

# EMPOWER OVERSIGHT

*Whistleblowers & Research*



August 5, 2024

The Honorable Joseph V. Cuffari  
Office of Inspector General  
U.S. Department of Homeland Security  
245 Murray Lane, SW  
Washington, D.C. 20528-0305

Dear Inspector General Cuffari:

Empower Oversight represents a whistleblower from the U.S. Federal Air Marshals Service (FAMS) who contacted your office in 2021 and 2022 to disclose that FAMS was improperly targeting individuals for enhanced surveillance. FAMS has now expanded its enhanced surveillance to include former U.S. Representative and presidential candidate Tulsi Gabbard, in what appears to be a clear abuse of authority and waste of taxpayer funds. This issue demands your immediate attention.

In July 2021 our client, a senior Federal Air Marshal, discovered that his wife had been improperly labeled a “domestic terrorist” and targeted for FAMS “Special Mission Coverage” simply because she attended President Trump’s January 6, 2021 speech at the ellipse in Washington, D.C. She was nowhere near the U.S. Capitol complex that day, yet her FAMS file falsely stated she “unlawfully entered the United States Capitol Building on 1/06/2021.” Being targeted for Special Mission Coverage results in additional TSA screening as well as FAMS airport and flight surveillance.

Our client made protected whistleblower disclosures about this false information and improper surveillance to his FAMS supervisor, who responded: “It’s not our investigation.” The whistleblower’s wife subsequently filed a complaint with your office, to which she never received a response.<sup>1</sup> The whistleblower also made protected disclosures to U.S. Senator Ron Johnson,

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<sup>1</sup> Complaint #HLCN1627058175187.

Ranking Member of the Permanent Subcommittee on Investigations, who in turn wrote to the TSA and the Federal Bureau of Investigation (FBI) on July 26, 2021.<sup>2</sup>

The whistleblower contacted Empower Oversight in the spring of 2022. On May 24, 2022, Empower Oversight assisted the whistleblower in filing a disclosure with the U.S. Office of Special Counsel, informing them that his chain of command knew his wife had been falsely listed as a domestic terrorist who entered the U.S. Capitol.<sup>3</sup> The U.S. Office of Special Counsel wrote back on July 8, 2022, declining to refer the whistleblower's disclosures to your office for investigation.<sup>4</sup> Thus, on November 29, 2022, we assisted the whistleblower in sending the disclosure directly to your office, alleging among other things an abuse of authority and a gross waste of funds.<sup>5</sup> A letter dated January 9, 2023 indicated that your Office of Investigations would be examining the allegations.<sup>6</sup> However, as of today, the whistleblower never received any further information.

Ultimately, the whistleblower was able to work with the FBI to have his wife's name removed from the terror watchlist in the spring of 2023. Yet clearing his own wife's name did not remedy the clear abuses of FAMS surveillance or deter further abuses—as the recent Tulsi Gabbard revelations demonstrate. The Air Marshal National Council has publicized the broader issue, asking TSA to cease and desist and attempting to get the House of Representatives to investigate.<sup>7</sup> Yet, to date, your office has provided no public accounting of what it has done with the whistleblower disclosures it received from our client.

Now that additional FAMS whistleblowers have disclosed that the TSA is targeting Tulsi Gabbard under the controversial Quiet Skies program, the consequences of failing to detect and deter FAMS' surveillance abuses has become clear.<sup>8</sup> Those added to Quiet Skies receive the same

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<sup>2</sup> Letter from Ranking Member Ron Johnson, U.S. Senate Permanent Subcommittee on Investigations, to Director Christopher A. Wray, Federal Bureau of Investigation, and Administrator David P. Pekoske, Transportation Security Administration, July 26, 2021 (Attachment A).

<sup>3</sup> Form 14, U.S. Office of Special Counsel (Attachment B).

<sup>4</sup> Letter from U.S. Office of Special Counsel, July 8, 2022 (Attachment C) (“While you disagree with the decision to keep your wife on the list of domestic terrorists, we could not determine that such actions go beyond the discretion afforded to agency management. Further, to the extent that the designation of your wife as a domestic terrorist and the agency's information that she entered the U.S. Capitol are incorrect, such information should be revealed by previously mentioned investigation, which to your knowledge is still ongoing.”).

