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Mrs. Bradley:

Re: Response to Report of Investigation for OSC Whistleblower Disclosure DI-12-0320.

I am in receipt of the report of investigation; presented by Under Secretary of State for Management Patrick Kennedy, for the Office of Special Counsel (OSC) Whistleblower Disclosure with the file number DI-12-0320. I have read it thoroughly, and I would like to begin by offering a token of gratitude to several individuals involved in the investigation of my disclosure. First and foremost, Mrs. Siobhan Smith Bradley, OSC Attorney, for her professionalism, compassion, and principle in reading my disclosure, speaking to me about it with a sincere and greatly appreciated sense of urgency, and communicativeness on the processes, legal authorities (to which I am admittedly no expert), and regular disposition updates of the subject complaint throughout the process. Additionally, I would like to offer my gratitude to individuals within the Department of State, more specifically the Passport Services Directorate, to include but certainly not limited to, Ms. Florence Fultz, Managing Director of Passport Issuance Operations, who, based on the content of the report, shared in my concerns over the policy iteration as it was distributed; Mr. Brian West, Program Analyst with the Passport Services Directorate's Office of Adjudication (PPT/A); Mr. Robert Posey, [retired] Supervisory Passport Specialist for the Western Passport Center (WPC), who met with me shortly after I voiced my initial concerns to assure me that I was not alone on my positions; Mrs. Deborah Posey, WPC Customer Service Manager, who also shared in my concerns; and others.

That said, there are some procedural issues with regard to how the Department conducted the investigation, as well as gaps in logic, material inaccuracies, and portions of my testimony that were either intentionally or unintentionally excluded from the Department's final report. I would like to go over each of these individually, but would like to begin by making a statement of intent: Propriety in governance is neither a partisan nor adversarial issue in the employee-employer context, but rather it is an obligation that is incumbent upon all who have the pleasure of serving the American public in the federal service. Federal sector unions, such as the National Federation of Federal Employees, Local 1998 (Union), exclusive representative of bargaining unit employees of the Department of State, Bureau Consular Affairs, Passport Services Director-

ate, for which I am chief steward, serve a crucial role in the administration of public policy. Statutorily, they, as do we, represent bargaining unit employees by promoting superior training, sound policies that respect the integrity of our positions and limits of our authority, and workplace environments that foster the strongest, smartest, and most competitive workforce in the country. In accomplishing this mission, we also play a vital role in enhancing transparency, accountability, and accessibility in government, while projecting into our communities our best faces in representation of the agencies for which we work. In recognition of a debt of gratitude to the American public for this opportunity to serve in their government, I filed this disclosure as the only available recourse to have this issue addressed by the responsible authorities. The fundamental and underlying issue will be highlighted in this appeal, as it seems to have been lost somewhere in the process.

I. Stipulations

The issue that resulted in this disclosure is correctly stated in the Department's final report to have begun around, but not necessarily during, October 2011. Within the timeframes therein described, a course of questions with regard to policy changes were submitted to PPT/A by WPC Management and/or supervisory personnel based on feedback received from passport specialists (specialists), whom are responsible for the execution of passport adjudication policies created by PPT/A and for approving, suspending, and denying applications for U.S. passports based on those policies. The questions raised by specialists at WPC and in the subsequent requests for clarifications to PPT/A made by WPC Management resulted from these policy changes. The changes themselves were described in a March 22, 2011 memo which was communicated to specialists throughout the field on various dates by each of the office-level Management teams. This policy change was scheduled to be strictly enforced beginning on October 1, 2011, and requires that all U.S. passport applicants--regardless of age, personal circumstances, or parental relationships--are required to submit domestically-issued birth certificates which name both, if two are known, or one, if one is known, biological or otherwise legally established parent(s) if they were born within the U.S. and their births were registered with appropriate offices of vital records in the cities, counties, or states of their births. An issue that was not addressed in the memo was how to handle applications that include previously issued U.S. passports or where previously approved U.S. passport applications are on file with the Department. Historically, changes to policies have only been applied to first-time passport applicants whose applications were executed on or after the dates of effectiveness for the changes, or to applications received on or after those dates in cases of applicants who are eligible to apply by mail. It was assumed that this change in policy would not be treated as an exception, and that was initially communicated to specialists in the March 22 memo. However, on October 25, 2011 specialists received a response to our inquiries via WPC Supervisory Passport Specialist Brian Rigolizzo which seemed to provide exceptions in the instances described, as well as when file search fees are paid in lieu of submitting primary evidence of U.S. citizenship.

