



MAY 24, 2016

OVERSIGHT HEARING ON INVESTIGATING THE CULTURE OF CORRUPTION AT THE DEPARTMENT OF THE INTERIOR

UNITED STATES HOUSE OF REPRESENTATIVES, COMMITTEE ON NATURAL RESOURCES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

ONE HUNDRED FOURTEENTH CONGRESS, SECOND SESSION

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Edward Keable

Deputy Solicitor for General Law, Office of the Solicitor, U.S. Department of Interior

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Mary Kendall

Deputy Inspector General, Office of Inspector General, U.S. Department of Interior

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Subcommittee on Oversight and Investigations

Louie Gohmert, Chairman

Hearing Memorandum

May 20, 2016

To: All, Subcommittee on Oversight and Investigations Members

From: Majority Committee Staff, Subcommittee on Oversight & Investigations,
(x5-7107)

Hearing: Oversight hearing titled “*Investigating the Culture of Corruption at the Department of the Interior*”

The House Committee on Natural Resources, Subcommittee on Oversight and Investigations will hold an oversight hearing entitled, “*Investigating the Culture of Corruption at the Department of the Interior*” on **Tuesday, May 24th at 2:00 p.m. in Room 1334 of the Longworth House Office Building.**

Policy Overview:

- Early in the Obama Administration, the Department of the Interior (the “Department” or DOI) reorganized the hierarchy under which its Ethics Office operated, requiring the previously independent Designated Agency Ethics Official (DAEO) and her team to report directly to the Solicitor’s office.
- In recent months, the DOI Office of Inspector General (OIG) has released reports detailing multiple instances of misconduct within the Department and its sub-agencies.
- This hearing will focus on how DOI’s culture and ethics structure has contributed to an environment in which ethics violations are commonplace, particularly on the part of political appointees. Serious questions remain unanswered about the Department’s lack of accountability for these specific instances of employee misconduct.

Invited Witnesses:

Mr. Edward Keable
Deputy Solicitor for General Law
Office of the Solicitor
U.S. Department of Interior
Washington, D.C.

Ms. Mary Kendall
Deputy Inspector General
Office of the Inspector General
U.S. Department of Interior
Washington, D.C.

Background:

Ethics Office Structure and Funding

The DOI Ethics Office is housed within the Interior Department's Office of the Solicitor. The Designated Agency Ethics Official (DAEO), Melinda Loftin, reports directly to the Deputy Solicitor for General Law, Edward Keable.

Each bureau within DOI has an ethics officer to whom employees can contact directly for guidance. Each bureau officer in turn works in coordination with the DAEO. For FY 2016, the DOI Ethics Office was funded at a level of \$1.738 million.¹

Relevant Past Administration Activities

In 2004, as a result of a highly publicized ethics investigation of a senior political appointee during the previous Administration, the OIG recommended that:

- DOI appoint a single, qualified entity—the Designated Agency Ethics Official (DAEO)—to serve as the ethics authority for the entire Department.
- The Solicitor's office should no longer be in the business of providing ethics advice, and that DOI should remove the Ethics Office from the supervision of the Deputy Solicitor for General Law.
- Political appointees must seek ethics advice only from the DAEO and his/her staff.
- The DOI Ethics office should be well-funded and well-staffed with individuals possessing expertise in ethics.
- The Ethics office should improve its record management and tracking system.²

Notably, Deputy Inspector General Mary Kendall, who has served as a Deputy Inspector General (IG) at DOI since 1999, participated in crafting the recommendations of this report.³ In an effort to avoid future instances of ethical misconduct on the part of DOI political appointees and employees, DOI followed many of the OIG's recommendations in the wake of the investigation in the previous Administration.

Ms. Melinda Loftin, a highly experienced ethics professional, was appointed DAEO in 2006 by then-Secretary of Interior Dirk Kempthorne, and the ethics office was made independent

¹ Consolidated Appropriations Act, 2016, Pub. L. No. 114-113 (2015).

² U.S. Dep't of Interior Office of Inspector General, PI-SI-02-0053-I, Report of Investigation—Steven J. Griles (2004).

³ See, U.S. Dept't of Interior, <https://www.doioig.gov/about-us/deputy-inspector-general> (last visited May, 18 2016).

of the Solicitor's office.⁴ Of critical importance, political appointees were instructed to seek ethics advice solely from the Ethics Office rather than the Solicitor's Office.

