**National Aeronautics and Space Administration**

**Office of Inspector General**

# Investigative Summary

# Regarding Allegations that NASA Suppressed Climate Change Science and Denied Media Access to Dr. James E. Hansen, a NASA Scientist

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signed

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**Executive Summary**. On September 29, 2006, 14 United States Senators cosigned a letter to the NASA Inspector General to request a formal investigation into allegations of "political interference" with the work of scientists at NASA. In particular, the letter conveyed the Senators' concern with apparent and "repeated instances of scientists . . . having publication of their research and access to the media blocked, solely based upon their views and conclusions regarding the reality and impacts of global warming." The letter also identified areas of specific concern coupled with a request for this Office "to conduct a full and thorough investigation into the suppression of science and censorship of scientists at [NASA]."

Accordingly, the NASA Office of Inspector General conducted an administrative investigation to examine reports of alleged "political interference," predominantly by senior NASA Headquarters Office of Public Affairs officials, with the work of NASA scientists pertaining to climate change—to include whether NASA inappropriately prevented one of its scientists, Dr. James E. Hansen, from speaking to the media in December 2005.

Our investigation found that during the fall of 2004 through early 2006, the NASA Headquarters Office of Public Affairs managed the topic of climate change in a manner that reduced, marginalized, or mischaracterized climate change science made available to the general public through those particular media over which the Office of Public Affairs had control (i.e., news releases and media access). We also concluded that the climate change editorial decisions were localized within the NASA Headquarters Office of Public Affairs; we found no credible evidence suggesting that senior NASA or Administration officials directed the NASA Headquarters Office of Public Affairs to minimize information relating to climate change. To the contrary, we found that once NASA leadership within the Office of the Administrator were made aware of the scope of the conflict between the Office of Public Affairs and scientists working on climate change, they aggressively implemented new policies with a view toward improved processes in editorial decision-making relating to scientific public affairs matters.

Further, it is our conclusion that the NASA Headquarters Office of Public Affairs' actions were inconsistent with the mandate and intent of NASA's controlling legislation—the National Aeronautics and Space Act of 1958[1] (Space Act) and NASA's implementing regulations—insomuch as they prevented "the widest practicable and appropriate dissemination" of information concerning NASA's activities and results. While we could not substantiate that Administration officials employed outside NASA approved or disapproved or edited specific news releases, we do, however, find by a preponderance of the evidence[2] that the claims of inappropriate political interference made by the climate change scientists and career Public Affairs Officers were more persuasive than the arguments of the senior Public Affairs officials that their actions were due to the volume and poor quality of the draft news releases. Although the scientific

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[1] The National Aeronautics and Space Act of 1958, Pub. L. No. 85-568, 72 Stat. 426 (codified as amended at 42 U.S.C. § 2451 et. seq. [2007]).

[2] Preponderance of the evidence is a standard of proof that simply requires that the matter asserted seems more likely true than not.

information alleged to be "suppressed" appeared to be otherwise available through a variety of Agency forums, we cannot reconcile that the Space Act would permit *any* purposeful obfuscation of scientific research by the Agency in *any* news dissemination forum as "appropriate" under the Act.

The supporting evidence detailed in this report reveals that climate change scientists and the majority of *career* Public Affairs Officers strongly believe that the alleged actions taken by senior NASA Headquarters Public Affairs officials intended to systemically portray NASA in a light most favorable to Administration policies at the expense of reporting unfiltered research results. Senior NASA Headquarters Office of Public Affairs officials (political appointees[3]) deny such actions, claiming that many of the proposed news releases were poorly written or too technical in nature for meaningful broad public dissemination.

With respect to NASA's climate change research activities, we found no evidence indicating that NASA blocked or interfered with the actual research activities of its climate change scientists. In contrast to our findings associated with the NASA Headquarters Office of Public Affairs, we found that NASA systematically distributed its technical climate change research throughout the scientific community and otherwise made it available through a variety of specialized forums, such as scientific journals, professional conferences, and public appearances by NASA scientists. Further, our recent audit of NASA's formal process for releasing scientific and technical data resulting from research conducted by its employees and contractors found no evidence that the process was used as a means to inappropriately suppress the release of scientific or technical data at the four NASA Field Centers reviewed.[4] Of the 287 authors surveyed at those Field Centers, none indicated that they had experienced or knew of someone who had experienced actual or perceived suppression of their research by NASA management.[5] In short, the defects we found are associated with the manner of operation of the NASA Headquarters Office of Public Affairs and are largely due to the actions of a few key senior employees of that office.

Regarding media access, our investigation confirmed that, contrary to its established procedures, the NASA Headquarters Office of Public Affairs declined to make one of NASA's scientists, Dr. James E. Hansen, available for a radio interview with National Public Radio in December 2005. Our investigative efforts revealed that NASA's decision was based, in part, on concern that Dr. Hansen would not limit his responses to scientific information but would instead entertain a discussion on policy issues. NASA maintains that the decision to deny media access to Dr. Hansen was unilaterally made by a junior Schedule C political appointee in the NASA Headquarters Office of Public

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[3] The term "political appointee" in this report refers to two categories of appointments—Schedule C and Non-Career Senior Executive Service.

[4] Goddard Space Flight Center, Johnson Space Center, Langley Research Center, and Marshall Space Flight Center.

[5] NASA Office of Inspector General, "Final Report on NASA's Actions Needed to Ensure Scientific and Technical Information Is Adequately Reviewed at Goddard Space Flight Center, Johnson Space Center, Langley Research Center, and Marshall Space Flight Center" (IG-08-017, May 21, 2008).

Affairs. The evidence, however, reflects that this appointee acted in accord with the overall management of climate change information at that time within the NASA Headquarters Office of Public Affairs.

Regardless of the aforementioned Space Act standards, we otherwise found that the Agency mismanaged this activity insomuch as it occurred over a sustained period of time until senior management was eventually alerted by congressional staff and the media. That senior management did not know before then was emblematic of ineffective internal management controls such as a dispute resolution mechanism between contributing scientists and public affairs officials. This is especially true in that relations between NASA's climate change science community and the NASA Headquarters Office of Public Affairs had somehow deteriorated into acrimony, non-transparency, and fear that science was being politicized—attributes that are wholly inconsistent with effective and efficient Government. The investigation also uncovered that one of the underlying contributing factors of these problems may have, in fact, been in the very structure of the NASA Headquarters Office of Public Affairs, where political appointees were placed in the seemingly contradictory position of ensuring the "widest practicable" dissemination of NASA research results that were arguably inconsistent with the Administration's policies, such as the "Vision for Space Exploration."

That said, the core issue of how our Government in general, and NASA in particular, continues to manage the important issue of climate change information is worthy of careful consideration by both the Executive and Legislative branches of Government—and is an issue that the NASA Office of Inspector General will continue to monitor from an Agency oversight perspective.

We provided a draft of this Investigative Summary to the NASA Administrator on March 6, 2008, for the purpose of soliciting the Agency's comments. The Agency's comments (Appendix D) were received on April 18, 2008. Our evaluation of those comments is also provided (Appendix E).

## I. Investigative Scope

This was an administrative investigation conducted by the NASA Office of Inspector General. As such, this was *not* a criminal inquiry—with its concomitant standards relating to whether facts satisfied the required "elements" of an alleged offense. Nevertheless, administrative investigations such as these are driven by standards as well, albeit sometimes broader than their criminal counterparts, depending on the subject matter. Our first challenge, therefore, was identifying the possible legal or regulatory standards reasonably raised by allegations of scientific censorship and denial of media access.

As discussed below, we identified NASA-related statutes and regulations that were germane to this issue as well as a body of work that discusses the subject of scientific suppression in general. The Space Act, NASA's seminal legislation was our primary source of applicable legislation; but we also examined this case through the evaluative

penumbra of the Inspector General Act of 1978[6]—i.e., to examine whether NASA's actions promoted economy, efficiency, and effectiveness in Government. We noted at the outset of our investigation that many of the allegations seemed to indicate a lack of internal management controls or simple noncompliance with ones then existing. For example, the alleged improper political[7] interference with dissemination of climate science research and dysfunction between the NASA Headquarters Office of Public Affairs and a group of Agency scientists had apparently occurred unbeknownst to senior NASA leadership over a sustained period of time. Assuming that was true, our efforts attempted to identify relevant Agency internal management control systems that either were not working or simply needed to be built.

Being an administrative investigation, our investigators had limited compulsory powers at their disposal; tools such as grand jury subpoenas and search warrants were not available. Yet, while we are reluctant to claim that our investigation was exhaustive in developing *every* fact in response to the 14 Senators' request, we are confident that we identified those facts that were relevant to gain a fundamental understanding of what transpired. Our investigators interviewed 59 witnesses in Washington, DC; New York; California; Maryland; and Texas. Those witnesses included present and former NASA scientists and Public Affairs officials from NASA's Goddard Institute for Space Studies; present and former NASA scientists and Public Affairs officials from the Goddard Space Flight Center; present and former officials, scientists, and Public Affairs officials from the Jet Propulsion Laboratory and the California Institute of Technology; present and former NASA Headquarters Office of Public Affairs officials; present and former NASA senior management; former congressional staff members; and a former employee from the Executive Office of the President's Office of Science and Technology Policy. Our inquiry also included reviewing over 10,000 pages of documents and congressional testimony, as well as the forensic examination of six Agency computers used by NASA employees.

Beyond the scope of this inquiry was an examination, in any manner, as to the relative merits or validity of the scientific support underpinning various climate change, global warming, or global change theories.[8]

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[6] The Inspector General Act of 1978, Pub. L. No. 95-452, 92 Stat. 1101 (codified as amended at 5 U.S.C. App. [2007]).

[7] We note that under the Constitution, "political" decisions occur every day in the Federal government; and properly so. Accordingly, our concern in this matter was whether such decisions were in fact appropriate, i.e., consistent with law and regulation. While "political" in the day-to-day jargon is sometimes used as a pejorative term, the word is more properly defined as "of, or relating to government, a government, or the conduct of government, . . . relating to or involving politics and esp. party politics ...." "Politics," among many meanings, refers to "the art or science concerned with winning or holding control over a government; the art or science concerned with guiding or influencing government policy." (Emphasis added.) *Webster's Ninth New Collegiate Dictionary* (Merriam-Webster Inc., Springfield, MA, 1988).

[8] As some of the alleged changes to proposed news releases change the meaning or impact of the scientific findings, one might believe it necessary for this office to closely examine the underlying science; in our view, any unilateral change in meaning imposed by NASA Office of Public Affairs personnel is

With limited exceptions, NASA officials were cooperative in conducting this investigation. Examples of this cooperation included

- The NASA Chief of Staff issued sustained and unequivocal directives to the Agency to retain all documentation related to climate change and media relations. This also included his volunteering to serve as the Agency's liaison for this investigation to ensure our access to witnesses and documents, which we believe he did in good faith.

- At our request, a NASA-wide e-mail was sent to all civil service and contractor employees requesting information on alleged suppression and censorship of science concerning climate change. This e-mail, which is attached as Appendix A, solicited all NASA civil service and contractor employees to provide the NASA Office of Inspector General with any personal accounts of NASA research pertaining to climate change that was wrongfully, unlawfully, or without good cause changed, suppressed, or censored.

We also solicited congressional staffs—both from the Senate and the House of Representatives—urging them to have their sources on this issue come forward to our investigators. We made the same request to members of the national media who have written on the topic of climate change censorship. Finally, we requested interviews with additional personnel from the Executive Office of the President's Office of Science and Technology. Although the Office of Science and Technology has not presented this office with a decision on our requests, we deem those requests to have been denied due to the elapse of time since the requests were made.

Our investigative approach, as contained in the remainder of this Investigative Summary, was to identify the parties involved, the applicable statutory and regulatory standards, the core and related allegations, and their supporting facts and to determine whether those facts were in adherence with the statutory or regulatory standards or were otherwise inconsistent with the economic and efficient administration of the affected Agency programs. Finally, we note that prior to our work, the Agency had acknowledged shortfalls relating to some of the allegations and had already taken corrective action, which we also address. The principal parties to this matter, and their respective equities, are described below.

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presumptively unreasonable because of many factors, to include the failure to follow their own regulations, the inherent scientific and technical knowledge base attributable to the contributing scientists, and the overall and appropriate view that the job of the scientists is to generate science and the job of the NASA Office of Public Affairs is to accurately convey that *same* science to the public.

## II. Parties in Conflict: NASA's Climate Science Community and the NASA Headquarters Office of Public Affairs

Our investigation revealed that the allegations related to scientific suppression revolved primarily around the interactions between two NASA components: the Science Mission Directorate (whose mission includes climate change science) and the NASA Headquarters Office of Public Affairs. To put the specific allegations (discussed later in this report) into context, we believe it is helpful to understand the organizations within NASA that were at odds regarding research dissemination, including the context of their respective missions, wide scope of responsibilities, and geographic dispersion. A NASA organizational chart is attached at Appendix B.

### A. NASA's Science Mission Directorate

The Science Mission Directorate is one of NASA's four Mission Directorates (the others being the Aeronautics Research Mission Directorate, the Exploration Systems Mission Directorate, and the Space Operations Mission Directorate). According to the "Science Plan for NASA's Science Mission Directorate 2007-2016," the Science Mission Directorate engages the Nation's science community, sponsors scientific research, and develops and deploys satellites and probes in collaboration with NASA's partners around the world to answer fundamental questions requiring the view from and into space. Funded with $5.2 billion in fiscal year (FY) 2006[9] to achieve its multiple missions, the Mission Directorate has two key subordinate components: the Earth Science Division, *which observes the Earth's climate and atmosphere*, was funded at $1.325 billion in FY 2006, and the Astrophysics Division, which studies celestial bodies and their possible similarities to Earth, was funded at $1.5 billion in FY 2006. The Science Mission Directorate's mission is dispersed to various locations, such as Goddard Space Flight Center and Jet Propulsion Laboratory. Of interest, each location has its own "Public Affairs Officer," which will be discussed later in this report.

### B. NASA's Goddard Space Flight Center

NASA's assets and missions are decentralized throughout the United States at various locations commonly referred to as "NASA Field Centers." One such Field Center is Goddard Space Flight Center, which is located in the suburbs of Washington, DC, and serves as the principal location for NASA's Earth science research. The mission of Goddard Space Flight Center is to expand knowledge of the Earth and its environment, the solar system, and the universe through observations *from* space. The mission of the Earth Science Division located at Goddard is to improve life on Earth and to enable space exploration through the use of space-based observations. With respect to Earth, the Division's mission includes observing, understanding, and modeling the "Earth system" to discover how it is changing, to better predict change, and to understand the consequences for life on Earth. The Division's goals (listed below) are vast, and understandably, their derivative scientific data are of significant public interest.

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[9] FY 2006 numbers were used because the timeframe of the allegations ranged from 2004 to 2006.

- Advance the understanding of the Earth system through exploration from the vantage point of space.
- Improve predictions of the Earth system through measurements and models.
- Provide leadership in Earth system science and technology including the development of new instruments, measurement missions, and models.
- Establish partnerships to promote Earth science.
- Enhance the Nation's scientific and technological literacy.

### C. NASA's Goddard Institute for Space Studies

Central to the facts underlying this investigation are personnel from the Goddard Institute for Space Studies, which is one of three component laboratories of the Earth Science Division at Goddard Space Flight Center. The Institute, however, is not located at the Goddard Space Flight Center. Instead, its employees work in the Morningside Heights-Columbia University neighborhood of New York City, at the corner of West 112th Street and Broadway, in Columbia University's Armstrong Hall.

The current mission of the Goddard Institute for Space Studies is the broad study of "Global Change," which is an interdisciplinary initiative that addresses natural and human-caused changes in the environment that occur on various time scales and affect the habitability of the planet. The Goddard Institute for Space Studies' programs are roughly divided into scientific categories such as climate forcings, climate impacts, model development, Earth observations, planetary atmospheres, paleoclimate radiation, atmospheric chemistry, astrophysics, and other disciplines.

A key objective stated by the Goddard Institute for Space Studies is the prediction of atmospheric and climate change in the 21st century. The Institute further states that its research combines analysis of comprehensive global information derived mainly from spacecraft observations with global models of atmospheric, land surface, and oceanic processes. Further, the Goddard Institute for Space Studies claims that the study of past climate change on Earth and of other planetary atmospheres provides useful information in assessing the general understanding of the Earth's atmosphere and its evolution.

The Goddard Institute for Space Studies is under the supervision of Dr. Hansen. Dr. Hansen became the Director of the Goddard Institute for Space Studies in 1981 and, as mentioned previously, is a key participant in the facts underlying this investigation. At the Goddard Institute for Space Studies, Dr. Hansen directs approximately 160 individuals who are either employed directly by the Institute or are affiliated with the Institute through universities and other organizations.

### D. Jet Propulsion Laboratory

Our investigation also discovered complaints about the NASA Headquarters Office of Public Affairs from scientists and Public Affairs Officers working at NASA's Jet Propulsion Laboratory. The Jet Propulsion Laboratory, located in Pasadena, California,

is a NASA Field Center staffed and managed for NASA by the California Institute of Technology. As a Federally Funded Research and Development Center,[10] the Jet Propulsion Laboratory has an annual budget of approximately $1.6 billion and its contract with NASA is renegotiated every 5 years. Whereas most NASA Field Centers are run by a core staff of Government employees with support from on-site contractors, the Jet Propulsion Laboratory's management and staff are employees of California Institute of Technology. Another 10 percent of their workforce is onsite contractors who work for private companies, similar to other NASA Field Centers. Finally, there is a small group of onsite Government employees who act as NASA's liaison to the Jet Propulsion Laboratory.

The Jet Propulsion Laboratory claims to "lead[s] the world" in producing robotic spacecraft that have explored all of the solar system's known planets. Also, the Jet Propulsion Laboratory asserts that the tools it develops for its spacecraft expeditions have proven invaluable in providing insights and discoveries in studies of Earth, its atmosphere, *climate*, oceans, geology, and the biosphere. Finally, the Jet Propulsion Laboratory maintains that it continues to break new ground in the miniaturization and efficiency of spacecraft components, while at the same time improving the sensitivity of space sensors and promoting the broadening of their application for a myriad of scientific, medical, industrial, and commercial uses on Earth. Similar to the other organizations mentioned above, the Jet Propulsion Laboratory's relevance to this investigation involves attempts to get news releases issued through the NASA Headquarters Office of Public Affairs, discussed below.

### E. NASA Headquarters Office of Public Affairs

At the center of most of the allegations in this investigation is the NASA Headquarters Office of Public Affairs, which has broad, diverse, and significant areas of responsibility within NASA. Located in Washington, DC, the NASA Headquarters Office of Public Affairs is one of four functional components reporting directly to the NASA Office of Strategic Communications.[11] The Office of Strategic Communications is one of nine Mission Support Offices[12] that report directly to the Office of the Administrator.

The NASA Headquarters Office of Public Affairs' mission, derived from the Space Act, is to provide for the widest practicable and appropriate dissemination of information concerning NASA activities and results. This office is under the direction of the Assistant Administrator for Public Affairs and a Deputy Assistant Administrator.

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[10] 48 C.F.R. § 35.017 (2007).

[11] The components reporting to the Office of Strategic Communications are Communication Planning, Education, Legislative and Intergovernmental Affairs, and the Office of Public Affairs.

[12] NASA's Mission Support Offices are the Offices of the Chief Financial Officer, Chief Information Officer, General Counsel, Integrated Enterprise Management Program, Innovative Partnership Program, External Relations, the Chief Health and Medical Officer, Institutions and Management, and Strategic Communications.

The Assistant Administrator for Public Affairs, a Non-Career Senior Executive Service political appointee, directs internal and external communications for the Agency and serves as a senior advisor to NASA's leadership. The Assistant Administrator is also responsible for the release of all public information and the concomitant decisions related to the release of public information. The current Assistant Administrator for Public Affairs is Mr. David R. Mould, who was appointed on June 20, 2005. Mr. Mould's predecessor, Mr. Glenn Mahone, joined NASA as a Senior Advisor and Press Secretary in April 2000 and was the Assistant Administrator for Public Affairs from January 31, 2002, to April 15, 2005.[13]

The Deputy Assistant Administrator for Public Affairs is also part of the senior leadership team responsible for advising the Administrator concerning all aspects of public affairs, to include developing, implementing, planning, and controlling all elements of Agency-wide public affairs activities. The Deputy Assistant Administrator also chairs the editorial board of the NASA Web Portal and is the Internet site's publisher. The Deputy Assistant Administrator also responds to media questions and helps prepare the Administrator and Agency leaders for media interviews and congressional testimony. During the time of censorship allegations later described in this Investigative Summary, Mr. Dean Acosta, also a Non-Career Senior Executive Service appointee, was the Deputy Assistant Administrator. Mr. Acosta turned out to be one of the central figures pertaining to censorship and media access allegations. The Deputy Assistant Administrator for Public Affairs position is now filled by a career civil service employee. This was a recent change instituted by NASA to facilitate communications within the NASA Headquarters Office of Public Affairs. The current Deputy Assistant Administrator for Public Affairs, Mr. Robert N. Jacobs, was assigned his duties in May 2007.

Some of the key services provided by the Assistant Administrator for Public Affairs (and presumably the Deputy) include

- providing advisory services and consultation to the Administrator on issues concerning communications and relations with the media and the general public;
- contributing policy guidance, advice, and consultation to Headquarters program offices, functional offices, and NASA Field Centers on public affairs issues;
- directing Agency-wide programs and activities to coordinate and direct resources to the news media and American public; and
- providing open and credible communications channels to the news media and the general public.

Events that implement these services are wide-ranging. The NASA Headquarters Office of Public Affairs organizes news conferences and other media briefings, public ceremonies and special exhibits, and oversees the activities of NASA's speaker's bureau,

[13] Mr. Mahone was also a Non-Career Senior Executive Service appointee.

Public Inquiries Management Office, Freedom of Information Office, fine arts program, public tours, and visitor centers. Other significant responsibilities include the development of integrated, Center-coordinated public affairs plans for the program offices; some of these plans are mission or event specific, while others are thematic or broad in scope.

Each of the 10 NASA Field Centers has its own Office of Public Affairs that ultimately reports to leadership within their respective Field Centers but also receive policy guidance from NASA Headquarters Office of Public Affairs. According to NASA policy,[14] all public information, including news releases, intended for Nation-wide release must be reviewed and cleared by the Headquarters Office of Public Affairs. NASA Field Centers, however, may release public information that is institutional in nature, of local interest, or deemed by the Headquarters Office of Public Affairs not to need Headquarters release review and clearance. All NASA Field Centers are required to provide proper notification to the Headquarters Office of Public Affairs prior to release of information.

The actions and interactions of all of the groups described above were the source of the allegations and the focus of the investigation conducted by this office. In sum, the allegations largely came from Science Mission Directorate scientists and career Public Affairs Officers. These allegations concerned the actions taken by the political appointees in charge of the NASA Headquarters Office of Public Affairs. Those officials, it was alleged, inserted themselves into the scientific research dissemination process by taking direct and indirect actions with the apparent goal of reducing the number and impact of climate change news releases through delays, edits, and conversion to other media as well as interfering with the media's access to the scientists.

Before addressing these allegations, we believe that is it is helpful to review the legal and regulatory standards under which the NASA Headquarters Office of Public Affairs was operating at the time, with regard to the dissemination of scientific information.

## III. Statutory Standards Regarding Scientific Suppression and Media Access

We believe that two statutory standards are germane to the allegations of scientific censorship (to include media access) discussed in this report. The first is the Space Act; the second, the Inspector General Act of 1978.[15]

In using these Acts as our evaluative standards by which we sought and evaluated evidence, we also recognized that there is a plethora of other legal authorities—to include

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[14] NASA Public Affairs policies, both at the time of the censorship allegations and currently, will be discussed later in this report.

[15] The Inspector General Act's investigative standards will not be discussed in depth. In pertinent part, however, the Act's investigative jurisdiction is very broad and permits an Inspector General to examine whether an agency's programs and actions promoted economy, efficiency, and effectiveness in Government (5 U.S.C. App. § 4 [2007]).

Constitutional issues involving the First Amendment and Executive Power[16]—that were implicated but beyond the scope of this investigation. Further, we also noted the helpful, yet unsettled definitions of "scientific suppression" by leading scholarly commentators[17] as a backdrop for our fact-finding and analysis. But ultimately, we relied on the Space Act and NASA's implementing regulations as the foundation of our analysis.

### A. The Space Act and Climate Change Research at NASA

One of the fundamental questions regarding allegations of scientific suppression in this case was whether NASA, at the outset, had a statutory or regulatory *requirement* to disseminate its scientific information. If so, were NASA's Public Affairs Officers then required to disseminate *all* scientific information or did they have the discretion to pick and choose? For example, could a Public Affairs official lawfully reject proposed news releases from climate change scientists, or "tone down" the message of the release, or assign the information from the release to media forums with less public exposure? Further, did the intent behind their decisions matter? For example, would the answer change if a proposed climate change science news release was edited or delayed for

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[16] For example, what is the Constitutional role of an Agency or Department's Office of Public Affairs pertaining to the dissemination of organizational news that portrays the Administration, Agency, or Department in an unfavorable manner?

[17] The United States Code does not address "scientific suppression" *per se* nor is there compelling case law on the subject. We are reluctant, therefore, to characterize the allegations, if substantiated, as "scientific suppression" as a "matter of law." And while there is no universally accepted legal definition of scientific suppression, there are, however, individuals, organizations, and academic journals that have tried to define the term – which was helpful to our analysis. Some definitions are listed below.

The International Society of Environmental Epidemiologists defines the related term, "research suppression," as, "[O]bstructing the study or release of scientific findings for reasons other than a concern for scientific validity or objectivity." Robert R. Kuehn, "Suppression of Environmental Science," *Am. J. L. and Med*. 333, 335 (June 22, 2004). Arguably, this definition will fit some of the allegations later described between the NASA Headquarters Office of Public Affairs and the NASA climate science community. Of course, much of the debate under this definition would turn on whether NASA's climate scientists were presenting non-science "policy matters" or "scientific findings."

