

Whistleblower Response to the Agency Report

OSC File DI-22-000586

Aircraft Registered to Non-citizen Corporations

24 January 2023

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Background

On January 1, 1980 the foreign aircraft owner requirement¹ to report flight hours became effective.

In January 1992, the Chairman, Subcommittee on Investigations and Oversight, House Committee on Public Works and Transportation, asked the United States General Accounting Office (GAO) to review the Federal Aviation Administration's (FAA) monitoring of U.S.-registered aircraft, focusing on whether:

- (1) FAA inspects U.S.-registered aircraft operated overseas by foreign air carriers, as an international agreement requires;
- (2) there is a FAA system to verify that 60 percent of the U.S.-registered aircraft's flight hours are conducted in the United States, as required; and
- (3) FAA has adjusted registration fees for all U.S.-registered aircraft in response to legislative requirements.

In June 1993 the GAO issued a report titled *Aviation Safety: Unresolved Issues Involving U.S.-Registered Aircraft*.² This report shows that FAA imposed a requirement that aircraft owned by foreign corporations accumulate at least 60 percent of total flight hours in the United States every 6 months to ensure that they do not use the United States as a "flag of convenience."

Although FAA established the 60-percent requirement to discourage foreign aircraft owners from using the U.S. aircraft registration system as a flag of convenience, owners are allowed to self-certify compliance with the requirement.

So it appears that for several decades that the FAA has had difficulty ensuring that foreign corporations' with U.S.-registered aircraft comply with all of the regulatory requirements.

¹ 14 CFR Section 47.9(f)

² GAO RCED-93-135

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Safety Concerns

In early 2022, while reviewing (public) FAA Registry Data³ I discovered that many foreign owned aircraft were possibly in violation of various FAA regulations related to the registration and operation of aircraft.

On May 14, 2022 I submitted to the Office of Special Counsel (OSC) the following safety/regulatory concerns.

The FAA imposes a requirement that aircraft owned by foreign corporations accumulate at least 60 percent of total flight hours in the United States every 6 months to ensure that they do not use the United States as a “flag of convenience.”

Continuing eligibility for registration of aircraft under 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. The report must show the accumulated total flight hours within the United States, or the alternative, that the aircraft was operated exclusively within the United States during that period.

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. Because of this the FAA is unable to determine that the aircraft was based and primarily used in the United States.

Accordingly, the aircraft registration also appears to be ineffective under Section 47.4(a)(6)(ii). The operation of aircraft without an effective U.S. registration certificate is in violation of FAR 91.203(a)(2).

Section 47.41(b)(3) requires upon termination of registration, the certificate of aircraft registration be returned to the FAA Aircraft Registration Branch with

³ <https://registry.faa.gov/database/ReleasableAircraft.zip>

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the reverse side completed. If the certificate is no longer available, submit a statement explaining the circumstances in accordance with Section 47.41(b)(4).

A sampling of FAA data including the Enforcement Information System does not appear to show any enforcement activity by the FAA related to these known regulatory violations.

On June 28, 2022 the OSC requested that the Department of Transportation (DOT) investigate the following two allegations.

- FAA officials have not ensured that foreign corporations who own aircraft registered in the U.S. comply with 14 CFR § 47.9.
- Aircraft owned by foreign corporations are operating within the United States without effective registrations in violation of 14 CFR § 47.41 and 14 CFR § 91.203.

The FAA Report of Investigation (ROI) dated October 28, 2022 shows that the Agency **partially substantiated the first allegation** and **substantiated the second allegation**.

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Safety Culture

For over a decade both Aviation Safety (AVS) and Flight Standards Service (AFS or 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 to the fact 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.

Additionally, 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 their management would not know about the change since FAA Policies do not require Aviation Safety Inspectors to acknowledge changes. Furthermore, FAA Training does not currently provide any structured instruction or information on implementing new policy changes or understanding expectations.

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

Finally, after many FAA whistleblowers kept identifying and reporting systemic failures, the United States Congress passed and the President signed 49 U.S.C. § 106(t)(7) which now requires the FAA to submit an Annual Report to Congress⁴. 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

⁴ https://www.faa.gov/about/plans_reports/congress?combine=341&items_per_page=25

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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 in an Annual Report to Congress 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 & FY2021 Reports to Congress shows a total of 308 total disclosures were submitted to AAE by all persons/organizations. **This number may not be accurate since I personally submitted to the FAA Hotline in FY20 & 21 approximately 439 safety, security, privacy, regulatory and/or policy concerns.**

These types of public reports (and other internal records such as the Flight Standards Environmental Assessment Reports) and employee feedback⁵ provide an insight to the safety culture within the FAA.

⁵ <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 failed to identify or recognize the root cause of the reported issues. I have reviewed the Agency Report and offer the following comments.