The original memo was in circulation amongst specialists at WPC, as properly stated in the report, since April 5, 2011. Questions were posed by specialists at WPC at a number of adju-

dication meetings since the policy change was initially communicated, which challenged a number of issues with it. The issues raised and questioned revolved around the relevance of the policy in cases involving emancipated minors, minors who have been adopted and have provided court orders evidencing adoption, adults, etc., especially when those particular applicants have submitted birth certificates that are timely filed, signed by the custodians of records where the births occurred, bear the seals of the issuing authorities, and are otherwise solid evidence of U.S. citizenship. (In other words, questioning the relevance of the policy for applicants who may not be subject to parental discretion in order to be eligible for a passport or applicants whose parentage is established by other means, e.g. a court order.) These questions posed by specialists remain unanswered to this day, with the exception of the subject one. The report acknowledges that Mr. Rigolizzo stated in his inquiry to PPT/A that "this question had come up a few times recently" (p. 2), and I do not believe that either the Department of State, Office of the Legal Advisor or WPC Management would argue that other questions had not been asked in the prior those mentioned by Mr. Rigolizzo or that questions had been asked for a longer period of time than would be accurately described as having come up only "recently." It is true that Mr. Rigolizzo, as had [former] Adjudication Manager Carole Butler and other members of WPC Management, consistently reminded specialists that they may issue limited validity passports in cases involving exigent circumstances and/or the need for emergency travel. It is important to point out, however, that the decision of whether or not to issue a limited validity passport as well as the ability to do so are long-running and not a result of this or any recent policy changes. Additionally, the clarifications sent to specialists by Mr. Rigolizzo did propose limited validity passports as options when the individual circumstances surrounding applications meet the standards for issuing such passports. These standards were already prescribed by the Department. The issue at hand was whether paying a $150 fee for a fully valid passport in lieu of submitting documentation as evidence of citizenship (the intent of the fee) could be charged fairly when the adjudicating official or specialist has full and absolute knowledge, based simply on the information they print on the ‘previous passport’ field of the application, that they will need to submit the documentation regardless of whether or not the fee is paid. Meanwhile, the other questions remain unanswered.

Lastly, and I was admittedly wrong on this note, that WPC Adjudication Manager Marti Rice did send out a clarification on the policy on January 12, 2012. I was not present for the ‘follow-up meeting’ that took place on January 16 (p. 6), but as is correctly stated in the ROI, the continuous use of ‘two parent’ requirement or any derivative thereof confused and continued to confuse a handful of specialists who I spoke with between January and June 2012. Further, and as will be discussed under the Punitive Actions section of this appeal, when I realized I was wrong on this point, I immediately pointed it out to Mrs. Bradley, who was responsible for investigating the disclosure with OSC.

I can neither confirm nor deny other details provided under the 'Summary of Facts' section of the report, as I am unfamiliar with the internal affairs and communications of and between Management officials at either the local or national levels.

