

Joint Hearing Between the Senate Commerce Committee's Subcommittee on Space, Aeronautics, and Related Sciences and the House Science and Technology Committee's Subcommittee on Investigations and Oversight

Exhibits for Statement by:

Robert W. Cobb
Inspector General

LIST OF EXHIBITS

- A. Letter to James H. Burrus, Jr. from Clay Johnson, March 29, 2007
and Letter to Clay Johnson from James H. Burrus, March 29, 2007
- B. Annotated letter to Clay Johnson from James H. Burrus, Jr., January 22, 2007
- C. Letter to Robert W. Cobb from Chris Swecker, January 9, 2006
- D. Letter to James Burrus from Robert W. Cobb, February 16, 2006, with Enclosures
- E. Letter to Robert W. Cobb from James H. Burrus, Jr., February 22, 2006
- F. Letter to James H. Burrus, Jr., from J. Sedwick Sollers, III, June 28, 2006
- G. Letter to Robert Mueller from Robert W. Cobb, July 17, 2006
- H. Letter to James Burrus from Robert W. Cobb, July 17, 2006, with Enclosures
- I. Letter to Robert W. Cobb from James H. Burrus, Jr., August 8, 2006
- J. Letter to James H. Burrus, Jr. from Robert W. Cobb, August 23, 2006
- K. Letter to Robert W. Cobb from James H. Burrus, Jr., August 30, 2006
- L. Letter to Integrity Committee from Robert W. Cobb, September 7, 2006, with Exhibits
- M. Letter to Robert Mueller from Robert W. Cobb, November 17, 2006
- N. Letter to James H. Burrus, Jr. from Robert W. Cobb, November 20, 2006
- O. Letter to Robert W. Cobb from James H. Burrus, Jr., November 21, 2006
- P. Letter to James H. Burrus, Jr. from Robert W. Cobb, December 18, 2006
- Q. Letter to Robert W. Cobb from James H. Burrus, Jr., January 21, 2007
- R. Letter to Robert W. Cobb from James H. Burrus, Jr., April 26, 2007
- S. Letter to Michael Griffin from Clay Johnson, February 15, 2007
- T. Letter to Clay Johnson from Michael D. Griffin, March 14, 2007
- U. Memorandum to Robert W. Cobb from Administrator, March 30, 2007
- V. Letter to Clay Johnson, III from Michael D. Griffin, March 29, 2007
- W. Letter to Clay Johnson, III from Chris Swecker, October 29, 2004, with Enclosures
- X. Examples of Management and Organizational Changes and Initiatives at the NASA OIG
(2002-2007), and Memorandum to the AIG for Audits and AIG for Inspections and
Assessments from the Inspector General, January 17, 2003
- Y. Letter to Michael D. Griffin from Senator Bill Nelson, May 12, 2005
- Z. Letter to Senator Bill Nelson from Robert W. Cobb, May 13, 2005, with Enclosures
- AA. Letter to Kenneth M. Donohue from Chris Swecker, January 6, 2006

Exhibit A



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEPUTY DIRECTOR
FOR MANAGEMENT

March 29, 2007

James H. Burrus, Jr.
Chairman, Integrity Committee
President's Council on Integrity and Efficiency
935 Pennsylvania Ave NW, Room 3973
Washington, DC 20535-0001

Dear Mr. Burrus:

On March 20, 2007, you sent me a letter on behalf of the Integrity Committee with regard to the NASA Inspector General, Robert E. Cobb.

After receiving the letter, I called you for some clarifications, which I now want to confirm.

First, I asked for clarification of whether the Integrity Committee concluded that Mr. Cobb had broken any laws or acted illegally. You reported that he had not. Instead, the conclusions of the Integrity Committee related to management and appearance concerns.

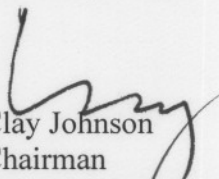
Second, I asked for clarification as to whether all of the members of the Integrity Committee shared a common view about what would be the appropriate way to address the concerns raised about Mr. Cobb, and you indicated that there had been a range of views.

Third, I asked for clarification as to whether the Integrity Committee was now itself recommending removal as a disciplinary action against Mr. Cobb, and you told me that no such recommendation was being made by the Integrity Committee.

I also noted that the original report does not appear to make an actual recommendation about steps to be taken in light of the Integrity Committee report's findings about Mr. Cobb's actions, and you confirmed that I had read that correctly.

Please confirm that I have accurately summarized our conversation on these points.

Sincerely,


Clay Johnson
Chairman
President's Council on Integrity and Efficiency

Integrity Committee



President's Council on Integrity and Efficiency
Executive Council on Integrity and Efficiency

935 Pennsylvania Ave., NW, Room 3973
Washington, D.C. 20535-0001

March 29, 2007

The Honorable Clay Johnson, III
Chairman, President's & Executive Councils on Integrity and
Efficiency
c/o United States Office of Management and Budget (OMB)
17th Street & Pennsylvania Avenue, N.W., Room 113
Washington, D.C. 20503

Dear Mr. Johnson:

I am in receipt of your letter, dated March 29, 2007 regarding the Integrity Committee and its actions in the matter of Robert E. Cobb, Inspector General of the National Aeronautics and Space Administration (NASA). The letter accurately reflects our discussion and the intent of the Integrity Committee.

Please contact me if I can be of any further assistance in this matter.

Sincerely,

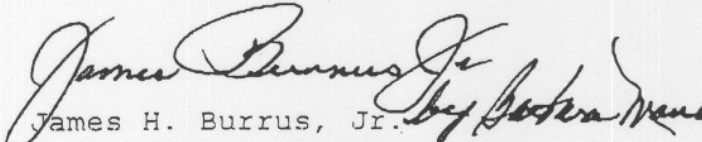

James H. Burrus, Jr.
Chair, Integrity Committee

Exhibit B

Annotated letter to Clay Johnson from James H. Burrus, Jr., January 22, 2007

Introduction

Below, the January 22, 2007, letter of the Integrity Committee to Clay Johnson, Chairman of the President's Council on Integrity and Efficiency has been retyped and annotated, with annotations appearing in bold. The exhibits referenced are the same as for the "Statement of Robert W. Cobb at Joint Hearing Between the Senate Commerce Committee's Subcommittee on Space, Aeronautics, and Related Sciences and the House Science and Technology Committee's Subcommittee on Investigations and Oversight on Matters Relating to an Investigation by the Integrity Committee of the President's Council on Integrity and Efficiency."

The IC's investigation of IG Cobb and its January 22 letter reflects a process so flawed that no valid conclusions can be drawn from it. IG Cobb was denied the due process contemplated by Executive Order 12993 and the right to be free from an abusive investigation conducted under the color of law; the IC did not make a "determination of substantial likelihood" and "certify" allegations as meeting the required standard for IC jurisdiction; no legal standard of inquiry guided the investigation (which is inconsistent with the PCIE's Quality Standards for Investigations); misleading notices of the allegations were provided to IG Cobb; matters subject of prior IC inquiries where IG Cobb was cleared with finality resurfaced and were reinvestigated contrary to the EO; the HUD OIG failed to interview witnesses who were identified by IG Cobb as likely to provide relevant evidence and other witnesses that might negate testimony of complainants; IG Cobb was denied access to the transcript of his interview for nine weeks so that there was no time to make any meaningful comment before the ROI was completed; no legitimate opportunity to address allegations against him or to respond to any proposed findings by the HUD OIG or the IC were provided to IG Cobb; and confidential information from the investigation was inappropriately if not illegally leaked to the press. Neither the HUD OIG nor the IC examined the credibility of witnesses nor provided any explanation or context for what witnesses said or why; and neither the ROI nor the IC letter of January 22, 2007, made any effort to distinguish between truth and fiction. To this day, IG Cobb has not been provided with copies of most of the documents that have been provided to Congress by the IC in connection with this investigation or other investigative documents; IG Cobb does not know what testimony witnesses have provided to the HUD OIG (except insofar as the heavily redacted HUD ROI reports what mostly unnamed witnesses said.) As a result and as is shown through the annotations below, the IC bases its conclusions on a rendering of the facts that is not only incomplete, but false and misleading.

The investigation began with a misleading notice of the allegations. IG Cobb was notified January 9, 2006, that the investigation concerned the failure of his office to investigate safety and whistleblower matters. [Exhibit C] Unknown to IG Cobb until after the IC had completed its report, the HUD IG had on January 6, 2006, been asked by the IC to conduct an administrative investigation into a number of complaints "with a pattern of possible misconduct and/or wrongdoings by the

NASA IG.” [Exhibit AA] No mention of safety or whistleblower issues was made in the letter to the HUD IG – and no notice of allegations of “patterns of misconduct” was given to IG Cobb.

In February 2006, IG Cobb exchanged correspondence with the IC on the scope of the investigation, and again was told the investigation related to alleged failures to investigate safety and whistleblower concerns. [Exhibits D, E] In reliance on the IC’s representations on scope and that the investigation was to be conducted in accordance with the applicable Executive Order, EO 12993, the NASA OIG agreed to pay the HUD OIG for the investigation. As it turned out, the investigation was not conducted pursuant to the requirements of the EO and almost entirely concerned matters unrelated to the allegations identified and which do not even fall under the IC’s jurisdiction. IG Cobb later expressed in a letter to the Director of the Federal Bureau of Investigation that the investigation had evolved into a witch hunt lacking any check or balance. [Exhibit G]

In the February 2006 correspondence with the IC, IG Cobb questioned whether the investigation should address matters the IC had considered previously and determined with finality to be either unsubstantiated or outside its jurisdiction, pointing out that reinvestigation of these matters would be not only wasteful but contrary to express language of EO 12993. [Exhibit D] The IC responded that these previously considered matters were not the subject of the HUD OIG investigation but were supplied to the HUD IG as a “historical” reference. [Exhibit E] But according to the IC’s January 22, 2007, letter, on December 12, 2005, the IC “reevaluated other allegations regarding IG Cobb that it previously reviewed.” In a manner reminiscent of Kafka, these were indeed included as matters subject of the HUD investigation, notwithstanding previous determinations with finality.¹ Correspondence from the IC at the time reflected the status of these matters stating “the IC determined that IG Cobb’s response substantially demonstrated that IG Cobb had not engaged in any wrongdoing” and the IC determined that the “allegations were unsubstantiated concerning wrongdoing by IG Cobb, outside the IC jurisdiction, or not sufficiently supported.” [Exhibit D, attachments] The IC closed these matters and, under EO 12993, such determination by the IC constitutes the “final disposition” of the matters.

The IC’s jurisdiction as defined in EO 12993 extends only to administrative allegations of “violations of any law, rule or regulation, or gross mismanagement, gross waste of funds or abuse of authority.” The EO also requires that before conducting an investigation, the IC must make a determination of “substantial likelihood” of such violation, mismanagement, waste or abuse, and then “certify” the matter to the Chair of the IC for investigation. The IC did not comply with these requirements. Nevertheless, the IC authorized an investigation into a plethora

¹ The IC approach replicates the horrific and fictional explanation of “apparent acquittal” in Franz Kafka’s The Trial: “When you are acquitted in this sense, it means the charge against you is dropped for the moment but continues to hover over you, and can be reinstated” at any time. See Franz Kafka, The Trial, Translated by Breon Mitchell, at 158 (Shocken Books 1998).

of allegations that involved routine discretionary decisions. Indeed, the IC's letter of January 22, 2007, later reflected that many of the allegations investigated were outside its purview. The decision of the IC to authorize an investigation into matters over which it had no jurisdiction or which had previously been reviewed and found unsubstantiated resulted in the substantial waste of tax dollars, costing the NASA OIG almost \$620,000 in direct outlay to the HUD OIG and additional indirect costs in terms of responding to HUD OIG investigators.

Interestingly, in early 2007, the IC substantially amended its procedures in a manner which is intended to provide greater fairness than was accorded IG Cobb.

January 22, 2007

Integrity Committee
President's Council on Integrity and Efficiency
Executive Council on Integrity and Efficiency

935 Pennsylvania Ave., NW, Room 3973
Washington, D.C. 20535-0001
January 22, 2007

The Honorable Clay Johnson, III
Chairman, President's & Executive Councils on Integrity and Efficiency
c/o United States Office of Management and Budget (OMB)
17th Street & Pennsylvania Avenue, N.W., Room 113
Washington, D.C. 20503

Dear Mr. Johnson:

The purpose of this letter is to inform you of the determinations made by the Integrity Committee (IC) at its meeting on December 13, 2006, regarding allegations of misconduct on the part of Inspector General (IG) Robert Cobb, National Aeronautics and Space Administration (NASA). In summary, the IC determined that certain actions on the part of IG Cobb, described in detail below, amounted to an abuse of authority. Other actions taken by Cobb were viewed as creating the appearance of a lack of independence and as not adhering to the Quality Standards for Federal Offices of Inspector General promulgated by the PCIE and ECIE. **For good reasons associated with the subjectivity of such determinations, "appearance of lack of independence" is not a matter within the jurisdiction of either the IC to investigate or for it to make determinations. That jurisdiction extends only to allegations of a "violation of law, rule or regulation, or gross mismanagement, gross waste of funds or abuse of authority."** I will first outline the procedural history of the case, follow with a discussion of the particular conduct on the part of IG Cobb which the IC found troubling, and conclude with comment about some of the matters raised in the correspondence received from IG Cobb regarding the process.

The stated purpose of this IC letter is to inform Clay Johnson of the IC's determination that certain actions by IG Cobb amounted to an abuse of authority or

created the appearance of a lack of independence. Having exhaustively investigated every possible complaint without any rational limitation in terms of scope or expense, it is telling that the IC's negative determinations are based on three incidents of the seventy nine allegations considered. Even so, for the reasons that follow, the conclusions reached are unsustainable. The letter also recites allegations, opinions or conjecture of witnesses on matters distinct from those "found" to be problematic. Further, the IC suggests substantiation of allegations outside its purview and then omits the facts and analysis supporting the suggestions, as if no explanation is necessary because the allegation was outside its jurisdictional scope (e.g. IG Cobb did it, but we need not bother you with the details because it is outside the IC's purview). Without the facts and analysis supporting the suggestions – aside from the issue of the investigation being of matters outside the IC's jurisdiction – inclusion of such information is grossly inappropriate; presumably, it is included merely for the purpose of impugning IG Cobb. It may also be intended to obscure the gross waste of funds and abuse of Governmental power associated with this investigation.

Case Initiation and Investigation

Executive Order (EO) 12993 is the IC's charter for review of allegations of administrative misconduct made against an IG. The EO provides that on receipt of allegations, the IC shall first determine if there is a substantial likelihood that the allegations disclose a violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, or abuse of authority. If the IC makes this preliminary determination, and further concludes that allegations cannot be referred to an agency of the executive branch with appropriate jurisdiction over the matter, it refers the matter to the IC Chair who is to cause a thorough and timely investigation of allegations to be conducted.

Noteworthy is the characterization here that the IC "refers the matter to the IC Chair." The EO states that the IC "shall certify the matter" to the IC Chair. The EO contemplates a level of seriousness and formality that the IC ignores. The process steps are important to assure that decision-making is not arbitrary and capricious, which is exactly what occurred in this investigation.

During its meeting on December 12, 2005, the IC reviewed several new complaints against IG Cobb and concluded there was a need for an administrative investigation.

In stating that "there was a need" for an investigation, the IC tacitly admits that it did not make a "determination of substantial likelihood," as it is required to under the EO to cause an investigation. The IC's failure to make determinations of "substantial likelihood" and certify allegations is also referred to in IG Cobb's letters to the IC dated July 17, August 23, and September 7, 2006. [Exhibits H, J, and L]

The IC also reevaluated other allegations regarding IG Cobb that it previously reviewed but which had not been the subject of an investigation. These were reevaluated because the IC wished to consider the full picture and determine whether the pattern of activity disclosed

violation of law, rule, or regulation, or amounted to gross mismanagement, gross waste of funds, or abuse of authority.

These “previously reviewed” investigations were not only reviewed, they were conclusively adjudicated: with respect to these complaints, the IC had sought relevant information from the NASA OIG, the requested information was supplied, and the IC had sent letters closing the matters with words such as “the IC determined that IG Cobb’s response substantially demonstrated that IG Cobb had not engaged in any wrongdoing” and the IC determined that the “allegations were unsubstantiated concerning wrongdoing by IG Cobb, outside the IC jurisdiction, or not sufficiently supported.” Notwithstanding these prior findings by the IC and express language from the EO stating that “a determination by the Integrity Committee that an investigation is unwarranted shall be considered the Integrity Committee’s final disposition of the complaint,” the IC elected to have these same matters investigated. IG Cobb brought this issue to the IC’s attention on February 16, 2006, expressing concern about a timely and efficient investigation. The IC’s response was that the “closed IC cases . . . are not being reopened at this time, but, in fact, they are being utilized as a historical component for the pending IC cases which allege the failure of the Inspector General to investigate safety complaints and whistleblower retaliation.” Not only was the IC beyond its authorization in re-reviewing these matters, its representation that these matters were not being reopened is belied by its own statement above and its subsequent findings. The IC dissembled on this issue and on the scope of the investigation involving only safety and whistleblower matters (compare the January 6, 2006, letter from the IC to the HUD OIG [Exhibit AA] with the IC’s letters to IG Cobb dated January 9 and February 22, 2006 Exhibits C, E). It is noteworthy that the NASA OIG was required to pay for the investigation and was relying on the representations from the IC on the scope of the investigation in agreeing to do so.

Following the IC decision to initiate the investigation, as IC Chair, I requested the Housing and Urban Development (HUD) Office of Inspector General (OIG) to conduct the investigation.

While unclear from this letter, the IC’s August 8, 2006, letter to IG Cobb makes clear that the IC let the HUD OIG investigate whatever it wanted, when it stated that investigations may go in “unpredictable directions” with investigators “follow[ing] additional allegations of wrongdoing”. This again is inconsistent with the certification and determination of substantial likelihood requirements under the EO for triggering investigations.

The IC forwarded complaints received against IG Cobb to the HUD OIG and their investigators organized the case into 79 separate allegations. The HUD OIG conducted a thorough investigation of 69 allegations and submitted its Report of Investigation (ROI) to the IC on August 30, 2006. The remaining 10 allegations were not investigated by the HUD OIG based on their conclusion that the information supporting the allegations was too vague or insufficient to justify continuing the inquiry. The IC concurred with that assessment. The ROI prepared by the HUD OIG is enclosed for your review. IG Cobb cooperated with this investigation and was interviewed, with legal counsel present, by HUD OIG investigators for more than ten hours during sessions on June 27 and 29, 2006. At the conclusion of his interview, IG Cobb was

allowed to both review and supplement his deposition. **The transcript was withheld from IG Cobb for nine weeks; there was no genuine opportunity to review and supplement the testimony, and no letter or notice of such opportunity was provided to Mr. Cobb upon his receipt of the transcript (on August 23, 2006). Seven days after IG Cobb received a copy of the 483 page testimony, the HUD IG completed its report (August 30, 2006). IG Cobb did not see that report – in a redacted form at that – until seven months later, one month after the IC’s letter of January 22, 2007 was sent.** The IC also received correspondence from IG Cobb during its review of the matter that is also enclosed for your review. **Since the dates of the correspondence are not provided and enclosures have not been released publicly, to assure completeness, IG Cobb’s significant letters to the IC in connection with this matter are dated: February 16, July 17, August 23, September 7, November 20, and December 18, 2006. [Exhibits D, H, J, L, N, P] Counsel for IG Cobb wrote a letter to the IC on June 28, 2006. [Exhibit F] In addition, IG Cobb wrote Director Mueller on July 17 and November 17, 2006. [Exhibits G, M] In connection with IG Cobb’s allegation regarding the possible criminal leak of information, IG Cobb was told by the Chairperson of the IC that there was no investigation into the leak being conducted and that although leaks are repugnant, they frequently occur and resources would not be dedicated to looking into this one. Also, the IC Chair did not respond to IG Cobb’s email notice regarding the possible release of sensitive information about ongoing law enforcement activities.**

Integrity Committee Review of the Report of Investigation

Over the course of three IC meetings, the allegations and the HUD OIG ROI were reviewed and discussed. Utilizing the ROI, the IC placed the allegations into four categories, as follows:

1. Abusive work environment
2. Lack of independence
3. Audit Division reorganization
4. Other Matters

The identifying numbers used below are those assigned by the HUD OIG. They are referred to in this letter as a matter of convenience but they have no other significance.

Abusive Work Environment

The IC evaluated nine allegations, appearing as numbers 52, 53, 57, 58, 59, 60, 61, 62, and 63 in the ROI, which fell under the broad category of abusive work environment. The IC determined that “abusive work environment” fit under the EO for jurisdiction purposes through the “abuse of authority” clause. **Clearly, from this narrative, this determination of EO jurisdiction was made *after* the investigation and not before. Had a legal review of jurisdiction been administered in advance in accordance with the requirements of the EO to make a determination of “substantial likelihood” and to “certify” allegations as meeting the IC’s jurisdictional standard, there would not have been a need to characterize matters that do not fit within the jurisdiction of the IC as so**

fitting, as has been done below. The term “abuse of authority” is defined in the IC Policies and Procedures as:

arbitrary or capricious exercise of power by a federal official or employee that adversely affects the rights of any person or that results in personal gain or advantage to himself or to preferred other persons. There is no de minimis standard for abuse of authority.

Allegation 53 was made by: [redacted] allegations are confirmed by interviews of two witnesses. According to the ROI, IG Cobb berated the [redacted] using a loud and nasty tone that included profanity in front of the [redacted] to the point of causing tears and her departure from the meeting. **While this says “according to the ROI”, neither the ROI nor the IC reach conclusions on whether the oral statements made by witnesses are true or false. Apparently, the only persons who gave testimony under oath in this matter were IG Cobb and Deputy IG Tom Howard. Since there were few if any written statements, the characterization of what was said is based on notes of investigators. More importantly, there is no reflection of any line of inquiry as to what possible motive or agenda a complaining witness might have, which would be important to any fact finder in assessing the credibility of reports of a witness’s unsworn testimony. For instance, the complainant in allegation 53 sought to become Cobb’s Assistant IG for Investigations and became emotional when IG Cobb told her that she was not selected for the position. Her allegations presumably followed her non-selection.** When the staff member returned to the meeting at which this occurred, she informed IG Cobb that profanity in the workplace was not acceptable; IG Cobb did not apologize for his behavior. On other occasions, he screamed at the same individual over the issuance of a search warrant and called the staff member’s work a “fucking piece of shit” as he slammed his fist on the table next to the staff member. A witness confirms that IG Cobb’s treatment of [redacted] was condescending, berating, and demeaning. IG Cobb’s treatment of [redacted] was similar in that he routinely yelled and screamed at the individual as part of disagreements on positions taken by the individual in investigative matters. **There was conflict between the complainant and IG Cobb. This conflict essentially arose because the complainant believed IG Cobb had no business questioning activities of investigators in connection with investigations for which IG Cobb was the accountable official. So when IG Cobb questioned the legality of a search warrant, she responded with a suggestion that the question was, in essence, an obstruction of justice. The “staff member’s work” in the second example was not that of the complainant, but involved a matter of great interest to the IG which had been sent out without IG or legal review. IG Cobb directed the complainant to take an action in connection with the matter, but the complainant insisted on continuing to debate the decision after it had been made.**

Three other witnesses confirm IG Cobb’s habitual use of profanity in the office while another, [redacted] confirms that IG Cobb referred to his staff as “fucksticks.”

The IC apparently includes reference to these witnesses for the sole purpose of impugning Cobb on matters which it subsequently says is outside its purview. From its reliance on these witnesses, the IC apparently is concluding that IG Cobb cannot carry on a conversation without using profanity, because three witnesses say such use is habitual. This passage, and passages similar to them, reflect the IC’s willingness to ignore the limits of its jurisdiction set forth in EO 12993, its uncritical

acceptance and repetition of negative information for the purpose of impugning IG Cobb, and its willingness to overlook contrary evidence and to tolerate the HUD OIG's intentional efforts to obtain information only from critics. According to the witness, under IG Cobb there were constant threats and intimidations creating in the witness' view a "hostile work place." Another witness describes IG's Cobb's lack of respect for NASA OIG employees by his referring to Special Agents in the field as "knuckle draggers." According to this senior employee, morale among NASA OIG staff was "horrible." **More of the same, included for no reason other than impugn IG Cobb. The motive and credibility of the few employees whose testimony is relied upon for this report remains unexamined.**

IG Cobb confirmed use of the F-word in his office and indicated he is "passionate when people are insubordinate to my face," but denies, "cursing" at employees.

The IC determined IG Cobb engaged in an abuse of authority as defined by the EO. IG Cobb's treatment of [redacted] detailed in allegation 53 was inconsistent with the high standards of conduct expected of senior executives. The IC viewed this as more than an aggressive management style or a way of expressing dissatisfaction with employee performance but as arbitrary or capricious conduct, which affected the rights of senior employees to a non-hostile and abusive workplace. **For the seriousness of the matter, the legal conclusion reached here is presented without support. Because there are restatements of allegations and complaints, there is no indication of what the IC has found as a factual matter; then there are two legal conclusions that whatever the facts are, that the conduct is "arbitrary and capricious" and that they "affected the rights" of a [?] senior employee. There is no factual or legal analysis to support the conclusion that IG Cobb's actions constituted an abuse of authority. In short, the IC uses the words, but makes no effort to justify their use.**

The IC further determined that other conduct on the part of IC Cobb, as described in allegations 59 and 61 did occur. This conduct involved regular belittlement of the audit staff and putting his feet on the desk in the face of those sitting opposite as a sign of disrespect. The IC further determined the conduct did not rise to a level of abuse of authority. **In the absence of any real violations of any law, rule or regulation, gross mismanagement, or gross waste of funds, the IC reduces itself to repeating isolated complaints about cursing and "putting his feet on his desk." The IC itself recognizes that even if true, these acts do not constitute an abuse of authority. Therefore, time and money was spent to prove allegations outside the jurisdiction of the IC. An investigation of matters outside one's authority is an abuse and a waste.**

Lack of Independence

The IC considered eighteen allegations, appearing as numbers 9, 10, 28, 29, 30, 31, 32, 34, 35, 37, 47, 48, 49, 50, 51, 66, 67, and 68 in the ROI, which fell under the broad category of lack of independence. The starting point for the ICs analysis is EO 12805 which established the President's Council on Integrity and Efficiency (PCIE) and the Executive Counsel on Integrity and Efficiency (ECIE). Section 3(c) of the EO provides that "[t]he individual members of the Councils should, to the extent permitted under law, adhere to the professional standards developed by the Councils and participate in the plans, programs, and projects of the Councils."