Brian Martin, Professor of Social Sciences in the School of Social Sciences, Media and Communication at Australia's University of Wollongon, defines scientific suppression as "instances where someone or some organization threatens a scientist's employment position, financial support, or ability to publish or communicate research for reasons other than the quality of the work or the qualifications or credentials of the scientist." He further states, "[S]uppression involves efforts to withdraw or withhold research money; transfer scientists to jobs where further unwelcome research is difficult or impossible; deny employment appointments, promotions, or tenure; dismiss scientists from their research positions; and block publications or presentations on the methods and results of research." This definition would apply to concerns expressed by Dr. Hansen, discussed later in this report, concerning budget cuts for Earth Sciences.

Professor Robert R. Kuehn of the University of Alabama, with the assistance of the above definitions, wrote an article for the *American Journal of Law and Medicine* titled "Suppression of Environmental Science." In his article, Professor Kuehn uses the above definitions to come to the conclusion of what he defines as suppression of environmental science. He concludes that suppression of environmental science is when someone or some organization "seeks to prevent the creation of certain unwelcome data or theories, or, alternatively, to deter or block the dissemination of unwelcome data or theories that already exist, through pressure or restraints on environmental scientists."

purported improvements in readability or for safety purposes as opposed to changes made because the original was inconsistent with Agency or Administration priorities? Further, can or should political appointees in charge of NASA's Public Affairs function use news releases to promote, for example, an Administration's "Vision for Space Exploration" but not scientific research that might direct policy attention away from that Vision? Many of these questions have Constitutional implications and would be interesting and appropriate for an academic law review analysis. For the purpose of this investigation, however, we believe that the Space Act, as described below, is the most appropriate standard to assess the facts and circumstances of this case.

As background, the Space Act created NASA as a peaceful organization dedicated to research and scientific discovery to benefit all of humankind. Through the Act, Congress directed NASA to contribute materially to the expansion of human knowledge of the Earth and phenomena in the atmosphere and in space. Parts of the Act apply directly to the requirement for and dissemination of climate change research.

For example, Congress directed NASA, in section 203(a)(2) of the Space Act, to "arrange for participation by the scientific community in planning scientific measurements and observations to be made through the use of aeronautical and space vehicles, and to conduct or arrange for the conduct of such measurements and observations." In section 401(a), NASA is directed to "develop and carry out a comprehensive program of research, technology, and monitoring of the phenomena of the upper atmosphere so as to provide for an understanding of and to maintain the chemical and physical integrity of the Earth's upper atmosphere." To help carry out the above requirements, section 403(a) directs NASA to work along with other Federal agencies to initiate and carry out a program of research, technology, monitoring, and other appropriate activities that will enhance the understanding of the physics and chemistry of the Earth's upper atmosphere. Section 403(b)(3) also requires NASA "to make all results of the program authorized by this title available to the appropriate regulatory agencies and provide for the widest practicable dissemination of such results."

Of particular relevance to our investigation is section 203(a)(3) of the Space Act, which directs NASA "to provide for the *widest practicable and appropriate dissemination* of information concerning its activities and the results thereof." (Emphasis added.) For our analysis, the Act's operative language is the requirement that NASA disseminate its information, subject to qualifying language that its dissemination be the widest "practicable and appropriate."

Our Investigative Summary reveals factual differences (and inferred legal interpretations) between those on both sides of the issue. For example, in presenting the allegations discussed in this report in a light most favorable to NASA's climate change science community, we believe that many of these scientists (and the majority of *career* Public Affairs Officers interviewed) would argue that the actions of NASA Headquarters Office of Public Affairs—in delaying, unduly editing, canceling, or converting to lesser media their news releases related to climate change—were not in keeping with the mandates of the Space Act. In particular, that the Space Act *required* the NASA Headquarters Office

of Public Affairs to disseminate this information to the *widest extent possible*, but they did not.

Conversely, the most likely argument in response to these allegations from officials in NASA Headquarters Office of Public Affairs would be that their actions were proper and in keeping with the Space Act because their duties (and common sense) required them to exercise discretion as to "appropriate and practicable" dissemination. In making the dissemination decisions that they did, they took into consideration what was "appropriate" for NASA in light of a multitude of factors—to include operational activities that also called for the public's attention, the priorities of NASA as an agency, and the priorities of an elected Administration's stated "Vision for Space Exploration."

Another Space Act consideration is that, for the most part, the contested information on climate change science was otherwise disseminated by NASA in forums separate and apart from the public affairs news release process, such as scientific journal articles, conference presentations, interviews of personnel, Web postings, media advisories, news features, NASA television and other television programming, and other more targeted media. The resulting argument, therefore, was whether those dispersals, in and of themselves, satisfied the Space Act's dissemination requirements or whether those actions still fell short because, as the climate scientists' claim, limiting the information to these "specialized" media (instead of more widely viewed "news releases") was depriving the American people of knowing about the important information for which they paid through their tax dollars.

Despite the possible arguments or interpretations, however, we cannot envision a circumstance in which the Space Act's language or intent would permit, as "appropriate," circumstances where Agency Public Affairs officials purposely deny, delay, tone down, or subordinate to lesser media the presentation of federally funded scientific research to the public, and in which the public clearly has a substantial interest, because they believed it to be inconsistent with Administration policies or priorities, which is what is reasonably reflected by the evidence.

### B. NASA Regulations that Implement the Space Act's Information Dissemination Requirement[18] for Scientific and Technical Information[19]

NASA disseminates scientific and technical information (STI) that is not intended to be released to the media through a process defined by NASA Procedural Requirements (NPR) 1080.1, "NASA Science Management," February 2, 2005, and NPR 2200.2B, "Requirements for Documentation, Approval, and Dissemination of NASA Scientific and

[18] Under § 203(c)(1) of the Space Act, NASA is authorized to issue "rules and regulations governing the manner of its operation and the exercise of the powers vested in it by law."

[19] Scientific and technical information (STI) is defined as the results of basic and applied scientific, technical, and related engineering research and development. STI also includes management, industrial, and economic information relevant to the research. NPR 2200.2B, "Requirements for Documentation, Approval, and Dissemination of NASA Scientific and Technical Information," § 1.2.1, March 25, 2005.

Technical Information," March 25, 2005. In pertinent part, these NPRs regulate the publication and dissemination of scientific and technical reports, Internet postings designed for technical or scientific interchange, and technical information presented at professional meetings or in professional journals. In fact, section 4.2 of NPR 1080.1 encourages NASA and NASA-sponsored authors to publish in widely accessible peer-reviewed journals and to make oral presentations at professional societies of scientific information. Finally, section 4.2.2 of NPR 1080.1 also encourages collaboration with the NASA Office of Public Affairs in preparing news releases and related matters.

Unlike the public affairs process described below, the approval process to disseminate NASA STI external to NASA rests with the manager of the program through the "Document Availability Authorization" review process described in NPR 2200.2B. This process requires Field Center program or project managers to ensure that STI within their purview receives appropriate management and technical reviews prior to the STI being published, disseminated, or otherwise presented external to NASA.[20] Managers who approve STI are also directed to coordinate their efforts with the Center's Document Availability Authorization representative, contracting officers, contracting officer's technical representatives, and STI Manager, as appropriate. Of note, the NASA Headquarters Office of Public Affairs has no decision-making authority regarding the dissemination of STI that does not have media or public interest attention. However, STI could rise to the level of "public information" described below, if it is to be released to the media or if it is anticipated to draw significant media or public attention.

### C. Public News Matters

At the apex of the censorship allegations, NASA's public news release policy was found in a regulation then in effect titled "Release of Information to News and Information Media."[21]

That regulation embraced the Space Act's requirement that NASA was to "provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof"[22] and provided for the Associate (now Assistant) Administrator for Public Affairs to have the overall responsibility for the development and administration of an integrated Agency-wide communications program and to be the "determining official" as to whether specific information should be released.[23] In sum, the policy regarding news releases focused staff primacy on and through the Associate (Assistant) Administrator for Public Affairs. Of particular note, the policy required "all

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[20] NASA documents the STI approval process using NASA Form 1676 "Science and Technology Information Document Availability Authorization" (DAA) or a Field Center specific version of that form.

[21] The original regulation was promulgated on June 8, 1976, and then revised on December 3, 1987, and again on December 26, 1991. The 1991 revision only affected § 1213.102 through § 1213.105, the other sections remained unchanged from the 1987 revision. The newly proposed policy was published on the NASA Web site on March 30, 2006, and published in the Federal Register on August 24, 2006.

[22] 14 C.F.R. § 1213.101 (1987).

[23] 14 C.F.R. § 1213.102 (1991).

organizational elements of NASA involved in preparing and issuing NASA news releases [to be] responsible for proper coordination and obtaining concurrences and clearances prior to issuance of the news release."[24] The NASA Headquarters Office of Public Affairs also had a Standard Operating Procedure, which will be discussed later in this report.

The regulation also addresses the topic of interviews, simply stating that "requests for interviews with NASA officials [would] be made through the appropriate Public Affairs Office." Journalists, however, would have "direct" access to those NASA officials they sought to interview. The regulation also requires NASA personnel to respond "promptly to requests from media representatives for information or interviews."[25]

While neither law nor regulations confer NASA scientists with *individual* rights to a public promulgation of their work through the forum of a news release, we interpret the Space Act and NASA's implementing regulations at that time as reasonably requiring NASA's Public Affairs officials to widely disseminate all research information of public interest subject to the Act's limitations such as when dissemination is "practicable and appropriate." We do not believe, however, that the Agency's statutory mandate or regulatory commitments, with specific reference to its public affairs functions, allow for the intentional distortion of information or science in press releases the Agency—in its exercise of discretion—has elected to issue. Likewise, purposefully withholding or delaying meritorious releases to ostensibly meet political objectives would also appear to stretch the mandate to provide "the widest practicable and appropriate dissemination of information concerning its activities and results thereof."

## IV. Allegations and Instances of Censorship and Suppression

As mentioned above, NASA has two avenues for transmitting scientific information outside of the Agency. The first is targeted to the scientific community through information made available to them through peer-reviewed journals, scientific periodicals, science and technical reports, and findings presented at symposia, practica, and conferences. In the course of our investigation, we neither received nor discovered any complaints or concerns regarding the operating procedures or implementation of those procedures used for NASA's release of scientific and technical reports. Further, the NASA Office of Inspector General's Office of Audits corroborated our observations in a recent audit, noted earlier, which found *no evidence* that the STI review process was used to inappropriately suppress the release of scientific data. Again, of the 287 authors surveyed at the four Field Centers reviewed, *none* indicated that they had personally

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[24] 14 C.F.R. § 1213.104 (1991). The section goes on to discuss that "all field installations [were to] exchange information with the appropriate Headquarters Public Affairs Officers concerning news events and releases. Immediate notification was to be made to Headquarters and any impacted installation of events or situations that [would] make news, particularly of a negative nature." *Id.* Directors of Field Installations, through their Public Affairs Officers, were also permitted to release information for which those field installations were the primary or sole sources. 14 C.F.R. § 1213.103 (1991).

[25] 14 C.F.R. § 1213.105 (1991).

experienced or knew of anyone else who had experienced actual or perceived suppression of their research. Further, a published review conducted by the Government Accountability Office estimated that 91 percent of NASA researchers believe that the Agency supports dissemination of research results through publications.[26]

NASA's second avenue for transmitting scientific information is through its public affairs function described above and, as such, is intended to reach the public at large. NASA Headquarters and Field Center Offices of Public Affairs have staff cognizance for this avenue, which typically includes news releases, stories posted on the Internet, and media advisories. As mentioned, this is the area where we received and otherwise discovered complaints regarding the suppression of climate change science.[27]

### A. NASA's News Release and Media Access Process

Given that the allegations focused more on NASA's actions relating to public dissemination of research through media processes, we focused part of our review on NASA's implementing regulations and procedures pertaining to the NASA Headquarters Office of Public Affairs and, in particular, how that office applied its Standard Operating Procedures in effect from 2004 through early 2006.

In addition, we interviewed Public Affairs Officers and their managers as well as scientists at NASA Headquarters and NASA Field Centers. The focus of these interviews was to determine the standard practices used to disseminate research to the public and whether these practices were modified if the material, such as a proposed news release, related to politically sensitive subjects such as climate change research.

In general, we found that during the 2004 through early 2006 timeframe, NASA's scientific research promulgation rules for media dissemination were a combination of Agency-wide dissemination policies and specific policies established by NASA Field Centers and Mission Directorates. These policies were memorialized within the previously described NASA Procedural Requirements with unique requirements posted to Agency Internet sites or disseminated by the NASA Headquarters Office of Public Affairs in writing through e-mail correspondence or through *ad hoc* verbal adjustments and directions at meetings or teleconferences. Further, we found that NASA's Public Affairs Officers and scientists at the Field Centers were aware of and generally abided by the specific Agency, Field Center, and Mission Directorate policies for the dissemination of research.

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[26] "Federal Research: Policies Guiding the Dissemination of Scientific Research from Selected Agencies Should be Clarified and Better Communicated" (GAO-07-653, May 2007).

[27] An e-mail solicited all NASA civil service and contractor employees to provide our Office with any personal accounts of NASA research pertaining to climate change that was wrongfully, unlawfully, or without good cause changed, suppressed, or censored. (See page 5 for the discussion of the e-mail.) Interestingly, the solicitation yielded only 11 replies. Of those, none contained any information that was relevant to this investigation.

The key directive available for use by the NASA Headquarters Office of Public Affairs during the timeframe in question was a written "Office Work Instruction" titled "Perform News Gathering, Encapsulation and Distribution," that was effective since December 11, 2001. This Standard Operating Procedure provided Headquarters Public Affairs Officers with a rudimentary flowchart reflecting the review process of all textual material received to the point of public dissemination. Again, we found that most career Public Affairs Officers with a long tenure at NASA were generally aware of the Standard Operating Procedure but they acknowledged that it was rarely used as a reference in day-to-day public affairs operations as most of the directions were given verbally on an *ad hoc* basis. Until memorialized into a more detailed Standard Operating Procedure in October 2006,[28] the procedures were generally as follows: [29]

- A media product intended for public dissemination typically began with a scientist submitting a draft to the NASA Field Center Public Affairs Office.
- The Field Center Public Affairs Office would then work with the author to ensure the submission was clear and accurate.
- Concurrence was obtained from appropriate Field Center officials and scientists.
- The draft media product was then transmitted to the NASA Headquarters Office of Public Affairs for review by the appropriate Mission Directorate/Program Public Affairs Officer located within the NASA Headquarters Office of Public Affairs.
- That person then coordinated the proposed media product with the responsible NASA Headquarters Mission Directorate point of contact to re-verify the accuracy of the scientific and technical information.
- Conflicts, if any, were typically resolved by the Headquarters Mission Directorate point of contact through coordination with the Field Center Public Affairs Office and the original author.
- Once all parties concurred on the content of the media product, it was then forwarded to the NASA Headquarters Press Desk to ensure clarity and compliance with *The Associated Press Stylebook.*

The goal was final concurrence from all parties before the product was released to the media and the public.

We found that the above-described process did not always work that way. Public Affairs Officers and scientists employed in the fields of Earth science and astrophysics told our investigators that the NASA Headquarters Office of Public Affairs did not, on a consistent basis, apply the same Standard Operating Procedure for news releases, media

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[28] In October 2006, NASA issued a detailed written Standard Operating Procedure, concerning the approval process for news releases entitled, "Operating Procedures for Release of NASA Public Information."

[29] These procedures appear to implement and generally follow the policy requirements set forth in 14 C.F.R. § 1213 (1991).

advisories, news features, Internet postings, and media interviews—especially when it came to information that might be politically sensitive, such as climate change. Further, many of them—to include career Public Affairs Officers—characterized the news release approval process as "arbitrary" and questioned whether the Headquarters Office of Public Affairs was choosing to ignore its own Standard Operating Procedure. Some NASA scientists said that they even questioned the existence of an Office of Public Affairs Standard Operating Procedure, based on their ignored requests (to Public Affairs) for documentation of their internal policies.

In our October 22, 2007, interview with Mr. Mould, the Assistant Administrator for Public Affairs during part of our investigation, Mr. Mould stated that NASA's media policies at the time were a "jumble of mish-mash," adding that he never read them.[30]

According to present and former *career* Public Affairs Officers at NASA Headquarters and Field Centers that we interviewed,[31] the NASA Headquarters Office of Public Affairs processed all media products that discussed "climate change" (or a variant thereof) in a unique manner during the pre-election period of the fall of 2004 through the spring of 2006. Describing the review process for climate change media products as extremely onerous, stressful, and heavy handed, it was their collective belief that there was an "air of political interference" and a desire by the political appointees in the NASA Headquarters Office of Public Affairs to support the Administration by reducing the amount or toning down the impact of climate change research disseminated to the public. Career employees described to us a Headquarters Office of Public Affairs environment where "looking good" was the preeminent motivator of their political appointee superiors and coworkers (rather than following a process with regard to their statutorily required research dissemination).[32] Consequently, the majority of complaints by career civil service Public Affairs Officers and scientists were directed at the actions of Messrs. Mould, Mahone, Acosta, and George Deutsch, who were all political appointees.

Both Mr. Acosta and Mr. Mould denied the allegation that the actions of the Headquarters Office of Public Affairs with regard to climate change research news releases or media access were attempts to suppress or censor politically sensitive

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[30] In a supplemental statement submitted by Mr. Mould on April, 29, 2008, he stated that his comments to NASA OIG investigators regarding NASA's written media policies (that he presumably inherited when he took charge) was an attempt "to explain that these complex, confusing, and voluminous policies were extremely difficult to comprehend and, therefore, not very useful" and that those policies represented a "vast expanse of confusing material that had accumulated through the years."

[31] We interviewed 15 current/former Public Affairs Officers at the Goddard Institute for Space Studies, NASA Headquarters Office of Public Affairs, Goddard Space Flight Center, and Jet Propulsion Laboratory who worked climate change news issues. All 15 agreed that climate change news was handled in a unique manner. There may have been other personnel that worked on climate change news matters, but their identities were not disclosed during the investigation.

[32] In contrast to NASA's regulations requiring the Office of Public Affairs to disseminate information of its "activities and the results thereof," we received anecdotal observations from career Public Affairs Officers as to the prevailing atmosphere in place at that time. One NASA career civil service employee stated that one political appointee allegedly told them, "It's our job to make the President look good." Another employee opined to our investigators that Mr. Mahone was "obsessed" with making the Administrator "look good" in the eyes of the President.

information. Instead, they claim that edits and delays of news releases were necessary to create products that were understandable to the general public. Mr. Mould also stated that the process for editing news releases at that time was "a mess," as there were "way too many cooks [involved] in the process." He advised that the scientists did not write very well and they looked upon the news release as a "mini science paper." The result was a news release that was too technical in nature; that would not be understood by the general public. In trying to correct this problem, Mr. Mould conceded that things may have "unintentionally gotten confused or lost in translation," but he stressed that the problems did not arise out of any Headquarters Office of Public Affairs' political agenda.

Almost all the career NASA Headquarters Public Affairs Officers told us that during 2004 through early 2006, it was "generally understood" that all "climate change" media text products were to be personally hand-carried to Mr. Acosta for review. Additionally, Messrs. Mahone and Acosta told at least two Headquarters Public Affairs Officers that the "White House" would get advance notification of any news release concerning climate change. Messrs. Mahone and Acosta acknowledged that prior to issuing news releases concerning climate change, they would provide an advance copy to the White House Press Office for informational purposes only. Both stated that this was not done in an effort to seek White House approval, but was a standard procedure for any news release deemed to have significant potential national media interest, such as climate change.

While the stated perception of some Field Center Public Affairs Officers and climate change researchers was that the White House was making decisions concerning what information would be released, our investigation found no direct evidence that non-NASA officials serving within the Administration were editing/approving the release of climate change media products. We did, however, find evidence that the NASA Office of Public Affairs routinely notified Administration officials of newsworthy events and, in one case, appeared to be coordinating with Administration officials with respect to the timing of a climate-related press conference and news release.

In examining NASA's distribution of news releases surrounding the 2004 Presidential election, our investigation found that at least one climate change news release, "Aura Sheds New Light on Pollution," was intentionally delayed by NASA Headquarters Office of Public Affairs until after the election. We could not, however, substantiate other allegations of over "month long delays" in getting releases approved or released during the pre-election period. Supporting documentation, especially regarding the dates Field Center Public Affairs Officers submitted proposed releases to Headquarters, or witnesses who had specificity as to dates, were not available.

One witness, a former Headquarters Public Affairs Officer, informed our investigators that in October 2004, Mr. Acosta told him/her about his (Mr. Acosta's) concern that there were "too many" climate-related news releases being submitted for approval and that the Earth Science Mission Directorate Public Affairs Office needed to do a better job of "preventing" the development of climate-related and especially climate change news releases. Again, we found no *direct* evidence of affirmative actions by NASA personnel that were in furtherance of Mr. Acosta's remarks. We did, however, discover records that

were gathered in support of NASA's management review of alleged scientific suppression in 2006,[33] that reflected a subsequent reduction in climate-related news releases, from 48 in 2004 to 12 in 2005 (Appendix C is a list of those releases).

Apart from the "Aura" release mentioned above, no determinative evidence was gathered that directly linked the timing and content of the post-election 2004 and 2005 climate-related releases to pre-election manipulation by NASA Headquarters Public Affairs Officials.

We also received a series of general allegations that NASA Headquarters Office of Public Affairs delayed or converted draft climate-related news releases to Internet postings and media advisories, thus garnering less public exposure. According to the scientists and career Public Affairs Officers we interviewed, media outlets such as newspapers, magazines, and non-print media looked primarily to news releases, and not Internet postings or media advisories, for stories, as it was understood by these outlets that significant NASA news would be disseminated in the form of news releases. The scientists we interviewed claimed these delays and conversions were "politically motivated" as they lessened the impact of the story because the lack of timeliness and the forums chosen for dissemination resulted in the media outlets being less likely to pick up the stories.

Mr. Acosta denies all this, stating that any delays were necessary due to the extensive editing required to create a product that the general public could understand. The NASA Field Center Public Affairs Officers and scientists that we interviewed deny the assertion that the releases needed extensive editing. We requested all available documentation concerning the review and editing process as it related to climate change research news releases, but we discovered that the lack of documentation made it impossible to substantiate the actual date of a news release's submission or the level of editing performed.

Interviews of Public Affairs Officers and scientists disclosed a common belief that there were no clear written policies regarding media contacts or news releases. They stated that policy guidance issued by Headquarters Office of Public Affairs' staff was verbal and erratic and often led to inconsistent policy administration by the NASA Field Centers. *All* of the NASA climate change scientists and career civil service Public Affairs Officers who were interviewed agreed that some form of political vetting or censorship or suppression existed within the climate change news release process. Senior Public Affairs officials cite non-political editing procedures and processes that were occasionally misapplied. Although not privy to all the facts in this report, NASA's Chief of Staff opined that the Headquarters Office of Public Affairs' editing process at the time

[33] We note that the 2004 and 2005 climate-related news releases were mixed among hundreds of releases under the staff cognizance of the NASA Headquarters Office of Public Affairs. The NASA Press Release Archives disclosed the NASA Office of Public Affairs produced 734 news releases for 2004 and 681 for 2005. The 48 climate-related releases in 2004 and 12 climate-related releases in 2005 were assembled by a Headquarters Public Affairs Officer in response to an internal NASA examination on the subject of scientific suppression, conducted by Dr. Edward Weiler, Director, Goddard Space Flight Center.

in question was cumbersome and hampered by poor communications between that office and NASA Field Center Offices of Public Affairs. The Chief of Staff also opined that, from his vantage point, the tribulations with the editing process were attributable to the shortcomings and misunderstandings borne of the bureaucratic process—and not so much to any political bent. One career Public Affairs Officer told us that climate change "politics" did not drive all of the edits by NASA Headquarters Office of Public Affairs, stating that the submitting scientists sometimes used hyperbolic verbiage to presumably enhance their programs or attract public attention.

We found that ineffective policies[34] and lack of an effective Standard Operating Procedure allowed for evidence in support of both "sides" of the arguments behind the news release editing rationales. The evidence discussed later in this report, however, points to political posturing influencing at least some of the media decisions made by the NASA Headquarters Office of Public Affairs. We also note, however, that we received reports that not all Headquarters' changes to climate change news releases were politically motivated; we found that Headquarters' edits were occasionally made by Headquarters-based Science Mission Directorate scientists—and not Public Affairs officials. For example, the scientist who initially authored the news release was not always aware of who made edits, which contributed to fears that "politics" was supplanting science, even when it was a fellow scientist making the changes.

### B. Categories of Alleged Interference with Politically Sensitive News Releases

Based on the information we obtained concerning the alleged "arduous" nature of releasing climate change media products to the public during 2004–2006, we also examined how the process actually affected the end product. To accomplish this, we conducted interviews with scientists and Office of Public Affairs specialists and managers, reviewed numerous draft and issued news releases and congressional testimony, and examined e-mail traffic to attempt to verify the verbal accusations.

In most instances, we limited the scope of our interviews and reviews to the subject matter of climate change research. As a result, the variety of real or perceived problems with the NASA news release process uncovered by our investigation applies primarily to climate change media products.[35]

We found that the allegations against NASA Public Affairs officials did not lend themselves to a narrow description. Instead, the allegations described a variety of behaviors, ranging from claims of a stark denial of a climate change related news release to actions that caused self-censorship. Aside from a theme suggesting that the

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[34] This included record keeping. For example, we were unable to address many of the allegations because of an insufficient audit trail.

[35] The only non-climate change complaints we received or uncovered were from scientists in the field of astrophysics. Their complaints largely centered on changes made to news releases that mischaracterized or misinterpreted the research. Nevertheless, we included them in this report as they illustrate a lack of management controls and the adverse results that occur when changes are made to news releases without the benefit of consultation with scientists who conducted the actual research.

Headquarters Office of Public Affairs didn't have a sufficient news release policy—or wasn't following the one they had—our investigation revealed that allegations of improper political interference or flawed media practices tended to fall within the following actions taken or caused by the NASA Headquarters Office of Public Affairs. Case examples of each are described in the next section.

