

**EXAMINING SEXUAL HARASSMENT AND GENDER
DISCRIMINATION AT THE U.S. DEPARTMENT OF
AGRICULTURE**

HEARING

BEFORE THE

**COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES**

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EXAMINING SEXUAL HARASSMENT AND GENDER DISCRIMINATION AT THE U.S. DEPARTMENT OF AGRICULTURE

Thursday, December 1, 2016

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The committee met, pursuant to call, at 9:00 a.m., in Room 2154, Rayburn House Office Building, Hon. Jason Chaffetz [chairman of the committee] presiding.

Present: Representatives Chaffetz, Jordan, Walberg, Amash, Gosar, Gowdy, Farenthold, DeSantis, Buck, Walker, Hice, Russell, Carter, Grothman, Hurd, Palmer, Cummings, Clay, Lynch, Connolly, Kelly, Lawrence, Lieu, and DeSaulnier.

Also Present: Representative Speier.

Chairman CHAFFETZ. The Committee on Oversight and Government Reform will come to order and, without objection, the chair is authorized to declare a recess at any time.

We have an important hearing today examining sexual harassment and gender discrimination at the United States Department of Agriculture.

Earlier this year, the committee held two hearings about sexual harassment throughout the National Park Service. And at these hearings, whistleblowers told the committee their stories of harassment, discrimination, and the retaliation they feared in coming forward.

While many changes are still needed, the Park Service has begun the process of dealing with their cultural problems and removed some bad managers from their positions of leadership. Unfortunately, this problem is not contained to the Park Service and I would also say at the EPA, where we've had a number of hearings. But after the committee's Park Service hearings, numerous Department of Agriculture employees who were subject to sexual assault, harassment, and discrimination, also came forward to the committee.

A number of examples and despicable acts were quite horrifying. Some of these women had even been raped by coworkers, but refused to testify due to the threat of retaliation and having their careers destroyed. I don't even begin to comprehend or understand how one instance of this behavior is not considered an immediate crisis. That is just beyond me. This isn't the first time the issue has been raised at the Department of Agriculture and thus this hearing, because this is the deep concern.

In 2008, the committee held a hearing regarding sexual harassment and discrimination at the United States Department of Agriculture. Lesa Donnelly, who is with us today, also testified at that hearing. Back then she pled for help for the employees at the Forest Service who were sexually assaulted and then retaliated against. Even worse, when these concerns were raised to the Department level, they were dismissed as isolated incidents.

After 8 years in the current situation, we need to review what has changed and what still needs to be fixed. And based on what we've been reading leading up to this hearing, it doesn't look good, not in the least.

Last year, the Office of Special Counsel, the OSC sent letters to the President about the failings of the Office of Civil Rights at the Department of Agriculture. We lean heavily on the Office of Special Counsel. It is unusual that they have to go to this length to actually send a letter to the President about the failings.

But the Office of Special Counsel found that the office failed to process complaints in a timely manner and that the Office of Civil Rights leadership had an unusual high number of complaints against their own personnel. How can employees trust the Office of Civil Rights when its own leadership is alleged to be discriminating? Even worse, when the ranking member, Mr. Cummings, tried to investigate this problem, the Department failed to produce documents and generally dismissed staff concerns.

That's why the ranking member and I sent another letter just last week requesting the documents that the Department refused to provide. It is frowned upon, at best, it is unacceptable and very frustrating to have this happen.

In addition to Ms. Donnelly, I would like to acknowledge we are joined today by a Forest Service employee testifying in a whistleblower capacity. She should be applauded for agreeing to come forward, despite the fear of possible retaliation. It is difficult to do this. It is not her first choice in life. I am sure this is not something that she ever thought that she would be doing, but we appreciate the brave approach and willingness to represent what is, unfortunately, a significant number of women.

However, the committee staff spoke with numerous other employees who were so scared of retaliation they wouldn't come forward publicly. But we do appreciate Ms. Rice and her willingness to be here today.

I want to be absolutely clear, absolutely clear, that any retaliation against any witness before this committee or a victim of sexual harassment is totally completely unacceptable and gravely concerns the committee. And I can promise you and assure you that Mr. Cummings and I as well as members on both sides of this aisle will fight and push and defend these people who are whistleblowers, who are trying to do what is right for the country, trying to do what's right for them personally, and trying to do what's right for their fellow employees.

So I want to thank the ranking member and his staff for their work on this issue. I know he takes the threat of retaliation against whistleblowers as seriously as we do. We are united locked in arm on this and look forward to a good hardy hearing.

But, with that, I want to thank again the witnesses for being here today.

And now recognize the ranking member, Mr. Cummings of Maryland.

Mr. CUMMINGS. Mr. Chairman, thank you very much.

And I want to start off where you ended. Without question, Mr. Chairman, I agree with you that we stand hand in hand with regard to making sure that whistleblowers are not victims of retaliation. And we said it many times, and sometimes I wonder whether folk in the various departments really hear us. But I want to make it real, real clear that I will fight for a whistleblower and fight to protect them, because I do, I agree with the chairman, for whistleblowers to come forward, to provide testimony and after already being in many instances a victim, and then to have to go through a process of worrying about whether they keep their job or whether harm comes to them, we are simply a better country than that.

Back in September, when our committee convened to hear the testimony from whistleblowers in the National Park Service, I began by expressing the very simple principles that have guided my work on civil rights in the Federal workplace over the past two decades. I will restate them today. No employee should ever be afraid to come to work. Let me say that again. No employee should ever be afraid to come to work. A real simple sentence, but that's the way it should be. They shouldn't be afraid to come to work. And no employee should ever fear retaliation if she steps forward to report conduct that makes her feel afraid.

I thank Lesa Donnelly and Denice Rice for their willingness to come forward today. Ms. Donnelly, who worked for the Forest Service from 1978 until her retirement in 2002, now assists others who have experienced sexual harassment and retaliation. So I want to thank you, Ms. Donnelly, for your work. You have taken your pain, turned it into a passion to do your purpose. Pain, passion, purpose.

Ms. Rice is a fire prevention technician who has worked for the Forest Service for more than a decade. And I, like the chairman, know that it has been very difficult for you to come forward today to speak about your experiences. And I deeply appreciate your courage. Our staffs have told us about how difficult this is for you, and I promise you we will be as gentle as we can be, but just know that the people up here are friends and we want to make life better for you and for the people that you have come to represent.

For more than 40 years, the Forest Service has repeatedly faced litigation alleging discrimination against female employees. A lawsuit filed in the early 1970s—let me say that again, early 1970s—and another lawsuit filed in the mid 1990s each resulted in long-term consent decrees. Despite the changes required by those consent decrees, we continue to receive disturbing allegations of discrimination and retaliation 40 years after the first lawsuit. Forty years, 40 years of harassment, 40 years of pain, 40 years of lost opportunity, 40 years of fear. It's long past time for the Forest Service to finally break its toxic cycle of sue, settle and backslide. Sue, settle and backslide. Sue, settle and backslide.

While many steps must be taken to ensure that all Forest Service employees work in an environment free from discrimination and harassment, one critical step must be ensuring that the process of

handling EEO complaints is effective and efficient at both the agency and the departmental levels.

Today, we are joined by the Department of Agriculture's Assistant Secretary for Civil Rights Dr. Joe Leonard. I have known Dr. Leonard for many years. I appreciate his commitment to protecting civil rights and I thank him for being here today. As Dr. Leonard knows, I was deeply troubled by a letter that the Office of Special Counsel sent to the President back in May of 2015, which the chairman referenced.

This letter was unprecedented and it was extremely disturbing. As a matter of fact, I haven't seen a letter like that since I've been here, and I've been here 20 years. It warned President Obama that USDA's civil rights program, and I quote, "has been seriously mismanaged, thereby compromising the civil rights of USDA employees," end of quote. It stated that the civil rights office, quote "has an unusually high number of complaints filed against its own leadership," end of quote. It stated that corrective actions did not, quote, "provide sufficient redress for affected individuals," and it recommended that USDA review their cases again, quote, "to assess how affected employees could be made whole," end of quote.

To follow up on this troubling letter, as a followup, I sent a request of my own to the USDA a year ago seeking information about its management of EEO complaints and its plans for making their employees whole. Unfortunately, I have been extremely frustrated and disappointed by the response I received from Department officials. They provided some information, now, that's true, but they did not treat my request with the seriousness I believe it deserved. This is extremely important to me and extremely important to this committee. And this unprecedented letter to the President of the United States should have spurred the Department to make an overwhelming effort to fully cooperate with my request and try to get this right. Unfortunately, that is not what happened.

For these reasons, I was pleased that the chairman joined me this month in a new request to USDA from this committee for data on EEO complaints filed against senior USDA managers as well as for internal and external reports assessing USDA's handling of EEO complaints.

And as I close, Mr. Chairman, I just want to say something to the Department. You know, I don't want you to come in here and rope-a-dope, just come here and tell us the nice things that have happened and not tell us how you address these issues and how you plan to address them. These things have been going on for 40 years. That's a long time. And so, again, I emphasize this is not a Republican issue, it's not a Democratic issue, this is an American issue.

With that, Mr. Chairman, I yield back.

Chairman CHAFFETZ. I thank the gentleman.

We'll hold the record open for 5 legislative days for any members who would like to submit a written statement.

Chairman CHAFFETZ. And we'll now recognize our panel of witnesses. We are pleased to welcome the Honorable Joe Leonard, Jr., Assistant Secretary for Civil Rights of the United States Department of Agriculture; Ms. Lenise Lago—did I pronounce it right—deputy chief of business operations at the United States Forest

Service, the United States Department of Agriculture; Ms. Lesa Donnelly, vice president of the USDA Coalition for Minority Employees/Federal employee advocate, and former United States Forest Service employee; as well as Ms. Denice Rice, fire prevention technician for Region 5, Eldorado National Forest at the United States Forest Service within the Department of Agriculture.

We thank you all for being here. Pursuant to committee rules, all witnesses are to be sworn before they testify. So if you can please rise and raise your right hand.

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth? Thank you.

Please let the record reflect that all witnesses answered in the affirmative.

We would appreciate if you would limit your verbal comments to 5 minutes. Your entire written statement will be entered into the record.

And, Mr. Leonard, we'll now recognize you for 5 minutes. And, please, right up front, you got to pull that microphone right up in front of you and just make sure it's on. Thank you.

WITNESS STATEMENTS

STATEMENT OF THE HONORABLE JOE LEONARD, JR.

Mr. LEONARD. Chairman Chaffetz, Ranking Member Cummings, and members of the committee, thank you for the opportunity to discuss USDA's improvements in the processing of equal opportunity complaints and efforts to improve the civil rights culture in the Forest Service and at USDA.

As a sixth-generation Texan and lifelong student of civil rights but, more importantly, as a kid who received his first death threat at the age of 5 when I integrated kindergarten school in Austin, Texas, I am incredibly proud of my personal and professional commitment to civil rights that I made 45 years ago. Every day I approach my role and responsibility as Assistant Secretary with steadfast appreciation for the impact my office has on the lives of the American people.

As the longest serving Senate-confirmed African American appointee in the Obama administration and the longest serving Assistant Secretary for Civil Rights in the history of USDA, I've had the privilege of seeing firsthand the positive and transformative accomplishments of the Department of Agriculture's programs and employees, while also witnessing our collective interests and effort in continuously improving and expanding our work for all involved.

When I assumed this position in 2009, USDA had a long and complex history of discrimination claims brought against the Department. The Office of the Assistant Secretary for Civil Rights has worked diligently for nearly 8 years to protect the rights and privileges of nearly 100,000 employees spread among 2,200 parishes, counties, and boroughs throughout the United States as well as those receiving services from USDA.

At the beginning of this administration, we started by examining our history and bringing to light the most challenging aspects of

the Department's past. We made it our mission to change the culture of USDA, to root out exclusivity and build a culture of accessibility. As part of this effort, we created new policies, corrected past mistakes, and chartered a stronger, more inclusive path for our employees and the communities we serve.

While there is still much to do, we have made significant progress by accomplishing goals such as: Reducing the approximate processing time for new civil rights program complaints from 4 years to 18 months, creating a universal form for program participants to report cases of discrimination at USDA, the settlement of Pigford II, Keepseagle, Keepseagle opt-outs, and the construction of the Hispanic women's claims process, reducing the number of program form-related complaints by 60 to 70 percent. But that's not enough.

We've also made profound strides in processing the Department's conflict complaints, especially in addressing the conflict of interest complaints filed against senior managers. After significant review of the complaint process, we took reasonable actions to ensure by 2014 we were processing 100 percent of the complaints within the regulatory timeframe.

These changes included but were not limited to changing management and staff—we changed three different directors within the division—an increase in the training and management of supervisory employees, in addition to changing the vendor that we utilize. Additionally, in accordance with the Office of Special Counsel report, we reviewed all 120 cases that exceeded the regulatory timeframes to identify whether any harm resulted from prior delays in processing.

As a result, we determined that of the 120 cases that exceeded the 180 days, 102 cases were subsequently closed. Thirty-seven of them were settled before closing. Nine cases are with EEO at hearing at present, six were incorrectly identified, and only three of those cases remain open and are pending decision.

Regarding the Forest Service, early in my career I met with the Forest Service leadership in four regions to emphasize the importance of preventing sexual harassment in the agency. The Office of the Assistant Secretary for Civil Rights in its oversight capacity has worked to support the Forest Service in the following civil rights initiatives: Reorganization of its civil rights structure, to have its national civil rights director report directly to the Forest Service chief, and all regional civil rights directors and staff report to the national civil rights director. These changes were completed in 2016, and it's the first time in the 40-year history of the Forest Service it's ever been implemented. It's valuable to understand this, that now no one can say they don't know what's happening. It goes all the way to the chief and it's not stuck in a rural community in a far-off place.

We conducted an independent climate assessment of how female employees in Region 5 are treated, including a report with findings and recommendations to the Forest Service.

We strengthened and enhanced its sexual harassment policies, and having the Forest Service employees be the first at USDA to certify their agreement to abide by the Secretary's new antiharassment policy statement.

We've also in the last 40 years,—and this is—the last thing that I read and this, these are new. This isn't the same old thing. We strengthened Region 5's standard operating procedures for reporting and responding to allegations of sexual harassment and misconduct reported to related retaliation. And we have engaged OASCR and the Forest Service has engaged OASCR in the enhancement of Region 5's informal EEO complaint process.

The continued progress of the Forest Service's commitment to civil rights will be evidenced by this committee's continued oversight in the next administration. I thank you for this opportunity to present our progress.

I thank you for the opportunity to review what our office has accomplished in nearly 8 years and I'll be happy to answer any questions you have.

[Prepared statement of Mr. Leonard follows:]

Statement of

Joe Leonard, Jr., Ph.D.
 Assistant Secretary for Civil Rights
 U.S. Department of Agriculture before the
 House Committee on Oversight and Government Reform
 December 1, 2016

Chairman Chaffetz, Ranking Member Cummings, and members of the Committee: Thank you for the opportunity to discuss the U.S. Department of Agriculture's improvements in the processing of equal employment opportunity complaints and efforts to improve the civil rights culture in the Forest Service.

As a 6th generation Texan and a lifelong student of civil rights, I am incredibly proud of the personal and professional commitment to civil rights that I made over 35 years ago. Every day I approach my role and responsibility as the Assistant Secretary for Civil Rights at the Department of Agriculture with a steadfast appreciation for the impact my office has on the lives of the American people. As the longest serving Senate-confirmed African-American appointee in the Obama Administration and the longest serving Assistant Secretary for Civil Rights, I have had the privilege of seeing firsthand the positive and transformative accomplishments of the Department of Agriculture's programs and employees while also witnessing our collective interest and effort in continuously improving and expanding our work for all involved. When I assumed the position of Assistant Secretary in the Office of the Assistant Secretary for Civil Rights nearly eight years ago, USDA had a long and complex history of discrimination claims brought against the Department. The Office of the Assistant Secretary for Civil Rights (OASCR) has worked diligently for nearly 8 years to protect the rights and privileges of our nearly 100,000 employees spread among 2,200 counties, parishes, and boroughs throughout the United States, as well as those receiving services from USDA.

Program Complaints

At the beginning of this Administration, we started by examining our history and bringing to light the most challenging aspects of the Department's past. We made it our mission to change the culture of USDA –to root out exclusivity and build a culture of accessibility. As part of this effort, we created new policies, corrected past mistakes, and chartered a stronger, more inclusive path for our employees and the communities we serve. While there's still much to do, we've made significant progress by accomplishing goals such as:

- Reducing approximate processing time for new civil rights program complaints from 4 years to 18 months; and
- Creating a universal form for program participants to report cases of discrimination at USDA. This has helped simplify the reporting process and reduced processing time for complaints.

Conflict Complaints Division

We have made profound strides in processing the Department's EEO complaints, especially in addressing conflict of interest cases filed against senior managers between November 2009 and 2015. After significant review of the complaint process, we took reasonable actions to ensure that by 2014 we were processing 100 percent of complaints within the regulatory time frames. These changes included but were not limited to: changing management and staff within the Division, and increasing the training of management and supervisory employees.

Additionally, in accordance with the Office of Special Counsel Report, we reviewed all 120 cases that had exceeded the regulatory time frames to identify whether any harm had resulted from the prior delays in processing. As a result, we determined that of the 120 complaints that had exceeded 180 days, 102 cases were subsequently closed, 9 cases are with the EEOC at hearings, 6 cases were incorrectly identified, and only 3 cases remain open and are pending decision.

