



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

**The Special Counsel**

January 31, 2023

The Honorable Frank Kendall III  
Secretary  
U.S. Air Force  
1670 Air Force Pentagon, Washington DC 20330-1670  
Washington, D.C. 20301

Re: OSC File No. DI-23-000207  
Request for Investigation—5 U.S.C. § 1213(c)

Dear Secretary Kendall:

I am referring to you for investigation a whistleblower disclosure concerning employees of the Department of Defense (DoD), U.S. Air Force (Air Force), Air Force Materiel Command, Oklahoma City Air Logistics Complex (OC-ALC), Oklahoma City, Oklahoma. The whistleblower, [REDACTED], a former Tool and Parts Attendant, who consented to the release of his name, alleged that OC-ALC employees have engaged in conduct that constitutes a substantial and specific danger to public health. A report of your investigation on these allegations and any related matters is due to the Office of Special Counsel (OSC) on March 31, 2023.

[REDACTED] disclosed that during his employment with OC-ALC from January 4 through October 11, 2022, officials failed to resolve sewage leaks at the OC-ALC base despite complaints he and other employees submitted. He reported that the leaks and the conditions created by the leaks persist. The allegations to be investigated include:

- The sewage pipelines in OC-ALC campus buildings 3001 and 9001 leak liquid sewage waste onto the mechanical production floor;
- The OC-ALC's failure to repair the sewage pipelines exposes 44 Tool and Parts Attendants as well as numerous other mechanical workers in buildings 3001 and 9001 to continuous dripping waste;
- [REDACTED] reported the leaks and resulting conditions to OC-ALC leadership on numerous occasions, but the damaged sewage pipelines have not been repaired; and
- Any additional or related allegations of wrongdoing discovered during the investigation of the foregoing allegations.

[REDACTED] alleged that a brown, thick liquid substance with a foul odor consistent with human waste regularly leaks into the production area of OC-ALC buildings 3001 and 9001. [REDACTED] confirmed with his Unit 547 supervisor, [REDACTED], that the liquid resulted

from sewage pipelines leaks. He reported that 44 people work in his unit but believes that as many as several thousand OC-ALC employees work in each building. These employees are regularly exposed to leak drippings at various points within the production area, which he estimates to be a mile long.

██████████ explained that yellow polyethylene tarps are used to collect heavier leaks and pool the liquid into buckets. Lighter leaks fall directly onto the production floor, creating messy brown pools. ██████████ alleged that these pools were not cleaned and were left to dry and harden into gritty brown stains on the epoxy layer of the production floor.

██████████ complained to ██████████ approximately 20 times between February and September 2022. Other tools and parts attendants made similar complaints. In response, ██████████ submitted service tickets to building maintenance. However, building maintenance has not repaired the leaking pipes. OC-ALC Unit Supervisor ██████████ advised ██████████ to just “try not to get any (waste leaks) on you.” ██████████ alleged the failure of OC-ALC leadership to repair the sewage pipelines and requiring employees to work in these conditions in buildings 3001 and 9001 has resulted in a substantial and specific danger to public health and safety.

Pursuant to my authority under 5 U.S.C. § 1213(c), I have concluded that there is a substantial likelihood that the information provided to OSC discloses a substantial and specific danger to public health. Please note that specific allegations not intended to be exclusive. If, in the course of your investigation, you discover additional violations, please include your findings on these additional matters in the report to OSC. As previously noted, your agency must conduct an investigation of these matters and produce a report, which must be reviewed and signed by you. Per statutory requirements, I will review the report for sufficiency and reasonableness before sending copies of the agency report along with the whistleblower’s comments and any comments or recommendations I may have, to the President and congressional oversight committees and making these documents publicly available.

Additional important requirements and guidance on the agency report are included in the attached Appendix, which can also be accessed at <https://osc.gov/Pages/DOW.aspx>. If your investigators have questions regarding the statutory process or the report required under section 1213, please contact Catherine A. McMullen, Chief, Disclosure Unit, at (202) 804-7088 for assistance. I am also available for any questions you may have.

Sincerely,



Henry J. Kerner  
Special Counsel

Enclosure

cc: The Honorable Stephen Davis, Air Force Inspector General

## **APPENDIX**

### **AGENCY REPORTS UNDER 5 U.S.C. § 1213**

#### GUIDANCE ON 1213 REPORT

- OSC requires that your investigators interview the whistleblower at the beginning of the agency investigation when the whistleblower consents to the disclosure of his or her name.
- 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).
- OSC will consider extension requests in 60-day increments when an agency evidences that it is conducting a good faith investigation that will require more time to complete.
- Identify agency employees by position title in the report and attach a key identifying the employees by both name and position. The key identifying employees will be used by OSC in its review and evaluation of the report. OSC will place the report without the employee identification key in its public file.
- Do not include in the report personally identifiable information, such as social security numbers, home addresses and telephone numbers, personal e-mails, dates and places of birth, and personal financial information.
- Include information about actual or projected financial savings as a result of the investigation as well as any policy changes related to the financial savings.
- Reports previously provided to OSC may be reviewed through OSC's public file, which is available here: <https://osc.gov/PublicFiles>. Please refer to our file number in any correspondence on this matter.

#### RETALIATION AGAINST WHISTLEBLOWERS

In some cases, whistleblowers who have made disclosures to OSC that are referred for investigation pursuant to 5 U.S.C. § 1213 also allege retaliation for whistleblowing once the agency is on notice of their allegations. The Special Counsel strongly recommends the agency take all appropriate measures to protect individuals from retaliation and other prohibited personnel practices.

#### EXCEPTIONS TO PUBLIC FILE REQUIREMENT

OSC will place a copy of the agency report in its public file unless it is classified or prohibited from release by law or by Executive Order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs. 5 U.S.C. § 1219(a).

#### EVIDENCE OF CRIMINAL CONDUCT

If the agency discovers evidence of a criminal violation during the course of its investigation and refers the evidence to the Attorney General, the agency must notify the Office of Personnel Management and the Office of Management and Budget. 5 U.S.C. § 1213(f). In such cases, the agency must still submit its report to OSC, but OSC must not share the report with the whistleblower or make it publicly available. See 5 U.S.C. §§ 1213(f), 1219(a)(1).