II. Areas of Contention

First, and I think the most contentious, there are issues that revolve around the nature of the e-mail discussion that began as a generic response to the information from PPT/A and shortly thereafter dwindled into private e-mails between myself and WPC Assistant Director John Caveness (p. 5). Mr. Caveness did advise me, as was also advised in the response from PPT/A, that a limited validity passport could be issued immediately and that a fully valid passport could be issued at no charge once a 'compliant' birth certificate was received. I understood this, but that did not resolve the issue that I had with the weight of the charge, especially in our current economic situation, which had just recently been increased from $60 to $150 earlier that year. The purpose of my pushing the issue was simple: *I wanted WPC Management to write back to PPT/A and suggest that they should rethink the policy as it was described to the specialists at WPC.* It was and is the least we can do as public servants to second guess ourselves, as well as ask our colleagues (subordinate or otherwise) to second guess us, so we arrive at the best, most consensual, and most responsible conclusion. Mr. Caveness did not seem to understand where I was going and instead attempted to make me feel as though if you ask questions, if you pose alternatives, or even if you raise issues of compliance with law or regulation, then you are just not a team player; that you're outside the fold; or that your positions are contrary to the Department's mission. I refused to accept that. I informed Mr. Caveness in that e-mail exchange that I felt as though the only alternative, if WPC Management would not offer to push the issue further, would be to file a disclosure with the OSC. Mr. Caveness responded that I would be expected to do that on my own time. I complied, though perfectly permitted to do so during my official union time. But the level of degradation for standing up for the public involved here is certainly worth mention--and has, very literally, haunted me since then about the way the Passport Services Directorate operates. The response to my disclosure, as I hope I will soon show why, did not help to resolve that haunt.

Second, the ROI states that "[the $150 file search fee] is based on the cost to the Department to run the electronics records search" (footnote 3, p. 5). The cost of the fee itself was not something that I brought up in the original disclosure nor during the investigation process, but rather something that Union President Rob Arnold, who accompanied me during the investigation telephonically, brought up. Mr. Arnold raised the increase of the fee from $60 to $150 earlier that year, rightfully, as an issue. I believe the reason the Department felt it was necessary to justify the charging of the fee in its ROI was based on the fact that Mr. Arnold raised it as an issue, despite having cut him off, rather rudely actually, stating that "the fee itself is not a part of the disclosure and does not need to be addressed here." The fact is, that portion of the ROI is absolutely and completely misleading. Does the fee assist with the cost of running the electronic records search? Sure. It could also go to pay my salary. It could also go to pay the salaries of those who were responsible for investigating the disclosure and/or writing the ROI. The fact is, if you throw money into a pot of other moneys that have already been budgeted, it frees up those moneys to be spent elsewhere. I do not know how much money it costs to 'run the electronic records search[es],' just as I do not know how much the lease is on the building our office occupies costs. What I do know is the the running of the electronic records search is something that is already incorporated into the program we use to issue, suspend, deny, audit, and find passport applications. It is called

TDIS (Travel Documents Issuance System), and it is a single program that does all the work. To walk you through the process, when I or anyone else is adjudicating an application for a passport, we 'wand' in the application via its barcode while the program is open with the barcode scanner. The program then opens the information for the pending application and automatically runs a query of the Passport Information Electronic Retrieval System (PIERS) for previous applications based on that data. It takes less than a second, happens to every application the Directorate processes, and requires zero man labor to conduct. After all, that is the intent of electronic systems. They can be cheaper to run and faster than performing manual records searches (cyclical unemployment?). Why is this important? Compare the file search fee today ($150) with the fee in place when, not too long ago, all file searches were manual, performed by paid employees or contractors. If it costs more today to run a records search when the entire process is electronic and automated than it did when actual people were on payroll (federal employees or private contractors either one), then maybe that is a separate inquiry that the OSC should be making. The fact is, the fee change was more about revenues than costs or services, and therefore, the statement is misleading and, frankly, not true. This feature has been a part of TDIS since I began employment with the Department in 2008, which begs the question: *What about the search process changed since then to warrant a 250% increase in the fee assessed to the American public?*

