

June 15, 2021

Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, #300
Washington, DC 20036
Attn: [REDACTED]

Re: OSC File Nos. DI-17-2106, DI-18-3786

Dear Mr. Kerner:

[REDACTED] Whistleblower submits these comments on the Environmental Protection Agency's (EPA) report into [REDACTED] whistleblowing disclosures of illegality, abuse of authority, gross mismanagement, gross waste of funds and substantial and specific danger to public health or safety at the EPA. [REDACTED] Whistleblower's assessment is enclosed as Attachment 1. On May 15, 2018, [REDACTED] disclosed to the Office of Special counsel (OSC) that the EPA engaged in, *inter alia*, the following violations:

- former Administrator Scott Pruitt's excessive spending on travel and security;
- Messrs. Pruitt and agency security chief [REDACTED] Former PSD SAC's using their official positions for their personal benefit and the personal benefit of other staff members;
- Mr. Pruitt and staff endangering public safety through instructing his personal security detail to use lights and/or sirens when traveling by vehicle in non-emergency contexts; and
- EPA Office of Inspector General (OIG) taking on program operating responsibilities, such as reviewing or assessing security threats which the EPA relied on to issue unnecessary security controls.

On October 4, 2018, OSC found a substantial likelihood of wrongdoing based on the information [REDACTED] Whistleblower reported, and it referred those issues for EPA investigation pursuant to 5 USC 1213(b). In a February 26, 2020 letter, the EPA provided an initial response. In July 2020, OSC requested that EPA provide a supplemental report to its February 26, 2020 response. In a letter dated May 26, 2021, the EPA submitted a supplemental report from the agency's acting deputy chief of staff.

Unfortunately, as detailed below, after over two years and seven months from the OSC referral and over three years from [REDACTED] Whistleblower's disclosure, the core issues remain unaddressed. [REDACTED] Whistleblower's disclosures exposed serious wrongdoing that negatively impacted the EPA's mission. The gross waste of public funds was among the serious consequences for United States citizens. Unfortunately, the EPA did not treat these issues with respect.

STANDARD OF REVIEW

These comments apply the statutory requirements of 5 U.S.C. § 1213(d):

“Any report required under subsection (c) shall be reviewed and signed by the head of the agency and shall include—

- (1) a summary of the information with respect to which the investigation was initiated;
- (2) a description of the conduct of the investigation;
- (3) a summary of any evidence obtained from the investigation;
- (4) a listing of any violation or apparent violation of any law, rule, or regulation; and
- (5) a description of any action taken or planned as a result of the investigation, such as—
 - (A) changes in agency rules, regulations, or practices;
 - (B) the restoration of any aggrieved employee;
 - (C) disciplinary action against any employee; and
 - (D) referral to the Attorney General of any evidence of a criminal violation.

OVERVIEW ON AGENCY CHIEFS’ FAILURE TO TAKE RESPONSIBILITY

5 U.S.C. § 1213(d)(1) requires that “[a]ny Report required under subsection (c) shall be reviewed and signed by the head of the agency....: The agency head must include his or her findings from the Report. 5 U.S.C. §1213(c)(1)(B). OSC website guidance further explains,

Should the agency head delegate the authority to review and sign the Report, the delegation must be specifically stated and include the authority to take the actions necessary under 5 U.S.C. § 1213(d)(5).

The EPA ignored the law’s mandate that the buck stops with agency chiefs for resolution of whistleblower issues referred by the OSC. The supplemental report came from Acting Deputy Chief of Staff Wesley J. Carpenter without any indication the Administrator read or even received the report.

It is unacceptable that an acting subordinate substitute for agency leadership. Congress explicitly required accountability from agency leads. In the legislative history, Congress explained that the referrals are so agency chiefs have an early warning system and record to exercise leadership. This will not stop, until the Special Counsel flunks reports on grounds that agency chiefs are avoiding and passing the buck.¹

¹ There is no statutory authority under § 1213 for an agency chief to pass the buck to subordinates when responding to an OSC order to investigate after finding a substantial likelihood of illegality or other serious public policy misconduct. Nor is this accountability loophole consistent with legislative intent. In 1978 when Congress passed the bi-partisan Leahy Amendment that created this structure, the point was that agency chiefs must take personal responsibility to clean their own houses of misconduct that betrays the public trust. Congress reasoned that agencies bury problems within bureaucratic ranks. In a 1978 Dear Colleague letter a bi-partisan group of 17 senators explained that the point of their proposed amendment, which was adopted as part of the Civil Service Reform Act -- to ensure that agency chiefs are aware of serious misconduct, and exercise leadership to address it. (Reprinted in 124 *Cong. Rec.* S14302-03. (daily ed. Aug. 24, 1978))