<sup>5</sup> Letter from to Department of Homeland Security Office of Inspector General, Nov. 29, 2022.

<sup>6</sup> Letter from Department of Homeland Security Office of Inspector General, Jan. 9, 2023.

<sup>7</sup> See, e.g., Letter from David Londo and Sonya Hightower-LaBosco, Air Marshal National Council, to Administrator David Pekoske, Jan. 4, 2024 (Attachment D); Sonya Hightower-LaBosco, *Are You a Domestic Terrorist? TSA Might Say Yes*, UncoverDC (Apr. 25, 2023), <https://uncoverdc.com/2023/04/25/are-you-a-domestic-terrorist-tsa-might-say-yes>; Letter from David Londo and Sonya Hightower-LaBosco, Air Marshal National Council, to Speaker Kevin McCarthy, U.S. House of Representatives, et al., Jan. 16, 2023, [https://mr.cdn.ignitecdn.com/client\\_assets/uncoverdc\\_com/media/attachments/6559/236e/f57c/cd0e/d85c/ee42/6559236ef57ccd0ed85cee42.pdf?1700340590](https://mr.cdn.ignitecdn.com/client_assets/uncoverdc_com/media/attachments/6559/236e/f57c/cd0e/d85c/ee42/6559236ef57ccd0ed85cee42.pdf?1700340590).

<sup>8</sup> Wendi Strauch Mahoney, *EXCLUSIVE - Federal Air Marshal Whistleblowers Report Tulsi Gabbard Actively Under Surveillance via Quiet Skies Program*, UncoverDC (Aug. 4, 2024), <https://uncoverdc.com/2024/08/04/fams-whistleblowers-report-tulsi-gabbard-on-quiet-skies-list>.

level of surveillance as Special Mission Coverage.<sup>9</sup> Ms. Gabbard was reportedly added to the Quiet Skies program on July 23, 2024—one day after she criticized the Biden Administration in an interview with Laura Ingraham.<sup>10</sup> Air Marshals were assigned to their first flight with Ms. Gabbard on July 25, 2024.

The Special Mission Coverage in Ms. Gabbard’s case reportedly involves two Explosive Detection Canine Teams, one Transportation Security Specialist (explosives), one plainclothes TSA Supervisor, and three Federal Air Marshals on every flight Ms. Gabbard boards. Absent any significant evidence that Ms. Gabbard actually poses a significant threat, this is a gross waste of taxpayer resources and an abuse of TSA’s authority.

Thus, we respectfully request that you conduct an immediate investigation into these abuses.

Cordially,

[/Tristan Leavitt/](#)  
Tristan Leavitt  
President

#### ATTACHMENTS

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<sup>9</sup> Department of Homeland Security, Office of Inspector General, *TSA Needs to Improve Management of the Quiet Skies Program (REDACTED)*, OIG-21-11, Nov. 25, 2020, <https://www.oig.dhs.gov/sites/default/files/assets/2020-11/OIG-21-11-Nov20-Redacted.pdf>, at 10, 28 (“Quiet Skies passengers are observed for suspicious behaviors the same as Known or Suspected Terrorists, Selectees, and Expanded Selectees.”).

<sup>10</sup> See Tulsi Gabbard (@TulsiGabbard), X (July 23, 2024, 6:34 AM), <https://x.com/TulsiGabbard/status/1815697038371397993>.