EEO Complaints

We have also made significant strides with the Department's EEO complaint process. Prior to 2011, our office handled several facets of the formal EEO complaint process, which included the acceptance of formal complaints across the Department and the drafting and issuance of final agency actions while the agencies maintained responsibility for EEO investigations. After significant review of the overall complaint process, we found that consolidation of the investigative process would likely reduce costs across the Department and increase the number of complaints processed in a timely way. Consequently, in September 2013 the Employment Investigations Division (EID) was established within the Office of the Assistant Secretary for Civil Rights to handle the investigation of all accepted formal complaints throughout the Department. I am pleased to report that this effort has been overwhelmingly successful with regard to the timeliness, efficiency, and quality of EEO investigations. For example:

- In 2011, there were 55 employees across our Agencies that were performing the investigative function with a 31% timely completion rate. The average investigation lasted 252 days and cost \$5,138.
- With the creation of the EID, investigative staff was reduced to 18 employees who were transferred from their respective agencies to our office.
- Investigative costs were significantly decreased since the consolidation of this function. By 2015, the average cost of an investigation was \$3,285, representing savings of \$1,833 per complaint and a 37% decrease in price since 2011.
- The timeliness of investigation completion has steadily improved since the establishment of EID. By FY2015, 74% of the investigations were completed within the prescribed regulatory timeframe.

Forest Service

Early in my tenure, I met with Forest Service leadership in four regions to emphasize the importance of preventing sexual harassment in the agency.

The Office of the Assistant Secretary for Civil Rights, in its oversight capacity, worked to support the Forest Service in the following civil rights initiatives:

- Reorganizing its civil rights organizational structure to have its National Civil Rights Director report directly to the Chief of the Forest Service and all Regional civil rights directors and staff reporting to the National Civil Rights Director. The organizational changes were completed in September 2016;
- Conducted an independent climate assessment of how female employees in Region 5 are treated, including a report with findings and recommendations to the Forest Service in November 2015;
- Strengthening and enhancing its compliance with sexual harassment policies, including issuing a new and stronger Region 5 anti-harassment policy, and having the Forest Service be the first USDA agency that required all its employees to certify that they read and agreed to comply with the Secretary's new Anti-Harassment Policy Statement;
- Strengthening Forest Service's standard operating procedures for reporting and responding to allegations of sexual harassment and misconduct, including related retaliation; and
- Engaging OASCR in the review and enhancement of the Forest Service's informal EEO complaint processing in Region 5, civil rights training, and in meaningful and ongoing discussions on civil rights issues.

The continued progress of the Forest Service's commitment to civil rights will be evidenced by this Committee's continued oversight. Thank you for this opportunity to present our progress. I would be happy to answer any questions you may have.

Chairman CHAFFETZ. Thank you.
 Ms. Lago, you are now recognized for 5 minutes.

STATEMENT OF LENISE LAGO

Ms. LAGO. Thank you. Chairman Chaffetz, Ranking Member Cummings, and members of the committee, thank you for the opportunity to discuss our efforts to eliminate sexual harassment and gender discrimination in the Forest Service.

I've been a Forest Service employee for 27 years. Before my career in the Forest Service, I worked in private industry, and in that job I was a target of sexual harassment. I was young. I didn't report what I experienced to management. I know firsthand the pain and the shame and the difficulty of talking about these issues.

I want to acknowledge the courage and share my respect for Ms. Donnelly and especially Ms. Rice for coming here today to testify. My experience is also why I am so committed to eliminating all forms of harassment and discrimination from the Forest Service. I am deeply committed to these issues and making our workplace and our working environment a place where all employees are given an opportunity to succeed and thrive, based on their talent.

Throughout my career in the Forest Service, I've also experienced the dedication and commitment of our employees at all levels to work together for a working environment that's free of harassment where all employees can thrive.

I believe we're making and sustaining progress, and there's more that we need to do. Specifically, in the last 5 years, we've improved our capacity to respond to misconduct and specifically claims of harassment and sexual harassment. The misconduct branch now reports directly to me. The civil rights and EEO branch report directly to the chief. We have a national review and assessment team to provide top-level oversight, to ensure consistency, maintain—to avoid favoritism, and keep our eyes on the most important issues.

We've implemented a revised antiharassment policy addressing any type of harassment and mandating reporting and investigating timeframes. We publish quarterly data on misconduct, which both educates the workforce on unacceptable behavior and demonstrates that perpetrators are held accountable.

We are improving and we are not done. I know that there have been stories in the press recently regarding sexual harassment in the Forest Service. Those stories are disturbing and hard to read. I can't discuss cases that are the subject of litigation or ongoing investigation, but I sincerely want to help you help me. Where we have completed investigations of misconduct, I am willing to share those, to the extent permitted by law.

I share your concern for employee welfare and safety. I look forward to working with you and the members on this panel to improve what we are currently doing. And while I still have a minute, I want to assure you, we investigate all allegations. We hold people accountable. We publish the results so the rest of the workforce knows what we're doing, so it's visible and transparent, and we train and train our workforce on acceptable behavior, our leaders on acceptable behavior, and the procedures in the event they experience unacceptable behavior.

Thank you very much and I look forward to your questions.
[Prepared statement of Ms. Lago follows:]

Statement of
Lenise Lago
Deputy Chief, Business Operations
U.S. Forest Service, Washington Office, National Forest System
U.S. Department of Agriculture before the
House Committee on Oversight and Government Reform
December 1, 2016
Regarding

Examining Sexual Harassment and Gender Discrimination at the U.S. Department of Agriculture

Chairman Chaffetz, Ranking Member Cummings, and members of the Committee: Thank you for the opportunity to discuss the U.S. Department of Agriculture, Forest Service, efforts to eliminate sexual harassment.

The Forest Service has worked diligently over the last five years to make meaningful progress toward a workplace where all employees are valued, safe and respected. We do not tolerate harassment in the workplace including sexual harassment and we take all complaints seriously. When we learn of harassment allegations, we take appropriate measures including: instituting interim measures to ensure employee safety, conducting an inquiry or investigation, and taking corrective action, when appropriate.

We continue to strive to improve our Equal Employment Opportunity (EEO) program. In 2016, three complaints alleging sexual harassment were raised, and the agency received 48 complaints based on gender, the lowest level in the last 5 years. We currently have approximately 40,000 employees. While there are positive trends, we continue to strive towards greater improvement, both with regard to our EEO program and a work environment free of harassment.

We also are making very good progress in increasing the number of women in the Forest Service, and in leadership positions. Women comprise 35 percent of our workforce, and in 2016, 50 percent of the top executive leadership positions were held by women. Approximately half of our total workforce is engaged in fire, and both the national director, and her supervisor, the Deputy Chief of State and Private Forestry, are women.

Allegations involving criminal violations including physical and sexual assaults are immediately referred to the appropriate law enforcement for investigation. Other serious types of non-criminal misconduct are investigated using professionally trained and certified investigators and standardized processes and procedures designed to protect victims while also affording the accused all due process required by law. Other allegations of misconduct are handled through management under the guidance and oversight of our trained Employee Relations staff.

In September 2016, as part of a continued commitment to improve the work environment, the Forest Service approved an amended anti-harassment policy to strengthen efforts to eliminate harassment in the workplace. All agency employees have clear direction on anti-harassment policy, and they are now empowered with additional resources to create and maintain a positive,

safe work environment. I would like to highlight two new requirements that further reinforce management accountability for a workplace free of harassment. First, under the amended policy, management is required to notify designated officials within 24 hours of receiving a report of sexual harassment. Agency-wide awareness of this reporting policy will give assurance that Agency leadership will act on sexual harassment reports and support the reporting employee. Second, designated officials receiving a report of sexual harassment are required to initiate an inquiry or investigation of an alleged incident within 3-duty days, and complete it within 14-duty days.

The core components of the anti-harassment policy are:

- Including all forms of harassment, not just those prohibited by the law or governed by the EEOC and federal regulation.
- Establishing notification, reporting, and tracking requirements for cases alleging harassment. Notification requirements for witnesses and managers are now mandatory.
- Providing and maintaining a confidential reporting process consistent with legal requirements, along with clear guidelines for employees alleging harassment or employees who witness harassment.
- Instituting specific requirements and parameters for supervisors and managers to conduct mandatory inquiries and request subsequent formal investigations into allegations of harassment.
- Ensuring those found to have engaged in harassment are held accountable for their actions.

Training

The Forest Service partnered with the contractor Employment Learning Innovations (ELI) to develop a customized, Forest Service specific, Civil Treatment for Managers course which was offered nation-wide in 2014 and continues to be offered. The course offers proactive training to develop skills necessary for early intervention, based on real life scenarios typical of a field based organization. In Region 5 alone, more than 1,000 supervisors and managers, including leaders of fire units, have completed this training since 2014. We are also piloting a similar course called *Civil Treatment for Employees*, which we plan to provide to all employees.

Specific Prevention of Sexual Harassment Training is conducted in Region 5. All employees in the region are required to attend this in-person training on an annual basis. In addition, a new employee orientation for the fire apprentice program has also helped to shape positive change. This orientation was delivered to an estimated 250 participants. The primary audience is entry level firefighters who were hired through the National Interagency Joint Apprenticeship Program.

The Forest Service also holds annual Human Resource Specialist training as part of our wildland fire training. The Human Resource Specialists are trained in effective handling of allegations of misconduct, including harassment and misconduct of a sexual nature. They are the primary points of contact on any fire for these types of personnel issues.

USDA

The Forest Service is partnering with other offices within USDA and the federal government to make meaningful progress toward a workplace where all employees are valued, safe and respected. The Office of the Assistant Secretary for Civil Rights developed a Department-wide certification process to ensure that all USDA employees have read and understand the Departmental anti-harassment policy. The Forest Service took the lead in piloting the certification process, and the rest of USDA followed suit and implemented that process as well.

Thank you for this opportunity to present our progress. I would be happy to answer any questions you may have.

Chairman CHAFFETZ. Thank you.
 Ms. Donnelly, you are now recognized for 5 minutes.

STATEMENT OF LESA DONNELLY

Ms. DONNELLY. Thank you. Chairman Chaffetz, Ranking Member—

Chairman CHAFFETZ. Pull that microphone just a little bit closer if you would. Put it right up there. Thank you.

Ms. DONNELLY. All right. Thank you.

Chairman Chaffetz, Ranking Member Cummings, and committee members, thank you for inviting me here today to testify about sexual harassment and discrimination at the USDA Forest Service.

My name is Lesa Donnelly. I worked for the USDA Forest Service in Region 5, California, in positions of administrative and fire support from 1978 to 2002. I'm the vice president of the USDA Coalition of Minority Employees. It is a USDA-sanctioned independent organization that assists USDA employees in issues of harassment, discrimination, hostile work environment and reprisal.

In 2008, President emeritus Lawrence Lucas and I testified before this committee, and along with current President Ron Cotton have been invited to the White House three times under the previous administration to discuss harassment, discrimination, and reprisal against USDA employees and black farmers.

I watched the recent hearing on the Park Service, and I could not help but notice the difference between Secretary Jewell's response to our 2014 report of sexual harassment at the Grand Canyon and Secretary Vilsack's response to the same issues. I commend Secretary Jewell's quick call for an investigation, transparency, and decision to open up the investigation across the entire Park Service. It is a far cry from Secretary Vilsack's actions. We have been reporting egregious incidents of sexual harassment, workplace violence, job discrimination, and reprisal to Secretary Vilsack since 2009, to no avail.

Before any cultural change can occur, the agency must acknowledge the scope of the problem and be willing to make a good faith effort to change it. Despite mountains of evidence, mountains of evidence, USDA and Forest Service have been unwilling to do this. Forest Service management will not investigate complaints properly; they will not hold discriminators accountable; they will not settle EEO complaints.

To emphasize the enormity of the problem, it is important to point out that Region 5 was under court-ordered oversight to address gender discrimination from 1971 to 2006, over 30 consecutive years. I was present in the agency during those 30 years in between. The Forest Service was unwilling to make an honest effort to increase diversity under the 1971 Bernardi v. Madigan class action consent decree. Forest Service management formented an attitude that unqualified women were taking men's jobs and were only hired to satisfy diversity requirements. This attitude became a cultural norm and it plagues us to this day.

The backlash against women, hired under Bernardi, was tremendous, and in 1994, just 6 months before Bernardi ended, I filed the Donnelly v. Glickman class action on behalf of 6,000 women in Re-

gion 5, based on harassment, sexual harassment, hostile work environment, and reprisal.

The second court-ordered consent decree lasted through 2006. Working conditions did improve for that short period of time, but by 2008 I started contacting the Secretary and the chief again about discrimination, assaults and reprisal. Again, they were non-responsive. I wrote letters to Secretary Vilsack, Chief Tidwell, President Obama, Valerie Jarrett, Michelle Obama, and I even wrote to Mrs. Vilsack, asking for help. There was no response from anyone.

In 2011, we finally got a response. Valerie Jarrett's staff contacted me and said that President Obama was concerned about the harassment and violence against women in Region 5. He advised the Secretary to correct the problems out here. The Secretary was unwilling to do so and conditions for women did not improve and, in fact, they have worsened.

Additionally, in 2011, the Coalition of Minority Employees and several female firefighters met with Secretary Vilsack and Chief Tidwell. In the entire discussion, Secretary Vilsack's only answer to our concerns was to discuss the success of his cultural transformation program. I question how Secretary Vilsack can view his civil rights program successful when women are raped but are unable to report it due to the retaliatory culture.

And if you go out in the Forest Service and speak to any employee in the field and ask them about the cultural transformation and what it means to them, 99 percent will tell you, I have no idea what it is.

In 2013, the coalition and several Region 5 female firefighters met with Secretary Vilsack and Chief Tidwell's staff. Just prior to traveling to Washington, I received a call from a female firefighter that had been raped by a male coworker, but would not report it. She didn't report it because she knew Alicia Dabney had been fired for reporting an attempted rape. There are many women suffering in this manner.

When I shared this information with officials and the media and I received only a platitude, we do not—there's zero tolerance for sexual harassment and hostile work environment. We've heard it over and over, and it's just lip service.

Their failure to deal with these issues resulted in another class action, the Bush v. Vilsack female firefighter class action that was filed in August 2014. In January 2015, the agency agreed to mediate the Bush v. Vilsack class complaint. At a huge cost to the taxpayers, six class agents met in San Francisco with USDA officials. To our great surprise, after less than an hour of general discussion, the agency walked away from the table. I fear that this new administration is going to have another class action lawsuit filed in 2017, and it will be a tremendous cost to the taxpayer again.

There are two indicators that USDA and Forest Service are unwilling to acknowledge the pervasive and endemic discrimination against women and others. First, Chief Tidwell stated twice this year that the female firefighters' discrimination claims are older allegations. These public comments are his continued attempts to minimize the serious civil rights violations and undermine our efforts to have them acknowledged and addressed. These older alle-

gations, to which Chief Tidwell referred, are the women who have been in the EEO system for years, because of continued reprisal, refusal to hold repeat offenders, and there are many, accountable, and the agency's refusal to settle EEO complaints.

As far as recent issues, last month I was contacted by a female firefighter whose district ranger went on a diatribe to her, and he talked about how smelly and disgusting female firefighters, that go on fire assignments, get and that it should be mandatory that they should be forced to shower daily. The woman was humiliated, having to stand there and listen to that. The most recent incident I received was just last week. Another female employee was raped and she is afraid to come forward.

These issues keep me from sleeping at night. When I know that there's a woman out there that is raped, it's hard to sleep. And I wish it was hard for Chief Tidwell to sleep and Secretary Vilsack, because maybe we'd get something done.

In conclusion, the question remains how do we address these problems and where do we start? I propose that in order to effect a real cultural change, there needs to be a commitment from the top for a collaborative effort between agency employees and external organizations.

A strategy must be developed with implementation timeframes, measurements for success, and evaluation. And it should be similar to the civil rights action team under former Secretary Glickman. It was a great model. The process should be transparent, inclusive, and a focus should be on change and accountability. And above all, Congressional oversight is needed. Thank you.

[Prepared statement of Ms. Donnelly follows:]

EXPANDED TESTIMONY OF LESA L. DONNELLY
FOR THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

My name is Lesa L. Donnelly. I worked for the USDA, Forest Service, Region 5, California in various administrative positions and fire support positions from 1978 through 2002. I am the Vice President of the USDA Coalition of Minority Employees which is a USDA sanctioned, independent employee resource organization that works to ensure respect, dignity, and equal opportunities for employees and farmers. In 2008 President Emeritus Lawrence Lucas and I testified before this Committee, and along with current President Ron Cotton have been invited to the White House three times under the previous administration to discuss issues of harassment, discrimination, work place violence, and reprisal against USDA employees and Black Farmers.

As a Lay Advocate I represent Department of Agriculture and Department of Interior employees from the West Coast to the East Coast, as well as for other agency employees such Homeland Security, and have done so for twenty years. The majority of examples of civil rights violations I describe today occurred in Region 5 of the Forest Service. However, Region 5 is but a microcosm of the incidents occurring throughout the Forest Service and USDA. The culture is very similar DOI and the NPS.

I watched the September 22, 2016 Hearing on the National Park Service and could not help but notice the difference between Secretary Jewell's response to our 2014 report of sexual harassment and work place violence at Grand Canyon, and Secretary Vilsack's response to the same issues when brought to his attention. While there is much room for improvement in her response to the issues, I commend Secretary Jewell's quick call for an investigation, the investigator's professional interviews and data gathering, the transparency of the process and results, and Secretary Jewell's decision to open up the investigation across the Park Service. It is a far cry from Secretary Vilsack's actions. We have been reporting egregious incidents of sexual harassment, work place violence, discrimination, and

reprisal to Secretary Vilsack since 2009 to no avail. Forest Service investigations invariably are turned against the employee reporting incidents. Reprisal is swift and severe. There are very few instances of accountability for the perpetrator. In fact, perpetrators often receive what we call “disciplinary promotions.” Before any cultural change can occur, the agency must acknowledge the scope of the problem and be willing to make a good faith effort to address it. USDA and Forest Service have been unwilling to do this despite mountains of evidence of harassment, discrimination and reprisal against women, people of color, and people with disabilities.