THE EPA'S RESPONSE IS UNREASONABLE

The report's findings must be reasonable under 5 USC 1213(e). Instead of taking responsibility, the EPA delayed this investigation for years. The consequences of such delays resulted in critical witness departures from federal employment and inconclusive reports. The EPA conducted little to no investigations itself, and routinely rewrote the issues to find themselves not culpable. The EPA's response is particularly alarming for allegations of Mr. Pruitt's excessive and improper spending on travel and security. First, the report finds that on February 11, 2019, the EPA's Office of General Counsel (OGC), issued a memorandum redelegating authority to the Controller to retroactively approve the individual trips on grounds that there were valid security concerns during the travel period in question.² The Agency admitted that the OIG disagreed with its position, finding that the Agency had not provided a justification or documentation to show valid security concerns related to the travel exception.³ The OIG recommended that the CFO implement controls to make sure officials have adequate authority *prior* to granting first/business class exceptions, and that upgrades are justified and documented.⁴ The EPA simply disagreed with the OIG, believing it already had sufficient controls.⁵ The facts of Mr. Pruitt's abuse of authority and gross waste of public funds proved the EPA wrong and renders its judgement unreasonable. The OIG emphasized how the EPA contradicts itself by stating that their policy is in accordance with the Federal Travel Regulations (FTR) and that approved justification is required for first and business-class travel before an exception is granted.⁶ This directly contradicts the agency's conclusion there was no misconduct with retroactive approval of Mr. Pruitt's travel – which was clearly done to escape accountability.

Second, the EPA created a straw man by rewriting the issues. The agency accomplished this by addressing an OIG report that was investigated prior to the OSC even issuing it a referral and providing a response to *that* report, *not* the issues identified by the OSC's referral. EPA rewrote the issue to be whether the agency's policies were adequate per the OIG's noted concerns and recommendations in their pre-existing report. The EPA completely skipped over investigating and reaching conclusions based on the specific issue that the OSC referred

The EPA OIG, in its May 16, 2019 Travel Report, recommended that the Chief Financial Officer (CFO) evaluate and determine whether the increased airfare costs estimated at \$123,943 related to Mr. Pruitt's first/business-class travel without sufficient justification and proper approval through March 1, 2017 and December 31, 2017 should be recovered, and if so, direct the responsible officials to recover the funds. Importantly, it also recommended the same for January 1, 2018 through Mr. Pruitt's July 2018 resignation to evaluate justification for Mr. Pruitt's first/business-class travel. The EPA simply asserted that all costs were valid and had

² See Letter from EPA Acting Chief of Staff Michael D. Molina to Special Counsel Henry J. Kerner on February 26, 2020, at 2-3.

³ *Id.* at 3.

⁴ *Id.*

⁵ *Id.*

⁶ See "Actions Needed to Strengthen Controls Over the EPA Administrator's and Associated Staff's Travel," EPA Office of Inspector General, Report No. 19-P-0155, May 16, 2019 (https://www.epa.gov/sites/protection/files/2019-05/documents/epaoig_20190516-19-p-0155.pdf). Hereinafter referred to as "Travel Report." at 25.

sufficient justification. However, the OIG had pointed out that the EPA's determination on 2017 and 2018 costs and the retroactive approval lacks the support and justification for the asserted security concerns.

In its May 26, 2021 supplemental report, the EPA explained that the OIG concluded there are six unresolved OIG recommendations: 1, 2, 7, 9, and 14. The EPA stated that "Efforts to identify a resolution regarding Recommendations Nos. 1, 2, 12 and 14 are ongoing. For the two unresolved recommendations that have been assigned to the Office of the Administration (Recommendation Nos. 7 and 9), the Agency has reached a tentative verbal agreement with the OIG and is pursuing efforts to obtain formal agreement on these recommendations." These responses are vague, unspecific, and inconclusive. They cannot be fairly read as conclusions for the OSC's referral of this matter. More specifically, the recommendations that are unresolved are:

1. Recommendation 1: requests that the OCFO "[e]valuate and determine whether the increased airfare costs estimated at \$123,942 related to former Administrator Pruitt's use of first/business-class travel without sufficient justification and proper approval, for the period March 1, 2017, through December 31, 2017, should be recovered and, if so, from which responsible official or officials, and direct recovery of the funds."
2. Recommendation 2: requests that the OCFO, "[f]or the period January 1, 2018, through [former Administrator Pruitt's] resignation in July 2018, evaluate and determine whether any costs related to former Administrator Pruitt's use of first/business-class travel without sufficient justification and proper approval should be recovered and, if so, from which responsible official or officials, and direct recovery of the funds."
3. Recommendation 7: requests that the Chief of Staff "Implement controls within the Office of the Administrator to include adequate justification to support the use of first/business-class travel and for carrier/flight/airfare selection when there are no contract fares."
4. Recommendation: 9: requests that the Chief of Staff "Implement controls within the Office of the Administrator to confirm that adequate cost comparisons are provided before approving travel authorizations where an alternative travel method is used (i.e., when the direct or usually taken routes are not used)."
5. Recommendation 12: requests that the OCFO "[i]mplement controls to verify that the use of first/business-class travel complies with the requirements of the Federal Travel Regulation and EPA policy in Resource Management Directive System 2550B prior to approval of the travel authorization."
6. Recommendation 14: requests that the OCFO "[i]dentify and review all business-class travel claimed for the staff and Protective Service Detail agents who accompanied the former Administrator on travel from March 2017 through his resignation in July 2018 for proper approval. Where policy was not followed, recover any excess costs claimed for the use of business class."

The OIG's report found the EPA was unresponsive to these recommendations and that they remain unresolved. Interestingly, in his March 30, 2020 letter to Inspector General Charles Sheehan, EPA Acting Chief Financial Officer [REDACTED] admits that proper approvals were not obtained prior to former Administrator Pruitt traveling first/business-class from March 1, 2017 through December 31, 2018. [REDACTED] stated that the Controller provided the approvals. However, agency policy is for the CFO to sign such approvals. Without authority, the CFO delegated [REDACTED] responsibility to the Controller to approve first/business class accommodations. The CFO still maintained, however, that Mr. Pruitt's first/business-class travel was in accordance with FTR based on the OGC's legal opinion dated June 29, 2018 stating that Office of Enforcement, Forensic, and Training's Protective Service Detail agents are authorized to determine when a security risk exists that would endanger an EPA employee's life. However, it is unreasonable to determine this legal opinion let the EPA off the hook because OGC does not have the authority to authorize illegality. This just means OGC was flouting the law in addition to the CFO.

The CFO's letter did conclude that the EPA found \$97,951 worth of Mr. Pruitt and his Protective Security Detail's (PSD) travel expenses *was* unauthorized, but because of the existing security risk during this period his office would not recover any costs from Mr. Pruitt or accompanying agents and it would merely be noted in its 2020 Agency Financial Report.

This is a total breakdown in government accountability. The public expects and deserves more than mere notes in reports that nearly six figure spending was illegal. Such inconsequential results signal to corrupt actors that they can abuse their authority and waste public funds on the same scale as Mr. Pruitt without any consequences.

The EPA's defense for spending at least \$30,000 for a private security detail and accommodations for Mr. Pruitt was that it referred the matter to an outside law enforcement agency. That excuse ignores all civil liability and regulatory controls. Worse, the EPA declared that the employee who was allegedly responsible for arranging the private security detail *retired* from the Agency shortly after the matter was referred to the outside law enforcement agency. This is an irrelevant excuse not to investigate the agency's complicity, or any corrective action to prevent recurrence. This is also insufficient accountability because there is none.

In its May 26, 2021 supplemental report, the EPA clarified that the FBI declined criminal action, and that neither the EPA nor any other entity conducted a civil investigation into the alleged \$30,000 in wasted funds during Mr. Pruitt's 2017 trip to Italy. Essentially EPA's response to the OSC referral is to report that it has not done any factfinding, and it did not announce any plan to do so. It would be irresponsible for OSC to accept a default response as reasonable for resolution.