Third, the ROI states that *the investigation revealed no evidence for the allegation passport specialists were told not to discourage applicants from paying the file search fee; rather, the investigation revealed that passport specialists are encouraged to explain all possible options to passport applicants, including ways to avoid paying additional fees* (p. 10). Now, I want to clarify something with regard to this issue. This was not intended as a personal attack against WPC Supervisory Passport Specialist Brian Rigolizzo when I disclosed that this was what WPC Passport Specialist Luis Camacho was told and had reported to me. I was rather pointing this out to demonstrate a more systemic issue with regard to disclosing to an applicant the likelihood of a file search fee being successful prior to the fee being assessed. When I read this portion of the ROI, my mouth dropped ... literally. Not only is it a total falsehood--and yes, that includes Mr. Rigolizzo's testimony if that is what he provided--but I have not had a supervisor, manager, or other Department official who has said that we could even remotely hint as to whether or not the search would be successful prior to assessing the fee. I, and my colleagues, have been instructed quite to the contrary. It is not a personal attack on those supervisors and managers, but rather on the instructions they have been provided. Let me provide evidence to this. I have not yet, but will soon, distribute through the union officer distribution list that sentiment, that specialists are **encouraged** to disclose to applicants the likelihood of a search being successful and informing them of ways to avoid paying the fee. However, can the Department produce one memo or directive informing specialists that they are encouraged to do this prior to me doing so? If OSC was able to obtain a list of the contact information for 100 **random** specialists who were briefly brought into conversation regarding file search fees (to ensure there is no coaching by office-level Management officials as a result of this appeal) and then questioned about whether they have ever been told they could do anything to discourage an applicant from paying a fee, you would share my alarm. Even if I do, which I will, distribute this new instruction to disclose to applicants the likelihood of a search being successful prior to assessing the fee to the specialists,

it would constitute such a minimal change. The reason is because the applicants that we work directly with prior to having filed an application constitute a fraction of the work the directorate intakes. The vast majority of the applications we process are 'lockbox' cases, where an applicant has gone to a trained and Department-certified acceptance agent at, for example, a post office to apply outside the Department of State. For this reason, I have enclosed a copy of the Passport Agent's Reference Guide (PARG), used to train non-Department-employed acceptance agents on how to accept applications, assess them for completeness, and advise the applicant on procedures, processes, etc. (This document should NOT be included in the final public disclosure of this subject complaint, as it may constitute Sensitive But Unclassified information within the Department's definition. Its disclosure could also subject the Department to unnecessary risks. It is for the OSC's review only, and will be transmitted solely via government-to-government e-mail.) Even if, for the sake of saving face for this disclosure, the Department was willing to make a concession to forego some file search fees assessed at our public counters as a result of injecting this new instruction and flaunting it as 'old hat' (since our portion of the application intake is comparatively minor to lockbox), it is not an instruction that is, has been, or will be in the PARG. This section of the ROI is mind-numbingly dishonest.

Lastly, and this is actually more of a stipulation than a contention, but I want to clarify, the ROI states that *the adjudication "suggestion box" is a way for passport agencies to send adjudication-related questions to Passport Headquarters. The email box is monitored by program analysts in PPT/A* (footnote 2, p. 4). This is true, but I want to make sure you are very explicitly clear on who constitutes 'passport agencies.' Hint: not me or any of my sub-Management colleagues. I will get into this a little bit more in the Core Issues section. The Agency would, actually must, agree with me that sub-Management employees are not permitted to contact the suggestion box on their own.

III. Investigation

A. Interviews

The investigation interview with me was conducted at WPC in Tucson, AZ during July 2012. Present and participating parties included myself, two Department-employed attorneys, and Mr. Arnold (again, present from Seattle, WA via teleconference). When I was informed that the attorneys were coming to Arizona to conduct the investigation, that raised some questions. The first question was why the interview could not be conducted via teleconference to save on expenses. (The Department always touts budgetary issues when the Union requests face-to-face meetings.) In response, Ms. Penberthy, one of the Department attorneys, informed me that they are required under OSC regulations to conduct the interviews on-site. I questioned this with Ms. Bradley, who essentially told me to just take part in the procedures or processes for the investigation as they want to conduct them. I, and others, found it unnecessarily intimidating; and as a side note, while investigating the second of a total of two disclosures I made, they **did not** come for an on-site

investigation. The second was with regard to mine and the rights of the specialists/bargaining unit employees who would or may be interviewed as part of the investigation process.

