



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL



The Office of Inspector General's Cases of Employee Misconduct at the Environmental Protection Agency

**Statement of Allan Williams
Deputy Assistant Inspector General for Investigations**

**Before the Committee on Oversight and Government Reform
U.S. House of Representatives**

May 7, 2014

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Good morning, Chairman Issa, Ranking Member Cummings and members of the committee. I am Allan Williams, Deputy Assistant Inspector General for Investigations for the U.S. Environmental Protection Agency (EPA). Thank you for inviting me to appear before you today to discuss our investigations of employee misconduct involving time-and-attendance fraud.

The Office of Inspector General (OIG) is an independent entity within the EPA; therefore, the views expressed in my testimony are based on the findings of the OIG's work and are not intended to reflect the agency's views.

OIG's Office of Investigations

In concert with the statutory authority granted to the OIG through the Inspector General Act of 1978 (IG Act), as amended, the mission of the OIG is to promote economy, efficiency and effectiveness, and to prevent and detect fraud, waste, and abuse through independent oversight of the programs and operations of the EPA and the U.S. Chemical Safety and Hazard Investigation Board (CSB).

To achieve this end, the OIG's Office of Investigations manages, sets policy, coordinates and has overall responsibility for investigations involving:

- Criminal activities in the award, performance and payment of funds under EPA contracts, grants and other assistance agreements to individuals, companies and organizations (for example, fraud, bribery, conflict of interest, etc.).
- Alleged criminal conduct or serious administrative misconduct by EPA employees (for example, time fraud, travel fraud, ethics violations, abuse of authority, etc.).
- Threats directed against EPA employees, facilities and assets, including acts of violence committed in EPA facilities.
- Theft or abuse of government property.
- Criminal activity or serious misconduct affecting the integrity of EPA programs that could erode the public trust (for example, impersonation of EPA officials; counterfeiting or misuse of EPA official insignia, logos or credentials; and scientific research misconduct).
- Intrusions into and attacks against the EPA's computer network, as well as incidents of hijacking EPA computers and/or systems, and the use of outside computers to commit fraud against the EPA.

In addition, the Office of Investigations is responsible for the OIG Hotline, which receives complaints of fraud, waste and abuse in the EPA and in CSB programs and operations, as well as any complaints involving the OIG.

It is important to note that the OIG's successful, unimpeded operations are reliant on coordination with, and support from, the EPA Administrator, EPA senior executives and subordinate agency offices, all of which are aware of the authorities provided to the OIG through the IG Act. Additionally, at the conclusion of an investigation, when the OIG issues its report to the appropriate EPA official, EPA executives and managers are ultimately responsible for determining the appropriate administrative action for employees found to be engaged in misconduct.

Employee Rights

As background for the cases that I will discuss, OIG investigators are required to notify EPA employees of their rights when they are suspected of administrative or criminal wrongdoing.

If an employee is suspected of only administrative wrongdoing, investigators are required to provide him or her with an "Administrative Warning: Duty to Cooperate," often called the Kalkines warning. This warning notifies the employee that he or she is not suspected of any criminal wrongdoing and, as a federal employee, has a duty to cooperate and respond to questions regarding his or her official duties. Under this warning, federal employees do not have a right to be represented by an attorney. However, the employee may request an attorney, and the request may be granted, at the sole discretion of the OIG. The employee is notified that if he or she fails to cooperate and answer questions about his or her official duties, he or she can be disciplined by the agency.

The Kalkines warning is also applicable when an agency employee declines to voluntarily speak to the OIG concerning an investigation. In such matters, an investigator reads the Kalkines warning aloud and tells the employee that he or she must cooperate and provide a statement or be subject to discipline by the agency.

If an employee is suspected of potential criminal culpability, investigators are required to provide the employee with an "Acknowledgment of Rights," often called the Garrity warning. The Garrity warning notifies the employee of the rights afforded to him or her as prescribed in the U.S. Supreme Court case *Garrity v. New Jersey*. The Garrity warning is designed to preserve the government's ability to use the employee's statements in any criminal or administrative proceeding by advising the employee that the interview is purely voluntary and the employee will not be disciplined solely for refusing to answer questions; however, the employee's silence can be considered in an administrative proceeding for its evidentiary value that is warranted by the facts surrounding his or her case.

OIG Investigations of EPA Employee Misconduct

The OIG's successful investigation of John Beale was the subject of a hearing held by this committee on October 1, 2013. On December 18, 2013, Mr. Beale was sentenced to 32 months

in prison for defrauding the EPA of approximately \$900,000 in undeserved pay and bonuses. Our investigation found, among other things, that Mr. Beale received his salary while missing more than 2.5 years of work at the EPA—making this case one of the most notorious time-and-attendance fraud cases in the federal government.