To emphasize the enormity of the problem it is important to point out that Region 5 was under court-ordered oversight to address gender discrimination from 1971 through 2006 – over 30 consecutive years. In 1971 the *Bernardi v. Madigan* class action resulted in the Bernardi Consent Decree for hiring, training, and promotions in non-traditional positions such as firefighting, engineering, law enforcement, timber, and biologists. Unwilling to make an honest effort to increase diversity, Forest Service management fomented an attitude that unqualified women were taking men's jobs. The backlash against the women hired into these positions was tremendous. The attitude that unqualified women are hired to satisfy diversity requirements became a cultural norm. In 1994, just 6 months before the end of the Bernardi Consent Decree I filed a class action on behalf of 6,000 in women in Region 5 based on harassment, sexually hostile work environment, and reprisal. The agency refused to address the issues and in 1996 another lawsuit, *Donnelly v. Glickman* was born. Again, the court ordered a consent decree that lasted through 2006. Working conditions improved during court oversight. But by 2008 I started contacting the Secretary and Chief again to report job discrimination, physical and sexual assaults, and reprisal. Again, they were non-responsive. I wrote numerous letters to Secretary Vilsack and Chief Tidwell. I wrote letters to President Obama, Vice President Biden, and Valerie Jarrett. I wrote to Michelle Obama. I even wrote to Mrs. Vilsack requesting she speak with her husband and ask him to meet with us. There was no response from anyone. Finally, in 2011 Valerie Jarrett's staff, Michael Blake contacted me. He said that President Obama was concerned about the

harassment and violence against women in Region 5. They called Secretary Vilsack to the White House and told him to correct the problems. Secretary Vilsack's response was to remove Employee Relations and Civil Rights authorities from the Forest Service and place it in his office under Assistant Secretary Robin Heard for about one year. She was unwilling or unable to take any meaningful action to address job equity or the women's working conditions. The working conditions worsened. Additionally, in 2011 the Coalition of Minority Employees met with Secretary Vilsack and Chief Tidwell in the Secretary's office. Several Region 5 female firefighters attended the meeting. Secretary Vilsack personally apologized to firefighter Elisa Lopez-Crowder, because Region 5 management had not properly addressed the racial and gender harassment, and the supervisor's physical assault against her. Secretary Vilsack said he personally insured the perpetrator was fired. Ms. Lopez-Crowder advised the Secretary that he had not been fired. His staff had misled him. Secretary Vilsack's answer to our concerns was to discuss the success of his "Cultural Transformation" program. I advised the Secretary that his program might be successful, but it had no meaningful impact on preventing and eliminating the civil rights violations of employees in the field. He was not interested in a dialogue or collaboration with the Coalition. Please note, Ms. Lopez-Crowder left the fire organization due to fear for her safety. She had been a deployed veteran before she joined the Forest Service. She told me that she was safe on a Navy ship with a thousand men, but not safe working in the Forest Service fire organization.

In 2013, the Coalition and several Region 5 female firefighters met with Secretary Vilsack and Chief Tidwell's staff. Just prior to traveling to Washington I received a call from a female firefighter that had been raped by a male coworker. The woman would not report it to the police or file a complaint with the Agency. Her reason was that she observed that the Forest Service had fired Alicia Dabney when she reported the sexually hostile work environment and an attempted rape by a supervisor. Ms. Dabney had been trumped up on false charges and terminated. The woman told me she had children and a mortgage, and could not take the chance of being terminated. She suffered in silence. When I shared this information with Deputy Under Secretary Butch Blazer, USDA Chief of

Staff Oscar Gonzales, Deputy Chief Angela Coleman, and General Counsel Tami Trost I received the same platitude as always, “There is zero tolerance for sexual harassment and work place violence.” It was lip service. The agency continued to ignore my reports of sexual-harassment and discrimination. For several months after the meeting Mr. Blazer, Mr. Gonzales and Forest Service Civil Rights Director Ted Gutman held monthly meetings with the Coalition to discuss civil rights violations against women and others. And while there is widespread sexual harassment, a larger issue is the systemic and institutionalized practice of inequities in hiring, training, assignments and promotions. Mr. Gonzales promised to fly out to California and meet with the female firefighters to start a dialogue with the objective to improve job equity and working conditions. He later reneged on the promise and refused to collaborate in any way with us. This resulted in the Region 5 female firefighters filing the *Bush v. Vilsack* class action complaint in August 2014.

In January 2015 the agency agreed to mediate the *Bush v. Vilsack* class complaint. At a huge cost to the tax payer seven class agents met in San Francisco with the USDA Office of General Counsel, agency representatives, and a mediator judge. The women spent hours preparing for the meeting, drafting issues, opportunities, and resolutions. We brought two facilitators with us and flip charts filled with ideas. We were excited to finally start a dialogue. To our great surprise, after less than an hour of introductions and general discussion, the agency told us they were not willing to discuss anything and walked away from the table. I fear the new administration will have a class action lawsuit to contend with in 2017.

It is important to point out that Congresswoman Jackie Speier, Congressman Peter DeFazio, and Congressman Raul M. Grijalva wrote a letter to USDA Inspector General Phyllis Fong in November 19, 2014. They were highly concerned about the sexual harassment, attempted sexual assaults, gender discrimination, and whistleblower retaliation against women in Region 5 of the Forest Service. They asked for an investigation. As of this date, no investigation has occurred.

There are two clear indicators that the USDA and Forest Service are unwilling to acknowledge

the pervasive and endemic discrimination against women and minorities. First, the comments made this year by Chief Tidwell are indicative that the Forest Service has no true intention of preventing and eliminating the discrimination against female employees. After the Huffington Post article on the Grand Canyon and Region 5 women was published this past summer, Chief Tidwell sent an email to all Forest Service employees, referring to it and telling the employees that the incidents were, “older allegations.” Then, less than a week ago, Chief Tidwell had an all employee “Webinar” meeting. He referred to the recent Washington Post article and this Hearing, again stating that our claims are, “older allegations.” These public comments are Chief Tidwell's continuing attempts to minimize the serious civil rights incidents that he is fully aware of, and to undermine our efforts to have them acknowledged and addressed. Yes, some of the incidents occurred awhile ago, but he failed to state that these employees are *still* being harassed and are *still* in the EEOC system because of continued reprisal and the agency's absolute refusal to settle EEO complaints.

I would like to share with you an actual “older” case to exemplify the ongoing and continual issues women have faced in the Forest Service. In 2000, a twenty-two year old female firefighter on the Shasta-Trinity National Forest worked at the Lake Shore Fire Station. The male crew shot at her with BB guns, called her profane names, threw her into a Dempsey Dumpster with brackish water to have “a wet T-shirt contest, physically accosted her, and told her she was only hired because of the Bernardi “cuntsent decree.” The crew changed the Lake Shore logo on her fire hat to “Lake Whore” and she unknowingly wore it all day. When she reported these incidents she was disciplined for spreading rumors. She quit. No one was held accountable. Skip forward to 2008 where a female employee was brutally physically assaulted by a male coworker on the steps of the District Office. He split her lip, loosened her teeth, blackened her eye, and hurt her neck. He stomped her cell phone so she could not call for help. He was never fired. In this small community the Forest Supervisor made a deal with the D.A. that he would not prosecute the man for one year until he was eligible for retirement, because if prosecuted the man would go to jail and lose his job. For an entire year the woman lived in

fear, keeping her dogs with her for safety while working alone in the forest. She feared the male coworker would harm or kill her. He retired with no blemish on his record and then spent a few months in jail. Keep in mind, I reported these incidents to Secretary Vilsack and Chief Tidwell. They did not respond.

Now, I'd like to skip forward to 2016 where women with the "older allegations" to which Chief Tidwell referred have been in the EEO system for years. For example, in 2002 Archaeologist Janine McFarland reported sexual harassment when she worked on the Los Padres National Forest. She also presented photos of two Los Padres Hotshot crew carriers with dozens of Hustler type photos of naked and scantily clad women plastered on the walls. She was retaliated against for reporting it, including death threats against her *and* her son. For her safety and to salvage her career, she fled to an Archeologist position in Region 6 (Oregon) but the reprisal followed her. She was demeaned, shunned, disciplined, and had her duties removed. She was ultimately falsely accused of falsifying archeological sites which destroyed her career. Ms. McFarland is still employed on the Deschutes National Forest, but management has isolated her from the Archaeology program and her duties have been diminished to the point she has no meaning full work to perform. For fourteen years she has battled agency harassment and reprisal. Her EEO case was recently filed in federal court.

In 2011 former Sequoia National Forest firefighter Alicia Dabney was sexually harassed, physically assaulted, endured an attempted rape from her supervisor and was terminated due to reporting these incidents. Though she settled her case in 2013, the agency continued to retaliate against her and breached her settlement agreement. She recently filed her EEO case in federal court. Darla Bush a Native American who lives on the Tule Indian Reservation is a former Engine Captain on the Sequoia National Forest. In 2011 she filed an EEO complaint on gender and race discrimination for being denied training, assignments, and promotions. The harassment included her supervisor telling her that he would ensure she never promoted and telling her she was useless because she got pregnant. In 2012 she reported that her all male crew refused to follow her directions, undermined her authority, and

yelled at her. She feared physical harm from her assistant. Ms. Bush's numerous reports to the District Ranger and Forest Supervisor Kevin Elliott went unaddressed. But when the male crew made false claims that Ms. Bush "created a hostile work environment" they held an immediate investigation. In September 2016 Ms. Bush was suspended for ten days and demoted to a non-supervisory, non-fire suppression position. She now sits at a desk all day with no work to perform. She is the lead Class Agent for the August 2016 female firefighter class complaint, *Bush et al. v. Vilsack*.

More "recent" complaints include twenty-two year old Heidi Turpen who was sexually harassed by a male Engine Captain last season. She was directed to live in the fire barracks with the men because the forest had made the women's barracks into a residence for the Engine Captain who harassed her. One of the male firefighters screamed at her, physically menaced her, and insisted upon using the bathroom and shower in the female side of the barracks. When she reported these men she was stalked and further harassed. As retaliation, Sequoia National Forest management illegally, and without a warrant brought a drug sniffing dog into the female side of the barracks to search her room for drugs. Ms. Turpen left before the season ended and will never return to the Forest Service. It is important to note that almost every female firefighter on the Sequoia National Forest has been discriminated against and harassed by repeat offenders, with Forest Supervisor Kevin Elliott promoting retaliation against the women who report it. Mr. Elliott has retaliated against Union President Jonel Wagoner for reporting the working conditions and trying to assist the women.

There are also numerous current complaints at the Forest Service Albuquerque Service Center (known as ASC). It is the Center that handles all personnel matters for the Forest Service from training and benefits, to discipline and terminations. Cindy George is a Human Resource Specialist at ASC. She is blind and needs reasonable accommodations to perform her job. The Commission for the Blind purchased the equipment and has a plan in place to train her. However, for over a year ASC management has refused to install the equipment. She filed an EEO complaint and has been retaliated against. She sits at her desk all day doing nothing. Her skills have been degraded. She has asked for a

Reasonable Accommodation to a vacant position that would be more conducive to accommodating her blindness but the agency refused. Ms. George has a real fear of termination. There are multiple complaints of sexual harassment, discrimination, and reprisal at ASC, particularly for women with disabilities. Forest Service management will not investigate the complaints. They will not hold discriminators accountable. They will not settle EEO complaints. Perhaps a reason that the Center is so dysfunctional is that the Director, Marybeth Lepore does not work on-site because she lives in Alaska. The government pays her travel when she does show up in Albuquerque. The arrogance and entitlement of the ASC Human Resource managers is outrageous. Ms. Lepore recently had a "retreat" where she brought many of her HR managers to Alaska at tax payer expense for no legitimate reason. When employees, who had been told there was no money for training or travel complained of the expense they still went. They just cancelled the Saturday "tour." What is particularly disturbing is that ASC HR personnel advise Forest Service management on personnel and EEO matters, yet they have as big a problem with civil rights violations as the Regions to which they give guidance.

And finally, the most recent allegation I received was just last week. A citizen called me to report the rape of yet another female employee who is afraid to come forward.

The second indicator that the agency is unwilling and unable to prevent and eliminate the discriminatory and hostile work environment is that the USDA Office of Civil Rights (OCR) EEO program, under the leadership of Assistant Secretary for Civil Rights Dr. Joe Leonard is dysfunctional and corrupt. As you are aware, in 2015 the Office of Special Council wrote a letter to President Obama identifying multiple problems that have not been resolved, including EEO, reprisal, and whistleblower complaints filed against OCR senior leaders. I question how the OCR can address systemic and institutionalized issues of discrimination when they are not capable of managing their internal personnel problems and violations of civil rights.

The USDA Coalition of Minority Employees and many women have tried to engage the USDA and Forest Service for many, many, years, identifying issues of sexual harassment and discrimination

and asking to collaborate on developing strategies to change the culture. The USDA has ignored our requests and retaliated against us for our efforts.

The question remains, “How do we address these problems and where do we start?” In response to a September 19, 2014 article in the New York Times and a September 24, 2014 article in High Country News about sexual harassment and discrimination against Forest Service female firefighters, Chief Tidwell sent out one of his “All Employee” emails. He stated, “Foremost, focus was placed on investments targeted to increase our capacity, competencies, and expertise in our Employee Relations and Equal Employment Opportunity programs and also equipping leaders throughout the organization to find ways to improve the work environment.” This government-speak has little meaning as it applies to changing the work environment and the culture. The Chief went on to say that they initiated measures such as assessment teams, training, and operating procedures to address the problem. These are the same measures they have been taking for years with no success or achievement. Chief Tidwell is also quick to point out that the numbers of EEO complaints have decreased. This is not a metric for success of their new operating procedures and programs. Reprisal is such an immense problem employees are unlikely to file EEO complaints because when they do they are committing career suicide.

In order to effect a real cultural change there needs to be a collaborative effort between the agency, employees, and external sources. An effort must be made to include employees who have endured the harassment and discrimination because they have insight into what should have been done differently. Known obstructionists to change must be weeded out of the joint effort because they have shown to be resistant to change. External sources such as the USDA Coalition of Minority Employees have a broad understanding of the issues and can provide much needed objectivity and acumen. A strategy must be developed that includes implementation, time frames, and measurements of success. The process should be transparent. Accountability is a key issue. Changing the culture of reprisal is another key issue. Above all, congressional oversight of this process is a must. Based on their past lack

of accomplishments agency leaders cannot be entrusted to monitor their own progress. With a new administration the time is ripe to role up our sleeves and get to work. The USDA Coalition of Minority Employees looks forward being a part of the challenge and success of making the USDA a place of respect, dignity, and equal opportunity for all employees.

/s/Lesa L. Donnelly
Vice President, USDA Coalition of Minority Employees
December 1, 2016

Chairman CHAFFETZ. Thank you very much.

Ms. Rice, you are now recognized. Please bring that microphone up. There we go. Thank you.

STATEMENT OF DENICE RICE

Ms. RICE. Good morning, Chairman Chaffetz and Ranking Member Cummings, and members of the committee. Thank you and it's an honor to be here.

My name is Denice Rice and I have been in structure—

Mr. CONNOLLY. Mr. Chairman, could I ask that the witness please speak into the microphone directly so we can hear her.

Chairman CHAFFETZ. Pull it. There you go.

Ms. RICE. My name is Denice Rice and I have worked both in structured and wildland fire for over 20 years. I truly love my job and the people I work with.

In 2011, I reported to my supervisor that I was being sexually harassed by my second-line supervisor. Women are often disregarded, not taken seriously, and passed over. I have personally experienced this. The agency provides protections for its offenders, often promoting them, while the victims are shattered, left behind, and nowhere to turn.

Women are treated differently in regards to training, assignments, and promotion. Women who report sexual harassment are repeatedly retaliated against. It is your word against theirs. The moment you speak up, you are committing career suicide. Zero tolerance is baloney. The system is rigged against women for reporting sexual harassment and assault. The agency protects the offender.

From 2009 to 2011, my second-line supervisor repeatedly sexually harassed me and assaulted me. I filed a complaint and the instant my life changed. Management removed me of all my supervisory responsibilities, moved me from my location, isolated me to the office of where the perpetrator's friends were and where his wife worked. I never have received a poor evaluation.

Numerous investigations were held. There was an OIG investigation with multiple interviews with multiple investigators. I had to relive these incidents over and over and over again. One of the investigators provided graphic details to my peers of what my second-line supervisor had done to me, including the assault. I had lost my reputation, my dignity when they made my situation public. My family was destroyed. My husband felt helpless, because he wasn't allowed to protect me. My life was a living hell.

Another example is when the district ranger called an all-hands Fire meeting, with all my peers in Fire, to discuss what happened to me and what was happening to the perpetrator and the investigations. I begged them not to make me attend. I was directed to go. As soon as the district ranger started discussing what happened to me and people turned and looked at me, I was on display. These were my peers, people I've known for years. I felt responsible, degraded, and I was humiliated. My perception was I was being blamed for the destruction of the Fire organization. I quickly left the meeting, shaking and in tears. There was talk of putting me on AWOL for leaving.

I was being attacked by the ones who were supposed to protect me. The agency protected my perpetrator, and while he was under investigation for sexual assault he continued to supervise women and was allowed to take agency-paid developmental training to promote his career, and act as district ranger. This message meant that nothing was wrong and I was the problem.

I kept hearing he's entitled to due process. And this lasted for months. After the investigations were done, they were given to all the district rangers, who read all the details; and once again violating my confidentiality, they discussed it and they determined that he needed to be removed. But before they were going to remove him, the Forest supervisor took him out for coffee and advised him of the notice. He retired the next day.