# Attachment A

# United States Senate

WASHINGTON, DC 20510

July 26, 2021

The Honorable Christopher A. Wray  
Director  
Federal Bureau of Investigation

The Honorable David P. Pekoske  
Administrator  
Transportation Security Administration

Dear Director Wray and Administrator Pekoske:

My office recently became aware of at least one individual who may have been inappropriately placed on the Transportation Security Administration's (TSA) watch list, after peacefully engaging in first amendment protected activity in Washington, D.C. on January 6, 2021. This individual reported that he or she traveled by plane to Washington, D.C. on January 4 to attend the January 6 rally that occurred at the Ellipse. According to this individual, on January 6, he or she went to the Ellipse to peacefully exercise his or her first amendment rights at the rally, walked to Pennsylvania Avenue and 9<sup>th</sup> street, and then walked to his or her hotel. This individual asserted that he or she was never in or near the U.S. Capitol building on January 6. This individual left the Washington, D.C. region on January 7.

According to information obtained by my office, this individual was recently flagged by "Law Enforcement/Federal Air Marshal Service" and assigned a special mission coverage (SMC).<sup>1</sup> TSA documents connected to this individual noted that the reason TSA needed to assign an SMC to this person is because he or she "unlawfully entered the United States Capitol Building on 1/06/2021." Further, my office was told that the category code assigned to this individual was for a suspected domestic terrorist.

If the individual's account of his or her activities on January 6 is true, it appears that TSA assigned an SMC to this individual based on false information. Further, this report raises serious concerns about whether TSA or law enforcement has assigned other individuals SMCs for merely attending the January 6 rally and participating in first amendment protected activity.

I respectfully request a briefing from your offices on this alleged incident and also request that you provide the following information by no later than August 9, 2021:

1. Is TSA/FBI placing individuals who attended the rally on the Ellipse on January 6, 2021 and did not violate the law on a watch list? If so:
  - a. Why is TSA/FBI adding these individuals to a watch list?

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<sup>1</sup> This type of coverage could include TSA assigning personnel to surveil travelers that TSA "deemed to be high risk according to certain travel patterns and other intelligence-based factors." See *Facts about the "Quiet Skies"*, Transportation Security Administration, Aug. 22, 2018, <https://www.tsa.gov/blog/2018/08/22/facts-about-quiet-skies>.

- b. How many of these individuals have been added to this watch list since January 6, 2021?
    - c. How many of these individuals have been assigned a category code for a suspected domestic terrorist?
  2. How is TSA/FBI determining:
    - a. Whether individuals attended the rally on January 6, 2021?
    - b. Whether individuals who attended the rally on January 6, 2021 breached the U.S. Capitol?
  3. Is TSA/FBI aware of individuals that have been inappropriately flagged in its database as unlawfully entering the U.S. Capitol on January 6? If so:
    - a. How many individuals have been inappropriately flagged?
    - b. What steps are TSA/FBI taking to correct this error?
  4. Is TSA assigning SMCs to individuals who attended the rally on January 6, but did not breach the U.S. Capitol? If so, how many SMCs have occurred?
  5. If individuals are assigned an SMC for allegedly breaching the U.S. Capitol on January 6, are those individuals also assigned a category code for a suspected domestic terrorist?
  6. Did the FBI request and receive the flight manifests for flights arriving at Ronald Reagan Washington National Airport, Washington Dulles International Airport, and Baltimore/Washington International Thurgood Marshall Airport from January 1, 2021, to January 10, 2021?

Should you have questions, please contact Senator Johnson's Subcommittee staff at 202-224-3721. Thank you for your attention to this matter.

Sincerely,



Ron Johnson  
Ranking Member  
Permanent Subcommittee on Investigations

July 26, 2021  
Page 3

cc: The Honorable Michael E. Horowitz  
Inspector General  
Department of Justice

The Honorable Joseph V. Cuffari  
Inspector General  
Department of Homeland Security

# Attachment B



INFORMATION ABOUT FILING A WHISTLEBLOWER DISCLOSURE  
WITH THE  
OFFICE OF SPECIAL COUNSEL

**IMPORTANT**

Before filling out this Office of Special Counsel (OSC) Disclosure of Information form, please read the following sections about limitations on OSC's jurisdiction over whistleblower disclosures. Only the most frequently occurring impediments to OSC jurisdiction are described. OSC may not have jurisdiction over you or your disclosure for other reasons not discussed below.

