

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE AND TECHNOLOGY

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April 25, 2007

Dr. Michael Griffin, Administrator
National Aeronautics and Space Administration
300 E St., N.W.
Washington, D.C. 20007

Dear Administrator Griffin:

I am in receipt of an April 23, 2007, letter from Brian E. Chase, the National Aeronautics and Space Administration (NASA) assistant administrator for legislative and intergovernmental affairs. Mr. Chase stated that all copies of the videotapes of your meeting with employees of the Office of the Inspector General (OIG) and requested by the Subcommittee on Investigations and Oversight on April 18, were destroyed, apparently at the direction of Paul Morrell, your chief of staff, and Michael Wholley, NASA's general counsel.

According to information received by Committee staff, you planned this meeting to inform the OIG staff of the actions you were taking to discipline Robert Cobb, NASA's inspector general, in response to a report from the President's Council on Integrity and Efficiency (PCIE) concerning allegations of misconduct by Mr. Cobb. That report determined that Mr. Cobb had abused his authority in his treatment of staff and demonstrated an appearance of a lack of independence from top officials at NASA in his work in violation of the *Quality Standards for Federal Offices of Inspector General* promulgated by the PCIE.

Additionally, you apparently used the meeting – at which Mr. Cobb was present and appeared beside you – to disagree with the PCIE report's findings and to state that, in your opinion, Mr. Cobb had not abused his authority and had done nothing wrong. This is particularly troubling because, under Executive Order 12993, only the PCIE is tasked to investigate allegations against inspectors general and their staff. In Mr. Cobb's case, the inspector general of the Housing and Urban Development spent six months to investigate over 70 allegations of misconduct by Mr. Cobb. There is no evidence that anyone in NASA conducted such an investigation beyond studying the facts presented in the heavily redacted version of the HUD Inspector General's report that was delivered to NASA – nor would it have been proper to do so – before drawing the opposite conclusion.

Your presentation to the staff of OIG was videocast to offices throughout the NASA complex including Marshall Space Flight Center, Johnson Space Center and Stennis Space Center. We have been informed that it is a standard practice when OIG staff are called to an "all-hands" presentation, as they were by a memorandum from Thomas J. Howard, the deputy inspector general, to tape the presentation so that staff not able to make the original meeting can later view the proceedings. Copies of that videocast were made by the video services at the Centers and perhaps at Headquarters as well. Subsequent to the meeting, it appears that directions went out from your Chief of Staff, apparently in consultation with your General Counsel, that all copies of the tape should be returned to NASA video services and/or headquarters for destruction. The letter from Mr. Chase claims that all copies were destroyed.

The only shred of a rationale offered for the recall and destruction of these tapes in Mr. Chase's letter was that the taping of your presentation was unintentional and "unauthorized." It is difficult for us to fathom why other all-hands videocasts are routinely taped, but somehow your presentation needed special authorization. Even if the taping had been unauthorized—whatever that means in this context—to then destroy the records of that session probably violates the government records statutes that attach to NASA and all government agencies. More importantly, your counsel and you yourself must be aware of the ongoing oversight work of the Congress in the matter of Mr. Cobb's case. That interest assuredly extends to your own role in this situation as well as that of your General Counsel. To destroy the records of what you said to the NASA OIG staff, which was one of the steps you publicly promised you would take in response to the PCIE investigation, appears on its face to be nothing less than the destruction of evidence.

Inspectors general are tasked by law to provide "independent and objective units" to conduct and supervise program audits and investigations of their agencies, provide leadership and recommend policies to prevent and detect fraud and abuse; and keep both the head of the agency and Congress informed about progress, problems and deficiencies in the agencies' programs. 5 U.S.C. Appendix 3. As the PCIE stated in its *Quality Standards*, "[I]ndependence is a critical element of objectivity. Without independence, both in fact and in appearance, objectivity is impaired." Section II.A. The allegations against Mr. Cobb came from his own staff. Your role in disciplining and defending Mr. Cobb has eroded any vestige of independence for Mr. Cobb or, indeed, his own staff. We have been told that your presentation to OIG staff was no simple pep talk. Allegations have come to us that you told OIG staff what you thought was worthwhile work and what was not. If true, such a directive from the head of an agency to its inspector general would be unprecedented and highly improper. What OIG employee would believe that his work would be independent in any meaningful fashion as long as Mr. Cobb, who now owes his continued employment at NASA to you, is the Inspector General and after you have clearly communicated what you expect the office to produce?

Dr. Griffin
Page 3
April 25, 2007

By this letter, I am requesting all records as defined in the attached Appendix relating to the following:

1. Your statement and/or "determination" that Mr. Cobb had not abused his authority or demonstrated the appearance of a lack of independence as stated in the January 22, 2007, report of the Integrity Committee of the PCIE.
2. Your meeting with the employees of the Office of Inspector General on April 10, 2007, including all notes or other records of that actual meeting kept by any NASA staff member.
3. The taping of, and destruction of, all video records of the April 10, 2007, meeting, including the "determination" that the video record of that meeting was "unauthorized."

We also ask that you instruct your staff to do a thorough search for any digital records that may remain of your presentation. An allegation that has come to us is that five compact disks containing the presentation were delivered for destruction to Mr. Wholley's office. This suggests that the presentation may have existed in a digital format and may survive on a server or other computer disk. These documents are to be delivered to the Subcommittee offices at Rayburn House Office Building, Room B-374, by 5 p.m. on Friday, May 4, 2007

Finally, I am asking that the following persons be made available promptly for staff interviews: Paul Morrell, Michael McDonald, Joe Fronek, and the person in the "VTS taping room" who actually recorded the meeting.

Please have your staff contact Dr. Dan Pearson, Investigations and Oversight Subcommittee staff director, at (202) 225-4494, or Edith Holleman Subcommittee counsel, at (202) 225-8459, to schedule the interviews and arrange for delivery of documents.

Your prompt attention to this matter is greatly appreciated.

Sincerely,



BRAD MILLER
Chairman
Subcommittee on Investigations and Oversight

cc: The Honorable F. James Sensenbrenner
Ranking Member
Subcommittee on Investigations and Oversight

ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.