Here again the analysis of some theory of jurisdiction begins at the end of the investigation rather than at the beginning, as required by the Executive Order. In short, it reflects the IC’s attitude of permitting an unbounded and costly investigation into whatever allegations have been made or can be subsequently found, including some that were previously ruled to be unsubstantiated.

In October 2003, the PCIE and ECIE promulgated the *Quality Standards for Federal Offices of Inspector General*, which sets out quality standards for the management, operation, and conduct of the Federal Offices of Inspector General. Section II.A. of the *Quality Standards* establishes general standards for ethics, independence, and confidentiality, indicating that “[i]ndependence is a critical element of objectivity. Without independence, both in fact and in appearance, objectivity is impaired.” Section II.C. describes the independence standard with more detail:

“The Inspector General and OIG staff must be free both in fact and appearance from personal, external, and organizational impairments to independence. The Inspector General and OIG staff have a responsibility to maintain independence, so that opinions, conclusions, judgments, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties. The Inspector General and OIG staff should avoid situations that could lead reasonable third parties with knowledge of the relevant facts and circumstances to conclude that the OIG is not able to maintain independence in conducting its work.”

Six of the eighteen allegations within the subset labeled as “lack of independence” indicate that IG Cobb sought to develop and maintain a close relationship with former NASA Administrator Sean O’Keefe and that this effort contributed to an appearance that his independence was being compromised. The ROI and IG Cobb’s interview documents these efforts:

- IG Cobb frequently joined Administrator O’Keefe in lunches intended for senior staff at NASA Headquarters
- IG Cobb played golf on two occasions with Administrator O’Keefe.
- IG Cobb used the NASA aircraft for official travel on several occasions when Administrator O’Keefe was also traveling.
- IG Cobb referred to the Administrator as “his boss.
- IG Cobb sought guidance from Administrator O’Keefe on the audit design for at least two audits.
- IG Cobb sought Administrator O’Keefe’s review of a draft OIG opinion regarding the independence of the Columbia Accident Investigation Board.
- IG Cobb advised Administrator O’Keefe about search warrants to be issued in a significant criminal investigation before those search warrants were executed.

In terms of presentation, it is impossible to tell whether the IC thinks these activities occurred. It is further impossible to tell whether the IC believes that if these activities occurred, whether they should have occurred or whether IG Cobb committed some impropriety in so conducting himself. It is clear the IC attempts to create some inference of impropriety without explaining itself or conducting a fair rendering of the facts. So, taking the last one for example, a reader might conclude that IG Cobb should not advise the Administrator about impending search

warrants. If the fact was that IG Cobb did not ever advise the Administrator without first obtaining the recommendation and concurrence of both the Assistant Inspector General for Investigations and the Deputy Inspector General, then a reader of that bullet might reach an impression different from the one the IC letter leaves that reader with. Through its absence of factual development on each of these points and others throughout the letter, the IC has provided a false and misleading impression of what has transpired.

An IG is required to keep the head of the agency fully and currently informed about fraud and other serious problems, abuses, or deficiencies relating to the programs and operations administered or financed by the agency. He has a responsibility to communicate with the Administrator. IG Cobb concedes his activities and responds that he has a “collaborative approach” with senior management and specifically agrees with the policy laid out by Administrator O’Keefe that an OIG has an opportunity to add value to an organization. None of these instances, standing alone, is sufficient to create an “appearance” problem, but it is the responsibility of the IG to consider how the combined affect of his interaction with the Agency head might cloud or be perceived to cloud his independence. Against this backdrop, the IC found two specific allegations warranting its detailed comment.

The fact pattern of allegation 28 involved a June 2002 computer intrusion and theft of International Traffic in Arms Regulation (ITAR) designated files from a NASA server worth about \$1.9 billion. The matter was brought to the attention of NASA by a news reporter. The theft of ITAR data must be reported to the State Department. **There is no legal basis for this premise of this portion of the IC letter. The State Department was advised of the theft in August of 2002 and told NASA that because it was an illegal hack, no voluntary report to the State Department was required under ITAR regulations. The pertinent ITAR regulations do not contemplate voluntary reporting of theft of ITAR from Government agencies. See ITAR Regulations at 22 CFR 127.12.** The HUD OIG investigation revealed the primary responsibility to report the theft/compromise of ITAR data was the responsibility of NASA’s Office of Security and Program Protection, known as “Code X.” However, the investigation revealed that IG Cobb was aware that Code X was not reporting the theft/compromise and IG Cobb took no action to ensure the reporting was made to the State Department. **The Export Control Office, not a part of Code X, handled the reporting of ITAR matters, and did in fact discuss with the Department of State whether voluntary reporting under ITAR regulation 12 C.F.R. 127.12 was required. The Department of State said that it was not. The documents prepared by the Office of Investigations on the matter completed in the Spring of 2003 (during which time the IG was largely focused on the Space Shuttle Columbia accident) make no reference to reporting requirements. Further, the IC had considered this exact matter previously, obtained detailed information and documents from IG Cobb, and determined that the allegation was unsubstantiated and closed the matter with finality – until it opened it later!**

The complainant believes that IG Cobb failed to report the matter to the Department of State and Congress to avoid embarrassment for NASA management. **While the IC appears content to restate the allegation, it obviously did not find facts that support it; . . . but here, and contrary to its prior finding on the exact same matter, it was unwilling to say that the allegation is unsubstantiated.**

Two witnesses, one of whom was [redacted] opined that if the appropriate NASA entity failed to report the loss, the reporting requirement would fall onto whoever had oversight over NASA, which would include the OIG. Under an OIG's oversight role, IG Cobb should have recognized Code X's misinterpretation of the reporting requirement and ensured that the proper parties were alerted. This is incumbent upon the IG by virtue of his position. Both witnesses questioned the independence of IG Cobb's decision to not report the theft/compromise or work to ensure Code X reported the theft/compromise. **Again, there was no identified reporting requirement. Moreover, there is no reference to any meeting when staff presented IG Cobb with a recommendation to engage in any reporting activity or failure of Code X to report anything. There is no indication that IG Cobb at any time precluded any discussion between members of his staff and any other agency. There is no recognition of the fact that as a routine matter, members of the OIG Computer Crimes Division (CCD) routinely met with personnel from other agencies to share information on cases and best practices. In fact, CCD employees discussed the Marshall intrusion with officials from other Executive Branch agencies and appropriate international law enforcement bodies. There are documents relating to the Marshall intrusion, but none of them support the notion that recommendations were made by OIG staff to the IG to perform any reporting. To the contrary, all relevant documents lead to a conclusion that there were no such recommendations. When in March 2003, CCD finished preparing a memorandum relating to the intrusion, there is no reference to any reporting requirement. When CCD helped prepare testimony to Congress, there was no reference to any reporting requirement.**

One of the witnesses opined that IG Cobb prevented the reporting of the matter because he was attempting to prevent public disclosure that would have embarrassed NASA. Another witness said IG Cobb viewed Code X as a "source of grief" and that the easiest way to handle matters involving Code X was to "acquiesce" to the Code X Director. Another senior NASA OIG official prepared a Memorandum for Record (MFR), dated 02/23/2006, concerning the ITAR matter. The MFR states in part,

*It took over a year for the loss [referring to the Marshall Space Flight Center case] to be assessed by DOD, who opined the stolen ITAR had national security implications (no further information). For whatever reason, NASA senior management [Code X] failed to report the loss. By definition and purpose the OIG's oversight role, the IG [Cobb] should have recognized the Code X's misinterpretation and misplaced emphasis and ensured the proper parties were alerted. Even after being coached by experienced OIG staff, the IG failed to act. **The MFR, prepared years after the fact and after this investigation had begun, misstates material facts. Had IG Cobb been told of some need on the part of the Office to engage in an activity and it was presented with some reasonable justification, the OIG would have taken action. Moreover, had a person in CCD wanted to communicate on an issue to another agency, IG Cobb would not have prevented it. The issue of there having been an intrusion at the Marshall involving potential ITAR was in the press in the summer of 2002. The idea that IG Cobb prevented communication about that same intrusion to other Federal agencies is false.***

IG Cobb said he directed his staff to prepare a report regarding the compromise that was sent to the Marshall Space Flight Center and a copy provided to NASA management in April 2003. In his supplemental letter IG Cobb indicates that any delay in preparing that report was a result of his insistence that the NASA OIG staff do the grinding work to produce an accurate and relevant report. IG Cobb maintains that there was no clear legal requirement for the loss to be reported to the Department of State by Code X and that the matter was discussed informally with the Department of State upon learning of the intrusion. **Conflicting testimony on the Marshall intrusion issue is presented, and rather than resolving the issues by consideration of the law or the documentary evidence, for example, the IC just restates testimony. Later it puts forth its factually and legally unsupported conclusion on appearance.**

Allegation 35 involves IG Cobb's actions in the investigation of an alleged theft of jewelry from the remains of a Columbia Space Shuttle Astronaut. The Columbia space shuttle exploded on February 1, 2003, during re-entry to the earth's atmosphere. The explosion initiated over Texas en route to the planned landing at Kennedy Space Center. The remains of deceased Astronaut Laurel Clark were recovered shortly after the Columbia accident and a ring was allegedly present on, and then stolen from, her recovered remains. NASA OIG, in partnership with the Texas Rangers, pursued a joint investigation into the theft. **While the Texas Rangers were involved in the investigation right after the accident in February 2003, the NASA OIG was not consulted for more than a year after the accident in the ring matter.** As part of the investigative process, the Texas Rangers planned to release a "Crime Stoppers Report" to the public to assist in the recovery of the stolen ring. **While this paragraph states the complaint, the fundamental issue was whether a ring was stolen from an astronaut's remains. IG Cobb requested additional investigation as to whether there was a ring stolen from those remains. Additional investigation showed that the astronaut was not wearing a ring at the time of the accident. There was no ring on astronaut remains. Therefore, there was no credible evidence that a ring was stolen from her remains. Issuing a notice stating that the NASA OIG wanted the public's help in recovering a ring stolen from an astronaut's recovered remains would have falsely alleged that some of those persons involved in the recovery committed a crime that clearly had not occurred. If the Texas Rangers wanted at any point in time to issue the notice, they could have. However, it would not have been with the support of the NASA OIG. The Texas Rangers apparently decided not to issue the notice.**

[Redacted] the deceased Astronaut, and a NASA employee, supported the request for public assistance to find his wife's ring. [Redacted] said he met personally with IG Cobb who told him he would not issue a report on the investigation of the stolen ring. The meeting was tape recorded by [redacted]. At one point during the meeting, IG Cobb asked [redacted] to turn off the tape recorder. According to [redacted] IG Cobb said the whole NASA Columbia investigation was not going well, NASA wanted it finished, and for the outcome to reveal nothing that would make NASA look bad or shake the public's trust in NASA. **The involvement of the NASA OIG in the ring matter began in February 2004, one year after the Columbia accident which occurred on February 1, 2003. The conversation referred to in this paragraph took place in April 2004, fully eight months after the NASA Columbia investigation was finished (in August of 2003.) Yet the IC includes this obviously**

incorrect statement, and presumably relies on it to reach its conclusion on appearance of lack of independence.

Two witnesses interviewed by the HUD OIG suggest that IG Cobb inserted himself in the investigation with the intent of ensuring NASA would not be embarrassed. [Redacted] states that when IG Cobb saw the Crime Stoppers Report, he (IG Cobb) went “ballistic.” He recalled that IG Cobb, when discussing the report, stated, “how can you even think of allowing this to go out” and “I am going to have to resign if this report gets out.” [Redacted] stated that at the time he did not understand IG Cobb’s response, but later learned that NASA Administrator O’Keefe instructed everyone at NASA not to contact any Astronaut or their families. He opined that IG Cobb believed O’Keefe was his “boss” and IG Cobb would do whatever O’Keefe wanted. **The implication of the incendiary notice was that a person associated with the recovery effort had robbed remains of jewelry. Of course there would be embarrassment resulting from knowingly publishing a false allegation.**

Another NASA employee who requests confidentiality recalls IG Cobb saying, “Can you believe how embarrassing that would have looked for the agency [NASA] if that [crime stoppers report] went out?” **Again, of course there would have been embarrassment to the NASA OIG when it became clear that the implied accusation of the Crime Stoppers notice was false, and that there was no ring on the hand, and therefore no theft.** The Texas Ranger involved in the investigation informed HUD OIG that he believed someone at NASA wanted the investigation shut down because if it got out that the ring was stolen, questions would be asked as to the conduct of the whole NASA investigation into the Columbia accident. **It cannot legitimately “get out” that a ring was stolen if there was no ring. Moreover, there is no logical connection between an alleged stolen ring and the Columbia Accident Investigation Board’s report issued in August 2003, known for its thorough examination of both the immediate and root causes of the Columbia accident. Inclusion of the statement and presumptive ratification by the IC of its relevance to the analysis of an “appearance” issue reflects the IC’s own total lack of understanding of relevant facts. It also shows that the IC’s determination in this matter is based more on whatever anyone would say rather than whether there was any justification or credibility to the statement. Appearance concerns do not arise from obviously irrational statements which if in fact offered, could only come from a person without access to or knowledge of relevant facts.**

IG Cobb responds that the decision he made regarding the matter was that his office needed to conduct additional investigation to see if what was articulated in the draft crime stopper notice was right or wrong. He questioned the evidence that was being relied on to conclude that a ring had been stolen and directed further investigation be conducted before consenting to NASA OIG involvement in issuance of any public notice of a criminal act. In IG Cobb’s view, publication of the notice based on the information would have been irresponsible. IG Cobb evaluated the evidence as not supporting the contention that the ring was stolen from recovered remains but was lost along with millions of pieces of Columbia and all other personal affects of the astronauts over thousands of miles of Texas and Louisiana.

The IC determined that neither allegation 28 or 35 substantiated an actual lack of independence on the part of IG Cobb that could be characterized as gross mismanagement, gross waste of funds, abuse of authority, or a violation of any law, rule, or regulation under EO 12993. The facts set out in allegations 28 and 35 did substantiate two specific instances in which IG

Cobb's performance caused the appearance of a lack of independence not in keeping with the Quality Standards for Federal Offices of Inspector General. IG Cobb's decision not to act to ensure the ITAR theft/compromise was reported in a timely manner created the appearance of a lack of independence. This determination augments the IC's review of the matter in 2004 in which it relied only on the allegation and a response from IG Cobb. In that review the IC determined that IG Cobb had not engaged in any wrongdoing. In addition, IG Cobb's actions associated with allegation 35, including his statements to [redacted] and a confidential witness, created the appearance of lack of independence not in keeping with the Quality Standards for Federal Offices of Inspector General. While the Quality Standards do not have status of law, rule, or regulation, the IC views these standards as a benchmark for IG performance and applicable to all IGs through EO 12805, Integrity and Efficiency in Federal Programs.

The precise underpinnings of the IC's findings of an "appearance" of lack of independence are unstated. The logical thread inferentially made by the IC is that because witnesses, not in a position to know, have illogically suggested that IG Cobb might have had concerns (which he did not have), that IG Cobb appeared to have acted to prevent embarrassment to the Agency causing an appearance concern. While IGs are admonished to "avoid situations that could lead reasonable third parties with knowledge of the relevant facts and circumstances to conclude that the OIG is not able to maintain independence in conducting its work," nowhere does it say that unreasonable third parties should be given a forum to make baseless allegations that find their way into a formal IC letter. In this respect, the IC has departed from its charter and violated the trust put in it.

What, at the end, this section on "appearance" conveys is, if employees or disaffected former employees of an Office of OIG or others, come forward to allege that action or inaction by an IG was taken to avert "embarrassment" to the agency where that IG serves, the allegations alone are sufficient to support an IC conclusion that the IG has given an "appearance" of lack of independence, regardless of facts or the truth of the matter. In connection with this approach by the IC, I refer back to its own definition of abuse of authority: "arbitrary or capricious exercise of power by a federal official or employee that adversely affects the rights of any person."

Audit Division Reorganization

The IC considered six allegations, appearing as numbers 12, 14, 15, 17 18, and 19 in the ROI, concerning IG Cobb's handling of audits and staffing for the auditing function of the OIG. The thrust of these allegations was that IG Cobb reorganized the office several times, decreased the number of audit reports and changed their format making it difficult to know which format to follow, and generally slowed the audit reporting process to a substantial degree. IG Cobb's actions were within the discretion of an IG. **This conclusion was readily apparent from the allegations themselves. Conducting the investigation into these matters was the type of extra-legal waste and abuse that the IG community is supposed to be dedicated to preventing, rather than conducting itself.** The IC determined that the ROI did not substantiate actions by IG Cobb that amounted to gross mismanagement, gross waste of funds, abuse of authority, or a violation of any law, rule or regulation as it relates to his handling of audit division reorganization matters.

Other Matters

The IC placed all remaining allegations in a general category referred to as “Other.” In its review of these allegations, the IC determined that they were not substantiated by information in the ROI, indicated no wrongdoing by IG Cobb, were outside the purview of the IC, or did not warrant further investigation. It is important to note that within this category there were some allegations involving whistleblower retaliation which is an area outside the purview of the IC. The whistleblower retaliation allegations were referred to the Office of Special Counsel, the agency with the appropriate authority to conduct inquiries on such matters. **Here again, at the end of the investigation, the IC concludes that what it spent the taxpayers money to investigate was “outside the purview of the IC.” If that is the case, it should not have been investigated by the IC.**

Conclusion

The IC concludes that IG Cobb engaged in abuse of authority as an Inspector General by creating an abusive work environment. In addition, IG Cobb’s actions created an appearance of a lack of independence outside the quality standards expected of an IG when he did not report the theft of NASA ITAR files and prevented the dissemination of a Crime Stoppers Report. **The conclusion reached is without legal or factual basis. It reflects the fundamental bankruptcy of integrity associated with the IC investigation; in reaching the conclusion the IC has attempted to justify its own waste and abuse in connection with the investigation.**

Issues of Due Process

During the course of the IC inquiry, IG Cobb expressed dissatisfaction with the IC process in multiple letters. He questioned the methodology by which IC directed an investigation, the degree of due process for him in that methodology, his inability to review the report prepared by the HUD OIG before it was presented to the IC, and what he perceives as a lack of fairness to him during the course of the investigation and the IC review.

The decision to investigate was made by the IC. IG Cobb received notice that an outside investigation would ensue. The letter did not purport to identify all of the matters to be investigated, but as IG Cobb was later informed, this letter was not intended to limit the authority of the IC to review other allegations of wrongdoing. **On January 9, 2006, the IC wrote Cobb about the opening of an investigation “based on a number of complaints alleging that you, as Inspector General of the National Aeronautics and Space Administration, failed to investigate violations of safety concerns and retaliation by [sic] whistle-blowers.” On February 16, 2006, IG Cobb wrote the IC to identify relevant witnesses on the issues of safety and whistleblowing matters and to raise concerns about the opening of closed IC cases. On February 22, 2006, the IC wrote back to IG Cobb, reiterating that the investigation is into the alleged “failure of the Inspector General to investigate safety complaints and whistleblower retaliation.” The notice provided by the IC was, apparently, deliberately misleading. The NASA OIG relied on the notice to establish an MOU with the HUD OIG to pay for the investigation, with the ultimate cost to the NASA OIG exceeding \$600,000. IG Cobb was generally cognizant of the matters under investigation and answered extensively in the questioning during his interview. IG Cobb, through counsel, sought information about**

what it was he was going to be interviewed about, and the requests were specifically rebuffed. Other than what IG Cobb learned through press accounts (resulting from, at least in one instance, leaks of information from the investigation for the sole purpose of smearing him) IG Cobb was not notified of the allegations against him until he received a copy of the redacted form of the HUD OIG report on February 23, 2007. An interview is not a notice of allegations. He was provided a copy of his interview transcript and given the opportunity to comment on the accuracy of the transcription or submit additional matters for consideration by the IC prior to IC's review of the report. **IG Cobb was provided the transcript of his interview nine weeks after the interview, but only seven days before the HUD OIG completed its report on August 30, 2006. IG Cobb was notified over Labor Day weekend of his "opportunity" to submit any additional comments by September 7, three business days later.** His interview regarding allegations 28, 35, and 53 was extensive and he responded with seemingly clear knowledge of the matters about which he was being questioned.

In subsequent correspondence to the IC, IG Cobb did not question the accuracy of the transcription and did submit additional matters to the IC that went to the substance of allegations. **IG Cobb was not notified of the allegations against him until he received the redacted form of the HUD OIG report in February of 2007. The IC mistakes 11 hours of questioning of IG Cobb on myriad topics, most if not all of which had nothing to do with the IC's jurisdiction, as notice of credible allegations against him.** IG Cobb's materials dealt generally with the matter of lack of independence and specifically with the substance of allegations 28 and 35, the compromise of ITAR data and Astronaut Clark's missing ring respectively. The additional information submitted by IG Cobb was provided to IC members shortly after it was received. While IG Cobb may not have been sent a letter detailing the specific allegations being investigated, he was more than able to respond to the allegations which ultimately form the basis for the IC's determinations in this case. IG Cobb also offered the names of witnesses to be interviewed by the HUD OIG and later suggested questions for those interviews. **The questions IG Cobb suggested asking were not of potential interviewees, but of the HUD OIG to reflect on the incredibly biased and one-sided tenor of the investigation. [See Exhibit L, and Exhibit B of Exhibit L] Fundamentally, IG Cobb's suggestions on people who would have provided relevant facts were ignored.**

Some of those individuals had been interviewed by the HUD OIG but others, including many from outside the agency, were not.

IG Cobb did not receive a copy of the ROI prepared by the HUD OIG at the conclusion of the investigation under the Policy and Procedures of the IC. The ROI is available to him under the Privacy Act and implementing regulations of the Department of Justice. He has already submitted a request for the ROI which will be provided to him through that mechanism. The copy he receives will be redacted of personal information and other information as allowed by the Privacy Act and implementing regulations.

IG Cobb will be notified that the IC has concluded its review and is forwarding the matter for your consideration. He has not been informed about the IC's determinations or provided a copy of this letter.

Outside Inquiries

The IC has received both media and congressional inquiries concerning this investigation. As part of the PCIE/ECIE, the IC considers its review a component of the overall process which you, as Chairman, have ultimate authority. Neither the IC, nor its members will provide any information or briefing on this matter unless it is specifically approved by your office. Until advised otherwise, as IC Chair, I will refer all media and congressional requests on this matter to your office.

Please contact me if I can be of any further assistance in this matter.

Sincerely,

James H. Burrus, Jr.
Chair, Integrity Committee

Exhibit C

Integrity Committee



President's Council on Integrity and Efficiency
Executive Council on Integrity and Efficiency

935 Pennsylvania Ave., NW, Room 3975
Washington, D.C. 20535-0001

January 9, 2006

The Honorable Robert W. Cobb
Inspector General
National Aeronautics and Space Administration
300 E Street, S.W., Code W., Room 8V69
Washington, D.C. 20546

IC # 492

Dear Mr Cobb:

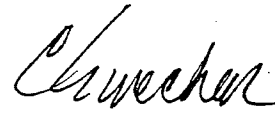
The Integrity Committee (IC) opened the captioned matter in December 2005, based on a number of complaints alleging that you, as Inspector General of the National Aeronautics and Space Administration, failed to investigate violations of safety concerns and retaliation by whistle-blowers.

As you know, pursuant to Executive Order (EO) 12993, the IC is charged with receiving, reviewing, and investigating, where appropriate, administrative allegations against IG's and, in limited cases, members of an IG's staff.

Based upon that determination and pursuant to EO 12993, this matter was subsequently presented to the IC for administrative review. Upon review, the IC agreed that an administrative investigation was appropriate concerning these allegations, and has requested that the Office of Inspector General, Housing and Urban Development lead the administrative investigation.

For questions about the status of this case, please write to the IC at 935 Pennsylvania Ave., NW, Room 3117, Washington, D.C. 20535-000, or contact Supervisory Special Agent Timothy Halodik, Program Manager for the IC, at (202) 324-6343.

Sincerely,



Chris Swecker
Chair, Integrity Committee

1 - The Honorable Clay Johnson, III
Chairman, President's & Executive Councils on Integrity and Efficiency
c/o United States Office of Management and Budget (OMB)
Eisenhower Executive Office Building
17th Street & Pennsylvania Avenue, NW, Room 113
Washington, D.C. 20503

Exhibit D

Office of Inspector General
Washington, DC 20546-0001



FEB 16 2006

James Burrus
Chair, Integrity Committee
President's Council on Integrity and Efficiency
935 Pennsylvania Avenue, NW, Room 3117
Washington, DC 20535-0001

Dear Mr. Burrus:

I am responding to Chris Swecker's letter dated January 9, 2006, regarding complaints about safety and whistleblower matters. I understand that you have assumed the role of Chair of the Integrity Committee. As such, and pursuant to Executive Order 12993, you are the designee of the Director of the Federal Bureau of Investigation responsible for the investigation of these matters. I intend to cooperate fully and have directed that my staff cooperate fully with the investigation requested by the Integrity Committee. I welcome the opportunity to assist your investigation in any way you deem appropriate. I am grateful that you as Chair of the Integrity Committee will assure that this matter is concluded fairly and expeditiously. While I look forward to an investigation that fully addresses the merits of the issues, I respectfully request that the Integrity Committee consider the following two points in particular.