Since I am not an attorney, and only one of my immediate peers has her LLM, I sent an inquiry to the attorneys asking whether I could have the Union's general counsel sit in via teleconference, along with Mr. Arnold, in order to observe. I never got a response. The attorneys did not even authorize, or respond to my requests for, Mr. Arnold to sit in via teleconference until I clarified that he would be there as a witness and not as my representative. Once they authorized Mr. Arnold to take part, I sent a second e-mail with questions to establish my rights and the rights of the other specialists/bargaining unit employees who may be interviewed as part of the investigation process. The questions regarded rights to representation, investigatory vs. punitive interviews, voluntary vs. mandatory participation, etc. The purpose was to inform the specialists that if they are to receive a random phone call asking them to come into an office with two Department-employed attorneys to discuss their issues with the legality and ethical nature of a policy, that they not be intimidated into saying something that they do not really believe, that they may request legal counsel or union representation during the interview, and that they may decline to participate altogether. As a result, the attorneys declined to interview any specialists, except for the one that specifically told me that he wanted to be a witness.

From those that, according to the ROI, the attorneys did interview, with the exception of Luis Camacho, they chose: three supervisors (one being my current supervisor, the second being my previous supervisor, and the other being the individual who was acting adjudication manager at the time the event occurred), Ms. Rice, John Caveness, Mr. West, PPT/A Program Analyst Lawrence Kovaciny, PPT/A Program Analyst Dan Allessandrini, and PPT/A Director Don Simpkins (Pgs. 8 and 9). Because, if you want to conduct a fair investigation into a Management policy and its effects on specialists and their adjudication of passport applications for the American public, it makes sense to only interview the individuals that created and distributed the policy, right? Other than the individual who voiced immediate interest to me to take part in the investigation, Mr. Camacho, they did not interview a single specialist. They did not interview a single person responsible for executing the task. This is significant because supervisors, at the time of the interviews with the exception of the sparse question, would only have knowledge of 3-5%, typically, of our work and that is only while assigned to lockbox adjudication (when the fees have already been assessed.) In circumstances where specialists actually encounter the to-or-not-to of assessing the file search fees, we, rightfully, work independently. So, unless specialists had specific questions on specific cases, the Management officials interviewed would not know, or would have incredibly limited information with regard to, the policy's effects on WPC's service to the American public. They just would not have that information to bestow upon the attorneys during the course of the investigation.

Note: Of the seven supervisory passport specialists they could have interviewed, they chose the two (excluding Mr. Rigolizzo, who was chosen for obvious reasons) who were either my current or former supervisors. ***Interviewees were chosen based on their potential knowledge of or involvement with the issue, or if they were in Mr. Warne's chain of command either cur-***

rently or during the relevant time period **(p. 7). A great way to diversify your findings on what should have been a more objective investigation process.**

Also note: Prior to my interview occurring, I requested two hours of time to prepare, gather my notes, review the evidence (that I submitted ten months prior), etc. I was told by Mr. Caveness that I should have been prepared prior to submitting the disclosure. He only offered an hour (15 minutes of which ended up constituting my break and the other 15 was ensuring that Mr. Arnold could connect and printing what documents I *could* review). (See enclosed.)

The interview was as I suspected it would be. I would be asked a question, I would answer it, and I would be interrupted. I would be told that what I was saying was not relevant to what the disclosure was about (despite the fact they proceeded to defend the same issues in the ROI). Nothing that I answered would be deemed 'relevant,' and if it was, they would try to offset it as something personal. I defined the core issues involved, which will be described in greater detail in the Core Issues section, and they told be that it was not central to the complaint, when the individual who filed it is insisting that it was and is. They did the same things to Mr. Arnold, one of them continually rolling her eyes while he spoke and/or interrupting him as well. Mr. Arnold, during the course of the interview brought up communication, which was a core issue, and how they do not open avenues for specialists to raise their concerns directly with upper Management without going through the office-level Management, who are consistently the ones establishing policies or interpretations to policies in question. As I exited the interview, I reinvigorated the theme of 'communication' after the attorneys had dismissed it when it came from Mr. Arnold. I had printed an e-mail (see enclosed) that I sent to the PPT/A Suggestion Box (footnote 2, p. 2) regarding another incident where local Management were incorrectly assessing consular fees. On June 16, 2011, not long prior to the filing of this disclosure, I reported, in my role as senior steward for WPC, a policy that had been iterated to us at the most previous adjudication meeting. The policy was to charge expedite fees to applicants that come to our public counter requesting for their recently issued passports that they did not receive to be reissued in order to make their urgent travel when their original applications had been executed in fewer than four to six weeks. I wrote to the PPT/A Suggestion box for several reasons:

1. I did not feel it was the right thing to do;
2. I did not feel it was in line with any revision of the Foreign Affairs Manual or the Code of Federal Regulations that I had read;
3. I wanted to ensure PPT/A knew that local Management were requiring us to charge this fee.