Shortly after the start of the current Administration, the independence of the DAEO and her team was revoked and the Ethics Office was moved back under the supervision of the Deputy Solicitor for General Law. This action was completely at odds with the OIG recommendations from 2004.⁵

Relevant Recent Committee Activities

In September 2014, during the previous Congress, this Committee released an oversight Staff Report entitled "*Ethics Under Review: An Oversight Investigation Into the Department of Interior's Ethics Program and how Recusals are Managed by Senior Officials.*"⁶ The Report found that the ethics operations at DOI, which had been moved back under the authority of the Solicitor's office, were again suffering from mismanagement, delays, lack of tracking systems for ethics violations, and lack of transparency. Inefficient operations and confusion about the authority of the Ethics Office within DOI discouraged employees from seeking ethical advice.

Most troubling, the 2014 Committee report found that DOI ethics officers were directed to avoid offering advice to political appointees without approval from management—this is in direct opposition to OIG recommendations issued in 2004, recommendations which Deputy IG Mary Kendall participated in crafting.

Importantly, two of the subjects of the recent OIG reports are high-ranking political appointees within the Obama Administration.

DOI Ethics Regulations/Policies

Ethics requirements at DOI are governed by 5 C.F.R. 2635 and by three executive orders (EOs 12674, 12731, and 13490 spanning the Bush (41) and the Obama Administrations). Employees are required to adhere to ethical guidelines, work with ethics officers assigned to each bureau to sort out whether they should participate in activities that may be unethical or perceived to be unethical, and to take an ethics pledge.⁷

Examples of Recent DOI High Level Ethics Violations

The DOI OIG recently released three reports detailing instances in which high-ranking DOI employees used their positions for personal gain for themselves or for members of their families.

⁴ See, Press Release, U.S. Dep't of Interior, Secretary Kempthorne Announces Selection of Melinda Loftin as New Director of Interior Ethics Office (Oct. 17, 2006).

⁵ See, U.S. Dep't of Interior, https://solicitor.doi.gov/SOL_Org_Chart.pdf (last visited May, 18, 2016).

⁶ Majority Staff of H. Comm. on Natural Resources, 113th Cong., Rep. on Ethics Under Review: An Oversight Investigation Into the Department of Interior's Ethics Program and How Recusals are Managed for Senior Officials (2014).

⁷ See, Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. 2635 (1992); and Exec. Order No. 12674, 54 Fed. Reg. 15159 (Apr. 14, 1989); and Exec. Order No. 12731, 55 Fed. Reg. 42547 (Oct. 19, 1990) and Exec. Order No. 13490, 74 Fed. Reg. 4673 (Jan. 26, 2009).

a) National Park Service Director John Jarvis

The OIG [released a report](#) on February 25, 2016 in which it found Jonathan Jarvis, Director of the National Park Service (NPS), had written and published a book in direct violation of DOI ethics standards. These violations included use of his position to obtain the book deal, use of the NPS official logo, and marketing the book in NPS stores.⁸ Director Jarvis admitted that he had not sought guidance from the ethics office because it would have been a time consuming process. He also stated that he was concerned that ethics would ultimately not allow him to publish the book if he sought guidance.

Astonishingly, in 2009, Director Jarvis himself circulated a memo detailing his expectation that NPS employees maintain the highest ethical standards.

b) NPS Yellowstone Chief Ranger Timothy Reid

The OIG [released a report](#) on March 14, 2016 in which it found the Chief Ranger of Yellowstone National Park, Timothy Reid, has not lived in his NPS apartment on Yellowstone property since he was appointed Chief Ranger in 2009.⁹ Chief Rangers are required to live on-property.

Instead, Mr. Reid inappropriately allowed guests to use the apartment and his wife was offered use of the apartment as an overflow space from his family's bed and breakfast operation. The apartment was used as part of an international home exchange in which he and his family participated. He has publicly stated that during his public service, he and his family often travel internationally.

