

LORING E. JUSTICE, P.L.L.C.

Attorney at Law
11911 Kingston Pike, Suite 201
Knoxville, TN 37934

Telephone: (865) 584-8620

Fax: (865) 584-8621

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Dear Sir or Madam:

Subject: The Importance of the President and/or Congress Resolving Joe Carson's Concerns about the CSRA.

After graduating Yale Law School and serving the United States directly as a law clerk on the United States Court of Appeals, I began a career as a private attorney.¹ As such I have spent well over a decade specializing in assisting workers' who have lost their health and frequently their lives as the result of governmental and defense contractor negligence and wrongdoing, primarily related to the nuclear weapons related sites of Oak Ridge, Tennessee, near my hometown. By this time, I hope that all are familiar with the public health tragedies involving radiogenic cancer, beryllium and other toxic substance related disease that have occurred at Oak Ridge and other Manhattan Project related sites as the result of the avarice of greedy contractors enabled by a corrupt bureaucracy. I have also assisted whistleblowers who have raised concerns about safety, security and wrongdoing at Oak Ridge. In this capacity, I have come to know Joe Carson, P.E., a whistleblower who has dedicated significant time to and shown commendable interest in the federal merit protection laws, the federal civil service laws and other laws related to the prevention of wrongdoing in government and government contractor operations. I have carefully and independently reviewed Mr. Carson's contentions of the "broken covenant" of the Civil Service Reform Act of 1978 (CSRA). I consider his concerns well-evidenced, far-reaching, and made in good-faith.²

I agree with Mr. Carson that President Obama should direct the resolution of these important concerns related to the emasculation of the federal merit protection system, per the President's statutory duty to "take any action...necessary" to ensure the federal civil service embodies the merit system principles.³ I do feel the emasculation of these laws through unduly restrictive legal interpretations and budgetary starving contributed to the public health epidemic among nuclear weapons workers that I deal with nearly every working day. I also feel that I have personally experienced retaliation for shining a spotlight on this epidemic and supporting a fundamental change in the interpretation and implementation of these laws, although it is minor

¹ www.loringjustice.com

² See www.broken-covenant.org for extensive civil service law detail.

³ See 5 U.S.C. section 2301(c). President Obama could readily direct a resolution of the concerns via an Office of Legal Counsel of the Department of Justice review. In the alternative, Congressional leaders could request a Congressional Research Service and/or Government Accountability Office review.

compared to what so many whistleblowers, such as Mr. Carson have experienced.

The merit system principles are the foundational values of the federal civil service as articulated in the CSRA, the single largest change of the federal civil service from its creation in 1883 until today. The CSRA created the statutory framework and implementing agencies so federal agency employees would be adequately protected from reprisal and other types of prohibited personnel practices (PPPs), so they could do their duties in protecting the health, safety, security of welfare of Americans, without fear or favor, ethically and competently, per the merit system principles. Essentially, the CSRA attempted to create a meritocracy of public servants who could operate completely outside politics and never fear reprisal from those with political or corporate power. It has not worked out that way. The covenant has been broken.

Because of the 34 year-long “broken covenant” of the CSRA:

- 1) No President -has been able to fulfill their legal duty to confirm that “federal employment embodies the merit system principles;” or the Office of Special Counsel (OSC) is functional as the independent and confidential whistleblower disclosure channel available to concerned federal employees for classified or otherwise sensitive disclosures; or that federal employees are adequately protected from reprisal or other types of prohibited personnel practices (PPPs).
- 2) The U.S. Merit Systems Protection Board (MSPB)⁴ has conducted no “special studies” of the Office of Special Counsel regarding interpreting and compliance with its singular duties as a secure, independent, confidential whistleblower disclosure channel for concerned federal employees, especially if their concerns involve classified information, or OSC’s singular duties as a federal law enforcement agency mandated to protect federal employees from reprisal or other types of PPPs.
- 3) The U.S. Office of Special Counsel (OSC) which was designed by the CSRA and the Whistleblower Protection Act of 1989 to be a powerful independent whistleblower advocacy agency has instead become a minor bureaucracy whose unnecessary, self-imposed jurisdictional limitations and unduly constricted interpretation of its own powers are laughable in light of its critical mission.
- 4) If whistleblowers were truly protected and OSC was empowered to act as envisioned in the CSRA, it is very hard to see how those in power could successfully cover up their misdeeds and escape accountability. It is not hard to imagine that recent American history might be substantially different, in a very positive way, if OSC operated as intended by the CSRA and the WPA.

I agree with Mr. Carson that if his “broken covenant” contentions are substantiated and a

⁴ The MSPB is supposed to be the guardian of the federal merit system, *inter alia*, conducting special studies related to the integrity of the merit system and working closely with OSC, a whistleblower advocacy and protection agency.

re-examination of the CSRA and WPA and their implementation takes place, it would be a wonderful thing for America in that: 1) previously unidentified causal factors of our governmental dysfunction, likely contributory to some of our most adverse events since 1978 will be exposed, and 2) the problem is readily correctable.

If anyone wishes to understand better why they should advocate for resolution of Mr. Carson's concerns, please contact me. Thank you for reading and caring.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Loring Justice', written in a cursive style.

Loring Justice

A second handwritten signature in blue ink, also in a cursive style, located to the right of the first signature.