First, I am extremely proud of what the Office of Inspector General at NASA has accomplished and stand behind our record of independent work to root out fraud, waste, and abuse and to promote the economy and efficiency of NASA programs and operations. I have sought to establish a very high standard of quality in our work and have carefully managed the office to ensure that its resources are used most efficiently. I am confident that any investigation that has fully and fairly considered the merits of the allegations will so conclude.

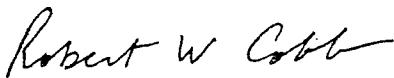
To ensure that the investigation considers all the relevant evidence, I hope the investigators will discuss my attention to safety issues not only with my staff, but also with (1) the members of the Columbia Accident Investigation Board, (2) the NASA Aerospace Safety Advisory Panel, (3) the safety and engineering offices at NASA, particularly the Office of Safety and Mission Assurance and the Chief Engineer's Office, (4) officials in the Space Shuttle Program, (5) the Chief of the Astronaut Office, (6) the staff of the House Subcommittee on Science, (7) the Government Accountability Office's experts on NASA, (8) NASA current and former leadership including its Center Directors and Deputy Center Directors, and (9) those on the staff of the Office of Management and Budget who handle the NASA account. The successes of the NASA OIG and how our resources are deployed are reflected in our semi-annual reports and on our website, <http://oig.nasa.gov/>, but the individuals identified above can speak to my personal

attention and the unprecedented contribution of the NASA Office of Inspector General to safety matters.

Second, in the spirit of facilitating a timely and efficient investigation, I would appreciate clarification of the process that your Committee follows as regards closed matters. NASA IG counsel was informed by HUD OIG counsel that the IC request to the HUD IG for investigation includes IC #s 427, 429, 473, and 475. The NASA OIG and the IC has already expended resources in addressing these complaints, and these complaints were apparently answered to the Integrity Committee's satisfaction. Indeed, I have received a letter from Chris Swecker as the Chair of the Integrity Committee with respect to each of these matters stating that each of them does not warrant further investigation and is closed. (See enclosed.) In light of the President's express instructions in the Executive Order¹ that an IC determination that a matter is closed constitutes the final disposition of the matter, I am concerned that a process that already could be lengthy will be unnecessarily elongated. I would appreciate knowing whether and why these closed matters fit into the process.

Again, thank you for your consideration, and I would be pleased to answer any questions you or your Committee may have.

Sincerely,



Robert W. Cobb
Inspector General

Enclosures

cc:

Robert Mueller
Director, Federal Bureau of Investigation

Clay Johnson
Chairman, President's Council on Integrity and Efficiency

¹ To promote the efficiency in the conduct of IC investigatory matters, the Integrity Committee's authorizing Executive Order 12993, Section 5(b) states:

the Integrity Committee, upon review of a complaint containing allegations of wrongdoing, may determine that an allegation is without merit and therefore the investigation is unwarranted. A determination by the Integrity Committee that an investigation is unwarranted shall be considered the Integrity Committee's final disposition of the complaint.



PRESIDENT'S COUNCIL ON INTEGRITY & EFFICIENCY

October 29, 2004

Honorable Clay Johnson, III
Chairman, President's & Executive Councils on Integrity and Efficiency
c/o United States Office of Management and Budget (OMB)
Eisenhower Office Building
17th Street & Pennsylvania Avenue, NW, Room 113
Washington, D.C. 20503

IC # 427

Dear Mr. Johnson:

The purpose of this letter is to notify you of the closure of the captioned Integrity Committee (IC) file. The IC opened this file on January 23, 2004, upon receiving a complaint against Inspector General (IG) Robert Cobb, National Aeronautics and Space Administration (NASA). The complainant, _____, alleged among other things, that the OIG reopened a closed case to avoid responding to a Freedom of Information Act (FOIA) request.

As part of its review, the IC solicited a response to the FOIA allegation from IG Cobb. The IC determined that IG Cobb's response substantially refuted this allegation concerning wrongdoing by IG Cobb. The IC determined that the remaining allegations were unsubstantiated concerning wrongdoing by IG Cobb, outside the IC jurisdiction, or not sufficiently supported to warrant administrative investigation by the IC.

The IC will take no further action concerning this matter and has placed this file in a closed status. Questions may be directed to Supervisory Special Agent _____ Program Manager for the IC, at _____

Sincerely,

Chris Swecker
Chair, Integrity Committee



PRESIDENT'S COUNCIL on INTEGRITY & EFFICIENCY

October 29, 2004

Honorable Clay Johnson, III
Chairman, President's & Executive Councils on Integrity and Efficiency
c/o United States Office of Management and Budget (OMB)
Eisenhower Office Building
17th Street & Pennsylvania Avenue, NW, Room 113
Washington, D.C. 20503

IC # 429


Dear Mr. Johnson:

The purpose of this letter is to notify you of the closure of the captioned Integrity Committee (IC) file. The IC opened this file on March 11, 2004, upon receiving a complaint against Inspector General (IG) Robert W. Cobb, National Aeronautics and Space Administration (NASA). The complainant, _____, alleged among other things,

As part of its review, the IC obtained a response to this complaint from IG Cobb. Upon review of the complaint and IG Cobb's response, the IC determined that IG Cobb's response substantially demonstrated that IG Cobb had not engaged in any wrongdoing.

The IC will take no further action concerning this matter and has placed this file in a closed status. Questions may be directed to Supervisory Special Agent _____ Program Manager for the IC, at _____

Sincerely,


Chris Swecker
Chair, Integrity Committee



PRESIDENT'S COUNCIL on INTEGRITY & EFFICIENCY

July 12, 2005

Honorable Robert W. Cobb
Inspector General
National Aeronautics and Space Administration
300 E Street, S.W., Code W., Room 8V69
Washington, D.C. 20546

IC # 473

Dear Mr. Cobb:

As you know, pursuant to Executive Order 12993, the Integrity Committee (IC) is charged with receiving, reviewing, and investigating, where appropriate, administrative allegations against Inspectors General (IG) and, in limited cases, members of an IG's staff.

The IC opened the captioned matter in May 2005, based on your self-reporting of Senator Bill Nelson's complaint letter alleging that the Office of Inspector General, National Aeronautics and Space Administration, downplayed reprisals of two pilots and may have been involved in a cover-up.

Upon review, the IC determined that your letter to Senator Nelson sufficiently responded to these allegations. However, the IC noted that in your October 5, 2004 response letter to Senator Hollings on these same allegations, you referenced that the Office of Special Counsel (OSC) handles whistle blower reprisal issues. The IC would like to suggest that your office ensure that the complainant be advised that a whistle blower reprisal complaint can be filed directly with the OSC.

The IC will take no further action concerning this matter and has placed this file in a closed status. Questions may be directed to Supervisory Special Agent Program Manager for the IC, at
IC's attention.

Thank you for bringing your concerns to the

Sincerely,

Chris Swecker
Chair, Integrity Committee



PRESIDENT'S COUNCIL on INTEGRITY & EFFICIENCY

June 20, 2005

Robert W. Cobb
Inspector General
National Aeronautics and Space Administration
300 E Street, S.W., Code W., Room 8V69
Washington, D.C. 20546

IC # 475

Dear Honorable Cobb:

As you know, pursuant to Executive Order (EO) 12993, the Integrity Committee (IC) is charged with receiving, reviewing, and investigating, where appropriate, administrative allegations against Inspectors General (IG) and, in limited cases, members of an IG's staff.

The IC opened the captioned matter on June 3, 2005, based on a complaint to the GAO FraudNET against the Office of Inspector General (OIG), National Aeronautics and Space Administration (NASA). A copy of the complaint is enclosed. The anonymous complainant alleged, among other things, that the OIG lacks internal controls regarding waste, fraud and abuse at NASA.

Upon review, the IC determined that this complaint did not allege any wrongdoing specifically against the IG and, further, it didn't provide sufficient information regarding an abuse of the IG's discretionary authority to warrant further action by the IG. However, the IC determined that this complaint should be referred back to the IG for review and further action as deemed appropriate.

Pursuant to Executive Order 12993, you are requested to report any action taken on this matter to the IC. The mailing address for the IC is 935 Pennsylvania Avenue, NW, Room 3117, Washington, D.C. 20535-0001. Questions may be directed to Supervisory Special Agent Program Manager for the IC, at

Sincerely,

Chris Swecker
Chair, Integrity Committee

Enclosure

Exhibit E

Integrity Committee



President's Council on Integrity and Efficiency
Executive Council on Integrity and Efficiency

935 Pennsylvania Ave., NW, Room 3975
Washington, D.C. 20535-0001

February 22, 2006

The Honorable Robert W. Cobb
Inspector General
National Aeronautics and Space Administration
300 E Street, S.W., Code W., Room 8V69
Washington, D.C. 20546

IC # 500

Dear Mr. Cobb:

The Integrity Committee (IC) is in receipt of your letter dated February 16, 2005, requesting that IC investigators petition information pertaining to safety issues from members of the Columbia Accident Investigation Board, and others. Please be assured that the IC is confident that the Office of Inspector General for the Department of Housing and Urban Development will conduct a complete and capacious investigation.

For further delineation, the closed IC cases #'s 427, 429, 473 and 475 are not being reopened at this time, but, in fact, they are being utilized as a historical component for the pending IC cases which allege the failure of the Inspector General to investigate safety complaints and whistleblower retaliation.

Thank you for your continuing support in cooperating with the IC investigation. If you have any questions, please do not hesitate to contact Supervisory Special Agent Program Manager for the IC, at

Sincerely,

A handwritten signature in black ink, appearing to read "J. Burrus, Jr.", is written over the typed name and title.

James H. Burrus, Jr.
Chair, Integrity Committee

1 - The Honorable Clay Johnson, III
Chairman, President's & Executive Councils on Integrity and Efficiency
c/o United States Office of Management and Budget (OMB)
Eisenhower Executive Office Building
17th Street & Pennsylvania Avenue, NW, Room 113
Washington, D.C. 20503

1 - The Honorable Kenneth Donahue
Inspector General
Department of Housing and Urban Development
451 7th Street, SW, Room 8256
Washington, D.C. 20410

Exhibit F

KING & SPALDING

King & Spalding LLP
1700 Pennsylvania Avenue, N.W.
Washington, DC 20006-4706
www.kslaw.com

J. Sedwick Sollers III
Managing Partner
Direct Dial: 202-626-5612
Direct Fax: 202-626-3737
wsollers@kslaw.com

June 28, 2006

James H. Burrus, Jr.
Chair, Integrity Committee
President's Council on Integrity &
Efficiency
935 Pennsylvania Avenue, NW
Room 3975
Washington, DC 20535-0001

Dear Mr. Burrus:

We represent Robert W. Cobb, NASA Inspector General, in IC #492
(alternatively referred to as IC #500.)

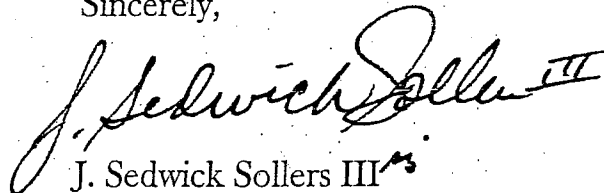
We referred to your letters of January 9, 2006, and February 22, 2006, which communicated to Mr. Cobb that the Integrity Committee had referred for investigation allegations relating to the failure to investigate safety concerns and retaliation against whistleblowers. When Mr. Cobb was interviewed by staff members of the HUD OIG on June 27, 2006, the entire scope of questioning, spanning almost six hours, was far beyond that specified in the letters and, indeed, far beyond the scope of Executive Order 12993, Sec. 2, which limits the IC's administrative investigation authority to allegations of "violation of any law, rule or regulation, or gross mismanagement, gross waste of funds, or abuse of authority." In response to our questions about the scope of the interview, the HUD OIG staff members stated that the scope of their questioning was directed by the IC, and that any inconsistency between the scope of inquiry as expressed in the IC's letters to Mr. Cobb and the scope of the interview should be addressed to the Integrity

James H. Burrus, Jr.
Chair, Integrity Committee
June 28, 2006
Page 2

Committee. In fact, HUD OIG representatives indicated that they were unaware of one of the letters mentioned above that had been sent to Mr. Cobb. As a matter of fundamental fairness, and to correct the apparently erroneous information that has already been communicated to Mr. Cobb by the IC, we request a copy of any instructions provided to the HUD OIG with respect to the scope of investigation so that we can advise Mr. Cobb in connection with his responses to an extraordinary broad array of questions, many of which relate to the most minute and petty details of management style.

I would appreciate a response at your earliest convenience as Mr. Cobb's interview is scheduled to continue at 10:00 a.m. tomorrow, June 29, 2006.

Sincerely,



J. Sedwick Sollers III

cc: Robert W. Cobb
HUD OIG

Exhibit G

July 17, 2006

The Honorable Robert Mueller
Federal Bureau of Investigation
935 Pennsylvania Ave, NW
Washington, DC 20429

Dear Director Mueller:

I am writing respectfully to request your review of a matter I believe to be under your cognizance.

I do not do so lightly, as I well appreciate the breadth and gravity of your responsibilities as FBI Director. Nevertheless, I am caught in a process that seemingly lacks any check or balance, and I am appealing to your well known sense of fairness to lend some perspective to an investigation that, I submit, has spun out of control.

By way of background, my understanding is that the power to conduct an administrative investigation of an Inspector General is vested in you, as Director of the Federal Bureau of Investigation, through your designee serving as Chairperson of the Integrity Committee (IC) under Executive Order 12993, Section 3. Not only has EO 12993 been violated in several respects in connection with the administrative investigation of me purportedly under that authority, but more important than any technical or jurisdictional deficiency, the investigation has evolved into a witch hunt with no resemblance to its initial mandate.

I received notice from the IC on January 9, 2006, that it was requesting the Office of Inspector General, Housing and Urban Development (HUD OIG), to lead an administrative investigation into allegations that I, as Inspector General of the National Aeronautics and Space Administration (NASA), "failed to investigate violations of safety concerns and retaliation by whistleblowers." As I learned from two full days of interrogation, the actual investigation is addressing a multitude of topics utterly unrelated to safety and retaliation. These topics do not implicate the jurisdiction of the IC, as they do not relate to allegations of "violations of any law, rule, or regulation, or gross mismanagement, gross waste of funds or abuse of authority" as required by EO 12993 Sec. 2(c). (See attached letter of July 17, to James Burrus, Chair of the IC.)


Moreover, under EO 12993, Section 3, while individuals may be detailed to you from other agencies to assist in an investigation, there is no provision for requesting another OIG to lead the investigation as has been done here. The EO makes only the FBI accountable for the investigation.

Furthermore, the EO (Sec. 5(b)) states that "a determination by the IC that an investigation is unwarranted shall be the IC's final disposition of the matter" so that matters previously considered and closed are not wastefully reopened and re-reviewed. Several matters previously closed by the IC as unsubstantiated, unwarranted, or outside its jurisdiction were addressed in my interrogation.

The NASA OIG is paying for the investigation. As discussed in the attached letter to your designee, the burgeoning expense of the investigation with its concomitant adverse impact on NASA OIG operations has resulted from the failure to follow EO required limitations on scope and process.

The investigation is not occurring in a vacuum. My reputation, that of the NASA OIG, and the Government's adherence to the rule of law in administrative investigations are at stake. I earnestly request that you consider the attached letter and take the necessary steps to resolve the issues presented.

Respectfully,



Robert W. Cobb

Enclosure

cc: Clay Johnson

Exhibit H

July 17, 2006

James Burrus
Chair, Integrity Committee
President's Council on Integrity and Efficiency
935 Pennsylvania Avenue, NW, Room 3117
Washington, DC 20535-0001

Dear Mr. Burrus:

On January 9, 2006, I received notice from the Integrity Committee of the President's Council on Integrity and Efficiency that it was requesting the Office of Inspector General, Housing and Urban Development (HUD OIG), to lead an administrative investigation into allegations that I, as Inspector General of the National Aeronautics and Space Administration, "failed to investigate violations of safety concerns and retaliation by whistleblowers." (Copy of January 9 letter attached.)

Five members of the HUD OIG staff interrogated me for two full days on June 27 and June 29, 2006. I have received no suggestion that this investigation is considering a violation of any law, rule, or regulation or that the investigation is looking for facts to reflect whether the elements of any such standard are being met. During my testimony, my counsel observed that the areas examined were outside the scope of your January letter and indeed outside the scope of EO 12993, which authorizes investigations into "violations of any law, rule or regulation, or gross mismanagement, gross waste of funds or abuse of authority." EO Sec. 2(c). Upon being advised that the HUD OIG had "other instructions" from you, my counsel requested from the interrogators a copy of such instructions, but was referred to you. Accordingly, my counsel is seeking such information from you. (Letter of June 28, attached. No response to this letter has been received.)

While the January 9 letter told me that the scope of the investigation related to safety matters and retaliation, this examination had nothing to do with these issues. I submit there is no safety or retaliation issue. Nevertheless, I was questioned at length about a wide range of totally unrelated matters, such as:

- The scope and extent of my professional relationships with Sean O'Keefe, the previous NASA Administrator, and with Michael Griffin, the current Administrator, including such questions as, "Have you ever had dinner with Sean O'Keefe [outside of NASA functions]?"

- Challenging my comportment in dealing with subordinates, including a very few occasions during the more than four years I have served as IG where I raised my voice or used improper language (without inquiring or showing any interest in the circumstances)
- My possibly having said “shut up” to a voluble staff member on one occasion in 2002 (again without inquiring into the circumstances that would have prompted this)
- Whether I put my feet up on my desk in the presence of OIG staff
- A senior manager’s crying after a June 2006 counseling session
- Repeatedly challenging my judgment in holding up a proposed immediate joint issuance of a “crimestopper” notice proposed by the Texas Rangers, when, in my judgment, the facts underpinning the crimestopper notice were questionable and required further investigation – indeed, subsequent investigation determined the notice to be unsupported
- My office’s handling of a 2002 computer intrusion case (an allegation previously fully considered and dismissed by you. I note that in February 2006, after I brought to your attention my understanding that cases previously closed by the IC had apparently become part of the investigation, you assured me that those cases were not being reopened but were being used as a “historical component” for the pending investigation about the failure of “the Inspector General to investigate safety complaints and whistleblower retaliation.” (Copy of my letter of February 16 and your February 22 response attached).)
- My occupying a seat on scheduled NASA airplane flights
- Spurious allegations (previously in materials reviewed by the IC and closed) as to whether I flew with Administrator O’Keefe to Bermuda to play golf (I have never been to Bermuda or flown anywhere and played golf with O’Keefe)
- Challenging my questioning the legal basis for a magistrate-signed search warrant (Counsel to the IG sharing my concern)
- Revisiting my decision in February 2005 to address through audit the mechanics of communication between NASA and the Air Force during shuttle launches (rather than conduct an administrative investigation into the June 2002 decision of a United States Air Force General to give the Air Force’s Eastern Range clearance for a shuttle launch, where the Air Force Office of Inspector General – the Office with oversight jurisdiction over the General’s activities – had two and one half years earlier completed a review of the General’s decision, and concluded, as reflected in a February 3, 2005, letter to me, that the General “acted within his authority for range and public safety when he made the risk assessment and determined the range was a ‘go’ for launch. Since there was no violation, any further investigation into this incident is not warranted.”)
- My decision to become involved in template design for audit products
- My changing language on employee credentials (to comply with the law)
- My institution of a committee to review incoming allegations
- My decision to combine the Office of Audits with the Office of Inspections
- The Office of Audits’ use of technical experts in audit activities
- The handling of certain personnel decisions

- A number of instances in which I exercised judgment in not accepting the recommendation of a staff member or criticized or revised work product or redirected efforts of the Office
- My insistence on further investigation of a matter which required more time to finish the report of investigation properly (no inquiry as to the inadequacy of the product originally submitted to me)
- One pro forma question concerning two Langley Research Center pilots who claimed retaliation for raising safety issues; the lack of questioning on this reflects that a substantive review of the merits of this matter resulted in reaffirmation of the validity of our decision that no safety issue was involved (this issue was raised by a Senator in a letter to the Administrator asking for an investigation of the IG; in the guise of Senate oversight and presumably without the knowledge of the Senator, a NASA Langley employee detailed to the Senator's office began calling NASA OIG employees in the fall of 2005 to ask "do you have anything negative to say about the NASA IG")

A review of the transcript of my testimony will reflect that the interrogators were argumentative, that they asked questions citing facts they knew or should have known to be wrong, that they repeatedly attempted to get me to ratify inaccurate characterizations of my own testimony, that they were fundamentally uninterested in asking whether any mitigating circumstances existed in connection with questions relating to my comportment, and that they had already adopted the views of those making allegations. I am told that others in my office felt that the investigators tried to put words in their mouths. The Deputy Inspector General, Tom Howard, was also interviewed the last week of June. He told me that based on the questions posed to him he was "embarrassed to be a member of the IG community." I infer from this that the interview of this 32-year veteran of Government Accountability Office, the Department of Transportation OIG and this office was of the same ilk that I endured.

I have been advised that it may be inappropriate for me to make decisions regarding my office's continued payment of charges associated with the investigation, and I have recused myself from involvement in those decisions, notwithstanding my responsibility to decide between competing priorities on OIG resources. (My staff has already been forced to cut short certain previously planned operational activities.) In connection with this, I was informed at the outset of the investigation that it was projected to cost \$250,000. This estimate was raised to \$400,000 on May 31, and by June 26, 2006, the estimate was \$600,000. (These costs only reflect the HUD OIG charges; they do not reflect the cost to the NASA OIG in fully cooperating with investigative requests for documents, witness interviews, and related matters.) Given the apparently limitless scope of the investigation as it is being carried out, there apparently is also no limit to the expense or the concomitant potential adverse impact on NASA OIG operations. The scope of the investigation is beyond its legal limit and the expense appears to be neither "authorized" nor "reasonable and necessary" as required by appropriation law to be paid.

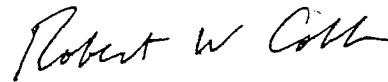
When the investigators asked me whether there would be others whom I think should be interviewed (and I have not been told who they have interviewed), I answered, in effect, that they need to talk to everyone in the NASA OIG and everybody I have dealt with as IG. But even if everybody I have ever dealt with is interviewed, if all that is being sought (and listened to) is information that is interpreted to ratify the complainants' view of events, conducting additional interviews would be a waste of time. Nevertheless, I am attaching a list of persons who may be able to provide information on particular topics. As I have said previously, I submit that most if not all of these issues are beyond the IC's jurisdiction and do not involve allegations of wrongdoing. I send the list to you with the hope that you take responsibility for what is transpiring in this investigation. (I note that under EO 12993 (Sec. 3), you are responsible for the investigation and that while there is provision for individuals to be detailed to you from other agencies to assist you in an investigation, there is no provision for requesting the HUD OIG to lead the investigation.) I certainly do not want to encourage hundreds of thousands of dollars of further expenditure in the conduct of this investigation. But, I respectfully point out that certain persons, such as Madeline Chulumovich, the Executive Officer, and Joel Thomas, the Special Assistant to the IG, who have been intimately involved in our operations with extensive interaction with me, including in meetings involving various matters subject of the inquiry, have not been interviewed. Frankly, I believe that they have not been interviewed because they would be unlikely to corroborate the allegations that have been made and would give testimony that would run counter to them.

In light of the foregoing, I am concerned that the HUD OIG's report may not be fair, complete or accurate. However, I do not know what the role of senior HUD OIG management is or will be in assuring a fair record. Indeed, when we posed jurisdictional questions to HUD OIG personnel present at my interrogation, they deferred to you and the IC. The HUD OIG also stated that it would not provide me with its report of investigation. Fundamental fairness dictates that I be able to review the facts as presented to you by the HUD OIG and that I be permitted to submit such additional information to you to assist the IC in reaching an informed judgment. If this investigation is permitted to continue, I request that you instruct the HUD OIG to provide me with a copy of its report. And, from the standpoint of fundamental due process, I request an opportunity to respond.

By virtue of the nature of the investigation as it is being carried out, at stake is no less than whether an Inspector General can exercise judgment and discretion to do the job mandated by the IG Act of 1978. Can an Inspector General ask questions about the work being generated by audit and investigative staff, redirect OIG efforts, make decisions on how the Office will handle issues, and insist on a high standard of quality for the work product generated without fear of an unmanaged investigation conducted without regard to applicable law (EO 12993) or investigative standards (e.g. the PCIE's Quality Standards for Investigations suggests for investigation planning identification of possible violations of law or standards and elements of proof)? Can any small group of disaffected OIG employees who bristle at being held accountable or disagree with the exercise of an IG's discretion in decision-making visit upon an Inspector General's office

a wasteful and expensive examination apparently unrestricted by any reasonable guidelines? And can a small group of disaffected agency employees who did not get the answer they wanted from an IG investigation engineer an IC investigation to assail the IG's reputation? Leaving aside the injury to the NASA Office of Inspector General and my personal reputation from the very fact of this investigation, the damage to the Inspector General community is greater.

Sincerely,



Robert W. Cobb

P.S. Remarkably rare in the interrogation of me were questions regarding the outcomes achieved by my office or the quality of our work product. While this is not the place to defend my service, I am very proud of it and the fine work that my office has been doing, which is reflected in our semiannual reports. The most recent example of our success involves a settlement reached on June 30, 2006, between Boeing Corporation and the Department of Justice, as a result of which will be a payment to NASA in excess of \$100 million. I worked hard in this case, as in others, to ensure the thoroughness and integrity of work the NASA OIG has performed, and that is why I am proud to stand behind all of that work, including any work product at issue in this investigation.