The agency's responses to other allegations of gross waste of funds was similarly disturbing. On April 16, 2018, the Government Accountability Office (GAO) issued a legal opinion that the EPA violated the Antideficiency Act when it obligated \$43,238.68 from the Environmental Programs Management appropriation account to install a soundproof privacy

booth in the Administrator's office. GAO directed the EPA to report the violation as required by law.

The EPA's response to OSC states that it sent a letter to the Chair and Ranking Member of the Committee on Appropriations "to comply" with the GAO opinion, and to state their own opinion that there was no violation.⁷ In its May 26, 2021 supplemental report, the EPA said it is coordinating with the Office of Management and Budget (OMB) on reporting an Antideficiency Act violation related to the installation of the soundproof privacy booth.⁸ It is quite shocking that since the GAO's finding in 2018 that this matter has gone no further than the vague, contradictory and inconclusive answer that the "EPA is coordinating with OMB on reporting an Antideficiency Act violation related to the installation of the soundproof privacy booth."⁹ OSC referred the misspending issue to resolve it, not to receive a report that it is a work in indefinite progress.

Additionally, it is worth noting that there are other allegations of gross waste of funds that were not investigated or addressed by the EPA at all, such as questionable and over-priced office expenses, or gifts that exceeded the available budget.¹⁰ This may be because the EPA relied on OIG reports addressing investigations into closely related but distinct matters that were already open when the OSC referred the whistleblower disclosures for investigation.

On balance, the EPA responded to OSC's referral on abuse of authority (by using his official position for his personal benefit and the benefit of his staff) by simply referencing the OIG's investigation that was inconclusive, because Mr. Pruitt resigned prior to being interviewed by investigators. There is no excuse why the EPA did not follow through, to establish necessary corrective action whether or not Mr. Pruitt was beyond reach. There has been no justice for the staff who Mr. Pruitt used as personal real estate representatives, spending weeks using federal government resources and time to contact rental and seller agents, touring properties before Mr. Pruitt resigned, or the PSD staff who were ordered to travel to Baltimore, MD on weekends to purchase expensive face cream for Mr. Pruitt from the Ritz-Carlton or pick up his dry cleaning

⁷ See Letter from EPA Acting Chief of Staff Michael D. Molina to Special Counsel Henry J. Kerner on February 26, 2020, at 6.

⁸ See Letter from EPA Acting Chief of Staff Wesley J. Carpenter to Special Counsel Henry J. Kerner on May 26, 2021, at 2.

⁹ *Id.*

¹⁰ Whistleblower disclosed, for example, that Mr. Pruitt:

- Attempted to purchase a \$15,000 desk after Former PSD SAC request for a \$70,000 bulletproof desk was denied, however, there was only a \$5,000 budget for everything for the Administrator's office that Mr. Pruitt already spent. Mr. Pruitt purchased an additional standing desk, paid leases for art on loan from the Smithsonian Institution and framing an 8 x 10-foot United States flag. Because there were insufficient funds in the budget, Mr. Pruitt took funds from elsewhere in the budget to cover expenses for the desk, art frames, framed pictures, framed pens given to him by the President, and a flag.
- Did not like cloth seats and requested that Former PSD SAC order a new Tahoe and one new Suburban vehicle with tinted windows, lights, sirens, leather seats, with bullet proof vests that were ordered and placed over the seats (the vests were \$800-\$1,200 per vest).
- Purchased challenge coins, leather journals, fountain pens that cost \$120 per pen despite pushback from the Ethics Office.

for him. The EPA provided no explanation for what evidence the agency gathered on this issue, as required by section 1213(d). Thus, this matter is also unresolved and unaddressed.

Finally, [Redacted] Whistleblower disclosed that the EPA OIG took on program operating responsibilities, such as when it played a role in reviewing or assessing security threats, assessments upon which the EPA relied in making unnecessary security-related decisions, possibly in violation of the Inspector General Act. The EPA's report to OSC explains that this matter was referred to the Council of Inspectors General for Integrity and Efficiency's Integrity Committee, which previously reviewed and closed the matter, so the agency would take no further action on the matter.

The OSC rightly inquired why the EPA did not reference in its response the attachments with additional relevant information, including a Oct. 30, 2019 GAO report titled "EPA: Recent Policy Could Improve Working Relations between EPA's Office of Inspector General and Office of Homeland Security." That report references a May 2019 order to clarify the OIG and EPA Office of Homeland Security's (OHS) respective roles. OSC requested that the EPA reference this GAO report and order in its supplemental response to OSC. The EPA attached the order but did not attach the GAO report. It provided no explanation for why it did not reference the attachment in its response letter to OSC.