Whistleblower Response – The Agency Report does not appear to show;

1. Any conclusion or finding associated with reported violations of 14 CFR § 47.41.
2. Any response to the whistleblower allegation that the FAA Flight Standards Service was not enforcing known regulatory violations.
3. Any reference to a documented corrective action plan associated with the whistleblower submission that was approved by the executive leadership.
4. The Agency **partially** substantiated Allegation 1. However, the Agency Report goes on to state *“According to the Supervisory Program Analyst, the Registry does not pursue compliance or enforcement actions against aircraft owners that fail to submit required reports”*.

- **This statement alone from the FAA would support changing the Agency conclusion from partially substantiated to substantiated.**

- **FAA Statement** - According to the Supervisory Program Analyst, the Registry does not pursue compliance or enforcement actions against aircraft owners that fail to submit required reports. The Registry itself does not have authority to commence compliance/enforcement actions against those who conduct operations without an effective registration (that authority is housed within FAA’s Flight Standards Division).

Whistleblower Response – According to this statement the Flight Standards Service, Civil Aviation Registry Division (AFB-700) may not enforce or refer enforcement of other known violations of regulation such as change of address.

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Note- On December 20, 2022 while responding to this report I noted and reported to OSC new safety/regulatory concerns associated with the Flight Standards Service, Civil Aviation Registry Division (AFB-700) not enforcing 14 CFR § 47.45 Change of address.⁶

Whistleblower Response – A review of FAA Order FS 1100.1G dated 12/13/22 (Appendix 1) clearly shows that the Civil Aviation Registry Division (AFB-700) is part of the above mentioned Flight Standards (AFX) organization. It is unclear why AFX Senior Leadership permits AFB-700 as a Flight Standards organization to not enforce or forward for enforcement known or potential violations of the regulations.

➤ **FAA Statement - Recommendation 1:** *The **FAA Aircraft Registry** should develop written procedures that provide specific guidance for FAA personnel on how to ensure proper reporting and take follow-up action to achieve compliance with 14 CFR § 47.9. This process should include :*

- *Procedures for follow-up action to retrieve ineffective aircraft registration certificates from non-citizen corporations who fail to comply with 14 CFR § 47.9.*
- *• Procedures for considering referrals to AFX of non-citizen corporations who fail to meet the Registry reporting requirements and then operate flights without a valid registration, for potential investigation, and compliance or enforcement action.*

➤ **Recommendation 2:** **Consider** *developing a policy that prohibits the registration of an aircraft owned by a non-citizen corporation who previously failed to meet the reporting requirements, unless and until the owner/operator has provided reconciliation (proof of compliance for the periods in question) and otherwise demonstrated to FAA that it will meet the requirements for aircraft registration going forward.*

⁶ OSC File No. DI-23-000181

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- *Recommendation 3: Coordinating with the Registry, **AFX** should conduct follow-up investigation, and take compliance and enforcement action as may be appropriate, with respect to the 29 aircraft identified in this report as continuing to operate with an ineffective registration.*

Whistleblower Response –The use of “consider” and “should” could allow the FAA to close this complaint without actually having to do anything. As I stated earlier the FAA and aircraft owners has been struggling with these regulatory requirements since at least 1993. I recommend that either the FAA fix what is broken or remove the regulatory requirements from the Code of Federal Regulations.

Whistleblower Response –The OSC should require that the Agency submit a Supplemental Report which includes specific actions and dates of when the FAA expects each of these recommendations to be resolved.

- **FAA Statement** - The Registry considers regulatory compliance for continued operation of the aircraft the responsibility of the owner/operator. There is no further follow-up by the Registry to ensure that the registration certificate is returned.

Therefore, the aircraft could potentially continue to operate without a valid registration, until an event causes the FAA or other organization to verify the aircraft’s registration.

Whistleblower Response – Instead using their own safety data to assist in the prevention of regulatory noncompliance the FAA has chosen to place the risk solely on the aircraft owner/operator. This is another example pointing to a possible degraded safety culture whereas the Flight Standards Service with its teams of inspectors and analysts are in the best position to notice potential or actual violations of the regulations but chooses to not look or ignore it.

Back on December 9, 2020 I submitted the following safety recommendation to AVP-400. *“While reviewing FAA data against FAA and/or publicly available flight information I noted that many aircraft such as the one shown below*

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([REDACTED]) may have operated in the National Airspace System (NAS) without a valid aircraft registration. Also by operation of law the Airworthiness Certificate would also not be effective without a valid aircraft registration. Therefore the operation of any aircraft without a valid aircraft registration and/or airworthiness certificate represent a safety deficiency in the NAS and would also be contrary to 14 CFR §47.3(b), §91.203 and 49 U.S.C. § 46306(b)(5)(A). In accordance with FAA Order 8020.17, please accept the following safety recommendation.

