

**COMMITTEE ON SCIENCE & TECHNOLOGY
SUBCOMMITTEE ON INVESTIGATIONS & OVERSIGHT
U.S. HOUSE OF REPRESENTATIVES
HEARING CHARTER**

*The NASA Administrator's Speech to Office of Inspector General Staff, the
Subsequent Destruction of Video Records, and Associated Matters*

**Thursday, May 24, 2007
10:00 a.m. to 1:30 p.m.
2318 Rayburn House Office Building**

Background

Since early 2006, Robert Cobb, the inspector general of the National Aeronautics and Space Administration (NASA), has been under investigation for allegations of misconduct. After a review of 79 allegations, in early 2007, the Integrity Committee of the President's Council on Integrity and Efficiency (PCIE), an organization of agency inspectors general, issued a report finding that Mr. Cobb had abused his authority and demonstrated the appearance of a lack of independence from the agency's top officials, particularly Sean O'Keefe, NASA's former administrator. Most of the allegations came from current and former employees of NASA's Office of Inspector General (OIG).

The Committee has been tracking this investigation since 2006 and made repeated requests for the final report and its supporting documentation over a several-month period until it was released to the Committee in late March of 2007. On April 2, 2007, Chairmen Miller and Gordon called for the removal of Mr. Cobb. Since that time, the Committee, along with the Senate Subcommittee on Space, Aeronautics, and related Sciences has been conducting interviews in preparation for hearings on the Cobb investigation.

The criteria used by the PCIE are set forth in Executive Order 12993, which includes an "abuse of authority" as one of the allegations that must be investigated. The PCIE also has developed the "Quality Standards for Federal Offices of Inspector General", which all IGs are required to meet. They include integrity, objectivity, independence, professional judgment and confidentiality. Independence is defined as a "critical element of objectivity. Without independence, both in fact and in appearance, objectivity is impaired."

The PCIE's Integrity Committee, which conducted the investigation, recommended action be taken against Mr. Cobb up to and including dismissal. That recommendation was sent to Clay Johnson III, the head of PCIE and deputy director for management of the Office of

Management and Budget for further action. Mr. Johnson sent the report on to Michael Griffin, NASA's administrator, and asked him to propose a corrective action plan for Mr. Cobb.

Griffin turned the task of studying the hundreds of pages of material and crafting a set of potential actions over to his General Counsel, Michael Wholley. Mr. Wholley independently decided to apply his own standards to the work of the HUD Inspector General and re-judge the case based on that report. This was completely outside the scope of the assignment to Mr. Griffin contemplated in the Executive Order. Mr. Wholley, asking what laws had been violated, determined that the Integrity Committee got it all wrong when they declared Mr. Cobb to have abused the authority of his office. In fact, Mr. Wholley seemed hard pressed to find that Mr. Cobb had done anything wrong at all. Notably, Mr. Wholley has developed a mentor-protégé relationship with Cobb and so his actions bear out the finding of the Integrity Committee that at least the appearance of a lack of independence exists. Mr. Wholley was blind to that situation as he went about his self-defined task.

Upon the suggestion of Mr. Johnson, the plan for dealing with Mr. Cobb included a meeting between Mr. Griffin and the staff of the Office of Inspector General (OIG) to inform them that Mr. Griffin had reviewed the Integrity Committee's Record of Investigation and taken "the actions that I believe are necessary to address the ROI's findings." In a letter to Mr. Johnson, Mr. Griffin also said that he would "listen to any concerns that may exist among the staff and . . . express my support for a strong and effective Office of Inspector General."

In early April, Mr. Griffin made public statements questioning the conclusions of the PCIE report. He claimed to have reviewed the report himself – although there is no evidence of that -- and found no evidence of an "abuse of office" "lack of integrity" or "actual conflict of interest" or "improprieties." He expressed his support for Mr. Cobb, said he would not recommend his removal, and that Mr. Cobb's "impartiality" was not in question. Mr. Griffin said there were examples of "overly harsh treatment of subordinates; verbal treatment" by Mr. Cobb, and that he would recommend that Mr. Cobb take management courses at the Federal Executive Institute every year, have a management coach, and report on his progress to NASA's deputy administrator.

The "all-hands" mandatory meeting was scheduled for April 10 at 2:30 p.m. Before the meeting, several persons expressed concern about the NASA administrator's prior supportive statements concerning Mr. Cobb and questioned whether holding such a meeting with the OIG staff gave the appearance that the administrator was asserting control over the independent inspector-general's office.

