accelerated implementation date of the revised Advisory Circular. Flight Standards developed a corrective action plan that is in the process of being implemented to address the recommendations.¹⁴*
 - Related Complaint- FAA Case FHIS-0011100 Safety Concern- FAA SAFO 18012 titled Weight and Balance Calculations for Title 14 of the Code of Federal Regulations Part 135 Certificate Holders.
 - Related Complaint- OSC File No. DI-18-2728 FAA had failed to update and implement changes to FAA Advisory Circular (AC) 120-27 for the standard average weights for passengers, carry-on bags, and personal items. (OPSS A097, A098 and A099)

¹⁴ 2014 FAA Report to Congress P.L. 112-095, § 341

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OSC File No. DI-20-000690 - FAA Failure to Follow Policy - North Atlantic High Level Airspace (NAT HLA) (OPSS Paragraph B039)

- **SUBSTANTIATED** - The DOT-OIG substantiated the allegation concerning operators remaining authorized to operate in the NAT HLA despite not holding a current or valid OpSpec/LOA B039. The DOT-OIG stated the total number of such operators without the appropriate OpSpec/LOA B039 authorization totaled over 400 in April 2020.

OSC File No. DI-20-000914 - FAA Oversight of Contract Pilot Training Centers/Providers (OPSS Paragraph A031)

- **SUBSTANTIATED** - The DOT-OIG substantiated that FAA records showed hundreds of certificate holders who failed to audit their contracted training programs at least every 24 months as required by FAA OpSpec/MSpec/LOA A031 (paragraph A031).

OSC File No. DI-20-000754 - PTRS Data Quality

- **SUBSTANTIATED** - The FAA's Program Tracking and Reporting Subsystem (PTRS) contains incomplete, inconsistent, and inaccurate data.
- Aviation Safety Inspectors have entered inaccurate data into PTRS surveillance, investigation, education, and certifications records.
- FAA managers and supervisors have failed to adequately review PTRS data to ensure it is complete, consistent, and correct, as required by the PTRS Procedures Manual.
- Poor data quality in PTRS impedes the FAA's ability to identify and address aviation safety risks.

OSC File No. DI-22-000520 - FAA Interchange Agreement (OPSS Paragraph A029)

- **Referred to the Secretary of Transportation** - A review of both internal and external FAA data appear to show many aircraft are listed on more than one FAA Approved OPSS D085 paragraph at the same time without the required OPSS A029 (Aircraft Interchange Agreements) approvals.

Because of previous (substantiated) and ongoing retaliation by the FAA the **WHISTLEBLOWER DOES NOT CONSENT** to name or other identifying information from being released into the public files.

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OSC File No. DI-22-000535 - 14 CFR 147 Maintenance Training (OPSS Paragraph A026)

- **Referred to the Secretary of Transportation** - While reviewing FAA safety data I discovered several Operations Specifications A026 Operations Specifications (OPSS) paragraphs issued to 14 CFR Part 147 Aviation Maintenance Technician Schools (AMTS) show expired DISTANCE LEARNING ELIGIBLE CURRICULUM SUBJECT/TOPIC AREAS in the column titled PROVISIONS, CONDITIONS AND LIMITATIONS.
- Safety/Regulatory Concern- 14 CFR Part 147 Aviation Maintenance Technician Schools may have conducted training activities using Distance Learning after the expiration date shown in OPSS A026.
- Safety/Regulatory Concern- 14 CFR Part 147 Aviation Maintenance Technician Schools may have provided distance learning using courses not listed in the OPSS A026 paragraph.
- Safety/Regulatory Concern- FAA oversight of Aviation Maintenance Technician Schools failed to identify or remove expired Distance Learning courses listed in OPSS A026 paragraph.
- Safety/Regulatory Concern- Students who attended expired Distance Learning courses may not be qualified to hold their airman rating or certificate.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

OSC File No. DI-22-000586 - Aircraft Registration – Foreign Corporation Flight Hour Reporting

- **Under OSC Review** - A review of FAA Registration data appears to show many foreign corporations have not complied with Section 47.9(b) of the Federal Aviation Regulations. Continuing eligibility for registration of aircraft under

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Section 47.9(f) of the Federal Aviation Regulations (14 CFR 47.9) requires that the corporation who registered an aircraft submit a 6-month report to the FAA Aircraft Registration Branch. Because of this the FAA is unable to determine that the aircraft was based and primarily used in the United States.

OSC File No. DI-22-000625 - FAA Aviation Safety Inspectors not following National Policy (OPSS 500 Series Paragraphs)

- **Under OSC Review** - A review of OPSS data appears to show that FAA Inspectors may have not followed national policy when they did not withdraw 500 Series paragraph at the conclusion of the time limit or event specified.

OSC File No. DI-22-000XXX - Single Pilot Operators (A040)

- **Under OSC Review**- A review of Operations Specifications (OPSS) A040 (Single Pilot Operator) paragraphs shows the name and certificate number of a pilot who may not have a current and/or valid Medical Certificate for 14 CFR 135 type operations.

FAA Hotline Submissions

AAE File #AAE10-12-0024(A) - Report of Internal Whistleblower Contribution – System Approach to Safety Oversight (SASO) /Safety Assurance System (SAS)

- **SUBSTANTIATED** - In October 2012, [*WHISTLEBLOWER*], submitted a complaint to AAE claiming deficiencies in System Approach to Safety Oversight (SASO) program.
- As a result of this complaint, the Joint Resources Council (JRC) reviewed and identified numerous deficiencies in the program and made recommendations to AFS.
- AFS then took significant action to re-direct the original SASO program.
- Contemporaneously, the contributor's disclosure provided a higher level of visibility to concerns with the new oversight model. This led to significant action by AVS to redirect the automation project which included redefining program

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requirements that significantly downscaled the original overall plan for SAS while maintaining the same general purpose.

AAE File #AAE10-12-0024(F) - Report of Internal Whistleblower Contribution – Safety Performance Analysis System (SPAS)

- **SUBSTANTIATED** - Almost 10 years ago the FAA Office of Information & Technology Services (AIT) substantiated [*WHISTLEBLOWER*] claims. Their investigation found that the FAA should consider replacing or modernizing SPAS to meet the rapidly evolving needs of its users, and to comply with a Congressional mandate to maintain a safety performance analysis system. AIT recommends that current functionality in SPAS must be maintained until it is either replaced or modernized. .¹⁵
- We concur with AIT's findings and recommendations and agree that ***SPAS deficiencies could potentially impact the safety oversight of our aviation system.***
- The AIT investigation generally found that ***data quality and reliability, technical system requirements and enhancements, and system and program funding are deficient.***

FAA Internal Whistleblower (IWB) Case 14-806 - Air Transportation Oversight System's performance Assessment Determination and Implementation (ADI) air carrier data

- Allegation - The Air Transportation Oversight System's performance Assessment Determination and Implementation (ADI) air carrier data indicates that there are long-term, unsatisfactory surveillance results without effective corrective action; and that some surveillance is rated as satisfactory even though no surveillance was performed.
- I also reported retaliation as a result of multiple disclosures made to AAE in 2012 and 2013 under Public Law 112-95 § 341.

¹⁵ 2014 FAA Report to Congress P.L. 112-095, § 341

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- The case was transferred by AAE to FAA Security for investigation- The results of the investigation are unknown.

Meeting Invite from the Office of Director, Flight Standards Service for an August 29, 2018 to discuss my FAA Safety Recommendations related to SAS and SPAS data Quality

- 8/23/2018 – [redacted] this was on request of [redacted] **“to discuss how the FAA IT Systems no longer support the aviation safety mission”.**

Email to FAA Administrator on March 24, 2021- See appendix

- The purpose of this message was to alert the responsible management official with overall authority to resolve these well-known safety concerns.
- On February 16, 2022 the FAA Administrator announced that he was resigning effective March 31, 2022.

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Retaliation

The FAA has a well-documented history retaliating against me and other whistleblowers for making properly safety disclosures. This pattern of retaliation is extremely unhealthy and may be aimed at other employees to discourage them from reporting known safety issues¹⁶.

