

Comments and Responses of [REDACTED] to OSC File No. DI-23-001125 and Report of Investigation Case Number: 123-01253, and Cross-Referenced Case: F23-00979.

To Whom It May Concern:

Pursuant to 5 U.S.C. § 1213(e)(1) my comments and responses to your report are found herein. I understand that my comments will be sent to the agency head, the President, and the appropriate congressional oversight committees in accordance with 5 U.S.C. § 1213(e)(3). With my consent, signed and attached hereto, my comments will also become part of a public file maintained by OSC pursuant to 5 U.S.C. § 1219(a)(1).

When I reached out to the Office of Special Council, and submitted to them my official Complaint (see attached) on September 4, 2023, I listed two (2) allegations for what I genuinely believed to be unethical and/or illegal actions, behaviors and/or malfeasance on the part of certain TSA leaders at IAH and others named within the attached and aforementioned Complaint. I have read the response letter signed by Holly Canevari, Deputy Administrator, on October 21, 2024, as well as the Investigative Report signed off on by [REDACTED], Acting Special Agent in Charge of the Dallas Field Office, on October 17, 2024. Even though I do not agree with, nor believe that all the other airport stakeholders, that have to pay via their employer or personally to park at the airports to perform their official duties, nor the American public, would agree with a "statutory authority" allowing for "some" TSA personnel to be able to solicit a gratuity for both TSA's official vehicles and their own personal vehicles, and thereby have a financial gain in free parking. I state this especially, as in the case at IAH airport where there are several hundred hard working, loyal and dedicated TSA employees, all having to pay for their parking of their personal vehicles at IAH airport, however the FSD, DFSD, AFSD-I, Stakeholder Manager, and some other leaders at TSA-IAH who earn a much higher salary than the average TSA screener, did not negotiate at a "below market-rate," they just demanded that the airport authority provide them and only them (not all the other TSA personnel), free parking. Not to mention the fact that TSA regulates the airport and the regulators themselves are the ones specifically soliciting and at times mandating that the airport provide them free parking or potentially facing a TSA Finding/Civil Penalty, which in some reasonably prudent people's minds would be considered a threat, intimidation, and/or abuse of authority on the part of TSA-IAH leadership. (NOTE: I have copies of emails from the DFSD to the then HAS Chief Operating Officer making such statements). This is even when the City of Houston's legal counsel at IAH put in writing that the airport should not provide such a gratuity as it violated several statutes and set an un equitable precedent towards TSA that others don't receive.

Lastly as to the first allegation response, to my Complaint, you mentioned § 2635.101 basic obligation of public service and stated "We have reviewed each Standard and have found that the no-cost parking solicitation and acceptance does not violate the Standards of Ethical Conduct, specifically General Principle-4 which states:

(4) An employee shall not, except as permitted by subpart B of this part, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties."

cm

When we look at the purpose of section § 2635.101, it states:

(a) *Public service is a public trust.* Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws, and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee must respect and adhere to the principles of ethical conduct set forth in this section, as well as the implementing standards contained in this part and in supplemental agency regulations.

(b) *General principles.* The following general principles apply to every employee and may form the basis for the standards contained in this part. When a situation is not covered by the standards set forth in this part, employees must apply the principles set forth in this section in determining whether their conduct is proper.

In your report as stated above you quoted one (1) of the fourteen (14) General Principals, being General Principal-4, however in the very first sentence of the section definition itself, it clearly states "Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws, and ethical principles above private gain." Then again in General Principal-1, it states once again "Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain. This must have substantial weight as a General Principal for the writers of this law to knowingly and specifically mention "above private gain" in the first sentence of the law and then to list it as the very first General Principal. So, with this being said, it's not just a matter of TSA having some form of "Statutory Authority" as I can somewhat understand that if referring to the TSA-IAH official vehicles, but I do NOT see how that applies to select TSA leadership to be able to utilize their personal vehicles, as now they can without oversight park their personal vehicles at the airport during work or even when on a leave and just parking at the airport. The mere appearance of that should be enough to not allow the use of personal vehicles. The approximate cost for all tenants of the IAH airport is ~\$75 per month per vehicle, therefore these select TSA leaders have a personal/private gain of ~\$900.00 per year, multiplied by several years, that others do not receive. If the situation is that due to their office being off the airport property, then why wouldn't the proper thing to do, would just simply be to have the FSD put in a line item within his/her budget to pay for parking of their official vehicles at the airport, again the way other tenants must do. However, with this being said, if that is truly a written "Statutory Authority," and we are going to just skip over the General Principals of "above private gain" then I guess I will have to accept that, and appreciate you looking into it and addressing it.