- The GAO report, however, is publicly available. It was issued on October 30, 2019 and its audit was conducted between July 2018 (before the OSC's referral) and October 2019.¹¹ The GAO report acknowledges that conflict has existed between the EPA OIG and EPA OHS for seven years.¹² A federal judge characterized prior aspects of the conflict as a "shameful turf war."¹³ The GAO's report found that the OIG and OHS seldom overlap except for investigations and preliminary inquiries related to national security involving agency employee misconduct.¹⁴ Neither the GAO report, nor the EPA report to OSC, however, address the issue in the OSC's referral, which was whether the OIG wrongfully took on program operating responsibilities, such as reviewing or assessing security threats, which the EPA relied on to issue unnecessary security controls. Thus, this matter is also unresolved and unaddressed.

One of the most troubling things regarding the EPA's initial report to the OSC's is that it is largely based on references to investigations that were completed before the OSC referred the distinct evidence and issues in this disclosure, including the following:

1. OIG's Travel Report, dated May 16, 2019 (over 9 before the EPA submitted its initial report to OSC on February 26, 2020), which covers an investigation that began

¹¹ See "Environmental Protection Agency: Recent Policy Could Improve Working Relations between EPA's Office of Inspector General and Office of Homeland Security," GAO, Report No. GAO-20-89R, Oct. 30, 2019 (<https://www.gao.gov/assets/gao-20-89r.pdf>).

¹² *Id.* at 1.

¹³ *Id.*

¹⁴ *Id.* at 2.

in July 2017, over one year before OSC's §1213 referral on October 4, 2018.¹⁵ Thus, the audit only covered Pruitt's travel through December 31, 2017.

2. CIGIE's investigation into wrongdoing at the EPA OIG, which was already previously reviewed and closed. There is no specification for when this investigation took place, or what its scope or findings was. However, the EPA's initial report states that Mr. Dahl sent letters to EPA Inspector General Arthur Elkins, Jr. on July 27, 2018 and August 15, 2018 notifying him of the closure of the case numbers, thus the matter was closed before the OSC's §1213 referral.¹⁶

3. The GAO's letter in December 21, 2017 inquiring about the soundproof booth¹⁷ and its April 16, 2018 legal opinion concerning expenditures associated with the soundproof booth.¹⁸ The GAO opinion was available months before the OSC's referral on October 4, 2018 and over a year and 10 months before the EPA's initial report.

4. PIQA's February 2018 investigation into the security sweep of the former Administrator's office¹⁹, which started months before OSC's referral, and the OIG's November 2019 Semiannual Report to Congress which was available well over three months before the EPA's initial report to OSC.²⁰

5. The OIG's Semiannual Report to Congress on November 20, 2018, which summarizes its investigation into disclosures concerning the former Administrator Pruitt's abuse of authority concerning his living in a lobbyist's wife's residence without paying rent and tasking staff with running personal errands for him during official work hours.²¹ This report was available just over a month after the OSC's October 4, 2018 referral and over a year and three months before the EPA's initial report.

6. The OIG's final audit report on August 21, 2019, entitled "EPA's Use of Administratively Determined Positions Is Consistent with Its Authority Under the Safe

¹⁵ See Travel Report (https://www.epa.gov/sites/protection/files/2019-05/documents/_epaoig_20190516-19-p-0155.pdf).

¹⁶ See Letter from EPA Acting Chief of Staff Michael D. Molina to Special Counsel Henry J. Kerner on February 26, 2020, at 9.

¹⁷ See GAO Letter, December 21, 2017.

¹⁸ See "U.S. Environmental Protection Agency – Installation of Soundproof Privacy Booth," U.S. Government Accountability Office, April 16, 2018 (<https://www.gao.gov/assets/700/691272.pdf>).

¹⁹ See Letter from EPA Acting Chief of Staff Michael D. Molina to Special Counsel Henry J. Kerner on February 26, 2020, At 6.

²⁰ See Letter from EPA Acting Chief of Staff Michael D. Molina to Special Counsel Henry J. Kerner on February 26, 2020, At 6. Referencing Office of Inspector General Semi-Annual Report to Congress, April 1, 2019 – September 30, 2019 (https://www.epa.gov/sites/production/files/2019-11/documents/epaoig_201911_epa-350-r-19-004.pdf).