Chief Ranger Reid is a 28-year veteran of the Park Service and has held his position at Yellowstone since the beginning of the Obama Administration. In May of 2015 he was given the additional responsibility of serving as Superintendent of Devils Tower national monument, which receives millions in federal taxpayer dollars each year.

c) Bureau of Indian Education (BIE) Director of Education Dr. Charles "Monty" Roessel

The OIG [released a report](#) on March 30, 2016 in which it found the BIA's Director of Education improperly used his position to hire his lover and a relative.¹⁰

In the process of securing a job for these individuals he instructed a human resources officer to modify the job description to ensure that the unqualified individual would meet the criteria for the position.

Dr. Roessel held the position since 2012, and is a member of the Navajo Nation. The BIE is responsible for educating approximately 47,000 Native American students nationwide.

⁸ U.S. Dep't of Interior Office of Inspector General, Investigative Report of Jonathan Jarvis (2016).

⁹ U.S. Dep't of Interior Office of Inspector General, Investigative Report of Timothy Reid, Chief Ranger, Yellowstone National Park (2016).

¹⁰ U.S. Dep't of Interior Office of Inspector General, Investigation of Improper Hiring at the Bureau of Indian Education (2016).

May 17, 2016

☆☆☆ Hearing Notice ☆☆☆

MEMORANDUM

To: Members, Subcommittee on Oversight and Investigations
From: The Honorable Louie Gohmert, Chairman
Subject: Oversight Hearing – May 24, 2016

On **Tuesday, May 24, 2016, at 2:00 p.m. in Room 1334 Longworth House Office Building**, the Subcommittee on Oversight and Investigations will hold an oversight hearing titled *“Investigating the Culture of Corruption at the Department of the Interior.”*

Witnesses are by invitation only.

If you need further information, please contact Wesley Gwinn, Clerk, Subcommittee on Oversight and Investigations at (202) 225-7107.

The use of cellular telephones is prohibited on the Committee dais or in the Committee hearing rooms during the meeting of the Committee pursuant to Rule 3(m) of the Committee Rules. Accommodations for individuals with disabilities, including assistive listening systems, interpreters, and materials in alternate formats, may be arranged by contacting the Committee in advance of the scheduled event (4 business days notice is requested) at voice (202) 225-2761; or 1324 Longworth House Office Building (HOB), Washington, D.C. 20515-6201.

**Statement of
Edward Timothy Keable
Deputy Solicitor - General Law
U.S. Department of the Interior
Before the
Committee on Natural Resources
Subcommittee on Oversight and Investigations
United States House of Representatives**

May 24, 2016

Chairman Gohmert, Ranking Member Dingell, Members of the Subcommittee, thank you for the opportunity to appear before you today. My name is Ed Keable and I am the Deputy Solicitor for General Law at the Department of the Interior (Department).

I have been a career public servant for over twenty-five years, beginning as a lawyer in the U.S. Army Judge Advocate General's Corps. I have been the Department's Deputy Solicitor for General Law since 2012. While serving in the Army, I learned the value of public service and the importance of providing high-quality and thoughtful legal counsel. Since my arrival at the Department, I have proudly served both Republican and Democratic administrations with equal dedication to excellence, with the goal of ensuring that the Department pursues its great mission in a lawful and ethical manner.

As the Deputy Solicitor for General Law, I am responsible for managing the Division of General Law in the Solicitor's Office, the Office of Ethics, and the legal work in the Office's regional and field offices. As would be expected by such a large agency with diverse missions, the general legal work carried out in the Solicitor's Office is equally as diverse, and includes providing counsel on administrative matters that may include Departmental organization and delegated authorities, appropriations law, information law, contracting and procurement issues, grants, patents, copyrights, trademarks, property management, land titles, records management, personnel and civil rights matters, issues involving the Insular Areas administered by the Department, and issues involving Native Hawaiians, to name just a few.

A part of my area of legal practice also includes providing legal advice to senior leaders in the Department in response to reports of investigation from the Office of Inspector General. In that capacity, I give counsel on whether and how subjects of OIG reports of investigation might be held accountable and whether and how bureaus and offices might improve processes addressed in those reports.

The Department's ethics program is also located within the Office of the Solicitor, and is sound, robust, and serves the Department well. The Department Ethics Office (DEO) has been recognized by the Office of Government Ethics (OGE) for leading a strong program.

