



The Special Counsel

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

September 5, 2024

The President
The White House
Washington, D.C. 20050

Re: OSC File No. DI-21-000728

Dear Mr. President:

I am forwarding to you a report transmitted to the Office of Special Counsel (OSC) by the Department of Transportation (DOT) in response to the Special Counsel's referral of a disclosure of wrongdoing at the Federal Aviation Administration (FAA), Aviation Safety Office in Washington D.C. I have reviewed the disclosure, agency report, and whistleblower comments and, in accordance with 5 U.S.C. § 1213(e), have determined that the report contains the information required by statute and the findings appear reasonable. The following is a summary of those findings and comments.

The whistleblower, who chose to remain confidential,¹ disclosed that Aviation Safety Inspectors (Inspectors) failed to ensure that airlines were operating in compliance with FAA policy and safety regulations. An individual or business must obtain approved operations specifications (OpSpecs) from the FAA to conduct commercial passenger or cargo operations under 14 C.F.R. Parts 121 and 135.² The OpSpecs must identify every aircraft the individual or business is authorized to use in their commercial operations.³ The FAA's Air Traffic and General Operating Rules specifically prohibit the commercial use of aircraft with experimental class airworthiness certificates.^{4,5} The whistleblower alleged that Inspectors were improperly approving OpSpecs for commercial operations that included aircraft with such experimental

¹ The whistleblower consented to the release of his name to DOT in connection with the investigation but did not consent to any additional disclosure of his name by OSC.

² 14 C.F.R. § 119.33.

³ 14 C.F.R. § 119.49(a)(4).

⁴ The FAA issues experimental airworthiness certificates to owners of registered aircraft for various purposes, including testing new aircraft designs and equipment, exhibition flights at air shows, or operating an amateur or kit-built aircraft.

⁵ 14 C.F.R. § 91.319(a)(2).

certificates. Further, the whistleblower alleged that the FAA's failure to properly oversee the OpSpecs of commercial airlines created a substantial and specific danger to public safety.

The FAA Office of Audit and Evaluation (AAE) conducted the agency's investigation. AAE substantiated the allegation that Inspectors approved OpSpecs for commercial service that included aircraft with experimental class airworthiness certificates. Specifically, the investigation identified 95 aircraft in FAA's Aircraft Registry Database that had such certificates yet were approved for commercial use. However, AAE reviewed a sampling of the records for the identified aircraft and determined that, even though the database showed that the current airworthiness certificates were in the experimental category, the aircraft were issued standard airworthiness certificates. AAE recommended the Aviation Safety Office conduct a formal risk assessment to determine the actual risk the identified OpSpecs discrepancies pose to aviation safety.

As a result, the Aviation Safety Office evaluated and corrected the records for the identified aircraft, finding that 68 of the 95 aircraft had been updated to show current "commercial" airworthiness certificates, 25 aircraft still showing experimental certificates were no longer listed on the certificate holders' OpSpecs, and the remaining two aircraft were no longer registered at all. In addition, the Aviation Safety Office's formal risk assessment revealed that the error rate was extremely small when compared to (1) the total population of aircraft represented in the FAA Aircraft Registry database (95 errors out of 280,000 total records, resulting in a 99.99% success rate), and (2) the total number of aircraft listed with certificate holders under 14 CFR Parts 121 and 135 (95 errors out of 19,814 aircraft, also resulting in a 99.99% success rate). Accordingly, the agency found that the errors were administrative in nature and did not constitute a safety concern.

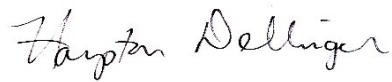
In his comments, the whistleblower explained that the FAA's failure to identify the discrepancies with experimental class airworthiness certificates is one of many examples of inaccurate data he has identified through other OSC cases. He highlights that he has repeatedly alerted the FAA that its safety databases contain obsolete, incomplete, inconsistent, or inaccurate data, which impacts the agency's ability to make appropriate safety-related decisions. He is disappointed that the agency has failed to identify the root cause of the data issues. He suggests that additional training and an FAA policy requiring Inspectors to acknowledge changes to regulations or policy changes may increase the accuracy of the databases. In addition, the whistleblower asserts that FAA employees who report safety and other concerns are often ignored, ostracized, and retaliated against for their professionalism and unwavering commitment to aviation safety. He hopes DOT and FAA senior leadership will acknowledge the valuable contributions of whistleblowers.

I thank the whistleblower for bringing these allegations to OSC. The investigation identified inaccuracies in FAA databases and resulted in a thorough risk assessment and

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correction of aviation certificate records. As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the agency report, and whistleblower comments to the Chairs and Ranking Members of the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure. I have also filed redacted copies of these documents and the redacted referral letter in our public file, which is available online at www.osc.gov. This matter is now closed.

Respectfully,

A handwritten signature in black ink that reads "Hampton Dellinger". The signature is written in a cursive, slightly slanted style.

Hampton Dellinger
Special Counsel

Enclosures