Then he was directly hired on a California incident management team, which meant we could both be assigned to the same fire incident, and allowing him to continually work with women. And just this year, they brought him back, Fire management brought him back, to give a motivational speech to the Eldorado Hotshots on my forest. I have since then filed additional reprisal complaints.

From working with the Coalition of Minority Employees and being a class action agent for the female firefighter class action, I know what happened to me happened to women all over the region and Forest Service. I don't know of any women who have been able to recover and lead successful careers after filing sexual harassment claims. People need to be held accountable for their actions. Management needs to protect its employees and remove the offenders.

Thank you. I'd be glad to answer your questions.

[Prepared statement of Ms. Rice follows:]

TESTIMONY OF DENICE RICE
BEFORE THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
EXAMINING SEXUAL HARASSMENT AND GENDER DISCRIMINATION AT THE U.S.
DEPARTMENT OF AGRICULTURE
December 1, 2016

Chairman Chaffetz, Ranking Member Cummings, and members of the Committee, thank you for inviting me here today to testify.

My name is Denice Rice. I work for the USDA, Forest Service, Region 5, California. I have worked in the fire organization for twenty years. I have worked on the Eldorado National Forest in fire for fifteen years. I am a Fire Prevention Technician. I really love my job, but I have witnessed females being overlooked, not taken seriously, passed over, and not given equal opportunities. This has also happened to me. Our agencies have provided protection for the perpetrators, (promoting or moving them) and victims are left with little or no relief. Many female firefighters are treated differently than the male firefighters for assignments, training, promotions, and working conditions. Women who report sexual harassment are retaliated against. It is your word against his and you know the moment you open your mouth to speak up you are committing career suicide. Zero tolerance is lip service when we know that the system is rigged against women for reporting sexual harassment or assault. It was widely known that my second line supervisor was a bully, abusive, and a womanizer to female employees for years and nobody did anything about it. Women were afraid to complain and the one who did report him ended up leaving the agency. He was never held accountable for his actions.

From 2009 through 2011 my second line supervisor repeatedly sexually harassed me and he assaulted me in 2011. I filed a complaint and the instant I filed everything changed. Management removed all of my supervisory responsibilities, moved me from my location, and isolated me. This

adverse action resulted in a prohibited personnel practice when they removed my supervisory responsibilities that were in my position description.

Numerous investigations were held. There was an OIG investigation, with interviews from multiple investigators and I had to relive the situation over and over. One of the investigators provided specific details to my peers on what the second line supervisor did to me, including sexual assault. I lost my reputation and my dignity when they made the situation public. My family life was affected. My husband felt helpless because he wasn't allowed to protect me. My life was a living hell. I was diagnosed with PTSD.

One example is the District Ranger called an "all hands" fire meeting to discuss what had happened and the investigations. Three times I begged not to attend the meeting. I was directed to go and when the District Ranger started discussing what happened to me, people turned and stared at me. I was on display. These peers were people I had known for years. I felt degraded and was humiliated. My perception was that I was being blamed for the disruption in the fire organization. I quickly left the meeting. I was shaking and in tears. There was talk of putting me on AWOL for leaving the meeting. By this time this situation was more traumatic to me than the assaults.

The agency protected my perpetrator. While he was under investigation he continued to supervise women, he was allowed to take agency-paid developmental training to promote his career, and was allowed to be acting District Ranger. The message was that he had done nothing wrong, and I was the problem. I kept hearing that he was entitled to due process, but it went beyond that.

After the OIG investigation and the Rangers read everything in the report, again violating my confidentiality, the decision was made to terminate him. But before they gave him the proposed removal letter, the Forest Supervisor took him out for coffee to give him advance notice that he was going to be fired. They let him quickly retire with no mark on his record whatsoever.

After his retirement he applied for and was hired on a California Incident Management Team. This put me in a situation where we could both be assigned to the same fire incident. It also allowed

him to continue working with women. He walked away clean from the Forest Service and got away with what he did to me. When I learned that I could run into him on a fire assignment, I felt they were putting me in a vulnerable situation and had no regard for my well-being. Rehiring this predator was a message to me and other employees that the agency did not feel he did anything wrong. I felt devalued and as if I didn't matter. It sent a message saying they do not value their female employees.

In 2016 the fire organization brought this predator back to the Eldorado forest specifically to give a motivational speech to the Hotshots. So they are still supporting him while I have continued to be harassed by the same individuals that protected him before he left. I have had to file additional reprisal complaints.

From working with the Coalition of Minority Employees and being a Class Agent for the female firefighter class action I know what happened to me happens to women all over the Region and Forest Service. As for retention and promotion, women in isolated work stations have to navigate "the boys club" which can be hostile, intimidating and unwelcoming, and women tend to quit or move on. Some can do well but others exposed to these oppressive conditions will not report, and the bad behavior culture persists and is enhanced because they feel a sense of reward, proud that they have been able to push women out and can boast they have no women on the crew.

In the future I hope the agency will honor women as equals in our work environment. Management needs to be proactive, not reactive. By the time management does something, it has been too late. Relationships are damaged, there is inability to regain trust, credibility is destroyed, and advancement is impossible. How many women do you know that have gone on to lead successful careers after reporting sexual harassment and hostile work environments. I don't know of any. People need to be held accountable for their actions.

Thank you. I would be glad to answer any questions you have.

/Denice Rice
Prevention Technician
Eldorado National Forest

Chairman CHAFFETZ. Thank you. We appreciate you sharing that.

We'll now recognize the gentleman from South Carolina, Mr. Gowdy.

Mr. GOWDY. Thank you, Mr. Chairman.

Ms. Rice, I want to thank you for being here, Ms. Rice, and I want to tell you I doubt any of the members of this committee that I'm looking at now have any idea what you just described, but we do realize and recognize courage when we see it, and we want to thank you for what we can imagine is an impossibly difficult task.

I want to change gears for just a second. You testified early on that you loved your job. I want you to tell the members of the committee what you loved most about your job as a firefighter.

Chairman CHAFFETZ. Put your sorry—microphone—

Ms. RICE. Being in the woods, protecting the forest, fighting fire.

Mr. GOWDY. And you've done it for how long?

Ms. RICE. Over 20 years.

Mr. GOWDY. All right. To the extent you feel comfortable, can you tell the members of the committee what harassment/abuse you experienced.

Ms. RICE. From the perpetrator or just in general?

Mr. GOWDY. From the perpetrator.

Ms. RICE. He was constantly making comments. He removed me from my office where I had a counterpart to an office back and out of the way where he could come in the office and make comments and approach me. The reason I filed was because I was in his office and we were having an argument and he had taken a letter opener and poked my breasts, both breasts, with a smile on his face in an arrogant way like he could get away with it. And I stood there in shock.

He has cornered me in the bathroom. He has lifted my shirt up. He has stalked me. I would wait until everybody would leave so I could pull in, because I work in the field, and he would be waiting for me. He called me constantly. He interfered with everything. He stalked me.

Mr. GOWDY. Ms. Lago, Ms. Rice testified that the details of her complaint were made public. Why would that possibly happen?

Ms. LAGO. Well, it is not permitted. It's the first time that I've heard the details were made public. Per our protocol, only people involved in the investigation—

Mr. GOWDY. Listen. I don't want to be rude, but I really don't give a damn about protocol. Do you doubt what Ms. Rice just testified to, that the details of her accusations and allegations were made public?

Ms. LAGO. Well, I'm just saying I never heard that before now. I'm just—

Mr. GOWDY. So do you doubt it is my question? Not whether or not you've heard it. Do you doubt it?

Ms. LAGO. No, I don't doubt it.

Mr. GOWDY. Okay. Well, if it's against protocol, as you say, and you don't doubt that it happened, what have you done about it?

Ms. LAGO. I just heard it. I just heard about it.

Mr. GOWDY. What are you going to do about it?

Ms. LAGO. I'm going to ask what happened following her investigation, who knew about it, and why.

Mr. GOWDY. Well, if memory serves, her perpetrator was allowed to retire. Is that correct? Had you heard that before today?

Ms. LAGO. Yes.

Mr. GOWDY. Okay. Why? Why was he allowed to retire?

Ms. LAGO. When someone is proposed for removal, they have a right to either retire or resign.

Mr. GOWDY. So what consequences would there be for his misconduct if he was allowed to retire?

Ms. LAGO. There could be legal action.

Mr. GOWDY. Such as?

Ms. LAGO. He could be sued. He could be——

Mr. GOWDY. Privately by her?

Ms. LAGO. Yes.

Mr. GOWDY. What did you all do? You were the employer. What did you do?

Ms. LAGO. We fired him.

Mr. GOWDY. You didn't fire him; he retired. We just established that.

Ms. LAGO. He retired in lieu of being removed from his job.

Mr. GOWDY. Well, then if there's no difference between retiring and being fired, why didn't you fire him? There must be some benefit to retiring. What is that benefit?

Ms. LAGO. You don't have removal on your record.

Mr. GOWDY. So you did confer a benefit to him, despite the fact that you don't doubt the allegations that she just made.

Ms. LAGO. We don't have an alternative to fire someone and not offer them retirement.

Mr. GOWDY. Well, I just heard the most glowing account of all of the improvements that have been made over the past 8 years. And you mean to tell me that someone can engage in the conduct that Ms. Rice just described and avoid all consequence whatsoever?

Ms. LAGO. Per the Federal regulations, yes. Someone can retire or resign in lieu of being removed.

Mr. GOWDY. Ms. Rice, how long was the investigation ongoing?

Ms. RICE. At least 6 months.

Mr. GOWDY. You testified that you were forced to give multiple accounts of your harassment/abuse.

Ms. RICE. Correct.

Mr. GOWDY. That would be the antithesis to best practices for sex assault victims. So, Ms. Lago, why would victims of sexual harassment or assault be forced to give multiple testimonies or accounts?

Ms. LAGO. At first, the issue was referred to law enforcement. Law enforcement referred it to the IG, because of the nature of the offense. I'm not sure how far the IG investigation went. So, to answer your question, a reason someone might have to give an account more than once is they might have to speak to an OIG investigator because of their investigation; they might have to speak to law enforcement; and if either of those investigations aren't conclusive then we do a misconduct investigation.

Mr. GOWDY. Do you agree that what Ms. Rice described is a crime?

Ms. LAGO. Yes, I do.

Mr. GOWDY. All right. So she would talk to law enforcement first?

Ms. LAGO. She spoke to her supervisor——

Mr. GOWDY. Okay.

Ms. LAGO. —who referred the issue——

Mr. GOWDY. Who was the first statement made to?

Ms. LAGO. I don't know.

Mr. GOWDY. All right. Well, let me encourage you to do this in the past when you all are describing the glowing progress that you have made. Making victims give multiple accounts, tell what happened to them multiple times runs afoul of everything every expert in sex assault and sex harassment cases teach. It runs afoul of all of it. So if you can find a way to limit victims to just having to relive it one time, I would encourage you to do so.

And if you can share the regulations that allow someone that commits the conduct that she just described to be conferred the benefit of retirement as opposed to removal, if you could share those regulations with the chairman and the ranking member, I would be most grateful to you.

Ms. LAGO. I will do that.

Mr. GOWDY. Thank you.

Chairman CHAFFETZ. I thank the gentleman.

I now recognize ranking member Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I ask unanimous consent that Congresswoman Speier, who previously served on our committee, be allowed to join the committee today and participate in the hearing.

Chairman CHAFFETZ. Without objection, so ordered.

Mr. CUMMINGS. I also have another unanimous consent request that a statement from Congressman Connolly be part of the record, Mr. Chairman.

Chairman CHAFFETZ. Without objection, so ordered.

Mr. CUMMINGS. I just want to engage in a brief colloquy with you. Mr. Chairman, the committee has received statements from a number of whistleblowers regarding the EEO program in the Department of Agriculture, including from the following individuals: Nadine Chatman, Gayle Petersen, Akio Watson and Tori Jones. These individuals have raised serious concerns about the management of the EEO program. In many cases, they allege that their own EEO complaints have been handled improperly. And now staff have received these and I believe your staff have received them as well.

I know you share my concern about these allegations and I hope we can work together to review these allegations, investigate them, and take action in a bipartisan way.

Chairman CHAFFETZ. Absolutely. Again, I appreciate the ranking member's passion and commitment, and we will continue to work together and to pursue that and to make sure that those people who have stepped forward and shared this information are properly protected under the Whistleblower Act. So absolutely.

Mr. CUMMINGS. One other thing. I ask unanimous consent to place into the record an article entitled Out Here, No One Can Hear You Scream, March 16, 2016, Huffington Post article.

Chairman CHAFFETZ. Without objection, so ordered.

Mr. CUMMINGS. Thank you very much.

Ms. Lago, I want to pick up where Mr. Gowdy left off, because you said something that really concerns me and I know that it will concern him too. We have this article that appeared in the Huffington Post, and it appeared—this apparently was a—this is a scathing article about your Department, about Agriculture, and it details Ms. Rice's case. I mean, it's public, right here. It even has a picture of her in it.

When did you come on board?

Ms. LAGO. In August of 2011.

Mr. CUMMINGS. Well, you just said that you didn't even know about it. I can't imagine that somebody could have an article, it's about 16, 17 pages and it's got this picture of her and it describes her situation in detail, but you just said, sitting here at the table today, you just realized that it had been made public. You didn't read this article?

Ms. LAGO. If I may clarify, what I said I didn't know about was that her situation—

Mr. CUMMINGS. You said you didn't know it had gone—

Ms. LAGO. —was shared with district rangers. I wasn't aware of that. I was aware of this case.

Mr. CUMMINGS. And that this had been public, made public. I think I'm following up on what Mr. Gowdy said. I mean, you had asked her—I'd yield to the gentleman. That you had asked her about—she had said to you that this was the first time that she knew about it, right?

Mr. GOWDY. I think the gentleman's recollection is correct. I was trying to establish that she had to give multiple accounts of what had happened to her, that the perpetrator was allowed to retire instead of be disciplined, and I was trying to get a better understanding of why that could have happened and what she knew and when she knew it, Mr. Cummings.

Mr. CUMMINGS. Thank you very much.

Now, let me—it just concerns me that you sound like you didn't know about that, because I think that if you were anywhere else, in one of our offices and something had been written about our office and you were a major employee in there and this was your purview, you know, it just bothers me that you would just be finding out, but be that as it may.

Dr. Leonard, last year the Office of Special Counsel sent a letter to the President of the United States. It warned that the USDA civil rights program, and I quote, "has been seriously mismanaged, thereby compromising civil rights of USDA employees." When you see a letter like that, alarm bells should go off. Would you agree?

Mr. LEONARD. Yes, sir.

Mr. CUMMINGS. I can't hear you. You said yes, sir?

Mr. LEONARD. Yes, sir.

Mr. CUMMINGS. Okay. You claim that significant improvements have been made, but your claim is hard to reconcile with the approach your Department took in response to my request in January. For example, in my letter I asked for copies of external reviews of USDA's EEO program. I asked for these external reviews because the USDA claimed in its 2014 report on its EEO program

that, and I quote, “the success of USDA’s recent efforts to confront the history of civil rights abuses has been recognized and verified by a host of internal and external parties and metrics,” end of quote. That’s what USDA said. You touted these external reviews in your 2014 report.

So why hasn’t the Department provided these external reviews that I asked for 11 months ago? I mean, it seems like that would be something that you would get to me very quickly since it’s something that is supposed to be complimentary. Help me with that.

Mr. LEONARD. Congressman Cummings, it’s—I want to apologize firstly for not being able to provide the documents to you. As Ms. Rice said, there are a number of confidentiality requirements. I did not find out until the conference call I was on, with your staff on Monday, that some of those documents were not provided. Because even in that conference call, I told your staff we gave them the information. We gave them the information. It wasn’t until after the fact that I found out that persons came here and read it to you and didn’t give it to you. I collected the information so you would have it.

So I do want to apologize about the miscommunication between our staff and your staff. And I do look forward to getting you some of the additional information—

Mr. CUMMINGS. So when will the documents be produced? I guess that’s the question.

Mr. LEONARD. The documents are produced in-house. They’re internal documents.

Mr. CUMMINGS. But when will we have them?

Mr. LEONARD. I will have to talk to OGC and try to get them as soon as possible to you. As you know, when we—before we can hand anything over, it goes to—

Mr. CUMMINGS. Again, keep in mind I asked for them 11 months ago.

Mr. LEONARD. My statement today was the OMB, OBPA, and I apologize.

Mr. CUMMINGS. Can you give me some kind of time? Because I can’t—time is short.

Mr. LEONARD. Two weeks.

Mr. CUMMINGS. All right, thank you, 2 weeks. I just have just a few more things.

Dr. Leonard, OSC wrote to the President, that your office, the Office of the Assistant Secretary of Civil Rights, and I quote, “has an unusually high number of complaints filed against its own leadership.” We asked for information about these complaints.

During the last meeting with my staff, your staff read aloud some vague and cursory information about a dozen cases filed against senior officials, but your staff refused to provide the documents they were reading from. Instead, they said that they had a car—I mean, you can’t make this up.

Instead, they said they had a car waiting outside and had to rush out. It wasn’t until 7 p.m. last night on the eve of this hearing that we finally received the written summary document.

Why did that happen? Help me with that.

Mr. LEONARD. As you know, Ranking Member Cummings, I wasn’t—I didn’t attend that meeting. I don’t know anything about

a car. I provided the documents to the staff that came here, and my assumption was they were providing them to you. I found out, again, they read the documents to you, and then I did hear about the car incident and then they ran off.