- **Denial.** Allegations that the NASA Headquarters Office of Public Affairs improperly prevented the dissemination of NASA media products.

- **Dissembling/Obscurantism.** Allegations that NASA Headquarters Office of Public Affairs improperly altered the author's message to mask the purported controversial implications of the scientific findings. Included in this allegation was the simplifying of headline titles, the adding of uncertainty to the findings, the changing of the emphasis of the story, the eliminating of "hot-button" words or phases such as "global warming," and the changing of scientists' "quoted" statements.

- **Use of Timing to Lessen the Scientific Message.** Allegations that the passage of time was used as a tool to improperly minimize the scientific message. According to the majority of affected Public Affairs Officers and scientists, the Headquarters Office of Public Affairs took an inordinate amount of time in reviewing some climate change draft news releases so that (in some instances) the information was released at a time when it would generate less attention from the national media. For example, they claim that the Headquarters Office of Public Affairs would delay the issuance of a scientific news release until there was an overshadowing major NASA news event, such as a shuttle launch. Also, the complaining scientists (and their local Public Affairs Officers) stridently believed that Headquarters delayed their releases until long after a significant topical news event had taken place (such as an international climate change conference). So, instead of capitalizing on the public interest generated by such events, they believed that the Headquarters Office of Public Affairs withheld the approval of such topically related news releases until the events (such as these conferences) were long over and public interest had waned.

- **News Forum Minimization.** Allegations that media products were improperly "downgraded" from news releases to media advisories or Internet postings, thus negating the interest of media outlets to "pick up" and disseminate the information. Based on interviews, all NASA career news professionals were in agreement that the optimum coverage for a media product was a "news release" and that the common practice at NASA was to use a news release to disseminate information that NASA considered worthy of national media attention. Consequently, they believed that changing a news release to a different (lesser) medium would presumably result in less media attention.

- **Poor Coordination.** Allegations that the post-edit final media product improperly included factual, conceptual, and grammatical errors. Submitting scientists claimed they were not always given the opportunity to review or concur with the changes made by editors within NASA Headquarters, either by the Office of Public Affairs or the Science Mission Directorate. They said that in some instances, they were not made aware of changes to the final released media product—changes they then had to defend to the public and to their scientist peers even though they disagreed with the changes or the changes were factually wrong. Conversely, NASA Headquarters Public Affairs Officers and managers stated that significant editing was in fact often necessary because the media products submitted by the NASA Field Center Offices of Public Affairs and scientists were so technical in content that they were indecipherable in a traditional public affairs context. In particular, they asserted to us that at least some of the proposed releases were written as if they were being submitted for a scientific journal and not for consumption by the general public.

- **Mixed Messaging.** Allegations that the President's "Vision of Space Exploration" was inappropriately inserted into unrelated NASA media products. Witnesses informed us that at the NASA Public Affairs Officers' general meeting held in Pasadena, California, in November 2004, Messrs. Mahone and Acosta verbally directed all Public Affairs Officers in attendance that all news releases had to be tied to the exploration of space to promote the President's "Vision of Space Exploration." Witnesses also informed our investigators that this message was not well received by many in attendance, as it was interpreted as an attempt to politicize NASA's research news. Thereafter, there were allegations that the Headquarters Office of Public Affairs inserted the "Vision" message into field generated news releases, which will be discussed in the next section.

- **Self-Censorship.** Allegations that certain climate change scientists and their supporting Public Affairs Officers purposely diluted the scientific message of their proposed news releases because of their belief that political appointee Public Affairs officials would delete or tone down information believed to be contrary to Administration policies—and do so without their consultation or concurrence. Consequently, these scientists and Public Affairs Officers claim that they chose to minimize the information that could possibly be construed as adverse to the Administration in hopes that the end product would have some semblance of accuracy. Some scientists also claimed that the editing process was so painful that they just gave up, citing the length of time involved, the information being questioned, and the nonsupportive tone of the questions and comments generated by Headquarters-based political appointees in the Office of Public Affairs. One career civil service Public Affairs official "caught in the middle" of these debates claims to have left the Agency because of fear of failing health.

### C. Examples of Purported Interference with NASA Scientists' Proposed News Releases

The following are examples of news releases that members of the climate change science community (and some of their supporting Public Affairs Officers) found objectionable according to the categories discussed above. With respect to these examples, we were able to substantiate, by a preponderance of the evidence, that the NASA Headquarters Office of Public Affairs had improperly interfered with the proposed media releases. The examples are not all-inclusive of the alleged problematic releases disclosed during the course of the investigation but were selected for inclusion as many of the others could not be fully corroborated through secondary sources such as documentary evidence or additional witnesses. As mentioned earlier, we also included an example from the astrophysics community that illustrates the negative effects of poor coordination, dissembling/obscurantism, and self censorship.

#### 1. Release 03-197: NASA-Funded Study Looks at Impact of a Hydrogen Economy

This news release, originally submitted by scientists at NASA's Jet Propulsion Laboratory, is an example of a news release that was "denied" by the NASA Headquarters Office of Public Affairs.[36] This involved a proposed joint news release by NASA and the California Institute of Technology submitted by the Office of Public Affairs at the Jet Propulsion Laboratory to the Headquarters Office of Public Affairs in May 2003. The idea for the joint release was based on the journal *Science* agreeing to publish on June 13, 2003, a paper titled, "The Potential Environmental Impact of a Hydrogen Economy on the Stratosphere," authored by California Institute of Technology and Jet Propulsion Laboratory scientists. The Jet Propulsion Laboratory Office of Public Affairs saw this as an opportunity to promote NASA-funded research conducted by scientists at the two institutions.

The Jet Propulsion Laboratory Office of Public Affairs alerted the Headquarters Office of Public Affairs that the findings were controversial as the paper documented that leaks from mass-produced hydrogen fuel cells could decrease atmospheric ozone levels. The alert was believed necessary because it was during this time period that the White House was formally promoting a seemingly incongruous initiative regarding the development and eventual use of hydrogen-fueled vehicles as an alternative to fossil fuel transportation. In fact, on June 2, 2003, the White House released a "fact sheet" wherein it announced that President Bush and the other G-8 Leaders had agreed on an "Action Plan" designed to care for the environment while growing their respective economies. Included in the Action Plan were goals for the development of hydrogen fuel cell technology and infrastructure aimed at making fuel cell vehicles price competitive within two decades. The fact sheet further reflected that the United States was investing $1.7

[36] This was the only instance where we could substantiate that NASA Public Affairs officials affirmatively declined to disseminate a proposed climate change/environmental media product to the public.

billion in the development of hydrogen fuel cell technology and a hydrogen-fueled "Freedom Car."

On June 6, 2003, the Jet Propulsion Laboratory's draft news release was approved by the NASA Headquarters Science Mission Directorate point of contact as a joint venture with the California Institute of Technology. Various edited versions of the news release were routed between the Jet Propulsion Laboratory and NASA Headquarters until June 12, 2003, when the Headquarters Office of Public Affairs notified the Jet Propulsion Laboratory Office of Public Affairs that subsequent to consultation with the Office of Science and Technology Policy, Executive Office of the President, the proposed news release was canceled.

Interviews reflected two different accounts of the fate of this particular news release. The first account, as provided by a Jet Propulsion Laboratory Public Affairs Officer, was that the Office of Science and Technology Policy, Executive Office of the President, did not clear the release because it had not had sufficient time to relieve its concerns about the substance of the news release. The second account claimed that three people (Mr. Mahone, Mahone's Special Assistant, and a NASA Headquarters Public Affairs Officer) telephonically contacted a representative from the President's Council on Environmental Quality and was told that time was needed for other departments within the U.S. Government to review the findings. Upon termination of that telephone call, Mr. Mahone directed the NASA Headquarters Public Affairs Officer to cancel the news release since he was not going to issue a NASA release that conflicted with the President's position on the development of hydrogen-fueled cars. This account was related to us by the Headquarters Public Affairs Officer who participated in the telephone call. Mr. Mahone had no independent recollection of these events but advised our investigators that they "could have happened."

Ultimately, on June 12, 2003, the California Institute of Technology (without NASA's participation) issued its own press release: "Hydrogen Economy Might Impact Earth's Stratosphere, Study Shows."

### 2. Cancellation of Aura Satellite Press Conference Before the 2004 Presidential Election

This is an example of NASA Headquarters Office of Public Affairs "timing" a media event, presumably to lessen the news impact. As background, on July 15, 2004, the "Ozone Monitoring Instrument" was launched on the Aura satellite as a joint effort between NASA and the National Oceanic and Atmospheric Administration (NOAA). In October 2004, the Chief Scientist for the Earth Science Division at the Goddard Space Flight Center prepared to conduct a press conference with NOAA under the typical NASA protocol that calls for a press conference 100 days after a launch. The press conference was intended to demonstrate how the instruments on the Aura were being utilized to provide direct global measurements of low-level ozone and many other pollutants affecting air quality on Earth. According to the Chief Scientist, one specific Aura instrument, the Ozone Monitoring Instrument, had produced some "amazing"

results on the effects of air pollution on Earth, including how pollution contributes to global warming.

According to the Chief Scientist, the press conference and accompanying NASA news release were postponed. The Chief Scientist was told through a Goddard Public Affairs Officer that the NASA Headquarters Office of Public Affairs advised that the "Administration does not want any negative environmental news before the election . . . as such news could alter the election." The Chief Scientist stated his belief that the cancellation occurred because the underlying facts of the proposed press conference related to politically sensitive topics such as global warming and the Clean Air Act.

We also interviewed three sources who were geographically dispersed at the time of the event—a science writer from the California Institute of Technology at the Jet Propulsion Laboratory, a Jet Propulsion Laboratory Public Affairs Officer, and a Goddard Public Affairs Officer. According to those interviewed, Mr. Mahone held a teleconference with them and several other Public Affairs Officers who were working on the Aura press conference and news release. At that teleconference, Mr. Mahone "voiced his displeasure with having the press conference before the election and subsequently directed that the press conference be delayed until after the 2004 Presidential elections." All three individuals we interviewed also stated that during the same teleconference, a representative from the Netherlands (the Ozone Monitoring Instrument was built by the Netherlands and Finland in collaboration with NASA) was told by Mr. Mahone that the representative had NASA's approval to go ahead with his planned, pre-election media coverage since it was unlikely to be covered by U.S. media.

Of interest, the science writer is certain that the teleconference occurred a few days prior to October 19, 2004, the date the *New York Times* published an article by Andrew Revkin.[37] Mr. Revkin's article described criticisms of scientists "in and out of government" pertaining to the Bush Administration, and the article also references and quotes Mr. Mahone. Mr. Revkin stated that Mr. Mahone "denied that any releases on climate had been held up or modified by anything other than normal reviews. 'There has been a slowdown,' he said."

The appearance of this quote and statement upset the California Institute of Technology science writer due to what had transpired with regard to Mr. Mahone's decision regarding Aura a few days prior to the article. In sum, the event prompted him/her to e-mail the former President of the California Institute of Technology on October 26, 2004, documenting what had transpired during the teleconference with Mr. Mahone and citing that political concerns were the reason given as to why a press conference announcing the results from the Aura Satellite would be postponed from October 2004 to December 2004.

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[37] Andrew C. Revkin, "Bush vs. the Laureates: How Science Became a Partisan Issue," *New York Times*, October 19, 2004.

The Goddard Public Affairs Officer also notified the Goddard Chief Scientist about what had transpired during the teleconference and the cited political reason the Aura press conference was postponed.

Nevertheless, the press conference did not occur in October 2004 as initially planned. NASA officials eventually did hold a post-election Aura press conference on December 14, 2004, at the American Geophysical Union in San Francisco, California. On the same date, NASA issued news release 04-391 "NASA's Aura Satellite Sheds New Light on Air Quality and Ozone Hole." News release 04-0391 advised the public that "for the first time, Aura will help scientists monitor global pollution production and transport with unprecedented spatial resolution." The Goddard Chief Scientist was quoted as saying the "Aura early results are nothing short of astounding; measurements like these will help us better understand how the ozone hole will react to future stratospheric cooling, which is expected as carbon dioxide levels continue to rise."

### 3. Release 04-337: Study Shows Potential for Antarctic Climate Change

This news release, originally submitted by a scientist at the Goddard Institute of Space Studies, is an example of "poor coordination" and "dissembling/obscurantism" by the NASA Headquarters Office of Public Affairs. In early September 2004, a Goddard Institute for Space Studies' scientist prepared a draft news release, "Cool Antarctica May Warm Rapidly this Century" and submitted it to the Goddard Space Flight Center Office of Public Affairs. The scientist prepared the draft in connection with a published paper that provided an explanation as to how ozone levels and increased greenhouse gases combine to affect the climate of Antarctica and that the coming decades may see a dominant warming trend.

This was the first study using a Goddard Institute for Space Studies' climate model to observe how the depletion of ozone and increased greenhouse gases worked together to impact Antarctic temperatures. The media product was not released until October 6, 2004, and then under the title "Study Shows Potential for Antarctic Climate Change." The scientist opined that due to the title change his findings received limited media coverage.[38] He stated that the title change had the effect of deadening the media interest in the study because it "said nothing."

The scientist stated that he was not consulted on the changes made to the release nor did he know who made them. The scientist related that the lack of transparency as to who actually made the changes increased the problems because the scientist did not know with whom to work to resolve differences. Due to the lack of documentation concerning the edits, we could not determine who made the changes, despite a detailed review of all of the records available as well as interviews with the scientists and numerous Public Affairs Officers at the Field Center and at Headquarters.

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[38] This release occurred less than one month before the 2004 Presidential Election. It was one of five climate-related news releases that month, and the only one that appeared to have a climate "change" message.

### 4. Release 04-0386: NASA Study Links Wind and Current Changes to Indian Ocean Warming

This December 2, 2004, news release submitted by NASA's Jet Propulsion Laboratory is an example of "mixed messaging" by the NASA Headquarters Office of Public Affairs. The release described a study by the Jet Propulsion Laboratory that suggests changing winds and currents in the Indian Ocean during the 1990s contributed to the observed warming of the Indian Ocean during that period. The scientist who proposed the release requested that it be withdrawn after it was issued because it contained a quote written for him, which he felt pressured to accept. He only accepted the quote as it was necessary to fulfill the then new requirement for all news releases to be somehow related to the President's Vision for Space Exploration. The added quote was as follows:

> These findings from satellite data *also advance space exploration* by increasing understanding of how complex planetary system elements, such as winds and currents, in our home planet interact to drive climate change. Such technologies, which have been demonstrated to be critical in understanding Earth's climate system, may someday prove useful in studying climate systems on other planets.

The scientist objected to the inclusion of the quote as it did not have any relevance to the study he conducted, and he believed that Earth science researchers should not have to justify their work on Earth by trying to tie that work to an Administration policy goal regarding the exploration of other planets.

On December 5, 2004, the Director, Jet Propulsion Laboratory, found out about this incident and sent an e-mail to his staff in which he related the following:

> I want to emphesise [sic] two golden rules that we should follow on all our science related press releases: 1) No science related press release will go out without full approval of the senior science author or PI, and under no condition should a PI be pressured to put any statement that he/she do not fully agree with. 2) our first, second, third . . . and only priority is scientific integrity. Our integrity can not be compromised no matter what the reason.[39]

On December 6, 2004, a Headquarters Public Affairs Officer electronically notified a Public Affairs Officer at the Jet Propulsion Laboratory stating, "You can safely assure your customers that HQ is NOT going to insist everything has Vision tag lines."

### 5. Release 05-344: NASA's Chandra Reveals New Star Generation

This news release, submitted by a scientist of the Astrophysics Division of the Science Mission Directorate, is not specifically related to climate change but illustrates the unintended consequences of "poor coordination" when changes are made by editors

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[39] The Director, Jet Propulsion Laboratory, became part of the NASA team that helped develop the NASA Administrator's new policy on science and media relations.

without consulting the scientists who conducted the study. In this case, the NASA Headquarters Office of Public Affairs newsroom introduced a number of factual and conceptual errors into the news release including the mischaracterization that Chandra (a satellite observatory) had discovered a "new generation of stars," when, in fact, the stars discussed in the release were already known to exist. Scientists who conducted the research were not included in the review of the final news release. According to our sources, this news release was not only wrong but also left the embarrassing impression that NASA did not understand its own science.

### 6. Release 05-434: NASA's Aura Satellite Peers into Earth's Ozone Hole

This news release, submitted by a scientist at the Goddard Space Flight Center, is another example of "poor coordination" and "dissembling/obscurantism." The submitting scientist's proposed title for the news release was "2005 Ozone Hole Fifth Largest on Record." This release was intended to reflect a study conducted by scientists at Goddard Space Flight Center that concluded that the ozone hole was getting larger and that the hole as measured in 2005 was the fifth largest ever. Edits made, however, by Headquarters Public Affairs Officers to both the title and to the body of the news release arguably changed its substantive meaning by giving the impression that the ozone hole was improving.[40]

Apart from the title, edits were also made to the body of the article, to include a substantive change to the first sentence. The first sentence of the proposed release authored by the scientist was, "The 'ozone hole' that develops over Antarctica was larger this year than in 2004 and was the fifth largest on record." In contrast, the first sentence of the actual release, as edited by the Headquarters Office of Public Affairs, stated, "NASA researchers, using data from the Agency's AURA satellite, determined the seasonal ozone hole that developed over Antarctica this year is smaller than in previous years." Although technically correct, the NASA researcher stated that this sentence changed the overall tenor of the findings of the study, which had determined that the ozone hole was the fifth largest ever. The sentence was also incongruent with statements made later in the release concerning the relative growth of the ozone hole since the 1980s. As the release points out, the largest recorded measurement for the hole was 10 million square miles in 1998. The release also points out that for 10 of the last 12 years the ozone hole has been larger than 7.7 million square miles, while prior to 1985 the hole was never larger than 4 million square miles.

The edits served to convey a message to the public that was inconsistent with the study's results. For example, the proposing scientist (who was not notified of changes to the headline or to the first sentence) was approached by the media and asked to explain why the ozone hole was smaller. He said he had difficulty fielding such questions, as his study was in contradiction to the findings as put forward in the news release.

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[40] According to the News Chief at the Goddard Space Flight Center, after receiving and reviewing the proposed draft, a political appointee at the Headquarters Office of Public Affairs arguably revealed his office's editorial intent by asking, "Can't we say something positive, this is very negative."

### 7. Release 06-009: NASA's Spitzer Finds Possible Comet Dust around Dead Star

This release was another example of "dissembling/obscurantism," "self censorship," and "poor coordination" and was based upon research conducted by astronomers from the Goddard Space Flight Center and the California Institute of Technology that had been published in *Astrophysical Journal.* Their *Astrophysical Journal* article reflected some of the scientific observations made from "Spitzer," a NASA satellite. The astronomers' research in this matter included drawing parallels between a dead solar system and the Earth's solar system. Eventually, the astronomers (working with the Jet Propulsion Laboratory Office of Public Affairs) prepared a news release regarding their research that was intended to coincide with an upcoming American Astronomical Society (AAS) conference. The proposed release was submitted to and then edited by the NASA Headquarters Office of Public Affairs. The editor of the release told our investigators that he/she removed all references to the Earth's solar system and minimized the cited "parallels" between the dead solar system and Earth's solar system. In an e-mail at or about the time of this release, the editor commented that "NASA was not in the habit of frightening the public with doom and gloom scenarios." That same editor also told our investigators that the changes were necessary in order to get the news release approved by Mr. Acosta. Finally, the Headquarters' edits were not sent to the scientist until it was too late for him to make the necessary revisions before the news release was disseminated. During the AAS conference, the Goddard Space Flight Center astronomer was questioned as to why the news release did not contain any information about the study's findings concerning our own solar system.

### 8. NASA Headquarters Web Feature, February 8, 2005, "Earth Gets a Warm Feeling All Over"

This climate change Web feature, originally submitted as a news release by Dr. Hansen of the Goddard Institute for Space Studies, is an example of "news forum minimization" by the NASA Headquarters Office of Public Affairs. In early January 2005, Dr. Hansen submitted a draft news release to support an annual story about the average annual Earth temperature. The release was based on a report issued by the Goddard Institute for Space Studies at the end of calendar year 2004. After a 2-week review, the NASA Headquarters Office of Public Affairs changed the proposed release to a Web feature. As previously discussed, NASA scientists and NASA Public Affairs Officers consider a Web feature conversion as a "downgrade" because media outlets look mostly to NASA news releases to generate articles.

### 9. NASA Headquarters and Goddard Space Flight Center Web Posting, September 28, 2005, Arctic Sea Ice Continues to Decline, Arctic Temperatures Continue to Rise in 2005

This climate-related Web posting, originally submitted by a NASA scientist at the Goddard Space Flight Center, is an example of "self-censorship," attempted "dissembling/obscurantism," and "news forum minimization." Scientists from Goddard Space Flight Center, Jet Propulsion Laboratory, and the University of Colorado issued

research findings that the Arctic ice blanketing the ocean was shrinking. Anticipating that the NASA Headquarters Office of Public Affairs was predisposed to make the release of any information related to climate change very difficult, the proposing Goddard Space Flight Center scientist and Goddard Office of Public Affairs submitted a draft news release which, in their opinion, did not emphasize climate change or was otherwise "alarmist" in nature. According to the Goddard Space Flight Center scientist who conducted the study, Mr. Deutsch of the NASA Headquarters Office of Public Affairs edited the proposed news release and returned it to the scientists with phrases such as "but this is not certain," "it could grow back thicker," and"it may not be the case in the future" after each paragraph containing a scientific statement. The scientist stated that Mr. Deutsch introduced erroneous scientific information into the news release as well.

The draft was returned to the Goddard Space Flight Center scientist who attempted to make corrections and then resubmitted it. At this same time, a senior Science Mission Directorate scientist reviewed the Deutsch draft and stated that the science presented made no sense. This same scientist then worked with Mr. Deutsch and the Goddard Space Flight Center scientist to ultimately return the draft to nearly its original form. Due to the extended review process, however, according to the Headquarters Public Affairs Officer, NASA missed its own news release deadline and the story was converted to a Web feature, while the University of Colorado issued its own news release, given that NASA had missed the deadline.

### 10. Goddard Institute for Space Studies Web Feature, March 16, 2006, "NASA Links 'Smog' to Arctic Warming"

This Web feature, originally submitted by a NASA scientist at the Goddard Institute for Space Studies as a draft news release, is an example of "news forum minimization." On December 29, 2005, a Goddard Institute for Space Studies scientist submitted a draft news release to the NASA Headquarters Office of Public Affairs through the Goddard Space Flight Center in connection with an article accepted for publication in the American Geophysical Union's *Journal of Geophysical Research-Atmospheres*. The draft presented scientific findings that ozone pollution plays a role in Arctic warming.

In correspondence between Public Affairs Officers at the Goddard Space Flight Center and Headquarters, Mr. Deutsch of the NASA Headquarters Office of Public Affairs questioned how this story was different from other news releases done on the same topic. In an e-mail dated January 10, 2006, Mr. Deutsch stated,

> If any of you can provide me with ways this release/feature would substantially expound on the previous umpteen releases/features we've done on this subject, I'd be interested to know.... I just don't see any huge news value in this.... I vote no, and I'd be happy to discuss this with anyone interested and/or hear dissenting opinions.

While there is nothing inherently wrong with a Headquarters Office of Public Affairs official asking questions about the merits of a proposed news release, this type of statement, within the context of the relationship between the Headquarters Office of Public Affairs and the climate change scientists, supports the view that scientists seeking

to publicize any scientific results related to climate change research would be better off using other forums.

Sources inform us that at some point between January 11 and February 6, 2006, the scientist provided additional information to Mr. Deutsch (through the Goddard Space Flight Center Public Affairs Officer) that explained the significance of the scientific findings. But after continued delays through February and early March (while the product was apparently still being reviewed at Headquarters) during which time Mr. Deutsch provided no explanation as to the reasons for the delay, a Goddard Public Affairs Officer suggested to the scientist that they should consider a Web feature instead of a news release, telling the scientist that it was a "waste of time" and effort to try to get the news release approved because the Headquarters Office of Public Affairs would deny it because it related to climate change. The scientist agreed, but commented at the time to his/her Public Affairs representative that journalists look for news releases, not Web features. The Goddard Space Flight Center Public Affairs Officer stated to our investigators that his/her comments to the scientist (recommending a Web feature) were based on his/her belief that if a media product dealt with a climate study, then the NASA Headquarters Office of Public Affairs would not issue it as a news release. On March 14, 2006, the Goddard Institute for Space Studies simply posted the research findings to its Web site.

### 11. Media Advisory M04-192: NASA Study Finds Glacier Doing Double Time

This media advisory, originally submitted by a Goddard Space Flight Center scientist as a draft news release, was another example of "news forum minimization" and attempted "mixed messaging." The draft news release was prepared by the scientist in connection with a paper published by *Nature,* describing the acceleration of the world's fastest glacier in Greenland to nearly twice its speed as a result of melting and the retreat of the floating ice-tongue that was holding back the glacier. The NASA Headquarters Office of Public Affairs inserted a comment about how understanding ice on Earth helps us understand Mars in an apparent attempt to link this research to the President's Vision for Space Exploration. The scientist who conducted the research acknowledged to our investigators that the statement was technically correct but not in the context of the study. The scientist expressed his disapproval with the comment to the Headquarters Office of Public Affairs and it was removed. Nevertheless, at the direction of Headquarters Office of Public Affairs' supervisors, the NASA Headquarters newsroom changed the news release to a media advisory because they wanted to "downplay" the news release, thus reducing the readership because media advisories would not receive attention from the national news.

