Joseph Carson, PE, is a deeply concerned licensed professional engineer (PE), employed by the Department of Energy (DOE) as a nuclear safety engineer. He commissioned Loring Justice, a highly regarded attorney, to conduct an independent legal analysis of 3 key, interconnected, sections of the Civil Service Reform Act of 1978. These are 5 U.S.C. sections 1204(a)(3), 1214(e), and 2302(c). By them, the federal government is responsible to ensure members of the federal civil service are adequately protected from reprisal and other types of prohibited personnel practices (PPPs), so they can perform their duties in a trustworthy manner, per the merit system principles.

Mr. Carson has contended, for many years now, that these laws have been misinterpreted and misapplied from the beginning. He terms this the “broken covenant” of the Civil Service Reform Act of 1978 (CSRA). Mr. Carson specifically commissioned Mr. Loring to conduct an independent, expert, legal analysis and determine:

1. Whether his concerns about 33 year-long misinterpretation and/or misapplication of 3 critical sub-sections of civil service law - 5 U.S.C. sections 1204(a)(3), 1214(e), and 2302(c) - were reasonable and, if so,
2. whether they warranted a review by the Office of Legal Counsel of the Department of Justice, per its authority to render final and binding interpretations of such laws within the Executive Branch.

In summary, Mr. Loring found all Mr. Carson’s concerns reasonable and some compelling. He also determined that a review by the Office of Legal Counsel would be appropriate. Any agency head, together with the President, has the authority to task the Office of Legal Counsel to conduct such a review.

Mr. Loring’s analysis is consistent with Mr. Carson’s years-long contentions that DOE cannot, by itself, create an adequate safety culture, that it must - just as other executive branch agencies - rely upon the U.S. Office of Special Counsel (OSC) and U.S. Merit Systems Protection Board (MSPB) to properly interpret and apply their statutory duties in order to claim they have an adequate safety culture in which their employees are adequately protected from reprisal and other PPPs.

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1. His 7 page, extensively footnoted, analysis is available at http://whsknox.blogs.com/covenant/Loring_Justice_review_broken-covenant.pdf
2. One can google Mr. Carson’s name for details
3. See www.broken-covenant.org for a detailed explanation of Mr. Carson’s concerns
4. See www.justice.gov/olc for a description of this office and its authority
5. See 28 U.S.C. sections 510-512 and 28 C.F.R. section 0.25