I was shocked to hear about this on Monday. That's why I wanted to make sure I got the information to you. And that is the information that you wanted, sadly, 6 to 7 months ago that you received on the eve of this—

Mr. CUMMINGS. One other thing. Dr. Leonard, you know, my goal has always been to try to be as effective and efficient as possible and make sure that EEO operates in that way. Will you commit to providing everything I requested in my letter in January and everything the chairman and I requested in our subsequent letter within the next 2 weeks?

Mr. LEONARD. Yes, sir.

Mr. CUMMINGS. And finally, Ms. Donnelly, in my last few minutes, my last minute, I want to discuss just one key issue. In your experience, is the Department's handling—You know, I sat here and even as I listened to you, to Ms. Lago, and I listened to you, it sounds like we're talking about two different worlds. I mean, it's like night and day. And I've never seen testimony so far apart.

And so, in your experience, is the Department's handling of EEO cases improving or declining, and what has been the experience of the members of your organization?

Ms. DONNELLY. In our experience, it's declining, and it's declining in just about every facet of the EEO process. It starts when an employee calls to file an EEO complaint. And keep in mind, employees really know nothing about the process. When you're a firefighter, you know about fighting fire, you don't know about the EEO system. So they have to have some faith that they are going to be treated correctly when they file a complaint and given correct information.

Employees will call. They won't get calls back from the EEO intake person. EEO counselors will tell them they don't have a case when they do, because they'll call me and tell me that. And I'll look at what happened, I'll go: Well, they shouldn't have told you that.

Then when they get into the formal process, they wait months for an investigation. The investigators come. I don't know how they train the investigators, but some of these investigations are so poorly done that you can't make heads or tails of what is being said in the report, which is critical for the employee.

And I have made numerous complaints to Eric Atilano and Robert Shinn about they lose reports of investigations and they don't send them to us. They miss dates. They will send in address changes and they don't put the address change in the database, and then the employee doesn't get—you know, the stuff goes to their old address. It's just—it's numerous problems. And then as you go further and get towards the hearing, it's just delay, delay, delay.

Mr. CUMMINGS. Thank you.

Thank you very much, Mr. Chairman.

Chairman CHAFFETZ. I recognize the gentleman from Alabama, Mr. Palmer, for 5 minutes.

Mr. PALMER. Thank you, Mr. Chairman.

Ms. Donnelly, clarification. You filed your suit—yeah, I’m a freshman, I sit way down here—you filed your suit in 2000. Is that correct?

Ms. DONNELLY. I filed Donnelly v. Glickman as a lawsuit in 1995.

Mr. PALMER. But in 2002 there were 190 complaints in California, more than any other region. That’s Region 5. Is that correct?

Ms. DONNELLY. That’s correct.

Mr. PALMER. So after you filed the complaint, 7 years later we had still a major problem in that region. That’s correct?

Ms. DONNELLY. Yes, that is correct.

Mr. PALMER. And then 10 years later we’ve still got the same problem in the same region.

Ms. DONNELLY. Yes, we do. Still has the highest number of complaints.

Mr. PALMER. Ms. Rice, you were employed in Region 5. Is that correct?

Ms. RICE. Yes, that is correct.

Mr. PALMER. Ms. Lago, following up on Mr. Gowdy and Ranking Member Cummings’ comments, I don’t believe you when you said you didn’t know about this. I also have a copy of this article from the Huffington Post, “Out Here No One Can Hear You Scream.” It’s amazing to me that this has been going on so long. And it’s escalating. It’s not getting better. How do you respond to that? And would you answer truthfully?

Ms. LAGO. Thank you. I’d like to clarify. I did not intend to say that I didn’t know about this. I do know about this. I thought the gentleman was asking me did I know that her investigation had been shared with district rangers. That is what I was saying I didn’t know about. Yes, I knew about this case.

Mr. PALMER. Does the name Cheyenne Szydlo, do you know that name?

Ms. LAGO. No, I don’t know.

Mr. PALMER. How about Dave Loeffler?

Ms. LAGO. Say that again, please.

Mr. PALMER. Dave Loeffler.

Ms. LAGO. No, I don’t know that name.

Mr. PALMER. How about Alicia Dabney?

Ms. LAGO. Yes, I know that name.

Mr. PALMER. And Chelly Kearney?

Ms. LAGO. I’m sorry. I couldn’t hear you.

Mr. PALMER. Chelly Kearney.

Ms. LAGO. No, I don’t know that name.

Mr. PALMER. Mike Harris?

Ms. LAGO. No, I don’t know that name.

Mr. PALMER. They’re all in this article.

Ms. LAGO. They don’t all work for the Forest Service.

Mr. PALMER. It’s all part of the pattern, though, that’s going on with sexual harassment, and apparently throughout various agencies of the United States Government. I can’t remember how many times we have had hearings discussing this.

And then in regard to Ms. Rice and reading what is in the article, listening to her testimony, I mean, the guy wasn't—Beckett wasn't fired, was he?

Ms. LAGO. As per Federal law, he was allowed to retire——

Mr. PALMER. You know what?

Ms. LAGO. —and he was proposed. For removal.

Mr. PALMER. Yeah, that sounds suspiciously like your protocol answer to Mr. Gowdy. And I associate myself with his response in that regard. The guy not only should have been fired, he should have been arrested.

And I don't understand why this continues to go on, the Park Service, the Forest Service. I mean, isn't it your job to investigate these things?

Mr. LEONARD, I mean, what are you guys doing about this?

Mr. LEONARD. I would say that things have improved a lot, going back to my original statement. Prior to——

Mr. PALMER. How can you say that when you've got Region 5 that has this record?

Mr. LEONARD. In 1999, the United States Department of Agriculture, there were around 1,000 complaints a year. Last year we had—in 2001—I'm sorry. Last year we had 540. In the middle 2000s, there were around—2005, 2006, 2007—there were around 750 complaints a year. Since 2009, when this administration came in, we haven't had over 540 complaints.

From 2001 to 2008, the Department—the United States Department of Agriculture had 12 EEO findings, from 2001 to 2008. From 2009 to 2016, we've had 127 findings. From 2000—2000—let me get this right, because the Secretary constructed blueprints.

At one time, from 2000 to 2010, my office would intake the EEO complaints, and then we would give them back to the agency to do investigation. We were 31 percent timely in those years. We were not timely and potentially subject to sanctions.

The Secretary gave our office even more responsibility, for two parts. One, he didn't like the idea of when someone files a complaint, that the office that it's filed is investigating the complaint. So it came to the Department. Since that time, we have been—we went from 31 percent timely on our EEO investigations to last year we were 59 percent. But we've had a high of 74 and 65 and 63 in the last 4 years.

Our processes are improving. We have made generational change in the last 7 years. I promise you. In addition to the settling of the class action suits. In addition to knocking down former complaints from 100 to 30. I think it was 41 this year. In addition—so I can give you a lot of instances.

And I would say this——

Mr. PALMER. Why don't you provide that in writing to the committee. I want to wrap up my period of questions here. And I appreciate your response to that.

Mr. PALMER. My problem with it is that we've had people in here from the EPA, we've had people in here from other agencies. I know this is not the Forest Service, but it seems be a culture within Federal agencies. We keep having these hearings, Mr. Chairman. And today I think tops them all, from what I heard from Ms. Rice's testimony, from what's in this article, and the fact that Ms.

Lago doesn't recognize some of the names from some of these other people.

This is a cultural problem. And as much attention has been given to this, particularly by this committee, for us to have to keep bringing this up, that just defies common sense for me. This is something that in this day and time there shouldn't be any complaints.

I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I'm going to recognize myself. We would normally go to the Democratic side. And we do see Ms. Speier, but per the rules of the committee, we go through members who are on the committee first before we go do those that have been UC'd on.

I want to follow up here. Ms. Lago, what about—you said you, quote, "hold people accountable," end quote. How long have you been in your current position?

Ms. LAGO. Since August of 2011.

Chairman CHAFFETZ. And how many people since that time have been fired?

Ms. LAGO. In the last—so last year, 200 people were fired. The year before that, 115.

Chairman CHAFFETZ. And how many for sexual harassment?

Ms. LAGO. In the last 3 years? Seventy people—

Chairman CHAFFETZ. Whatever timeframe.

Ms. LAGO. Seventy people have been disciplined for sexual misconduct; 30 have been fired or removed.

Chairman CHAFFETZ. When you say "or removed," when you say "removed," does that include those that would just retire or quit?

Ms. LAGO. Retire or resign, yes. Seven were—

Chairman CHAFFETZ. So following up with us, I don't expect you to memorize all this off the top of your head, I need you to detail that for us with specificity. Don't break it into—you can't say fired or just retired. I want to see the difference between the two. Because the concern is that you don't actually fire somebody. They get their full benefits. They get everything else.

Now, this person in Ms. Rice's case, why was he hired to come in and provide a motivational speech?

Ms. LAGO. So I was very disturbed to learn that as well. I found out about that last week. What I understand is he encountered the existing hotshot superintendent at an off-forest event for retirees or a going away party or something like that. The current superintendent invited him to a gathering. It's not clear that that superintendent knew the history. I'm not sure.

When the forest supervisor found out after the event where Mr. Beckett appeared, he sat down all of his staff and said: We can't ever have this guy anywhere at any of our functions.

Chairman CHAFFETZ. And that's one of the consequences of not having a disciplinary action, right, just allowing him—patting him on the back saying, you know, good job. How much did you pay him? How much did the taxpayers pay this guy?

Ms. LAGO. He wasn't paid to appear there.

Chairman CHAFFETZ. He did the motivational speech and just did it out of the goodness of his heart? It was just free?

Ms. LAGO. That's correct.

Chairman CHAFFETZ. There was no paid compensation?

Ms. LAGO. Yes, sir. No pay.

Chairman CHAFFETZ. Ms. Rice, can you shine and illuminate any—based on what she just said, what's your perspective of this?

Ms. RICE. The superintendent did know Beckett. Knew him, worked for him for many years, knew of the incident. He did.

Chairman CHAFFETZ. Give me some more details of this. He worked for him and he knew of that incident. Why would he have known of the incident?

Ms. RICE. Because the entire forest knew. They had an all-hands meeting with all the people from fire. He was one of attendees.

Chairman CHAFFETZ. The one that was detailed in the article that Ms. Lago says she never read, that article?

Ms. RICE. The current superintendent for the hotshots used to work for Beckett and was there when I was being harassed. He was there—not—and then he was also there during the investigations. He was very aware of what happened to me.

Chairman CHAFFETZ. Ms. Lago, do you dispute what Ms. Rice is saying?

Ms. LAGO. No, I don't.

Chairman CHAFFETZ. So what are you doing about it?

Ms. LAGO. So what we're doing is, the forest supervisor instructed his staff never to let that happen again.

Chairman CHAFFETZ. Is he going to get a bonus?

Ms. LAGO. He whom?

Chairman CHAFFETZ. The person who brought in the person who had committed this atrocity against Ms. Rice. There's somebody who had to actually approve this and set it up, right? That person. What are you going to do? What's the repercussion to him or her? Who is that person?

Ms. LAGO. I'll undertake a misconduct investigation on the actions of that person.

Chairman CHAFFETZ. And you'll get back to us on what the ramifications are?

Ms. LAGO. Yes, I will.

Chairman CHAFFETZ. Explain to me why it takes so long to go through these harassment issues. Four years, you said, was the average time that it took? And that's been improved to 18 months?

Mr. LEONARD. That's the program if it was a form complaint. That would be the form side, the program side.

Chairman CHAFFETZ. I'd like to learn more about this. My time is very short. I want to go—this is—we have had a lot of interaction with Carolyn Lerner. She is the Office of the Special Counsel. She issued this report on—a letter to the President on May 18 of 2015.

Ms. Lago and Mr. Leonard, I'd like you to respond to that. Do you dispute anything in her findings?

Mr. LEONARD. I do.

Chairman CHAFFETZ. And what do you dispute in her findings?

Mr. LEONARD. The Office of Special Counsel, as you know, has so much power. It could have had an order of relief demanding my office take action right way. It could have even had a recommendation. But it had exactly what it said. It said, "Make them whole." It didn't provide the direction. When I provided the information to—

Chairman CHAFFETZ. Okay. Well, let me——

Mr. LEONARD. When I provided the information yesterday, the majority of—and it's important to say alleged discrimination here and there. The alleged. The information—when people—I do this all the time.

Chairman CHAFFETZ. That's not what it says, sir. That's not what it says.

Mr. LEONARD. It doesn't have an order——

Chairman CHAFFETZ. I'll read it to you. I'll read it to you. I'll read it to you. Okay?

"The proposed corrective actions do not provide sufficient redress for affected individuals?" It doesn't say anything in that sentence about alleged or anything else.

Let me read the paragraph right before it, because it's—it's section 4, and with the indulgence of the committee here, I am going to just read this.

"I have reviewed the original disclosure, the agency reports, the whistleblower comments. I have determined that the reports contain all the information required by statute. However, the agency's findings are partially unreasonable. As the whistleblowers noted, the office of"—the one that you oversee—"is tasked with protecting civil rights of all USDA employees. As such, this office should set the standard not only for processing claims, but also for creating an environment free of discrimination rather than leading this effort."

The report confirms that your office, Mr. Leonard, has had an unusual high number of complaints filed against its own leadership. In addition, almost half of these complaints were not acted on in a timely manner. And even when they were addressed within the legally mandated period, they were processed in a manner that violated agency regulations. While the report did not reveal any intentional wrongdoing, it demonstrated that OASCR has been seriously mismanaged, therefore compromising the civil rights of the USDA employees.

Given the seriousness of these concerns, the corrective actions appear to only partially resolve the identified wrong doing. While they adequately address the management and conduct of OASCR going forward, the proposed corrective actions do not provide sufficient redress for affected individuals.

We also have the number of EEO complaints filed against USDA senior manager headquarters going from roughly 1 in 2011 to 24 in 2014, with zero findings of discrimination. In fact, over 2011 to 2015, 42 complaints filed, zero findings of discrimination.

Mr. LEONARD. Again, senior management officials at USDA.

Chairman CHAFFETZ. Yeah. So going back to the special counsel's letter, detail for us where they're wrong.

Mr. LEONARD. But firstly, that's just not my office. That's all of USDA——

Chairman CHAFFETZ. Understood. Understood. In the context of it.

Mr. LEONARD. In my office it was 12 for a 5-year period, and we have 140 employees.

Chairman CHAFFETZ. That's a lot. That's a lot. Ten percent?

Mr. LEONARD. The majority of complaints that are on senior leaders in my staff are chain of command complaints.

Chairman CHAFFETZ. You don't think that's a lot, sir?

Mr. LEONARD. The majority of the—the majority of the complaints are chain of command and complaints. So they're coming six down. So if you don't get a QSI, and you want your QSI, you'll put it on the person on top of you, the other one. I'm five people removed, but I'm still—I'm still in that number. So I'm just trying to explain the numbers to you.

Chairman CHAFFETZ. We have an independent person, the Office of Special Counsel, who sends just a handful of letters to the President, and she sends one and comes to the finding. I want you to explain to us why you think she's wrong.

Mr. LEONARD. She came with a finding?

Chairman CHAFFETZ. Yes. I just read it to you.

Mr. LEONARD. In my world, there's a finding or a nonfinding. A finding would have an order of relief attached to it. I mean, an order. An order. If there's a finding on the Forest Service, I'm ordering them to put civil rights placards up. I'm ordering people to go to civil rights training. I'm ordering removal. I'm ordering—

Chairman CHAFFETZ. I'm asking you—I'm trying to lessen my time here. I'm trying to ask you in this multipage letter where you think she's wrong. Tell me what you dispute.

Mr. LEONARD. I can—I will tell you this. Our Office of Inspector General did the investigation of that, and there are going to be few people who will come to you and say: I agree 100 percent with the Office of Inspector General report.

Chairman CHAFFETZ. I'm not talking about—

Mr. LEONARD. I agree with it, but the—

Chairman CHAFFETZ. Mr. Leonard. Mr. Leonard, you're not—Mr. Leonard. Mr. Leonard, stop. Stop. Mr. Leonard, I want you to stop. I'm not talking about the inspector general. I'm talking about the Office of Special Counsel who sent a letter to the President of the United States. That is not a common occurrence. It happened more than a year ago. I'm asking you, giving you the opportunity for you to tell me where you think she's wrong.

Mr. LEONARD. I agree with the inspector general report that did the investigation. I have concerns with the interpretation of said report.

Chairman CHAFFETZ. Okay. We'll revisit this. I've gone way past my time.

I believe it's Mr. Hice of Georgia who I will now recognize for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman.

Ms. Lago, let me get a few of these numbers right in my mind again. I know you've stated it, so forgive me for repeating this. But how many Forest Service employees have been terminated in the past year for sexual harassment?

Ms. LAGO. In the last year, 17.

Mr. HICE. Seventeen.

Ms. LAGO. For sexual misconduct, to be clear. It isn't always sexual harassment. They may not have harassed someone else, but they conducted themselves—

Mr. HICE. How many have been terminated for sexual harassment?

Ms. LAGO. I'll have to come back to you with that number.

Mr. HICE. Okay. And you have mentioned a couple of times "as per Federal law" a person has a choice between being removed from office or retiring.

Ms. LAGO. Yes, sir.

Mr. HICE. Okay. So why would they have a choice when we're dealing with sexual harassment? Why would you permit them to have a choice for retirement with full benefits as opposed to removing them from office? Why did they get the choice?

Ms. LAGO. Well, sir, I'm not sure how to explain it. But per Federal law, the procedures for removing a Federal employee provide them the opportunity—

Mr. HICE. Is there any behavior that an individual could commit whereby they are not allowed a choice as per Federal law? Is there any behavior whereby you would remove them from office and they would not even have a choice of retirement?

Ms. LAGO. I'm not totally sure about that. I'd like to get back to you.