## V. Allegations and Instances of Improper Denial of Media Access

This aspect of our investigation focused primarily on allegations that the NASA Headquarters Office of Public Affairs improperly denied National Public Radio's request to interview Dr. Hansen of the Goddard Institute for Space Studies, as well as other

incidents whereby Dr. Hansen was seemingly denied access to the media or was otherwise allegedly suppressed or censored. [41]

The escalating chain of events described in the following sections culminated in the NASA Headquarters Office of Public Affairs' decision to deny National Public Radio's request to interview Dr. Hansen and eventual allegations that the NASA Headquarters Office of Public Affairs directed the "monitoring" of Dr. Hansen's activities. Denial of National Public Radio's interview request and the events leading up to it brought national attention to and criticism of NASA's policies and procedures related to the dissemination of climate change research information and played a large role in NASA's eventual decision to revise its policies concerning the news releases and media access.

Our investigation concluded that a contributing factor to the controversies surrounding media access to Dr. Hansen was a series of *ad hoc* procedures instituted by the NASA Headquarters Office of Public Affairs. Those procedures, which appeared to be incrementally implemented (and selectively applied) began in the fall of 2004 and arguably eroded NASA's previous policy (discussed in Part III) of "widest practicable" news dissemination that generally permitted journalists *to have direct access to those NASA officials they seek to interview*.

Based on our interviews and review of relevant e-mails, these newly prescribed processes included a requirement for a Public Affairs Officer to be present during media interviews; that the interviews be taped; and that permission be granted by the NASA Headquarters Office of Public Affairs (who could exercise a "right of first refusal") before speaking to the media.

NASA Headquarters Office of Public Affairs officials told us that the procedures were instituted in order to have a reasonable preparation time regarding likely inquiries from the national and international media based on public comments made by NASA scientists. In connection to Dr. Hansen in particular, Messrs. Mould and Acosta generally commented to us that appropriate steps were taken to simply make sure that the Agency had a "heads-up" about his media contacts so that the Agency could intelligently respond to inquiries that resulted from Dr. Hansen's appearances. According to Messrs. Acosta, Mould, and Mahone, there were several reasons to have a program official and/or Public Affairs Officer present at interviews. These included the importance of having an appropriate NASA official present who could provide information concerning NASA's policies beyond the scientific findings about which Dr. Hansen could speak, the need to answer any questions on topics beyond climate change, the necessity of ensuring the accuracy of the information being given and the need to ensure the sharing of the results of the interview with the appropriate parties within NASA. Again, Messrs. Mould and

[41] We note that during the time period in question (December 2005–February 2006), Dr. Hansen conducted approximately 20 media interviews, including one with 60 Minutes and, ultimately, one with National Public Radio. Therefore, while the incidents described in this report reasonably reflect efforts by NASA Headquarters Office of Public Affairs to limit or at least monitor Dr. Hansen's access to the media, Dr. Hansen did, in fact, have considerable media interaction.

Acosta state that any problems with this process were caused by Dr. Hansen and not by any political agenda on their part. Dr. Hansen and the other climate change scientists we interviewed, however, interpreted the new policies as a politically motivated form of scientific suppression and censorship.

### A. Dr. Hansen's Speech at the 2005 American Geophysical Union Conference

On December 6, 2005, Dr. Hansen spoke before an American Geophysical Union meeting in San Francisco, California, where he discussed the perils of climate change. He prefaced his speech by stating that the views he was providing were his own and not those of NASA. In an excerpt from his presentation, titled "The Tipping Point," which Dr. Hansen provided to this office, he states,

> The Earth's history suggests that with warming of two to three degrees, the new sea level will include not only most of the ice from Greenland and West Antarctica, but a portion of East Antarctica, raising sea level by 25 meters, or 80 feet. Within a century, coastal dwellers will be faced with irregular flooding associated with storms. They will have to continually rebuild above a transient water level.
>
> This grim scenario can be halted if the growth of greenhouse gas emissions is slowed in the first quarter of this century.

Understandably, Dr. Hansen's comments drew significant media reaction: he was a NASA climate change scientist; his research was federally funded; and he was in charge of a leading scientific organization specializing, in part, in global climate change science. Therefore, it was a likely consequence for listeners and the national media to infer that Dr. Hansen's "views" were, in fact, based upon his scientific observations resulting from his Federal employment with NASA. So, while Dr. Hansen did preface his speech by saying his views were his own and not NASA's, it was quite reasonable, given his strong message and his leadership position at one of NASA's premier research facilities, that NASA leadership would be held to answer follow-up questions and inquiries.

The media attention drawn to Dr. Hansen's speech at the American Geophysical Union meeting was closely followed by significant media attention drawn to the Goddard Institute for Space Studies' posting of 2005 climate change data to its Web site, discussed below.

### B. Goddard Institute for Space Studies' Web Site Posting Reflects that 2005 Is Warmest Year in Century

On December 6, 2005, the same day that Dr. Hansen made his speech in San Francisco, the Goddard Institute for Space Studies (the organization he leads) posted on its Web site its findings concerning the 2005 global surface temperatures. On December 8, 2005, a reporter from *The Washington Post* e-mailed Dr. Hansen advising him that she "got the latest GISS figures" and wanted to talk about them. In a December 8, 2005, e-mail response, Dr. Hansen briefly discussed the temperature data and advised that based on an agreement with the National Oceanic and Atmospheric Administration, the Web posting was premature and the data would not be officially released until December 15, 2005.

Dr. Hansen did not notify anyone in the Office of Public Affairs about this media contact.[42]

On December 10, 2005, *The Washington Post* published an article that focused on the point that NASA planned to release temperature data reflecting that 2005 remained on track to be the hottest year in recorded history. There was no known reaction to this story by the NASA Headquarters Office of Public Affairs.

On December 13, 2005, *ABC News* e-mailed the Goddard Space Flight Center Office of Public Affairs and requested additional information on the Goddard Institute for Space Studies' release of temperature data for an upcoming story to be broadcast by ABC's *Good Morning America*. That office advised *ABC News* that the temperature data would not be officially released until December 15, 2005, and to contact Mr. Deutsch or another Headquarters Public Affairs Officer to coordinate any interviews of NASA officials. On December 14, 2005, a *Good Morning America* producer contacted a Headquarters Public Affairs Officer. The Public Affairs Officer surmised that the producer was primarily gathering general information on the temperature data and that *Good Morning America* media coverage was not imminent. The Public Affairs Officer planned to tell Mr. Acosta about the contact the following day but by then *Good Morning America* had already aired its story.

We also learned that an *ABC News* correspondent contacted Dr. Hansen directly on either December 13, 2005, or December 14, 2005. Dr. Hansen spoke with the correspondent and provided a copy of a letter he had provided to the journal *Science* titled "Global Warming Continues." This exchange led to a subsequent story (December 15, 2005) on ABC's *Good Morning America* about NASA releasing the annual temperature data and the significance of the data as it pertained to global warming. A Headquarters Public Affairs Specialist contacted the Goddard Institute for Space Studies Public Affairs Coordinator and questioned the Coordinator about the *ABC News* story, while relating that a "S--t storm" was taking place at NASA Headquarters, that the Associate Administrator for the Science Mission Directorate was irate, and that the NASA Administrator was receiving calls from the White House. Headquarters' displeasure was also documented in Mr. Deutsch's December 15, 2005, "point paper," wherein he noted frustration that members of his office were yet again upset that Dr. Hansen had interacted

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[42] Under NASA's Public Affairs regulations promulgated in 2006, "NASA employees may speak to the media and the public about their work. When doing so, employees shall **notify** their immediate supervisor and coordinate with their Public Affairs Office in advance of interviews whenever possible, or immediately thereafter, and are encouraged to the maximum extent practicable, to have a Public Affairs Officer present during interviews" (14 C.F.R.§ 1213.105 (2006)). But in 2005, NASA's regulations did not require (or suggest) that Dr. Hansen notify or coordinate with a supervisor or Public Affairs officials. The 1991 NASA regulations only go as far as stating, "Normally, requests for interviews with NASA officials will be made through the appropriate Public Affairs Office. However, journalists will have direct access to those NASA officials they seek to interview" (14 C.F.R. § 1213.105 (1991)). In fact, the policy was that NASA officials "may participate in interviews and speak for the Agency in areas of their assigned responsibility" (14 C.F.R. § 1213.101 (1987)).

with the media without prior notification to Headquarters.[43] Mr. Deutsch's later testimony before Congress, on March 19, 2007, was that NASA was deluged with media inquiries and was ill-equipped to respond to public inquiries on this matter because NASA Headquarters was not informed beforehand.

The Goddard Institute for Space Studies Public Affairs Coordinator disagrees regarding Headquarters' complaints of no notification, stating that he/she provided specific advance notice to NASA Headquarters Office of Public Affairs that the global surface-air temperature posting would garner increased media attention because the results indicated the 2005 meteorological year was the warmest year in a century.[44] According to Dr. Hansen and his Public Affairs Coordinator, as in previous years, the Goddard Institute for Space Studies was not seeking permission from the Headquarters Office of Public Affairs to update and post its findings because it was not a news release. By notifying that office in advance of the upcoming Web site posting, the Goddard Institute for Space Studies was simply attempting to follow the verbal "heads-up" policy concerning the prior notification of scientific findings that would receive national media interest.

On December 15, 2005, as a result of these incidents, the Goddard Institute for Space Studies Public Affairs Office Coordinator was teleconferenced by Messrs. Mould and Acosta and three Headquarters Office of Public Affairs officials and told that all media interview requests with a NASA employee must be coordinated with the Headquarters Office of Public Affairs. They further directed that no comments or interviews should be granted until they were coordinated and approved by senior Science Mission Directorate officials and the Headquarters Office of Public Affairs. Messrs. Mould and Acosta further directed that senior Science Mission Directorate officials would have the "right of first refusal" and would direct who would handle that Mission Directorate's related media requests. The Coordinator also stated that Mr. Mould commented that he was "tired of Jim Hansen trying to run an independent press operation . . . from now on I want to know everything he does." The three Headquarters Office of Public Affairs officials stated to us that the comment by Mr. Mould was part of a heated discussion with the Goddard Institute for Space Studies Public Affairs Coordinator and was in direct response to the Coordinator's comment that his/her office did not answer to Mr. Mould.

During the teleconference, according to the Public Affairs Coordinator, Messrs. Mould and Acosta verbally directed the Coordinator that, unlike previous practice, *all* Goddard Institute for Space Studies' postings to its Web site must be approved by senior Science

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[43] The point paper was titled "Communications Breakdown between Headquarters and GISS [Goddard Institute for Space Studies]."

[44] December 1, 2004, to November 30, 2005 was the year measured. Regarding Headquarters notification, the Goddard Institute for Space Studies Public Affairs Coordinator told us that on December 12, 2005, a teleconference with Mr. Deutsch and another Headquarters Public Affairs Specialist took place during which they were informed that the upcoming 2005 temperature posting would most likely generate a lot of media attention. A Headquarters Public Affairs Officer subsequently acknowledged that the Coordinator did, in fact, tell him/her that the temperature data would probably generate a lot of media attention but that he/she misinterpreted what he/she was told.

Mission Directorate officials and the Headquarters Office of Public Affairs. This was a departure from previous policy insomuch as this level of approval included the Web posting of scientific journals, data releases, science briefs, and news features. Additionally, all speeches, data releases, and scientific meetings that included Goddard Institute for Space Studies scientists were to be reported to the Headquarters Office of Public Affairs so it could be aware of any activities that would draw national media attention.

On this same date (December 15, 2005), Mr. Deutsch sent an e-mail to the Goddard Institute for Space Studies' Public Affairs Coordinator, and others, in which he told them that no interviews with Goddard Institute for Space Studies' employees would be given until coordinated with the Headquarters Office of Public Affairs. In his interview with this office, Mr. Deutsch advised that Mr. Acosta later directed him that "no more interviews" of NASA scientists were to be conducted regarding the Goddard Institute for Space Studies' posting of the 2005 temperature data. Mr. Deutsch also informed the Goddard Institute for Space Studies' Public Affairs Coordinator that the 2005 temperature data must be removed from their Web site until additional approval was obtained. Subsequently, the data were re-posted on December 16, 2005, with NASA Headquarters Office of Public Affairs' permission.

On December 16, 2005, the Chief of the Goddard Space Flight Center Office of Public Affairs, was telephonically contacted by Messrs. Mould and Acosta. The Chief advised us that Mr. Acosta told him/her that the Headquarters Office of Public Affairs' policy concerning a "heads-up" on media inquiries had changed and that the Headquarters Office of Public Affairs now wanted to know everything that Dr. Hansen was doing. Later that day, the Chief telephoned the Goddard Institute for Space Studies Public Affairs Coordinator for the purpose of comparing notes regarding Messrs. Acosta's and Mould's calls. The Goddard Institute for Space Studies Public Affairs Coordinator then told the Chief (and eventually our investigators) that Messrs. Acosta and Mould had called him/her as well and given similar instructions with regard to Dr. Hansen. As a result, the Chief felt Dr. Hansen was being "singled out" by the Headquarters Office of Public Affairs, which prompted him to send an e-mail to Dr. Hansen's supervisors notifying them of the Headquarters Office of Public Affairs' desire that the Goddard Space Flight Center Office of Public Affairs monitor Dr. Hansen—and that the Chief did not think that was their job.

On December 20, 2005, the Chief of the Goddard Space Flight Center Office of Public Affairs sent an e-mail to Messrs. Acosta and Mould memorializing the directions given during the teleconference in an attempt to get written confirmation of these directives. Neither Mr. Acosta nor Mr. Mould replied to the e-mail. Both later claimed to NASA leadership and congressional staff that they never received it. Congressional staff informed our investigators that Messrs. Mould and Acosta denied that the contents of the e-mail accurately reflected what was discussed and that the teleconference with the Goddard Institute for Space Studies Public Affairs Coordinator was not an initiation of a monitoring effort but was only a reiteration of the "heads-up" policy already in place. In contradiction to this denial, the three Headquarters Office of Public Affairs officials who were party to the December 15, 2005, teleconference all concurred that the contents of

the e-mail message both accurately summarized the directions given during the teleconference and the way that the NASA Headquarters Office of Public Affairs worked. Mr. Mould suggested to the Congressional staff that the e-mail was never sent and must have been retyped because it did not look like a NASA e-mail.

Our investigation confirmed that that e-mail from the Chief of the Goddard Space Flight Center Office of Public Affairs was, in fact, drafted, sent, and received by others who were on the same distribution list as Messrs. Acosta and Mould. Further, a forensic examination of electronic data obtained from Mr. Acosta's NASA-issued computer revealed that the e-mail had been successfully delivered to Mr. Acosta's e-mail address and it had been saved to his hard drive as a normal function of e-mail retrieval from the server. The examination of available data further showed that he (or someone operating his equipment) had received and reviewed the e-mail on his Blackberry device, and then forwarded it to another Headquarters Office of Public Affairs staff member for advice, who, in turn, responded to him via e-mail correspondence.

The examination of electronic data obtained from Mr. Mould's NASA-issued computers, however, was inconclusive. Due to the short retention schedule for information on the NASA electronic mail servers, evidence of the mail being delivered to Mr. Mould could not be shown forensically through a review of the information on the servers at the time that the information was obtained.[45] We believe, however, based on the totality of the evidence, that the most likely scenario was that the e-mail was successfully delivered to Mr. Mould's e-mail account given that it was properly addressed to him and that every other addressee on the e-mail (either as a "to" or "cc") received it.

On or about December 19, 2005, the Headquarters Office of Public Affairs direction to "monitor" Dr. Hansen was deemed inappropriate by the Chief of the Goddard Space Flight Center Office of Public Affairs who had consulted on this issue with Dr. Hansen's supervisory chain of command. Dr. Edward J. Weiler, the Goddard Space Flight Center Director, told us that he personally discussed the matter with Dr. Hansen and told him that he supported his media appearances and cautioned him to only discuss climate change science and not address policy issues. As a result, no sustained monitoring of Dr. Hansen or other Goddard Institute for Space Studies' scientists occurred, aside from the reporting of his media appearances/contacts to Headquarters Office of Public Affairs from winter 2005 through spring 2006.

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[45] The NASA Office of Inspector General conducted an audit of the Agency e-mail retention policy and provided a draft of the audit to the Agency for comment. This audit discovered that NASA's e-mail retention guidance does not adequately address the National Archives Records Administration (NARA) requirements for electronic records management. NASA's noncompliance with NARA's regulations and NASA's requirements for records management has increased the risk of permanent loss of (1) institutional memory, (2) records containing essential transactions that protect the legal and financial rights of the Government and persons directly affected by NASA activities, and (3) records permitting NASA to be responsive to Congress and oversight agencies. NASA has developed and is finalizing comprehensive electronic records management guidance and Agency-wide electronic records management training. "Final Memorandum on Audit of Retention of NASA's Official Electronic Mail" (IG-08-010, February 28, 2008).

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### C. NASA Headquarters Office of Public Affairs Denies National Public Radio's Request to Interview Dr. Hansen

On December 8, 2005, the producer of *On Point*, a live morning news program on National Public Radio's affiliate WBUR-FM in Boston, Massachusetts, e-mailed the Goddard Institute for Space Studies' Public Affairs Coordinator and inquired about interviewing Dr. Hansen on the topic of climate change. The producer specifically requested Dr. Hansen for the interview and hoped it would occur immediately following the 2005 United Nations Climate Change Conference in Montreal, Canada, scheduled for November 28—December 10, 2005. The Goddard Institute for Space Studies Public Affairs Coordinator then notified the NASA Headquarters Office of Public Affairs of the request. According to a December 8, 2005, e-mail from Mr. Deutsch, he advised the Goddard Institute for Space Studies Public Affairs Coordinator of the following:

> It looks like Mary [Cleave] or Colleen [Hartman] will be doing it. I spoke with Dean [Acosta] about how best to broach this topic with Jim [Hansen], and he said to simply say "you [sic] boss would like to handle this interview."

On December 9, 2005, Mr. Deutsch e-mailed the Goddard Institute for Space Studies' Public Affairs Coordinator to give him/her an update of the status of the National Public Radio request. In this e-mail Mr. Deutsch advised,

> Senior management has asked us not to use Jim Hansen for this interview. His SMD bosses, Colleen [Hartman] and Mary [Cleave], have expressed interest in doing it. So if any NPR folks contact you/Jim [Hansen] about this, please let them know someone else will be available for their interview and let them know I will be coordinating this request and all correspondence relating to it need [sic] to go through me specifically.

Mr. Deutsch also advised that he spoke with National Public Radio representatives briefly (December 9, 2005) and they indicated "they really wanted Jim [Hansen] but they'll take who we can give them . . .."

On December 12, 2005, a series of e-mails was exchanged between Mr. Deutsch and National Public Radio. Early on December 12, 2005, National Public Radio advised Mr. Deutsch that they saw Dr. Hansen quoted over the weekend and were curious why he was not available and that he (Dr. Hansen) seemed like the key player. Mr. Deutsch responded by telling National Public Radio that NASA had a lot of informed scientists who could share their expertise with the media and that Dr. Hansen's management expressed an interest in being interviewed. National Public Radio responded they were going to pass on all NASA voices except for Dr. Hansen but that if anything changed, someone should let them know. Mr. Deutsch responded that if those were the parameters that National Public Radio set in place, then NASA would have to decline this interview. In his interview, Mr. Mould stated that Mr. Deutsch handled the request from National Public Radio correctly in that any policy issues raised during the interview needed to be answered by senior NASA management officials and Dr. Hansen should speak only on the scientific issues raised. Since National Public Radio only wanted Dr. Hansen, the interview could not be done.

Also on December 12, 2005, a Headquarters Office of Public Affairs Officer left a voice mail for the Goddard Institute for Space Studies Public Affairs Coordinator that was documented in his/her written notes. The notes reflect that the Public Affairs Officer stated that if Dr. Hansen did the interview "there would be dire consequences." The Headquarters Public Affairs Officer acknowledged making the "dire consequences" statement, although he/she thought it was said during a teleconference between himself/herself, the Coordinator, Mr. Deutsch, and Goddard Space Flight Center Public Affairs representatives that took place on December 12, 2005. The Public Affairs Officer explained that the comment was made during a "heated" discussion with the Coordinator, wherein the Coordinator refused to take direction from him/her stating that he/she (Coordinator) did not work for them. During this teleconference, the Coordinator documented that Mr. Deutsch commented "HQ says JH [Dr. Hansen] can't say anything. We can't have this anymore."

Mr. Deutsch, in both his interview with this office and in his sworn congressional testimony before the House Committee on Oversight and Reform on March 19, 2007, stated, with respect to the National Public Radio request, that his supervisor (Mr. Acosta) directed him to invoke the "right of first refusal" and instead of making Dr. Hansen available, have Dr. Mary Cleave, the Associate Administrator of the Science Mission Directorate, or Dr. Colleen Hartman, the Deputy Associate Administrator of the Science Mission Directorate, participate in the interview. These statements are corroborated by the nearly contemporaneous e-mails sent by Mr. Deutsch, in which he states that he had spoken to "Dean" [Acosta] about the interview. And the "right of first refusal" attempt was further corroborated by Dr. Cleave, who reported that when she was approached by Mr. Deutsch or another official from the NASA Headquarters Office of Public Affairs about doing the interview, she refused. Similarly, Dr. Hartman was approached and not interested in doing the interview either. Mr. Deutsch also commented to us that although the "right of first refusal" was a verbal policy at the Headquarters Office of Public Affairs, he was never directed to invoke the policy outside of this specific incident.

Of interest, the Agency's position is that Mr. Deutsch was the Headquarters Office of Public Affairs' representative who denied National Public Radio's request to interview Dr. Hansen. To a degree, that is true. According to Mr. Deutsch, however, this denial was based on the direction given to him by his supervisor, Mr. Acosta, which we believe is credible. Mr. Acosta denies giving such direction and, indeed, NASA appears to have adopted the position that Mr. Deutsch (as a 24-year-old GS-9 in his first job in Government) acted independently when making the decision to deny National Public Radio's request.

The information gathered during the course of our investigation, however, reflects that Mr. Deutsch has been consistent in his statements concerning the denial—including statements made under oath—and that this specific denial was in keeping with the general methodology and policies then instituted by the Headquarters Office of Public Affairs. Although Mr. Deutsch was the point person on this issue (who admittedly characterized National Public Radio as a "liberal" media market), the evidence leads us to the conclusion that the National Public Radio interview denial was not his independent action but, instead, actions taken in furtherance of directions given to him by senior

leadership in the NASA Headquarters Office of Public Affairs. Particularly troublesome to us is that when the denial of the National Public Radio interview became controversial, Mr. Deutsch's leadership distanced themselves from him on this issue by not taking responsibility for any actions taken in connection with the interview denial. Instead, Messrs. Mould and Acosta intimated that Mr. Deutsch had acted alone in denying the request from National Public Radio, when, in fact, Mr. Deutsch was simply carrying out their orders or intent.

### D. Alleged Funding and Budget Cuts at the Goddard Institute for Space Studies and for the Earth Science Program

In our interview with Dr. Hansen, we asked him if he ever felt somehow threatened because of his media appearances and activities. He responded that aside from the "dire consequences" comment by a Headquarters Public Affairs employee regarding participation in the National Public Radio interview, his more pressing "threat" was in the form of budget cuts (as a form of suppression). Specifically, he cited the Administration's Office of Management and Budget, who directed a 30 percent cut in research and analysis funding for NASA's Earth sciences, retroactive to the beginning of FY 2006, and his concern as to its impact upon the Goddard Institute for Space Studies. According to Dr. Hansen in January or February 2006, "everyone" associated with the Goddard Institute for Space Studies was now financially squeezed.

We found no credible evidence that the Agency had used the budget as form of scientific suppression. While the overall budget for the Science Mission Directorate's Earth Science Division declined,[46] the decline was associated with the Agency's decision to retire the Space Shuttle by 2010, complete the International Space Station, and transition to the next-generation space vehicle in furtherance of the President's Vision for Space Exploration. To accomplish the goals, $2.2 billion (through 2010) was transferred from the total Science Mission Directorate budget, which presumably had an impact on Earth Science functions.

To determine how the transfer of funds decision directly affected the Goddard Institute for Space Studies budget, we attempted to extrapolate from the Earth Science Division's budget that portion which was directly allocated to the Goddard Institute for Space Studies. We were unable, however, to do so because, according to Goddard Space Flight Center financial management personnel, "to break out the budget for GISS [Goddard Institute for Space Studies] only would be just about impossible." As a result, we obtained from the official NASA financial management system expenditures made by the Goddard Institute for Space Studies for FY 2003 through FY 2006. We found that

[46] An analysis conducted by our Office of Audits found that, after taking inflation into account, the Earth Science's Division budget declined approximately 37 percent from FY 2001 to FY 2006.

expenditures steadily increased from $7.5 million during FY 2003 to $11.8 million in FY 2006.[47]

Additionally, the Deputy Director of the Goddard Institute for Space Studies (who is the official-in-charge of its finances) stated that the Goddard Institute for Space Studies' budget has not been influenced nor reduced by NASA management in any way due to any sort of punishment, retaliation or reward for Goddard Institute for Space Studies' media issues of the recent past or ever.

### E. NASA Headquarters Office of Public Affairs Delays Interview on the Warming Arctic Affecting Alaska's Wildfires

Another allegation that the NASA Headquarters Office of Public Affairs had improperly interfered with media access concerned a request made in 2004 by *NBC Nightly News* to interview a NASA Goddard Space Flight Center scientist about warming Arctic climate conditions contributing to fires in Alaska. According to a responding NASA Headquarters Earth Science Public Affairs Officer, he/she selected an experienced Goddard Space Flight Center scientist with the appropriate scientific knowledge and interview skills. Pursuant to verbal NASA Headquarters Office of Public Affairs' policy, Messrs. Mahone and Acosta were notified. According to our sources, Mr. Mahone told the Goddard Space Flight Center Public Affairs Officer to cancel the interview because it was "not cleared." Due to Mr. Mahone's position within NASA, the Public Affairs Officer assumed that the clearance to which Mr. Mahone referred must have been the White House but the Public Affairs Officer had no direct recollection as to whether Mr. Mahone actually mentioned the White House when he canceled the interview. We found no facts corroborating the Public Affairs Officer's belief that the White House—or any other Administration official other than NASA Office of Public Affairs—was an approval authority for the interview. (Mr. Mahone does not recall any telephone calls he or anyone else made to the White House on this or any other related matter.)