²¹ Office of Inspector General Semiannual Report to Congress, April 1, 2018-September 30, 2018 (https://www.epa.gov/sites/production/files/2018-11/documents/_epaoig_20181031-r-18-003_linked.pdf).

Drinking Water Act,” which also was based on an investigation that commenced before the OSC’s referral and was available over 6 months before the EPA’s initial report.²²

The references to these reports are not responses to the OSC referral. They are indications of long-festering accountability breakdowns for which prior corrective action recommendations remain unimplemented or ineffective. It is unreasonable for a referral to act on past failures, merely to reference reports confirming those failures.

Hopefully the OSC’s judgment that the report fails to meet statutory requirements will help highlight the systematic EPA failures that still need to be addressed. The OSC, numerous congressional investigations, investigative journalists, and civil society watchdog organizations have all found [REDACTED] Whistleblower’s charges to be highly credible. But the EPA has neither accepted responsibility for the misconduct, nor taken action to prevent recurrence. Its report violates the minimum standards of the merit system, and section 1213.

Respectfully submitted,

_____/s/_____
Samantha Feinstein
Counsel for [REDACTED] Whistleblower

_____/s/_____
Tom Devine
Senior Counsel for [REDACTED] Whistleblower

²² “EPA’s Use of Administratively Determined Positions is Consistent with Its Authority Under the Safe Drinking Water Act,” EPA OIG, Report No. 19-P-0279, August 21, 2019 (https://www.epa.gov/sites/production/files/2019-08/documents/epaoig_20190821-19-p-0279_0.pdf). The report concluded that the Safe Drinking Water Act does not specify how appointments are to be used and does not require that appointees work on drinking-water related issues, therefore the agency’s use of the Act to promote/hire employees for political appointments is consistent with its statutory authority.

June 14, 2021

Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, #300
Washington, DC 20036
Attn: [REDACTED]

Re: OSC File Nos. [REDACTED], DI-18-3786, DI-18-3820, DI-18-4713, DI-18-4968

Dear Mr. Kerner:

This letter is in response to the Office of Special Counsel's (OSC) 1213(c) Disclosure Referral to the Environmental Protection Agency (EPA) and its Supplemental Report.

There are several issues with the report that I would like to address. Primarily, they relate to material facts that were not addressed in the report and the lack of meaningful corrective action for wrongdoing.

I disclosed that [REDACTED] Former PSD SAC, the then-head of Mr. Pruitt's Protective Security Detail (PSD), ordered a security sweep of Mr. Pruitt's office utilizing [REDACTED] company, [REDACTED], where [REDACTED] served as the principal, to enrich himself, and that the contract was a conflict of interest. The EPA's supplemental report stated that Professional Integrity and Quality Assurance (PIQA) staff located in EPA's Office of Criminal Enforcement, Forensics, and Training (OCEFT) stopped investigating the matter because the EPA Office of Inspector General (OIG) began investigating it and thus PIQA never made any findings on this issue. In its initial report, the EPA stated that the Federal Bureau of Investigations (FBI) investigated criminal violations and notified the OIG and Department of Justice (DOJ) that they declined the case for prosecution. This does not clearly explain whether there was a criminal violation. The initial report also revealed that the OIG closed its investigation *because* the EPA employee in question retired. If this was acceptable, the OIG would never conclude any investigations. Although the OIG does not have authority to compel or subpoena testimony from former Department employees, including those who retire or resign during the course of an OIG investigation, it is authorized to have timely access to all records, communications, reports, audits, reviews, documents, papers, recommendations, and other materials available to the agency that relate to its programs and operations. I deserve an actual investigation into my disclosures. The EPA has left the matter of whether any employee policy violations occurred when [REDACTED] Former PSD SAC steered a contract to [REDACTED] company to enrich himself, and an apparent a conflict of interest, entirely uninvestigated. This matter is unresolved.