Enclosures

cc:

Clay Johnson
Chairman, President's Council on Integrity and Efficiency

The Honorable Scott J. Bloch
Special Counsel, Office of Special Counsel

Robert I. Cusick
Director, Office of Government Ethics

The Honorable Earl E. Devaney
Inspector General, Department of the Interior

The Honorable Patrick E. McFarlane
Inspector General, Office of Personnel Management

Walter Stachnik
Inspector General, Securities and Exchange Commission

This list is just a sampling of those who might be able to provide testimony on topics that are the subject of the wide-ranging investigation into my conduct as Inspector General.

Persons who may be able to provide useful information by topic:

1. Independence of the Inspector General

NASA:

Sean O'Keefe
Michael Griffin
Fred Gregory
Shana Dale
Paul Pastorek
Michael Wholley (and many other NASA lawyers, including chief
counsels at all NASA centers)
John Schumacher
Gwen Sykes
Pat Dunnington
Bryan O'Connor
Walt Cantrell
Theron Bradley
Jeff Sutton
Bill Parsons
Jefferson D. Howell
Scott Hubbard
Roy Bridges

GAO:

Allen Li
Gregory Kutz

Aerospace Safety Advisory Panel:

Joe Dyer
(All ASAP members after 2003)

House Committee on Science:

David Goldston
John Mimikakis
James Paul

House Committee on Science, Subcommittee on Space and Aeronautics:

Bill Adkins
Ken Monroe
Dick Obermann

**House Committee on Appropriations, Subcommittee on Science, State,
Justice, Commerce, and Related Agencies:**

Tim Peterson

**House Committee on Appropriations, Subcommittee on Military Quality of
Live and Veterans Affairs, and Related Agencies:**

Michelle Burkett

**House Committee on Government Reform, Subcommittee on Government,
Finance, and Accountability:**

Mike Hettinger

**Senate Committee on Commerce, Science and Transportation, Subcommittee
on Science, Technology, and Space:**

Jeff Bingham

Floyd DesChamps

Jean Toal Eisen

**Senate Committee on Appropriations, Subcommittee on Commerce, Justice,
and Science:**

Allen Cutler

Jon Kamark

Paul Carlineer

OMB:

Linda Combs

Danny Werfel

Amy Kaminski

Paul Shawcross (NASA OIG prior to 1/2003)

David Radzinowski

NASA OIG:

Tom Howard

David Cushing

Lance Carrington

Evelyn Klemstine

Frank LaRocca

Kevin Winters

2. Safety

All Aerospace Safety Advisory Panel members after 2003

Columbia Accident Investigation Board members

NASA senior engineering staff:

Chris Scolese
Theron Bradley
Keith Hudkins

NASA Office of Safety and Mission Assurance:

Bryan O'Connor
Jim Lloyd
Walt Cantrell

Kent Rominger, Chief of the Astronaut Office

Jim Weatherbee, former astronaut, NASA safety critic

3. *Range Command Issue at Cape Canaveral Air Station*

NASA OIG:

Tom Howard
Evelyn Klemstine

To confirm that investigation would have been a waste of time:

General Pettit
Roy Bridges
Ron Dittmore
Bill Readdy
Mike Leimbach
Jim Kennedy
Wayne Hale
Bryan O'Conner
Mike Griffin
Bill Gerstenmeier

4. *Comportment in Office*

NASA OIG:

Tom Howard
Madeline Chulumovich
David Cushing
Joel Thomas
Lance Carrington
Evelyn Klemstine
Alan Lamoreaux
Frank LaRocca
Dahnelle Payson
Joe Kroener
Jan Campbell
Karey Starnes

(All other NASA OIG Headquarters staff and all other people identified on this list)

5. Whistleblowing

Frank LaRocca
Cedric Campbell
Lance Carrington
Tom Howard
Madeline Chulumovich
David Cushing

6. Computer Intrusion Case

Lance Carrington
Tom Howard
Paul Shawcross

7. Issue about questioning search warrant

Frank LaRocca
Tom Howard

8. Crimestopper notice matter

Tom Howard
Richard Williams
Lance Carrington
Jefferson D. Howell
Robert Cabana

Note for the Electronic (PDF) Copy

The letter of July 17, 2006, from Cobb to Burrus contained the following enclosures:

1. January 9, 2006, letter to Cobb from Swecker, IC #492
2. February 16, 2006, letter to Burrus from Cobb
3. October 29, 2004, letter to Johnson from Swecker, IC #427
4. October 29, 2004, letter to Johnson from Swecker, IC #429
5. July 12, 2005, letter to Cobb from Swecker, IC #473
6. June 20, 2005, letter to Cobb from Swecker, IC #475
7. February 22, 2006, letter to Cobb from Burrus, IC #500
8. June 28, 2006, letter to Burrus from Sollers

See previous PDF links for letters 1, 2 and 7

See letter of February 16, 2006, from Cobb to Burrus, for copies of letters 3, 4, 5 and 6

Exhibit I

Integrity Committee



President's Council on Integrity and Efficiency
Executive Council on Integrity and Efficiency

935 Pennsylvania Ave., NW, Room 3973
Washington, D.C. 20535-0001

August 8, 2006

The Honorable Robert W. Cobb

Dear Mr. Cobb:

The purpose of this letter is to address your concerns cited in two correspondence, both dated July 17, 2006 to me as Chair of the Integrity Committee (IC) and to Director Mueller. Your letters outline five concerns that I will address independently. They are:

- The scope and breadth of the investigation;
- The authority and responsibility for investigation by the IC;
- Length and scope of your interview;
- The lack of due process in the preparation of the investigative report; and,
- The cost of the investigation to the National Aeronautics and Space Administration.

SCOPE OF THE INVESTIGATION

It is clear the IC has the responsibility under Executive Order (EO) 12993 to review all allegations of wrongdoing by an Inspector General (IG). This obligation is defined by the EO using those exact words in both Sections One and Two. The letter dated January 9, 2006 was not intended to bind the authority of the IC to review allegations of wrongdoing. As you know from experience, investigations may go in unpredictable directions. I would fully expect trained and experienced Federal Agents to both be aware of the IC's mandate as outlined in the EO and follow additional allegations of wrongdoing to produce a thorough report. Since your interview was one of the last steps of the investigative process, it is reasonable to assume investigators would give you the opportunity to address all the allegations. Efficiency and economy of resources would welcome this kind of thorough investigation so that all matters affecting you could be resolved.

AUTHORITY AND RESPONSIBILITY FOR THE INVESTIGATION

The Office of the Inspector General (OIG) of the Department of Housing and Urban Development (HUD) was selected by the IC to conduct the administrative investigation. They assigned an investigative team in response to that request. EO 12993 provides that on certification of the matter to the Chair by the IC, the Chair "shall cause a thorough and timely investigation of the allegations to be conducted in accordance with this order." The order specifically provides for the detail of employees of other agencies and entities represented on the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency to assist with an investigation. As Chair, I bear overall responsibility for a competent investigation, but actual investigative activity is pursued by the OIG selected for the work. This is consistent with both the EO and IC historical practice.

LENGTH AND SCOPE OF INTERVIEW

Your letter expresses concern about the length of time and scope of questioning during your interviews. I have spoken with the investigators about both issues. They believe the scope of the questions were both appropriate and needed to address all the allegations. They also believe the length of the interview was fully within your control depending on the directness with which you answered the questions.

Your letter also cites a belief that the investigators with the HUD-OIG have already drawn conclusions and those interviews were avoided to support those conclusions. If you have evidence to support this statement other than what you have cited in your letter, please provide that directly to me and in writing. I have seen no evidence to support your observations, however I will provide the list of persons you suggested be interviewed to the investigators.

PREPARATION OF THE INVESTIGATIVE REPORT

EO 12993 provides that the report containing the results of an investigation conducted under the supervision of the Chair will be provided to the members of the IC for consideration, but does not make such allowance for the subject of the investigation. It has not been the practice of the IC to give the subject a copy of the report because there are unified rules within the Federal Bureau of Investigation for the dissemination of information through Freedom of Information Act requests. This applies a unified standard and prevents varying interpretations of what may be disseminated.

IC historical practice shows this is a valid and workable policy. Prior to adjudication of IC matters, the subject has been given an opportunity to hear the allegations and respond to the investigators usually as the last interview. If there are additional questions the IC needs to resolve the matter, another interview will be scheduled to answer those issues.

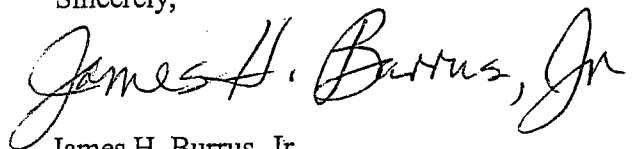
COST OF THE INVESTIGATION

The EO provides that the agency employing the subject of the investigation will bear the cost of the investigation. While these costs are sometimes considerable, in this case there were multiple allegations that had to be resolved. It is fair for HUD-OIG to provide you with an accounting of their costs and I will ask IG Donahue to itemize expenses. In the end, a thorough investigation and resolution of any allegation of wrongdoing will benefit the employing IG's office and the IG community as a whole.

I respond to your letters not only as a matter of courtesy to you but also because the policy and procedures of the IC provide that a subject of an investigation may request a general status update while a case is open. However, details on pending investigations are not provided. We will discuss with the lead investigator your request for interview of some of the individuals mentioned in your letter. Otherwise, the status of the investigation is that the interviews are concluded and a written report is being prepared by the HUD-OIG for delivery in August.

We are replying separately to the letter from your counsel dated June 28, 2006, and include a copy of that response with this letter.

Sincerely,



James H. Burrus, Jr.
Chair, Integrity Committee

Enclosure

Cc: The Honorable Clay Johnson, III
Chairman, President's & Executive Councils on Integrity and Efficiency

The Honorable Scott Bloch
Special Counsel, Office of Special Counsel

Robert I. Cusick
Director, Office of Government Ethics

The Honorable Earl E. Devaney
Inspector General, Department of the Interior

The Honorable Patrick E. McFarland
Inspector General, Office of Personnel Management

Walter Stachnik
Inspector General, Securities and Exchange Commission

Exhibit J

August 23, 2006

James H. Burrus, Jr.
Chair, Integrity Committee
President's Council on Integrity and Efficiency
935 Pennsylvania Avenue, NW, Room 3975
Washington, DC 20535-0001

Dear Mr. Burrus:

This refers to your letter of August 8. I very much appreciate your willingness to address the issues I have raised, as evidenced by your thoughtful response to my letters. I respectfully disagree with your analysis, however. And, your response does not detract in any way from the force of my earlier correspondence. Here, I address residual process issues arising out of your letter.

The IC's authority under EO 12993 to refer allegations for investigation is limited. Under Section 2 of the EO, the IC is to review all allegations of wrongdoing against Inspectors General. Prior to referral for investigation, there is a specific requirement (under Section 2(c)) for the IC to find that there is a "substantial likelihood" that each allegation referred "discloses a violation of any law, rule or regulation, or gross mismanagement, gross waste of funds or abuse of authority." When the finding has been made, the IC is to certify those allegations meeting the EO standard to you for investigation. There is no authority for waiver of these requirements. Nor does it appear that these requirements were or could have been satisfied.

Your agent for investigation clearly cannot have greater authority than has been certified to you under the EO. Any matter investigated by the HUD OIG other than pursuant to a certification to you by the IC for investigation pursuant to the EO is not authorized by the EO. Therefore, the HUD OIG staff cannot have authority to conduct discretionary and unabated inquiries on subjects that you have not been authorized through certification to investigate (or that the IC had no knowledge of or authority to certify.) Fundamentally, I believe the IC could not and did not authorize the investigation of any and all negative opinions, conjecture, or complaints of whatever nature the investigators received from any source, including those made by persons well removed from the decision-making processes of the NASA OIG. Moreover, the failure to follow the EO review, determination, and certification process has resulted in the investigation of allegations previously considered by the IC to be outside its jurisdiction or otherwise unwarranted, as I have previously indicated.

With this in mind, my counsel protested when my interrogation on June 27 strayed well beyond the scope of the January 9 notice to me. The HUD OIG staff said that they had

“other instructions,” and referred us to the IC for such “other instructions.” My counsel delivered to you by hand on June 28 a letter requesting a copy of such “other instructions.” We received no acknowledgment or reply until your letter of August 8 arrived. While that letter does not respond to the request directly, it implies that there were no “other instructions” beyond your expectations that investigations “may go in unpredictable directions” with investigators “follow[ing] additional allegations of wrongdoing.” Since the HUD OIG interrogators were specific in asserting that they had “other instructions,” some clarification is needed, particularly since the IC could not have properly given them instructions beyond the scope of the EO. We reiterate our request for a copy of “other instructions” if there were any. If there were, it appears that you or the IC may have exceeded EO authorization; if not, the staff misled us.

You state that the letter of January 9 “was not intended to bind the authority of the IC to review allegations of wrongdoing.” First, the EO itself does limit that authority. But also that letter along with your February 22 letter is the only formal notice, prior or otherwise, that I have received as to any allegations against me. Was the January 9 letter merely a notice to me that the HUD OIG was being appointed to lead an investigation of whatever subjects it might choose? Again, this would be totally inconsistent with the mandate of the EO. Moreover, inasmuch as the HUD OIG made no substantive inquiry of me concerning safety concerns or retaliation against whistleblowers, there apparently was no substantive allegation of any such violation to support the initial certification by the IC. Accordingly, I request a copy of the IC’s certification to you, which presumably identifies the specific allegations which the IC determined met the EO Section 2(c) standard, if indeed any such determination was made.

You have asked for evidence of investigatory misconduct, in addition to that reflected in my letter of July 17. Several persons interviewed in my office reported, without any prompting, their displeasure with investigatory tactics and conduct to Tom Howard, the Deputy Inspector General, and Kevin Winters, the Assistant Inspector General for Investigations. I refer you to Mr. Howard and Mr. Winters for specifics.

As for my personal observations of inappropriate conduct, I just received on Monday, August 21, the transcript of the testimony I gave in late June. Now that I have it, I shall review it and, if warranted, address the subject more specifically than in my letter of July 17. However, the staff’s delay in providing me with the promised transcript in my view evidences a lack of interest in conducting an even-handed investigation.

As to the interviews conducted by the staff, I of course have no list of the interviewees. Appended to my letter of July 17 was a list of names of individuals who may be able to provide useful information on relevant topics. I note that the investigators at my interrogation apparently had no knowledge of my correspondence with you in February in which I identified persons who would have insight into what the investigation was supposedly about, safety and whistleblower retaliation issues. Quite simply, this is astounding.

You suggest that my interrogation constituted my opportunity to respond to the allegations, and presumably to rebut same. Only now am I told that the interview constituted that "opportunity." However, probative evidence on many issues was not discussed at all during the interrogation, and I have no indication that such evidence is either in the record, or being considered by the staff (e.g., the letter from Air Force Space Command involving the KSC range issue that I referred to in my July 17 letter.) For example, the role of my direct reports in the decisions at issue in my interrogation was given little attention. Similarly, I have had no opportunity to respond to any evidence not disclosed to me.

Nevertheless, you indicate that the HUD OIG report will not be shared with me. I have had no realistic opportunity to respond to whatever facts (as opposed to conjecture, speculation, or surmise) the staff plans to assert in its report. Frequently in administrative proceedings, investigative reports are not released, but in these there is subsequent notice of findings and due opportunity for response. In any event, fairness and accuracy must be overriding considerations. Accordingly, I request a true opportunity to see and respond to any findings that suggest that in any way I have committed wrongdoing.

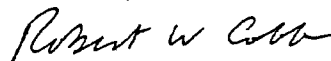
In summary, I respectfully submit that this investigation is replete with multiple and egregious abuses of process:

1. No genuine notice, prior or otherwise, of the actual allegations against me
2. No genuine opportunity to respond to allegations
3. Abusing, ignoring and circumventing the certification process of the EO
4. No standard of inquiry that complies with EO Section 2(c)
5. Exceeding the jurisdictional authority granted by the EO
6. Failure to disclose actual IC "other instructions" given to the HUD OIG staff
7. Deprivation of opportunity to assess the testimony of other witnesses
8. The staff's reopening merits of closed cases without IC authority or certification
9. Investigative abuses along with one-sided perspective of investigators
10. Denial of opportunity to review or respond to HUD OIG proposed findings.

Victims of the ancient Star Chamber proceedings were accorded fairer treatment.

Again, I do appreciate your providing insight as to your view of the proceedings as conducted. Should you or the IC have any further questions, I am ready to respond.

Sincerely,



Robert W. Cobb

cc:

The Honorable Clay Johnson III
Chairman, President's Council on Integrity and Efficiency

The Honorable Robert Mueller
Director, Federal Bureau of Investigation

The Honorable Scott J. Bloch
Special Counsel, Office of Special Counsel

The Honorable Robert I. Cusick
Director, Office of Government Ethics

The Honorable Earl E. Devaney
Inspector General, Department of the Interior

The Honorable Patrick E. McFarland
Inspector General, Office of Personnel Management

Walter Stachnik
Inspector General, Securities and Exchange Commission

Exhibit K

Integrity Committee



President's Council on Integrity and Efficiency
Executive Council on Integrity and Efficiency

935 Pennsylvania Ave., NW, Room 3973
Washington, D.C. 20535-0001

August 30, 2006

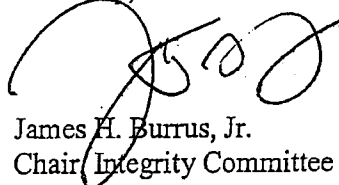
The Honorable Robert W. Cobb

Dear Mr. Cobb:

Thank you for your letter of August 23, 2006. The matters you mention regarding due process and the conduct of the investigation in your case will be discussed with the Integrity Committee (IC) at a future meeting.

You indicate that on August 21, 2006, you have received a copy of your interview transcript and plan to review it and, if warranted, further address the subject of inappropriate conduct. I invite any written comments you care make on that subject, or any additional written comments regarding the matters about which you were interviewed generally, to be received by the close of business, September 7, 2006. The IC will include your written comments as a supplement to the Report of Investigation prepared by the Office of Inspector General, Housing and Urban Development and, in the event the report is forwarded to the Chairman of the President's Counsel on Integrity and Efficiency, include your written comments with the report.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Burrus, Jr.', written over a circular stamp or seal.

James H. Burrus, Jr.
Chair, Integrity Committee

Cc: The Honorable Clay Johnson, III
Chairman, President's & Executive Councils on Integrity and Efficiency

The Honorable Scott Bloch, Special Counsel, Office of Special Counsel
Robert I. Cusick, Director, Office of Government Ethics
The Honorable Earl E. Devaney, Inspector General, Department of the Interior
The Honorable Patrick E. McFarland, Inspector General, Office of Personnel Management
Walter Stachnik, Inspector General, Securities and Exchange Commission

Exhibit L

September 7, 2006

Integrity Committee
President's Council on Integrity and Efficiency
935 Pennsylvania Avenue, NW, Room 3975
Washington, DC 20535

Dear Members:

I am responding to James Burrus's letter of August 30, received by mail over the weekend and giving me three business days to submit by today additional comments to the far-reaching investigation of my actions as Inspector General of NASA. I incorporate by reference my letters of February 16, July 17, August 23, and the responses from the Integrity Committee to these letters on February 22, August 8, and August 30.

I appreciate Mr. Burrus's recognition of the abuse of process that has been accorded me, and your intention to address my concerns at a future meeting. The carelessness in not abiding the strict terms of Executive Order 12993 is particularly striking given, as you well know, the propensity for allegations to be made against Offices of Inspector General where many decisions result in negative consequences for persons affected by them. Unfortunately, spilt milk cannot be put back in the bottle, and granting me a short time to supplement my interview testimony simply does not begin to cure the problem.

Addressing the abuse of process at a future meeting does not suggest cognition that the flawed process materially impacts the substance of this investigation. By virtue of the flawed process, the HUD OIG is likely to produce a substantially flawed report. Without specific allegations falling under the jurisdiction of the IC, there has been no standard or measure of what constitutes wrongdoing to guide the investigation.¹ Having such a standard is fundamental to the rule of law. The very conduct of my interview demonstrates the failure to satisfy this requirement and that of the EO on what falls within the jurisdiction of the IC. In this connection, I renew my request for the "other instructions" given to the investigators and whatever certification document(s) exist. The failure to produce same compels the clear inference that those documents, if indeed they exist, do not satisfy any reasonable standard under the EO, and therefore reinforces the position that the entire proceeding has been flawed from the beginning.

¹ The lead investigator did set forth at one point a misrepresented version of the IG Act as the standard for the inquiry by stating/inquiring: "Q. But the Inspector General's Act does say you should be free in fact and appearance from anything that would give rise to concerns about your impartiality[?]" Transcript at 146. Of course, the IG Act says nothing of the kind.

Mr. Burrus's letter still relies on the faulty premise that my interrogation is an appropriate vehicle to provide me an opportunity to respond to the allegations against me. I do not know what documents the HUD OIG has, or even whom they have interviewed and about what subjects. No fairness is being accorded by providing me an opportunity to speculate as to which material facts will be misstated or omitted. At this juncture, it is unreasonable to expect me to address fully every allegation called to the attention of the HUD OIG without knowing which allegations are really given credence, and which of my responses are deemed incomplete or insufficient.

That this is no fair opportunity to respond is particularly evident where the essence of the investigation is allegations of "appearance" of lack of independence – it's not really so much what you have done, but that people feel a certain way about you. (And I note that many of the people complaining are former employees of the OIG who did not like the environment of professionalism and accountability being established and left.)

Aside from the question of how this theory of a case constitutes wrongdoing under IC jurisdiction, it is fundamentally a theory that cannot be refuted, because I cannot control how people feel. I can only carry out the responsibilities that I have been given under the IG Act to execute. Therefore, I focus herein on actions I have taken and am accountable for, rather than the plethora of questions suggesting that certain employees two or three levels down the chain of command did not feel comfortable about a decision they believe I was involved in. On this point of defending one's independence, how does one submit four and a half years of evidence of dedicated effort to independently root out fraud, waste and abuse and to promote the economy and efficiency of the agency?

Concern about the fairness of the report is particularly justifiable in light of the evident bias of the interrogators. For example, at the outset of my interview they challenged at great length my appointment as IG, implying that the very fact of my appointment itself constituted lack of independence. The principal investigator would misstate facts in her questions. She would ask the same question as many as ten times, apparently being unhappy at my responses. Examples of these are more thoroughly discussed in Exhibit A. It is also interesting that notwithstanding their promise to provide me with a copy of my transcript (a condition of my willingness to testify), they delayed its delivery for nine weeks, including nearly three weeks after being reminded by my counsel of their commitment to provide me a copy. This reluctance is hardly evidence of objectivity. Ironically, it is this type of overall lack of professionalism, integrity, and accountability in administrative investigations that I have sought to end at the NASA OIG, by proper training, encouraging close adherence to law and standards, and by management and oversight.

In my letters of February 16 and July 17, I identified some witnesses who would have actual knowledge of my conduct on such matters as safety and independence. I do not know how many of those witnesses were interviewed and about what, since I have not been provided with a list of witnesses. If and to the extent that the HUD OIG relied on the allegations of individuals who are either hostile to me, or who are uninformed as to all the considerations and disagree with my decision-making rather than on the testimony

of truly unbiased and knowledgeable witnesses, it would be further evidence of bias or bad faith on the part of the interrogators.

The correspondence from Mr. Burrus indicates the view that the HUD OIG findings need not be subjected to the critical analysis and examination that results from due process. Recognizing nevertheless that I can show the members of the IC that there is no merit to lines of inquiry to which I have been subjected, I provide herewith on Exhibit A summary responses to some of the allegations on which the investigators dwelt at great length. Of course, there is substantial evidence in support of the Exhibit A summaries, and you may wish a more complete explanation, particularly if the HUD OIG reaches any contrary finding. Similarly, you might wish me to address other subjects. I also include Exhibit B, a list of questions I suggest that the IC direct to the HUD OIG investigators to test their findings and investigative approach.

The fact remains that I received no credible notice of the allegations against me, and no opportunity to prepare in advance to address those allegations. Due process requires advance notice. I received notice in January and February only of allegations relating to failure to investigate safety matters and retaliation against whistleblowers, issues which were really not pursued in my interrogation. That the inquiry departed so radically from these notices can be no surprise, since the interrogators apparently did not even have them, and my counsel had to make copies for them. (Transcript at 181-185). Nor had they seen any documents from the IC and could not be certain there was anything in writing. (Transcript at 181-182). If these proceedings were truly intended not to be adversarial in nature, there can be no reason to deny me the "other instructions" alluded to in the transcript. In fairness, the "other instructions" should have been provided to me well in advance of my interview.

At this point, the only way in which the process can be called remotely fair is for me to have the opportunity to address HUD OIG findings to the IC. (For the reasons outlined in my letter of September 6, enclosed as Exhibit C, Mr. Burrus's letter of August 8 incorrectly relies on FOIA considerations as an excuse for not providing the HUD OIG report.) This would permit me to address relevant subjects more fully than in my testimony if I deem it necessary, and in addition allow assurance that my testimony is appropriately reported in context or make such corrections to the report as necessary. There is no valid reason to deny this request if there is any pretense to fairness in this proceeding, and the language in the IC Policy and Procedures quoted in my September 6 letter suggests I am entitled to the report.

The only apparent reason for denying me the "other instructions" and whatever certifications exist appears to be that I should not have notice of the areas of inquiry to be addressed by the HUD OIG, and perhaps prove beyond peradventure of doubt that they are not within the scope of the Executive Order.

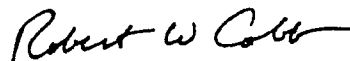
The only reason for denying me a copy of the HUD OIG report is to assure that I cannot rebut same. Given all the other abuses of process, the refusal to provide me with a copy

of the report is a particularly egregious example of lack of intent to provide a fair consideration of the merits of the issues.

The cost of the investigation has exceeded \$600,000 to the NASA OIG, not including a great deal of staff time responding to investigators inquiries. Because of the scope, number of inquiries made, and the length of time it has been taking, it has been disruptive to OIG operations, particularly as regards my time, although, as explained briefly in Exhibit A, the NASA OIG's successes during the current semiannual period in both audit and investigations stand as testament to the organization's health. I am hopeful that the IC realizes that the commitment of resources to the investigation is not suggestive of wrongdoing by me, rather a failed investigative process.