COMPLETED DISCLOSURE FORMS CAN BE SENT TO OSC BY MAIL, AT: DISCLOSURE UNIT, OFFICE OF SPECIAL COUNSEL, 1730 M STREET, N.W. (SUITE 218), WASHINGTON, DC 20036-4505. OR BY FAX: 202-254-3711

**PLEASE KEEP A COPY OF DISCLOSURE MATERIALS PROVIDED TO OSC.** REPRODUCTION CHARGES UNDER THE FREEDOM OF INFORMATION ACT MAY APPLY TO REQUESTS PROCESSED BY OSC FOR COPYING OF COPIES OF MATERIALS IN OSC FILES.

**OSC WHISTLEBLOWER DISCLOSURE CHANNEL**

The OSC Disclosure Unit serves as a secure channel that can be used to disclose -

- a violation of law, rule or regulation;
- gross mismanagement;
- gross waste of funds;
- abuse of authority, or
- substantial and specific danger to public health or safety.

OSC does **not** have authority to investigate the disclosures that it receives. The law provides that OSC will (a) refer protected disclosures that establish a substantial likelihood of wrongdoing to the appropriate agency head, and (b) require the agency head to conduct an investigation, and submit a written report on the findings of the investigation to the Special Counsel.

If OSC finds no substantial likelihood that the information discloses one or more of the categories of wrongdoing, the Special Counsel must: (a) inform the whistleblower of the reasons why the disclosure may not be acted on further; and (b) direct the whistleblower to other offices available for receiving disclosures.

**OSC JURISDICTION**

The Disclosure Unit has jurisdiction over federal employees, former federal employees, and applicants for federal employment. It is important to note that a disclosure must be related to an event that occurred in connection with the performance of an employee's duties and responsibilities. The Disclosure Unit has **no jurisdiction** over disclosures filed by:

VISIT [HTTP://WWW.OSC.GOV](http://www.osc.gov) FOR MORE INFORMATION ABOUT  
OSC JURISDICTION AND DISCLOSURE PROCEDURES

**INFORMATION ABOUT FILING A WHISTLEBLOWER DISCLOSURE  
WITH THE OSC (cont'd)**

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- employees of the U.S. Postal Service and the Postal Rate Commission;
- members of the armed forces of the United States (*i.e.*, non-civilian military employees);
- state employees operating under federal grants; and
- employees of federal contractors.

**FIRST-HAND INFORMATION REQUIRED**

In order to make a "substantial likelihood" finding (*see previous page*), OSC must be in possession of reliable, first-hand information. OSC cannot request an agency head to conduct an investigation based on an employee's (or applicant's) second-hand knowledge of agency wrongdoing. This includes information received from another person, such as when a fellow employee informs you that he/she witnessed some type of wrongdoing. (Anyone with first-hand knowledge of the allegations you want to report may file a disclosure in writing directly with OSC.) Similarly, speculation about the existence of misconduct does not provide OSC with a sufficient legal basis upon which to send a matter to the head of an agency. If you think that wrongdoing took place, but can provide nothing more than unsubstantiated assertions, OSC will not be able to go forward with the matter.

**DE MINIMIS ALLEGATIONS**

While an allegation might technically constitute a disclosure, OSC will not review or refer *de minimis* or trivial matters.

**ANONYMOUS SOURCES**

While OSC will protect the identity of persons who make disclosures, it will not consider anonymous disclosures. If a disclosure is filed by an anonymous source, the disclosure will be referred to the Office of Inspector General in the appropriate agency. OSC will take no further action.

**MATTERS INVESTIGATED BY AN OFFICE OF INSPECTOR GENERAL**

It is the general policy of OSC not to transmit allegations of wrongdoing to the head of the agency involved if the agency's Office of Inspector General has fully investigated, or is currently investigating, the same allegations.

DISCLOSURE OF INFORMATION

(Please print legibly or type and complete all pertinent items. Enter "N/A" (Not Applicable) or "Unknown" where appropriate.)