1. The FAA should ensure that any aircraft listed in a submitted flight plan has a valid aircraft registration before approving the request. Note this recommendation should also include aircraft could have filed / flown IFR, but used a 3-letter identifier for the flight and hence flew under a call sign instead of a tail number (e.g. AAL123 instead of N456AL) ”.

On June 21, 2022 the Acting Manager, Civil Aviation Registry, AFB-700 stated in a memo “We reviewed the safety recommendation and note that the Registry has no input on approving flight plans. We also note that valid registration data is already available to the appropriate FAA offices. Furthermore, it is the responsibility of the aircraft owner/operator to ensure 14 CFR 47.3(b) has been met prior to operating the aircraft. The Registry sees no value in creating a new database and considers our action complete”.

It was disappointing that to learn that the FAA Air Traffic Organization (ATO) and Aviation Safety (AVS) could not work together on a simple solution to address or prevent regulatory noncompliance. Unfortunately the FAA did not accept this safety recommendation.

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- **FAA Statement** - Although the Registry is effectively tracking the reporting requirements of non-citizen corporations, making appropriate notifications to the aircraft owners when reports are not received, and taking action to make the registrations “ineffective” for those aircraft, deficiencies in the process were noted.

Those deficiencies include a lack of:

- Written procedures that provide specific guidance to FAA personnel on how to process reporting and follow-up action to ensure compliance with 14 CFR § 47.9.
- Follow-up activity to retrieve ineffective aircraft registration certificates from non-citizen corporations who fail to comply with 14 CFR § 47.9.
- A Registry process to consider referring to AFX non-citizen corporations who fail to meet the reporting requirements for compliance with 14 CFR § 47.9 and yet continue to operate aircraft with ineffective registrations.
- Policy and procedures for the Registry to address a non-citizen applicant’s past failure to submit reports required under Section 47.9, where the applicant seeks a “new” registration for the same aircraft involved in past violations..

Whistleblower Response – Where are these written instructions located? Many policies related to the Flight Standards (AFX) organization (except AFB-700) can be found within the Dynamic Regulatory System (DRS)⁷, however the complete set of process and instructions used by AFB-700 are missing from this system.

A person normally has to conduct general internet searches to find any guidance used by the Civil Aviation Registry Division (AFB-700) to processes aircraft records including registration. The FAA should incorporate AFB-700 Aircraft Registry policies and procedures into the DRS.

⁷ <https://drs.faa.gov/browse>

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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 many Safety Recommendations I have submitted to the FAA that are related to improving policy, automation and safety.

- **(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 FAA identify the FAA office with responsibility for conducting formal review of the FAA Hotline System/Program 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.

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- **(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.
- **20.098 (Status- Not accepted) The FAA should ensure that any aircraft listed in a submitted flight plan has a valid aircraft registration before approving the request.**
- **(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).

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Gross Mismanagement

The DOT Strategic Plan for Fiscal Years (FY) 2022-26⁸ 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 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**)⁹.

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

- **SUBSTANTIATED** - 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*

⁸ https://www.transportation.gov/sites/dot.gov/files/2022-03/US_DOT_FY22-26_Strategic_Plan.pdf

⁹ [MSPB JUDGES’ HANDBOOK](#)

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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”.

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**

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

Office of Special Counsel Cases linked to Poor FAA 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.

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*

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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 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*

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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.¹⁰*
 - 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)

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

¹⁰ 2014 FAA Report to Congress P.L. 112-095, § 341

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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 - Program Tracking and Reporting Subsystem (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-21-000728

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100. [REDACTED]

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OSC File No. DI-22-000520 - [REDACTED]

[REDACTED]

- I [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

OSC File No. DI-22-000535 - [REDACTED]

[REDACTED]

- I [REDACTED]
[REDACTED]
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- I [REDACTED]
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- I [REDACTED]
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- I [REDACTED]
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[REDACTED]
- I [REDACTED]
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OSC File No. DI-22-000546 - [REDACTED]

- I [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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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.

OSC File No. DI-23-000181- Violation of 14 CFR § 47.45 Change of address

- **Under OSC Review** – FAA officials have failed to ensure that all persons who own aircraft registered in the United States comply with 14 CFR § 47.45 as applicable.
- AFS safety databases including but not limited to the aircraft registry contain missing, incomplete, inconsistent, and inaccurate data.

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

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

- **SUBSTANTIATED** – On June 11, 2014 the Director, AAE-1 sent a memo to the FAA Administrator reporting that 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. .¹¹
- 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.
- The case was transferred by AAE to FAA Security for investigation - The results of the investigation are unknown.

¹¹ 2014 FAA Report to Congress P.L. 112-95, § 341

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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

- 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. For almost a year the FAA has persons acting in the following positions. Administrator, Associate Administrator for Aviation Safety Executive Director of Flight Standards and many others.