Letter of Caution

- An internal FAA Investigation (H12E047CC) revealed that I was assigned by management to support the DOT-OIG audit of the FAA Aviation Safety Information Analysis and Sharing (ASIAS) system¹⁷. Attached is the Letter of Caution issued by FAA Management for providing truthful responses to the DOT-OIG. This letter had a chilling effect designed to intimidate and silence the whistleblower.
- An internal Investigation by the **FAA Substantiated Retaliation**

Threat to Fire Whistleblowers

- An internal FAA Investigation (AERO-4741) revealed a respected FAA employee reported in a Memorandum for Record that the former Manager & Chief Investigator, Audit and Analysis Branch (AAE-100) which oversaw the FAA Whistleblower Program stated that had planned to get me fired just like he did other whistleblowers.¹⁸
- This fact was memorialized in a United States Senate Commerce Report titled *Aviation Safety Oversight* dated December 2020¹⁹

Breach of Personally Identifiable Information (PII)

- In 2012 I discovered and reported breaches related to personally identifiable information (PII) and or sensitive information.

¹⁶ FAA Hotline Case A20210325002

¹⁷ <https://www.oig.dot.gov/library-item/28941>

¹⁸ Memorandum for Record, March 14, 2014, April 18, 2014,

<https://www.commerce.senate.gov/services/files/621F43CC-9CFE-45AE-BA35-CD5EF9A60FC4>

¹⁹ <https://www.commerce.senate.gov/services/files/8F636324-2324-43B2-A178-F828B6E490E8>

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- The FAA conducted an investigation and **substantiated the allegations** in a Report of Internal Whistleblower Contribution, Protection of Personally Identifiable Information, AAE File Number AAE10-12-00-24(H) dated September 5, 2013.

Breach of Whistleblower Confidentiality

- In 2019 I submitted a complaint to the FAA Hotline and SOC when I discovered that FAA Management placed on an electronic shared drive information that I was whistleblower. **FAA Management did this AFTER receiving a written communication by FAA Legal counsel (AGC) not to do so.**

Systemic Breaches of Whistleblower/Hotline passwords and submitter privacy / confidentiality (IWB22802)

- Various FAA Policies²⁰ and 49 U.S.C. § 106 prohibits the release of the whistleblower identity unless the AAE Director determines the disclosure is required or necessary. **The law does not differentiate between disclosure to the general public or to employees/contractors of the FAA.**
- In August 2020, I reported to the FAA a breach of my confidentiality related to an open Office of Special Counsel investigation²¹. Since that date I have alerted the FAA Security Operations Center, Privacy Office and AAE to countless other breaches of Hotline/Whistleblower confidentiality and password protection requirements.
- **Note- Many of these reported breaches have not been resolved and new breaches continue to occur weekly. These breaches not only identify me but many other persons (employees/citizens) who have made protected Hotline/Whistleblower disclosures.**
- For the past three years I have alerted the OSC of these breaches and each time they declined to accept my submission because the FAA was working the issue. As described above and in violation of law and policy the FAA has been improperly

²⁰ FAA Order 1070.1A, FAA Order 8900.1 and Flight Standards Administrative Manual

²¹ Case DI-19-3959- <https://osc.gov/Pages/SearchResults.aspx?k=DI%2D19%2D3959>

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- disclosing my identity to other in the organization. This has been going on in one form or another for over a decade. See DI-20-001102, DI-21-000855 & DI-22-000546.
- On June 17, 2022 the OSC sent to the Secretary of Transportation a request to investigate (OSC File No. DI-22-000546) systemic breaches of privacy and whistleblower/hotline confidentiality.

Possible loss of Confidentiality Protection

- Due to these ongoing breaches of Privacy and Hotline Confidentiality I have asked the Office of Audit and Evaluation to redact my name from all future Hotline submissions sent for investigation.

Breach of Trust

- The FAA signed a MSPB Settlement agreement in July 2019 stating that *“The Agency currently has no plans to reorganize or make other changes that would alter the Appellants’ reassignment or telework arrangement.”*
- Documents that I have since obtained clearly show the FAA had plans to reorganize and were actively acting on those plans when they signed the agreement.
- I was involuntary reassigned (SF-50 action) in 2021 resulting in a Significant Change in to my actual Job Functions

Failure to Act

- With management knowledge, I was denied the same access to data as my peers for over a year.

Valuing Performance Annual Evaluations (FY2013-FY2021)

- I believe that FAA Management has been using the Valuing Performance System to retaliate against me for my whistleblowing activities and reporting other safety, regulatory and policy concerns. Over the past few years, my local management team (1st & 2nd level supervisors) typically rated my annual performance as MEETS. Only AFTER elevating this concern does higher level managers get

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- involved to resolve this grievance. I believe an independent reasonable person who reviewed my self-assessment against my “documented” performance plan will clearly see that my annual contributions **SIGNIFICANTLY EXCEEDED** all documented expectations.
- In FY2021 I had to file an official grievance in order to have my overall rating reconsidered from MEETS to EXCEEDS. I strongly believe that if retaliation did not exist and management just evaluated me fairly (against my written performance standards) that my overall rating for FY21 would have been SIGNIFICANTLY EXCEEDS.

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Closing

It is important that the American public understand that Whistleblowers perform a vital role in today's world. Federal Aviation Administration (FAA) Whistleblowers such as myself have (following established processes) alerted management officials and others to violations of law, rule, or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or substantial and specific danger to public health or safety.

FAA employees who report safety and other concerns (Whistleblowers) including myself are often ignored, ostracized, retaliated against for our professionalism and unwavering commitment to aviation safety. FAA employees and contractors who discover hazards or wrongdoing may choose to remain silent and not report their concern(s) for risk of direct or indirect whistleblower retaliation and breaches of confidentiality.

It is unfortunate that the Department of Transportation (DOT)/FAA senior leadership continues to ignore the valuable contributions of Whistleblowers and persons who submit Hotline complaints. I have personally alerted the FAA Administrator and other FAA Executives of systemic failures and none of them have taken time to even respond back to me about any of the substantiated concerns.

For example, when I reported to the FAA Hotline and OSC that FAA Employees were receiving improper locality pay, the FAA initiated an investigation. **The FAA investigation substantiated the allegations and reported that “a conservative estimate showed that the potential overpayments for these employees could easily exceed \$1 million per year.”**²² The DOT/FAA Leadership could not even mutter a simple Thank You for raising this concern and saving the taxpayers over one million dollars annually.

These issues can only be fixed if the Executive Management Teams within the DOT and FAA demonstrate a strong commitment to improving data quality and availability. As automation becomes more critical to Flight Standards' mission, databases are no longer

²² https://www.faa.gov/about/plans_reports/congress/media/2017_aae_annual_report.pdf

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simply used as storage areas for information, but as sources of data for data analysis. This shift carries far reaching implications for data requirements. The data on which analysis tools such as SPAS and SAS are based must be correct, consistent, complete, and up-to-date, or the results of the analysis will be meaningless. Management must be committed to keeping the data in these databases reliable.²³

The time for talking is behind us. Now is the time to act. If the quality of our safety data continues to remain poor, its inputs to safety-related decisions may not be reliable, and WILL impact our ability to effectively support the FAA’s safety mission. In an effort to reduce or eliminate systemic concerns such as this, the Secretary of Transportation should determine the root cause(s) related to these types of reported safety, regulatory, policy, automation and leadership issues and develop strategies to prevent reoccurrence.

“Failure can be useful if we learn from our mistakes. Failure can be fatal if we do not.”

Your Loyal Servant

[Whistleblower], Aviation Safety Inspector

Attachments (6)

²³ FAA Data Quality Improvement Working Group, 1993

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Appendix

**FAA Internal Whistleblower Case IWB21802 Systemic OPSS
Disclosures - Office of Audit & Evaluation**

Because of previous (substantiated) and ongoing retaliation by the FAA the **WHISTLEBLOWER** **DOES NOT CONSENT** to name or other identifying information from being released into the public files.