Now, as to the second accusation that I made in my Complaint, I do not find any reference to your investigation and/or findings as to this allegation of malfeasance, whereby a TSA Inspector (named in the attached Complaint) knowingly, willingly, and intentionally falsified information on his airport security badge renewal application, and he advised the airport security personnel that his chain of command at TSA-IAH were in full knowledge of it and approved it.

This is without a doubt a violation of the following:

1. 49 CFR § 1500.3 Definitions
 - a. Person means an individual, corporation, company, association, firm, partnership, society, joint-stock company, or governmental authority (this includes TSA);

2. Transportation Security Regulation, Title 49 CFR § 1540.103 – fraud and intentional falsification of records;
No person may make, or cause to be made, any of the following:
 - (a) Any fraudulent or intentionally false statement in any application for any security program, access medium, or identification medium, or any amendment thereto, under this subchapter.
 - (b) Any fraudulent or intentionally false entry in any record or report that is kept, made, or used to show compliance with the subchapter, or exercise any privileges under this subchapter.
 - (c) Any reproduction or alteration, for fraudulent purpose, of any report, record, security program, access medium or identification medium issued under this subchapter.
3. Transportation Security Regulations, Title 49 CFR § 1540.105 Security responsibilities of employee and other persons:
 - (a) No person may:
 - (1) Tamper or interfere with, compromise, modify, attempt to circumvent, or cause a person to tamper or interfere with, compromise, modify, or attempt to circumvent any security system, measure or procedure implemented under this subchapter.
 - (2) Enter, or be present within a secured area, AOA, SIDA or sterile area without complying with the systems, measures or procedures being applied to control access to, or presence or movement in, such areas.
4. City of Houston and Houston Airport System Operating Instructions 05-02-ID Badging:
 - a. “V(B) – Responsibility: It shall be the responsibility, duty and obligation of each and every individual (including HAS employees to who an ID Badge is issued, as a condition precedent to being issued and retaining an ID Badge, to know the limitations of their access, to know the laws, ordinances, policies, procedures rules and regulations governing access, safety and security at the HAS airports and to timely and faithfully carryout their duties and obligations to the same, including, but not limited to, obeying each and every law, policy, procedure, rule and regulation and to strictly avoid any violation(s) of the same and by acceptance and/or retention of ID Badge they represent that they have complied with these responsibilities, duties and obligations.”
 - b. “VI – Violation: The failure to, in whole or in part, strictly perform in a faithful and timely manner any duty, or obligation, whether or not the duty or obligation is to do or not to do a general or specific matter imposed upon an HAS ID Badge holder by any federal, state, or local (including HAS) law, ordinance, policy, procedure, rule or regulation.”
5. City of Houston and HAS Operating Instructions 05-03 Violations – Offenses, Charging Instrument, Due Process:
 - a. “VII – Violation/Offenses/Consequences: (A) The violation, a/k/a, offense, whether by act or omission, of any Federal, State or Local, law, ordinance, policy, procedure, rule or regulation or any part thereof, whether such violation is due to intentional, knowingly, reckless, or negligent conduct or a combination thereof is an offense and my result in a consequence. All offenses covered by this O.I. are strict liability

CM

offenses, meaning that a certain state of mind, mens reas, is not an element of the offense, unless otherwise specifically stated. Each I.D. Badge holder is hereby personally charged with the duty and obligation to know all laws, ordinances, policies, procedures, rules and regulations concerning safety, conduct, and/or security at an HAS airport or other HAS controlled facility. Any offense that is not specifically listed below shall be a violation of this O.I. and shall bear the consequences set forth herein.”

