



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

**The Special Counsel**

May 26, 2022

The President  
The White House  
Washington, DC 20510

Subject: OSC File Nos. DI-18-3786, DI-18-3820, DI-18-4713, DI-18-4968

Dear Mr. President:

I am forwarding to you a report transmitted to the Office of Special Counsel (OSC) in response to the Special Counsel's referral of disclosures of wrongdoing at the Environmental Protection Agency (EPA) and EPA Office of Inspector General (EPA OIG) in Washington, D.C.<sup>1</sup> Two whistleblowers consented to the disclosure of their names: [REDACTED], former Deputy Chief of Staff for Operations within EPA's Immediate Office of the Administrator, and [REDACTED], former Senior Intelligence Advisor with EPA's Office of Homeland Security (OHS). Two whistleblowers chose to remain anonymous.<sup>2</sup> I have reviewed the agency reports and whistleblower comments and, pursuant to 5 U.S.C. § 1213(e), have determined that the report contains the information required by statute and that its findings appear reasonable.

The whistleblowers alleged that then-EPA Administrator Scott Pruitt, with varying degrees of assistance from EPA staff, engaged in improper and excessive spending of agency funds on travel and security; used his official position for his personal benefit and the personal benefit of certain EPA staffers; and endangered public safety. The whistleblowers also alleged that EPA OIG improperly assumed EPA program operating responsibilities including protective intelligence and counterintelligence functions in violation of the Inspector General Act of 1978.

EPA, EPA OIG, and the Government Accountability Office (GAO) investigated and substantiated many of the whistleblowers' allegations of wrongdoing by former Administrator Pruitt and by EPA.<sup>3</sup> The Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) reviewed and declined to further investigate the

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<sup>1</sup> See 5 U.S.C. § 1213(c) and (e). The Special Counsel referred the whistleblowers' allegations to former Acting Administrator Andrew Wheeler for investigation pursuant to 5 U.S.C. § 1213(c) and (d). EPA requested that EPA OIG investigate, and the investigation was ultimately handled by several different entities, including EPA OIG, as described herein. Former Acting Chief of Staff Michael D. Molina reviewed and signed the report before transmitting it to OSC. Acting Assistant Administrator, Office of Mission Support, Donna Vizian reviewed and signed the agency's supplemental report before transmitting it to OSC.

<sup>2</sup> Each allegation in this referral was made by one or more of the four whistleblowers. To simplify, I use the term "whistleblowers" in this letter, regardless of which of the four whistleblowers made the relevant allegations.

<sup>3</sup> Many of these investigations were already ongoing at the time of OSC's referral.



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whistleblowers' allegations of wrongdoing by EPA OIG.<sup>4</sup> The relevant findings include the following:

- EPA OIG substantiated allegations that former Administrator Pruitt and his staff spent excessively and improperly on travel.<sup>5</sup> Specifically, EPA OIG estimated that former Administrator Pruitt and staff incurred \$123,942 in “excessive airfare [costs]” without appropriate approval or justification, including making unspecified stops to Mr. Pruitt’s hometown using EPA funds, in violation of the Federal Travel Regulation (FTR) and EPA’s own policies. EPA OIG further found that EPA’s attempt to retroactively approve and justify these travel expenses, after EPA OIG first identified these issues, by issuing blanket approval for former Administrator Pruitt’s travel and by representing that it relied on documentation that did not exist at the time the travel was initially approved, further violated the FTR and EPA’s travel policies. EPA OIG made 14 recommendations and concluded on February 18, 2022, that all its recommendations were “completed or resolved with corrective actions pending.”<sup>6</sup>
- GAO substantiated allegations that EPA spent excessively and improperly on security.<sup>7</sup> Specifically, GAO found that EPA had violated the Antideficiency Act (ADA) and section 710 of the Financial Services and General Government Appropriations Act, 2017, by spending \$43,238.68 to install a “soundproof privacy booth” in the then-Administrator’s office. GAO concluded that “EPA should report its [ADA] violation as required by law.” EPA disagreed with GAO’s finding but reported it to Congress on April 25, 2018. EPA now agrees with GAO’s finding and, through its own review, identified additional ADA violations for expenses incurred in furnishing the former Administrator’s office. EPA cooperated with the Office of Management and Budget (OMB) to report the ADA violations that GAO and EPA identified—which together totaled \$52,407.09—to the White House, Congress, and GAO, as required, on December 29, 2021.<sup>8</sup>
- EPA OIG referred to the Federal Bureau of Investigation the whistleblowers’ allegation that a senior member of former Administrator Pruitt’s PSD had “steered” EPA contracts

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<sup>4</sup> Subsequently, OSC and CIGIE entered into a Memorandum of Understanding to streamline the procedures the Integrity Committee will follow when reviewing section 1213(c) referrals.