The DEO is made up of a talented group of ethics attorneys and professional staff headed by the Department's Designated Agency Ethics Officer (DAEO). It is important to note that the DEO is

not an enforcement or investigatory office, but one that provides ethics advice, counseling and education to the Department's employees. The DEO also manages the financial disclosure reporting process.

Each bureau in the Department has the regulatory responsibility to manage its own ethics programs. Bureau directors are tasked with the responsibility of managing the ethics programs in their bureaus and they rely on dedicated ethics professionals to assist them in this important work. The DEO works closely with the bureau ethics programs to ensure they are operating to the standards established by OGE.

The DEO audits bureau ethics programs. Using the information from these audits, from OIG reports, and from day-to-day engagements DEO staff has with clients and bureau ethics professionals, the DEO continually looks for opportunities to improve the Department's ethics program. Some examples of improvements that the Department has made to its ethics program in recent years include: the establishment of a full-time deputy ethics counselors (DEC) in every bureau at the GS-14 level or higher; elevating the reporting level of the DECs in the bureaus; increasing training opportunities for both ethics professionals and employees generally; increasing the organizational ties between the DEO and the bureau ethics programs; and strengthening recusal processes, financial disclosure, and advice and counseling processes. The DEO maintains a general supervisory role in relation to the bureau ethics programs, has review and concurrence authority for the hiring the DECs, sets the performance standards for the DECs, and has input in the performance ratings of the DECs.

The constructive relationship between DEO and OIG is critical to the success of both organizations. The Interior DAEO has access to the OIG for referral of possible ethics breaches. The OIG investigators have access to the DEO staff as subject-matter experts in OIG investigations that touch on ethics issues. Relationships like these, between these critically important offices, serve to strengthen the Department's ethics program.

The Department is committed to promoting a culture of ethics within the Department and to providing its employees with a strong ethics program. I look forward to any insights Members of the Subcommittee might have to assist the Department in meeting these important goals. Thank you and I am happy to answer any questions you might have.

COMMITTEE ON NATURAL RESOURCES
114th Congress Disclosure Form
As required by and provided for in House Rule XI, clause 2(g)(5)

May 24, 2016

“Investigating the Culture of Corruption at the Department of the Interior”

For Individuals:

Name:
Address:
Email Address:
Phone Number:

* * * * *

For Witnesses Representing Organizations:

Name: **Edward Timothy Keable**
Name of Organization you are Representing at the Hearing: **U.S. Department of the Interior**
Business Address: [REDACTED]
Business Email Address: [REDACTED]
Business Phone Number: [REDACTED]

* * * * *

For Nongovernment Witnesses ONLY:

1. Please attach/include current curriculum vitae or resume.

2. Please list any federal grants or contracts (including subgrants or subcontracts) related to the subject matter of the hearing that were received in the current year and previous two calendar years by you or the organization(s) you represent at this hearing, including the source and amount of each grant or contract.

3. Please list any contracts or payments originating with a foreign government related to the subject matter of the hearing that were received in the current year and previous two calendar years by you or the organization(s) you represent at this hearing, including the amount and country of origin of each contract or payment.

TESTIMONY OF MARY L. KENDALL
DEPUTY INSPECTOR GENERAL
FOR THE U.S. DEPARTMENT OF THE INTERIOR
BEFORE THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
HOUSE COMMITTEE ON NATURAL RESOURCES
JUNE 23, 2016

Mr. Chairman, Ranking Member, and members of the subcommittee, thank you for the opportunity to testify today regarding the work of the Office of Inspector General (OIG). This hearing, along with the previous hearing before this subcommittee and another recent hearing held by the House Committee on Oversight and Government Reform, helps to highlight the importance of bringing into the public view the role of the OIG as an independent, objective body to investigate matters that ultimately violate public trust. I must emphasize the dedication and hard work of the OIG staff, and give credit to those who produce the results that are the subject of today's hearing.

These recent hearings have also reinforced our focus on analyzing patterns of misconduct, examples of retaliation or intimidation, and systemic failures in management and internal oversight of critical processes within the Department, such as human resources and contract and grant management.

With fewer than 80 investigators, we work with constrained resources to address the ever-increasing complaints and allegations we receive throughout the year from multiple sources. We do so, in part, by capitalizing on a culture at Interior that, for the most part, is populated by individuals who are committed to the mission and doing the right thing. In fact, they are quick to report wrongdoing to the OIG. Just short of 50 percent of our complaints are generated by DOI employees and management. Another 15 percent of our complaints come from anonymous sources, many of which include information known only to DOI employees, so the total percentage is likely higher.