Federal Aviation Administration

Memorandum

Date: March 11, 2021

To: [REDACTED]

From: [REDACTED], Director, Office of Audit and Evaluation

Subject: Disclosures to the Office of Audit & Evaluation (AAE)

In June 2019, after unsuccessful attempts to report discrepancies, or organizational and operational vulnerabilities through various AVS reporting means, you recommended the FAA establish an “employee safety reporting program.” In response, I encouraged you to utilize the FAA Hotline for such reports. Since then, you have filed over 650 reports on varying systemic issues centric to the use of Flight Standards’ Web-Based Operations Safety Systems (WebOPPS) and currency of data collected and maintained therein. To date, substantiated reports clearly point to a systemic weakness with WebOPPS that appears to hinder optimal operator oversight by the certificate holding office. Therefore, please accept this memorandum as an acknowledgment of your disclosures related, to WebOPPS and data collected therein, which includes but is not limited to, Operation Specifications, Letters of Authorization, aircraft insurance, air carrier fitness citizenship, and other (non WebOPPS related) operational issues, such as active registration of destroyed aircraft.

As a result of the number of substantiated allegations, I have asked my Chief Investigator to assess and summarize the findings related to your disclosures and I will make appropriate recommendations to the Administrator, pursuant to the provisions of Title 14 USC Section 106(t)(3)(A)(iii) under case number IWB21802. We will note your identity and contributions in any memorandum prepared in this case, per your verbal consent. In addition to our efforts, Flight Standards’ Quality Control and Investigations (AFB-470) is engaged in analyzing the root cause that led to the discrepancies reported and are coordinating a corrective action plan with cognizant AFX stakeholders.

Going forward, new or pending disclosures of the nature described above, will be assigned as “Action as Appropriate” to Flight Standards. These assignments will include unresolved disclosures originally managed through Flight Standards’ Quality Management System and will now require attention through the hotline process. An investigative results report will not be required. Instead, to ensure accountability, the Hotline Brief will include a prominent instruction requiring the assigned responsible oversight office to document their receipt, assessment and corrective action in the appropriate Safety Assurance System (SAS) application.

While we continue to provide an avenue for you to report discrepancies, we believe these procedures will help address the individual reports more efficiently, while raising awareness of the overarching systemic issues and making significant recommendations for corrective action.



Federal Aviation Administration

Memorandum

Date: May 3, 2022

To: [REDACTED], Acting Administrator AOA-1 [REDACTED]

From: [REDACTED], Director, Office of Audit and Evaluation [REDACTED]

Subject: Report of Internal Whistleblower Contribution, Management of Operations Specifications – AAE File #IWB21802

Executive Summary

As required by Title 14 United States Code (USC) § 106(t), this memorandum summarizes (b) (6) investigative findings related to a whistleblower safety disclosure received from a Flight Standards (AFX) Aviation Safety Inspector (ASI) [REDACTED], assigned to the Office of Foundational Business (AFB) and who consented to the release of his identity. The whistleblower alleged that FAA failed to ensure airlines are operating in compliance with FAA policy and safety regulations by failing to provide adequate oversight of commercial airlines' Operation Specifications (OpSpecs).

(b) (6) investigation substantiated the allegation and identified systemic discrepancies within multiple OpSpecs paragraphs, including, (b) (6) [REDACTED]: active paragraphs issued on obsolete templates, paragraphs containing expired content, and missing paragraphs that are required based on the scope of the certificate holder's operation. The investigation and substantiation of (b) (6) hotlines is indicative of systemic weaknesses, (b) (6) [REDACTED] found were caused by the inadvertent elimination of manual quality assurance processes as a result of a Flight Standards re-organization, and that process does not exist in the current automated system.

(b) (6) [REDACTED] issued three recommendations in the past, (b) (6) [REDACTED] if fully implemented, would have likely prevented the (b) (6) [REDACTED] findings in this report. (b) (6) [REDACTED] recommendations have been reissued in this report, and three (b) (6) [REDACTED] recommendations have been included to address the identified weaknesses pending long-term solutions.

Background

Operation Specifications (OpSpecs):

FAA certificates issued to air operators include a stipulation that (b) (6) operations must be conducted in accordance with the provisions and limitations specified in the certificate holder's OpSpecs.¹ The OpSpecs specify the authorizations, limitations, and certain procedures under which each type of operation must be conducted and under which each class and size of aircraft must be operated. OpSpecs may be added or amended whenever necessary (by the certificate holder or the FAA) to address routine changes in fleet composition or operations. A certificate holder may not conduct operations inconsistent with its current OpSpecs.

Web-based Operations System Safety (WebOPSS):

The WebOPSS User Guide (revised 10/2015) states that WebOPSS is the next generation of application software utilized by AFX to collect data on operator activities, to disseminate FAA policies to the certificate holder and inspector communities, and to generate and manage authorizing documents on behalf of the operator, which includes OpSpecs. This system contains some of the most up-to-date data on the airline industry.

Allegation: FAA failed to ensure airlines are operating in compliance with FAA policy and safety regulations by failing to provide adequate oversight of commercial airlines' Operation Specifications (OpSpecs).

Findings: Substantiated.

Since June 2019, the whistleblower disclosed hundreds of substantiated OpSpec-related discrepancies via the FAA Hotline.² (b) (6) the type of discrepancies (b) (6), all are related to the general administration and oversight of OpSpecs and most of the OpSpec discrepancies identified involved paragraphs that:

- Contained expired content, or
- Remained issued on revised or archived templates.

(b) (6) discrepancies included OpSpec paragraphs, which were issued:

- Without the issuance of an accompanying paragraph that was required for the type of operation,
- In combinations that are prohibited by policy,
- When required information was missing from tables or other fields, or

¹ FAA Order 8900.1, Volume 3, Chapter 18.

² In June 2019, after unsuccessful attempts to report discrepancies or organizational and operational vulnerabilities through various AVS reporting means, including (b) (6) the Non-Conformity and Corrective Action (AQS) processes, the whistleblower was advised by AAE-1 to file (b) (6) reports through the Hotline process.

- Prior to a regulatory requirement being met.

(b) (6), OpSpec A005 states that the certificate holder is authorized to conduct operations in accordance with the provisions, conditions, and/or limitations set forth in the exemptions. A certificate holder is not authorized to operate under an exemption beyond an expiration date.

(b) (6), there is no effective alert of exemption expiration to the certificate holder or assigned inspector, which increases the probability of a certificate holder operating in non-compliance with the regulations.

(b) (6) the FAA Hotline disclosures, OpSpec discrepancies were (b) (6) the subject of (b) (6) OSC investigations. (b) (6) investigations found that inspectors:

- Failed to verify that aircraft had insurance on file with the FAA prior to adding the aircraft on the carrier's OpSpecs (DI-19-002560).
- Included nonstandard templates and text in OpSpecs without obtaining the required approval from the appropriate FAA policy division (DI-20-00393).
- Authorized aircraft operators to operate within the North Atlantic High Level Airspace despite lacking the most current, required OpSpec (or Letter of Authorization) template (DI-20-000690).
- Improperly approved OpSpecs for commercial operations which included aircraft with experimental airworthiness certificates (DI-20-000728).

(b) (6) investigations substantiated the discrepancies, there were no identified circumstances where the discrepancy constituted a violation by the certificate holder. (b) (6), in determining if a regulatory violation occurred, related records may have been revised or expunged prior to the commencement of the investigation, making it difficult to prove that a certificate holder conducted operations contrary to the regulations.

(b) (6) two factors contributed to the increase in identified OpSpec discrepancies over the past three years, an AFX re-organization and lagging automation. The 2017 AFX reorganization eliminated regional offices, (b) (6) dedicated resources to reporting OpSpec discrepancies to (b) (6) field offices, and regional management (b) (6) monitored the status of corrective actions. (b) (6) responsibilities were shifted to field offices and principal inspectors, increasing (b) (6) (b) (6) workloads, without specific guidance on how to retrieve and evaluate OpSpecs data, address common discrepancies, and effectively execute OpSpecs oversight. (b) (6), inspectors have increasingly relied upon automation safeguards to enforce business rules and workflow, neither (b) (6) are present in WebOPSS. (b) (6) it primarily serves as a repository for OpSpec authorizations, WebOPSS does not have built-in automation or controls to alert principal inspectors or certificate holders of (b) (6) discrepancies such as notification of expiring exemptions or preventing the issuance and/or approval of paragraphs with missing data.