PART 1: BACKGROUND INFORMATION

1. Name of person seeking OSC action ("Complainant"): Mr. (X) Ms. ( ) Mrs. ( ) Miss ( )

[Redacted Name]

2. Status:

Current Federal Employee (X) Applicant for Federal Employment ( )
Former Federal Employee ( ) Other (please specify):

3. Contact Information:

Home or mailing address:

Telephone number(s):

Fax number:

E-mail address:

[Redacted Contact Information]

4. Current position, title, series, and grade:

Senior Federal Air Marshal [Redacted]

5. Agency Name: Federal Air Marshal Service (FAMS)

6. Agency Address:

[Redacted Agency Address]

7. How did you first become aware that you could file a disclosure with OSC?

OSC Brochure ( ) OSC Poster ( ) OSC Speaker ( ) OSC Web Site ( )
Agency Personnel Office ( ) Union (X) Co-worker ( ) News Story ( )

Other (please describe):

Date (approximate): July 2021

8. If you are filing this complaint as a legal or other representative of the person making a disclosure, please supply the following information:

Name / title of filer:    Mr. ()    Ms. ()    Mrs. ()    Miss ()

[REDACTED]

9. Contact Information:

Home or mailing address:

See above

Telephone number(s):

( [REDACTED] ) (Home)

( [REDACTED] ) (Office) Ext. \_\_\_\_\_

Fax number:

( [REDACTED] )

E-mail address:

[REDACTED]

**PART 2: DETAILS OF YOUR DISCLOSURE**

**PART 3: OTHER ACTIONS YOU ARE TAKING ON YOUR DISCLOSURE**

**PART 4: CONSENT, CERTIFICATION, AND SIGNATURE**

Do you consent to the disclosure of your name to others outside the Office of Special Counsel if it becomes necessary in taking further action on this matter?

	<u>5-24-2022</u> Date
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I do not consent to disclosure of my name:	
_____	_____
Signature	Date

I certify that all of the statements made in this complaint (including any continuation pages) are true, complete, and correct to the best of my knowledge and belief. I understand that a false statement or concealment of a material fact is a criminal offense punishable by a fine of up to \$10,000, imprisonment for up to five years, or both. 18 U.S.C. § 100

Signature



Date

5-24-2022

**PART 5: PRIVACY ACT / PAPERWORK REDUCTION ACT STATEMENTS**

Routine Uses. Limited disclosure of information from OSC files is needed to fulfill OSC's investigative, prosecutorial and related responsibilities. OSC has described 18 routine uses for information in its files in the *Federal Register* (F.R.), at 66 F.R. 36611 (July 12, 2001), and 66 F.R. 51095 (October 5, 2001). A copy of the routine uses is available from OSC on request. A summary of the routine uses appears below.

OSC may disclose information from its files in the following circumstances:

1. to disclose that an allegation of prohibited personnel practices or other prohibited activity has been filed;
2. to disclose information needed by the Office of Personnel Management (OPM) for inquiries involving civil service laws, rules or regulations, or to obtain an advisory opinion;
3. to disclose information about allegations or complaints of discrimination to entities concerned with enforcement of anti-discrimination laws;
4. to the MSPB or the President, when seeking disciplinary action;
5. to the involved agency, MSPB, OPM, or the President when OSC has reason to believe that a prohibited personnel practice has occurred, exists or is to be taken;
6. to disclose information to Congress in OSC's annual report;
7. to disclose information to third parties (without identifying the complainant unless OSC has the complainant's consent) as needed to conduct an investigation; obtain an agency investigation and report on information disclosed to the OSC whistleblower disclosure channel; or to give notice of the status or outcome of the investigation;
8. to disclose information as needed to obtain information about hiring or retention of an employee; issuance of a security clearance; conduct of a security or suitability investigation; award of a contract; or issuance of a license, grant, or other benefit;
9. to the Office of Management and Budget (OMB) for certain legislative coordination and clearance purposes;

10. to provide information from an individual's record to a congressional office acting pursuant to the individual's request;
11. to furnish information to the National Archives and Records Administration for records management purposes;
12. to produce summary statistics and work force or other studies;
13. to provide information needed by the Department of Justice for certain litigation purposes;
14. to provide information needed by courts or adjudicative bodies for certain litigation purposes;
15. to disclose information to the MSPB as needed in special studies authorized by law;
16. for coordination with an agency's Office of Inspector General or comparable entity, to facilitate the coordination and conduct of investigations and review of allegations;
17. to news media or the public in certain circumstances (except when the Special Counsel determines that disclosure in a particular case would be an unwarranted invasion of personal privacy); and
18. to the Department of Labor and others as needed to implement the Uniformed Services Employment and Reemployment Rights Act of 1994, and the Veterans' Employment Opportunities Act of 1998.