Mr. HICE. So you are saying, then, is this your testimony, that based on Federal law, that an employee can commit any crime or do any kind of behavior they want to and find protection under Federal law to keep their job or to keep their benefits when they retire?

Ms. LAGO. I'm aware that we have removed people while they were incarcerated, awaiting trial, that kind of thing, and I don't believe we gave those people the option. But I'm not sure the statute or the regulation under which we were able to do that.

Mr. HICE. Don't you think it would be kind of wise for you to know the boundaries within which you're able to walk as it relates to people who are committing crimes, who are committing sexual harassment, and you don't even know the law, you don't even know the boundaries whereby you have authorization to remove them from office? Don't you think that's kind of important for you to know?

Ms. LAGO. Yes, that's important.

Mr. HICE. Well then why don't you? This is not new. You are not just finding out about these cases now. You've known about these cases for a long time, by your own testimony. And yet here you sit before us today and say that you still don't even know the law as to what your rights are to remove people from office?

Ms. LAGO. I'm not sure the specific authority by which we can remove people without providing them the option to retire—

Mr. HICE. You've stated that. My comeback is that is inexcusable for you to be in a position such as you're in and not even know the authority. You are allowing people to commit crimes and not removing them from office, allowing them to retire and get full benefit, and you can't even describe for this committee what possible behavior a person would have to commit in order for them to be removed from office. I find that inexcusable.

Now, what about the discipline? You've mentioned—how many have disciplined?

Ms. LAGO. This year? In total, 600 people in 2016.

Mr. HICE. What kind of disciplinary action has been taken?

Ms. LAGO. We've removed people. We've suspended people. We've demoted people. There have been—

Mr. HICE. You've removed them. You've just reassigned them. Is that what you mean?

Ms. LAGO. We have removed, as in they don't work here anymore, 200 people.

Mr. HICE. I thought you just said you couldn't remove them.

Ms. LAGO. No, I didn't say that.

Mr. HICE. You did say that.

All right. Let's go back to disciplinary action. What does disciplinary action look like? Are these people getting a slap on the wrist?

Ms. LAGO. As I mentioned, 200 were removed. Some number get suspensions. Some number get demotions. Some people get letters of reprimand and warning. It depends on the offense.

Mr. HICE. And some people get promotions. We've already seen that today too. Is that considered a disciplinary action, for people to receive promotions for their criminal behavior?

Ms. LAGO. People don't get promotions for their criminal behavior.

Mr. HICE. Well, it's happened, as has even been described here today.

Mr. Chairman, I find this absolutely offensive, to sit through this whole thing and to hear the incompetence that's occurring in high-level positions.

And with that, sir, I yield back. Thank you.

Chairman CHAFFETZ. I thank the gentleman.

We're going to recognize the gentleman from Massachusetts, Mr. Lynch, for 5 minutes.

Mr. LYNCH. Thank you, Mr. Chairman.

I do want to say there's some inconsistency, Ms. Lago, with your answers to Mr. Hice's questions. He was asking why people were given the option to retire instead of being fired. And you said: Well, we don't know how to get rid of them, so we have to retire them. Then later on you said: We fired about 200 people.

So I'm just curious why, if you had the ability to remove them, why didn't you remove them? Can you explain that?

Ms. LAGO. I will explain that. If we have the ability to remove them and don't have to offer them the opportunity to retire or resign, we would do that. Some people don't exercise their option to retire or resign, and we remove them.

Mr. LYNCH. But under Title V you can remove people for this type of conduct. You know that, right? Have you explored your legal rights in terms of terminating their retirement for sexual harassment?

Ms. LAGO. I haven't personally, no.

Mr. LYNCH. Well, it would seem that someone in your situation, with what's going on in this Department, that you should have a long time ago, if you were really interested in serious discipline, you would know, you would know to the letter what your rights were if you wanted to remove someone. So I don't think you've given it serious thought. Nor do I believe that you've gone back to your legal counsel and got solid foundation in terms of what your options are. And I suggest you need to do that.

Mr. Leonard, I want to go back to the chairman's line of questioning. When the Office of Special Counsel wrote its warning letter to President Obama, which is a serious and unusual occurrence, it said this about your office, the Office of the Assistant Secretary of Civil Rights, and I quote here.

"A large number of EEO complaints had not been acted on in a timely manner. The investigation revealed that from November 2009 through September 2014, OASCR received 231 complaints filed against senior USDA managers, including 13 filed against Ms. Scott or other OASCR officials. Overall, 112 of these complaints, including at least 5 filed against Ms. Scott or another OASCR official, were not investigated and reported on within the 180-day time limit established by law."

So we have 112 complaints—that's close quote—so 112 complaints that were not investigated within the 180-day time period. Is that right?

Mr. LEONARD. That's correct.

Mr. LYNCH. Okay. How many of those 112 complaints have been closed since the time of this letter that went to President Obama?

Mr. LEONARD. I believe, since the time of the letter, that the actual number grew to 120. I believe there are only 3 open at present.

Mr. LYNCH. So they've all been closed except for three.

Mr. LEONARD. Except for three.

Mr. LYNCH. Okay. And what—

Mr. LEONARD. At least two of those—

Mr. LYNCH. And what does "closed" mean? Was there a decision on the merits in those cases?

Mr. LEONARD. There were 34 of them that were settled. There were decisions on the merits on everything else, either EEOC or a final agency decision that we did.

Mr. LYNCH. So every single case except for three.

Mr. LEONARD. Except for three. Except for three.

Mr. LYNCH. Okay.

Mr. LEONARD. It's important to realize that in the—I removed three managers, GS-15s, from the positions that weren't getting the job done. I removed three managers. I removed a vendor that we were utilizing because there seemed to be gaps in cases. Since 2014, we have been 100 percent accurate. Fiscal year '14, fiscal year '15, fiscal year '16, we've been 100 percent accurate.

Once we made these changes in personnel and vendors in the last 3 years we've been 100 percent accurate, and we're 100 percent accurate in the beginning of 2017.

Mr. LYNCH. Okay. What steps has the Department made or taken to make individuals whole by improper delays in their cases lingering for such a long time?

Mr. LEONARD. If it was merited, we settled 34 of those cases.

Mr. LYNCH. Okay.

Mr. LEONARD. If many of them didn't have strong merit because the alleged discrimination, there wasn't strong merit, it went the usual route of either having a finding or going to EEOC. But if we had merit, of the 120 cases, 34 of them, we took it upon ourselves to encourage the agencies, those 120 cases, all the 18 departments and 17 staff offices of USDA. So we took it upon ourselves that we

said that these have merit. Your individual agency and/or staff office needs to attempt to settle.

Mr. LYNCH. Okay. I'm going over my time. But in closing I just want to say that the number of cases, the volume of cases here in this one Department, indicates a culture. And I just hope you're doing everything possible to eradicate that culture so that other employees aren't similarly aggrieved.

Thank you, Mr. Chairman. I yield back.

Chairman CHAFFETZ. I thank the gentleman.

We'll now go to the gentleman from Wisconsin, Mr. Grothman, for 5 minutes.

Mr. GROTHMAN. Ms. Donnelly, you've been testifying before this committee for apparently quite a while. And I know you were before this committee in 2008 when maybe many of us weren't around. Could you let us know whether you feel there's been improvement over the last 8 years, you could compare the current environment at the Forest Service today compared to 8 years ago?

Ms. DONNELLY. I wish I could say there was improvement, one, one thing, that had improved, and I can't. Things have gotten worse in terms of the blatant harassment against women, minorities, and people with disabilities. The complete disengagement of Secretary Vilsack and Chief Tidwell and Dr. Leonard from working with the coalition and other groups to try to resolve these issues.

In the previous administration, we had access to the Secretary, meetings, access to the chief. We were invited to the White House. And there was more of a collaborative effort. And in the last 8 years, there's been virtually no response to our requests.

And our request has been very simple. It's to merely sit down and start talking, have a dialogue, to talk about the issues and exchange ideas and move towards resolution. And Secretary Vilsack and Dr. Leonard and Chief Tidwell have absolutely not wanted to do that. And the conditions for employees have worsened.

Mr. GROTHMAN. Wow. So under the current Ag Secretary under the Obama administration, as bad as things were in 2008, things have gotten even worse, even more callous, even more who cares?

Ms. DONNELLY. That's correct. I've actually seen an increase in women reporting rape. Now, the agency won't tell you that. But women are afraid to come forward and report it. They won't even report it to the police because they don't want the agency to know. Because, again, I refer back to Alicia Dabney, when she reported these things, the agency trumped her up on false charges and terminated her. And they did it publicly so other women employees could see the chilling effect it would have for a woman to come forward. And people have children, they have mortgages. And women will suffer in silence rather than lose their job. It's a disgrace.

Mr. GROTHMAN. I'm going to switch aside just to one other question and then I'm going to come back to you. This question can be, I guess, for whoever feels qualified to answer it. We always get a, you know, a variety of information before these hearings.

I noticed here there was a consent decree under a, like, probably a 40-year old case now, *Bernardi v. Madigan*. Is that consent decree still in—if you guys are familiar with it—is that still in effect?

Ms. LAGO. No, it isn't.

Mr. GROTHMAN. Okay. Okay.

Ms. Donnelly, can you give us some more—I mean, this Beckett thing is just almost unbelievable. I mean, just when you think the government couldn't get any worse, they get worse. But could you give me some other examples of cases that you'd like to tell this committee.

Ms. DONNELLY. Yes, I do have many. And one thing I would like to make really clear to the committee that hasn't been brought out very clearly, when Mr. Beckett was brought back this year to be a motivational speaker, it wasn't the first time the agency did that after he retired.

Very shortly after he retired, the agency let him come back, he hired on an incident management team that goes out to fire assignments across the Nation. And we found that out. It was done very sneakily, and we found that out. And Ms. Rice was very concerned because she would possibly unknowingly run into him on a fire assignment. And it took us a lot of work to get the agency to take him off the team.

Mr. GROTHMAN. So he got back on the payroll again, is what you're saying.

Ms. DONNELLY. Yes, yes, absolutely. And the agency supported it until we really fought to get him off that team. So bringing him back as a motivational speaker was the second time.

Mr. GROTHMAN. Okay. Ms.

Lago, you made a point of saying that when he came back as a motivational speaker he wasn't paid. And even then that was not appropriate. Do you agree, though, that he was also brought back as a paid employee for a while and could have wound up working with Ms. Rice?

Ms. LAGO. Thank you for the opportunity to respond. In fact, he was picked up on a California contract crew, and he appeared on one of our fires. And Ms. Donnelly helpfully raised that to our attention and we immediately intervened to get him, his contract crew off our fire, and to put direction out that he should never be allowed to be contracted with, appear on our fire, et cetera.

Mr. GROTHMAN. Ms. Rice, it looks like you have something to say. Do you?

Ms. RICE. I disagree. He was picked up on a team with the agency.

Mr. GROTHMAN. Okay.

Ms. RICE. I disagree. He wasn't on a contract crew. He didn't have a contract crew.

Mr. GROTHMAN. Okay. Well, we're not going to be able to settle that today. But obviously we should be able to get to the bottom of that.

Ms. Rice, you're pretty confident that he was working for the Forest Service again?

Ms. RICE. Yes.

Mr. GROTHMAN. Okay. Why don't we track down the answer to that.

Chairman CHAFFETZ. And if the gentleman will yield, do you have—how long, what was the timespan? So he leaves the one position. How long before he's back on a crew?

Ms. RICE. A month?

Chairman CHAFFETZ. About a month later?

Ms. RICE. Two months?

Chairman CHAFFETZ. And then how long did he serve in that role? Do you have any idea?

Ms. RICE. I don't think it was very long. A couple months.

Chairman CHAFFETZ. Okay. Thank you.

The gentleman yields back.

Let's recognize the gentleman from Missouri, Mr. Clay, for 5 minutes.

Mr. CLAY. Thank you, Mr. Chairman.

And let me thank the witnesses for being here today. Ms. Donnelly and Ms. Rice, I would like to thank you for your courageous testimony today. I know it must be very difficult for you to revisit your experiences in such a public setting, and we appreciate you coming forward.

There is a history of discrimination and harassment of female firefighters in the Forest Service spanning more than four decades.

Ms. Rice, let me begin by asking you about the events leading up to your decision to file an EEO complaint in 2011. In as much detail as you feel comfortable providing, can you describe what you endured?

Ms. RICE. It started off with just the, you know, sexual innuendos, and it escalated to touching me and cornering me and trying to be inappropriate with me. He had me removed from the office to this other office where he could come and go as he pleased and nobody would see him. I had even quit announcing myself on the radio to avoid running into him because he would show up at my location.

Mr. CLAY. And what made you finally want to come forward?

Ms. RICE. This had been going on for a couple of years, and it was—I was breaking down. I couldn't take it anymore.

Mr. CLAY. And in your written testimony for today's hearing you state, and I quote, "Women who report sexual harassment are retaliated against. It is your word against his. And you know the moment you open your mouth to speak up you are committing career suicide."

Can you elaborate on this statement? What retaliation did you experience after reporting?

Ms. RICE. The way they handled my case. It was—it was—everything was done wrong. I was the bad guy. They protected him. You know, he—

Mr. CLAY. And, Ms. Lago, how do you respond to Ms. Rice's deeply troubling statement that reporting harassment is tantamount to committing career suicide and to the allegations of retaliation she has expressed?

Ms. LAGO. Well, I think what she experienced was horrifying. And I think the actions of Mr. Beckett are unforgivable. I think anybody that goes through that, it's horrifying and unacceptable.

As far as retaliation, we don't condone, tolerate, accept retaliation. We have procedures when people report retaliation. But what we struggle with is there's fear of retaliation. People fear reprisal. So that fear suppresses people coming forward. It makes it difficult for us to take action to demonstrate our commitment.

Mr. CLAY. Well, and here, to me it sounds as though if this has been going on for four decades in this service, then there is a prob-

lem with the culture of the Fire Service. So how do we attack and change the culture of men feeling they can dominate women? What is this all about?

Ms. LAGO. Sure. Thank you. So I think there are two things that we have underway that are going to be helpful in this culture change. Because, as you mention, it's long term, it's longstanding, and it takes time to turn it around.

So the couple of things that I'm thinking of is we have workshops and skill building and team building for women in fire programs across the country. So that's one thing.

And the second thing is our efforts to include more women and minorities in our fire jobs. The number one way people come into the fire job is through our apprentice academy. And, for example, in the most recent advertisement, there wasn't enough diversity in the applicant pool. So Regional Forester Randy Moore cancelled the advertisement and is rerunning it and he asked to get more outreach.

Mr. CLAY. What about more severe action and requiring that some of these heads roll, that people be fired, actually, for their actions on the job? Any movement towards that?

Ms. LAGO. You know, my boss, the chief, says, you know, if you get a chance to ask the committee, ask them to help us make it easier to fire people. So we have a code, a penalty guide. We use that for our guidance. And, yeah, we would like to fire people.

Mr. CLAY. It shouldn't be too difficult with people conducting themselves in that manner where they are harassing and overtly harming their coworkers. It shouldn't be that hard.

My time's up.

Chairman CHAFFETZ. I thank the gentleman.

We're very pleased to have Ms. Speier who's joined us. She was a full member of the—of the committee, and we wish she still was, quite frankly. But we're glad that she's joined us today. We ask for unanimous consent that she join the committee, which we have already done.

And so we're pleased that you're here, and I now recognize Ms. Speier for 5 minutes.

Ms. SPEIER. Mr. Chairman, thank you. And I would love to be able to join this committee again. I truly enjoyed the time I spent here. And I want to thank you, Mr. Chairman, for having this hearing, because this issue is a very, very serious one.

You know, I'd like to paraphrase Shakespeare and say there is something rotten in the U.S. Department of Agriculture and the Forest Service. This has been going on for 40 years. And lawsuits are filed, they are settled, there are consent decrees that go on for a period of years, and then the behavior reoccurs again and again and again.

Now, I sent a letter, with a number of my colleagues, to the USDA OIG in 2014 asking the IG to look into the allegations of sexual harassment. And the IG from the U.S. Department of Agriculture wrote back and said: We're not going to do this investigation. They're working hard on it. Things will improve.

And then more recently, Mr. Chairman, you and many others from the Senate and the House, bipartisan, have sent yet another letter, and it appears that there may be an investigation.

Ms. Lago, you met with me at one point. And if I remember correctly, we had asked that you do a climate survey. And you said you were going to do one but you were going to require that people identify themselves. And I said that was pretty outrageous, that you're not going to get accurate information by doing that. And then you chose, rightfully, to make it anonymous.

But in that conversation that we had, you said something to the effect that, you know, boys will be boys, that the environment is such that you can't trust what goes on in the backwoods, and you can't really trust what people say. Do you remember that conversation?

Ms. LAGO. I'm certain I never said boys will be boys.

Ms. SPEIER. Well, maybe I'm paraphrasing it. But you said, you know, when you have an environment like this and they're in the back country, these kinds of things happen.

Ms. LAGO. Well, I'm not sure what I said.

Ms. SPEIER. Well, let me ask you this. You made reference to the fact that you're not sure you can trust everything that's said. Do you believe what Ms. Donnelly and Ms. Rice have attested to?

Ms. LAGO. I believe what Ms. Rice has attested to. I don't believe that all of what Ms. Donnelly has attested to is accurate.

Ms. SPEIER. Did you all stand and raise your right hands and swear under oath when you came in this morning?

Ms. LAGO. We, yes did.

Ms. SPEIER. So you believe that she swore under oath and she's still not telling the truth.

Ms. LAGO. I said I didn't think it was accurate.

Ms. SPEIER. Well, you're mincing words here. Either you believe her or you don't.

Ms. LAGO. Well, you can be factually incorrect and think you're telling the truth.

Ms. SPEIER. So you think she's factually incorrect.

Ms. LAGO. That's right.