Attempts to correct inaccurate information entered at the field office level have not been effective. To help manage (b) (6) air carriers' OpSpecs, (b) (6) found that field offices have developed (b) (6) reports, and inspectors have added alert notifications in (b) (6) personal calendars. In FY21, after recognizing that oversight gaps were created during a reorganization of

responsibilities, AFX implemented the Flight Standards Performance Indicators (FSPI), a means to monitor operator conformance and performance, and make risk-based decisions. OpSpec/Letters of Authorization with missing paragraphs and with paragraphs issued on out-of-date templates are among the authorizations analyzed in the FSPI database. Monthly reports are issued to AFX field offices and division managers. (b) (6), continuing disclosures of OpSpec-related discrepancies indicate that these measures have not been effective in correcting systemic discrepancies.

AFX views OpSpecs oversight to be an administrative function and discrepancies to be administrative errors. (b) (6), data that are incomplete, inconsistent, and inaccurate could potentially lead to non-conformance with regulatory requirements. (b) (6), the potential exists for an administrative discrepancy to cause a hazard, (b) (6) policy and decision-makers rely on WebOPSS data as the basis and support for risk-based decision-making.

In 2018 and 2019, the whistleblower identified discrepancies or organizational and operational vulnerabilities that he reported through various AVS reporting means, (b) (6) (b) (6).³ (b) (6), he reached out to (b) (6) FAA executives to identify the best manner in (b) (6) to report his findings. He was instructed by AAE-1 to use the Hotline to file his concerns. It was not known at the time of this decision that the discrepancies would be in the hundreds affecting almost all AFX oversight offices. (b) (6), the use of the Hotline system is neither optimal, nor the most effective way to address voluminous⁴ and repetitive discrepancies of a particular program, such as OpSpecs. (b) (6), there is no effective process within AFX for reporting matters requiring attention or correction by an organization in AFX with oversight authority. The only existing process is reporting to the office where the problem originated, and that process is severely flawed.

(b) (6) the whistleblower's (b) (6) findings and continual disclosures affecting all AFX offices, there has been (b) (6) the whistleblower. The whistleblower in this case has established beyond all reasonable doubt that there is a serious process flaw, (b) (6) is not being addressed with sufficient urgency.

Recommendations and Corrective Actions:

(b) (6) the findings related to existing guidance regarding the issuance of Operations Specifications, the following recommendations are issued to the Office of Aviation Safety (AVS) and the Flight Standards Service (AFX). The first three recommendations were (b) (6) issued in OSC Case DI-20-000728. (b) (6) are re-issuing (b) (6) in this report as that case was specific to Experimental Aircraft Airworthiness certificates and associated OpSpecs and this matter addresses OpSpec discrepancies in general.

Recommendation 1: Conduct a formal risk assessment to determine the actual risk the

³ The whistleblower has reported these discrepancies through, (b) (6), the Safety Recommendation (AVP), the Non-Conformity and Corrective Action (AQS) processes, and (b) (6) the, Voluntary Safety Reporting System (AVS).

⁴ Since 2019, the whistleblower has filed over 800 Hotlines on various matters, over 450 specifically related to OpSpecs.

identified OpSpecs discrepancies pose to safety.

Recommendation 2: Evaluate guidance related to OpSpecs management and oversight and update national policy to specify an inspector's responsibility to proactively and periodically review OpSpecs for currency and accuracy and to correct any discrepancies.

Recommendation 3: Develop and implement an automation solution that supports Flight Standards business rules, workflows and regulatory requirements related to the overall issuance, acceptance, management and oversight of OpSpecs and to address the discrepancies above to include operator and inspector notifications.

Recommendation 4: Develop a process to identify discrepancies and provide that information to the appropriate offices for corrective action, while Recommendation 3 is being considered.

Recommendation 5: Develop guidance and a mechanism for AFX employees to report discrepancies requiring attention by an office other than the office wherein the discrepancy is discovered.

Recommendation 6: Augment efforts within AFX to eliminate hostility against whistleblowers.

Please respond to these recommendations within 60 days of receiving this report *and include* milestones for each associated corrective action and projected dates of completion in response to the recommendations. If you have any questions or need additional information, please contact Terri Pasiewicz, Investigator, Internal Disclosures & Safety Investigations, AAE-120, at 907-280-6940.

cc: Associate Administrator for Aviation Safety (AVS-1)
Executive Director, Flight Standards Service, (AFX-1)

Methodology

The investigation was conducted under the authority of the FAA Office of Audit and Evaluation (AAE), pursuant to Title 49 U.S.C. §106(t) and FAA Order 1100.167B.

Investigative Team:

- Terri Pasiewicz, Investigator, Office of Audit and Evaluation
- Barbara Barnet, Chief Investigator, Office of Audit and Evaluation
- Jeff Graves, Senior Investigator, Office of Audit and Evaluation – Detailee

AAE analyzed records, documents, and interviews obtained from the contributor, (b) (6) memorandums, emails, FAA guidance, policy, regulations, orders and notices. Analyzed records obtained from the FAA Aircraft Registry, WebOPSS and Vital Information Systems (VIS). The investigation (b) (6) relied upon numerous Hotline reports filed by the whistleblower and reports of investigations in (b) (6) OSC matters. (b) (6), interviews or technical discussions with AFX executives, managers and policy/technical specialists, discussions of policy, and email correspondence was conducted.

(b) (6), investigators interviewed and obtained relevant documents from:

- (b) (6), AFS-260, (b) (6)
- (b) (6), AFS-260, (b) (6)
- (b) (6), AFS-260, (b) (6)

**AAE File #AAE10-12-0024(A) Report of Internal Whistleblower
Contribution System Approach to Safety Oversight (SASO) / Safety
Assurance System (SAS)**



Federal Aviation Administration

Memorandum

Date: August 17, 2017

To: [Redacted] Manager, Audit and Analysis Branch, AAE-100

From: [Redacted]
AAE 100

Subject: Recommended Closure of Internal Whistleblower Contribution, SASO, AAE File #AAE10 12 0024A

In October 2012, [Redacted] Manager, Analysis and Information Program Office (AIPO), Flight Standards National Field Office (AFS-900), submitted a complaint to AAE claiming deficiencies in System Approach to Safety Oversight (SASO) program. [Redacted] claimed the program was mismanaged and was no longer a standardized and comprehensive safety system for AFS.

The SASO program office developed a foundation then evolved and updated the Safety Assurance System (SAS) as the new FAA oversight model. The Joint Resources Council (JRC) reviewed and identified numerous deficiencies in the program and made recommendations to AFS. AFS then took significant action to re direct the original SASO program. Contemporaneously, the contributor's disclosure provided a higher level of visibility to concerns with the new oversight model. This led to significant action by AVS to redirect the automation project which included redefining program requirements that significantly downscaled the original overall plan for SAS while maintaining the same general purpose.

SAS was successfully deployed throughout AFS in December 2015. Subsequent development is multi-phased as AFS planned to further develop SAS to accommodate all remaining Federal Aviation Regulations (FAR) into the system and incorporate safety analysis capabilities. SAS is currently in Phase III: In Service Management (FY17 22). All indications support that the JRC has continued rigorous oversight of the program despite the considerable challenges associated with the number of varying FAR parts to be integrated

The matter was addressed and corrected by AFS. No further action is required by AAE at this time. I recommend this matter be closed.