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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 issues or concerns.¹²

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) system¹³. FAA Management issued the whistleblower a Letter of Caution for providing truthful responses to the DOT-OIG. This letter had a chilling effect designed to intimidate and silence the whistleblower.
- An internal FAA Investigation **Substantiated Whistleblower 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.¹⁴
- This fact was memorialized in a United States Senate Commerce Report titled *Aviation Safety Oversight* dated December 2020¹⁵

Breach of Personally Identifiable Information (PII)

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

¹² FAA Hotline Case A20210325002

¹³ <https://www.oig.dot.gov/library-item/28941>

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

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

¹⁵ <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 Policies¹⁶ 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 investigation¹⁷. 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

¹⁶ FAA Order 1070.1A, FAA Order 8900.1 and Flight Standards Administrative Manual

¹⁷ 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.

○

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-FY2022)

- I believe that FAA Management has been using the Valuing Performance System to retaliate against me for my whistleblowing activates and reporting other safety/regulatory/security/ privacy and/or 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 involved to resolve this grievance. I believe an independent

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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 & FY22 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 senior executives within the DOT and FAA continues to ignore the valuable contributions of Whistleblowers and persons who submit Hotline complaints. I have personally alerted the DOT Secretary, FAA Administrator and other DOT/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 my allegations and reported that “a conservative estimate showed that the potential overpayments for these employees could easily exceed \$1 million per year.”**¹⁸ 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 simply used as storage areas for information, but as sources of data for data analysis. This

¹⁸ https://www.faa.gov/about/plans_reports/congress/media/2017_aae_annual_report.pdf

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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 systems complete and accurate.

The time for talking is way 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 submissions 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

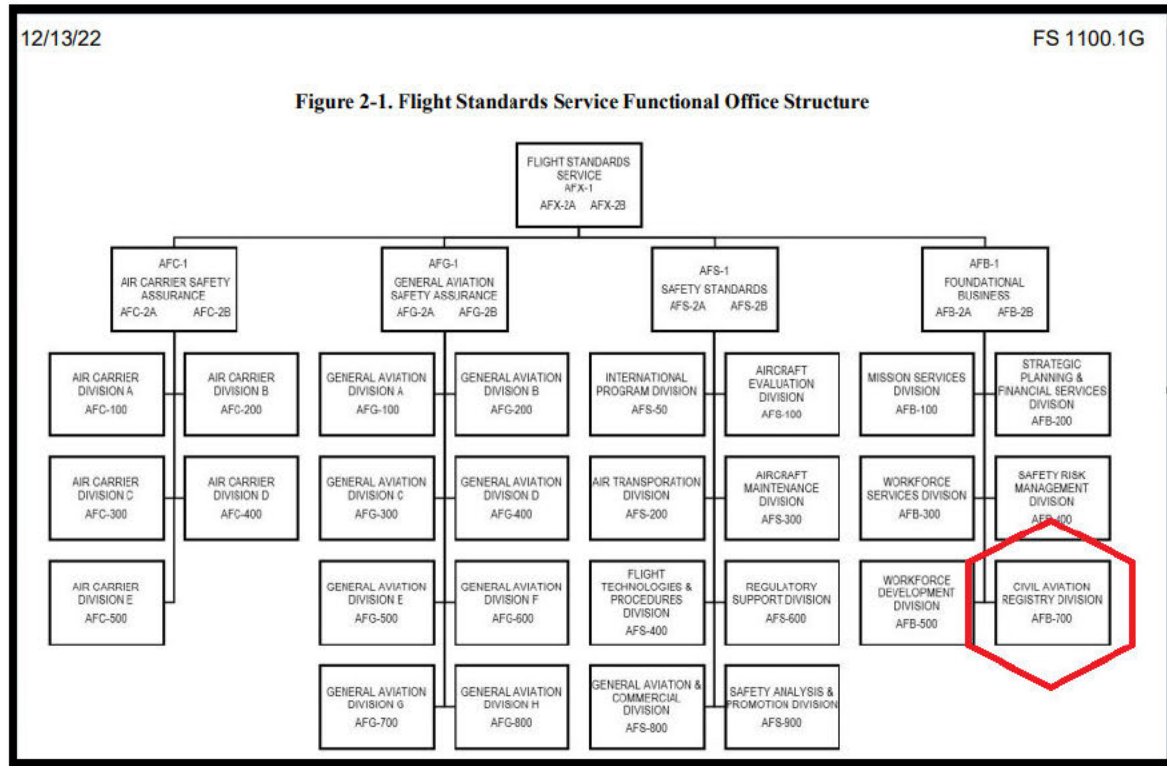
[Whistleblower], Aviation Safety Inspector

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Appendix 1

Flight Standards Service Organizational Chart



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