Ms. SPEIER. All right. Let me ask you about Mr. Beckett. Everyone seems just shocked that he was rehired in any capacity.

Ms. LAGO. I agree.

Ms. SPEIER. What have you done to the person who rehired him? Have there been any personnel actions taken against that individual? Have you even looked into it?

Ms. LAGO. Yes, that was 2011 or '12. But my understanding was he was hired on an interagency crew, not a Forest Service crew, as a contractor. We took action to get that contractor off our fire.

Ms. SPEIER. All right. Do you know what I'd like for you to do, and if the committee would so allow, I'd like to have you show us documentation of that, because there appears to be some dispute as to whether he was a contract employee or not. We should see that.

Ms. SPEIER. And even if he was hired as a contract employee on an interagency, someone had to know that he was being brought back. Someone had to make the decision to have him come back as a motivational speaker, whether he was being paid or not. And, frankly, that has really nothing to do with it, because it's sending a huge message to everybody that even though this individual has been terminated, even though he has been found to have conducted

himself inappropriately, we're bringing him back as a motivational speaker. So everyone, you know, shut up.

Now, let me move to retaliation. In the ICF report it makes it very clear that there were systemic differences in the survey responses between female and male perceptions of the workplace. Women provided consistently less favorable responses than men.

My time is almost up. What are you doing to address the fact that women in the Forest Service feel that they are retaliated against and that the environment is hostile?

Ms. LAGO. Yes. Thank you. So since that survey we have added a position in the regional office who is sort of an ombudsman for work environment who works directly with all of the forest. We have done—we have dispatched civil rights teams who meet with—or who travel with OGC attorneys, to meet with forest, to have groups talking about our antiharassment training, appropriate conduct in the workplace. We are hosting focus groups around retaliation because, again, it's a fear of reprisal, and if people don't come forward and describe their experience, we don't have the opportunity to follow up on it. So we're piloting those focus groups in several of the forests.

Ms. SPEIER. Mr. Chairman, my time has expired, but let me just finally say that the way that you make sure that there's not reprisals, the way you make sure that people do not feel fearful in terms of reporting is to enforce the law and take action against the perpetrators.

I yield back.

Chairman CHAFFETZ. I thank the gentlewoman.

Does any other member have any additional questions.

The gentleman from Alabama, Mr. Palmer, is recognized.

Mr. PALMER. Thank you, Mr. Chairman.

I just want to make sure that I understood your answer to one of my questions correctly, Ms. LAGO. I asked you do you recognize the name Alicia Dabney.

Ms. LAGO. My answer was yes.

Mr. PALMER. Okay. And Alicia Dabney alleged that an attempted rape occurred, that she was in put in a chokehold and the guy attempted to rape her. Was there a criminal investigation into that?

Ms. LAGO. Not that I know of.

Mr. PALMER. Why not?

Ms. LAGO. Because she did not make that allegation in her misconduct investigation inquiry.

Mr. PALMER. That was also mentioned in Congresswoman Speier's letter. Was anyone fired?

Ms. LAGO. In events associated with Ms. Dabney, yes.

Mr. PALMER. The perpetrator was fired?

Ms. LAGO. Unrelated to the allegation of rape, yes, someone was.

Mr. PALMER. Was the perpetrator, though—the person who did this was fired, but it had nothing to do with the alleged attack on Ms. Dabney?

Ms. LAGO. That's correct. It was a different event.

Mr. PALMER. And wasn't Ms. Dabney fired later?

Ms. LAGO. She resigned.

Mr. PALMER. That's in conflict with one of the documents that I have. I'd like for you to look into that and give clarification.

Ms. LAGO. Yes, sir.

Mr. PALMER. Thank you, Mr. Chairman. I yield back.

Chairman CHAFFETZ. I thank the gentleman.

We'll recognize Mr. Grothman of Wisconsin.

Mr. GROTHMAN. Yeah, couple more questions for Ms. Lago.

That Bernardi v. Madigan consent decree apparently expired or was—it was no longer in effect around 2005, 2006, correct? Is that what—

Ms. LAGO. I think it was sooner than that.

Mr. GROTHMAN. Sooner than that.

Ms. LAGO. I think it was in the '90s.

Mr. GROTHMAN. In the '90s, okay. I think at the time, what, your goal was to get 43 percent women in every position?

Ms. LAGO. In California.

Mr. GROTHMAN. Yeah. And after it expired, do you still have similar goals or could you comment on—

Ms. LAGO. Sure. So currently in the Forest Service about 35 percent of the workforce are female. That's been consistent over the last several years. In California it's slightly less. I think it's 32 percent. So we're not at 43 percent.

And the reasons for that are complicated, or complex, I guess I should say. So what has changed since the '90s is the workforce in California is a much higher percentage of firefighter than it used to be. We have probably doubled the number of firefighters in California while the total workforce has stayed the same or declined. So there's a greater percentage.

When you look at the civilian labor force and look at the firefighter occupation, between 4 and 5 percent of firefighters are women, compared to about 12 percent are women firefighters in the Forest Service. It's hard to reach that 43 percent parity with the civilian labor force with the proportion of firefighters that we have. But we are implementing strategies to increase our outreach in hiring for women.

Mr. GROTHMAN. You are doing what you can to promote women and that sort of thing?

Ms. LAGO. Yes, sir.

Mr. GROTHMAN. Okay. And—okay. I'll leave it at that.

Chairman CHAFFETZ. Thank you.

We'll recognize Mr. Cummings.

Mr. CUMMINGS. Just very quickly.

Dr. Leonard, OSC wrote its letter to the President in 2015. And when did you first become aware that a majority of the complaints filed against the senior managers were not being acted on in a timely manner?

Mr. LEONARD. Probably—

Mr. CUMMINGS. I can't hear you.

Mr. LEONARD. Probably 2014. Twenty fourteen is when we began to make personnel changes in that office, 2014 or 2013. Because when the report came out, we had been timely for—100 percent timely a year. So we had been working towards that aim prior to the report coming out and even prior to the investigation of the office.

Mr. CUMMINGS. So how could it get so bad that 81 percent of the complaints were not acted on in a timely manner? How did that happen?

Mr. LEONARD. Congressman, it's important to realize this is 1 division within 13 divisions that we have at USDA. It's 1 division. We have 13 different divisions that have around 140 employees. This division was lacking. Once we realized it was lacking we began to make every adjustment that we could. And as I've said before, moving persons around, getting new personnel in, getting new leadership in, and really reconstituting the office, in addition to a new vendor that we had to procure out and remove the other one that was not doing the job properly.

Mr. CUMMINGS. Let me say this. I just think we can—we can—we got to—Ms. Lago and Mr. Leonard, we got to do better.

You all are Presidential appointments.

Mr. LEONARD. I am.

Mr. CUMMINGS. And you, Ms. Lago?

Ms. LAGO. No.

Mr. CUMMINGS. All right. So you'll still be there, Ms. Lago. And when I hear what Ms. Donnelly said as compared to what you said, I'm sorry, we've got a long way to go. And I know you're sensitive to these issues. I understand what you've said about your background. But I think we got a lot more to do.

And, you know, I've tried a lot of cases in my life. But I got to tell you, as I sit here and I watch Ms. Rice, it's very painful. I mean, you can—I can feel her pain.

And she said something that I want, you know, I want you to think about. And Mr. Gowdy alluded to this, and I think the chairman did too. We're men. So we may not be able to feel everything that you feel. But you talked about your husband. That we can relate to, you know, and how he felt as a man that he could not protect you. And then to see you—the idea of seeing you pack up your lunch, get dressed, and march out every day to a place where you are in fear. That's not right.

So we've got to deal with this. And the idea that we have a 40-year history?

And so, Ms. Rice, I hope that you—and I know that the chairman agrees with me on this—if you feel that you're being retaliated against, you know how to get ahold of our offices. I beg you, I'm not asking you, I beg you, and I mean that, to do that.

Ms. RICE. Thank you.

Mr. CUMMINGS. Because we want to do everything in our power to surround you with some protection. And it pains me to even say that, that we have to be about the business of protecting a Federal employee who simply wants to do her job.

And so I want to thank you, Mr. Chairman, again for calling this hearing.

Chairman CHAFFETZ. Thank you. Very well said. I appreciate that.

I now recognize Ms. Kelly for 5 minutes.

Ms. KELLY. Thank you, Mr. Chair.

Ms. Lago, I want to discuss some of the discrimination and harassment suits that have been brought against the Forest Service over the years. One of the requirements of the consent decree was

to bring the California staff in line with the percentage of women in the civilian workforce. Is that correct?

Ms. LAGO. That is correct.

Ms. KELLY. Was this achieved?

Ms. LAGO. I don't know if it was achieved during the period that it was in effect.

Ms. KELLY. You don't know if it was achieved?

Ms. LAGO. No, I don't.

Ms. KELLY. After that consent decree expired, there were more allegations of discrimination, and there was another class action suit in 1995.

Ms. Donnelly, you were the lead plaintiff in that class action. Is that correct?

Ms. DONNELLY. Yes, that is correct.

Ms. KELLY. And that class action resulted in another consent decree. Is that correct? Right?

Ms. DONNELLY. Yes.

Ms. KELLY. All right. What changes to the Forest Service policies are required by that consent decree?

Ms. DONNELLY. There was mostly administrative injunctive relief. We had a group of people that we put together to work on some issues. We looked at the performance evaluations and made changes to the evaluations so that there would be more accountability. That's no longer there. After the consent decree ended, they took it out again. There was a mentoring program. There was an investigation process for reprisal. There was a scholarship program, and a women's conference every year.

There was a women's special emphasis program manager put in place in the region, and things that would—we were trying to change the culture so that women could feel comfortable using these processes and kind of make up for past problems that were caused so that they could move past some of the things that had happened to them.

Ms. KELLY. Except for the one thing you mentioned, is everything else still in place?

Ms. DONNELLY. No. They dropped just about everything. It was incredible. The consent decree ended in 2006, and within a couple days I got a call from one of the women that was in a meeting. They announced that it was over, and one of the men stood up and they clapped and they said, we're back. And shortly after that, the agency dropped almost everything that was in that consent decree. And I believe that's one of the reasons that they started backsliding. And in 2008, I started contacting the Secretary and the chief again, saying, we're going back to the way it was.

Ms. KELLY. Just the idea that someone would stand up and say, we're back, is utterly ridiculous.

Ms. DONNELLY. Yes.

Ms. KELLY. And so even though you did all of those things, that couldn't have done much for changing the culture of the environment.

Ms. DONNELLY. It didn't change the culture at all. And one of the reasons it didn't is because Region 5, the Forest Service, looked at the items they had to implement as something they were just ordered to do. It was not something they felt they wanted to do or

they wanted to incorporate and make changes. They did it because they had to do it, and they were waiting for it to get over to not have to do it.

Ms. KELLY. So they didn't see the need for it?

Ms. DONNELLY. No. And they still don't.

Ms. KELLY. Ms. Rice, it is my understanding that there's another complaint making its way through the EEO process even now. Have you attempted to mediate this complaint? If so, what happened during that attempt? Ms. Rice.

Ms. RICE. She's my representative. I have to let her tell me.

Ms. KELLY. Whoever is comfortable in answering is fine.

Ms. RICE. The class action? Could you repeat the question? I'm sorry.

Ms. KELLY. I'm just asking about the—there's another complaint making its way through the EEO process.

Ms. RICE. Correct. Correct. We have a class action lawsuit.

Ms. KELLY. And what are next steps that you guys are thinking about? Whoever wants to answer.

Ms. DONNELLY. I can answer that. There was an opportunity to mediate in January 2015, and six of the class agents and myself, we went back—at the cost of the taxpayer, they brought all the women in and said they wanted to mediate.

So we went to San Francisco. We were pretty excited about it. We thought, we're finally getting some dialogue from the agency. The women put a lot of effort into it. They had notes and they had flip charts and ideas. And it was a pretty vibrant process for them and so there was a lot of hope.

So we came into the room and there were attorneys, agency attorneys, from Washington and region, and there was a mediator judge. We brought in our flip charts. We brought two of our own facilitators. And, unfortunately, all the agency would do—we had about an hour of general discussion, introductions and discussion, and then the agency—the judge wanted to talk to us separate. And we started going through our flip charts, and the judge got excited about it, because she could see we had put a lot of effort into working some resolutions out.

She went to talk to the agency, came back, and she seemed—she was kind of excited and she came back and she seemed kind of upset. And she brought the agency in, and they just said, we don't want to talk, and they just walked away from the table. And since that time, nothing has happened, nothing. We're still waiting for a judge to be assigned.

Ms. KELLY. I know my time is up, but I just wanted to say I watched Good Morning America this morning and this was the very topic. And it's just unbelievable how widespread this issue is with many different entities. Thank you.

Chairman CHAFFETZ. Thank you. I now recognize the gentlewoman from Michigan, Mrs. Lawrence, for 5 minutes.

Mrs. LAWRENCE. Thank you, Mr. Chair.

As many of you know, I stated on the record that I was an EEO investigator prior to coming to Congress. It's totally unacceptable for any woman or man to be in a work environment where they are subjected to sexual harassment.

I have a question for Ms. Lago, because I know for a fact that the tone is set from the management of any work environment what is acceptable in that workforce. When there is a complaint of discrimination, it is directed to the individuals who have the responsibility of that workforce.

So I'm going to ask you a question, Ms. Lago. Lago, I'm sorry. In the assessment for 2013, the Forest Department selected "no" in response to the question, and I quote: "Do senior managers meet with and assist the EEO director and other EEO program officials in identification of barriers that may be impeding the realization of an equal employment opportunity?" In fact, the Forest Service wrote in response to that question, and I quote: "Leadership is not fully engaged." That was 2013.

Can you explain why that situation existed?

Ms. LAGO. I can't fully explain why that existed in 2013, but I can tell you that the opposite is true in 2016, and we have our top leadership engaged in meeting with our civil rights leadership throughout the country. Since 2013, our civil rights organization has been redesigned. The organization reports directly to the chief. The civil rights director has direct meetings with the chief.

Mrs. LAWRENCE. When you say chief, which chief?

Ms. LAGO. The chief of the Forest Service.

Mrs. LAWRENCE. Okay. You told our staff that the head of the EEO function began reporting to the head of the Forest department earlier this year. However, in the Forest Service assessment, the agency marked yes to the question: "Is the EEO director under the direct supervision of the agency head?" Did the EEO director report to the agency head back in fiscal year 2013, or was this a wrong report?

Ms. LAGO. In 2013—well, for as long as I've been in my job—

Mrs. LAWRENCE. And that's been how long?

Ms. LAGO. Since 2011.

Mrs. LAWRENCE. Okay.

Ms. LAGO. The civil rights director, the head of EEO, reports to the chief. Prior to 2014, it reported through my office. After 2014, that position reports directly to the chief.

Mrs. LAWRENCE. So if there is a complaint of a department—and that's very unusual. If there's a complaint of a department, that complaint is managed by the director of the department where the complaint is happening? To give you an example, if the Forest department, there's someone in the Forest department, files an EEO complaint to the EEO director, then the EEO director is subjected to supervision by the director. Is that correct? The chief?

Ms. LAGO. The chief, that is correct.

Mrs. LAWRENCE. Is that normal for all Federal agencies?

Mr. LEONARD. Can you repeat the question one more time, please?

Mrs. LAWRENCE. So you're telling me that the EEO director—so anyone that files an EEO complaint in the Forest department to the EEO director, that EEO director is now subjected to supervision by the chief of that department?

Mr. LEONARD. I think the 18 agencies, Forest Service being one of them.

Mrs. LAWRENCE. Yes.

Mr. LEONARD. On the informal side, they are—they control that informal process. But the minute that you file formal, you come to our office.

Mrs. LAWRENCE. Right, and I understand that.

Mr. LEONARD. As an EEO investigator, I know that you do. So the minute we intake the case, we do the investigation of the case. So no, the Forest Service——

Mrs. LAWRENCE. And who do you report to?

Mr. LEONARD. Secretary Vilsack.

Mrs. LAWRENCE. What department?

Mr. LEONARD. Office of the Assistant Secretary for Civil Rights.

Mrs. LAWRENCE. Okay.

Mr. LEONARD. So we take it out of the department's hands and we process the case so they won't do their own investigation. That actually changed——

Mrs. LAWRENCE. What is the percentage of these cases that were filed informally that went formal in the Forestry department?

Ms. LAGO. About 50 percent. About 50 percent.

Mrs. LAWRENCE. About 50 percent. So about 50 percent of them are managed through the actual head of the department, the chief?

Ms. LAGO. No. No. They're resolved——

Mrs. LAWRENCE. They're resolved, right.

Ms. LAGO. —at the informal stage.

Mrs. LAWRENCE. I have another question. Ms. Lago, you stated that it's better now, in your opinion. Am I interpreting that right? That now the allegations and the concerns in 2013 no longer exist and that it's better.

Are you stating on the record that the serious issues with discrimination are in the past and that currently your department, the Forest department is now not in the same place?

Ms. LAGO. What I am saying is we've improved over the last 5 years. We've improved both from the standpoint of holding people accountable for misconduct as well as reducing incidences of workplace discrimination. And that's borne out, in my opinion, by the declines in complaints based on gender, the declines in complaints based on sexual harassment, and the declines in actual findings of discrimination.

Mrs. LAWRENCE. Mr. Chair, I know that my time has expired. I just want to close with this: It's unfortunate that we have to have hearings on this in 2016.

I'm a fierce fighter when it comes to having a work environment that does not discriminate, does not sexually harass. And as a Federal agency, sitting on this oversight committee, I will be continuously and I will start monitoring the number of cases that are being filed. And I'm going to hold you at your word that it is improving. We would like zero tolerance; that's the objective. But it must continue. Thank you so much.