[Redacted]
[Redacted] Manager (AAE-100)

Concur: K Date: 08/17/2017

Non concur: _____ Date: _____

**AAE File #AAE10-12-0024(F) Report of Internal Whistleblower
Contribution Safety Performance Analysis System (SPAS)**



Federal Aviation Administration

Memorandum

Date: JUN 11 2014

To: [REDACTED] Administrator

From: [REDACTED] Director, Office of Audit and Evaluation (AAE-1)

Subject: Report of Internal Whistleblower Contribution - Safety Performance
Analysis System (SPAS) AAE File #AAE10 12 0024(F)



The Office of Audit and Evaluation (AAE) received an internal whistleblower disclosure, under the "FAA Modernization and Reform Act of 2012," (P.L. 112 95, Section 341.3), from [REDACTED], Manager, Analysis and Information Program Office¹ (AIPO), Flight Standards National Field Office (AFS-900), concerning the Safety Performance Analysis System (SPAS), a Flight Standards (AFS) web-based safety related data analysis tool. AIPO² manages SPAS for AFS. [REDACTED] provided AAE written consent to disclose his identity.

[REDACTED] considers SPAS increasingly unreliable because of deficiencies in data quality and reliability, technical system requirements and enhancements, and system and program funding. [REDACTED] claimed that SPAS business needs were not prioritized because the overall impact of SPAS on aviation safety oversight was not seriously considered. [REDACTED] also noted that SPAS is an AFS mission critical system, and deficiencies in the system could negatively affect an Aviation Safety Inspector's (ASI) oversight responsibilities. In June 2013, AAE referred this matter to the Office of Information & Technology (AIT) for an independent investigation.

AIT substantiated [REDACTED] claims. Their investigation found that the FAA should consider replacing or modernizing SPAS to meet the rapidly evolving needs of its users, and to comply with a Congressional mandate to maintain a safety performance analysis system. AIT recommends that current functionality in SPAS must be maintained until it is either replaced or modernized.

We concur with AIT's findings and recommendations and agree that SPAS deficiencies could potentially impact the safety oversight of our aviation system.

¹ AIPO is responsible for providing AFS executives with operational and organizational risk metrics that will assist them with their decision-making.

² FSI 100.1C, Flight Standards Service Organizational Handbook, Chapter 14, Section 8, Paragraph C.

**Letter of Caution from FAA for supporting DOT-OIG Audit of the
Aviation Safety Information Analysis and Sharing (ASIAS) System**



Federal Aviation Administration

Memorandum

Date: August 10, 2012

To: [REDACTED], Manager, Analysis and Information Program Office, AFS-900

From: [REDACTED] Acting Manager, Flight Standards National Field Office, AFS-900

Subject: Letter of Caution

The purpose of this letter is to caution you about violations of the Standards of Conduct, Human Resources Policy Manual (HRPM) Volume 4: Employee Relations ER-4.1. The specific details in support of this action are as follows:

Employee Relations ER-4.1, 3 (e) requires managers to "Embrace, fully support and comply with all DOT and FAA regulations, policies and programs. Take necessary corrective action when employees under their supervision commit offenses."

On June 13, 2012 you were designated the Flight Standards Service (AFS) point of contact to facilitate the Department of Transportation (DOT) Office of Inspector General's (OIG) audit of the Air Safety Information Analysis and Sharing System (ASIAS). ASIAS, along with other FAA voluntary programs, are designed to promote aviation safety through the voluntary sharing of data and information by industry, labor groups, and the FAA. This is accomplished by sharing their experiences without apprehension that the DOT/FAA might exercise their punitive powers. Obviously candor, trust and confidence among the parties are required for the program to work.

The Inspector General's Office requested information on the submission of quarterly Safety Enhancement Reports to FAA headquarters, specifically the four following procedural questions:

- 1) Do these Quarterly Safety Enhancement Reports come through you (if not, who do they go to) and do you have access to these reports and the database mentioned?
- 2) What is the database mentioned and who is responsible for it? Does it interact with ASIAS in any way?
- 3) Who distributes/compiles/posts the newsletter mentioned?
- 4) Is it possible to get a few recent newsletters posted on the website?

Instead of your answers being succinct, direct, and material and therefore helpful, you used this request to serve as a forum for your own views on the efficacy of the ASIAS and other voluntary programs by criticizing managers and providing unsolicited personal opinions on policies and programs of the Agency.

In the process, you abused the trust and confidence of the Management of AFS by releasing internal emails and correspondence, opining that the Agency should be doing more therefore implying management is inept, and then making judgments and recommendations not fully supported by the facts. Finally, you erroneously concluded that the Agency is "failing to integrate and understand the intelligence that we already had," suggesting that you are the sole repository of expertise on the ASIAS program, again implying the ineptitude of AVS and AFS-900 management.

I must point out to you that you are a frontline manager and not the Assistant Administrator for Aviation Safety. While we welcome constructive criticism, experience shows that best results obtain when this criticism is filtered through the varied and extensive experience found in AFS-900 management. I welcome any suggestions you might have to improve any of the programs for which AFS-900 is responsible.

That being said, you are to embrace, fully support and comply with all DOT and FAA regulations, policies and programs.

You are not to share internal e-mails and correspondence with third parties without prior permission from me. It is absolutely necessary for employees to be candid with each other in their professional relationships. Releasing emails in which employees have an expectation that their deliberations will not be disclosed can have a chilling effect.

In order to engender public confidence in our programs it is necessary that the Agency speaks with one voice. To do otherwise, diminishes the efficiency of the Federal service and could ultimately inhibit the success of our mission of aviation safety. Your unsolicited opinions contradicting AVS programs may well have the counterproductive effects of undermining public confidence and defeating the requisite trust of all parties to these programs. Therefore, in dealing with persons and entities outside of AFS-900 you are to use tact and discretion and first speak with me to resolve any doubts you might have about the release of information.

I have discussed with you the errors in judgment committed by you in performing your duties as a facilitator. Considering your intelligence and managerial experience I find these errors perplexing, none-the-less I believe that formal counseling is the most beneficial remedy for you and the Agency.

This Letter of Caution will not be made part of your Official Personnel File, but I will retain custody of it for twelve months at which time it will be destroyed.

In the event that you may have personal or health related problems, assistance is available through the Employee Assistance Program (EAP). This is a free and confidential service and you are encouraged to take advantage of this assistance if you feel it necessary to do so. You can seek assistance by calling the EAP Hotline at 1-800-234-1EAP or visiting the EAP website at www.magellanhealth.com/member.

Questions concerning this Letter of Caution should be directed to HR Specialist [REDACTED]
[REDACTED] in the Eastern Region, Human Resources Division at [REDACTED]

Email to FAA Administrator on March 24, 2021

[REDACTED]

From: [REDACTED]
Sent: Wednesday, March 24, 2021 6:31 PM
To: [REDACTED] (FAA)
Cc: [REDACTED] (FAA); [REDACTED] (FAA); [REDACTED] (FAA); [REDACTED]
Subject: FAA Internal Whistleblower Case IWB21802 - Systemic Disclosures to the Office of Audit & Evaluation (AAE)
Attachments: Memo AAE1 to [REDACTED] Signed 03.11.2021.pdf; FAA Hotline Submission- Agency Employee Safety Reporting (ESR) Program.pdf; Final Signed- Safety Recommendations about Federal Aviation Administration (FAA) Hotline and Whistleblower Submissions.pdf; SIGNED- FINAL FAA Safety Recommendations about Federal Aviation Administration Hotline System Program and Guidance.pdf; FAA Safety Recommendation- Aviation Safety Stand Down- Signed.pdf; SIGNED- FINAL FAA Safety Recommendations about Federal Aviation Administration Hotline System Program and Guidance.pdf; CST Aviation Report (2).pdf

Confidential Submission- Please do not release my name
This email was also sent as BCC to other persons who may have a need to know.