I encourage the IC to vigorously examine the HUD OIG on the merits of the issues that reflect negatively on me, if any, given the apparent dearth of standards, due process, or oversight of this investigation to date. And I encourage each of you to read the transcript of my interview, although it is lengthy, and bring this wasteful and abusive investigation to an immediate end.

Sincerely,

A handwritten signature in cursive script that reads "Robert W. Cobb".

Robert W. Cobb

Exhibit A

Exhibit A

Assuming this opportunity you are providing as one where I can show the members of the IC that there is no merit to lines of inquiry that I have been subjected to, I provide summary responses to some of the lines of inquiry behind what I speculate to be apparent allegations which the investigators seemed particularly concerned about based primarily on the length of interrogation in each case. Of course, there are a substantial number of documents that reflect the accuracy of what I am communicating here and you may wish a more complete explanation, if, for example, HUD OIG reaches any finding contrary to what I articulate. There are also many questions asked at my interview that I do not address here, but readily would if the IC attributes any significance to them.

I strongly recommend that each member of the IC read the entirety of the transcript of the investigation. I would be happy to provide copies that redact law enforcement sensitive information from them, if that would facilitate the exposure of these transcripts.

Apparent Allegation: White House Conspiracy to Install Unqualified Person to Do Bidding of NASA Administrator

(Transcript at 1-185, at various points, also addressing independence generally)

Most of first day of my testimony was spent testing allegations that I am not independent under the faulty belief that the head of a PCIE agency, in this case the NASA Administrator, should have no say in who the President appoints to be the agency IG. This line of questioning involved a lengthy foray into whether my appointment was essentially a fraud: that my predecessor was removed and I was appointed into a job I was not qualified for pursuant to a White House conspiracy to provide then NASA Administrator Sean O'Keefe with an IG who would do his bidding (which raises the absurd inference that the President and the United States Senate were co-conspirators.) The relevance of this was apparently to show that I was beholden to O'Keefe, whom, by the way, I had never met until after I had been notified by the White House Office of Presidential Personnel that I was under consideration for the position of NASA IG. Nevertheless, the interrogators seemed to believe that the fact and circumstances of my appointment are relevant to the question of my independence. (Transcript at 35, 64). Somehow the fact of the Presidential appointment and Senate confirmation process is irrelevant to my being viewed as an appropriate person to honorably carry out the privilege of serving as NASA Inspector General.

Since the premise of the theory is inherently offensive, the HUD OIG questions associated with the line of inquiry were similarly offensive, particularly those suggesting that I am unqualified to hold the position and those suggesting I would not carry out the office in a manner consistent with the laws I am sworn to uphold. The whole inquiry reflects such a perverse view of reality that no efficacious response is possible. Of course, were the HUD OIG to actually put in writing some negative finding associated with this, I would certainly wish to address it.

Apparent Allegation: Failure to Issue Crimestopper Notice in Order to Spare NASA Embarrassment
(Transcript at 186-224)

REDACTED DUE TO SENSITIVITY

REDACTED DUE TO SENSITIVITY

Apparent Allegation: Failure to Notify Certain Other Agencies of Illegal Access and Copying of Marshall Space Flight Center Computer Files to Spare NASA Embarrassment
(Transcript at 258-317)

This matter was inquired into by the IC in 2004 in IC #429. The IC responded to my documented submission at that time on this very same issue that the "IC has determined that IG Cobb's response substantially demonstrated that IG Cobb had not engaged in any wrongdoing."

Notwithstanding the fact that the matter was previously closed and the EO provisions specifically articulating that a decision to close a matter shall be the final determination of the matter, the investigators questioned me about the 2002 intrusion into the computer

systems of the Marshall Space Flight Center. I was asked more than ten times why I did not report the theft of ITAR or EAR information to the Department of State or Department of Commerce as allegedly recommended by my investigations staff. (Transcript at 263-285). I answered the question the first time it was asked, and I fail to understand why continuing to repeat the question over and over was necessary, if, in fact, this was not an adversarial proceeding.

None of the questioning of this matter related to the conduct of the criminal investigation under the purview of the Office of Investigations. The questioning related to the failure to report information to two Federal agencies (and yet a third has become involved in the analysis, as the HUD OIG investigators point out). But, the questioning itself reflects the unfounded nature of the allegations: first, there was no reporting requirement, as is acknowledged by the investigators (transcript at 315); second, NASA's Office of External Affairs discussed the matter with the Department of State upon learning of the intrusion; third, the only NASA OIG document reflecting on reporting requirements states that an agent working on the matter confirmed that if there was a reporting requirement, that NASA security would execute that requirement.

I directed that we write up the facts associated with the intrusion so that we could report the matter to senior NASA management, assuring that the report would be in our words and not filtered. The OI staff executed this direction by generating a report that was sent to NASA management in April of 2003. Getting there, however, was difficult. To that point, very little effective staff work had been accomplished, and I insisted that staff do the grinding work to produce an accurate and relevant report. But with regard to notifying NASA or even the other agencies of the intrusion per se, our report was not "news." The New York Times and Computer World reported the Marshall intrusion in the summer of 2002 as a result of information from the hacker community.

If the HUD OIG were truly interested in my attention to IT security matters, they might have probed other related decisions, such as my direction in January 2003 that the Office of Audits, in addition to its traditional FISMA audits, begin audits on NASA protection of sensitive but unclassified information, which the Office of Audits executed. Of course, in the area of Information Security, the NASA OIG has since made many audit recommendations that have led to significant improvements and attention to IT security issues. The HUD OIG investigators did not inquire into these activities.

Apparent Allegation: Favoritism (Lack of Independence) Toward Certain Former NASA Employees With Regard to Investigations of Those Persons
(Transcript at 432-442)

REDACTED DUE TO SENSITIVITY

Apparent Allegation: Smorgasbord of Other Allegations To Get These "Questions in Fast"

(Transcript 443-467)

Obviously there were a substantial number of other areas that were discussed in the interview. And on numerous occasions, I was chastised by the investigators for elaborating (transcript at 63, 323-324, 381) and trying to give context to the answers to the questions they were asking. My sense is they just wanted certain answers to the questions and were frustrated that I had information to provide that did not confirm their theories.

I would be happy to address these other areas of inquiry to the extent that they support any negative findings. Many of them only received cursory examination by the investigators. The investigators introduced a whole group of them with "We're going to turn to some other areas just to get these questions in fast." (Transcript at 443). Then the investigators addressed issues relating to an administrative investigation of complaints by a ; the KSC Range issue, investigation of SR-71 aircraft parts, a review on NASA bird strike program, a redux on compartment in the office with reference to a

particular individual's complaints making another employee cry after a counseling session, treatment of a NASA OIG search warrant, a t-shirt I had purchased in New Orleans, the administrative investigation at Langley and some other matters. These issues were all covered in about 24 pages of transcript. With reference to Mr. Burrus's letter of August 8 articulating that the interrogation was my notice and opportunity to respond to the allegations against me, I point to what I have previously said about lack of due process with emphasis. If any negative findings are supported by reference to any of these "allegations", I believe that it would be unconscionable, as the investigators demonstrated their lack of interest to thoroughly cover these matters. As a result, while I answered all of their questions, I obviously could not answer questions that were not asked. If any of these areas raise concern to the Integrity Committee, I would be happy to answer any specific questions it may have.

Apparent Allegation: You Questioned the Work of NASA OIG Agents and Auditors

My philosophy as the NASA IG tracks the NASA engineering view that "whenever NASA had a failure . . . the reason was always the same: we failed to be inquisitive." (Howard McCurdy, "Inside NASA" at 58). To me, the investigative and audit culture should track that of the best research culture where "skepticism is . . . a natural part of [the] . . . culture. Good scientists do not accept the findings of their colleagues simply because their colleagues are trustworthy." (McCurdy at 30). Neither should investigators, auditors or their management trust findings merely because the persons doing the work are trustworthy (or experienced). I have tried to instill the philosophy of questioning (managing) the work down my chain of command so that products might be improved earlier in the process and without sharp scrutiny from me or the Deputy IG. My view is that if a product gets to my desk where the factual and legal presentation is poor, that is a failure of management, including appropriate training regimens, from the top down. And I have worked very hard to instill this management philosophy to my direct reports, so that they in turn are presented with higher quality products so that they do not have to rewrite them.

The HUD OIG investigators challenged, on numerous occasions, my questioning of issues and activities conducted in the Office, including rewrites of audit work by the Deputy IG or myself. These questions did not examine the merits of the changes made to the products. They questioned my qualifications to question work, which was consistent with their questioning my qualifications to be an Inspector General. So for example, in discussing the KSC range matter, they asked (transcript at 448-449):

Q. My question is why did you fail to listen to his recommendation if he was someone who was a technical expert? He was an active duty and still is an active duty Air Force colonel, I believe? Did you not value his –

A. Lieutenant Colonel.

Q. Lieutenant Colonel. All right. Lieutenant Colonel. Did you not value his opinion as one of your technical experts?

A. I valued his opinion . . . Does that mean I am going to take his recommendation in every instance? Absolutely not.

This is the matter I have referred to in prior correspondence in which I decided not to reinvestigate a matter that the Air Force Inspector General had investigated two and one-half years earlier involving alleged wrongdoing of an Air Force General, and found no wrongdoing. Furthermore, the relevant safety issue was being addressed separately by our office through an audit activity.

The discussion at transcript pages 401-408 reflects the HUD OIG investigators' disdain for my Deputy or me raising questions or challenging findings of audit reports, presumably with a view that if an auditor sends a draft forward, it must be accepted, even if the Deputy or I believed it to be unsupported.

Another issue where I was challenged on my right and authority to ask questions concerned a search warrant that my agents were to serve the next day (as if my raising a question about the Constitutionality of our activities is inherently offensive.) The search warrant had already been signed by a magistrate judge. In the interest of space here, I append the full eight pages of the transcript reflecting this discussion. The discussion reflects not only the concern that I would question matters, but also bias of the HUD OIG investigators. (See Exhibit A, Attachment 1).

Apparent Allegation: Under Your Leadership, You Made Changes, Productivity of the Audit Shop Has Declined and You Brought in Technical People Who Don't Understand Audit Procedures
(Transcript 342-420)

I was questioned about the productivity of my audit shop under my tenure as Inspector General. (Transcript at 346). While I deplore the purely quantitative approach towards measuring success, I note that during the *full year* prior to my appointment, the Office of Audits generated 23 final products. In the current *semiannual* period, the Office of Audits has issued 16 final products, and expects to issue seven more, thereby equaling in 6 months what was produced in the year prior to my coming on board. But more importantly, the reports are issued with focus on more significant issues, greater depth of analysis, greater accuracy, and with focus on making sure the recommendations are going to be implemented. The depth and quality of our reports is being recognized outside NASA. This week, for example, two of our recent audit reports, one a technical report critical of the Space Shuttle's problem reporting system at the Kennedy Space Center, and another on limitations on a major software procurement have received attention in relevant trade press.

I attach two charts relating to agency implementation of IG recommendations. The first shows the growth of outstanding audit recommendations between 1998 and 2001, and the second shows the decline of outstanding recommendations during the period I have been IG. When I became IG, the NASA Deputy Administrator and I worked to retire the high number of outstanding recommendations. These outstanding IG recommendations had been identified as an internal control weakness by the Agency; by the fall of 2005, the Agency removed the item as a weakness, given the cooperative effort to address the problem in accordance with OMB A-50. (See Exhibit A, Attachment 2).

A series of questions directed essentially at criticism of my directing the office to hire engineers, safety professionals, and aerospace technologists appears on pages 387-395. The NASA OIG AIGA supported this direction. The Deputy IG supported this direction citing the employment of specialists as a best practice based on his (then) 28 years of audit experience at the GAO and DOT OIG. Without the assistance of these specialists, we would have been unable to address many of the most critical issues to NASA, at least from an informed standpoint. It is true that many auditors resisted my bringing in the technical talent, even though it has resulted in the delivery of real value to the Agency, as in the audit on the problem reporting system identified above.

The audit success we are having in bringing about serious change at NASA, along with the fact that our office brought about earlier this summer the greatest recovery from a contractor in NASA history, \$106.7 million, along with several other notable accomplishments, reflects on the success of the Office and its value to NASA. As I have said in all of my prior correspondence, I am proud of my service as IG at NASA and the demonstrated successes of our office during the time period.

I would be happy to address any other matters the IC believes warranted.

Exhibit A

Attachment 1

1 was already articulated. That would be one.

2 BY

3 Q. Here's another. She recalled an instance
4 where you and she were arguing because you believed
5 that you should be able to decide what crime to
6 charge and whether or not the United States
7 Attorney's Office should be contacted in a case
8 presented; and she recalls you saying to her --
9 quote, unquote -- I'm the fucking IG, I decide if it
10 goes to the U.S. Attorney's Office.

11 Then you walked out of the room?

12 A. I do know what you're talking about here.
13 I don't know if I walked out of the room maybe other
14 than to walk out of my office to the deputy's office
15 to relate what had just occurred in terms of the
16 conversation.

17 I don't think that's what transpired in
18 that one. Because I think that I think what we're
19 talking about in that instance was brought
20 into my office a search warrant that our office
21 intended to serve the next day at I believe the
22 Marshall Space Flight Center.

23 She was doing this for purposes of letting
24 me know that we have a warrant that's going to be
25 served on campus, and that raises an issue of I might

1 get a call from a center director or other concerned
2 person about this action that our office has taken
3 and that's a good thing she would notify me.

4 So she handed me the search warrant. I
5 read the search warrant. It looked to me like what
6 was articulated in the search warrant wasn't -- might
7 not be a crime. Specifically, there was a question
8 of theft of proprietary information; and the question
9 was -- if we're talking about the same event which I
10 think we probably are, whether there was a theft of
11 proprietary information and the information had been
12 generated by a government employee.

13 So having been around government for a
14 little while, I noted the basic rule on proprietary
15 information is if it is generated by a government
16 employee, it is not proprietary, it is something that
17 is in effect owned by the public domain.

18 That's a complex issue because there's
19 something called technology transfer and there's a
20 lot of issues associated with that. So I raised the
21 question of whether or not, gee, was there
22 fundamentally in connection with this probable cause
23 determination that is a prerequisite to a signature
24 on a search warrant, whether or not there was
25 actually a crime that underpinned the search warrant.

1 response to my question was I
2 don't think you can ask that question. In her mind,
3 it was an interference with an investigation that was
4 taking place by the Inspector General and that that
5 was in effect out of the box on me asking the
6 question.

7 You know, I think it is in the box for me
8 to try to use my skills as attorney and as the
9 presiding official, the President and trusted
10 appointee position, to make sure the laws of the
11 United States are upheld. So here I thought we had a
12 questionable warrant.

13 So I called in -- I said, don't we get
14 Frank LaRocca counsel to the IG involved. Brought
15 Frank in. I said, Frank, have you seen this search
16 warrant? My recollection of the conversation was
17 something along the lines of Frank saw it and said I
18 did see that. I had a question about it. His
19 question was the same question I had.

20 So what we thought -- what I thought we
21 had was a question of whether or not we had a
22 legitimate search warrant.

23 And was very upset at the idea that
24 I would be asking the questions and, in fact,
25 contemplating calling the United States Attorney for

1 the District to call him and ask him and say, hey,
2 I'm looking at this thing wondering whether or not
3 there's a crime here.

4 Are we about to serve a warrant that's
5 fundamentally -- you know -- incorrect in its
6 articulation.

7 So that's what that was about.

8 Q. Was this a warrant that had been signed,
9 reviewed and signed by a Magistrate Judge?

10 A. Yes.

11 Q. So -- it had, am I correct, as I
12 understand the process, and as I've been involved in
13 the process, generally -- not generally, what happens
14 is the warrant is drafted by the agent, it is
15 reviewed and approved by the U.S. Attorney or
16 Assistant U.S. Attorney and goes to a Magistrate
17 Judge who ultimately decides whether or not there's
18 probable cause; and if in that Magistrate Judge's
19 opinion there is probable cause, the warrant is then
20 signed?

21 A. That's right.

22 Q. So you were questioning both the assistant
23 U.S. Attorney's opinion as well as the Magistrate
24 Judge who had signed the warrant as to whether or not
25 probable cause existed; is that correct?

1 A. I was raising the question of whether or
2 not there was a mistake in the issuance of this -- of
3 the signatures associated with this search warrant.
4 Absolutely.

5 Q. What mistake particularly?

6 A. What was contemplated and thought of as
7 being a crime wasn't fundamentally a crime.

8 Q. What was that crime, do you recall?

9 A. My recollection is exactly as I just
10 explained that had to do with the theft of the
11 proprietary information. That was the essence of
12 what the basis for the probable cause determination
13 was.

14 I had a question as to whether or not the
15 facts if you took them all as true as alleged in, I
16 think, there was probably a supporting affidavit with
17 the search warrant, whether you took the facts as
18 true, whether or not they constituted a crime.

19 I had a substantial question about that.
20 And as it turned out, independently, my OIG counsel
21 had the same question. Then the question was what do
22 we do, now that we have this question about it.

23 adamant view articulated in her
24 personal style which is emotional was that -- you
25 know -- that in effect, for me to ask the question

1 was interference with an investigation, and I'm
2 reading that as saying she thinks I'm obstructing
3 justice in questions with the execution of the
4 warrant. I'm just trying to uphold the laws of the
5 United States and fulfill the job I've been appointed
6 to do.

7 If there's a mistake in a search warrant,
8 I'm going to be concerned about that. Then the
9 question is how do we handle it from there.

10 Q. Was there a mistake?

11 A. I never got the answer to that question.

12 Q. You strike me as someone who would want
13 the answer. Did you attempt to get the answer?

14 A. Well, here's how we decided to handle it.
15 We decided that Frank would all the AUSA involved and
16 alert them to the question that we had in connection
17 with the search warrant.

18 My understanding is Frank made that call.
19 He had a conversation with the AUSA. The AUSA
20 articulated that he was comfortable with everything
21 that had transpired in connection with the execution
22 of the warrant.

23 And we didn't question it further.

24 I'd say that's how it was handled.

25 Q. So am I to understand that it was then

1. your belief there was not a mistake?

2. A. No. I'm saying I did not push -- I did
3. not push the issue to the conclusion that would have
4. given me best feeling about our execution of this
5. warrant because -- you know -- hey, I compromised on
6. the issue.

7. And -- you know -- I would have felt a lot
8. better about that issue, that particular issue, if
9. someone, somewhere could have articulated to me what
10. the crime was that we think was occurring in
11. connection with that, and that never occurred.

12. Basically, Frank had the conversation with
13. the AUSA. I did not believe that the seriousness of
14. the circumstances warranted my picking up the phone
15. and asking the question to the U.S. Attorney for the
16. District; and to get, in effect, a legal opinion that
17. what was articulated in these papers was, in fact, a
18. crime.

19. To this day, I don't know. I still have
20. the question. It was never answered.

21. My gut feeling based on my prior
22. experience was I don't know. 'Cause I had the
23. question. The general rule is when you raise -- when
24. you generate information as a government employee, it
25. is not proprietary.

1 That's my understanding of the law. But
2 again I didn't research the topic and from what I
3 could tell, I don't know if anybody else did either.

4 All right. I think at this
5 point we'll adjourn for the day.

6 BY

7 Q. Let me ask a couple follow-up questions on
8 that.

9 Absolutely.

10 BY

11 Q. I'm surprised that you don't know the
12 answer to that, but I believe that you don't. Let me
13 ask you this however: The search warrant was
14 executed, I assume?

15 A. Yes.

16 Q. Some level of evidence was seized or not
17 seized?

18 A. It was executed.

19 Q. Some level of evidence was seized?

20 A. I think so.

21 Q. Was there a prosecution in that case?

22 A. I don't believe so. In fact, whatever it
23 was that they were looking for to establish something
24 as a crime, to my knowledge, they didn't find it.

25 Q. Okay. So then the case may or may not

1 have just kind of died under its own weight due to
2 the lack of evidence?

3 A. I think so. Whether it is still an open
4 matter, I don't know.

5 BY

6 Q. Do you recall the case title?

7 A. No. I think that the -- I think the agent
8 handling it was Extraordinarily
9 talented. When I say we have strong agents in our
10 shop, he is right there at the top. He's a very,
11 very bright guy. I know he was involved in it. I
12 know it was at Marshall Space Flight Center, I think.
13 I'm pretty sure about that.

14 Any further questions?

15 No.

16 Very well. We'll conclude.

17 The time is 5:20 p.m. the 27th of June,
18 2006.

19 (Whereupon, at 5:20 p.m., the interview
20 adjourned to be resumed on Thursday, June 29, 2006,
21 at 10:00 a.m.)

22

23

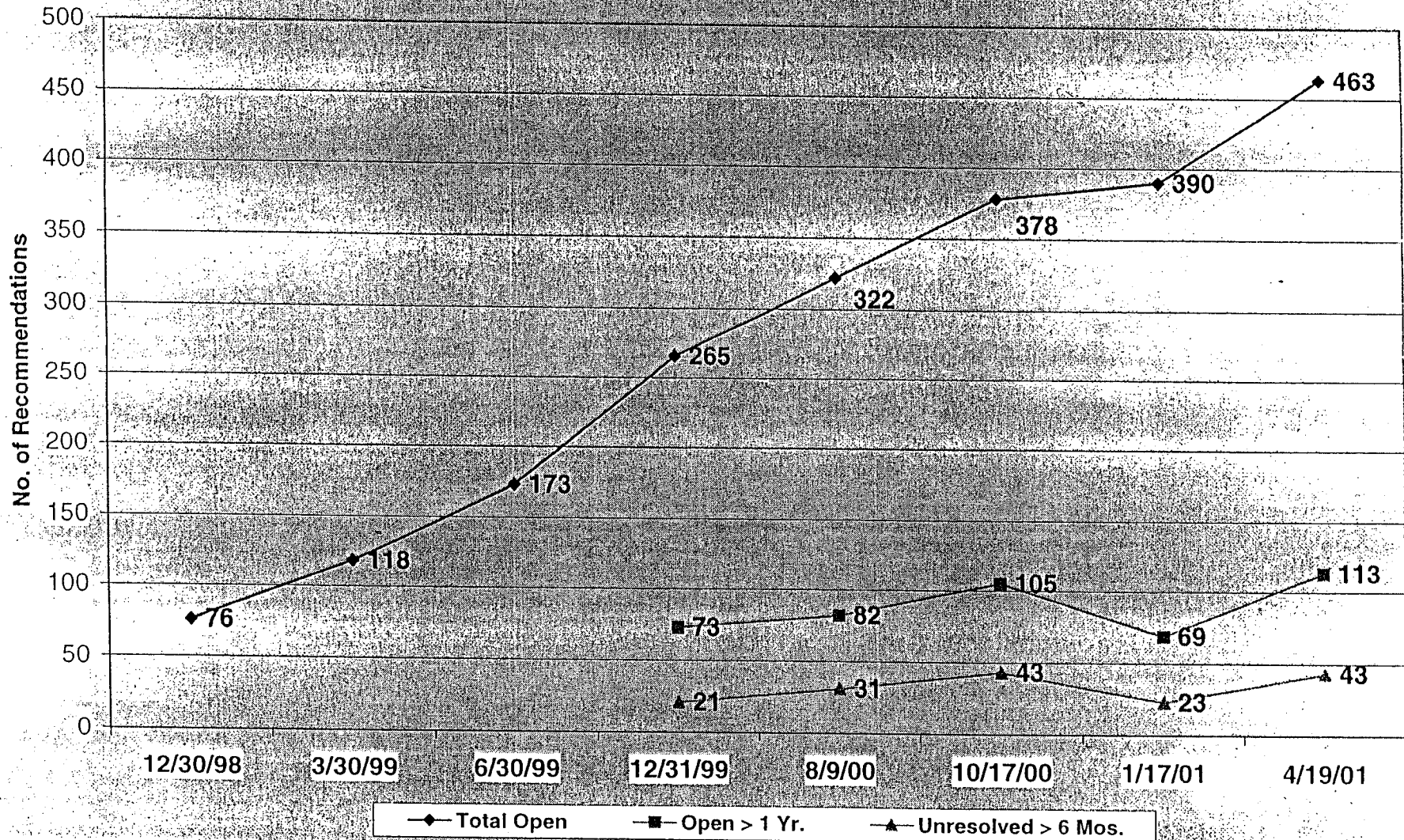
24

25

Exhibit A

Attachment 2

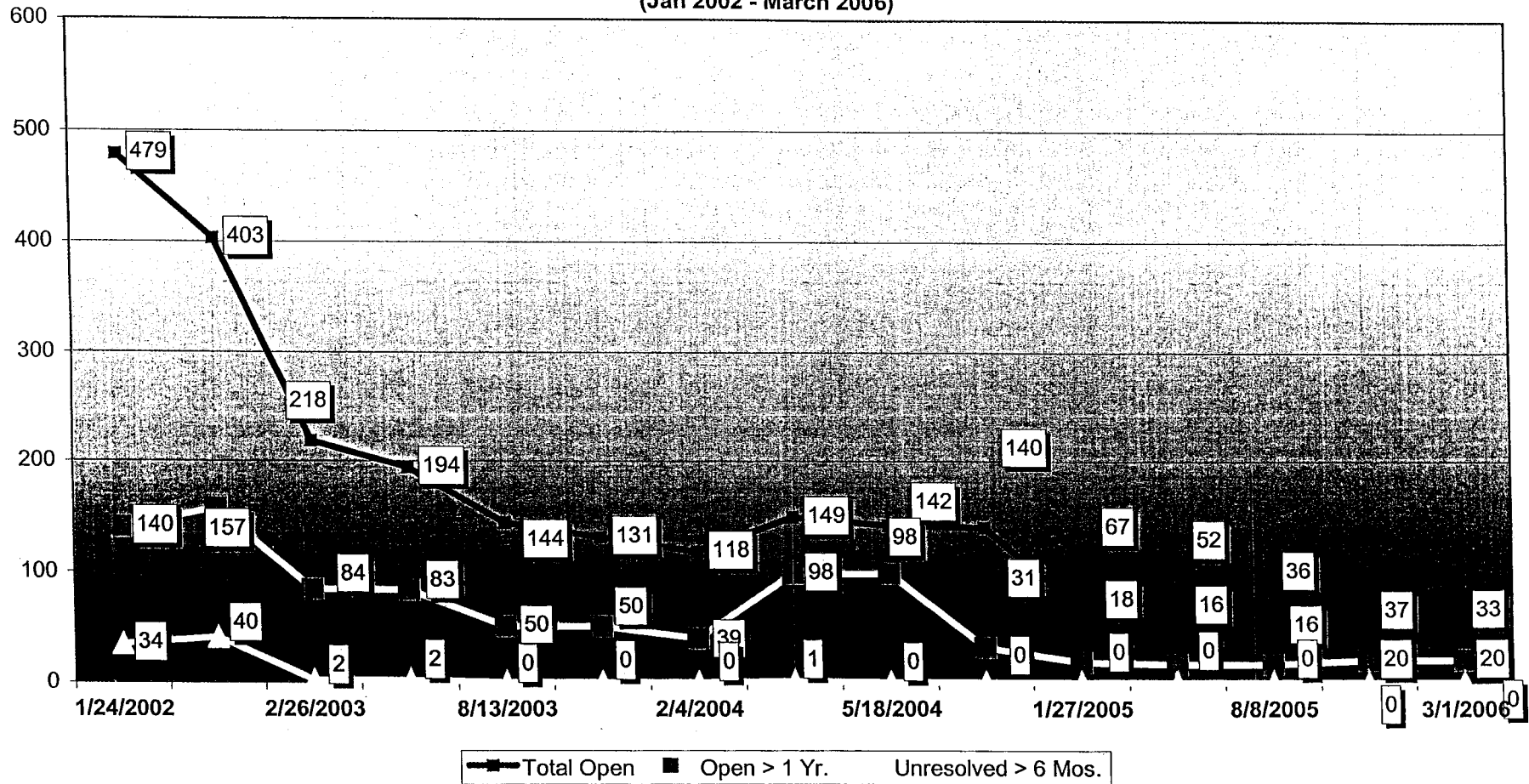
Trends in Open OIG Recommendations



Management Systems Division

Trends in Open OIG Recommendations

(Jan 2002 - March 2006)



Note: "Trends in Open OIG Recommendations" excludes audit recommendations issued in conjunction with the FY 2002, 2003, 2004, and 2005 audits of NASA's consolidated financial statements under the CFO Act of 1990.