*Purposes, Burdens, and Other Information.* An agency may not conduct or sponsor a collection of information, and persons may not be required to respond to a collection of information, unless it (a) has been approved by OMB, and (b) displays a currently valid OMB control number. The information in this form is collected pursuant to OSC's legal responsibility (at 5 U.S.C. § 1213) to receive disclosures from current or former federal employees, or applicants for federal employment, alleging possible wrongdoing by federal agencies. The information will be used by OSC to determine whether the facts establish that: (a) OSC has jurisdiction over the subject of the disclosure; (b) there is a substantial likelihood that the facts indicate a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety; and (c) referral for investigation by the agency involved, or other appropriate action is warranted. The reporting burden for this collection of information is estimated to be an average of one hour per response, including the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the form.

Please send any comments about this burden estimate, and suggestions for reducing the burden, to the U.S. Office of Special Counsel, Legal Counsel and Policy Division, 1730 M Street, N.W. (Suite 201), Washington, DC 20036-4505. Use of this form to report disclosures of information is not mandatory. As indicated in part 4 of the form, filers may request that OSC maintain their name in confidence.

**Declaration of [REDACTED]**

I, [REDACTED], pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. Upon my belief and information, I make this Declaration on personal knowledge and in support of my complaint of reprisal and disclosure to the Office of Special Counsel, and against the Department of Homeland Security/Transportation Security Administration/ Federal Air Marshal Service (DHS/TSA/FAMS).

2. I am Senior Federal Air Marshal [REDACTED]. I have been with the Federal Air Marshal Service (FAMS) since [REDACTED] working in both the [REDACTED] Field Offices. I have over 27 years of military and law enforcement experience. I served for four years in the United States Marine Corps (USMC), three year in the [REDACTED] Sheriff's Office ([REDACTED]), three years at the Central Intelligence Agency (CIA) as a uniformed law enforcement officer and 20 years in the FAMS.

3. My concerns are as follows: I made a disclosure, of which an acting responsible official had knowledge, after which I was subjected to an adverse action.

4. **Disclosure.** (A) July 2021, I advised my management that my wife was the subject of a TSA investigation has a Special Mission Coverage (SMC) assigned to her flights with FAM Teams conducting surveillance on her. I advised my supervisors that she is being unduly targeted simply by exercising her first amendment rights by being in Washington D.C. on January 6, 2021 to attend a Trump speech at the Ellipse. My management advised me that it was not our investigation and to let it play out and not to tell anyone about it.

(B) December 2021, my wife, [REDACTED] were all subjected to the same security screenings, delays and embarrassment when flying to [REDACTED] to see family



for Christmas. Another FAM team was assigned to surveil my family on this flight. I again notified my management who did nothing.

5. **Knowledge.** (A) In July of 2021, I let my immediate supervisor know that my wife was on the TSA list as a domestic terrorist that entered the U.S. Capitol. I advised her that she did not ever go onto the U.S. Capitol grounds or into the U.S Capitol building. My supervisor arranged for met to speak to the [REDACTED] Field Office (HFO) Special Agent in Charge (SAIC) [REDACTED] and Assistant to the Special Agent in Charge (ASAIC) [REDACTED]. I advised SAIC [REDACTED] that my wife was unjustly and without cause listed as a domestic terrorist. SAIC [REDACTED] advised me to do nothing and let the investigation play out; "It's not our investigation". From July 2021 until now, no agency has come forward to interview my wife. I feel if I were to fly with my wife, my top-secret clearance, job and retirement may be at risk for being listed as a co-traveler to a suspected domestic terrorist.