The EPA also admitted to OSC that PIQA investigated and substantiated allegations that the PSD violated policy and protocols by using emergency lights and sirens in non-emergency situations when reporting to Pruitt. However, the EPA completely skipped over the issue that Mr. Pruitt *ordered* his PSD to violate these laws, and the EPA found itself not culpable and incapable of any accountability simply because its policies are adequate and the person concerned, namely [REDACTED] Former PSD SAC, is no longer with the agency. This excuse is especially unsettling because the EPA

took years to respond to my whistleblower disclosures and during that time there was a significant amount of turnover that interfered with the investigation and subsequent justice. This finding sends the message that individuals employed by the federal government who violate the law can escape any and all inquiry and accountability for their violations of federal laws by simply quitting their jobs or retiring upon becoming aware that accusations are looming. This is the fundamental problem with OSC letting the EPA investigate themselves. OSC delegated the responsibilities to those who violated the law or allowed violations to happen unabated. The EPA went to great lengths to avoid and dismiss this investigation and neutralize any consequences for its wrongdoing.

In 2017, the OIG was trying to take power away from EPA Office of Homeland Security (OHS), which has intelligence responsibilities, because it was investigating OHS, as well as Mr. Pruitt and Former PSD SAC. Meanwhile, OHS was looking into wrongdoing in the OIG's office because OIG staff broke into OHS and a physical altercation ensued. OHS was also investigating [REDACTED] and Mr. Pruitt. As I disclosed, the OIG took on program responsibilities it should not have. The conflicts between OIG and OHS over intelligence responsibilities created national security vulnerabilities. There is classified information to support this unclassified summary, and it would provide more insight and context into the violations that occurred. I am willing to help explain to authorized officials at OSC with top secret security clearance how to find it if that would be helpful to OSC. The EPA's supplemental report admits that the OIG has been granted oversight authority over the EPA OHS's intelligence program operating responsibilities. This authority, however, was only granted after my whistleblower disclosures, and after the OSC's referral to the EPA for investigation, in an order dated May 31, 2019, (See: EPA Order 3230).¹ The order reaffirms OHS's role in managing and sharing intelligence across the EPA and coordinating information sharing across the Intelligence Community. More significantly, it also states that the OIG provides oversight of the EPA's intelligence program and maintains responsibility for investigating, or referring for investigation, reports of wrongdoing or misconduct by employees or contractors that involve fraud, waste or abuse within intelligence programs or operations. Moreover, the OIG's oversight over OHS was retroactively granted in its May 31, 2019 order so that the EPA may skip over investigating my disclosures. Additionally, the Government Accountability Office (GAO) report, which states that the order will help clarify the OIG and EPA OHS's roles, was also issued after the date of my disclosure to OSC.² Neither are responsive to the question of whether there was wrongdoing, as I alleged there was. It is apparent, that the EPA did not actually investigate and make any findings about the wrongdoing that I reported. The EPA may issue orders clarifying or correcting things, but that information is irrelevant to whether or not there was a violation when the EPA OIG took over intelligence program operating responsibilities, such as when it played a role in reviewing or assessing security threats, assessments upon which the EPA relied in making unnecessary security-related decisions. I do, however, take such corrective action to be an admission of guilt, for which there ought to be accountability.

¹ Memorandum from EPA Administrator Andrew R. Wheeler to Acting Deputy Administrator, et. al, "Approval of Order 3230 Regarding Homeland Security Policy and Procedures," on May 31, 2019.

² See "Environmental Protection Agency: Recent Policy Could Improve Working Relations between EPA's Office of Inspector General and Office of Homeland Security," GAO, Report No. GAO-20-89R, Oct. 30, 2019 (<https://www.gao.gov/assets/gao-20-89r.pdf>).