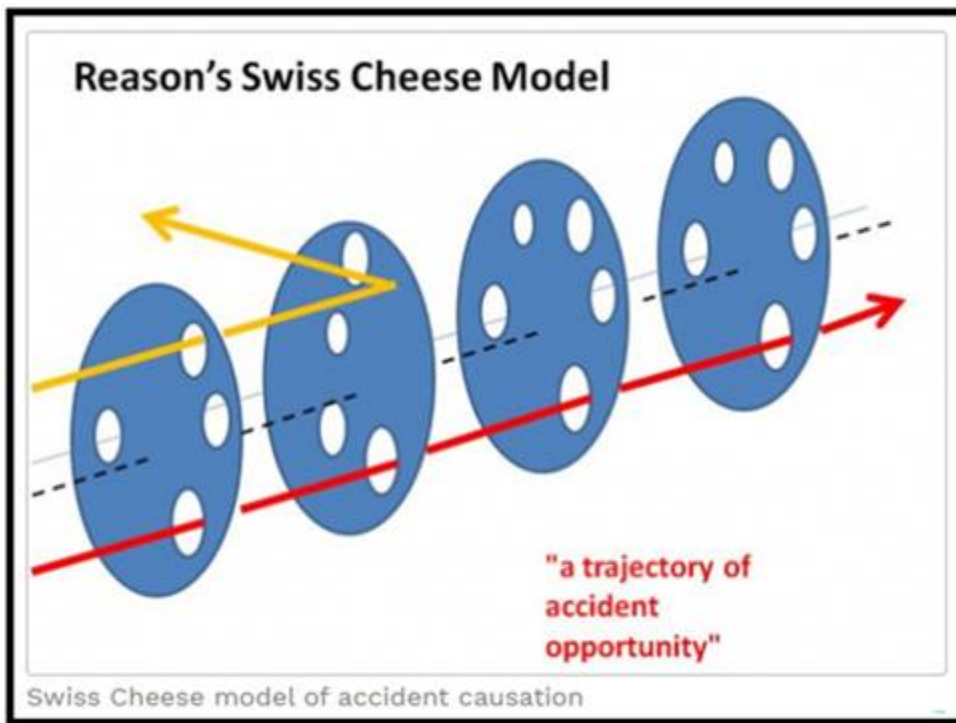
Administrator Dickson,

Your recent [video highlighting the second anniversary of the crash of Ethiopian Airlines Flight 302](#) reinforced my strong commitment to improving aviation safety and our collective duty to the traveling public.

The purpose of my message to you is to alert you of many missed opportunities that could prevent the next accident, incident or occurrence. The systemic issues reported to the FAA Hotline and Office of Special Counsel (OSC) **over the past decade** could represent the holes described in the James Reason Swiss Cheese Model.

In the Swiss Cheese model, an organization's defenses against failure are modelled as a series of barriers, represented as slices of the cheese. The holes in the cheese slices represent individual weaknesses in individual parts of the system, and are continually varying in size and position in all slices. The system as a whole produces failures when holes in all of the slices momentarily align, permitting "a trajectory of accident opportunity", so that a hazard passes through holes in all of the defenses, leading to an accident¹. James Reason hypothesizes that most accidents can be traced to one or more of four levels of failure:

- Organizational influences,
- Unsafe supervision,
- Preconditions for unsafe acts, and
- The unsafe acts themselves.



The attached memo from the Office of Audit and Evaluation (AAE) dated March 11, 2021 shows **"In June 2019, after unsuccessful attempts to report discrepancies, or organizational and operational vulnerabilities through various AVS reporting means, you recommended the FAA establish an "employee safety reporting program." In response, I encouraged you to utilize the FAA Hotline for such reports. Since then, you have filed over 650 reports on varying systemic issues** centric to the use of Flight Standards' Web-Based Operations Safety Systems (WebOPPS) and currency of data collected and maintained therein. **To date, substantiated reports clearly point to a systemic weakness with WebOPPS that appears to hinder optimal operator oversight by the certificate holding office..."**

Please note that those 650 reports referenced in the attached memo very likely highlight thousands of safety issues & concerns (opportunities) reported to the FAA Hotline. The memo from AAE-1 does not address the many other issues (opportunities) reported to the FAA Safety Recommendation Program and OSC.

While I am hopeful that the new AVS Voluntary Safety Reporting Program will be successful I am worried that the program will suffer some of the same setbacks I have noted with other reporting systems/programs. For example will the new VSRP be able to identify emerging trends or create graphs that appear to show success? The AVS Dashboard shown below could be used as indicator of emerging trends related to Hotlines however it seems to focus attention on just the overdue Safety/Administrator Hotlines cases.

1. **Critical Thinking Question-** The graph could be misleading. Did you know that all its takes is an email requesting an extension from AAE for the overdue status on the AVS Dashboard graph to change from **Overdue** to **On -Time**?

[AVS Dashboard – Hotline Metric](#)



2. **Critical Thinking Question-** Who within the FAA accepts the risk of a safety concern that was properly reported to the Hotline while it is in the queue to be investigated?
 - **NOTE- FAA Hotline Case 20191119013 has been open for over 408 days.** FAA Policy is to complete an investigation and send a report to AAE within 45 days.
3. **Critical Thinking Question-** How many other Hotline Cases have not investigated and report written within the 45 day requirement outlined in FAA Order 1070.1A and FAA Order 8900.1?

Suggested Recommendations

1. **AVS should create a new Dashboard Metric that tracks and trends Hotline (Administrator & Safety) subject areas for the purpose of identifying systemic issues before there are unintended consequences.**
 - [REDACTED] Opinion- It should not take 600+ Hotline submissions before an issue is labeled systemic.
2. **AVS should create a new Dashboard Metric that tracks the total time it takes to complete a Hotline (Administrator & Safety) investigation.**
 - FAA Order 1070.1A and 8900.1 require cases to be investigated and final report provided to AAE within 45 days, unless extension is granted.
 - Blanket Extensions of Hotline Due dates do nothing to mitigate the reported hazard.
3. **AVS should develop a written process for identifying, tracking, reporting and resolving systemic issues.**

In closing, my experience and frustration related with raising safety concerns may not be unique. A recent [report by the United States Senate Committee on Commerce, Science, and Transportation](#) highlights many operational and organizational concerns that were reported by FAA employees to a Senate Investigative Team. Maybe a future Straight from Steve message could discuss this Senate report and the steps the Agency is taking to address these types of missed “opportunities”.

As always I stand by to help the organization tackle these important safety issues.

[REDACTED]

Email exchange with DOT Secretary Buttigieg

[REDACTED]

From: Secretary Buttigieg <SecretaryButtigieg@dot.gov>
Sent: Tuesday, July 27, 2021 2:33 PM
To: [REDACTED]
Subject: Thank you for your message

Thank you for taking the time to write to me.

It is always helpful and important to hear thoughts and responses from members of the DOT workforce. I want to let you know that we have received your note and will review it. We will share your message with relevant offices, if appropriate.

I continue to be humbled to serve alongside each of you. I appreciate your commitment to DOT and your service to this country.

Take care,

-Secretary Pete

From: [REDACTED]
Sent: Tuesday, July 27, 2021 6:05:24 PM
To: APP-AAE-FHIS (FAA) <Application> <FAA> <fhis@faa.gov>; [REDACTED]@dot.gov;<[REDACTED]@dot.gov>; DOT Exec Sec (OST) <DOTExecSec@dot.gov>; Secretary Buttigieg <SecretaryButtigieg@dot.gov>; Secretary Pete <SECDOT20@dot.gov>
Cc: [REDACTED]
[REDACTED]; Privacy, OST (OST) <privacy@dot.gov>; 9-FAA-Privacy (FAA) <Shared-Mailboxes> <FAA> <privacy@faa.gov>
Subject: FAA Retaliation Case A20210325002- Breach of Whistleblower/Hotline/FHIS Confidentially 7-27-21

Dear Secretary Buttigieg,

I have been an Aviation Safety Inspector with the Federal Aviation Administration (FAA) for 25 years.

It is my opinion that Whistleblowers have performed a vital role in today's world. FAA Whistleblowers such as myself have (following established processes) alerted management officials and others to violations of law, rule, or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or substantial and specific danger to public health or safety.

FAA Whistleblowers have been ignored, ostracized or retaliated against for their professionalism and unwavering commitment to aviation safety. The December 2020 [United States Senate Committee on Commerce, Science, and Transportation report](#) highlighted that the FAA is continuing to retaliate against whistleblowers instead of welcoming their disclosures in the interest of safety. I am worried that if this negative safety culture is not reversed, FAA employees and contractors who discover

hazards or wrongdoing may remain silent and not report their concern(s) for risk of whistleblower retaliation.