With limited time and resources, our tendency has been to move from case to case without considering cross-cutting impacts or patterns that our investigations uncover. Recently, however, we have begun to look for investigative trends that may illuminate more systemic issues within the Department and its bureaus.

The OIG has established a reputation for fair and thorough investigative and audit work. We are routinely called upon by the Department to conduct independent reviews of suspicious activity or allegations of misconduct. Several of the recent cases giving rise to congressional and media attention were generated by information reported to us by senior Departmental officials. As our reports reflect, however, the source of allegations does not influence the way in which we conduct our work, or report our investigative or audit findings.

While we produce a significant volume of investigative and audit work, in light of our workforce size, we are not always able to transmit and make public our work products as quickly as I would like. We have implemented several internal processes to improve our timeliness without compromising the quality of our work and work products. As you know, we have also implemented a policy of making public essentially all of our investigative reports whether allegations are substantiated or not, as well as some additional audit reports that had not been

published previously. This effort at transparency—something that is unparalleled in the OIG community—has its own challenges. In preparing public versions of these investigative and audit results, we must address grand jury secrecy rules, privacy issues, confidential business and proprietary information protections, and protection of confidential sources. This effort can be quite time consuming, but I believe that the benefit of the resulting transparency is well worth the effort.

As I explained in my testimony for the May 24, 2016 hearing before this subcommittee, we have recently streamlined our process for publishing investigative reports, reducing the time we provide to the Department for review and action from 90 to 30 days, before we provide investigative reports to Congress and publish those reports or summaries on our website. This change provides all of our stakeholders with clear expectations about the public availability of our reports. Since the improved publishing process was implemented, only one report has been delayed to allow the Department of Justice additional time for prosecutorial consideration.

Much of our investigative work includes working with Assistant United States Attorneys and other officials from the Department of Justice (DOJ). We have strong working relationships with many U.S. Attorney's offices, which have resulted in the prosecution of cases throughout the country. An example of this effective working relationship with DOJ is our considerable involvement in the *Deepwater Horizon* task forces—both criminal and civil—which were led by DOJ and resulted in record-setting fines and penalties. We also had great success in the *Guardians* task force, which was led by the U.S. Attorney's Office for the District of Montana, addressing public corruption involving tribal leaders. This model has become a standard for task forces in Indian Country.

We consult with DOJ on all allegations that involve potential criminal violations. A considerable number of these cases do not get prosecuted for any number of appropriate reasons. Other times, a matter may be accepted for consideration for prosecution, but gets delayed due to higher priority cases or other resource limitations. The process of prosecutorial consideration is very deliberate, very detailed, and, at times, completely out of our hands.

OIGs face significant hurdles to get their cases prosecuted. In certain areas of the country, we are presenting white collar crimes that simply do not meet the guidelines of the particular U.S. Attorney's office. We also compete against more notorious crimes, such as human trafficking, murder, drug conspiracies, and other violent crimes. These are among the reasons why some of our cases that we wish would be prosecuted are declined.

I reiterate my thanks to the subcommittee for holding this hearing, for giving these issues the attention they deserve, and for recognizing the need for transparency and accountability in this important area.

This concludes my prepared testimony. I am happy to answer any questions that the members of the subcommittee may have.

COMMITTEE ON NATURAL RESOURCES
114th Congress Disclosure Form
As required by and provided for in House Rule XI, clause 2(g)(5)

June 23, 2016

*“The Administration’s Response to Findings of Unethical and Criminal
Conduct at the Department of the Interior”*

For Individuals:

Name:
Address:
Email Address:
Phone Number:

* * * * *

For Witnesses Representing Organizations:

Name: Mary L. Kendall
Name of Organization you are Representing at the Hearing: U.S. Department of the Interior
Business Address: [REDACTED]
Business Email Address: [REDACTED]
Business Phone Number: [REDACTED]

* * * * *

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3. Please list any contracts or payments originating with a foreign government related to the subject matter of the hearing that were received in the current year and previous two calendar years by you or the organization(s) you represent at this hearing, including the amount and country of origin of each contract or payment.