(B) December 2021, my wife [REDACTED] flew to [REDACTED] for Christmas. I advised my management again, and they stated to do nothing and to let the investigation play out.

6. **Adverse Action.** (A) My wife suffered adverse actions by being unable to freely travel without undue duress, delays in checking in, delays in processing through security and delays in boarding. Other family members, [REDACTED] were also listed as co-travelers and subjected to the same delays and searches. I hold a top-secret clearance and have not yet traveled on vacation with my wife for fears of also being listed as a co-traveler. I fear my retirement and job may be in jeopardy if I were to fly with her. Not a single agency has reached out to interview my wife or me. I fear that this will never clear up if I let it run its course as my senior management suggests.

I do solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the above statement are true to the best of my knowledge.

[REDACTED]

23 MAY 2022

# Attachment C



**U.S. OFFICE OF SPECIAL COUNSEL**

1730 M Street, N.W., Suite 218  
Washington, D.C. 20036-4505  
(202) 804-7000  
[www.osc.gov](http://www.osc.gov)

July 8, 2022

[REDACTED]

SENT VIA EMAIL TO: [REDACTED]

Re: OSC File No. DI-22-000608

Dear Mr. [REDACTED],

The Office of Special Counsel (OSC) has completed its review of the information you referred to the Disclosure Unit. You alleged a violation of law, rule, or regulation; gross mismanagement; and an abuse of authority by employees of the Department of the Department of Homeland Security, Federal Air Marshal Service, [REDACTED].

OSC is authorized by law to determine whether a disclosure should be referred to the involved agency for investigation or review, and a report; however, OSC does not have the authority to investigate disclosures. OSC may refer allegations of violations of law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; a substantial and specific danger to public health or safety; or censorship related to scientific research. Disclosures referred to the agency for investigation and a report must include information sufficient for OSC to determine whether there is a substantial likelihood of wrongdoing.

You alleged that the Federal Air Marshal Service (FAMS) listed your wife as a domestic terrorist without cause after she attended a rally in Washington, D.C. on January 6<sup>th</sup>, 2021. You explained that on July 14<sup>th</sup>, 2021 during the course of your duties as Senior Air Marshal you came across your wife's name on a domestic terrorist watchlist and that in July and December of 2021, FAMS assigned Air Marshals to surveil your wife through airport security and on flights. Moreover, you note that your wife's file contained a comment which marked her as a domestic terrorist who illegally entered the U.S. Capitol on January 6<sup>th</sup>, 2021. You claim that while your wife did attend a rally at the Ellipse in Washington, D.C., she never entered the U.S. Capitol building or the U.S. Capitol grounds. Similarly, you alleged that FAMS likely has thousands of individuals that are listed as entering the U.S. Capitol and subsequently listed as domestic terrorists without evidence that these individuals actually entered the building or grounds.

You stated that upon discovering your wife's name on the watchlist on July 14<sup>th</sup>, 2021 you immediately notified your supervisor that your wife was a subject of a Special Mission Control (SMC) investigation. Your supervisor arranged a meeting with [REDACTED] Field Office Special Agent in Charge [REDACTED] and Assistant to the Special Agent in Charge [REDACTED], who confirmed that your wife was under investigation but that the investigation was not being conducted by SMC. You stated that you were instructed to temporarily pause your SMC duties and to let the

investigation proceed. You suspected either the TSA or FBI marked your wife as a domestic terrorist, but you cannot confirm which agency, and you have not been contacted by either agency about the investigation. You also voiced concerns that your security clearance could be revoked if you were considered a co-traveler with your wife while she is listed as a domestic terrorist and feel such a determination would be improper as it would be based on false information.