<sup>5</sup> EPA OIG, Report No. 19-P-0155, “Actions Needed to Strengthen Controls Over the EPA Administrator’s and Associated Staff’s Travel,” (May 16, 2019), available at: [https://www.epa.gov/sites/production/files/2019-05/documents/epa\\_oig\\_20190516-19-p-0155.pdf](https://www.epa.gov/sites/production/files/2019-05/documents/epa_oig_20190516-19-p-0155.pdf).

<sup>6</sup> EPA OIG’s full correspondence with EPA regarding this report is available at: <https://www.epa.gov/office-inspector-general/report-actions-needed-strengthen-controls-over-epa-administrators-and>.

<sup>7</sup> GAO, Document No. B-329603, “U.S. Environmental Protection Agency—Installation of Soundproof Privacy Booth,” (April 16, 2018), available at <https://www.gao.gov/assets/b-329603.pdf>.

<sup>8</sup> EPA’s first response to OSC outlined its disagreement with GAO’s findings and failed to explicitly incorporate or include GAO’s report; but EPA has now adopted GAO’s report as part of its response to OSC.



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regarding Mr. Pruitt's security to that PSD member's personal security business.<sup>9</sup> EPA OIG also started but did not complete an administrative investigation into alleged policy violations by that PSD member, citing the PSD member's retirement from federal service as its reason for not completing the investigation.<sup>10</sup>

- EPA OIG did not explicitly substantiate allegations that former Administrator Pruitt gave his staff improper salary increases.<sup>11</sup> However, EPA OIG did find that EPA had significantly increased the salaries of the staffers that the whistleblowers identified, plus the salary of one other employee, between 25.1 and 72.3 percent during a very short time. EPA responded by lowering the salaries of the relevant employees.<sup>12</sup>
- EPA OIG started but did not complete an investigation into allegations that Mr. Pruitt improperly used his position to benefit himself and his family, citing Mr. Pruitt's departure from federal service as its reason for terminating the investigation.<sup>13</sup>
- EPA's Office of Criminal Enforcement, Forensics, and Training (OCEFT) Professional Integrity and Quality Assurance (PIQA) substantiated allegations that Mr. Pruitt endangered public safety by routinely directing his PSD to use emergency lights and sirens and "excessive speed" in non-emergency situations.<sup>14</sup> For example, the report included evidence that Mr. Pruitt directed the agent to "reckless[ly]" use lights and sirens while driving against oncoming traffic so that Mr. Pruitt could pick up his dry cleaning when he was already 35 minutes late to an EPA meeting and that the agent "did not believe [the agent] could refuse the order." Further, the report details that one PSD member was removed from his position after attempting to explain to Mr. Pruitt that his request to use lights and sirens violated policy, "sen[ding] a clear message to the PSD that if you didn't perform the bidding of the Administrator, you would lose your job." EPA has now implemented a mandatory reporting requirement for violations of these

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<sup>9</sup> The U.S. Department of Justice declined to prosecute.

<sup>10</sup> See also EPA OIG, Report No. 350-R-19-004, "Semiannual Report to Congress, April 1, 2019-September 30, 2019," p.61 (ref. case no. OI-HQ-2018-CFD-0064), (November 2019), available at: [https://www.epa.gov/sites/production/files/2019-11/documents/epaoig\\_201911\\_epa-350-r-19-004.pdf](https://www.epa.gov/sites/production/files/2019-11/documents/epaoig_201911_epa-350-r-19-004.pdf).

<sup>11</sup> EPA OIG, Report No. 19-P-0279, "EPA's Use of Administratively Determined Positions Is Consistent with Its Authority Under the Safe Drinking Water Act," (August 21, 2019), available at: [https://www.epa.gov/sites/production/files/2019-08/documents/epaoig\\_20190821-19-p-0279\\_0.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/epaoig_20190821-19-p-0279_0.pdf).

<sup>12</sup> See also EPA OIG, Memorandum from Arthur A. Elkins Jr. to Scott Pruitt, "Management Alert: Salary Increases for Certain Administratively Determined Positions Report No. 18-N-0154," (April 16, 2018), available at: [https://www.epa.gov/sites/production/files/2018-04/documents/epaoig\\_20180416-18-n-0154.pdf](https://www.epa.gov/sites/production/files/2018-04/documents/epaoig_20180416-18-n-0154.pdf).

<sup>13</sup> EPA OIG, Report No. EPA-350-R-18-003, "Semiannual Report to Congress, April 1, 2019-September 30, 2019," pp. 12-13, (November 2018), available at: [https://www.epa.gov/sites/production/files/2018-11/documents/epaoig\\_20181031-epa-350-r-18-003\\_linked.pdf](https://www.epa.gov/sites/production/files/2018-11/documents/epaoig_20181031-epa-350-r-18-003_linked.pdf).

<sup>14</sup> EPA, "[PIQA] Case Summary Report 1100-18-008-CI," (June 8, 2018), Enclosure to EPA Supplemental Report.



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policies and procedures.