6. 18 U.S. Code § 1001 – False Statements:

- a. Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully –
 - i. Falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
 - ii. Makes any materially false, fictitious, or fraudulent statement or representation; or
 - iii. Makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

7. TSA Management Directive No. 1100.73-5- Employee Responsibilities and Conduct.

- a. 5 A (7) Observing and abiding by all laws, rules, regulations and other authoritative polices and guidance, written and unwritten

In my Complaint and previous reporting to TSA HQS, I laid out the details of a Transportation Security Inspector (TSI) who knowingly put down his work address on the badging renewal application, where it stated to place his “home address.” When the badging staff advised him that he would need to use his home address as directed, the TSI became very aggressive and adamant that he was not going to use his home address, as he did not want anyone to know where he lived. This could on the surface seem to not be that big of a deal, however for two important points:

1. The greatest threat that airports face around the world, are the insider threats, and that is one of the many reasons the airport requires ALL applicants regardless who they are to truthfully include all the required data including their home address. You can’t say well that doesn’t apply to TSA personnel as they go through a background check, as nearly every airport authority in the country now has 100% of their employees and tenants that go through a full background check upon being hired. But unless a TSA employee volunteers to change their home address when they move with their HR office, no one would ever know if they still lived at the same home address that they originally put down on their application or not. So, if they were an insider threat how would law enforcement know where to start looking for them?
2. Directly above where ALL the applicants for badge renewals sign their names (including in this case the TSI) it states and I quote:
 - “The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement on this application can be punished by fine or imprisonment or both. In accordance with 49 CFR Part §1540.103, falsification of this document may cause this application to be rejected and may be grounds for future revocation of any access privileges granted. I have read and understand the Privacy Act

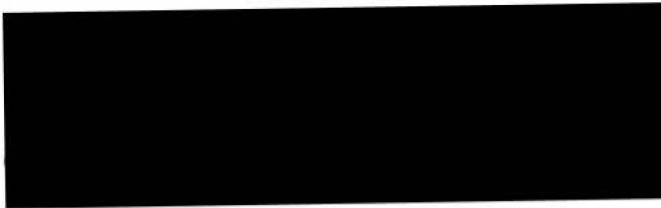
CM

Notice and the Agreements, Authorizations, and Representations section of this application.”

- This portion of the airport badging application was fully approved in the Airports Security Plan that the TSA FSD/DFSD signed and approved and it is to hold “all persons” as defined in 49 CFR §1500.3, accountable to 49 CFR §1540.103 and §1540.105. TSA would hold the airport and/or anyone else that intentionally falsified information on the badge application accountable to these Federal regulations, however, the TSI was not holding himself accountable to adhere to and comply with the same Federal regulations, and as such he committed several violations, and his senior leadership at IAH allowed it to happen. The TSI, knowingly, willingly, and intentionally falsified information on his badging renewal application and he advised the badging staff that his boss, the AFSD-I had full knowledge and even approved of his using his work address, knowing that it was not following two of the 49 CFR regulations that TSA is charged with enforcing in §1540.103 as well as the other violations I listed above.
- Now if the Department of Homeland Security and the Transportation Security Administration are not going to hold themselves accountable to comply with the very same security regulations, they hold others to, I am curious as to if this for example were to hit the Press, how many airline employees, airport authorities, airport employees and other stakeholders that TSA nationwide have held responsible for complying with these exact laws and regulations and even issued civil penalties to, would now have legal grounds to then fight TSA in court over double standards, as no one is (or should be) above the law.

All of this was specifically included in my Complaint to OSC, OIG, as well as in my initial letter to TSA leadership when I reported it back on or about May 4, 2023. With all this being said, unless there is still an investigation pending on this second allegation that was as stated above within the same Complaint filed, then I am curious why this has not been addressed? Is there another special “Statutory Authority” making everything cited above and in the original Complaint applicable to everyone (all persons as defined by statute) with the exception of TSA personnel, who then can intentionally falsify security documents at will? There should never be any gray areas when it comes to Integrity... those of us that took an oath to the U.S. Constitution, and to serve and protect our Great Nation and citizens, know we either have Integrity or we don't.

Most Respectfully,



03/04/2025
Date