Exhibit B

Exhibit B

Questions for HUD OIG

If the HUD OIG investigators provide negative findings about my independence, I suggest that they be questioned about their findings to elicit the truth of the matters at issue and provide insight to the depth of investigation and whether it has been carried out in a fair and balanced way. Since the principal thrust of the investigation seems designed to challenge my independence, the whole of my actions as Inspector General are at issue, to properly put the allegations in context. The only way the HUD OIG could reach conclusions that would support negative findings is if they failed to examine fully and fairly my work and the people who are familiar with it. Obviously, if the people who they spoke to and rely upon are my detractors, or if the only information they listened to is negative information from those whom have been held accountable, without seeking a full picture, HUD OIG will present a distorted account. But, as I have indicated, I do not know who the HUD OIG has talked to or what has been talked about.

Some of the questions that could be posed to them might be:

On the scope of the investigation, HUD OIG stated in the interrogation that: "We're looking at independence of the IG and the IG's function." (Transcript at 390). Did you, the HUD OIG, conduct an overall assessment of the independence of the NASA IG seeking balanced information on this point, or did you just try to substantiate perceptions of certain persons alleging appearance of lack of independence?

Which of the individuals or groups named in Cobb's February 16 and July 17 letters did you not interview and why not?

Who else did you elect not to interview that might have been able to shed light on whether Mr. Cobb's execution of the job was independent?

How can this investigation be viewed as fair when you have not interviewed two of four professionals in the NASA OIG front office, including the NASA OIG Executive Officer?

What are areas where Mr. Cobb showed significant independence, pushing his staff to much more aggressively point out weaknesses in agency programs and operations than staff was originally inclined to?

Why did Allen Li of the GAO refer to Mr. Cobb as the most independent IG he has ever seen in a meeting with House Science Committee staff?

In which of the audits and investigations relating to a complaint of lack of independence did the HUD OIG evaluate the merits of the decisions made by IG Cobb (and his senior staff to the extent they were involved) and determine that IG Cobb made a wrong decision, and what is the basis for the HUD OIG's conclusions in these instances?

Why did you ask only one question about the Langley matter? Is it because you found the complainants' allegations that Mr. Cobb's involvement in the matter was not because of lack of independence, but that his involvement and direction was justified?

What do events before Mr. Cobb was appointed to the job of IG have to do with the manner in which he has carried out the job?

Is an IG responsible for the work product of his or her office?

When do you think it is appropriate for an IG to question inadequate work that is being performed by staff?

Should an IG decline staff recommendations that he or she believes to be unsupported?

Do you think an IG can bring value to the work product of investigators and auditors?

Do you believe it inappropriate for an Inspector General to question a search warrant which he or she believes may have been mistakenly issued?

Do you think administrative investigations should be based on standards? What standard has guided the investigation of this matter?

What are the allegations you examined that implicate the standards of Executive Order 12993 Section 2(c)?

Mr. Cobb's office has been very critical of the Office of the Chief Financial Officer at NASA. Did you interview the CFO about Mr. Cobb's independence?

Mr. Cobb's office has been very critical of the Integrated Enterprise Management Program Office. Have you interviewed the Director of IEMP about Mr. Cobb's independence?

Mr. Cobb's office has been very critical of IT Security management at NASA. Have you interviewed the Chief Information Officer about Mr. Cobb's independence?

If you interviewed these people, what did these individuals have to say about Mr. Cobb's independence?

What inquiry have you made into what NASA has done to react to Mr. Cobb's assertions that Contract Management is an internal control weakness and that NASA has to work to remove Contract Management from GAO's high risk list, where it has been for 16 years?

What has NASA done in response to Mr. Cobb's contract trouble area memorandum to Congress and his work on the Boeing case to address procurement integrity weaknesses at NASA?

How has NASA responded to Mr. Cobb's recommendations to identify Return to Flight and International Space Station challenges as internal control weaknesses of the agency, warranting detailed quarterly reporting and corrective action plans?

How has NASA responded to NASA OIG recommendations during Mr. Cobb's tenure at IG, and how has the differed with his predecessor?

What was Mr. Cobb's involvement in the Boeing investigation, which this summer led to the single greatest recovery to NASA in its history, \$106.7 million? What was the position of NASA on Boeing's wrongdoing up until Mr. Cobb's October 2005 presentation to the NASA General Counsel?

Mr. Cobb directed two administrative investigations of Mr. O'Keefe's appointee to the position of Assistant Administrator for _____ eventually leading _____ *Has this matter been taken into account in reflecting on the independence with which Mr. Cobb has carried out the Office of Inspector General?

What were the areas of conflict between the Office of Inspector General and senior NASA management, particularly Mr. O'Keefe? How about on Financial Management? How about on Integrated Enterprise Management? How about on Independent Technical Authority? How about on the Kistler procurement?

What was the position of each of Mr. Cobb's direct reports on the decisions you conclude reflected lack of independence, if any?

IG Cobb says Tom Howard was involved in and agreed with every decision Cobb made reflected in the transcript and that Mr. Howard refutes that he "impressed" upon Mr. Cobb the importance of looking into an alleged misuse of funds. (Transcript at 415). On what occasion did Tom Howard disagree with any decision Cobb made that is the subject of your inquiry?

Was Tom Howard interviewed on each of the specific decisions you addressed to Mr. Cobb and what was his position with respect to each of these decisions? To the extent you have found that Mr. Cobb was not independent in his execution of his responsibilities, do you find that Mr. Howard is similarly not independent in the execution of his role?

Mr. Cobb has hired over time several SES and senior direct reports. Have the people he has hired into these senior positions been political cronies or otherwise persons who evidence lack of outstanding individual qualities and independence?

Which of the decisions you have inquired into that Mr. Cobb made were not based on recommendations or concurrence of members of his senior staff?

Does Mr. Cobb work in an open collaborative way with his senior staff or try to make decisions without getting the input of his direct reports?

Name what you believe to be the specific instances where Mr. Cobb committed a wrongdoing. State the basis for why you believe the action he took constituted wrongdoing and identify the standard you are applying to assert that the activity is wrongdoing.

Exhibit C

September 6, 2006

James Burrus
Chair, Integrity Committee
President's Council on Integrity and Efficiency
935 Pennsylvania Avenue, NW, Room 3975
Washington, DC 20535

Dear Mr. Burrus:

As you know, Section 5 of EO 12993 requires the IC to establish "policies and procedures" to govern the conduct of investigations. On February 14, 2006, Frank LaRocca, Counsel to the NASA IG, called you to ask for a copy of same. You told him that nothing would be made available while I was under investigation, that the IC had nothing addressing individual subjects' rights, and suggested that I await the results of the investigation. Meanwhile my attention has recently been called to a document entitled "Policy and Procedures for Exercising the Authority of the Integrity Committee of the President's Council on Integrity and Efficiency" signed by then Chairman of the IC Grant Ashley on May 3, 2004.

This document is particularly relevant because in your letter of August 8, you state, "it has not been the practice of the IC to give the subject a copy of the report because there are unified rules within the Federal Bureau of Investigation for the dissemination of information through Freedom of Information Act requests. This applies a unified standard and prevents varying interpretations of what may be disseminated." The IC Policy and Procedures that make it clear that requests for information from subjects are not handled under FOIA. While the Policies and Procedures state that third party requests for information will be processed pursuant to the FOIA, this only pertains to "requests by individuals *other than* the IG, or OIG staff member, who is the subject of the allegation." (Italics added).

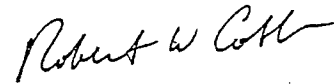
The Policies and Procedures go on to state IC records will be maintained in accordance with the Privacy Act. Accordingly, "records may be disclosed only in response to the written request of, or with the prior consent of, the individual to whom the record pertains."

Therefore, I renew my request in my letter of July 17 and subsequently in my letter of August 23 for a copy of the HUD OIG report of investigation that has been or will be provided to the Integrity Committee. I do so on the basis of the specific language of the Privacy Act, the Policy and Procedures of the Integrity Committee, and, more importantly, on the basis of fundamental fairness. Only in this way do I have any realistic opportunity to rebut the findings of the HUD OIG.

Exhibit C

By separate letter I will respond to your letter of August 30, 2006.

Sincerely,

A handwritten signature in black ink that reads "Robert W. Cobb". The signature is written in a cursive style with a long horizontal stroke at the end.

Robert W. Cobb

Exhibit M

National Aeronautics and
Space Administration

Office of Inspector General
Washington, DC 20546-0001



NOV 17 2006

The Honorable Robert Mueller
Director, Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Director Mueller:

I am writing in connection with the investigation of me by the Integrity Committee (IC) of the President's Council on Integrity and Efficiency.

On November 13, 2006, I was contacted by a reporter for the *Orlando Sentinel* who said he was writing an article based on a summary document of allegations and investigative "findings" that had been presented to the IC in early September and leaked to him by people associated with the document's generation. That the press has obtained such a document while the investigation is ongoing is unconscionable.

I am extremely concerned that the IC's supposedly confidential investigation, which is being executed, as you know, under your cognizance, would be subverted by the release of partial and misleading information gained by virtue of trusted positions, in apparent violation of the Privacy Act and other requirements. It is particularly troubling because the Integrity Committee represents the core of the executive branch's institutions responsible for upholding integrity in Government. Yet now, persons associated with the IC's process appear to be complicit in this probably criminal attempt to influence the investigation's ultimate resolution—by leaking one side of the story to the press which purports to report "findings" in a matter where the truth of matters is yet to be resolved. And it is doubly injurious that this report, which essentially is a list of allegations, was leaked with the full knowledge that I have neither seen it nor had opportunity to respond to it. In fact, while I have repeatedly requested notification of the specific allegations against me and any report of investigation, I have been denied access to these documents.

I respectfully request that you take such action as necessary to address an obvious breach of law and investigative ethics. I also renew my request made to you on July 17 to examine the conduct of the investigation of me, which I described as having spun out of control. Examples include the failure to interview persons with actual knowledge of relevant facts, apparent bias of investigators, the unlimited scope of the investigation (which far exceeded the initial "notice" to me of what the investigation would be about and the jurisdiction of the Integrity Committee), and other abuses by the investigators and the investigative process. Given the bias shown in the investigation, it is not surprising that the leaked information is replete with easily demonstrable factual errors and


inaccuracies. Because the readers of the leaked information will be unaware of the falsities, the harm to me is irreparable.

Director Mueller, I seek your intervention as a last resort because of my respect for you and because of the inherent threat to fundamental rights when an investigative process utilizes the press as its ally. I know you to be a staunch defender of process and that you are well aware of the damage that can be done through inappropriate leaks to the press.

For your reference, I include a copy of the relevant correspondence between the Integrity Committee and me in this matter. This correspondence reflects the process failures of the investigation and, furthermore, sheds light on many of the substantive issues that the investigation came to address. I can only speculate that the motive for the leak was to accomplish through publishing allegations in the press what the investigation could not establish based on the facts.

I greatly appreciate your consideration of my request to provide oversight over this deeply flawed investigative process.

Sincerely,



Robert W. Cobb
Inspector General

Enclosures:

- 1) January 9, 2006, letter to Mr. Cobb from Mr. Swecker.
- 2) February 16, 2006, letter to Mr. Burrus from Mr. Cobb.
- 3) February 22, 2006, letter to Mr. Cobb from Mr. Burrus.
- 4) July 17, 2006, letters to Director Mueller and Mr. Burrus from Mr. Cobb.
- 5) August 8, 2006, letter to Mr. Cobb from Mr. Burrus.
- 6) August 23, 2006, letter to Mr. Burrus from Mr. Cobb.
- 7) August 30, 2006, letter to Mr. Cobb from Mr. Burrus.
- 8) September 7, 2006, letter to the IC from Mr. Cobb, with exhibits.

cc: (w/o enclosures)

The Honorable Alberto Gonzales
Attorney General

The Honorable Clay Johnson III
Chair, President's Council on Integrity and Efficiency

James Burrus
Chair, Integrity Committee
President's Council on Integrity and Efficiency

The Honorable Scott J. Bloch
Special Counsel, Office of Special Counsel

The Honorable Robert I. Cusick
Director, Office of Government Ethics

The Honorable Earl E. Devaney
Inspector General, Department of the Interior

The Honorable Patrick E. McFarland
Inspector General, Office of Personnel Management

Walter Stachnik
Inspector General, Securities and Exchange Commission

The Honorable Gregory H. Friedman
Vice Chair, President's Council on Integrity and Efficiency

The Honorable Michael D. Griffin
Administrator, National Aeronautics and Space Administration

The Honorable Richard Shelby
Chair, Subcommittee on Commerce, Justice, and Science
Committee on Appropriations
United States Senate

The Honorable Barbara Mikulski
Ranking Minority Member, Subcommittee on Commerce, Justice, and Science
Committee on Appropriations
United States Senate

The Honorable Kay Bailey Hutchinson
Chair, Subcommittee on Science and Space
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Bill Nelson
Ranking Minority Member, Subcommittee on Science and Space
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Susan M. Collins
Chair, Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Joseph I. Lieberman
Ranking Minority Member, Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Tom Coburn
Chair, Subcommittee on Federal Financial Management, Government Information, and
International Security
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Thomas R. Carper
Ranking Minority Member, Subcommittee on Federal Financial Management,
Government Information, and International Security
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Frank R. Wolf
Chair, Subcommittee on Science, State, Justice, and Commerce
Committee on Appropriations
House of Representatives

The Honorable Alan B. Mollohan
Ranking Minority Member, Subcommittee on Science, State, Justice, and Commerce
Committee on Appropriations
House of Representatives

The Honorable Todd R. Platts
Chair, Subcommittee on Government Management, Finance, and Accountability
Committee on Government Reform
House of Representatives

The Honorable Edolphus Towns
Ranking Minority Member, Subcommittee on Government Management, Finance, and
Accountability
Committee on Government Reform
House of Representatives

Note: Enclosures to letter of November 17, 2006, are not included as they are redundant to Exhibits C, D, E, G, H, I, J, K and L.

Exhibit N

National Aeronautics and
Space Administration



Office of Inspector General
Washington, DC 20546-0001

NOV 20 2006

James H. Burrus, Jr.
Chair, Integrity Committee
President's Council on Integrity and Efficiency
935 Pennsylvania Avenue, NW, Room 3117
Washington, DC 20535-0001

Dear Mr. Burrus:

As you know, I have been contacted by a reporter from the *Orlando Sentinel* about a document leaked to him from persons associated with the investigation of me. If what the reporter told me is true, I believe an illegal act has occurred. I would appreciate it if you could shed any light on who committed this illegal act.

I was told that the document was a summary of "allegations" and "investigative findings" presented to the IC in early September by the HUD OIG. The reporter retyped 26 of the allegations and "findings" that he said he might include in his story and sent them to me electronically. I have been told there are a total of 79 allegations, 69 of which the HUD OIG investigated, so I have no information as to the others.

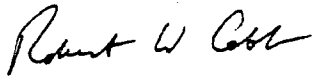
The 26 "findings" sent to me by the reporter in sum are false and misleading. On the attachment to this letter, I provide facts with respect to one set of "findings" as an example of this. I could do so for each set of "findings." And, the 26 allegations support my prior correspondence with the IC that states the investigation is of matters outside the scope of the IC's jurisdiction.

Please inform me as to whether this material accurately represents information provided to the IC. And I repeat my earlier request for any HUD OIG report that has been provided to the IC. I also request any summary document that was provided to the IC, so I may have the totality of allegations against me and the related "investigative findings."

Although I believe it would be a further waste of my time and the Integrity Committee's time, I would be happy to provide the Integrity Committee with an analysis of each and every "investigative finding" in this material or any other so-called "findings" presented by the HUD OIG to the IC. Please provide me some indication as to whether you believe

this would be helpful, and also, please provide me with some indication on when you believe this investigation will be brought to a conclusion.

Sincerely,



Robert W. Cobb
Inspector General

P.S. I sent the following email to you Friday, but did not receive acknowledgement of receipt, so I repeat it here:

As a heads up, attached is the letter I sent to Director Mueller concerning the leak I informed you of on Monday. Also, I wanted to let you know, that I took your suggestion to refer the reporter to the FBI press office on the issue of what the leaked document purports to be, e.g. investigative findings. I also suggested that he contact the HUD OIG on that issue.

His response was that he did not need to talk to the FBI press office or the HUD OIG, because the document clearly states that it reports "investigative findings." He then stated that he has been in contact with Timothy Halodik and Mary Conway of the FBI concerning the investigation. The reporter's name, for your reference, is Michael Cabbage, and he works for the *Orlando Sentinel*.

Attachment

cc:

The Honorable Alberto Gonzales
Attorney General

The Honorable Robert Mueller
Director, Federal Bureau of Investigation

The Honorable Clay Johnson III
Chair, President's Council on Integrity and Efficiency

The Honorable Scott J. Bloch
Special Counsel, Office of Special Counsel

The Honorable Robert I. Cusick
Director, Office of Government Ethics

The Honorable Earl E. Devaney
Inspector General, Department of the Interior

The Honorable Patrick E. McFarland
Inspector General, Office of Personnel Management

Walter Stachnik
Inspector General, Securities and Exchange Commission

Attachment

I provide further elaboration on one of the 26 allegations and “findings” the reporter sent me, just for the purpose of example:

Allegation 50

Inspector General Cobb frequently had lunch with former Administrator Sean O’Keefe and former General Counsel Paul Pastorek, which may have caused an appearance of lack of independence and impartiality.

Investigative findings:

- Calendars and other documentation reflected IG Cobb lunched regularly with O’Keefe and Pastorek.
- Witnesses noted they were aware IG Cobb lunched regularly with O’Keefe and Pastorek.
- Witnesses advised, and e-mails reflected, IG Cobb dined outside of NASA with O’Keefe and/or Pastorek on an occasional basis.

First and second bullets: The reality is that I had a standing weekly working lunch meeting with the Administrator, Deputy Administrator, Chief of Staff, and General Counsel of NASA to discuss NASA and NASA OIG business, as appropriate. As I did not attend NASA senior staff meetings, as do many inspectors general, these lunches were established to provide interaction with senior NASA leaders on issues of mutual interest. Prior to attending the lunches, I would solicit input from OIG senior managers on topics for discussion. Afterward, I would share what I might have learned in the lunch meetings with senior staff.

Although I have no record of this, Administrator O’Keefe was present probably about one-half the time. Others would attend if available. If I was not available, on travel or otherwise engaged, Tom Howard, the Deputy Inspector General, would attend to represent my office.

Third bullet: In the almost three years of overlap of service with Mr. O’Keefe and just over two years with Mr. Pastorek, I can only remember one instance where I had a private dinner with one or both of them outside NASA. That dinner was in New Orleans and was attended by Tom Howard (I had not remembered in my testimony that Tom was there, but he subsequently reminded me that he was present for that dinner.) The occasion of that dinner was the Administrator and the General Counsel had accepted my invitation to speak and were speaking the next day at a NASA OIG all-hands conference being held in New Orleans in May 2004. I did not, for example, on a single occasion go out to dinner in the City of Washington or its environs with either Mr. O’Keefe or Mr. Pastorek or the both of them, even though we worked in the same building.

Exhibit O

Integrity Committee



President's Council on Integrity and Efficiency
Executive Council on Integrity and Efficiency

935 Pennsylvania Ave., NW, Room 3973
Washington, D.C. 20535-0001

November 21, 2006

The Honorable Robert W. Cobb

Re: IC # 500

Dear Mr. Cobb:

I am in receipt of your letter, dated November 17, 2006, and was asked by Director Mueller to respond. As we discussed in our phone call last week, there was not an official release of any material on your case. I have discussed the issues you raised with our press office so we can explain the Integrity Committee process and mitigate to the extent possible any other media issues. The Integrity Committee is working with all due speed to address these allegations.

I appreciate your patience while the allegations are reviewed and the Integrity Committee process is allowed to proceed.

Sincerely,

James H. Burrus, Jr.
Chair, Integrity Committee

1 - Mr. Halodik 1 - Mr. Velez 1 - Mr. Grant
MKC:mkc (4)

Exhibit P

December 18, 2006

James H. Burrus, Jr.
Chair, Integrity Committee
President's Council on Integrity and Efficiency
935 Pennsylvania Avenue, NW, Room 3973
Washington, DC 20535-0001

Dear Mr. Burrus:

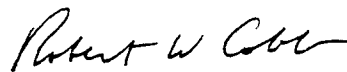
I learned Friday from Integrity Committee staff discussion with NASA OIG counsel that the IC intends to send a letter to Clay Johnson reflecting the conclusion of the investigation of me; I understand that I will be notified when the letter has been sent to Mr. Johnson, but that I will not be provided with a copy of that letter. I have been provided no information as to what any letter might say.

I presume the letter will convey the IC's conclusion as to whether there is or is not a finding of "violation of any law, rule or regulation, or gross mismanagement, gross waste of funds or abuse of authority" – the only matters within the jurisdiction of the IC to investigate and opine on. Hopefully, the IC would use recognized standards, such as the definitions in its own procedures, for measuring what constitutes gross mismanagement, gross waste of funds, or abuse of authority.

To the extent any letter to Mr. Johnson is expected to include any suggestion that I have not carried out the position of Inspector General with the highest regard for the law and the integrity with which such position is to be executed, I request an opportunity to review a draft of the letter and rebut any such suggestion. Reliance by the IC on any allegation or finding adverse to me without my being provided with notice and opportunity to respond would further reflect the due process deficiencies associated with this investigation. And, obviously, the quality and credibility of your letter to Mr. Johnson would be impaired if I have not had an opportunity to respond. Fairness and accountability are both at stake.

I also request that the IC take affirmative steps to ensure that the letter to Mr. Johnson, or any draft of such a letter, is not leaked to the press. I make this request in the context of the recent leaks of information by persons associated with the investigation to the press.

Sincerely,



Robert W. Cobb

cc:

The Honorable Clay Johnson III
Chair, President's Council on Integrity and Efficiency

The Honorable Scott J. Bloch
Special Counsel, Office of Special Counsel

The Honorable Robert I. Cusick
Director, Office of Government Ethics

The Honorable Earl E. Devaney
Inspector General, Department of the Interior

The Honorable Patrick E. McFarland
Inspector General, Office of Personnel Management

Walter Stachnik
Inspector General, Securities and Exchange Commission

Exhibit Q

Integrity Committee



President's Council on Integrity and Efficiency
Executive Council on Integrity and Efficiency

935 Pennsylvania Ave., NW, Room 3973
Washington, D.C. 20535-0001

January 21, 2007

The Honorable Robert W. Cobb

Re: IC # 500

Dear Mr. Cobb:

As you are aware, pursuant to Executive Order 12993, the Integrity Committee (IC) conducted an investigation of several allegations it received concerning potential wrongdoing. The IC has thoroughly reviewed the report of investigation. This letter is to inform you that by letter dated 1/22/2007, the IC has referred the investigation to Mr. Clay Johnson, Chairman of the President's Council for Integrity and Efficiency (PCIE). Final disposition of this matter will occur upon notice by the PCIE Chair as to what action, if any, is taken.