Further discussion with Mr. Mahone was initiated by a NASA Headquarters Senior Public Affairs Officer who believed that the selected scientist would represent NASA well in the interview. The resulting discussions between this Public Affairs Officer and Mr. Mahone caused several delays in the interview. The Public Affairs Officer, in an effort to gain time to convince Mr. Mahone of the benefits of the interview, told *NBC Nightly News* that the scientist was temporarily unavailable due to another commitment (which the Public Affairs Officer knew was not true) and that the interview would have to be delayed. Consequently, the scientist who was lined up for this interview told us that he/she was extremely uncomfortable with the false representations made to *NBC Nightly News* at that time because he/she was, in fact, available and did not want to be a part of the Headquarters Office of Public Affairs' trumped-up story.

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[47] These expenditures cannot be directly correlated to a specific fiscal year appropriation, but rather several different fiscal year appropriations, because appropriations can be obligated over a 2-year period and expended over a 7-year period.

Mr. Mahone eventually conceded and the interview occurred after several hours delay. The scientist stated, however, that he/she was so upset and distracted that the interview did not go well. Later, the Headquarters Public Affairs Officer claimed that he/she was verbally admonished by Mr. Mahone for setting up the interview.

## VI. NASA's Response to Allegations of Suppression, Censorship, and Denial of Media Access

### A. Initial Response

The first time senior NASA leadership learned of the extent of this suppression controversy was through the media and through congressional inquiry. No formal internal NASA processes were used by Science Mission Directorate scientists or officials to complain, nor did officials from the Headquarters Office of Public Affairs ever formally brief their leadership about the existence of a problem.

Senior NASA leadership stated that they first heard of the issue through the January 29, 2006, article in the *New York Times*[48] regarding NASA's attempts to silence climate change issues raised by Dr. Hansen. In response to the article, then-serving U.S. Representative and House Committee on Science Chairperson Sherwood Boehlert (R, NY) directed Mr. David Goldston, then Chief of Staff, House Committee on Science, to conduct an inquiry. Mr. Goldston informed our investigators that he coordinated with NASA Headquarters officials and learned that the Deputy Administrator, Ms. Shana Dale, who joined NASA in November 2005, would lead NASA's investigation into the alleged suppression of Dr. Hansen, specifically the denial of the National Public Radio interview.

Ms. Dale tasked some of the work to Dr. Edward Weiler, Director of Goddard Space Flight Center, for the purpose of identifying allegations of science suppression at his Center. In response, Dr. Weiler identified six examples of possible censorship and suppression documented by Goddard Space Flight Center scientists. He then provided all of the information regarding those allegations to NASA's Chief of Staff, Mr. Paul Morrell, who turned it over to our office for use in our investigation.

During this process, Ms. Dale met with Messrs. Mould and Acosta, who advised her that Mr. Deutsch had handled the National Public Radio interview request. She later met with Mr. Deutsch and although she could not recall any specifics of the meeting, she did recall that Mr. Deutsch admitted no wrong-doing on his part or on the part of anyone else from the Headquarters Office of Public Affairs in connection with the denial of the interview request. Ultimately, Ms. Dale found that Mr. Deutsch had independently handled the denial of the National Public Radio request to interview Dr. Hansen.

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[48] Andrew C. Revkin, "Climate Expert Says NASA Tried to Silence Him," *New York Times*, January 29, 2006.

As detailed previously, we partially disagree with those findings. The information garnered by our investigation suggests that while Mr. Deutsch was the Headquarters Office of Public Affairs' point man on this issue, the *decision* to deny the interview request was most probably the result of a direct order from Mr. Deutsch's supervisor, Mr. Acosta, and was in keeping with the Headquarters Office of Public Affairs' policies in effect at that time. Congressional staff members also expressed to this office their doubts that Mr. Deutsch acted alone and that they strongly believed that Messrs. Acosta and Mould were not completely forthcoming in explaining to them their respective actions concerning Dr. Hansen, both in regard to their role in the denial of the interview request and in connection with their allegedly not receiving the December 20, 2005, e-mail sent to them to confirm the oral instructions on how best to monitor Dr. Hansen.

### B. NASA Improves Its News Release and Media Access Policies

NASA's management review described above further confirmed that existing Public Affairs Office procedures were not effective or clear, concluding that policy guidance was often verbal, *ad hoc*, inconsistent, and occasionally lead to episodes of confusion and misunderstanding by the respective Field Center Offices of Public Affairs. Most NASA climate change scientists and career civil service Public Affairs Officers who were interviewed by this office strongly believed that some form of "censorship or suppression" existed. They also expressed their belief that there were deficiencies within the news release approval process. Regarding "process," we concur that the lack of an effective Standard Operating Procedure was a strong contributing factor to their perception that climate change research was censored and suppressed.

The efforts to improve the situation were first brought to the public's attention through a statement by Dr. Michael Griffin, NASA Administrator, on February 3, 2006, titled, "A Statement on Scientific Openness," in which he expressed NASA's commitment to open scientific and technical inquiry and dialogue. Dr. Griffin described the job of the Headquarters Office of Public Affairs as one to convey the work done at NASA—not to alter, filter, or adjust the scientific information. He further wrote of the clarifications and improvements being made to that office's procedures.

Considering that changes to Government policy are often glacial, NASA moved relatively quickly in this matter. On February 14, 2006, Dr. Griffin wrote the House Committee on Science and other congressional leaders to express NASA's commitment to correct the problems within the Headquarters Office of Public Affairs. Dr. Griffin reported that he would not tolerate any policy or action whereby the Office of Public Affairs filtered, altered, edited, or censored scientific findings and facts. Dr. Griffin also stated that NASA was required to provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof. Dr. Griffin acknowledged that the National Public Radio interview request of Dr. Hansen was inappropriately declined and constituted an action contrary to NASA policy. He further stated that NASA would review existing policies and identify ways to improve them and develop practices to maintain NASA's commitment to full and open discourse on scientific, technical, and safety issues.

On March 30, 2006, Dr. Griffin sent an e-mail to the NASA staff that presented his establishment of NASA's "Policy on the Release of Information to News and Information Media." Dr. Griffin stated that the policy provided clear guidelines for working with the Office of Public Affairs and unambiguously states the parameters for the Office of Public Affairs. The policy guarantees that NASA scientists may communicate their conclusions to the media but requires that they draw a distinction between professional conclusions and personal views.

The new policy was published in the Code of Federal Regulations at 14 C.F.R. Part 1213. The policy calls for the continued "widest practicable and appropriate dissemination of information concerning [NASA] activities and the results thereof." Specifically, the new policy focuses on the dissemination of public information. Section 1213.100 defines public information as information in any form provided to the news and information media, especially information that has the potential to generate significant media or public interest or inquiry. The policy requires that *all* public information be coordinated through the appropriate Headquarters offices, including review by the appropriate Mission Directorate Associate Administrator and Mission Support Office head, or their designees, to ensure scientific, technical, and programmatic accuracy, and review and editing by the Assistant Administrator for Public Affairs or his/her staff to ensure that public information products are well written and appropriate for the intended audience.[49] The policy then states that "*such editing shall not change scientific or technical data or the meaning of programmatic content*."[50] It also requires scientific and technical information from or about Agency programs and projects to be accurate and unfiltered.[51] The policy also sets forth *a dispute resolution process* to ensure that all parties involved have a route of appeal in communicating scientific and technical information to the public.[52] Responsibilities and methods of coordination appear to be clearly established in the policy to clarify and improve the communication process.

The new policy also discusses the process for interviews with NASA personnel.[53] Section 1213.105 of the Code of Federal Regulations permits NASA employees to speak

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[49] 14 C.F.R. § 1213.104 (2007).
[50] 14 C.F.R. § 1213.103 (2007).
[51] 14 C.F.R. § 1213.102 (2007).
[52] 14 C.F.R. § 1213.104 (2007).
[53] NASA also developed two regulations regarding personnel and public speaking engagements to further the Space Act requirement of public dissemination of information: NPR 1385.1, "Public Appearances of NASA Astronauts and other Personnel with Change 1," January 7, 2000, and NPD 1385.2G, "Public Appearances of NASA Astronauts and Other NASA Personnel," November 24, 1999. The NASA policy is meant to encourage the acceptance of public speaking engagements by NASA personnel to ensure the widest dissemination of information about NASA and its programs. Even though the intent of the policy is to encourage personnel to accept public speaking engagements, there are limitations to the policy. The NPR states public appearances are encouraged if:

- The appearance is in the best interest of NASA and the Government and supports the Agency's goals and reflects the Administration's priorities.
- It can be accommodated without major interference to the official NASA duties of the intended speaker.
- The appearance will have no adverse impact on program activities.

to the media and the public about their work. The policy stipulates that the employee is required to notify their immediate supervisor and coordinate with their Office of Public Affairs in advance of interviews whenever possible, or immediately thereafter.

The employee is encouraged, to the maximum extent practicable, to have a Public Affairs Officer present during an interview; journalists are permitted access to NASA officials they seek to interview, provided those NASA officials agree to be interviewed; and NASA scientists may draw conclusions to the media. The policy also states that NASA employees who present personal views outside their official area of expertise or responsibility must make clear that they are presenting their personal views.

The new policy became effective on August 24, 2006, and is currently the policy NASA follows in regard to the release of information to news and information media.

In October 2006, under Mr. Mould's leadership, the NASA Headquarters Office of Public Affairs developed a new Standard Operating Procedure titled "Operating Procedures for Release of NASA Public Information." The Standard Operating Procedure outlines the procedures for Headquarters and Field Center Public Affairs Officers regarding the release of public information. It was written to follow the NASA policy that the NASA Administrator had previously released and codified in the Code of Federal Regulations.

Informal congressional staff (House) response to these changes appeared positive. Our interview with former staff members of the House Committee on Science revealed a consensus that they agreed with NASA's emphasis on moving forward and were satisfied with the new policy and this Office's maintained vigilance with NASA to ensure the new actions were implemented and followed. We have not, nor has the Committee staff, been made aware[54] of any complaints of suppression at NASA following the new policy implementation. The Committee's feedback mirrored ours: the new policy was being well received by the entire NASA community.

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- It will not exploit NASA or the intended speaker for fundraising, sponsorship, endorsement, or financial assistance.
- The appearance does not unlawfully segregate or exclude on the basis of race, age, color, religion, sex, national origin, sexual orientation, or disability.
- It does not violate the standards of ethical conduct for employees of the Executive Branch prohibiting Federal personnel from accepting an honorarium of additional compensation for making any public appearance.

The public appearance must meet these criteria in order for approval from NASA. Each NASA Center Public Affairs Office is directed to designate a Speakers Coordinator who will receive and process requests for speakers from his or her Center. The Speaker Coordinator is to determine if the engagement is within the Center's geographical area and, if not, forward the request to the Center that is responsible for the requester's geographic location. An exception may be made when the invitation specifies a named individual at the Center, or subject matter which is in the program expertise of the Center. The Coordinator will provide a reply to the requester of the Agency's acceptance or declination of the invitation for the NASA speaker.

[54] Current through 2007.

External to Government, feedback also included a report from the Union of Concerned Scientists and the Government Accountability Project, which conducted a joint study into allegations that Federal climate change research was being compromised due to political interference and media favoritism. The study, "Atmosphere of Pressure," concluded that there is a need for strong policies to protect the integrity of science and the flow of scientific information. In regard to the new NASA policies and processes, the study states, "While imperfect, the new NASA media policy stands as a model for the type of action other Federal agencies should take in reforming their media policies."

In further evidence of the effectiveness of the new policy, during the course of this investigation, as referenced above, a communication was sent to all NASA employees and contractors requesting that they submit any complaints or information they may have concerning suppression or censorship. As a result of this request, only 11 responses were received. None pertained to the current policies.

In summary, the efforts of the NASA Administrator in March 2006 to develop a clear policy regarding the release of public information and the subsequent development of a Headquarters Office of Public Affairs Standard Operating Procedure in October 2006 regarding the release of public information appear to represent a practical and effective approach to resolving the conflict between the NASA Headquarters Office of Public Affairs and NASA's scientific community.

## VII. Conclusion

After carefully reviewing the relevant facts and circumstances in this matter, we conclude that officials in the NASA Headquarters Office of Public Affairs did, in fact, manage the release of information concerning climate change in a manner that reduced, marginalized, and mischaracterized the scientific information within the particular media over which that office had control. Further, on at least one occasion, the Headquarters Office of Public Affairs denied media access to a NASA scientist, Dr. Hansen, due, in part, to that office's concern that Dr. Hansen would not limit his statements to science but would, instead, entertain a policy discussion on the issue of climate change.

We also conclude that inappropriate political posturing or advantage was the proximate cause in at least some of these actions. While we did not find that all Headquarters Office of Public Affairs' adjustments to climate change news releases were politically motivated, the preponderance of the evidence does, however, point to politics inextricably interwoven into the Headquarters Office of Public Affairs' news dissemination process at that time. Climate change scientists and affected career Public Affairs Officers believed that, as a result of their proposed media releases being altered, delayed, or converted to other (lesser) media, their work was in fact compromised for political advantage—especially when it conflicted with the Administration's policies or priorities. We uncovered no direct evidence to substantiate their beliefs, but the circumstantial evidence (to include the apparent mendacity of one or more senior Public Affairs officials) gives far more credence to the position of the climate change scientists than it does to the argument set forth by NASA Headquarters Office of Public Affairs

(that the changes and delays were due to the heavy volume and poor quality of the news releases drafted by the scientists). We maintain this opinion even while recognizing that some of the complaining scientists may have had their own political or pecuniary agendas as well.

We also note that the NASA Headquarters Office of Public Affairs' *unilateral* actions in editing or downgrading press releases or denying media access on a known controversial topic—and doing so without collaborating with the submitting scientists (as then required by NASA policy)—minimizes, in our view, the persuasive weight of their arguments as to volume or quality as the cause. Moreover, their failure to adhere to a prescribed process—where the goal was transparency and "consensus"—resulted in complaints, negative media attention, Congressional oversight, and, ultimately, this investigation.

The actions of the NASA Headquarters Office of Public Affairs also had an impact on many levels of Agency operations. News releases in the areas of climate change suffered from inaccuracy, factual insufficiency, and scientific dilution. Some scientists claimed to have self-censored; others simply gave up. Worse, trust was lost, at least temporarily, between an Agency and some of its key employees and perhaps the public it serves. Congressional relations, at least at the staff level, were also strained. Finally, these allegations proved to be an unnecessary but significant distraction to an Agency that was otherwise fully engaged in other areas of science, exploration, aeronautics, and space operations, each with its own breathless operational pace, in which safety was paramount. Certainly, all those actions and effects were inconsistent with the purpose and intent of the Space Act and other NASA regulations requiring the widest practicable and appropriate dissemination of information concerning NASA's activities and research, especially on a topic that has worldwide scientific interest. In sum, when it pertains to dissemination of the Nation's hard science, *none* of this course of conduct was in the public's best interest. Furthermore, to the extent that these allegations transpired for more than 1 year, the Agency as a whole (particularly the Science Mission Directorate and the Office of Public Affairs) bears responsibility for not appropriately elevating these matters to senior management for resolution.

Also, the speed with which NASA changed its policies is evidence of the importance the Agency attributed to the real or perceived political interference problems within the Headquarters Office of Public Affairs and climate change science communities. Once the conflict between the scientists and the Headquarters Office of Public Affairs became a focus of the leadership within the Office of the Administrator, aggressive steps were taken to study the problem and take corrective action. The revised policies clearly improved NASA's processes pertaining to their public dissemination of science and science-related information; and their yet-to-be-tested dispute resolution mechanism between the science and Public Affairs communities seems to be a significant step in transparency and open communications. So far, the new policies have been well received by the various constituencies affected, and we have yet to learn of a complaint since their implementation.

# Appendix A

Point of Contact: NASA Office of Inspector General, 1-800-424-9183

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A Message From the Office of Inspector General

Pursuant to a request from 14 United States senators, the NASA Office of Inspector General (OIG) is conducting investigative and audit activities regarding alleged "repeated instances of scientists ... having publication of their research blocked, solely upon their views and conclusions regarding the reality and impacts of global warming."

Through this notice the OIG is seeking your help in conducting a thorough review into this issue.

NASA policy on the dissemination of scientific and technical information derives from The National Aeronautics and Space Act of 1958, as amended, and is primarily implemented by NASA Policy Directive 2200.1 and NASA Procedural Requirements 2200.2B. The policy directive states, in pertinent part, the following:

> NASA shall provide for the widest practicable and appropriate dissemination of the STI [Scientific and Technical Information] resulting from NASA's research effort, while precluding the inappropriate dissemination of sensitive information. NASA shall disseminate STI in a manner consistent with U.S. laws and regulations, Federal information policy, intellectual property rights, technology transfer protection requirements, and budgetary and technological limitations.

Accordingly, the OIG asks that if you have personal knowledge of NASA research (pertaining to climate change) having been wrongfully, unlawfully, or without good cause changed, suppressed, or censored, that you contact the OIG either:

- By e-mail: http://www.hq.nasa.gov/office/oig/hq/hotline.html
- By phone: 1-800-424-9183; or
- By mail: NASA OIG, P.O. Box 23089, L'Enfant Plaza Station, Washington, D.C., 20026

The identity of anyone who provides the OIG with information will be protected, consistent with the Inspector General Act of 1978 and the Privacy Act. Also, the Whistleblower Protection Act protects any civil servant who provides information to the OIG from any form of reprisal, retribution or adverse action by their employer if those actions are taken solely because of the information being shared with the Office of Inspector General.

While the OIG will accept information at any time on this or any other matter, we request a response to this notice, if any, no later than February 16, 2007.

Thank you for your consideration and cooperation.

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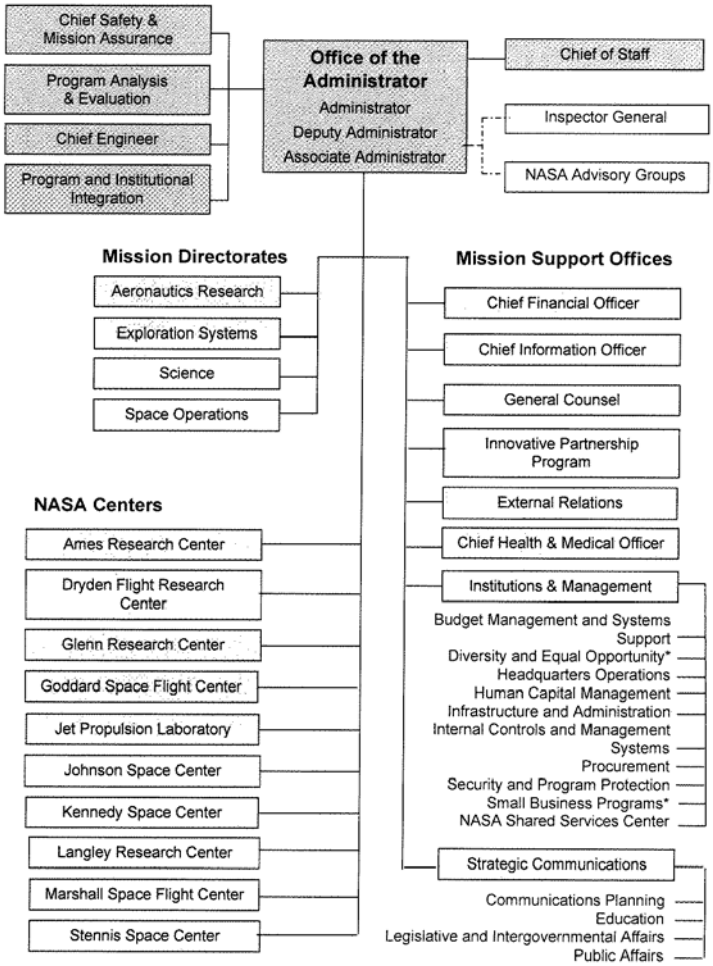
# Appendix B

# National Aeronautics and Space Administration




* In accordance with law or regulation, the offices of Diversity and Equal Opportunity and Small Business Programs maintain reporting relationships to the Administrator and Deputy Administration.

# Appendix C

# E-Mail Alleging Reduction in Climate-Related News Releases

**1. "BLOCKING CLIMATE STORIES" FROM NASA SINCE 2004**

NASA Public Affairs was verbally asked to reduce or stop the number of Climate change releases since 2004.

Tue, 7 Feb 2006 13:12:19 -0500
**From:** [redacted]
**To:** [redacted]
**Subject:** Nov. 2004 Requests to Reduce Climate Change Releases

Hi [redacted]

To respond to Dr. Weiler's inquiry, as sole HQ PAO for Earth-Sun, in early November 2004, I was told by 9th floor Public Affairs management that we had too many Earth science releases being pushed through for approval - specifically climate change releases. I was asked to find other research topics to focus our news efforts on. PAO management expressed disbelief that there could be so many different research projects at the agency devoted to climate, about which we sought to issue releases and Web stories. They were increasingly frustrated with my inability to "block" these draft releases from ever being sent to HQ from Goddard for approval.

[redacted]

## PROOF:

*FOLLOWING IS A RECORD OF "CLIMATE" RELATED RELEASES FROM 2004 AND 2005. THERE WERE SIGNIFICANTLY LESS RELEASES IN 2005. IN 2004, THERE WERE 48 RELEASES. IN 2005, THERE WERE 12. ALL OF THE OTHER STORIES WERE REDUCED TO "WEB FEATURES" WHICH GET FAR LESS MEDIA EXPOSURE.*

Feb. 7, 2006 **Source: NASA PRESS RELEASE ARCHIVE**
http://www.nasa.gov/audience/formedia/archives/index.html

**Not included:** scientific meeting announcements, satellite launch updates, project/award announcements, solar science

2004

1. **01.05.04 - Fires Increase Greenhouse Gas Emissions**
   Satellite data helped researchers link carbon dioxide and methane levels to fire activity associated with the El Nino-La Nina cycle. (GSFC)
2. **01.12.04 - 'Hot Towers' Fuel Hurricanes**
   NASA scientists have found "hot tower" clouds are associated with tropical cyclone intensification. (GSFC)
3. **01.20.04 - Response to Global Agricultural Change Improved**
   Earth observing satellites help the U.S. Department of Agriculture improve information about crops around the world. (GSFC)

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4. **01.28.04 - Pacific Dictates Droughts and Drenchings**
Long-term patterns in the ocean result in weather changes over land. (JPL/GSFC)

5. **02.09.04 - Scientists Find Ozone-Destroying Molecule**
Chlorine monoxide and its dimer originate primarily from halocarbons, molecules created by humans for industrial uses like refrigeration. (JPL)

6. **02.10.04 - Tropical Rain in A Warmer World**
According to NASA scientists, as the tropical oceans continue to heat up, warm rains are likely to become more frequent. (GSFC)

7. **02.11.04 - Cities Built On Fertile Lands Affect Climate**
NASA researchers and others find U.S. cities have been built on the nation's most fertile soils. (GSFC)

8. **03.04.04 - Heavy Smoke "Chokes" Clouds**
Using data from the Aqua satellite, agency scientists found heavy smoke from burning vegetation inhibits cloud formation. (GSFC)

9. **03.15.04 - Satellite Finds Warming 'Relative' To Humidity**
A NASA-funded study found some climate models might be overestimating the amount of water vapor entering the atmosphere as the Earth warms. (GSFC)

10. **03.18.04 - NASA Explains 'Dust Bowl' Drought**
NASA scientists used a computer model to examine one of the worst climatic events in the history of the United States. (GSFC)

11. **03.24.04 - Land Cover Affects Summer Climate**
During the summer in the United States, changes in vegetation impact regional temperatures and precipitation. (GSFC)

12. **04.22.04 - NASA Arctic Sea Ice Study May Stir Up Climate Models**
Contrary to historical observations, sea ice in the high Arctic undergoes very small, back and forth movements twice a day, even in the dead of winter. (JPL)

13. **04.23.04 - Climate Change Affects Arctic Ozone**
Ozone depletion leads to increased exposure to harmful, ultraviolet solar radiation at Earth's surface. (JPL)

14. **04.27.04 - Aircraft Clouds May Warm The U.S. Climate**
Scientists have found that cirrus clouds are capable of increasing average surface temperatures in the United States. (LARC)

15. **05.03.04 - Satellites, Balloons and Pollution "Train"**
Scientists confirmed the movement of smog by using sensors on balloons in the Southern Hemisphere. (GSFC)

16. **05.17.04 - An Aura Around the Earth**
On June 19, the launch of Aura satellite will help scientists understand how atmospheric composition affect the Earth. (GSFC)

17. **05.18.04 - Terra Satellite Tracks Global Pollution**
David Edwards and Cathy Clerbaux will discuss two studies focusing on air pollution on Thursday at 8:45 a.m. EDT in Montreal. (GSFC)

18. **06.09.04 - Deforestation Affects Climate in The Amazon**
The researchers caution the rainfall increases were most pronounced in August, during the transition from dry to wet seasons. (GSFC)

19. **06.10.04 - Researchers Seeing Double On African Monsoons**
A study from 1998 to 2002 of daily rainfall from the TRMM satellite defined the evolution of the African monsoon. (GSFC)

20. **06.17.04 - Data Shows Hurricanes Help Plants Bloom**
A new study using NASA satellite data shows phytoplankton blooms may also affect the Earth's climate and carbon cycle. (GSFC)

21. **06.23.04 - Scientists Get Global Fix**
Satellite measurements were fed into computer models to calculate the annual net primary production of plant growth on land. (GSFC)

22. **06.28.04 - Global Air Quality Experiment**
NASA is participating with U.S. and international agencies as part of a combined air quality and climate study. (DRYDEN)

23. **07.27.04 - Largest Environmental Experiment in History**
From July 27-29, some 800 researchers will attend the Third International Scientific Conference of the LBA in Brasilia, Brazil. (GSFC)

24. **07.29.04 - Urban Heat Islands Make Cities Greener**
Concrete jungles create warmer conditions that cause plants to stay green longer each year. (GSFC)

25. **07.30.04 - Soil Moisture Experiment**
Scientists will study how much moisture is retained in soils to improve weather forecasts and interpret satellite data.