As noted in previous OIG testimony before this committee on October 1, 2013, our investigation of Mr. Beale was delayed several months (and otherwise negatively impacted) due to the fact that the EPA's Office of General Counsel and its Office of Homeland Security did not immediately notify the OIG of Mr. Beale's misconduct.

The investigation of Mr. Beale has resulted in other OIG investigations within the EPA, as well as an ongoing series of audits reviewing the internal controls that allowed Mr. Beale to commit his fraud.

My role here today is to inform the committee about findings from several time-and-attendance investigations, both related and unrelated to the Beale case.

First, the OIG investigated an allegation of serious employee misconduct by an EPA senior executive alleged to have been directly involved in approving fraudulent time-and-attendance records and travel vouchers for Mr. Beale. Our investigation indicated that the senior executive approved, or authorized the approval of, fraudulent time-and-attendance records and travel vouchers for Mr. Beale from 2000 through 2010. Our investigation was able to substantiate that this senior executive did not exercise due diligence with respect to the authorization and approval of Mr. Beale's time-and-attendance records, travel authorizations and travel vouchers. The senior executive allowed Mr. Beale to carry out—unchecked—extensive time-and-attendance and travel voucher fraud. The investigation also revealed that the senior executive did not exercise due diligence, in part because she believed, she said, that Mr. Beale worked for the Central Intelligence Agency. She never questioned Mr. Beale further, she said, because she believed the questioning might compromise national security. This unwillingness to question issues of purported national security enabled this senior executive to authorize or approve fraudulent time-and-attendance records and travel vouchers in excess of \$180,000.

Similarly, the OIG conducted an investigation into serious misconduct by another EPA manager who allowed an employee to stay at home and not report for duty for several years. Based on a long-standing arrangement with the employee (which allegedly began as an accommodation to work at home due to a medical condition), this EPA manager not only entered fraudulent time-and-attendance records for the absent employee but also approved the same fraudulent records. It is estimated that the manager's approval of fraudulent time-and-attendance records cost the government more than \$500,000. Even more egregious is that this EPA manager authored and approved exemplary performance appraisals that resulted in a cash award for the absent employee.

During the same investigation, the OIG also found evidence that implicated a senior executive. This senior executive, who was the absent employee's prior supervisor, remained aware that the employee had been teleworking for more than 20 years with very little substantive work product to show during this time. The senior executive knew about the arrangement between the

employee's current supervisor and the absent employee. This senior executive took no action, even though he knew the EPA was being defrauded. Upon receiving a target letter from the U.S. Department of Justice (DOJ), the senior executive retired and was not prosecuted. Furthermore, the DOJ declined to prosecute either the absent employee or the current supervisor.

During the course of the OIG's investigation, the absent employee's supervisor informed us that he was not the only EPA manager who was allowing employees not to report for duty. In an apparent effort to cooperate with the DOJ and the OIG, the supervisor provided the names of three additional EPA managers who were allegedly engaging in the same activity. However, an OIG investigation was launched into this reported activity, and the allegations were determined to be unsubstantiated.

In addition to those cases, the OIG has several ongoing investigations involving EPA employees and serious misconduct that is allegedly occurring. One such investigation involves a career EPA employee who allegedly stored pornographic materials on an EPA network server shared by colleagues. When an OIG special agent arrived at this employee's work space to conduct an interview, the special agent witnessed the employee actively viewing pornography on his government-issued computer. Subsequently, the employee confessed to spending, on average, between two and six hours per day viewing pornography while at work. The OIG's investigation determined that the employee downloaded and viewed more than 7,000 pornographic files during duty hours. This investigation has been referred to and accepted by the DOJ for prosecution.

Finally, the OIG has an ongoing investigation of a GS-15 Step 10 EPA employee who has not been physically able to complete any work for at least the last year; however, this employee continues to draw a full salary and receive the benefits of an active employee. This employee suffers from a debilitating disease and has been allowed to remain on telework status for several years without providing any substantive work product. Furthermore, this employee has resided in an assisted living facility for more than a year. When the employee entered the facility, the employee's supervisor was aware of the employee's condition and situation; however, the now former supervisor continued to allow and facilitate the employee's retention of a full salary and benefits. This investigation is ongoing and has yet to be presented to the DOJ for prosecution.

Conclusion

These examples are just a few of the OIG's employee misconduct cases at the EPA. True deterrence of employee misconduct at the EPA ultimately rests with agency executives and managers to set a tone that ensures such behavior will not be condoned. By doing so, the agency's leadership can establish a culture of accountability within the EPA and clearly communicate that employee misconduct will not be tolerated.

Thank you, Mr. Chairman, for the opportunity to discuss some of our cases involving employee misconduct at the EPA. The OIG appreciates the committee's continued interest in our work.

This concludes my testimony. I am pleased to answer any questions you may have.