I received a response the following day, June 17, from Mr. Simpkins telling me that that distribution list was only permitted for use by Management personnel. This was despite the fact that I identified myself in the e-mail as the senior steward for WPC and that Article 7, Sec. 1(b) of our collective bargaining agreement states that *the Union has the right to present its views, ideas or recommendations to any level of Management, or other officials of the executive branch of the Government, the Congress, or other appropriate authorities regarding personnel policies, prac-*

tices or conditions of employment. On June 17, I received an e-mail from [then] Assistant Director Hal Leighton with a rather threatening, random e-mail, saying something along the lines of "I trust Mr. Simpkins made his point clear..." (interestingly, after providing this e-mail to the attorneys, this individual e-mail and all its copies has disappeared from my e-mail archives completely). On June 20, Director Finn sent out a correction of the policy, apologizing to the bargaining unit for instructing them to mis-assess expedite fees, and withdrawing it completely (see attached). I explained to the attorneys that had I not written to the PPT/A Suggestion Box, PPT/A would not have known the policy was occurring and those fees would, potentially to this day, still be incorrectly assessed to applicants. They accepted the e-mails from me, and said "although it's not relevant to the disclosure, we'll take it under advisement." Not only did the e-mail from Mr. Leighton and all its copies go missing from my inbox, but they do not raise nor address it anywhere in the ROI. It's certainly relevant to a charge about the misapplication of consular fees, but it's nowhere in the ROI at all.

B. Methodology

The Department performed an audit of WPC applications, presumably as described in the ROI, that may be relevant to this disclosure based on certain features, e.g. fee types assessed. They searched for applications between October 1, 2011 and January 12, 2012 and found 68 that met the criteria but that were not assessed file search fees incorrectly. The instruction from PPT/A came to us through Mr. Rigolizzo on October 25. The correction to the policy was not distributed to passport specialists at WPC until January 12, 2012. So they have these 68 applications, and not a single one, all of which met the criteria (previous passport or passport record issued on a birth document prior to October 2011) for the disclosure, was assessed a fee incorrectly under the policy. There are three conditions under which this could occur:

1. All the applications were accepted/adjudicated between October 1 and October 25 (prior to the incorrect instructions being distributed); or,
2. The specialists made the (correct) decision not to follow the instructions, since those were the pending ones during the timeframe in question.

The only certain things are:

1. The application photocopies are of such poor quality you cannot read or interpret any of the annotations or dates;
2. The only intelligible data on the application is the specialists' jurat/name stamps, which I find interesting since, for some reason, the Department seems to have found that the only information on the application not worth redacting is the names of the specialists themselves (unnecessary violation of the Privacy Act).
3. Interestingly, the applications appear to have been printed from the Passport Records Imaging System Management (PRISM, the process used to initially scan the applications prior to their being entered into PIERS). This tells me that there is a possible likelihood that the original re-

cords were tampered with in order to make copies for our purposes. (Otherwise, they would have been printed off of PIERS, and the printed copies would have been very clear.)

There can be no judgements made about any of this without clearer copies of the applications, and this time with the names of specialists redacted to preserve their rights under the Privacy Act.