26. **08.02.04 - Retreating Glaciers Spur Alaskan Earthquakes**
In a new study, scientists found that retreating glaciers in southern Alaska may be opening the way for future earthquakes. (GSFC)

27. **08.17.04 - TRMM Sees Rain from Hurricanes**
A study funded by NASA and the National Science Foundation offers insight into patterns of rainfall from tropical storms and hurricanes. (GSFC)

28. **08.18.04 - Scientists Studying Desert Air**
The United Arab Emirates Unified Aerosol Experiment (UAE2) mission runs from August 5 through September 30.

29. **08.19.04 - Moist Soil 'Hot Spots' May Affect Rainfall**
While the Earth is moistened by rainfall, scientists believe that the water in soil can influence rainfall both regionally and globally. (GSFC)

30. **08.31.04 - Satellites Detect "Glow" of Plankton**
Dark-colored river runoff includes nitrogen and phosphorus, which are used as fertilizers in agriculture.

31. **09.02.04 - Tools for Carbon Management**
NASA scientists have recently unveiled Internet software tools that will aid in the removal of carbon dioxide from the atmosphere. (AMES)

32. **09.09.04 - GRACE Gravity Mission**
Scientists have demonstrated precise measurements of Earth's changing gravity field can monitor changes in the planet's climate. (JPL)

33. **09.21.04 - Glaciers Surge**
According to Rignot's study, the Hektoria, Green and Evans glaciers flowed eight times faster in 2003 than in 2000. (JPL)

34. **09.23.04 - Thinning of West Antarctic Glaciers**
The Glaciers are losing 60 percent more ice into the Amundsen Sea than they accumulate from inland snowfall. (GSFC)

35. **10.04.04 - Amazing Success for Earthquake Forecasts**
A NASA funded earthquake forecast program has accurately predicted the locations of 15 of California's 16 largest earthquakes this decade, including last week's tremors. (JPL)

36. **10.04.04 - Infrared Images May Provide Volcano Clues**
Images showing heat may indicate how eruptions occur. (AMES)

37. **10.06.04 - Antarctic Climate Change Study**
In the coming decades, ozone levels are expected to recover due to international treaties that banned ozone-depleting chemicals. (GSFC)

38. **10.22.04 - As The World Turns**
An international team of NASA and university researchers has dramatically improved the accuracy of the first direct evidence that the Earth drags space and time around itself as it rotates. (GSFC)

39. **10.25.04 - Technology Track Changes in Mount St. Helens**
U.S. Geological Survey and NASA scientists studying Mount St. Helens are using LIDAR technology to analyze changes in the surface elevation of the crater.

40. **11.04.04 - New Worldwide Coral Reef Library**
A NASA-funded project has created an archive of approximately 1,500 images of worldwide coral reefs. (JSC)

41. **11.08.04 - El Niño Holds the Reins on Global Rains**
Scientists recently found the El Niño Southern Oscillation is the main driver of the change in rain patterns all around the world. (GSFC)

42. **12.01.04 - Study Finds Glacier Doing Double Time**
A NASA-funded study used data from satellites and airborne lasers to derive ice movements. (ADVISORY)

43. **12.02.04 - NASA Study on Indian Ocean Warming**
A NASA study suggests changing winds and currents in the Indian Ocean during the 1990s contributed to the observed warming of the ocean during that period. (JPL)

44. **12.13.04 - Bug Control, Trees Could Offset Gases**
Research by NASA scientists shows how human control of insects, tree planting and other factors could affect Earth's greenhouse gases. (AMES)

45. **12.14.04 - Aura Sheds New Light on Pollution**
Satellite offers unprecedented precision. (GSFC)

46. **12.15.04 - Scientists Discuss Atmospheric Cloud**
Brown cloud pollution and natural processes can contribute to unhealthy levels of ozone in the troposphere where we live and breathe. (AMES)

47. **12.16.04 - Study Finds Tiny Particles in Air**
The study reported the effects of aerosols on overall carbon exchange might be more significant than clouds.

48. **12.23.04 - Polluted Clouds Hold Less Moisture**
A NASA study found some clouds that form on tiny haze particles are not cooling the Earth as much as previously thought. (AMES)

## 2005

1. **01.10.05 - Earthquake Affects Earth's Rotation**
NASA scientists using data from the Indonesian earthquake calculated it affected Earth's rotation, decreased the length of day, slightly changed the planet's shape, and shifted the North Pole by centimeters.

2. **01.11.05 - Saharan Dust Affects Thunderstorm**
Scientists using NASA satellite data have discovered tiny particles of dust from the Sahara Desert can affect Florida thunderstorms.

3. **01.27.05 - Science Team Measures Atmosphere**
The Polar Aura Validation Experiment (PAVE) will gather information to validate data from NASA's Aura satellite, launched in July 2004. (DRYDEN)

4. **02.10.05 - Ocean Biology Problem**
In order to determine ocean productivity, scientists must know plant growth rates and their abundance.

5. **03.23.05 - Soot Changing Arctic Environment**
New findings show soot may be contributing to changes near the North Pole, such as accelerating melting of sea ice and snow. (GSFC)

6. **04.21.05 - Melting Snow Causes Ocean Plant Blooms**
The decrease in snow cover has led to greater differences in both temperature and pressure systems between the Indian subcontinent and the Arabian Sea.

7. **04.29.05 - Scientists Confirm Earth's Energy is Out of Balance**
Scientists have concluded more energy is being absorbed from the sun than is emitted back to space, throwing the Earth's energy "out of balance" and warming the globe.

8. **06.23.05 - NASA Studying Tropical Cyclones**
Researchers will travel to Costa Rica to investigate the birthplace of tropical cyclones, searching for clues to better predict hurricanes.

9. **07.07.05 - Sea Level Monitored by NASA Satellites**
With new satellite measurements, scientists are able to better predict the rate at which sea level is rising and the cause of that rise. (GSFC)

10. **09.20.05 - NASA Uses Airborne Mapping to Study Katrina Damage**
NASA and its partners are exploring the use of airborne laser mapping systems to quantify change along the entire coastline affected by Hurricane Katrina. (ADVISORY)

11. **11.06.05 - NASA Scientists Confirm Toxic Seas During Earth's Evolution**
NASA exobiology researchers confirmed Earth's oceans were once rich in sulfides that would prevent advanced life forms, such as fish and mammals, from thriving

12. **12.06.05 - Aura Satellite Peers Into Earth's Ozone Hole**
This year's ozone hole measured 9.4 million square miles at its peak between September and mid-October, which was slightly larger than last year's peak. (GSFC)

# Appendix D

# Management's Comments

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

April 18, 2008

Reply to Attn of: Office of the General Counsel

TO: Inspector General

FROM: Deputy General Counsel

SUBJECT: Investigative Summary Regarding Allegations that NASA Suppressed Climate Change Science and Denied Media Access to Dr. James E. Hansen, a NASA Scientist

Thank you for the opportunity to comment on the Investigative Report that the Office of Inspector General (OIG) prepared at the request of various members of Congress, purporting to draw conclusions on allegations of inappropriate political interference on the part of the NASA Headquarters Public Affairs Office (PAO) in the handling of interviews and media releases related to climate change. The charge to the OIG was to investigate "repeated instances of scientists . . . having publication of their research and access to the media blocked, solely based upon their views and conclusions regarding the reality and impacts of global warming." (Report, p. 1).

After interviewing 59 witnesses, reviewing 10,000 pages of documents, and searching six computers, (Report p. 5), as well as distributing an Agency wide solicitation of allegations of censorship or suppression of climate change science with the support of Agency management, the OIG found that:

1) neither NASA senior management nor other senior administration officials were aware of or involved in any of the facts and circumstances underlying the allegations;

2) there was no interference with the conduct of climate change research;

3) without exception, NASA published climate change research through normal channels such as scientific journals, conferences, and public appearances by NASA scientists;

4) there was one instance of PAO denying a press release in June of 2003;

5) there was one instance of PAO denying an interview (the well-publicized request by National Public Radio (NPR) to interview Dr. James Hansen in December of 2005). As NASA acknowledged at the time, the denial of that interview was improper, and, in fact, was a direct violation of long-standing, published Agency regulations governing the access of news media to individual NASA employees; and

> 6) NASA moved swiftly and aggressively to resolve the censorship concerns by implementing a new policy that has "clearly improved" the process, was accepted by the affected communities, and has, thus far, eliminated any further complaints.

NASA most strongly disagrees with the OIG's determination that NASA is statutorily barred from exercising discretion as to the appropriateness of a proposed dissemination activity. This conclusion is based on an unprecedented and clearly incorrect OIG legal interpretation of the Agency's organic legislation, the National Aeronautics and Space Act, as amended. Pub. L. No. 85-568, 72 Stat. 426 (July 29, 1958) (Space Act). The Space Act states that:

> The Administration, in order to carry out the purpose of this Act, shall . . . provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof. *Id*. at § 203(c)(3).

NASA has historically consistently relied on this broad grant of authority for all of its outreach and education programs. It vests the maximum possible discretion in the Agency to determine what is appropriate; once a determination is made that something is appropriate, it authorizes NASA to utilize creative, novel, and innovative activities as long as they are not actually prohibited.

The OIG, for some reason, characterizes this provision as a *restriction* on NASA authority. The Report concludes that the terms "practicable and appropriate" do not vest NASA with discretion to exercise judgment, but instead only cover circumstances where "non-dissemination is necessary for overriding purposes that are otherwise consistent with the Act," (Report p. 17), and, further, that it is impermissible for NASA to determine that it is impracticable or inappropriate to disseminate information that is contrary to policy or image. *Id*. The erroneous conclusion that NASA violates the Space Act when it exercises discretion or news judgment, if adopted, would render the PAO function useless to the Agency.

We are also concerned that many of the Report's conclusions are based on acceptance of the allegations as evidence, rather than providing evidence (statements, witnesses, and/or other evidence) that prove the allegation. For example, with respect to Release 06-009, Item 7, (Report p. 34), the OIG concludes that PAO was "dissembling." The original draft press release stated:

> We are seeing the ghost of a star that was once a lot like our sun. I cringed when I saw the data because it probably reflects the grim but very distant future of our own planets and solar system.

A career Public Affairs employee working in the Science Mission Directorate objected, stating in an email:

> This release needs to be re-worked. NASA is not in the habit of frightening the public with doom and gloom scenarios. . . .the second and third paragraphs must be rewritten. Stick to the facts; do not editorialize about how this could happen to our sun.

The program scientist responded, again in writing:

> I agree with you [PAO employee] that the original draft was alarmist in nature, and I expressed this in a message to [the individual who drafted the release].

No political appointee was involved, the scientist agreed with the objection of the career Public Affairs employee, the press release involved astronomy rather than climate change, and the results of the observation were accurately portrayed. Despite our knowledge that OIG was in possession of these facts, none are mentioned in the Report. An example such as this, where contemporaneous documentary evidence of events was disregarded in favor of unsubstantiated statements made long after the fact, raise questions about the other findings of the Report.

Nor is this an isolated example. Despite the broad sweep of the investigation, the OIG identified only eleven allegations of improper PAO interference in press releases and news conferences. Most were not relevant to the inquiry, as they did not involve a political appointee, did not result in the blocking of media access, did not result in substantive changes to the discussion of research results, or did not involve earth science.

The Report is strewn with unjust references to the character of senior PAO managers.[1] There is little support, and less need, for such characterizations. The most that can be responsibly concluded from the evidence is that people disagree about what was said in certain meetings, over who received what emails, and who was involved in certain conversations.

For example, with respect to Mr. David Mould, the Assistant Administrator for Public Affairs, there appear to be two principal reasons for the OIG's conclusions. There was the email that was intended to document the conversation between PAO and the Goddard Institute for Space Studies (GISS) concerning coordinating releases to news media, (Report, p. 44), and there was the question of whether George Deutsch acted alone or under orders in denying the NPR request for the interview with Dr. Hansen. (Report, p. 47).

The OIG search of Mr. Mould's computer revealed no evidence that he received the email, and it is not reasonable to conclude, as the OIG Report does, that he received it anyway--that it was not, for example, diverted or lost in transmission--and that he remembered receiving it, and that he lied about it. Further, the Report goes on to attribute the direction to deny the NPR interview to Mr. Mould. Mr. Deutsch apparently did not claim that Mr. Mould was involved. There is no evidence that he was involved. In fact, there does not appear to be an allegation from any source that he was involved, yet the OIG concludes that "Mould and Acosta intimated that Mr. Deutsch had acted alone in denying the request from National Public Radio, when, in fact, Mr. Deutsch was simply carrying out their orders or intent." (Report, p. 47). This conclusion is simply irresponsible.

The allegations raised in the Report are important. But, the Report, by failing to distinguish between substantiated problems and mere speculation and allegations, contributes little to the

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[1] *E.g.*, the "mendacity of senior public affairs officials," (Report, p. 55).

understanding or issue resolution. The legitimate conclusions arising from these circumstances are those that NASA has already acknowledged, and has long since fixed. NASA management recognized that clear policy governing NASA's public affairs activity was required, and developed and announced that policy within two months of first learning of the problem. The NASA science and public affairs communities both accept the new policy and were both involved in drafting this policy. While the investigative Report mentions these new regulations, they are not attached as part of the Report, and for completeness, I attach them to this response for the record.

Thank you for the opportunity to comment on the Report.

Keith T. Sefton

responsibility for the total system, and may issue guidance to subsystem managers on implementation of this part. When furnishing information for required reports, the system manager will be responsible for reporting the entire system of records, including any subsystems.

(c) Exercise of the responsibilities and authorities in paragraph (a) of this section by any system or subsystem managers at a NASA Installation shall be subject to any conditions or limitations imposed in accordance with § 1212.703 (a)(4) and (b).

### § 1212.705 Assistant Administrator for Procurement.

The Assistant Administrator for Procurement is responsible for developing appropriate procurement regulations and procedures under which NASA contracts requiring the maintenance of a system of records in order to accomplish a NASA function are made subject to the requirements of this part.

### § 1212.706 Delegation of authority.

Authority necessary to carry out the responsibilities specified in this regulation is delegated to the officials named, subject to any conditions or limitations imposed in accordance with this subpart 1212.7.

## Subpart 1212.8—Failure to Comply With Requirements of This Part

### § 1212.800 Civil remedies.

Failure to comply with the requirements of the Privacy Act and this part could subject NASA to civil suit under the provisions of 5 U.S.C. 552a(g).

### § 1212.801 Criminal penalties.

(a) A NASA officer or employee may be subject to criminal penalties under the provisions of 5 U.S.C. 552a(i) (1) and (2).

(1) *Section 552a(i)(1).* Any officer or employee of an agency, who by virtue of employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) *Section 552a(i)(2).* Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

(3) These two provisions apply to NASA civil service employees as well as those employees of a NASA contractor with responsibilities for maintaining a Privacy Act system of records.

(b) Section 552a(i)(3). Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

# PART 1213—RELEASE OF INFORMATION TO NEWS AND INFORMATION MEDIA

Sec.



AUTHORITY: 42 U.S.C. 2473(a)(3) and NSDD–84, "Safeguarding National Security Information."

SOURCE: 52 FR 45936, Dec. 3, 1987, unless otherwise noted.

### § 1213.100 Scope.

This part 1213 sets forth the policy governing the release of information in any form to news and information media. Not included is the release of scientific and technical information to scientific and technical journals and audiences.

**§1213.101 Policy.**

(a) Consistent with NASA statutory responsibility, NASA will "* * * provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof, * * *"

(b) Release of information concerning NASA activities and the results will be made promptly, factually and completely. Exceptions include that information whch may be exempt from disclosure under the "Freedom of Information Act" (5 U.S.C. 552, as amended) (14 CFR part 1212). For classified DoD missions on the National Space Transportation System (NSTS), release of information concerning NASA activities will be restricted by the STS Security Classification Guide. In addition, information concerning the survivability/vulnerability of the NSTS may be classified for all NSTS operations.

(c) NASA will respond promptly to queries from the information media and industry, and cooperate with contractors in their release of NASA related informational material including advertising.

(d) NASA officials may participate in interviews and speak for the Agency in areas of their assigned responsibility.

**§1213.102 Responsibility.**

(a) The Associate Administrator for Public Affairs is responsible for the development and overall administration of an integrated Agencywide communications program and determines whether the specific information is to be released. The Associate Administrator for Public Affairs will:

(1) Direct and coordinate all Headquarters and agencywide public information activities.

(2) Direct and coordinate all agencywide news-oriented audiovisual activities.

(b) In accordance with §1213.104, the Public Affairs Officers assigned to Headquarters Program and Staff Offices are responsible for developing plans and coordinating all public information activities covering their respective programs at Headquarters and in the field.

(c) In accordance with §1213.104, Directors of Field Installations, through their Public Affairs Officers, are responsible for initiating and obtaining concurrences for information programs and public releases issued by their respective installation and component installations.

(d) The requirements of this section do not apply to the Office of Inspector General (IG) regarding IG activities.

[52 FR 45936, Dec. 3, 1987, as amended at 56 FR 66787, Dec. 26, 1991]

**§1213.103 Procedures for issuance of news releases.**

(a) All Headquarters news releases will be issued by the Office of Public Affairs, Media Services Division.

(b) Directors of Field Installations, through their Public Affairs Officer, may release information for which that Field Installation is the primary or sole source, i.e., launch, mission, and planetary encounter commentary; telephone recorded messages; status reports; and releases of local or regional interest. Release of information that has national significance will be coordinated with the Associate Administrator for Public Affairs. Material received from contractors prior to its public release may be reviewed for technical accuracy at the contracting Installation.

(c) The requirements of this section do not apply to the Office of Inspector General regarding IG activities.

[52 FR 45936, Dec. 3, 1987, as amended at 56 FR 66787, Dec. 26, 1991]

**§1213.104 Procedures for news release coordination and concurrence.**

(a) *General.* All organizational elements of NASA involved in preparing and issuing NASA news releases are responsible for proper coordination and obtaining concurrences and clearances prior to issuance of the news release. Such coordination will be accomplished through the Associate Administrator for Public Affairs, NASA Headquarters.

(b) *Headquarters-field.* (1) The Headquarters Office of Public Affairs will release information after obtaining all necessary concurrences and clearances from the appropriate Program or other Headquarters Office. Field Installations will obtain clearances from the appropriate Institutional Program or other Headquarters Office.

(2) Headquarters issuance of a news release bearing on a Field Installation will be coordinated with the Installation through the appropriate Institutional Program Office/Public Affairs Office, Associate Administrator for Public Affairs, or Director, Media Services Division. If Headquarters is the issuing Agency for a release for which the primary source is an Installation, the Office of Public Affairs will keep the Installation fully informed.

(3) If the Office of Public Affairs changes, delays, or cancels a release proposed for issuance by a Field Installation, the Installation and the appropriate Institutional Program Office affected will be notified of the reasons for the action.

(c) *Field-other.* A release originating in one field installation that involves the activities of another installation (including Headquarters) will not be issued until the concurrences of all installations and appropriate Institutional Program Offices concerned have been obtained. The originating installation is responsible for arranging a mutually acceptable release time.

(d) *Simultaneous release.* Where a release is to be simultaneously issued, whether by Headquarters, a field installation, industry-NASA, or university-NASA, it will be so stated on the news release. Simultaneous release will be coordinated by the Headquarters Director, Media Services Division.

(e) *Date lines.* Out-of-town date lines will not be used on releases issued by Headquarters except in the case of an advance release of a speech text intended for regional distribution in the area where the speech will be delivered.

(f) *Exchange of releases.* All Agency releases will be exchanged electronically with all field installations by the Headquarters newsroom. The full text of important releases, regardless of source, which may generate unusual interest and queries shall be sent by electronic mail or telephoned to all interested installations and Headquarters in advance of release time to enable public information officers to respond intelligently to queries arising locally.

(g) *Exchange of communication activities.* All field installations will exchange information with the appropriate Headquarters Public Affairs Officers concerning news events and releases. Immediate notification will be made to Headquarters and any impacted installation of events or situations that will make news, particularly of a negative nature.

(h) The requirements of this section do not apply to the Office of Inspector General regarding IG activities.

[52 FR 45936, Dec. 3, 1987, as amended at 56 FR 66787, Dec. 26, 1991]

### § 1213.105 Interviews.

(a) NASA personnel will respond promptly to requests to media representatives for information or interviews.

(b) Normally, requests for interviews with NASA officials will be made through the appropriate Public Affairs Office. However, journalists will have direct access to those NASA officials they seek to interview.

(c) Information given to the press will be on an "on-the-record" basis only and attributable to the person(s) making the remarks. Any NASA employee providing material to the press will identify himself/herself as the source.

(d) Any attempt by news media representatives to obtain classified information will be reported through the Headquarters Office of Public Affairs or Installation Public Affairs Office to the Installation Security Office. The knowing disclosure of classified information to unauthorized individuals will be cause for disciplinary actions against the NASA employee involved.

(e) Public information volunteered by a NASA official will not be considered exclusive to any one media source and will be made available to other sources, if requested.

(f) For a DoD classified operation, all inquiries concerning this activity will be responded to by the designated DoD officer.

[52 FR 45936, Dec. 3, 1987, as amended at 56 FR 66788, Dec. 26, 1991]

### § 1213.106 Audiovisual material.

(a) NASA's central repository of audiovisual material will be available to the information media and to all NASA installations.

(b) Field installations will provide NASA Headquarters with:

(1) Selected prints and original or duplicate negatives of news-oriented photographs generated within their respective areas.

(2) Selected color motion picture footage (prints) which, in the opinion of the installation, would be appropriate for use as features in programs.

(3) Audio and/or video tapes of significant news developments and other events of historical or public information interest.

(4) For DoD classified operations, all audiovisual material of or related to the classified operation will be reviewed and deemed releasable by the designated DoD officer.

**§ 1213.107 International news releases.**

(a) All releases of information involving NASA activities or views affecting another country or an international organization require prior coordination with the International Relations Division, Office of External Relations, through the Public Affairs Officer assigned to that division.

(b) NASA field installations and Headquarters offices will report all visits proposed by representatives of foreign news media to the Public Affairs Officer for the International Relations Division, NASA Headquarters.

(c) Safeguards intended to control access to classified information, materials, or facilities and provisions to protect the NSTS as a national resource will not be diminished in providing assistance to foreign or U.S. news representatives.

**§ 1213.108 Security.**

It is the responsibility of each Public Affairs Officer to implement the STS Security Classification Guide for each DoD classified operation on the NSTS. Guidance for this implementation will be provided in the joint NASA and USAF Public Affairs plan for each mission. In addition, each NASA installation involved in the NSTS will have information concerning the protection of the NSTS as a national resource. This category of information, including NSTS survivability/vulnerability data, may be classified. Therefore, all questions regarding security classification will be resolved by the appropriate security classification officer at any NASA installation or by the designated DoD security officer for DoD classified information.

# PART 1214—SPACE FLIGHT

## Subpart 1214.1—General Provisions Regarding Space Shuttle Flights of Payloads for Non-U.S. Government, Reimbursable Customers

Sec.



## Subpart 1214.2—Reimbursement for Shuttle Services Provided to Civil U.S. Government Users and Foreign Users Who Have Made Substantial Investment in the STS Program

# Appendix E

# NASA Office of Inspector General
# Evaluation of Management's Comments

**Background.** On March 7, 2008, the NASA Office of Inspector General submitted a Draft "Investigative Summary Regarding Allegations that NASA Suppressed Climate Change Science and Denied Media Access to Dr. James E. Hansen, a NASA Scientist" ("Investigative Summary" or "Summary") to the NASA Administrator to give the Agency an opportunity to comment. Our purpose in providing the Agency with an opportunity to comment on the Summary was to gain assurance there were not important facts or other considerations we may have failed to consider in our investigation. On April 18, 2008, NASA's Deputy General Counsel (OGC) provided us comments on our Draft; those comments are attached at Appendix D.

The Agency's comments do not rebut or specifically challenge the vast majority of the factual findings, analysis, or conclusions of the Investigative Summary. The Agency first cites its agreement with the Investigative Summary on six findings before raising three points of contention. These points question the Office of Inspector General's (OIG) reading of the Space Act, the evidentiary basis for the OIG's conclusions, and the OIG's "unjust references to the character of senior PAO managers." While we believe these matters were sufficiently addressed in our Investigative Summary, we will discuss them in greater detail below. To summarize those details, (1) we believe the Agency's interpretation of the Space Act is an erosion of the Act's express mandate to disseminate information—which was fundamental to NASA's enabling legislation; (2) we believe the information contained in the Investigative Summary is sufficiently supported by the evidence; allegations were not accepted as conclusive; and further, the sole example the Agency uses to extrapolate or fashion an argument that all our other findings are questionable is also well supported by the facts; and (3) while the Investigative Summary was primarily concerned with issues of suppression and denial of media access, the conduct of one or more senior Public Affairs Officials warranted specific reference as the conduct was, to us, indicative of a consciousness on the part of those official(s) that their actions were inappropriate. Moreover, their actions to frustrate this office's and others' inquiries into the facts of this matter were sufficiently material to warrant specific reference. Nonetheless, in light of the Agency's response, after further consideration, we changed some parts of the Summary and provided further elaboration of relevant matters here. Material changes are detailed at the end of this evaluation.

## 1. NASA's Objections to NASA OIG's Space Act Analysis

The Agency mischaracterizes our discussion of the Space Act as it was applied to the facts of this case. Our Investigative Summary does not cite the Space Act as a "restriction" on NASA authority, but rather as a mandate that requires NASA to disseminate information to the widest practicable and appropriate extent. Further, we do not state that "NASA is statutorily barred from exercising discretion." Our Investigative Summary recognizes the Agency's discretion but concludes that, under the facts and

circumstances of this case, the Agency's exercise of discretion was "inconsistent" with the Space Act.