- CIGIE reviewed the whistleblowers' allegations that EPA OIG improperly expanded its role by participating in EPA protective intelligence and counterintelligence functions, like reviewing and assessing security threats.<sup>15</sup> CIGIE declined to take further action. GAO did, however, review EPA OIG's and EPA OHS's jurisdiction over intelligence and related operations.<sup>16</sup> GAO found some overlap and conflict between these offices' activities and duties and concluded that an EPA Order "assign[ing] responsibilities for homeland and national security activities to OHS"<sup>17</sup> would address the issue.
- EPA OIG substantiated allegations that EPA's significant expansion of former Administrator Pruitt's PSD—which increased PSD costs from \$1.6 to \$3.5 million and tripled its size—was not justified by credible security threats against Mr. Pruitt at the time.<sup>18</sup> Specifically, EPA OIG found that EPA failed to conduct an appropriate threat analysis to justify expanding the PSD and then belatedly relied on an EPA OIG report "prepared almost 6 months after the decision" to defend its decision. EPA OIG further found that EPA "ha[d] no final, approved standard operating procedures that address the level of protection required for the Administrator or how those services are to be provided" and that PSD agents had worked unauthorized overtime. EPA OIG made 12 recommendations, including that EPA "complete a threat analysis on a regular basis to identify the proper protection required for the Administrator" and that EPA create policies and standard operating procedures for its PSD. EPA has now implemented all these recommendations.

One of the whistleblowers commented on EPA's supplemental report. The comments addressed what the whistleblower identified as "material facts that were not addressed in the report and the lack of meaningful corrective action for wrongdoing." For example, the whistleblower cited EPA OIG's decision to discontinue investigating the PSD employee's alleged improper influence over a federal contract after that employee retired, and CIGIE's decision not to further investigate alleged wrongdoing at EPA OIG. The whistleblower

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<sup>15</sup> See 5a U.S.C. § 9(2) ("... there shall not be transferred to an Inspector General . . . program operating responsibilities.").

<sup>16</sup> GAO, Report No. GAO-20-89R EPA Office of Homeland Security, "Environmental Protection Agency: Recent Policy Could Improve Working Relations between EPA's Office of Inspector General and Office of Homeland Security," (Oct. 30, 2019), available at: <https://www.gao.gov/assets/gao-20-89r.pdf>.

<sup>17</sup> EPA Order 3230—Intelligence Operations, (May 31, 2019), included as "Enclosure I" to GAO's report. EPA failed to incorporate GAO's report or findings, or EPA Order 3230, into its initial response to OSC but later did so.

<sup>18</sup> EPA OIG, Report No. 18-P-0239, "EPA Asserts Statutory Law Enforcement Authority to Protect Its Administrator but Lacks Procedures to Assess Threats and Identify the Proper Level of Protection," (Sept. 4, 2018), available at: [https://www.epa.gov/sites/production/files/2018-09/documents/epa\\_oig\\_20180904-18-p-0239.pdf](https://www.epa.gov/sites/production/files/2018-09/documents/epa_oig_20180904-18-p-0239.pdf). See also report updates at: <https://www.epa.gov/office-inspector-general/report-epa-asserts-statutory-law-enforcement-authority-protect-its>.



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acknowledged that EPA OIG lacked authority to compel testimony from former federal employees but stated that EPA OIG could still have reviewed other relevant evidence. The whistleblower also acknowledged that GAO partly addressed, and EPA partly resolved, allegations that EPA OIG performed certain intelligence functions but emphasized that the specific alleged wrongdoing at EPA OIG had not been investigated. The whistleblower also identified EPA's initial failure to report to OSC the full scope of PIQA's findings and EPA's delay in implementing many of EPA OIG's relevant recommendations.<sup>19</sup> The whistleblower emphasized the great personal costs of blowing the whistle on these critical issues and also raised procedural concerns.

I thank the whistleblowers for bringing these serious allegations of wrongdoing to OSC. And I acknowledge the whistleblower's above concerns—indeed, OSC echoed and worked to address many of them following EPA's initial report, which OSC determined was not sufficiently responsive to our referred allegations—and I share in the disappointment and frustration that some of EPA OIG's recommendations took nearly three years to resolve. I also acknowledge the significant progress that EPA has made in working with OSC and other oversight bodies to take responsibility for its past failures and to prevent future abuses by senior leadership. I expect that EPA will continue to cooperate with EPA OIG, members of Congress, and other stakeholders to restore public confidence in its role as a steward of taxpayer dollars and good government.

As required by 5 U.S.C. § 1213(e)(3), OSC has sent copies of the agency report, this letter, and the whistleblower's comments to the Chairs and Ranking Members of the Senate Committee on Environment and Public Works, as well as the House Committees on Science, Space, and Technology, and on Energy and Commerce. OSC has also filed redacted copies of these documents and a copy of our original referral letter in our public file, which is available at [www.osc.gov](http://www.osc.gov). This matter is now closed.

Respectfully,

A handwritten signature in black ink, appearing to read "Henry J. Kerner".

Henry J. Kerner  
*Special Counsel*

Enclosures

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<sup>19</sup> OSC has subsequently addressed both these issues with EPA, as outlined above.