Your [Policy Statement on Whistleblowing dated March 29, 2021](#) states in part *“Legitimate disclosure of information by employees is an invaluable resource for the oversight of Government operations. I expect employees to **report these matters confidentially** to the Department’s Office of Inspector General (OIG), the U.S. Office of Special Counsel, or appropriate management officials”*

Almost a year ago I discovered that confidential whistleblower/hotline information was improperly being taken from the FAA Hotline System/Reports and then posted onto the FAA Knowledge Sharing Network (KSN) and/or other information systems. Since that date, I have identified and properly reported countless other security and privacy breaches such as the FAA KSN listing PII/SPI for over 40,000 current or former employees and members of the general public.

On June 12, 2021 I alerted the FAA Administrator and his Chief of Staff that the agency appears to be ignoring various laws, policies and guidance (see below) related to maintaining Whistleblower/Hotline Complaint confidentiality. My message to them also highlighted ongoing concerns about possible retaliation and/or harassment against me related to my protected Whistleblower/Hotline disclosures.

For your awareness, earlier this morning I discovered another investigation record (PTRS SW17202200309) related to a confidential FAA Hotline submission identifying me as the complainant. The FAA has known for almost a year that the identity of me and many other confidential whistleblower/hotline reporters is currently being made available across many different information systems to thousands of employees and contractors who were not part of the investigation or do not have a need to know.

Thank you for listening.

Background Information

When the Agency ignores the reported concerns or is slow to act I use the other reporting options available to FAA employees. Over the years, my disclosures have properly identified thousands of safety, privacy and security issues & other concerns.

AVS Voluntary Safety Reporting Program (VSRP)- [AVS Order VS 8000.375](#) shows the internal AVS-wide VSRP is an integral part of a positive, vibrant safety culture and provides a confidential, non-punitive mechanism for AVS employees to voluntarily report aviation-safety-related issues and concerns.

To date, the independent Event Review Board (ERB) has already accepted 198 of my 200+ VSRP submissions?

FAA Hotline Information System (FHIS)- The attached memo from the Office of Audit and Evaluation (AAE) dated March 11, 2021 shows *“In June 2019, after unsuccessful attempts to report discrepancies, or organizational and operational vulnerabilities through various AVS reporting means, you recommended the FAA establish an “employee safety reporting*

program.” In response, I encouraged you to utilize the FAA Hotline for such reports. Since then, you have filed over 650 reports on varying systemic issues centric to the use of Flight Standards’ Web-Based Operations Safety Systems (WebOPPS) and currency of data collected and maintained therein. **To date, substantiated reports clearly point to a systemic weakness with WebOPPS that appears to hinder optimal operator oversight by the certificate holding office...**”

FAA Safety Recommendation Program- In an effort to ensure the highest levels of safety I have also submitted many safety recommendations in accordance with FAA Order 8020.17.

The FAA often (not always) does not accept my safety recommendations

Office of Special Counsel (OSC) - When the Agency failed to act, I as a whistleblower submitted to the OSC several deficiencies that, if resolved will help the FAA prevent fraud and ensure the highest degree of safety or efficiency.

OSC File No. DI-17-1298

SUBSTANTIATED- Aviation Safety Inspectors are improperly approving aircraft for addition to Operations Specifications under Part 135 without appropriately reviewing the exemptions of the aircraft.

SUBSTANTIATED- Aircraft had operated in the National Airspace System without the authority to operate due to expired registration and airworthiness certificates.

AAE - SUBSTANTIATED- FAA employees and management improperly receiving locality pay while actually working in other locations.

OSC File No. DI-19-2560

SUBSTANTIATED- Aviation Safety Inspectors have failed to verify that all aircraft on carriers’ operations specifications are properly insured.

SUBSTANTIATED- Aircraft have operated in the national air space system without a certificate of liability insurance on file with the FAA.

OSC File No. DI-19-3959

SUBSTANTIATED- Principal Inspectors have failed to ensure that training centers are conducting only FAA-approved training curriculum.

SUBSTANTIATED- Pilots and flight crewmembers may have obtained certification based upon expired training courses.

OSC File No. DI-20-000754- Referred to DOT- Program Tracking and Reporting Subsystem (PTRS) Data Quality

Submission to OSC a substantial and specific danger to public health or safety and/or possible violation of a law, rule, or regulation. FAA surveillance, investigation and

certification activities were completed and closed by fictitious FAA Inspectors & other data quality concerns.

OSC File No. DI-20-000393- Referred to DOT- Non Standard OPSS

Submission to OSC a substantial and specific danger to public health or safety and/or possible violation of a law, rule, or regulation. Related to OPSS Nonstandard Text.

OSC File No. DI-20-000536- Referred to DOT- Airline Weight and Balance

Submission to OSC a substantial and specific danger to public health or safety and/or possible violation of a law, rule, or regulation related to 6 Year Delay – Non Compliance with Airline Weight and Balance AC & rules.

OSC File No. DI-20-000690- Referred to DOT- North Atlantic Operations

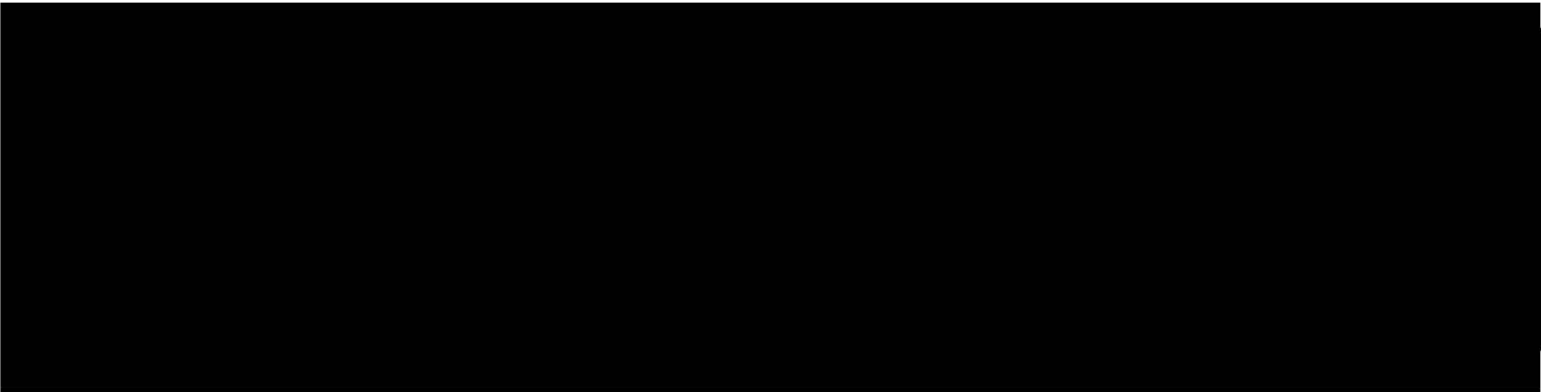
Submission to OSC a substantial and specific danger to public health or safety and/or possible violation of a law, rule, or regulation related to OPSS related to B039 Operations.

OSC File No. DI-20-000914- Referred to DOT- Unauthorized Training Providers

Submission to OSC a substantial and specific danger to public health or safety and/or possible violation of a law, rule, or regulation- Hundreds of Certificate Holder possible use of non-approved Outsourced Training Center/Providers.

FHIS,

Please add the attached PTRS record SW17202200309 to Hotline Case A20210325002.



[REDACTED]

Sent: Monday, July 12, 2021 1:24 PM

To: APP-AAE-FHIS (FAA) <fhis@faa.gov>; Dickson, Steve (FAA) <Steve.Dickson@faa.gov>

[REDACTED]

OIGwhistleblowerinfo@oig.dot.gov

Subject: RE: A20210325002- Another breach of Whistleblower/Hotline/FHIS Confidentially 7-12-21

Administrator Dickson,

For your situational awareness, Over the past year, I have notified the FAA Security Operations Center, Privacy Office and Audit and Evaluation that my name (and others) was regularly being listed in various FAA data systems related to CONFIDENTIAL Hotline/Whistleblower submissions. This confidential information is being made available to thousands of employees and contractors who were not part of the investigation or do not have a need to know.