Sincerely,

James H. Burrus, Jr.
Chair, Integrity Committee

1 - Honorable Clay Johnson, III
Chairman
President's & Executive Councils on Integrity and Efficiency
c/o United States Office of Management and Budget
17 Street & Pennsylvania Avenue, N.W. Room 113
Washington, D.C. 20503

Exhibit R

Integrity Committee



President's Council on Integrity and Efficiency
Executive Council on Integrity and Efficiency

935 Pennsylvania Ave., NW, Room 3973
Washington, D.C. 20535-0001

April 26, 2007

The Honorable Robert W. Cobb

Re: IC # 500

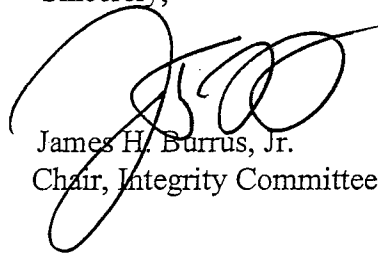
Dear Mr. Cobb:

The purpose of this letter is to inform you of final action in the Integrity Committee's (IC) review of allegations that concern your service as Inspector General of the National Aeronautics and Space Administration.

The IC carefully considered the Report of Investigation (ROI) prepared by the Department of Housing and Urban Development and the supplemental materials you provided. Based on its review of the report and the supplemental materials, and giving due consideration to the standards prescribed in Executive Order 12993 for review of allegations, the IC provided its conclusions to Clay Johnson, Chairman of the President's Council on Integrity and Efficiency (PCIE). Subsequently, Mr. Johnson provided the ROI and IC conclusions to NASA Administrator Michael Griffin for his consideration.

On April 18, 2007, the IC received a response letter from Mr. Johnson indicating that he had accepted the recommendations from NASA Administrator Griffin as the appropriate and final disposition of the matter. Accordingly, the IC review is complete and the case is considered closed.

Sincerely,



James H. Burrus, Jr.
Chair, Integrity Committee

1 - Honorable Clay Johnson, III
Chairman

President's & Executive Councils on Integrity and Efficiency
c/o United States Office of Management and Budget
17 Street & Pennsylvania Avenue, N.W. Room 113
Washington, D.C. 20503

Exhibit S



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEPUTY DIRECTOR
FOR MANAGEMENT

February 15, 2007

The Honorable Michael Griffin
Administrator
Two Independence Square, 300 E Street, SW
Room 9F44
Washington, DC 20546

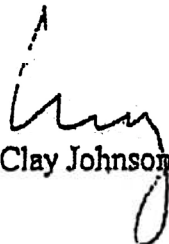
Dear Dr. Griffin:

I am forwarding to you a copy of the Report of Investigation (IC Case Number 500) regarding allegations of misconduct on the part of NASA Inspector General Robert Cobb (IG) with a summary from James Burrus, Chairman of the President's Council on Integrity and Efficiency (PCIE) Integrity Committee. For your information, Mr. Burrus, is providing IG Cobb a redacted copy of this same report in response to his request for a copy.

You should consider the appropriate action to take in response to the report's conclusions, summarized on page 8 of the report. As set forth in Executive Order 12993, Section 4, Part D, and clarified in the IC's Policies and Procedures' (attached), you have thirty days to certify to me that you have reviewed the report and let me know what actions, if any, you plan to take. You also have the right to request a thirty day extension if extra time is deemed necessary.

Finally, when the investigation process is complete, after the Integrity Committee advises the subject of the investigation that the matter has been closed, determine how most appropriately to brief interested members of Congress on this report. Please use James Burrus to forward a copy of the report to the desired members of Congress, as he knows what information in the report must be redacted to comply with confidentiality or privacy requirements.

Sincerely,



Clay Johnson

CC: James Burrus, Chairman, Integrity Committee, President's Council on Integrity and Efficiency

Exhibit T

National Aeronautics and
Space Administration
Office of the Administrator
Washington, DC 20546-0001



March 14, 2007

The Honorable Clay Johnson III
Chairman
President's and Executive Councils on Integrity and Efficiency
c/o United States Office of Management and Budget
17th Street and Pennsylvania Avenue, N.W., Room 113
Washington, D. C. 20503

Dear Mr. Johnson,

I am writing in response to your letter of February 15, 2007, forwarding both a copy of the Report of Investigation (ROI), IC Case Number 500, regarding allegations of misconduct on the part of NASA Inspector General Robert Cobb, and the investigative summary by Mr. James Burrus, Chairman of the President's Council on Integrity and Efficiency (PCIE) Integrity Committee (IC). Pursuant to the requirements of Executive Order 12993, I certify that I have reviewed the report.

In light of my review of the record and your instructions in the transmittal letter, I propose the following actions:

- I will meet with Mr. Cobb and review the ROI and the IC's conclusions.
- I will provide a letter of instruction (draft enclosed) to Mr. Cobb setting out the following actions:
 - I will require, with your concurrence as Chairperson of the PCIE/ECIE, Mr. Cobb's attendance, at the earliest possible time, at an appropriate resident course at the Federal Executive Institute (FEI) where he will be assisted in developing an individual leadership and management training plan. Additionally, I will, with your concurrence, arrange for the services of an Executive Coach to assist Mr. Cobb over the next year to further enhance his leadership and management skills.
 - I will require, again with your concurrence, that Mr. Cobb attend at least one management/leadership resident course at FEI, or an equivalent facility, each year that he remains under my general supervision.
 - I will direct that he meet with the Deputy Administrator on a bi-monthly basis to discuss his implementation of his individual leadership/management plan and his professional growth with the Executive Coach.

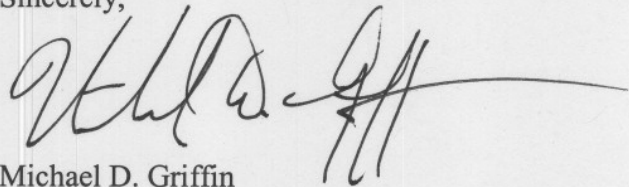
The Honorable Clay Johnson III
March 14, 2007
Page Two

- Upon the completion of the actions described above, I will schedule a meeting with the employees of the NASA Office of Inspector General to inform them that I have reviewed the ROI and I have taken the actions that I believe are necessary to address the ROI's findings. Such a meeting will provide me an opportunity to listen to any concerns that may exist among the staff and to express my support for a strong and effective Office of Inspector General.

I believe that the above actions will address any concerns I have after having reviewed the ROI.

This has been a trying year for Mr. Cobb and I have been impressed with his continued focus on his professional obligations to the Congress and to this Agency. I also would note that the ROI does not contain evidence of a lack of integrity on the part of Mr. Cobb, nor is there support in the ROI for any actual conflict of interest or actual lack of independence on his part.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Griffin", with a long horizontal flourish extending to the right.

Michael D. Griffin
Administrator

Exhibit U

National Aeronautics and
Space Administration
Office of the Administrator
Washington, DC 20546-0001



March 30, 2007

TO: Robert W. Cobb, Inspector General

FROM: Administrator

SUBJECT: Letter of Instruction for Robert W. Cobb, Inspector General

This letter is provided to you to address the matters raised in the Integrity Committee's (IC) Report of Investigation, IC Case Number 500, which was transmitted to me for action.

As you are aware, the subject report consisted of a summary of the allegations against you as well as the verbatim transcript of your interviews conducted by the Department of Housing and Urban Development (HUD) Office of Inspector General (OIG) investigators under the direction of the Chairman of the IC. Pursuant to the requirements of Executive Order 12993, I have reviewed that report.

The conclusion of the IC was that you had, with respect to some employees, created an "abusive work environment," and that in so doing you had engaged in an "abuse of authority." Additionally, the IC concluded that, with respect to the allegations involving a "failure to report" the compromise of NASA ITAR files, and your refusal to issue a joint "Crime Stoppers Report" with the Texas Rangers in a matter involving the possible theft of a ring, you had created an "appearance" of a lack of independence outside the quality standards expected of an IG. I have carefully considered the conclusions of the IC in my review of the ROI.

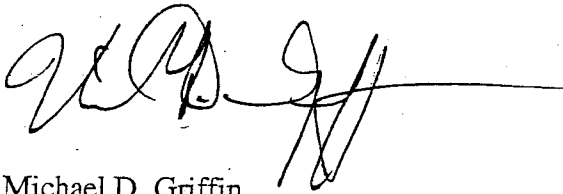
The Inspector General Act of 1978, as amended, provides that "[E]ach Inspector General shall report to and be under the general supervision of the head of the establishment involved" In light of my review of the record, and the instructions I received in the transmittal letter from the Chairman of the PCIE/ECIE, Mr. Clay Johnson, I am taking the following actions in my "general supervision" capacity:

- I have advised you that I believe you would benefit both from courses in leadership and management as well as from the services of an Executive Coach. To that end, and with the concurrence of the Chairperson of the PCIE/ECIE, I will arrange for your attendance, at the earliest possible time, at an appropriate resident course at the Federal Executive Institute (FEI) where you will be assisted in developing an individual leadership and management training plan. Additionally, I will, again with the concurrence of the Chairperson of the

PCIE/ECIE, arrange for the services of an Executive Coach to assist you over the next year to further enhance your leadership and management skills.

- I will require, again with the concurrence of the Chairperson of the PCIE/ECIE, that you attend at least one management/leadership resident course at FEI, or an equivalent facility, each year that you remain under my general supervision.
- I direct that you meet with the Deputy Administrator on a bi-monthly basis to discuss both your implementation of your individual leadership/management plan and your professional growth with the Executive Coach.
- You and I will meet with the OIG staff at the earliest available opportunity. I will make clear that I expect and support a strong OIG which continues to be dedicated to identifying fraud, waste, and abuse, and that I am committed to leading an Agency where full and frank discussions are not just tolerated but are expected, condoned, and encouraged in a climate without fear of retribution, and one in which the full panoply of protections exists for "whistleblowers."

I trust that you will both understand and appreciate the actions that are being taken, and that you will benefit professionally from these actions.

A handwritten signature in black ink, appearing to read "Michael D. Griffin", with a long horizontal line extending to the right.

Michael D. Griffin

Exhibit V

National Aeronautics and
Space Administration
Office of the Administrator
Washington, DC 20546-0001



March 29, 2007

The Honorable Clay Johnson III
Chairman, President's & Executive Councils on Integrity and Efficiency
c/o United States Office of Management and Budget (OMB)
17th Street & Pennsylvania Avenue, N.W., Room 260
Washington, D. C. 20503

Dear Mr. Johnson,

I am writing in response to your sharing with me the March 20, 2007, letter from the Integrity Committee (IC) wherein the IC expressed concerns about the proposed course of action in the case of Robert Cobb, the Inspector General (IG) at NASA.

In your transmittal letter of February 15, 2007, forwarding the Report of Investigation (ROI) (IC Case Number 500) regarding IG Cobb, you directed me to review the ROI and to "consider the appropriate action to take in response to the report's conclusions summarized on page 8 of the report." Both the initial paragraph of the IC's January 22, 2007, letter forwarding the ROI to you, and the "Conclusion" paragraph on page 8, indicate that the IC was of the opinion that IG Cobb engaged in an "abuse of authority" as Inspector General by "creating an abusive work environment," and that his actions in two alleged instances created an appearance of a lack of independence outside the quality standards expected of an IG."

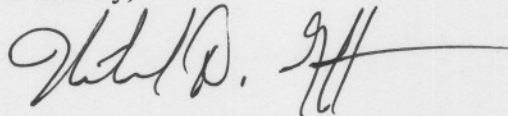
Permit me to share with you that I fully appreciate and understand the concerns of the IC, and I recognize that the strict, timely, and comprehensive implementation of the identified course of action is absolutely mandated. Both of the issues called out by the IC in their January 22nd letter to you, the "abusive work environment" and the "appearance of a lack of independence," needed to be, and were, thoughtfully considered in formulating my action plan. I will ensure that the proposed course of action, which I transmitted to you by letter dated March 14, 2007, addresses those IC conclusions as well as the other matters contained in the ROI. My initial meeting with Mr. Cobb to discuss my review of the record, which will take place at the earliest opportunity, as well as my subsequent meeting with the Office of Inspector General (OIG) staff which will occur at the earliest feasible time, will emphasize what I expect in terms of a working environment and the commitment to excellence of the OIG.

With respect to the "appearance of a lack of impartiality" concern, IG Cobb and I have a professional, arm's-length relationship and I do not believe that additional corrective measures are necessary in that regard. In the two years that I have observed IG Cobb, I

The Honorable Clay Johnson III
March 29, 2007
Page Two

have seen a high quality work product from the OIG reflective of a staff and its leadership dedicated to carrying out the mission entrusted by law to the IG. IG Cobb is technically sound, highly conscientious, fully engaged in his work, and he brings rigorous analysis to the OIG work product. In my meetings with IG Cobb and the OIG staff, I will make clear that I expect and support a strong OIG which continues to be dedicated to identifying fraud, waste, and abuse, and that I am committed to leading an Agency where full and frank discussions are not just tolerated but are expected, condoned, and encouraged in a climate without fear of retribution, and one in which the full panoply of protections exists for "whistleblowers."

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Griffin", with a long horizontal flourish extending to the right.

Michael D. Griffin
Administrator

Exhibit W



PRESIDENT'S COUNCIL on INTEGRITY & EFFICIENCY

October 29, 2004

Honorable Clay Johnson, III
Chairman, President's & Executive Councils on Integrity and Efficiency
c/o United States Office of Management and Budget (OMB)
Eisenhower Office Building
17th Street & Pennsylvania Avenue, NW, Room 113
Washington, D.C. 20503

IC # 429

Dear Mr. Johnson:

The purpose of this letter is to notify you of the closure of the captioned Integrity Committee (IC) file. The IC opened this file on March 11, 2004, upon receiving a complaint against Inspector General (IG) Robert W. Cobb, National Aeronautics and Space Administration (NASA). The complainant, _____, alleged among other things,

As part of its review, the IC obtained a response to this complaint from IG Cobb. Upon review of the complaint and IG Cobb's response, the IC determined that IG Cobb's response substantially demonstrated that IG Cobb had not engaged in any wrongdoing.

The IC will take no further action concerning this matter and has placed this file in a closed status. Questions may be directed to Supervisory Special Agent _____ Program Manager for the IC, at _____

Sincerely,

Chris Swecker
Chair, Integrity Committee

Honorable Clay Johnson, III

I Honorable Robert W. Cobb
Inspector General
National Aeronautics and Space Administration
300 E Street, S.W., Code W, Room 8V69
Washington, D.C. 20546

National Aeronautics and
Space Administration

Office of Inspector General
Washington, DC 20546-0001



JUL 20 2004

Mr. Chris Swecker
Chair, Integrity Committee
President's Council on Integrity and Efficiency
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Room 3117
Washington, DC 20535-0001

SUBJECT: Integrity Committee (IC) #429

Dear Mr. Swecker:

The following information is submitted in response to Mr. Joseph R. Lewis's letter of May 6, 2004, which contained three allegations concerning failure to properly report fraud, waste and abuse within NASA. The first issue concerned an alleged

The second allegation is that the NASA IG failed to report an alleged illegal disclosure of export-controlled technology valued at \$1.9 billion. The third allegation is that

The second allegation is that the NASA OIG failed to report a \$1.9 billion loss of Space Shuttle intellectual property. The complainant specifically alleges that this loss should have been reported outside the Agency. This matter is still the subject of an ongoing law enforcement investigation concerning the compromise of International Trafficking in Arms Regulations (ITAR)-controlled information.

A report was provided to NASA management at the Marshall Space Flight Center in Huntsville, AL, on April 3, 2003, with courtesy copies to appropriate Headquarters personnel. Our report reflects on the bottom of page 2 that NASA had awarded contracts over the years to develop the compromised data, which contracts were valued at \$1.9 billion. This data consists of, for example, plans for space flight hardware and related systems. Enclosed please find our report on Unauthorized Computer Access (Enclosure 1). (The report contains sensitive information reflecting on vulnerabilities in NASA's information technology security framework and should be protected accordingly.) Also enclosed is a memorandum from the file documenting that NASA's Security office would refer this matter to the State Department if required (Enclosure 2). In addition, I alluded in Congressional testimony on this matter on June 23, 2003, before the House Subcommittee on Technology, Information Policy, Intergovernmental Affairs, and the Census. A copy of my testimony is enclosed. This specific case provides the under-pinning for my statement on page 6, under the heading, "*Unauthorized Access to Sensitive Information*" (Enclosure 3).

If you need additional information, you may call me at (202) 358-1220.

Sincerely,



Robert W. Cobb
Inspector General

4 Enclosures

1. Report of Investigation – Memo dated April 3, 2003, Subject: Unauthorized Computer Access, Marshall Space Flight Center, C-MA-02-0526-0, with enclosure dated March 26, 2003
2. Report of Investigation – Memo dated December 10, 2002, SUBJECT UNKNOWN – RaFa, Computer Crime, Marshall Space Flight Center, AL, Supplemental Information
3. Statement of The Honorable Robert W. Cobb, Inspector General, NASA, before the Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census, Subject: Cyber Security: The Status of Information Security and the Effects of the Federal Information Security Management Act (FISMA) at NASA, dated June 24, 2003



PRESIDENT'S COUNCIL on INTEGRITY & EFFICIENCY

May 6, 2004

PERSONAL AND CONFIDENTIAL

Honorable Robert W. Cobb
Inspector General
National Aeronautics and Space Administration
300 E Street, SW, Code W, Room 8V69
Washington, D.C. 20546

IC # 429

Dear Mr. Cobb:

As you know, pursuant to Executive Order (EO) 12993, the Integrity Committee (IC) is charged with receiving, reviewing, and investigating, where appropriate, allegations of administrative misconduct against Inspectors General (IGs) and, in certain cases, members of an IG's staff.

On March 11, 2004, the IC received a complaint alleging wrongdoing by you and your office. A copy of the complaint is enclosed. The complainant, a former employee in your office, alleges that you and your office have failed to properly report and prosecute fraud, waste, and abuse within the National Aeronautics and Space Administration (NASA). Specifically, the complaint alleges that:

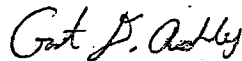
-
- You failed to report a loss of \$1.9 billion in Space Shuttle intellectual property.
-

Honorable Robert W. Cobb

For the IC to appropriately consider this matter, you are requested to provide a response to the complaint. Your response should be as detailed and thorough as possible and include supporting documentation, where appropriate. Please send your response to the IC at 935 Pennsylvania Ave., NW, Room 3117, Washington, D.C. 20535-0001. Your response is requested within 30 days of the date of this letter.

The IC appreciates your assistance. Questions may be directed to Supervisory
Special Agent _____, Program Manager for the IC, at _____

Sincerely,



Grant D. Ashley
Chair, Integrity Committee

Enclosure

Exhibit X

Examples of Management & Organizational Changes and Initiatives at the NASA OIG 2002-2007

1. Created position for and hired Deputy Inspector General. This filled a need for additional quality control and oversight of IG operations. Tom Howard, a veteran of 24 years at the Government Accountability Office and four years at the Department of Transportation OIG was selected, particularly on the basis of his extensive record of accomplishment in the audit field and experience in the oversight community.
2. Established Computer Crimes Division as a direct report to the Assistant for Investigations rather than to the Inspector General; merged segregated forensic and operational function in CCD under one GS-15; ceased operational counterintelligence activities acknowledging NASA Office of Security's jurisdiction. These actions accomplished several purposes: first, it brought the Office of Investigations structure into line with the statutory framework contemplated by the IG Act, with a single Assistant Inspector General for Investigations. This new structure was more aligned with the deputization memorandum with the Department of Justice, pursuant to which, at the time, the Office of Inspector General derived certain law enforcement powers, and which contemplated a single point of responsibility for law enforcement activities within an OIG reporting to an IG. The merging of forensic and operational functions under a single authority assured that responsibility in the computer crimes area was in the hands of computer crimes experts rather than a structure that required resolution between forensic and operational computer crime responsibilities to be decided at a higher level. As to the counterintelligence operations, the OIG did not have authority to be conducting these Agency operations.
3. Established an understanding with the Agency on relative jurisdictions of NASA Office of Security and NASA OIG as regards criminal matters. There was substantial and potentially dangerous conflict between the NASA OIG and the NASA Office of Security when I became IG. Part of this conflict resulted from a lack of clarity on relative jurisdictional limits of each office. As a result of this activity, the NASA General Counsel provided some clarity as regards the limits on the criminal investigation authority of the Office of Security, defusing some of the conflict.
4. Established Annual Inspector General Awards to recognize exceptional achievement, superior sustained performance, outstanding execution of supervisory roles, and other outstanding achievement.
5. Merged audit and inspection offices, combining duplicative functions, and centralizing audit leadership at headquarters. This was a sensitive and major reorganization, which involved a number of communications between me and OIG staff. Attached to this exhibit is a memorandum from January 17, 2003, which provides background and rationale for the merger.

6. Hired technical talent to balance the OIG skill mix, to include aerospace engineers and technologists, software engineers, and safety and aviation experts (in addition to IT and procurement specialists already on staff). The NASA OIG simply did not have the technical capability to independently assess the technical issues it constantly faces in the context of doing work at a technical agency. Without this talent, the OIG was relying entirely on what it was being told by persons who were not independent.
7. Created points of contact in Office of Investigations and in Office of Audits to assure coordination between two offices on safety issues (including appropriate notices to the Agency of allegations of unsafe conditions) and on other matters such as procurement, and systemic information technology issues. This mechanism was created to assure that investigative matters might benefit from insight of audit staff that may have expertise relevant to a particular inquiry, and that audit staff might be able to develop indicia of systemic problems identified in case specific investigations. In the absence of a well-coordinated approach, the OIG had missed opportunities to timely address issues.
8. Created Office of Management and Planning, bringing together IT support services, Human Resources, Budget and Finance and other management operations and responsibilities under direction of a member of the Senior Executive Service. Upon arrival as IG, I found that allocations of resources and personnel among divisions seemed *ad hoc*. IT services was run primarily out of the forensic side of the Computer Crimes Division, where substantial expertise resided, but the demands for these services competed with the CCD mission. Human Resources had been run as a one-person operation, where the demands of that activity required more attention. I also wanted to bring more coordinated and focused attention to the issue of management and leadership training, strategic planning, and semi-annual report preparation. Rather than having such matters as facilities needs at the field centers being handled by local audit and investigative staff case-by-case, focused administrative management was needed. These challenges and others were met through the establishment of the OMP, substantially improving the delivery of administrative support throughout the OIG. Some other benefits have accrued: IT services has been established as a leader among OIGs, instituting several successful programs to facilitate audit and investigative activities across NASA centers, and subsequently hosting IT activities of other OIGs and exporting best practices. The OMP has also been able to support major initiatives in the OIG community, especially as regards my involvement with the PCIE's Human Resources Committee.
9. Bolstered management of investigations at field offices by ensuring that all primary field offices have a resident agent in charge; bolstered headquarters management team in OI to assure overall quality and management, and established Deputy position for OI, and additional headquarters staff. My sense was that management of investigations was organizationally weak, with support

to investigators from management lacking, and with systems for quality control and keeping senior management informed of important OI activities insufficient. The changes have provided necessary assurance that OI activities are conducted in accordance with legal and quality requirements. Moreover, the development of a more robust cadre of resident agents has resulted in desired succession planning and development of internal candidates for OI leadership positions.

10. Established strategic plan and data point measurements for analysis by management and transparency to stakeholders. These established top level strategic goals and objectives, and then established data points for measurement and trend analysis over time. Measurements that existed prior to my becoming Inspector General focused on purely objective criteria, such as numbers of indictments for investigations and numbers of recommendations for audits. Rather than focus purely on statistics as the objective, the strategy is to monitor these and other data for management purposes, but make sure that the OIG resources are focused on issues most critical to NASA's mission success. Publication of the information is important to emphasize the OIG's own accountability for use of taxpayer resources.
11. Directed the identification of Core Competencies, the development of Leadership Training Modules, focus on Individual Development Plans by establishing Annual Assessments focused on training and development of staff. Within OMP, significant attention has been brought to bear on how through training and development, this office can both promote its own interests including succession planning, by developing its employees to have the necessary skills and abilities for the future, including management and leadership skills, but also accommodate the career development interests of individual employees, consistent with the mission of the NASA OIG. This has led to the development of a series of products, which have been shared with others in the OIG community as best practices.
12. Directed the development of a whistleblower training module, developed white paper on whistleblower issues, established notice procedures for notifying whistleblowers of rights. Particularly in the wake of the Space Shuttle Columbia accident, there appeared to be confusion not only among NASA employees on whistleblower rights or how whistleblower complaints are handled, but inconsistency in how the NASA OIG was approaching complaints. In order to assure ourselves that we were properly approaching whistleblower issues, and to more publicly reflect on whistleblower rights, I directed several activities to occur, including training of all OIG investigators on whistleblower laws and procedures, development of a notice to all potential whistleblowers that approached our offices, and the development of a white paper on handling disputes with superiors.

13. Established initiative to add definition to recurring issues relating to identification of NASA artifacts as Government property or personal property. For years, the NASA OIG has been embroiled in cases involving NASA artifacts, including moon rocks, moon dust, astronaut uniforms, items taken into space, hardware that has been to space and many other assorted matters. Many legal questions arise, such as whether property has been abandoned or excessed by NASA, whether property is personal or Government, and other issues relating to provenance of property. Other issues, such as proper archiving and controls on NASA property having historical interest have arisen. This initiative that I directed has focused on bringing together the NASA OIG experiential base with that of the NASA legal community and other stakeholders to consider whether some best practices can be established to systematically address the issues these cases raise – in advance of a problem arising. When the problems do arise, there are better analytical tools in place for how to address them, with a substantial knowledge base underpinning decision-making.
14. Established a process for ensuring the expedient, systematic and appropriate handling of all allegations received by NASA OIG by requiring a weekly and integrated senior review with investigations, audit, and legal representatives. This review committee was initiated as a result of many factors, especially an occasional lack of coordination between audit and investigative activities on related matters, a need to keep NASA OIG senior management informed as to ongoing OIG activities at NASA field centers, assurance of consistency of approach on similar cases, ensuring appropriate legal review of matters, and best allocation of OIG resources. This process provides necessary assurance that the NASA OIG addresses the issues it should address and not others, and that important matters receive the dedication of resources warranted under the circumstances.
15. Participated in the conceptualization and realization of Agency-wide Acquisition Integrity Program. The AIP was a result of a joint effort by the NASA OIG and NASA to develop a systemic approach to addressing acquisition integrity problems. Over several years, the OIG had identified internal control weaknesses in contract management and observed resistance in the Agency to the notion that contractors occasionally engage in fraudulent activity. The Agency did not have a remedy coordination official as required and its suspension and debarment activities were not robust. The AIP created a systematic approach for addressing issues requiring coordination between the OIG and NASA, and for organizing and training all agency employees to better prevent and deter fraud as well as identify and report it to the OIG. The Deputy Administrator, as the Chief Acquisition Officer and the Suspension and Debarment Official, has committed to the AIP and indicated that integrity in the acquisition process receives the highest attention and priority.