I also want to point out that the investigation into the matter of the overpayments made to Mr. Pruitt's PSD remains unresolved by the EPA. The OIG investigated violations that occurred during a limited time period. It did not include the full time period that I alleged the violations took place, therefore the waste of taxpayer funds has still not been fully investigated or addressed by anyone. The OIG, in its 2018 report "EPA Asserts Statutory Law Enforcement Authority to Protect Its Administrator but Lacks Procedures to Assess Threat and Identify the Proper Level of Protection" found \$106,507 in overtime payments for January 1, 2016 through March 4, 2017 that were unauthorized.³ The report stated that there is no requirement to recover overtime payments on the basis of improper approval.⁴ The report misleadingly states that the PSD was actually working their stated overtime hours, however that does not account for the fact that they were self-monitoring their hours, so the accuracy of their timekeeping is unreliable. [Former PSD SAC], who was approving the timesheets reflecting PSD overtime, was also enriching [redacted] self from the overpayments and was in on the scheme for [redacted] self and [redacted] staff. It is the equivalent of having the fox watching the hen house. [Former PSD SAC] also poorly managed the PSD staff time by having all PSD agents securing Mr. Pruitt at the same time, instead of alternating shifts with fewer agents at a time, thus [Former PSD SAC] created the need for overtime hours that was actually avoidable and unnecessary. It is worth noting that OHS has the authority to determine if there is a credible threat that necessitates a sizeable security detail. OHS did not agree that such a credible threat existed. [Former PSD SAC] went around OHS by requesting the OIG's review of the threat, and at that time the OIG agreed with [Former PSD SAC] that there was a credible threat that required a sizeable PSD for Mr. Pruitt. Thus, the role that the OIG played in overseeing OHS's security responsibilities was abused at the time and resulted in a waste of taxpayer dollars. It is also worth noting here that the OIG later determined in a report that the EPA had not provided a justification or documentation to show valid security concerns related to travel exceptions and recommended that the CFO implement controls.⁵

The major issue I have with this process is for the past two and a half years, I have been wanting to disclose countless classified disclosures that relate to my case significantly. These disclosures spread through numerous federal agencies including the EPA, FBI, the White House, the Vice President's Office, State Department and DHS. Basically, more than half the story has not been told yet. And the things that have been disclosed are microscopic in comparison.

There are additional issues I would like to address. To start with, the EPA fraudulently represented that I was fired from my job as Deputy Chief of Staff of Operations for the Administrator, and, to be crystal clear, I definitely have not resigned. I can somewhat understand why the former Administration would want to hide some of my disclosures and not finalize my status as an employee of the federal government, but I have no idea why the current

³ "EPA Asserts Statutory Law Enforcement Authority to Protect Its Administrator but Lacks Procedures to Assess Threat and Identify the Proper Level of Protection," EPA Office of Inspector General, Report No. 19-P-0279, Aug. 21, 2019 (https://www.epa.gov/sites/production/files/2019-08/documents/_epaog_20190821-19-p-0279_0.pdf). at 3.

⁴ *Id.* at 3.

⁵ See "Actions Needed to Strengthen Controls Over the EPA Administrator's and Associated Staff's Travel," EPA Office of Inspector General, Report No. 19-P-0155, May 16, 2019 (https://www.epa.gov/sites/protection/files/2019-05/documents/_epaog_20190516-19-p-0155.pdf) at 24.

Administration is so disinterested in the countless felonies, national security breaches and Department of Labor violations. I was never given the proper venue to make classified disclosures about what happened to me and the retaliation against me that has ultimately cost me my job, career, personal reputation and ultimately leading me to bankruptcy. All for doing the right thing and what I was told to do from the President and Vice President of the United States. The fact that three out of four agents of the EPA Inspector General's office have removed themselves from my case and the last one has told me that ■ wants nothing to do with “all of our shenanigans,” should be a clear indication that something is radically wrong. All I am asking is to be given the proper venue to disclose all the wrongdoing, and either return to work or finalize my job status so I can finally obtain another job, health insurance, security clearances and move on with my life.

I want to conclude by saying that the EPA determined that it cannot do, and/or will not do, anything to hold the wrongdoers accountable. The EPA has left victims in the lurch, without any meaningful corrective action or consequences that can make them whole. This is unacceptable not only for me, but for the American taxpayers. What's worse, is we are left with little reason to believe that enough of the policy solutions now in place are enough to stop someone from attempting the same corrupt schemes to abuse their position in the government to rip off taxpayers. The EPA insisted on multiple accounts that its policies in place were already sufficient. This is unconvincing and unconvincing. For me personally, my role in reporting corruption left me with no income to provide for myself, my wife and our two young children who depend on me, and the blacklisting and libel that ensued has prevented me from finding any work in my field for years, with no end in sight. I may never find meaningful work in my field again. It is a slap in the face to know that I sacrificed everything – my disclosures spurred multiple federal investigations – and yet there has been no justice for the people I sought to protect from corruption. There are other whistleblowers who find themselves in similar situations as me. Others are out there are contemplating whether to do the right thing because they saw what happened to me. More needs to be done to protect all whistleblowers, political and career alike, because the chilling effect will prevent the OSC and others from ever finding out the next scandal.

Sincerely,

Whistleblower