On March 24, 2021, I submitted concerns to the Hotline (A20210325002) that the FAA continues to ignore various laws, policies and guidance (see below) related to Whistleblower/Hotline Complaint confidentiality. Earlier this morning I noticed that the FAA posted two additional records online that identify me as the submitter. I consider the Agency's failure to act after being notified many times about these systemic disclosures to be a form of retaliation and/or harassment related to my protected Whistleblower/Hotline disclosures.

FHIS,

Please add to Hotline Case A20210325002 these new PTRS records (FS56202101233 & EA68202102804) showing another breach of Whistleblower/Hotline/FHIS Confidentially and/or retaliation. When AFS employees and management disclose the name of any confidential submitter it may violate both the spirit and letter of many laws, policies and guidance related to Whistleblower/ FAA Hotline Confidentiality. I consider the Agency's failure to act after being notified many times about these systemic disclosures to be a form of retaliation and/or harassment related to my protected Whistleblower/Hotline disclosures.

[REDACTED]

Sent: Tuesday, June 22, 2021 8:57 AM

To: APP-AAE-FHIS (FAA) <fhis@faa.gov>

[REDACTED]

- Another breach of Whistleblower/Hotline/FHIS Confidentially

FHIS,

Please add to A20210325002 this new PTRS record (EA39202103351) showing another breach of Whistleblower/Hotline/FHIS Confidentiality and/or retaliation. These ongoing actions by AFS to continue disclosing the name of a confidential submitter appear to violate both the spirit and letter of many laws, policies and guidance related to Whistleblower/ FAA Hotline Confidentiality. The Agency's **failure to act after being notified many times** about these systemic disclosures may be a form of retaliation or harassment related to my protected Whistleblower/Hotline disclosures.

Various Law/Policy/Guidance related to Whistleblower/Hotline Complaint confidentiality

Public Law 112, SEC. 341. AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.

“(3) COMPLAINTS AND INVESTIGATIONS.—

“(B) DISCLOSURE OF IDENTITIES.—The Director **shall not disclose the identity of an individual who submits a complaint or information under subparagraph (A)(i) unless—**

“(i) **the individual consents to the disclosure in writing;** or

“(ii) the Director determines, in the course of an investigation, that the disclosure is required by regulation, statute, or court order, or is otherwise unavoidable, in which case the Director shall provide the individual reasonable advanced notice of the disclosure.

Title 49, United States Code Section 106(t)(3)(A)

The Director shall—

(i) **receive complaints and information submitted by employees** of persons holding certificates issued under title 14, Code of Federal Regulations (if the certificate holder does not have a similar in-house whistleblower or safety and regulatory noncompliance reporting process established under or pursuant to a safety management system) and **employees of the Agency concerning the possible existence of an activity relating to a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety;**

(iv) **receive allegations of whistleblower retaliation by employees of the Agency;**

Office of Special Counsel – Know your rights when reporting wrongs

Can I keep my identity confidential?

Yes. Most Inspectors General have hotlines that allow employees to make confidential disclosures. Inspectors General are prohibited from disclosing an employee's identity unless the IG determines that disclosure is unavoidable or is compelled by a court order. If you file a disclosure with OSC, your identity will not

be shared outside of OSC without your consent. However, OSC may disclose your identity only if OSC determines that it is necessary because of an imminent danger to public health or safety or an imminent violation of any criminal law.

<https://osc.gov/Documents/Outreach%20and%20Training/Handouts/Know%20Your%20Rights%20When%20Reporting%20Wrongs%20Handout.pdf>

https://my.faa.gov/content/dam/myfaa/news/focusfaa/images/Focus_Story_Images/2018/02/Know%20Your%20Rights%20When%20Reporting%20Wrongs%201.31.18.pdf

AHR-1 Memo dated November 19, 2020¹¹ to All FAA Employees titled Whistleblower Protection/Prohibited Personnel Practices

Federal employees have the right to be free from prohibited personnel practices, including retaliation for whistleblowing. This agency is committed to making sure that all employees are aware of their rights as well as the safeguards that are in place to protect them.

I encourage employees to acquaint themselves with the Whistleblower Protection Act of 1989, the Whistleblower Protection Enhancement Act of 2012, the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, and the National Defense Authorization Act for Fiscal Year 2018 protections.

I remind every manager of their responsibility to maintain a workplace that respects each employee's right to raise legitimate concerns without fear of retaliation.

FAA Order 1070.1A

Confidential: A request made by an individual submitting a report to the FAA Hotline that **his/her identify not be disclosed to anyone other than the Hotline Analyst or individuals responsible for investigating the actual report.** Callers willing to disclose their name and contact information to the investigating office will be categorized as "Confidential Field Office." All other confidential reporting individuals will be categorized as "Confidential Headquarters."

If the reporting individual has requested confidentiality, the investigating office may obtain the individual's contact information from the Hotline if such a request is approved by the reporting individual. The contact information is to be used for FAA official use only, and **the investigating office must maintain the AAE provided confidentiality of such contact information.** If it is determined by the investigating office that it is necessary to release the name of the reporting individual, the investigating office will contact the reporting individual prior to releasing their information.

Hotline materials and documents are stored in secure storage and **will not be disseminated to persons other than those directly involved in processing, investigating, or resolving the allegations** raised by a reporting individual.

If the employee requests confidentiality from the investigating office or anonymity, his/her identity will be removed from the hotline report before it is forwarded to the PPOC. However, authorized disclosure of FAA employees' identities may be made within the agency on a "need to know" basis to a Washington Headquarters investigator from ASH.

FAA Order 8900.1

B. Hotline Operation. Complaints are forwarded to the Office of Primary Responsibility (OPR) for evaluation and assignment to the appropriate office, division, or individual for investigation and reply.

Confidentiality. **Confidentiality is a significant feature of hotline operations.**

- a) Action items may be received with or without caller identity. In addition, caller identification may be given with the stipulation that it not be divulged outside the Hotline Center. When requested, confidentiality must be retained. If a caller requests confidentiality at the time of the initial report, their name is withheld.
- b) Inspectors should guard against inadvertent disclosure of confidential sources during investigation of action items.
- c) Investigative reports provided to management should be limited to objective findings and appropriate verification of complaints.

FAA Notice 8900.552

Confidentiality. Confidentiality is a significant concern of hotline operations. Inspectors must guard against inadvertent disclosure of the complainant's identity and of confidential sources during investigation.

Flight Standards Administrative Manual

Inspectors should guard against inadvertent disclosure of confidential sources during investigation of action items. If the reporting individual requests confidentiality at the time of the initial report, their name and contact information may be withheld in the complaint brief. The investigating office may obtain the individual's contact information from AAE if the reporting individual approves the request.

Privacy Impact Assessment - FAA Hotline Information System (FHIS)

If a reporting party chooses to remain "confidential", only their full name and email address are required, and their contact information will only be provided to the personnel involved in the inquiry or investigation.

DOT Policy Statement on Whistleblowing

The Department will initiate appropriate actions against responsible persons who take, threaten to take, or fail to take a personnel action with respect to any employee, former employee, or applicant for employment because of any protected disclosure of information.

Roger Note- the FAA has failed to take action to prevent employees from disclosing the CONFIDENTIAL identity of persons who make protected disclosures.

Title 5 of the United States Code (U.S.C.) Section 2302(b), relating to whistleblower protection^[2]

FAA Personnel Management System, Introduction, VIII. Prohibited Personnel Practices^[3]



^[1] https://my.faa.gov/focus/articles/2020/11/Whistleblower_Protec.html#

- ^[2] <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title5-section2302&num=0&edition=prelim>
- ^[3] https://employees.faa.gov/org/staffoffices/ahr/program_policies/policy_guidance/hr_policies/pms/pmsintro/