National Aeronautics and
Space Administration
Headquarters
Washington, DC 20546-0001



Reply to Attn of:

W

JAN 17 2003

TO: W/Assistant Inspector General for Audits
Assistant Inspector General for Inspections and Assessments

FROM W/Inspector General

SUBJECT: Reorganizing to Improve OIG Effectiveness

When Tom Howard joined the OIG as the Deputy Inspector General, I tasked him with developing a plan to ensure that the office's audit, inspections, and investigative resources are focused on maximizing the positive impact the OIG can have on NASA programs. Tom has completed this tasking and identified seven key issues that will be important to the Administration and the Congress over the next several years (Enclosure). The OIG must be organized in a way to focus on these issues, maximize the overall effectiveness of our talented workforce, produce meaningful products in a timely and effective manner, and follow through to see that the Agency takes responsive action.

In my view, the current organization of the audit and inspections divisions does not enable the OIG to maximize the value that it can bring to NASA. Merging the audit and inspections resources into a single Office of Audits may enable the OIG to address the issues identified by Tom and to fulfill its mission more efficiently and effectively. The goal of the inspections and audit functions is the same: to provide independent views to promote economical and efficient programs at NASA that are operated in the best interest of the taxpayer. My view is that an integrated office will be better able to conduct management and performance reviews and financial audits of Agency programs and timely report findings and recommendations to the Administrator and the Congress.

I am tasking the two of you to work together over the next 30 days to provide me with a plan for establishing such a combined organization, taking into account existing resources.

Weaknesses In the Current Structure

The current structure of the OIG has two primary weaknesses. First, there is substantial duplication between the audit and inspections divisions, particularly in the areas of information technology, procurement, and safety. Aside from inefficiency inherent in duplication, the duplication complicates the assignment, conduct, and subsequent integration of work and products. I have been working for months with OIG leadership to figure a way to organize the offices to excise this duplication. No easy or simple path has been identified to address the problem. Second, neither the audit division nor the inspections division is

currently well equipped organizationally to meet current challenges. The audit group suffers from not having key management employees at Headquarters. This is problematic when NASA Agencywide management and decisionmaking are located at Headquarters. The decentralization of the office has also resulted in a lack of face-to-face accountability of senior audit managers, which has impacted the audit division's work product and timeliness. The inspections group suffers from being understaffed to carry out its tactical response role, which has impacted its timeliness and ability to take on important work.

These organizational weaknesses have demonstratively interfered with the OIG's ability to carry out its mission in the most effective manner. Moreover, the two groups require two management structures, two systems for processing work, and two systems for managing staff assignments, training, et cetera. Lastly, Agency officials are confused by the OIG's having two systems that apparently do the same thing, but in very different ways.

Why the Realignment Is The Right Course of Action

I came into the position of IG with the intent of focusing on particular areas, including financial management, information technology, safety and procurement. As time went by, I became increasingly frustrated with the lack of synthesis between the audit and inspections groups. Where there was synthesis, it was a result of tremendous efforts. As a result of my concerns about organization, I began investigating different organizational constructs that might result in the integration of certain functions including procurement, safety, and IT within the existing audit and inspections groups. I also thought that such a realignment would better balance the span of control for the senior executives in the audit and inspections groups.

During September, October, and November of 2002, Tom Howard and I tasked Alan Lamoreaux and David Cushing to review their staffing and recommend new structures that might address the perceived weaknesses of the office. Alan, in particular, was familiarized with my perception of the audit shop's weakness in Headquarters staffing. While Alan considered additional deputies in Washington, including the hiring of a SES level assistant (I had encouraged all possibilities), he did not propose changes that would (in the near term) bring leadership of directorates to Headquarters. I believe his reluctance to propose moving current audit leadership to Washington was, understandably, due to the hardships such moves would cause his staff. I spoke to three or four of the senior auditors, and all were unenthusiastic about the prospect of a move to Washington, a couple vigorously so. Ultimately, my view of the proposal to add one or two deputies in Washington was that it would have added layers of review rather than bring centralization to the audit function.

In discussing possible organizational alternatives with Tom, Dave, Alan, and Frank, one significant limitation seemed inherent in assigning IT and procurement auditors to the inspections group. As the IG Act provides for an AIGA who is responsible for the supervision of audit functions, it seemed that assigning a portion of the audit shop to a person outside of the audit shop might be at odds with the Act.

With this background, Tom and I went to speak to some of the leading members of the IG community. The first IG we spoke with maintains separate audit and inspections groups, but

indicated that there are many different ways of approaching the issues—and that an IG has the latitude to set things up in a way that best meets the size and mission of the organization. He also noted that his AIGAs over the years have included managers who were not qualified as auditors. I reflected on this advice for a couple of weeks, and began considering a complete merger of the audit and inspections shops. In this regard, I concluded that there would be three realistic options for filling the executive leadership position of an integrated shop: the current AIGA, the AIGIA, or a new person hired to undertake the role of AIGA.

Tom and I subsequently met with three other IGs, each of whom discussed their respective experiences with audit and inspections. All emphasized the latitude an IG has in organizing an IG shop to accomplish its mission. One had set up an inspections shop (to meet a peculiar statutory requirement of that IG's shop), one had merged his inspections shop with the audit shop, and one had set up an inspections shop and subsequently merged it back into the audit shop. While some recognized that stress would be caused to the office by such reorganization, each of the persons I met with thought that reorganization would be appropriate, and most thought that it would be an excellent way to focus the organization on achieving its current objectives. I also discussed this realignment idea with GAO, various persons at OMB, our congressional oversight committee staff, and several other persons in or interested in the IG community.

Guiding Principles For The Realignment

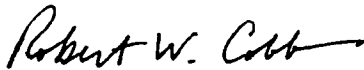
In carrying out your task to formulate a plan for a merger of the audit and inspections groups, please consider these guiding principles:

- The organization as realigned is consistent with the letter and intent of the IG Act and other legal requirements.
- The realigned Office of Audits will be divided into functional groups including safety, procurement, IT, infrastructure, financial management, and strategic enterprises.
- A GS-15 Director at Headquarters will head each functional group. (If a very sound functional basis exists, a group head could be at other than Headquarters. This will not be the case where it is for the convenience of an employee.) Consideration should be given to competing these positions internally and externally. Focus only on the organizational structure for the GS-15 and below level.
- Transition to the new organization will occur immediately upon execution of the plan subject to filling the Director positions at Headquarters.
- Staffing of groups will be based on subject matter expertise (reflecting as best as possible current substantive orientations) and other skills necessary for each functional group to maximize its effectiveness.

- The realigned office will have the ability to perform fast-turnaround reviews and be able to issue a variety of products, such as management alerts and responses to queries from the Administrator or Congress.
- There will be a streamlined system for review of and processing of all products and an integrated tracking system that reflects the status of projects underway in the office.
- There will be an independent quality control function that assures that all work products meet established requirements, including the Yellow Book.
- Input from your staffs will be considered in developing your plan for the realigned Office of Audits.

I am tasking IG counsel to have an active role in advising you as to what the IG Act requires and what the required standards are for conducting performance audits.

While this realignment will pose a tremendous challenge to the OIG, I believe that merging the resources of the audit and inspections shops will strengthen the OIG's ability to timely and effectively communicate its views on important issues impacting NASA. I look forward to receiving your plan for implementing the realignment.



Robert W. Cobb

Enclosure

cc:
W/OIG Staff

Exhibit Y



United States Senate

WASHINGTON, DC 20510-0905

BILL NELSON
FLORIDA

May 12, 2005

Dr. Michael D. Griffin, NASA Administrator
National Aeronautics and Space Administration
Office of the Administrator
300 E Street, S.W. 20546

Dear Mr. Administrator:

As the new NASA Administrator, you are in a unique position to evaluate and correct any systemic, organizational problems that exist at the Agency. It is especially critical during this time in which we are preparing to return the space shuttles to flight and continuing on our nation's ambitious journey for exploring space that NASA be vigilant and responsive to the betterment of the Agency regarding safety issues. I know you share this view.

A recent article in the Hampton Roads Daily Press (attached), highlighted some issues regarding the organization and safety culture at NASA. Specifically, the article, entitled "Fear of Reprisals: NASA Langley Pilots Struggle with Safety Versus Silence," describes a troubling safety culture extending beyond the subject NASA Center to other parts of the Agency.

The article recounts the cases of an aviation manager and two NASA pilots who elevated safety issues to their higher management and were subsequently disciplined. The two pilots were removed from flying status, and the aviation manager was initially stripped of his NASA credentials and escorted from the NASA Center and placed on administrative leave. They allege these disciplinary actions were taken in retaliation for their raising legitimate safety concerns.

According to the article, the aviation manager and one of the pilots then requested an investigation by the NASA Office of the Inspector General (OIG). The resulting investigation, and its outcome, left them concerned that the NASA OIG downplayed the reprisals that occurred in their cases, and may have even been involved in a cover-up. My office has, on occasion, been made aware of similar allegations regarding the NASA OIG.

As the Columbia Accident Investigation Board made clear in its final report, it is imperative that NASA expand and sustain a work environment that encourages the free flow of information, especially regarding safety, while protecting those who raise the concerns. I am, of course unable to make an independent judgment

of the allegations arising from the cases at Langley. But they are disturbing, and I ask that you look into them and take any appropriate action, including considering any necessary changes in the operations of the NASA Office of the Inspector General.

I appreciate your interest in this issue, and I look forward to hearing from you.

Sincerely,

Bill Nelson

Exhibit Z

National Aeronautics and
Space Administration

Office of Inspector General
Washington, DC 20546-0001



MAY 13 2005

The Honorable Bill Nelson
United States Senate
Washington, DC 20510

Dear Senator Nelson:

As I discussed with you this afternoon, I received a copy of your May 12, 2005, letter to Dr. Michael Griffin, NASA Administrator. Your letter requests that Dr. Griffin look into allegations that the Office of Inspector General downplayed reprisals against pilots at the Langley Research Center and may have been involved in a cover-up. You indicate that your office is aware of similar allegations regarding the NASA OIG.

While I work hard to keep Congressional offices informed about activities of my office, including the Langley matter, I was unaware that your office was interested in this matter until I received the copy of your letter this afternoon. Enclosed are copies of my October 5, 2004, correspondence with Senators Hollings and Allen regarding the Langley matter. In addition, I was also in personal contact with minority staff members of the Senate Commerce, Science, and Transportation Committee on the issue.

I can attest to the tremendous efforts of my office in unraveling a complex set of facts to try to get to the truth of whether Langley reprised against a particular employee. As I indicated to you on the phone, there is a substantial body of work that supports the conclusions reached by my office. I would be happy to discuss the matter further with you or your staff.

Although you indicated that your letter constituted a routine request for information, I am referring your letter to the Integrity Committee of the President's Council on Integrity & Efficiency. The Integrity Committee, pursuant to Executive Order 12993, is the appropriate entity to conduct an inquiry into the activities of an Inspector General appointed by the President.

I greatly appreciate the time you spent with me on the phone today. Please call me on 202-358-2391, if you have questions.

Sincerely,

A handwritten signature in black ink that reads "Robert W. Cobb". The signature is written in a cursive, slightly slanted style.

Robert W. Cobb
Inspector General

Enclosures (2)

cc: Administrator/Mr. Griffin

National Aeronautics and
Space Administration

Office of Inspector General
Washington, DC 20546-0001

OCT - 5 2004



The Honorable Ernest F. Hollings
United States Senate
Washington DC 20510

Dear Senator Hollings:

This is in response to your interest in an investigation we conducted involving allegations of safety issues at the Langley Research Center (Langley) in Hampton, Virginia. My office has recently concluded an investigation that Langley had reprisal against an employee, placing him on administrative leave in May 2003 and subsequently re-assigning him to another position. The employee alleges that the actions were taken because he raised issues related to flight safety within the Langley Airborne Systems Competency to Langley management.

While the U.S. Office of Special Counsel handles and resolves cases involving allegations of government whistleblower reprisal, the Office of Inspector General (OIG) has a profound interest in ensuring that NASA is vigilant in establishing an environment that encourages the free flow of information, especially pertaining to safety, and in ensuring that those who diligently raise issues are protected from reprisal.

Whistleblower matters are extremely complex as evidenced by the wide body of whistleblower statutes, regulations and case interpretation. Although this Office cannot adjudicate and enforce whistleblower rights, it can and does look at whatever matters it deems most important to protect the taxpayer's investment. As such, the OIG's interest will extend to those matters that this Office believes will promote the economy and efficiency of the Agency.

The Office of Inspector General relies on various sources, including confidential and anonymous sources, while conducting investigations. These sources often disclose instances of fraud, waste, abuse, violations of law, safety issues, and ways of improving the Agency. Sometimes, subsequent to an investigation, our Office is unable to validate a source's statements. Matters we investigate often involve conflicts between personalities and professional disagreements. An employee may not think management is taking the proper course, while management may believe that an employee is either wrong or is not considering other relevant facts related to a particular decision.

As the OIG is extremely interested in safety issues and how the Agency treats those who raise them, our investigation placed particular emphasis on validating two general allegations. The allegations were that the organizational structure and staffing of the Langley pilots office and the level of decision-making authority in the aviation office

created an unsafe condition in the aviation office and also that the employee had been reprimed against for raising these issues.

In our review of this matter, we found the employee's justification for recommending changes to the organization and staffing of the aviation office in the months preceding his confrontation with Langley management in May 2003 never cited safety or unsafe practices as a basis. While these two issues were not cited as affecting flight safety, it was likely the presumption of personnel involved that the organizational structure and staffing of Langley flight operations could have consequences on flight operations including safety.

We found that the employee had an ongoing disagreement with his immediate supervisor over the organizational structure of flight operations at Langley. Specifically, the employee believed that he was responsible for all decisions regarding flight operations and that his decisions were not subject to review or approval by his immediate supervisor. The employee's chain of supervision at Langley did not accede to his views, leading to confrontation, which caused turmoil in the flight operations office. The turmoil in the pilots' office resulting from the employee's handling of the authority issue was so disruptive that an immediate safety stand-down of flight operations became appropriate (with both the employee and his supervisor in agreement on the stand-down).

We believe that NASA's actions regarding this employee were reasonable given the escalating rhetoric that his decisions were not subject to supervisory review. NASA's actions after the May 2003 stand-down of flight operations, including obtaining an independent analysis of the problems at Langley, reflected reasonable efforts to solve those problems. Part of the solution involved bringing in new management and reassigning some aviation office personnel, including the Aviation Manager and certain pilots.

The investigation into this matter involved a substantial and time-consuming effort to sort out a complex set of facts that reflected a breakdown in interpersonal relationships in Langley flight operations. The fact that this breakdown occurred in an aviation office where safety concerns must be omnipresent is worrisome. We are concerned that Langley management and Langley and NASA Headquarters safety management failed to recognize that there were management problems that needed addressing in the aviation office and allowed the situation in the office to deteriorate, eventually necessitating a stand-down of flight operations.

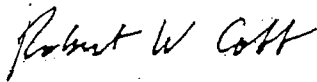
Our review of this matter resulted in our identifying several potential safety issues associated with flight operations at Langley including a failure of management over a period of years to address unsafe or inappropriate flying activities when they occurred. We also have questions regarding the effectiveness of NASA-wide safety oversight of flight operations including the effectiveness of the NASA Intercenter Aircraft Operations Panel (IAOP), a group chartered to monitor and review aviation activities including aviation safety.

The IAOP conducted a review of aircraft operations, including aviation safety, at Langley in early May 2003, about two weeks prior to the culmination of events that resulted in the May 27, 2003, stand-down of flight operations. During the review, several members of the IAOP became aware of problems within the pilots office, yet the panel's report concluded, "the Langley Aircraft Management Group continues to be well managed, safe, and efficient." Subsequent to the stand-down of flight operations, the IAOP, in June 2003, returned to Langley, and provided an addendum to their original report. In the addendum, the IAOP reported, "following the removal of the Aviation Manager and the Chief Pilot, the IAOP team had serious concerns about Langley's ability to conduct safe and effective flight operations."

We are concerned about the effectiveness of the IAOP based on its members' apparent unwillingness to provide an independent and objective assessment of Langley flight operations until after a stand-down was necessary. As such, we have discussed our concerns with NASA flight safety management and plan to conduct a future review to assess the safety posture of flight operations throughout the Agency.

I trust this will satisfy your concerns in this matter and I am available if you need additional information for your oversight of NASA.

Sincerely,



Robert W. Cobb
Inspector General

National Aeronautics and
Space Administration

OCT - 5 2004



Office of Inspector General
Washington, DC 20546-0001

The Honorable George Allen
United States Senate
Washington DC 20510-4604

Dear Senator Allen:

This is in response to your June 22, 2004, letter regarding NASA pilots and allegations of safety issues at the Langley Research Center (Langley) in Hampton, Virginia. My office has recently concluded an investigation that is related to issues raised in the "NASA Pilots" letter cited above. We investigated allegations that Langley had reprimed against an employee, placing him on administrative leave in May 2003 and subsequently re-assigning him to another position. The employee alleges that the actions were taken because he raised issues related to flight safety within the Langley Airborne Systems Competency to Langley management.

While the U.S. Office of Special Counsel handles and resolves cases involving allegations of government whistleblower reprisal, the Office of Inspector General (OIG) has a profound interest in ensuring that NASA is vigilant in establishing an environment that encourages the free flow of information, especially pertaining to safety, and in ensuring that those who diligently raise issues are protected from reprisal.

Whistleblower matters are extremely complex as evidenced by the wide body of whistleblower statutes, regulations and case interpretation. Although this Office cannot adjudicate and enforce whistleblower rights, it can and does look at whatever matters it deems most important to protect the taxpayer's investment. As such, the OIG's interest will extend to those matters that this Office believes will promote the economy and efficiency of the Agency.

The Office of Inspector General relies on various sources, including confidential and anonymous sources, while conducting investigations. These sources often disclose instances of fraud, waste, abuse, violations of law, safety issues, and ways of improving the Agency. Sometimes, subsequent to an investigation, our Office is unable to validate a source's statements. Matters we investigate often involve conflicts between personalities and professional disagreements. An employee may not think management is taking the proper course, while management may believe that an employee is either wrong or is not considering other relevant facts related to a particular decision.

As the OIG is extremely interested in safety issues and how the Agency treats those who raise them, our investigation placed particular emphasis on validating two general allegations. The allegations were that the organizational structure and staffing of the Langley pilots office and the level of decision-making authority in the aviation office

created an unsafe condition in the aviation office and also that the employee had been reprimed against for raising these issues.

In our review of this matter, we found the employee's justification for recommending changes to the organization and staffing of the aviation office in the months preceding his confrontation with Langley management in May 2003 never cited safety or unsafe practices as a basis. While these two issues were not cited as affecting flight safety, it was likely the presumption of personnel involved that the organizational structure and staffing of Langley flight operations could have consequences on flight operations including safety.

We found that the employee had an ongoing disagreement with his immediate supervisor over the organizational structure of flight operations at Langley. Specifically, the employee believed that he was responsible for all decisions regarding flight operations and that his decisions were not subject to review or approval by his immediate supervisor. The employee's chain of supervision at Langley did not accede to his views, leading to confrontation, which caused turmoil in the flight operations office. The turmoil in the pilots office resulting from the employee's handling of the authority issue was so disruptive that an immediate safety stand-down of flight operations became appropriate (with both the employee and his supervisor in agreement on the stand-down).

We believe that NASA's actions regarding this employee were reasonable given the escalating rhetoric that his decisions were not subject to supervisory review. NASA's actions after the May 2003 stand-down of flight operations, including obtaining an independent analysis of the problems at Langley, reflected reasonable efforts to solve those problems. Part of the solution involved bringing in new management and reassigning some aviation office personnel, including the Aviation Manager and certain pilots.

The investigation into this matter involved a substantial and time-consuming effort to sort out a complex set of facts that reflected a breakdown in interpersonal relationships in Langley flight operations. The fact that this breakdown occurred in an aviation office where safety concerns must be omnipresent is worrisome. We are concerned that Langley management and Langley and NASA Headquarters safety management failed to recognize that there were management problems that needed addressing in the aviation office and allowed the situation in the office to deteriorate, eventually necessitating a stand-down of flight operations.

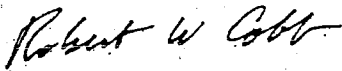
Our review of this matter resulted in our identifying several potential safety issues associated with flight operations at Langley including a failure of management over a period of years to address unsafe or inappropriate flying activities when they occurred. We also have questions regarding the effectiveness of NASA-wide safety oversight of flight operations including the effectiveness of the NASA Intercenter Aircraft Operations Panel (IAOP), a group chartered to monitor and review aviation activities including aviation safety.

The IAOP conducted a review of aircraft operations, including aviation safety, at Langley in early May 2003, about two weeks prior to the culmination of events that resulted in the May 27, 2003, stand-down of flight operations. During the review, several members of the IAOP became aware of problems within the pilots office, yet the panel's report concluded, "the Langley Aircraft Management Group continues to be well managed, safe, and efficient." Subsequent to the stand-down of flight operations, the IAOP, in June 2003, returned to Langley, and provided an addendum to their original report. In the addendum, the IAOP reported, "following the removal of the Aviation Manager and the Chief Pilot, the IAOP team had serious concerns about Langley's ability to conduct safe and effective flight operations."

We are concerned about the effectiveness of the IAOP based on its members' apparent unwillingness to provide an independent and objective assessment of Langley flight operations until after a stand-down was necessary. As such, we have discussed our concerns with NASA flight safety management and plan to conduct a future review to assess the safety posture of flight operations throughout the Agency.

I trust this will satisfy your concerns in this matter and I am available if you need additional information for your oversight of NASA.

Sincerely,



Robert W. Cobb
Inspector General

Exhibit AA

Integrity Committee



President's Council on Integrity and Efficiency
Executive Council on Integrity and Efficiency

935 Pennsylvania Ave., NW, Room 3975
Washington, D.C. 20535-0001

January 6, 2006

The Honorable Kenneth M. Donohue
Inspector General
Department of Housing and Urban Development
451 7th Street, SW, Room 8256
Washington, D.C. 20410

Dear Mr. Donohue:

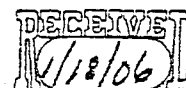
This is in follow-up to a telephone conversation between Deputy Inspector General [redacted] of your office and Supervisory Special Agent (SSA) [redacted] concerning the captioned Integrity Committee (IC) matter.

b6
b7C

As you know, pursuant to Executive Order (EO) 12993, the IC is charged with receiving, reviewing, and investigating, where appropriate, allegations of administrative (non-criminal) misconduct against Inspectors General (IGs) and, in certain cases, members of an IG's staff.

Over the past 14 months, the IC received a number of complaints against IG Robert W. Cobb of the National Aeronautics and Space Administration (NASA). Consistent with the longstanding IC practice, these complaints were initially referred to the Public Integrity Section (PIS) of the Criminal Division, Department of Justice (DOJ) for criminal review. After review, the PIS advised that a criminal investigation was not warranted at this time. Based upon this determination and the relevant provisions of EO 12993, this matter was subsequently presented to the IC for review.

At the December 15, 2005, IC meeting, this matter was discussed and opined that due to the number of credible allegations, with a pattern of possible misconduct and/or wrongdoings by the NASA IG, the IC determined that an administrative investigation of the allegations is appropriate.



274 118.06

The Honorable Kenneth M. Donohue

2

January 6, 2006

The IC does not maintain investigative personnel on staff to investigate the allegations it receives. However, EO 12993 provides that the IC may request the necessary resources for an IC investigation from other OIGs of the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency. Your office was selected to lead this investigation for the IC. Pursuant to EO 12993 and the Economy Act, your office will be reimbursed for the cost of this investigation by the OIG, DOD, the entity which employs the subject of the investigation. Should additional investigative resources be required, the IC is prepared to request the assistance of other OIGs or the FBI to provide additional personnel.

It is requested that the investigators contact SSA [redacted] [redacted] telephone number [redacted]. SSA [redacted] will provide your investigators all available information and input provided by the IC.

b6
b7c

It is requested that the investigators you appoint conduct a thorough investigation to determine whether the alleged misconduct did, in fact, occur and develop a comprehensive factual report concerning the allegations and any additional issues which may be uncovered during the investigation. That report will serve as the basis for further action to be taken by the IC. Your office should follow its own internal policies and procedures regarding the conduct of the investigation. Upon the conclusion of the investigation, your investigators may be requested to present their findings at a future meeting of the IC.

Your assistance in this matter is greatly appreciated.

Sincerely,



Chris Swecker
Chair, Integrity Committee

Thanks for taking this on Ken.
CS

1 - Honorable Clay Johnson, III
Chairman, President's & Executive Councils on Integrity and Efficiency
c/o United States Office of Management and Budget (OMB)
Eisenhower Executive Office Building
17th Street & Pennsylvania Avenue, NW, Room 113
Washington, D.C. 20503