We note that the Space Act's operative language is cast in terms of a *requirement* for NASA to widely disseminate its activities and results. The Space Act uses the term "shall" in directing the Agency to provide for the widest practicable and appropriate dissemination of information. This requirement is only conditioned by the terms "practicable and appropriate." To clarify that this requirement extends to public affairs functions, the Agency's implementing regulations, "Release of Information to News and Information Media," published in Part 1213 of Title 14 of the Code of Federal Regulations, states that, "Consistent with NASA statutory responsibility, NASA *will* 'provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof.'" (Emphasis added.)

The Agency's comments, however, state that the Space Act vests it with the "maximum possible discretion . . . to determine what is appropriate" and once that determination is made, they have unconstrained dissemination decision-making authority to do anything "as long as [it is] not prohibited." Implicit in this position is that the NASA OIG is wrong to question the activities addressed in this Investigative Summary with reference to the Space Act because the Agency has unbridled discretion—as long as dissemination decisions made are not specifically prohibited by law. We reject the position that the Space Act's dissemination provision is simply a "grant of authority" to take action; instead, we believe it constitutes a *direction* to take action.

As detailed in our Summary, we agree that the Agency has discretion as regards the execution of the statutory mandate. This is particularly so in the conduct of Office of Public Affairs activities when NASA is already publishing through normal research channels the science found in its research. As restated in our Investigative Summary, we do not believe that the Agency's statutory mandate or regulatory commitments, with specific reference to its public affairs functions, allow for the intentional distortion of information or science in press releases the Agency—in its exercise of discretion—has elected to issue. Likewise, purposefully withholding or delaying meritorious releases to ostensibly meet political objectives would also appear to stretch the mandate to provide "the widest practicable and appropriate dissemination of information concerning its activities and results thereof." In our view, the exercise of the Agency's discretion in disseminating information under the mandate of the Space Act and Agency regulations is not beyond question or oversight, and we remain convinced that the actions identified in the Investigative Summary as being inconsistent with the Space Act's requirements were, in fact, just that.

**2. NASA's Contention that NASA OIG's Investigative Summary Accepted Allegations as Evidence, as Illustrated in Analysis of News Release 06-009 – "NASA's Spitzer Finds Possible Comet Dust Around Dead Star"**

The Agency's comments (Appendix D, page 3) cite a portion of the evidence regarding the "Spitzer" news release and concludes as follows:

> No political appointee was involved, the scientist agreed with the objection of the career Public Affairs employee, the press release involved astronomy rather than climate change, and the results of the observation were accurately portrayed. Despite our knowledge that the OIG was in possession of these facts, none are mentioned in the Report. An example such as this, where contemporaneous documentary evidence of events was disregarded in favor of unsubstantiated statements made long after the fact, raise questions about the other findings of the Report.

The Agency comments address only the initial aspects of the Spitzer release. In addition to the e-mails quoted by the Agency establishing a consensus that the first draft of the release was "alarmist," we considered numerous other types and forms of evidence, to include witnesses, documents, other e-mails, and a conference presentation made by the contributing scientist. This additional evidence reflects that the primary problems with the "Spitzer" release occurred after the exchange of e-mails referenced by the Agency.

Following the initial exchange of e-mails reflecting the "alarmist" consensus, a re-worked version of the draft press release was generated. It stated (in part):

> If any planets had once orbited in these dead systems, the red giants would have engulfed at least the inner ones. All that would be left is outer planets and an orbiting icy outpost of comets. In five billion years or so, when the sun and earth are twice our present age, our own solar system will eventually undergo a similar process.

The final release stated:

> If any planets orbited in these systems, the red giants would have engulfed at least the inner ones. Only distant outer planets and an orbiting icy outpost of comets would have survived.

The connection between the observations of the Spitzer Space Telescope and our solar system were removed.

This office's interview with the field Public Affairs Office representative at NASA's Jet Propulsion Laboratory revealed that he/she disagreed with the NASA Headquarters Office of Public Affairs Officer's desire to delete all reference to our solar system. He/she opined that the press release was unduly censored but that he/she had to concur with the changes because it was the only way that the release would be approved due to the "culture of censorship" at NASA Headquarters Office of Public Affairs.

The NASA Headquarters Public Affairs Officer stated he/she was directed by the NASA Headquarters Newsroom Chief to not put anything in a press release that would scare people. The NASA Headquarters Public Affairs Officer also told us that he/she did everything he/she could to satisfy Dean Acosta and the Newsroom Chief and that he/she edited the press releases in order to get them approved; this person said that getting the

release to the public was achieving his/her mission of getting a final press release out despite the fact that language or content were kept from the public to satisfy his/her supervisors.

The Spitzer program scientist told this office that he/she agreed that the scientist's original draft had alarmist comments and needed to be edited. He/She stated, however, that he/she felt it was "censorship" on the part of NASA Headquarters Office of Public Affairs to remove all mention of the parallel relationship between the solar system that was the focus of the study and our own solar system. After reviewing the reworked release, the program scientist states in an e-mail message to NASA's Jet Propulsion Laboratory Public Affairs Office representative, "I noticed that the Sun isn't mentioned. There's an underlying issue that I've got to understand. The censorship is crazy." Neither the program scientist nor the scientist that conducted the study ever received a final draft copy of the release before it went out.

Our interview of the scientist who conducted the study reflected his/her belief that NASA Headquarters Office of Public Affairs removed key information and compromised the purpose of the release. Specifically, his/her purpose in submitting the press release was to show the public the parallels between the two solar systems. Consequently, the removal of all reference to our solar system took away the primary relevance of the release. Further, the scientist stated that during the American Astronomical Society (AAS) conference that was held shortly after the release, he/she made a presentation concerning the Spitzer study. The presentation was entitled, "Spitzer Sees Ghost of Solar System's Future," and focused on the parallels between our own solar system and the findings from the study. During the presentation several reporters commented that his/her presentation was different from the news release and they asked if NASA Headquarters had changed his/her story. According to the scientist, he/she avoided responding to those questions by "talking around" the subject. The reporters told him/her that they were glad they came to the presentation because now they had something to write about. He/She advised our investigators that he/she was put into this uncomfortable position because of his/her trying to cover the "mistakes" made by NASA Headquarters Office of Public Affairs.

We also reviewed evidence suggesting that senior NASA management had concerns with the NASA Headquarters Office of Public Affairs' course of conduct regarding this particular Spitzer press release. One of the documents reviewed by this office was an e-mail from NASA Administrator Michael Griffin to the Associate Administrator, Science Mission Directorate, dated February 23, 2006. This e-mail was in reference to Mr. Griffin receiving (via the Associate Administrator for the Science Mission Directorate) a list of political interference allegations from *New York Times* journalist Andrew Revkin. One of the issues raised by Mr. Revkin specifically related to the changing of this Spitzer press release and the problems those changes caused to the Spitzer scientist at the AAS conference. In the e-mail, Mr. Griffin stated, "This sickens me. We need to fix. I hope the AAS meeting incident did not occur on our watch? The other incidents were earlier, but we still need to fix."

Other Spitzer-related documentation reviewed by this office was an e-mail from the Associate Director, Astrophysics Science Division, Goddard Space Flight Center, to the Chief Scientist for the Science Mission Directorate, dated January 29, 2006. This e-mail appeared to confirm the salient facts, by stating,

> Summary and analysis of communications regarding the text of the release about Spitzer observations of an evolved solar system. The observations address a possible dead solar system and parallels can be drawn that predict what might happen to our solar system (predictions from theory). However as communications progressed between Headquarters and Spitzer PAOs any reference to our sun were either deleted or significantly water [sic] down. Spitzer PAO admitted that the first quote may have been "over the top" so they changed it. But the parallels drawn to our solar system were removed in the final HQ version.

A February 13, 2006, point paper drafted by the NASA Chief of Staff confirmed there were significant changes made to the press release but that there was no political interference due to the fact that only career civil servants were involved in the process. (Our investigation, however, explored *why* in this instance and in many others the career assigned civil servants may have made the changes.)

We agree that this example does not show direct political interference; instead, we believe this example reflects dissembling/obscurantism, self censorship and poor coordination—and it parenthetically depicts the indirect influence that political appointees had over the process. The career Headquarters Office of Public Affairs employees, in regard to this issue and in general, spoke about the guidance given to them by the political appointees as to what would be considered an acceptable press release and that they acted upon that direction. As stated by the Headquarters Public Affairs Officer who handled this particular release, the changes made were not caused by benign oversight or scrivener's error; the changes were deliberately made because it was the only way to get the press release approved by Mr. Acosta.

Similar to the specific comments made by the Agency concerning the lack of support for this office's findings concerning the "Spitzer" press release, it should be recognized that the Investigative Summary provided to the Agency for comment is just that—a Summary.

As we did in the Spitzer release discussed above, our summarizations did not adopt allegations as substantiated facts. Of course, administrative investigations by their very nature will include disputed facts, and, while we have confidence in our work, we do not presume that our findings and conclusions are infallible. Nevertheless, the facts in the Investigative Summary appeared preponderantly likely, that is, more likely than not, and we rejected allegations that couldn't be supported by that standard. Contrary to the assertion, implicit in the Agency's response, that we received allegations and accepted them as fact, we only presented those allegations that we found to be, as the Investigative Summary states, substantiated based on the evidence we developed and applied to an evidentiary standard.

For example, during the course of our investigation, this office received a substantial number of allegations involving specific matters such as individual press releases being delayed, altered, or cancelled as well as allegations involving more general issues such as the following:

- Allegation(s) of "Censorship" of Climate Change Science insomuch as NASA changed its Mission Statement by eliminating the words "to understand and protect our home planet."

- Allegation(s) that in October 2004, Messrs. Mahone and Acosta directed that climate change press releases "must be limited due to the upcoming Presidential election." While the Investigative Summary details only one instance of a press conference being delayed until after the 2004 Presidential election (Investigative Summary pp. 25–27), this office also received allegations that in October 2004, Messrs. Mahone and Acosta directed staff members to reduce the number of climate change press releases until the election was over.

- Allegation(s) that Mr. Acosta ordered his staff to have all climate change draft releases reviewed by him and that he instructed there not to be "any electronic paper trail" in connection with his review, and that NASA scientists were prohibited to speak to the media concerning the release of the movie, "The Day After Tomorrow."

While we found little to no evidence that the facts underlying these allegations were false, we elected not to include them in our Investigative Summary because they were not supported strongly enough through documentation or by corroborating witnesses. Said another way, if a determination could not be made concerning the factual sufficiency of an allegation, then that allegation was not published in the Investigative Summary. Ironically, in many instances, the lack of documentation concerning the press releases was due to the fact that the routing sheets that would have documented the changes made to the drafts in question were not available—in line with an allegation that Mr. Acosta directed that the climate change drafts were to come directly to him and not through the normal approval chain.[1]

On pages 1 and 3 of its comments (Appendix D), the Agency points to the limited number of instances of censorship/suppression found by this office. While true that the Investigative Summary highlights only one instance of an improperly delayed press release and press conference (pp. 25–27), we received allegations concerning at least six

[1] OIG investigators made three separate requests for routing sheets: the first two were for all routing sheets related to climate change press releases and the third request was for the routing sheets connected to specific press releases about which allegations had been raised. There was no response to the first request. The second request garnered 20 routing sheets covering a period of time from May 2005 through December 2006 (no sheets were available for the period of time of April 2004 through April 2005), and no documents were obtained as a result of the third request.

others being delayed. Again, these were not included in the Investigative Summary because the documentation usually associated with the approval of such releases was not available.

In summary, this office devoted considerable resources and analysis (to include a standard of proof) on distinguishing between allegations and substantiated facts. While we received more substantive allegations than were actually reflected in our Investigative Summary, we strove only to reflect those instances (such as the Spitzer news release) that were supportable by the evidentiary standards discussed in the Investigative Summary.

### 3. Characterization of Agency Public Affairs Officials

On page 3 of their comments, the Agency states:

> The Report is strewn with unjust references to the character of senior PAO managers [footnote concerning the use of the term "mendacity" to describe their conduct was inserted here]. There is little support, and less need, for such characterizations. The most that can be responsibly concluded from the evidence is that people disagree about what was said in certain meetings, over who received what emails, and who was involved in certain conversations.
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> For example, with respect to Mr. Mould, the Assistant Administrator for Public Affairs, there appear to be two principal reasons for the OIG's conclusions. There was the email that was intended to document the conversation between PAO and the Goddard Institute for Space Studies (GISS) concerning coordinating releases to news media, ([Draft]Report, p. 44) [Investigative Summary p. 37–38], and there was the question of whether George Deutsch acted alone or under orders in denying the NPR request for the interview with Dr. Hansen. ([Draft] Report, p. 47) [Investigative Summary pp. 40-41].

In specific regard to the e-mail in question, the Agency states:

> The OIG search of Mr. Mould's computer revealed no evidence that he received the email, and it is not reasonable to conclude, as the OIG Report does, that he received it anyway—that it was not, for example, diverted or lost in transmission—and that he remembered receiving it, and that he lied about it.

To properly respond to the Agency's comments that this office unjustly characterized senior Public Affairs Officials, Mr. Mould in particular, and that there is little support for our conclusions, a detailed outline of the relevant evidence gathered (in addition to that contained in the Investigative Summary) is described below.

First, by comparison with the other senior Public Affairs Officials, the evidence suggests that Mr. Mould was a relatively minor participant in these matters. He assumed his duties well after many of these events had occurred and appeared to have inherited many of the prior practices and personnel. Nevertheless, he was in charge (and therefore responsible) during some of the instances described in the Investigative Summary. Further, on discrete occasions, he was a participant. Finally, as we noted in the Investigative Summary, Mr. Mould took corrective policy actions after the practices

between his office and the climate change science community became controversial with the media, Congress, and senior NASA leadership.

With regard to the "e-mail in question," the evidence gathered by this office in connection with that e-mail extends well beyond the forensic examination conducted on Mr. Mould's computers. Our evidence includes several interviews (including two interviews of Mr. Mould) concerning the e-mail itself as well as to the circumstances leading up to the teleconferences, their content, and the oral and written reactions of the participants.

As mentioned in the Investigative Summary (pp. 36-37), a teleconference was conducted on December 15, 2005, involving Messrs. Mould and Acosta, and four other Headquarters and field Public Affairs Office officials. NASA OIG Special Agents interviewed all six participants to this teleconference. Four of the participants agreed as to the subject of the teleconference. These interviews also were corroborated by the contemporaneous notes taken by one of the participants that were obtained by this office. Four participants agree that the teleconference was the vehicle utilized by Messrs. Mould and Acosta to outline the "right of first refusal" policy in regard to media access as well as to direct that all Goddard Institute for Space Studies postings to its Web site needed approval from senior Science Mission Directorate officials and the Headquarters Office of Public Affairs. Messrs. Mould and Acosta disagree with the other four participants (and the contemporaneous notes taken by one of them) as they state the teleconference was simply a reaffirmation of the "heads up" policy already in place.

This office conducted multiple interviews with the Public Affairs Chief of the Goddard Space Flight Center. The evidence gathered from these interviews revealed that on December 16, 2005, the Public Affairs Chief of the Goddard Space Flight Center was directed to contact Mr. Acosta. He did so. Mr. Mould was also a participant in the teleconference that occurred that day, although it was Mr. Acosta that dominated the conversation. According to the Public Affairs Chief, Mr. Acosta advised that the "heads up" policy had changed and that the Headquarters Office of Public Affairs now wanted to know everything that Dr. Hansen was doing (presumably in terms of dealing with the media).

On this same date, the Goddard Space Flight Center Public Affairs Chief contacted the Goddard Institute for Space Studies Public Affairs Coordinator for the purpose of comparing notes on the two teleconferences. As a result, on December 19, 2005, the Goddard Public Affairs Chief sent an e-mail to Dr. Hansen's supervisors notifying them of the Headquarters Office of Public Affairs' desire to have local Public Affairs Offices "monitor" Dr. Hansen, but the Chief did not believe that this was their responsibility.

As described in the Investigative Summary (pp. 37–38), on December 20, 2005, Goddard's Public Affairs Chief sent an e-mail to Messrs. Mould and Acosta, with a copy to the Goddard Institute for Space Studies Public Affairs Coordinator, to memorialize the directions given during the teleconferences and to get written confirmation of these new directives. This e-mail was based on a draft constructed by the Goddard Institute for

Space Studies Public Affairs Coordinator (which was based on the notes taken during the first teleconference).

Despite statements to the contrary that Messrs. Mould and Acosta made either singularly or collectively to NASA senior leadership and Congressional staff—where they denied receipt of this e-mail—Mr. Acosta (or someone operating his equipment) received it. Our forensic examination of his computer reflects that he received it at 2:19 p.m. on December 20, 2005. Shortly thereafter, he forwarded the e-mail to the Deputy Press Secretary (also a participant in the December 15, 2005, teleconference) with the comment, "Take a look at this and let me know what you think?" At 2:55 p.m., the Deputy Press Secretary responded with some rewording of section 2 of the original e-mail. So, while two people deny receiving the e-mail (and, as will be pointed out later, they also deny the accuracy of its description of events), the evidence shows that it was received by one of them. Even accepting the remote possibility that the properly addressed e-mail was not delivered to Mr. Mould's account, or that he deleted it without reviewing it, we question whether it is reasonable to believe that Mr. Acosta (who was Mr. Mould's subordinate and whose computer clearly received and forwarded the e-mail, and who shared a contiguous office suite with Mr. Mould), would never have discussed this e-mail with Mr. Mould—especially given the seriousness of the issues discussed.

But not only do Messrs. Mould and Acosta deny receiving the e-mail, they also deny the accuracy of its portrayal of the teleconferences. Again, interviews of both senior NASA management and congressional staff reveal that Messrs. Mould and Acosta claimed that the teleconferences were nothing more than a reiteration of the existing "heads up" policy at the NASA Headquarters Office of Public Affairs. After OIG interviews of all of the participants of the teleconferences, Messrs. Mould and Acosta were alone in that assessment. Included in those participants was Mr. Deutsch (another political appointee) and the Deputy Press Secretary to whom Mr. Acosta forwarded the subject e-mail. The interview of the Deputy revealed that the e-mail was an accurate depiction of the first teleconference and that this was the reason why, when asked for comments by Mr. Acosta, his changes to the content of the e-mail were minor.

In terms of possible "contemporaneous" evidence in support of Mr. Mould's position, we interviewed Mr. Mould on March 5, 2008, wherein he provided investigators with a copy of a "Memorandum for the File," dated December 15, 2005, which we then considered as part of our investigation. According to Mr. Mould, he produced this memorandum from the notes he took of the teleconference shortly after the teleconference took place. This memorandum supports Messrs. Mould and Acosta's contention that the purpose of the teleconference was to remind the Goddard Institute for Space Studies Public Affairs Coordinator about the need to enforce the "heads-up" policy. Mr. Mould stated that he created this document on his home computer and then transferred the document to his work computer via a memory stick. Mr. Mould was non-specific as to when the document was created and transferred to his work computer. During the March 5, 2008, interview, one of the NASA OIG Special Agents reminded Mr. Mould that he had been previously interviewed (on September 11, 2007) in connection with this case and asked why Mr. Mould was just now providing this Memorandum after our previous requests for

information. He provided no response as to why he was producing this Memorandum now, or when he wrote it, or whether he gave it to anyone up until now.

Our investigation also uncovered that on February 2, 2006, the House Committee on Science and Technology sent a retyped copy[2] of the substance of the e-mail at issue to NASA's Assistant Administrator for Legislative and Intergovernmental Affairs. This was approximately 45 days after the original e-mail was sent. The e-mail was then forwarded to Messrs. Mould and Acosta and to the Chief of Strategic Communications. In responding to the e-mail from the Assistant Administrator for Legislative and Intergovernmental Affairs, we note that Mr. Mould and Mr. Acosta appear to have coordinated their response. On February 2, 2006, both Mr. Mould and Mr. Acosta replied within 30 seconds of each other and denied receiving the original e-mail. In his response, Mr. Mould states, "I have never seen this document before. I would have remembered it."

The interview of the Assistant Administrator for Legislative and Intergovernmental Affairs revealed that two meetings ensued as a result of the re-typed e-mail being received from congressional staff. The participants of the first meeting were the Assistant Administrator for Legislative and Intergovernmental Affairs, Messrs. Mould and Acosta, the Deputy Administrator, and the Chief of Staff. The second meeting included these same participants in addition to two congressional staff members and the NASA Administrator. According to the Assistant Administrator for Legislative and Intergovernmental Affairs, during these meetings, both Mr. Mould and Mr. Acosta denied receiving the December 20, 2005, e-mail and its contents.

The investigation disclosed that, at some point after receiving a copy of the questioned e-mail from the Assistant Administrator for Legislative and Intergovernmental Affairs, Messrs. Mould and Acosta met alone with the Deputy Press Secretary to discuss the questioned e-mail. (The Deputy Press Secretary could not recall the date of the meeting and Mr. Mould could not recall the specific meeting but stated that it is possible that he was involved in a conversation with Mr. Acosta and the Deputy Press Secretary.)

We found this meeting with the Deputy Press Secretary to be interesting in that the Deputy Press Secretary was not on the recipient list for the original e-mail. According to the Deputy Press Secretary, Mr. Mould and Mr. Acosta commented at that meeting that the e-mail "doesn't look like an e-mail we ever got." Due to the fact that the format of the e-mail sent to NASA by the congressional committee staff had been changed, the Deputy Press Secretary concluded after a cursory examination that he did not recognize the reformatted e-mail. During our interview with the Deputy Press Secretary and after he examined the e-mails more carefully, he acknowledged that the e-mails were the same. So, despite the fact that Messrs. Mould and Acosta denied receiving the original e-mail,

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[2] The reformatting of the e-mail consisted of it being retyped into a Microsoft Word document. In this re-typing, there were two typos. On the second line of the first paragraph, the word "comment" appeared as "comments" and in the third paragraph, the word "upcoming" appeared as "coming."

they called a meeting to discuss this e-mail with the same person to whom one of them had forwarded the original e-mail.

In summary, we believe that the questioned e-mail was sent and properly addressed to three people. Of these three, only one person acknowledges receiving it. The two others, Messrs. Mould and Acosta, deny it. Forensically, however, we proved that Mr. Acosta's computer received it and that it was forwarded to a member of Mr. Acosta's staff for comment. Further, both Mr. Acosta and Mr. Mould deny the accuracy of the contents of the e-mail, but this is contradicted by the other participants in the teleconference, the contemporaneous notes taken by one of the participants and the actions taken by the Goddard Space Flight Center Public Affairs Office Chief to notify Dr. Hansen's supervisors of the changes in policy outlined in the teleconferences. Their denial of the receipt is also inconsistent with their actions taken in response to congressional interest concerning the questioned e-mail insomuch they sought a meeting with the very person to whom Mr. Acosta forwarded the e-mail. Based on the totality of the evidence, to include the volatile nature of this issue at the time, and that Mr. Acosta was Mr. Mould's subordinate, we stand by our comments in the Investigative Summary that the e-mail was successfully delivered to and received by the computer of at least one senior Public Affairs Official. And in the off chance it was not delivered to Mr. Mould's account or it was accidently deleted,[3] etc., it defies logic that Mr. Acosta would not have discussed this subject with him.

The Agency's comments also claim that the OIG's Investigative Summary mischaracterizes Mr. Mould's role in directing Mr. George Deutsch to deny National Public Radio's request to interview Dr. Hansen. On page 3 of their comments (Appendix D), the Agency states:

> Further, the Report goes on to attribute the direction to deny the NPR interview to Mr. Mould. Mr. Deutsch apparently did not claim that Mr. Mould was involved. There is no evidence that he was involved. In fact, there does not appear to be an allegation from any source that he was involved, yet the OIG concludes that 'Mould and Acosta intimated that Mr. Deutsch had acted alone in denying the request from National Public Radio, when, in fact, Mr. Deutsch was simply carrying out their orders or intent.' ([Draft] Report, p. 47) [Investigative Summary pp. 40-41]. This conclusion is simply irresponsible."

The denial of the National Public Radio request to interview Dr. James Hansen was a central issue of the investigation and one for which we expended extensive investigative resources. The investigation of this matter included numerous interviews, including

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[3] The fact that we could not find the December 20, 2005, e-mail on Mr. Mould's computers is not conclusive that he did not receive it. NASA OIG conducted forensic analyses of the two NASA computers issued to and used by Mr. Mould during the time period material to this inquiry. Pursuant to normal procedures, Mr. Mould's first computer's hard drive (the one in use during December 2005) was "wiped" and only a minimal amount of data could be retrieved from that system. His second computer, issued March 26, 2006, was also examined, revealing gaps in the stored e-mails. The first available series of e-mails begins on August 4, 2005, and ends on August 5, 2005; the next series of available e-mails begins on January 3, 2006, and ends on November 19, 2006.

interviews with the Deputy Administrator and other members of the NASA senior staff, as well as a review of the electronic correspondence traffic surrounding the decision to deny the request for interview. The conclusions reached—that Mr. Acosta and Mr. Mould "intimated" that the NPR denial was made solely by George Deutsch and that, in fact, Mr. Deutsch was following the direct orders or intent of Mr. Acosta and Mr. Mould—is supported by the evidence.

In Mr. Acosta's January 3, 2007, interview with NASA OIG Special Agents and Counsel to the Inspector General, Mr. Acosta stated that Mr. Deutsch handled the interactions with the National Public Radio affiliate regarding their request to interview Dr. Hansen. He stated that after the Agency received the interview request, Mr. Deutsch briefed the Associate Administrator for the Science Mission Directorate. According to Mr. Acosta, the Associate Administrator told Mr. Deutsch that Dr. Hansen should only be interviewed about his science and that other NASA officials should participate in the interview to answer any policy questions that may arise. Again, according to Mr. Acosta, Mr. Deutsch relayed this message to the National Public Radio affiliate, which then refused that option. Mr. Acosta stated that while Mr. Deutsch may not have presented NASA's response as completely as he could have, it was, indeed, Mr. Deutsch who handled this interview request.