IV. Core Issues

A. Communication

The core issue involved here is the breakdown in communication. That even when there's a contractual or legal right (or obligation) for someone to voice their concerns about a policy, practice or procedure, the methods of communication are dismantled. The intent is to make it uncomfortable to oppose policies that may be contrary to law, rule or regulation or constitute an abuse of authority by requiring those who raise the concerns to filter them through the people who are often times the ones responsible for the policies in question. Even when they are not, such as in this specific case, without a direct channel for communication for the sub-managerial specialists who have sincere and legitimate concerns, it creates an unnecessary impasse to filter them through office-level managers who often times, also as in this case, refuse to push the issues that are sensitive to them. In addition to refusing to push, it is often the office-level managers who, also in this case, accept your concerns and try to discourage or degrade them with "you're not a team player" arguments. If you restrict feedback to those setting the adjudication policies from those executing them, using the office-level managers as filters, you're also creating a 'group think theory' situation where there is no critical exercise of judgment outside of Management. Unfortunately, poor policies get implemented by those who are, in some cases, twenty years or more removed from the adjudication desk and in some cases still, have never sat at the adjudication desk. The specialists/bargaining unit have a voice through the Union, and it's not always about benefits and wages. Often it's about things that are much larger than individual employees, but about things of law, regulation, or even efficiency. As another example, on October 16, the director of Fraud Prevention Programs was visiting our agency. I had some efficiency issues that I had expressed during our union-management meeting in Seattle earlier that year (national level), WPC management, etc. At one point, she said to me, "I'm not concerned with efficiency." When, as chief steward, I asked who was, she refused to tell me. That is the nature of the communications issue that plagues the Bureau of Consular Affairs and causes those with legitimate concerns to be forced to end up filing OSC complaints rather than being amble to address them internally.

B. Risk vs. Occurrence

The Department recognizes that incorrect instructions were distributed to the specialists at WPC. Their basis for determining that there was no abuse of authority was not that the instructions were correct or that there was not a risk for consular fees to be wrongfully assessed, but rather that the risk did not, as far as what can be gleaned from the applications, result in an occurrence.

I maintain the the evidence they provided in the form of poorly printed PRISM records does not evidence that there was not an occurrence. But based on the ROI, their mode of thought is that an action only constitutes an abuse of authority if, despite intentions, wrong or incorrect policies actual result in negative consequences. The mere fact that a decision that was made at a pay grade much higher than mine could have had devastating consequences, would only be significant if those consequences materialized. That is, to me, incredibly shameful.

C. Poor Planning

By the admission of the Department, Mr. Simpkins (again, the director of PPT/A) *supported the memo* that had incorrect instructions (p. 5), yet *he noted his concern that the guidance was sent to WPC based on a memo that had not yet received final clearance* (p. 8). Well, I beg to ask, what the heck were we supposed to do in the meantime? The original policy memo was drafted on March 22, 2012, here it is 25 days after its first day of strict enforcement (not implementation), October 25, and they cannot even answer some of the most basic questions about how we are actually supposed execute the policy? That is something that is regrettable. And it was not until January 12, 3.5 months after the policy was strictly enforced and nine months after the policy was originally introduced to us that we finally get an answer?

D. Bottom Line

Ultimately, the instructions were less about fraud prevention, responsible adjudication, etc., and more about bolstering the bottom line. I honestly believe that, had I not filed this OSC form, the policy would still be in place today.

V. Abuse of Authority

For reasons described herein, coupled with the fact that it seems as though the Department could not even investigate the disclosure without violating the Privacy Act for the specialists who had adjudicated the cases cited as evidentiary documents, I maintain that there was an Abuse of Authority. I am not an attorney, and I cannot cite case law that defines Abuse of Authority in a legal context within the jurisdiction of the Office of Special Counsel. What I can tell you was that the policy was wrong, when I brought it up there was some bullying going on. The investigation and methodologies were not only misleading but in some cases downright false. There appears to be a lot of internal hide saving going on. The Department's position is that, they admit the policy was wrong and supported by the Director of the Passport Services, Office of Adjudication, but it did not constitute an abuse of authority because it did not, prospectively, result in occurrence. The applications they did provide appear as though, based on the quality of the printouts and the fact they seem to be PRISM records, they may have been tampered with. I believe the reason every bit of personally identifiable information was redacted with the exception of the adjudicator name stamps was an attempt to discourage me from signing the release for the case to be made publicly available.