Because OIG employees are located at headquarters and several NASA centers, the meeting was videoconferenced. Prior to that meeting, Paul Morrell, Mr. Griffin's chief of staff, said he told the contract employee running the Video Teleconferencing Service (ViTS) center not to record the session, although the employee does not recall that directive. However, during the planning for the meeting, a NASA public affairs officer requested a DVD be made of the meeting, and when the meeting was actually held, there were multiple signs (as many as 8) noting that the session was being recorded. It was subsequently learned that at least two of the NASA centers also videotaped the session so that employees who were not present could view

the meeting. This appears to be a standard practice in NASA IG staff “all hands” videoconferences.

The Meeting

Mr. Griffin addressed the meeting, which was also attended by Mr. Cobb. According to written reports from attendees of the meeting, Mr. Griffin went far beyond a simple recitation of his support for Mr. Cobb, the facts of Mr. Cobb’s corrective action plan, and an assurance of independence for the OIG’s office. Mr. Griffin indicated that he was not interested in the OIG’s program or operational audits because the OIG staff did not have the technical skills to audit in that area, that OIG auditors should not be questioning NASA management decisions, and that he would not pay attention to findings that didn’t result in savings in the hundreds of millions of dollars. Attendees at the meetings also indicated that it was inappropriate for Mr. Cobb to be at the meeting if open and honest dialogue was the goal.

Destruction of the Video Records of the Meeting

Early on April 11, Mr. Griffin’s chief of staff called the ViTS center employee. At the request of the public affairs office, the employee had created an original DVD and four copies, which were to be provided to various offices. Mr. Morrell told the ViTS employee that this meeting was not to be recorded and to get back the DVD and the copies. The ViTS employee did so, and also called all of the centers and told them to destroy the copies that they had. In a dramatic moment, the ViTS person at one center actually destroyed a videotape by beating it with a shelf board. Mr. Morrell claims that he never even asked about whether the Centers might have tapes; the ViTS staffer remembers this somewhat differently and is fairly confident he was following Mr. Morrell’s orders when he asked the Center ViTS people to collect and destroy tapes.

At headquarters that morning, Mr. Morrell collected all of the DVDs and then gave them to Michael Wholley, NASA’s general counsel. Some time later, Mr. Wholley destroyed the DVDs by breaking them up with his hands. Mr. Wholley later told Committee staff that he did so because he wanted to be sure that no one could obtain the DVD by filing a request under the Freedom of Information Act (FOIA).

Congressional Request

On April 18, the Committee learned of the April 10 meeting and the possible destruction of the video recordings of that meeting and sent letters to Administrator Griffin and Inspector General Cobb requesting a copy of the videotape and all records related to it. When the response stated that all copies had been destroyed, the Committee asked for all records relating to Mr. Griffin’s review of the PCIE report, the April 10 meeting with the OIG staff and the destruction of the video records.

Committee Investigation

Ever since Mr. Johnson put the responsibility on Mr. Griffin to develop and implement a corrective action plan for NASA's inspector general, there have been concerns in Congress and elsewhere that it would be difficult for Mr. Cobb to maintain his independence from NASA management when he owed his continuance as NASA's I-G to Mr. Griffin and his general counsel. This is of particular concern as one of the substantiated allegations was that Mr. Cobb did not demonstrate the appearance of a lack of independence of the prior NASA administrator and general. Staff review of the responsive documents and follow-up interviews indicate a disturbing lack of concern by NASA management about maintaining the independence of its Office of Inspector General.

The actions by staff at the highest levels of NASA to physically destroy records of a questionable meeting between the Administrator and the OIG staff points to a serious lack of public accountability. It is unprecedented for a general counsel to personally and knowingly destroy agency records so that they cannot be obtained by Congress or the public. Apologies referring to the use of "stupid pills" are not acceptable for a person in such a position of public trust and responsibility.

In its hearing, the Committee will hear from witnesses personally involved in both the meeting and the destruction of its record.

Witnesses:

The first two witnesses are current, high-ranking staff of the NASA Inspector General's office. They will testify as to the impact of Dr. Griffin's address to the OIG staff. They also have insights into the destruction of tapes.

Evelyn Klemstine, assistant inspector general for audits, NASA Office of Inspector General

Kevin Winters, assistant inspector general for investigations, NASA Office of Inspector General

The second panel of witnesses can speak to the disposition of the Cobb case by NASA when it was presented to the agency by PCIE. They can also speak to the relationship between Cobb and Wholley. Finally, they can address the manner and motive for destroying the recordings of Administrator Griffin's appearance before the IG staff.

Michael Wholley, general counsel, NASA

Paul Morrell, chief of staff, NASA