In determining whether there is a substantial likelihood of wrongdoing, OSC considers a number of factors, including the sufficiency and specificity of the information provided and whether or not the whistleblower has reliable knowledge of the information supporting the allegations. After careful review and consideration, we have determined that we are unable to refer your allegations to the Secretary for investigation. We note that managers are given broad discretion in determining how to best carry out the agency's functions and mission most effectively. While you disagree with the decision to keep your wife on the list of domestic terrorists, we could not determine that such actions go beyond the discretion afforded to agency management. Further, to the extent that the designation of your wife as a domestic terrorist and the agency's information that she entered the U.S. Capitol are incorrect, such information should be revealed by previously mentioned investigation, which to your knowledge is still ongoing. For these reasons, OSC cannot conclude that there is a substantial likelihood of wrongdoing and we will take no further action concerning this matter.

Should you wish to pursue this allegation further, you may contact the Homeland Security Office of the Inspector General, 245 Murray Lane, S.W., Washington, D.C. 20528-0410; main number: (202) 254-4100; hotline number: (800) 323-8603; hotline email: [dhsoighotline@dhs.gov](mailto:dhsoighotline@dhs.gov).

Accordingly, we are closing our file. If you wish to discuss this matter, please contact me at [REDACTED].

Sincerely,

[REDACTED]

Attorney, Disclosure Unit

# Attachment D



# AIR MARSHAL NATIONAL COUNCIL

Integrity — Loyalty — Strength

10524 Moss Park Road | Suite 204776 | Orlando, FL 32832

Phone: (800) 864-6122 | Email: [info@airmarshalnc.com](mailto:info@airmarshalnc.com)

January 4, 2024

Administrator Pekoske,

Since January of 2021, the Federal Air Marshal Service (FAMS) has unlawfully targeted certain Americans based on political beliefs and for exercising constitutional rights. On January 11, 2021 then Democratic Chairman Bennie Thompson of the House Committee on Homeland Security sent a letter calling on you to “disrupt” the travel of “white supremacists” and “domestic terrorists.” Chairman Thompson’s statements cast a dangerously wide mischaracterization over mostly lawful protesters exercising their first amendment rights on January 6, 2021 in the Capitol region. Moreover, Mr. Thompson’s mischaracterizations were apparently based off information obtained from online forums and not any official investigation.

According to a letter sent to you by Ranking Member Senator Ron Johnson of the Permanent Subcommittee on Investigations on July 26, 2021, there are “serious concerns about whether TSA or law enforcement has assigned other individuals” to the TSA/FAMS Domestic Terrorist watchlist. Senator Johnson cites in his letter at least one person whom he states was not near the Capitol building and in fact can prove they were labeled a terrorist for “merely participating in first amendment activity” which in this case was attending a rally for President Trump. Additionally, according to some recent media reports the TSA/FAMS placed a journalist on the Domestic Terrorist watchlist for merely reporting on the Capitol protests. It has been reported that this individual was followed and surveilled dozens of times domestically by air marshals.

Perhaps most disturbing is Senator Johnson’s allegation that the FAMS is falsely labeling Americans as domestic terrorists without any evidence or investigation. He further alleges that a FAMS employee in at least one case, intentionally entered into a national security database without any evidence or investigation, that this person entered the Capitol on January 6<sup>th</sup>. When in fact he states this person can prove definitively they didn’t.

It goes against the very foundation of our Constitution and our values as Americans for our government to target people simply because of their political beliefs. Our Constitution was born out of oppression and an overbearing government. Lessons learned by its authors but lessons long forgotten by today’s government bureaucrats.

It is unconscionable to label Americans as domestic terrorists for participating in protected first amendment activity and assigning teams of armed government agents to surveil their every move while on airplanes or in the airport without any investigation. Additionally, the very political leader that seemed to request this clearly had a severe political bias. This is a clear example of a government that has been weaponized against the very people we are sworn to serve.

We respectfully request you put a stop to this unlawful practice of misusing Federal Air Marshal resources to follow around Americans whom Chairman Thompson mischaracterized as “domestic terrorists” and “white supremacists.

Respectfully,

*David Londo*

David Londo  
President  
Air Marshal National Council

*Sonya LaBosco*

Sonya Hightower-LaBosco  
Executive Director  
Air Marshal National Council