We then interviewed the then Associate Administrator for the Science Mission Directorate. She recalled being approached by Mr. Deutsch or another Headquarters Office of Public Affairs official about conducting the National Public Radio interview. The Associate Administrator for the Science Mission Directorate refused this invitation. It was clear to her that Mr. Deutsch did not want Dr. Hansen interviewed and that using Dr. Hansen for any portion of the interview was not an option. Her opinion was that other scientists with less public exposure should be considered if Dr. Hansen was not going to be made available. Her statements, therefore, are in contradiction to Mr. Acosta's account (to us) of the events.

Mr. Mould was first interviewed by this office on September 11, 2007. During the interview, Mr. Mould stated that he had no interaction with Mr. Deutsch concerning the National Public Radio interview request; however, he believed that Mr. Deutsch had processed the request correctly. According to Mr. Mould, Mr. Deutsch followed the procedures in place by contacting the Science Mission Directorate chain of command to determine who would handle any policy questions that would come up in the interview. Mr. Mould stated that a decision was made that it would be acceptable for Dr. Hansen to address the science issues but any policy type questions needed to be handled by senior NASA management officials. (This statement, similar to that by Mr. Acosta, is also contradicted by the statements of the former Associate Administrator for the Science Mission Directorate, by the contemporaneous e-mails sent by Mr. Deutsch internally and to the National Public Radio representatives and by the sworn and unsworn statements of Mr. Deutsch.) Mr. Mould stated that the situation could have been better handled but stressed that there was no attempt to stifle Dr. Hansen. In response to a specific question concerning whether he believed that Mr. Deutsch unilaterally made the decision to stop

Dr. Hansen from participating in the interview, Mr. Mould responded that he did not have sufficient information to respond.

During this office's interview of the Deputy Administrator, she stated that she supervised a review of the NASA policies regarding communication with the public. Her assignment came as a result of the January 2006 *New York Times* article concerning the National Public Radio request to interview Dr. Hansen. This article also prompted Congressional interest from the Chief of Staff of the US House of Representatives' Committee on Science, who called her about the interview request. As discussed in the Investigative Summary (pp. 43–44), the Deputy Administrator was relatively new to NASA at the time. She discussed the issue with Dr. Griffin who agreed that he would get the message out to NASA employees that suppression/censorship would not be tolerated and that she would direct an inquiry into whether or not there was suppression, particularly in the case of Dr. Hansen and the National Public Radio interview denial. As part of this review she met with Mr. Mould and Mr. Acosta. From this meeting she learned from Mr. Mould and Mr. Acosta that George Deutsch had handled the National Public Radio interview request denial. The Deputy Administrator stated that she had no reason to disbelieve Messrs. Mould and Acosta, and that Dr. Griffin and the NASA Chief of Staff also believed them. The Deputy Administrator also advised this office that Messrs. Mould and Acosta told her that there was no suppression of global warming information. She also met with Mr. Deutsch and reviewed some of his e-mail correspondence and documentation wherein he made controversial statements – related and unrelated to the NPR denial issue. As a result, she advised this office that she concluded that Mr. Deutsch interfered with the interview request and that he had acted alone in this interference. She opined that she had no reason to believe that he had acted at the direction of Mr. Acosta or Mr. Mould or any other NASA officials.

The evidence reflects that Messrs. Mould and Acosta told the Deputy Administrator that Mr. Deutsch solely handled the National Public Radio interview request; that Mr. Acosta told this office that Mr. Deutsch handled the interview request and that Mr. Mould opined that Mr. Deutsch handled the issue correctly and that he did not have sufficient information to state unequivocally that Mr. Deutsch unilaterally handled the denial.

In regard to the issue of whether or not Mr. Deutsch was following the orders or intent of Mr. Acosta and Mr. Mould, our review of the evidence gathered, again, supports this office's conclusions as stated in the Investigative Summary (p. 44). Interviews conducted with Mr. Deutsch, Mr. Mould, and the Associate Administrator for the Science Mission Directorate, as well as the contemporaneous e-mail traffic concerning the issue of the interview request, all reflect preponderant evidence that Mr. Deutsch's actions were taken as a result of direct orders from Mr. Acosta and that these directions were in keeping with the "right of first refusal" policy (that was contrary to NASA regulations) that was in place at the time of the interview and endorsed by Mr. Mould in his capacity as Assistant Administrator for Public Affairs. In fact, it was this policy that was one of the subjects of the previously discussed teleconference and questioned e-mail.

During multiple interviews of Mr. Deutsch he stated that the "right of first refusal" policy existed in practice prior to the December 15, 2005, teleconference but that the only time he was asked to invoke the policy was when Mr. Acosta directed him to do so in response to the National Public Radio interview request. According to Mr. Deutsch, Mr. Acosta directed him to ask the Associate Administrator and the Deputy Associate Administrator of the Science Mission Directorate to conduct the interview. According to Mr. Deutsch, Mr. Acosta made it clear to Mr. Deutsch that Dr. Hansen was not to do the interview. In his March 19, 2007, hearing before the House Committee on Oversight and Government Reform, Mr. Deutsch testified:

> In December 2005, National Public Radio (NPR) asked for an interview with Dr. Hansen. NASA Press Secretary Dean Acosta decided to offer NPR interviews with senior SMD personnel instead. These ultimately included Dr. Mary Cleave, Dr. Colleen Hartman and Dr. Jack Kaye. NPR declined to interview any of these three scientists.

Mr. Acosta's directions concerning Dr. Hansen not conducting the interview were further corroborated through contemporaneous conversations between Mr. Deutsch and another Headquarters Office of Public Affairs employee (whom we interviewed) wherein Mr. Deutsch was prompted to let Mr. Hansen do the interview but that Mr. Deutsch replied that he could not because Mr. Acosta had directed him not to.

In an e-mail to the Deputy Associate Administrator for the Science Mission Directorate, Mr. Deutsch wrote, "We just had this interview request sent to us, and the details are below. We discussed it with the 9th floor, and it was decided that we'd like you to handle this interview." E-mails from Mr. Deutsch quoted in the Investigative Summary (pp. 39–40) reflect that Mr. Deutsch attributed his instructions on this matter specifically to Mr. Acosta.

In summary, the evidence gathered by this office reflects that Messrs. Mould and Acosta told the Deputy Administrator that Mr. Deutsch handled the National Public Radio request to interview Dr. Hansen. Mr. Acosta related the same information to this office during his January 3, 2007, interview. Furthermore, the evidence strongly supports the conclusion that Mr. Deutsch was acting at the direction of Mr. Acosta and that those directions and Mr. Deutsch's actions were in keeping with the "right of first refusal" policies that Mr. Mould and Mr. Acosta supported, and which was discussed as part of the December 15, 2005, teleconference to which both Messrs. Mould and Acosta were party.

Finally, the Agency's comments question the use of the phrase, "mendacity of senior public affairs officials" contained within our Investigative Summary (p. 47).[4] The term

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[4] The Agency's response omits the word "apparent" that the OIG used in the Draft Summary to modify the word "mendacity" and additionally states that the OIG's report concludes that Mr. Mould "lied about" the e-mail—a conclusion not made by the OIG. Further, the Agency also questions the "need" for such references. Federal courts have held that false or misleading exculpatory statements may be used as circumstantial evidence of consciousness of guilt and may strengthen inferences supplied by other pieces

"apparent mendacity" was chosen with care to describe an *apparent* course of conduct that included not only the issues relating to the NPR interview request, the December 20, 2005, e-mail, the subject matter of the teleconferences on December 15 and 16, 2005, but also a pattern of sustained denials pertaining to general allegations of improper interference.

In the face of strong evidence to the contrary, the collective body of senior NASA Public Affairs Officials continued to deny to our investigators, congressional staff, and senior NASA management, the existence of *any* type of suppression, censorship or improper interference. (Mr. Acosta described such allegations as "ridiculous.") Despite the fact that even the NASA Administrator recognized that the Agency had dissemination problems—and moved quickly to resolve them, these officials essentially maintained that these problems were caused primarily by the high volume of press releases and the fact that the scientists' drafts needed editing due to their poor writing skills.

Consistent with this observation, our Investigative Summary (p. 5) also states that "[w]ith limited exceptions, NASA officials were cooperative in conducting this investigation." Those "limited exceptions" referred to our dealings with the NASA Headquarters Office of Public Affairs officials, when, for example,

- One former Headquarters Office of Public Affairs official attempted to avoid an interview with this office by claiming a lack of knowledge of the time of the interview despite the interview having already been confirmed with him and his administrative assistant. The interview required the Chief of Staff's intervention to ensure it happened.

- Attempts on the part of another senior NASA Headquarters Office of Public Affairs official to stymie the release of the Agency-wide "NASA Inc." request for climate change information (attached to the Investigative Summary). This office was again forced to invoke senior NASA management's help in order to get the request released.

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of evidence—though they do not alone prove guilt. In this investigation, possible false or misleading statements pertaining to the subject matter investigated (e.g., the substance of a teleconference pertaining to Dr. Hansen, or denying receipt of a confirming e-mail), and made while knowing that the statements were false or misleading, *may* suggest that the person (s) making such false or misleading statements was/were aware of his/their personal culpability as to the underlying subject matter. On the other hand, such statements could be considered as a declarant's truthful recollection. In our view, the issue is relevant and material to the report's focus on suppression and media access matters.

**Adjustments to the Draft Investigative Summary**

p. 15. Deleted: "Those limitations, when read in context with the rest of the Act, suggest that dissemination is the rule, rather than the exception, but take into account instances in which non-dissemination is necessary for overriding purposes that are otherwise consistent with the Act. Nowhere in the Act, or its implementing regulations, is there authority to deny, alter, or delay the dissemination of research information under the "practicable and appropriate" limitations, because the information is in some respects, inconsistent with Administration policy or image." Inserted: "We do not believe, however, that the Agency's statutory mandate or regulatory commitments, with specific reference to its public affairs functions, allow for the intentional distortion of information or science in press releases the Agency—in its exercise of discretion—has elected to issue. Likewise, purposefully withholding or delaying meritorious releases to ostensibly meet political objectives would also appear to stretch the mandate to provide "the widest practicable and appropriate dissemination of information concerning its activities and results thereof."

p. 18. Added a footnote explaining Mr. Mould's initial review of the Public Affairs Regulations that he inherited upon assuming the duties of Assistant Administrator for Public Affairs.

p. 22. The word "Obscurantism" was added to "Dissembling" to more clearly describe this particular category of alleged interference. Also, in the description of this category, "NASA Headquarters Office of Public Affairs" was inserted in replace of "Headquarters public affairs" for clarity. "Obscurantism" is added to each of the examples previously categorized as "Dissembling" on p. 27, p. 29, and p. 30.

p. 30. "Self Censorship" was added to describe the Spitzer news release example.

p. 42. The words "Press Conference" is replaced by "Interview" in the title of Section E for clarity.

p.47-48. The sentence referring to an "unflinching belief" was changed to "Climate change scientists . . . believed . . . ." The term "one or more" Public Affairs officials was added for clarity.

**Adjustment to Management Comments**

p. 4 of Management Comments (Appendix D). The Agency states that they attached a copy of the new public affairs regulations. An outdated version was attached to their response, so we are attaching the current version as Appendix F. The current regulations can be found in the Code of Federal Regulations at 14 C.F.R. §§ 1213.100 – 1213.109 (2008). We note that on page 2 (Appendix D), the Agency's citation to the Space Act appears to have a typo, § 203(c)(3) instead of § 203(a)(3).

# Appendix F

responsibility for the total system, and may issue guidance to subsystem managers on implementation of this part. When furnishing information for required reports, the system manager will be responsible for reporting the entire system of records, including any subsystems.

(c) Exercise of the responsibilities and authorities in paragraph (a) of this section by any system or subsystem managers at a NASA Installation shall be subject to any conditions or limitations imposed in accordance with §1212.703 (a)(4) and (b).

### § 1212.705 Assistant Administrator for Procurement.

The Assistant Administrator for Procurement is responsible for developing appropriate procurement regulations and procedures under which NASA contracts requiring the maintenance of a system of records in order to accomplish a NASA function are made subject to the requirements of this part.

### § 1212.706 Delegation of authority.

Authority necessary to carry out the responsibilities specified in this regulation is delegated to the officials named, subject to any conditions or limitations imposed in accordance with this subpart 1212.7.

## Subpart 1212.8—Failure To Comply With Requirements of This Part

### § 1212.800 Civil remedies.

Failure to comply with the requirements of the Privacy Act and this part could subject NASA to civil suit under the provisions of 5 U.S.C. 552a(g).

### § 1212.801 Criminal penalties.

(a) A NASA officer or employee may be subject to criminal penalties under the provisions of 5 U.S.C. 552a(i) (1) and (2).

(1) *Section 552a(i)(1).* Any officer or employee of an agency, who by virtue of employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) *Section 552a(i)(2).* Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

(3) These two provisions apply to NASA civil service employees as well as those employees of a NASA contractor with responsibilities for maintaining a Privacy Act system of records.

(b) Section 552a(i)(3). Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

# PART 1213—RELEASE OF INFORMATION TO NEWS AND INFORMATION MEDIA

Sec.



AUTHORITY: 42 U.S.C. 2473(a)(3).

SOURCE: 71 FR 49989, Aug. 24, 2006, unless otherwise noted.

### § 1213.100 Scope.

This part sets forth policy governing the release of public information, which is defined as information in any form provided to news and information media, especially information that has the potential to generate significant media or public interest or inquiry. Examples include, but are not limited to,

press releases, media advisories, news features, and Web postings. Not included under this definition are scientific and technical reports, Web postings designed for technical or scientific interchange, and technical information presented at professional meetings or in professional journals.

**§ 1213.101 Applicability.**

(a) This policy applies to NASA Headquarters, NASA Centers, and Component Facilities.

(b) In the event of any conflict between this policy and any other NASA policy, directive, or regulation, this policy shall govern and supersede any previous issuance or directive.

(c) The requirements of this part do not apply to the Office of Inspector General regarding its activities.

**§ 1213.102 Policy.**

(a) NASA, a scientific and technical Agency, is committed to a culture of openness with the media and public that values the free exchange of ideas, data, and information as part of scientific and technical inquiry. Scientific and technical information from or about Agency programs and projects will be accurate and unfiltered.

(b) Consistent with NASA statutory responsibility, NASA will ''provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof.'' Release of public information concerning NASA activities and the results of NASA activities will be made in a timely, equitable, accurate, and complete manner.

(c) To ensure timely release of information, NASA will endeavor to ensure cooperation and coordination among the Agency's scientific, engineering, and public affairs communities.

(d) In keeping with the desire for a culture of openness, NASA employees may, consistent with this policy, speak to the press and the public about their work.

(e) This policy does not authorize or require disclosure of information that is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) or otherwise restricted by statute, regulation, Executive Order, or other Executive Branch policy or NASA policy (e.g., OMB Circulars, NASA Policy Directives). Examples of information not releasable under this policy include, without limitation, information that is, or is marked as, classified information, procurement sensitive information, information subject to the Privacy Act, other sensitive but unclassified information, and information subject to privilege, such as predecisional information or attorney-client communications.

**§ 1213.103 Responsibilities.**

(a) The Assistant Administrator for Public Affairs is responsible for developing and administering an integrated Agency-wide communications program, establishing Agency public affairs policies and priorities, and coordinating and reviewing the performance of all Agency public affairs activities. The Assistant Administrator will develop criteria to identify which news releases and other types of public information will be issued nationwide by NASA Headquarters. Decisions to release public information nationwide by NASA Headquarters will be made by the Assistant Administrator for Public Affairs or his/her designee.

(b) NASA's Mission Directorate Associate Administrators and Mission Support Office heads have ultimate responsibility for the technical, scientific, and programmatic accuracy of all information that is related to their respective programs and released by NASA.

(c) Under the direction of the Assistant Administrator for Public Affairs, Public Affairs Officers assigned to Mission Directorates are responsible for the timely and efficient coordination of public information covering their respective programs. This coordination includes review by appropriate Mission Directorate officials. It also includes editing by public affairs staff to ensure that public information products are well written and appropriate for the intended audience. However, such editing shall not change scientific or technical data or the meaning of programmatic content.

(d) Center Public Affairs Directors are responsible for implementing their portion of the Agency's communications program, adhering to Agency

policies, procedures, and priorities, and coordinating their activities with Headquarters (and others where appropriate). They are responsible for the quality of public information prepared by Center Public Affairs Officers. They also are responsible for the day-to-day production of public information covering their respective Center activities, which includes obtaining the necessary Center concurrences and coordinating, as necessary, with the appropriate Headquarters Public Affairs Officers.

(e) Center Directors have ultimate responsibility for the accuracy of public information that does not require the concurrence of Headquarters. *See* §1213.104(d).

(f) All NASA employees are required to coordinate, in a timely manner, with the appropriate Public Affairs Officers prior to releasing information that has the potential to generate significant media or public interest or inquiry.

(g) All NASA Public Affairs Officers are required to notify the appropriate Headquarters Public Affairs Officers, in a timely manner, about activities or events that have the potential to generate significant media or public interest or inquiry.

(h) All NASA public affairs employees are expected to adhere to the following code of conduct:

(1) Be honest and accurate in all communications.

(2) Honor publication embargoes.

(3) Respond promptly to media requests, and respect media deadlines.

(4) Act promptly to notify the public of, and correct, erroneous information, either internally or externally.

(5) Promote the free flow of scientific and technical information.

(6) Protect non-public information.

(i) All NASA employees are responsible for adhering to plans (including schedules) for activities established by public affairs offices and senior management for the coordinated release of public information.

(j) All NASA-funded missions will have a public affairs plan, approved by the Assistant Administrator for Public Affairs, which will be managed by Headquarters and/or a designated NASA Center.

(k) Public affairs activities for NASA-funded missions will not be managed by non-NASA institutions, unless authorized by the Assistant Administrator for Public Affairs.

### § 1213.104 Public information coordination and concurrence.

(a) *General.* All NASA employees involved in preparing and issuing NASA public information are responsible for proper coordination among Headquarters and Center offices to include review and clearance by appropriate officials prior to issuance. Such coordination will be accomplished through procedures developed and published by the NASA Assistant Administrator for Public Affairs.

(b) *Coordination.* To ensure timely release of public information, Headquarters and Center Public Affairs Officers are required to coordinate to obtain review and clearance by appropriate officials, keep each other informed of changes, delays, or cancellation of releases, and provide advance notification of the actual release.

(c) All public information shall be coordinated through the appropriate Headquarters offices, including review by the appropriate Mission Directorate Associate Administrator and Mission Support Office head, or their designees, to ensure scientific, technical, and programmatic accuracy, and review by the Assistant Administrator for Public Affairs or his/her designee to ensure that public information products are well written and appropriate for the intended audience.

(d) Centers may, however, without the full coordination of Headquarters, issue public information that is institutional in nature, of local interest, or has been deemed not to be a Headquarters release. These releases must be coordinated through the appropriate Center offices and approved by the Center Director and Center Public Affairs Director. The Center Public Affairs Director is required to provide proper notification to the Office of Public Affairs, NASA Headquarters, prior to release. The Assistant Administrator for Public Affairs or his/her designee will determine which public information will be issued nationwide by NASA

Headquarters and shall publish guidelines for the release of public information that may be issued by Centers without clearance from Headquarters offices.

(e) *Dispute Resolution.* Any dispute arising from a decision to proceed or not proceed with the issuance of a news release or other type of public information will be addressed and resolved by the Assistant Administrator for Public Affairs with the appropriate Mission Directorate Associate Administrator, Mission Support Office head, Center Director, and others, such as Center Public Affairs Directors, as necessary. However, the appropriate Mission Directorate Associate Administrator shall be the arbiter of disputes about the accuracy or characterization of programmatic, technical, or scientific information. Additional appeals may be made to the Chief of Strategic Communications and to the Office of the Administrator. When requested by a Center Public Affairs Director, an explanation of the resolution will be provided in writing to all interested Agency parties.

**§ 1213.105 Interviews.**

(a) Only spokespersons designated by the Assistant Administrator for Public Affairs, or his/her designee, are authorized to speak for the Agency in an official capacity regarding NASA policy, programmatic, and budget issues.

(b) In response to media interview requests, NASA will offer articulate and knowledgeable spokespersons who can best serve the needs of the media and the American public. However, journalists may have access to the NASA officials they seek to interview, provided those NASA officials agree to be interviewed.

(c) NASA employees may speak to the media and the public about their work. When doing so, employees shall notify their immediate supervisor and coordinate with their public affairs office in advance of interviews whenever possible, or immediately thereafter, and are encouraged, to the maximum extent practicable, to have a Public Affairs Officer present during interviews. If Public Affairs Officers are present, their role will be to attest to the content of the interview, support the interviewee, and provide post-interview follow up with the media, as necessary.

(d) NASA, as an Agency, does not take a position on any scientific conclusions. That is the role of the broad scientific community and the nature of the scientific process. NASA scientists may draw conclusions and may, consistent with this policy, communicate those conclusions to the media. However, NASA employees who present personal views outside their official area of expertise or responsibility must make clear that they are presenting their individual views—not the views of the Agency—and ask that they be sourced as such.

(e) Appropriated funds may only be used to support Agency missions and objectives consistent with legislative or presidential direction. Government funds shall not be used for media interviews or other communication activities that go beyond the scope of Agency responsibilities and/or an employee's official area of expertise or responsibility.

(f) Media interviews will be ''on-the-record'' and attributable to the person making the remarks, unless the interviewee is authorized to do otherwise by the Assistant Administrator for Public Affairs or Center Public Affairs Director, or their designees. Any NASA employee providing material to the press will identify himself/herself as the source.

(g) Audio recordings may be made by NASA with consent of the interviewee.

(h) NASA employees are not required to speak to the media.

(i) Public information volunteered by a NASA official will not be considered exclusive to any one media source and will be made available to other sources, if requested.

**§ 1213.106 Preventing release of classified information to the media.**

(a) Release of classified information in any form (*e.g.*, documents, through interviews, audio/visual) to the news media is prohibited. The disclosure of classified information to unauthorized individuals may be cause for prosecution and/or disciplinary action against the NASA employee involved. Ignorance of NASA policy and procedures regarding classified information does

not release a NASA employee from responsibility for preventing any unauthorized release. See NPR 1600.1, Chapter 5, Section 5.23 for internal NASA guidance on management of classified information. For further guidance that applies to all agencies, see Executive Order 12958, as amended, ''Classified National Security Information,'' and its implementing directive at 32 CFR parts 2001 and 2004.

(b) Any attempt by news media representatives to obtain classified information will be reported through the Headquarters Office of Public Affairs or Installation Public Affairs Office to the Installation Security Office and Office of Security and Program Protection.

(c) For classified operations and/or programs managed under the auspices of a DD Form 254, *''Contract Security Classification Specification,''* all inquiries concerning this activity will be responded to by the appropriate PAO official designated in Item 12 on the DD Form 254.

(d) For classified operations and/or information owned by other Government agencies (e.g., DOD, DOE), all inquiries will be referred to the appropriate Agency Public Affairs Officer as established in written agreements.

### § 1213.107 Preventing unauthorized release of sensitive but unclassified (SBU) information/material to the news media.

(a) All NASA SBU information requires accountability and approval for release. Release of SBU information to unauthorized personnel is prohibited. Unauthorized release of SBU information may result in prosecution and/or disciplinary action. Ignorance of NASA policy and procedures regarding SBU information does not release a NASA employee from responsibility for unauthorized release. See NPR 1600.1, Chapter 5, Section 5.24 for guidance on identification, marking, accountability and release of NASA SBU information.

(b) Examples of SBU information include: proprietary information of others provided to NASA under nondisclosure or confidentiality agreement; source selection and bid and proposal information; information subject to export control under the International Traffic in Arms Regulations (ITAR) or the Export Administration Regulations (EAR); information subject to the Privacy Act of 1974; predecisional materials such as national space policy not yet publicly released; pending reorganization plans or sensitive travel itineraries; and information that could constitute an indicator of U.S. Government intentions, capabilities, operations, or activities or otherwise threaten operations security.

(c) Upon request for access to information/material deemed SBU, coordination must be made with the information/material owner to determine if the information/material may be released. Other organizations that play a part in SBU information identification, accountability, and release (e.g., General Counsel, External Relations, Procurement) must be consulted for assistance and/or concurrence prior to release.

(d) Requests for SBU information from other Government agencies must be referred to the NASA program or other office responsible for handling the information as SBU.

### § 1213.108 Multimedia materials.

(a) NASA's multimedia material, from all sources, will be made available to the information media, the public, and to all Agency Centers and contractor installations utilizing contemporary delivery methods and emerging digital technology.

(b) Centers will provide the media, the public, and as necessary, NASA Headquarters with:

(1) Selected prints and original or duplicate files of news-oriented imagery and other digital multimedia material generated within their respective areas.

(2) Selected video material in the highest quality format practical, which, in the opinion of the installations, would be appropriate for use as news feed material or features in preproduced programs and other presentations.

(3) Audio and/or video files of significant news developments and other events of historic or public interest.

(4) Interactive multimedia features that can be incorporated into the

Agency's Internet portal for use by internal and external audiences, including the media and the general public.

(5) To the extent practicable, these products will be in forms and media accessible to the public at large, as well as to specific user groups requesting them, if any.

**§ 1213.109 News releases concerning international activities.**

(a) Releases of information involving NASA activities, views, programs, or projects involving another country or an international organization require prior coordination and approval by the Headquarters offices of External Relations and Public Affairs.

(b) NASA Centers and Headquarters offices will report all visits proposed by representatives of foreign news media to the Public Affairs Officer of the Office of External Relations for appropriate handling consistent with all NASA policies and procedures.

# PART 1214—SPACE FLIGHT

## Subpart 1214.1—General Provisions Regarding Space Shuttle Flights of Payloads for Non-U.S. Government, Reimbursable Customers

Sec.



## Subpart 1214.2—Reimbursement for Shuttle Services Provided to Civil U.S. Government Users and Foreign Users Who Have Made Substantial Investment in the STS Program



## Subpart 1214.3—Payload Specialists for Space Transportation System (STS) Missions



## Subpart 1214.4—International Space Station Crew



## Subpart 1214.5—Mission Critical Space System Personnel Reliability Program



## Subpart 1214.6—Mementos Aboard Space Shuttle Flights