Ms. LAGO. Thank you.

Chairman CHAFFETZ. I thank the gentlewoman.

We'll now recognize the gentleman from California, Mr. Lieu.

Mr. LIEU. Thank you. And thank you, Mr. Chair and Ranking Member Cummings for calling this important hearing. And thank you, Ms. Donnelly and Ms. Rice, for your courage in testifying.

I'd like to drill down a little bit deeper on the workplace environment assessment. About a year ago—and this is directed at Ms. Lago—as you know, a consulting firm produced a workplace environment assessment report for the Forest Service's Pacific Southwest Region. Just over a thousand employees responded to their survey. And while the survey found that the majority of participants surveyed were relatively satisfied with their workplace environment, the survey also found, and I quote, “women were consistently less favorable than men on all aspects of workplace environment.”

Based on this report, have you assessed why women are less satisfied with their work environment in the Pacific Southwest Region?

Ms. LAGO. Well, we've taken several followup actions as a result of that survey and that report. First of all, we disseminated the report to all the employees and held discussion groups about the findings. We have created a position in the regional office that is an ombudsman for the work environment who is a person people in the field can go to directly to elevate issues. We've created civil rights and OGC partnership teams that go out to forests and do trainings, listening sessions on civil rights, and in particular, to help people understand retaliation, what their rights are with regard to retaliation, et cetera.

Mr. LIEU. Okay. And I apologize if this was already asked before, but I'm just going to ask it again. The survey also found that fear of retaliation is a concern for a substantial percentage of your employees in the region, and if you could elaborate on whether the steps you have taken you believe have mitigated that?

Ms. LAGO. Right. I did, but I'd be happy to repeat.

So, in our experience, fear of retaliation is a problem. And the problem is that, because it's a perception, it's hard to validate. It suppresses people, and so people don't take action. And so what we've been developing are courses, and trainings and—the last part of my last answer—discussion groups around perceptions of retaliation, how to give people more comfort and confidence to bring up issues when they fear retaliation.

Mr. LIEU. Has this survey been administered in other regions?

Ms. LAGO. Not specifically. There was a similar survey—not by this organization—for our law enforcement branch, and there is a climate assessment underway in our Washington office research branch.

Mr. LIEU. Do you believe other regions should also be given this survey?

Ms. LAGO. Well, I think it's a great idea for any region. Yes, I do.

Mr. LIEU. And is there a way you can help make that happen so that other regions are also given the survey?

Ms. LAGO. Yes, I can do that.

Mr. LIEU. Great. Thank you. With that, I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I'd like to ask unanimous consent to enter the following documents into the record: A statement by Dr. Leda Kobziar, president of the Association for Fire Ecology; a statement of Melissa Moore of the United States Forest Service; and a May 18, 2015 letter from

the Office of Special Counsel to the USDA. Without objection, so ordered.

Chairman CHAFFETZ. We're trying to get a video. I think that we may have it.

So let's now recognize the gentleman from Maryland, Mr. Cummings.

Mr. CUMMINGS. Ms. Lago, there has been a lot of back-and forth about your knowledge of Ms. Rice's case. I want to be fair to you today, and so I'm going to play the clips of your testimony from today's hearing. I want you to take a look at this.

[video shown.]

Mr. CUMMINGS. Now, that clip, we heard you say that you did know that her investigation had been shared with district rangers. You said you did not. Is that right?

Ms. LAGO. That is correct.

Mr. CUMMINGS. I can't hear you.

Ms. LAGO. That is correct.

Mr. CUMMINGS. Well, this is why I'm confused. You said you read the article that we referred to in Huffington Post?

Ms. LAGO. I read it when it came out, yes.

Mr. CUMMINGS. And that was in March of 2016, right?

Ms. LAGO. Correct.

Mr. CUMMINGS. Well, the Huffington Post article, and this is a quote from that article. It says, In—and I quote, in 2012, at the district ranger's request, Rice's supervisor called an all-hands meeting, called an all-hands meeting. Rice was certain that Beckett would be on the agenda. She begged not to have to attend, but said she was required to show up. Rice's former supervisor couldn't verify this, but said that the meeting was handled insensitively: "Nobody took into consideration that maybe she was still feeling like the target in the case."

Now, this is the onethat got me. This is continuing the quote. "The situation with Beckett was discussed in front of at least 50 colleagues; Rice walked out in tears. 'I think that was the worst thing that ever happened to me,' she said." That's the end of quote.

So did you or didn't you know about the rangers, because I'm confused?

Ms. LAGO. So what I'm attempting to say is I heard Ms. Rice say her investigative report was shared with rangers. What I imagine that means is the transcript was passed out to district rangers. Maybe I misinterpreted. I am sorry, I apologize, but that's what was a surprise to me.

Mr. CUMMINGS. So you did know that her testimony, that the district rangers knew about it? I mean they knew about her case and the facts of it. That's what I meant to say.

Ms. LAGO. Yes, I do.

Mr. CUMMINGS. All right. That's all. Thank you.

Chairman CHAFFETZ. I will now recognize myself.

I'm glad we're having this hearing and I think you're seeing and feeling the bipartisan frustration. And we're not going to let go of this. You haven't dealt with it appropriately. You've had years to deal with it.

Here's the vicious cycle, and I see this above and beyond just the Forest Service, quite frankly, but here's the vicious cycle. In most

cases women, but it happens to men as well, there is some sort of inappropriate behavior to outright rape. It is so difficult, I can't even imagine. I mean, Mr. Cummings talked about this. I can't even imagine having to go through this, let alone trying to recount it, let alone trying to document it, and how brave and how courageous people have to be like Ms. Rice to come forward and do that. I can't even imagine.

But when that does happen, here's where I see the—and we see this repetitive behavior, and it's a total failing of the system. That should be reported to law enforcement and oftentimes it is, because it's a crime. And law enforcement will look at it and say, well, you know what, the government can take care of this itself. And so rather than treating it and prosecuting it as a crime, it's given back to the departments and agencies.

Then the department and agency will go and sit, as in this case, and have coffee with this person and say, you know, the case against you is getting a little tougher, why don't you go and take all of your benefits, all of your retirement, and why don't you just retire, wink-wink. And they're allowed to just walk out the door unscathed.

Now, part of this is on Congress. We're going to have to have some civil service reform. Let's be honest with what Ms. Lago is saying, because this isn't the first time we've heard this. We've heard this at the EPA from the administrator herself. We've heard this from other departments and agencies. There comes a time where they have to be able to fire somebody and they can't just let them off the hook and simply retire. I mean, we heard these ridiculous cases over the last several years where they shouldn't get the full benefit if they are proven, if they go through the adjudication process and they can just simply walk away.

That's where I hope we do come together in a bipartisan way and break this vicious cycle where these predators can just prey predominantly on women and have no repercussions. We heard the one testimony where we have—

Mr. LYNCH. Mr. Chairman.

Chairman CHAFFETZ. Yes, Mr. Lynch.

Mr. LYNCH. Just on that point, I think the evidence in this case, and the testimony in this case, has shown that management didn't even explore Title V and the recourse available to them to remove these people who should have been removed. So the law is there. It shouldn't be easy to just fire people for any reason, but for good cause, you can use the law. And, you know, I'm a former labor attorney.

You have the ability to fire these people; you just chose not to do it. It was either by malfeasance or nonfeasance. Choose whatever course you want. But you had the right to fire these people; you just did not. It may have been because you weren't paying attention, you didn't believe the allegations; but you had the right to fire these people and you should have, but you didn't.

But I agree that there—you know, we've got to make sure that legal counsel in these departments understand that we will not put up with this crap, really. This is unconscionable.

We all have daughters go to work every single day. Do you think we want to see this go on at a workplace like this where we have,

you know, hundreds of complaints about sexual harassment. Fire these people, or if you refuse to then you need to be removed. That's the bottom line.

I yield back.

Chairman CHAFFETZ. I thank the gentleman.

So the other thing—and we addressed some legislation to this effect, but we can't have these predators simply bounce from one job to the next.

Now, it seems to me that in this particular case, Mr. Beckett, right, is his name, it's a small community, they knew what was going on here. To go back and hire him and then subsequently bring him in as a motivational speaker, I can't think of anything more offensive.

And you have to take a good hard deep look in the mirror and figure out what in the world the Department of Agriculture is going to do to make sure that never ever ever happens again. You could go down to Office Max or Best Buy and get a piece of software off the shelf and create a little database and say, this is the do not hire/do not interact list. You can do that for about 50 bucks, okay?

I don't want to hear about any more excuses. And I don't want the Department of Agriculture—why don't they blaze the trail? Why don't they, you know—let's actually have them lead in this area rather than deal with this for 40 years. I don't ever want to have to call you up here again, but I do want to know that you're leading the way. But you're not going to prove that until you actually do it.

You know, it's—we hear too many people say, oh, my stats are good and I did 100 percent within the timeframe and everything that, but the evidence shows to the contrary. So that's what I hope we do accomplish.

Lastly, as we gavel down here, particularly to Ms. Rice, thank you for the bravery that you've shown to be here and do this. This is not a dream come true testifying before Congress. But I hope you do know how inspirational you are to a lot of women and you represent a lot of voices that are quiet and silent, and they're watching on their computer, TV. And I hope when you go back and, you know, visit with your husband that there's satisfaction in that. It's helpful to us, and we want to be part of that solution and I know you do too.

And, Ms. Donnelly, thank you for well for your leadership on this.

Mr. CUMMINGS. Mr. Chairman, would you just reiterate what I said about making sure they are protected, because I want to make it clear that we're on the same page.

Chairman CHAFFETZ. There is no daylight between what Mr. Cummings is saying and what I'm saying, as the chairman of this committee too. On behalf of all of the members, we will go to the end of the earth to protect you and the other women that have gone through this, but don't be bashful in picking up that phone and letting us know. It will be answered and we will respond.

And to those in management and in other positions, I'm telling you what, we will use every power we possibly can from this pulpit to make sure that they are treated with dignity and never have to

go through that again in any way, shape or form. You will see more subpoenas and more hearings than you can possibly imagine if we hear one thing about any sort of reprisal in any way, shape or form. I can't say that strongly enough.

It's been a good hearing. I appreciate the four of you taking time and testifying today.

The last thing, Mr. Leonard, within 2 weeks—2 weeks—I expect that Mr. Cummings' letter, the letter that we jointly did gets responded in its totality. Two weeks.

The committee stands adjourned.

[Whereupon, at 11:30 a.m., the committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Statement of Congressman Gerald E. Connolly (VA-11)
 Committee on Oversight and Government Reform
*Examining Sexual Harassment and Gender Discrimination at the U.S. Department of
 Agriculture*
 December 1, 2016

Mr. Chairman, thank you for holding this hearing to examine the deplorable cases of sexual harassment and gender discrimination at the U.S. Department of Agriculture. It is deeply troubling to learn of the hostile work culture and rampant misconduct that has taken place within the U.S. Forest Service. Women fear retaliation while working alongside counterparts who are not held accountable for their mistreatment. Discriminatory treatment of women is reprehensible and unacceptable anywhere, particularly in a federal government workplace, which should set an example for the country and lead from the front on fostering safe and equitable workplaces.

In addition to the mistreatment of women at the Forest Service, there are also claims of mismanagement in the Office of the Assistant Secretary for Civil Rights (OASCR) and its handling of Equal Employment Opportunity (EEO) complaints. The *Washington Post* recently told the story of Heidi Turpen, who filed an EEO complaint with the OASCR alleging that her male colleagues routinely propositioned her for sex and told her women did not belong at her station in the Sequoia National Forest. As a result of her report, she was banned from the employee gym and the daily harassment only worsened. Unwilling to deal with the hostile environment, Ms. Turpen quit her job after the end of the fire season.

As someone who worked to fund and support a large suburban fire department as Chairman of the Fairfax County Board of Supervisors and advocate on behalf of occupational protections for firefighters while serving in Congress, my concern about inequitable gender treatment comes from a place of deep respect and familiarity with the firefighting profession. These are men and women who are putting their lives on the line in the interest of public safety, and we should be concerned if that mission is hindered by a hostile workplace.

In April of this year, Fairfax County lost Nicole Mittendorff, a brave and devoted firefighter. Although it is not known why the young woman decided to take her life, it later surfaced that lewd and harassing comments had been made about Ms. Mittendorff in a popular online forum, by her male colleagues. The culture in which Ms. Mittendorff worked held that women should not be on the hose lines or driving the fire apparatus. William MetCalf, the former president of the International Association of Fire Chiefs, wrote in a 2014 open letter to the organization's membership that, "in a surprisingly large number of fire departments . . . it's OK to harass and physically assault women and minorities — even rape women — in our fire stations."

Women who fight fires for the federal government make up only 12 percent of the wildfire suppression positions at the Forest Service and because they often feel isolated and abused, it is a challenge to retain them. Firefighting is among the country's least diverse professions with women making up just 6 percent of nation's firefighters. In the private sector, 1 in 3 women report being sexually harassed at the workplace. The most recent national report on women in firefighting was conducted in 2008 by a national women's firefighting organization. In the

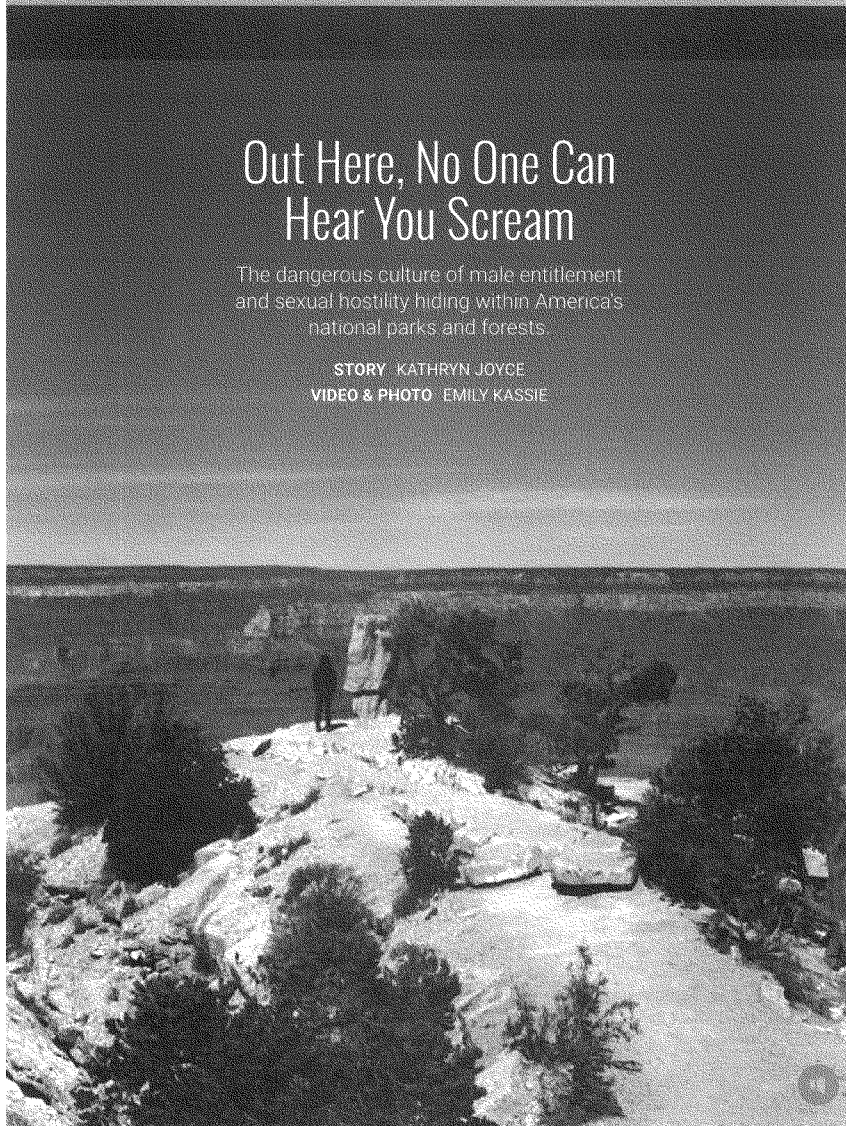
alarming survey, it found that 85 percent of women working in the firefighting profession reported being treated differently because of their gender, 65 percent said their department had no procedure for addressing discrimination, and 30 percent reported unwanted sexual advances.

While the U.S. Forest Service is not unique in its disparate treatment of women in the workplace, it is a federal agency that Congress can address quickly and directly. The federal government should promote the fair and equitable treatment of all employees regardless of gender, and we should follow the example of fire departments successfully implementing best practices to combat sexual harassment and gender discrimination.

Out Here, No One Can Hear You Scream

The dangerous culture of male entitlement
and sexual hostility hiding within America's
national parks and forests.

STORY KATHRYN JOYCE
VIDEO & PHOTO EMILY KASSIE



On an early Friday morning in late June 2006, Cheyenne Szydlo, a 33-year-old Arizona wildlife biologist with fiery red hair, drove to the Grand Canyon's South Rim to meet the river guide who would be taking her along the 280 miles of the Colorado River that coursed a mile below. She was excited. Everyone in her field wanted to work at the Grand Canyon, and after several years of unsuccessful applications, Szydlo had recently been offered a seasonal position in one of the National Park Service's science divisions. She'd quit another job in order to accept, certain her chance wouldn't come again.

The Grand Canyon is a mecca of biological diversity, home to species that grow nowhere else on earth. But after a dam was built upstream 60 years ago, changes in the Colorado's flow have enabled the rise of invasive species and displaced numerous forms of wildlife. Szydlo's task was to hunt for the Southwestern willow flycatcher, a tiny endangered songbird that historically had nested on the river but hadn't been seen in three years. Her supervisor believed the bird was locally extinct, but Szydlo was determined to find it. The June expedition—a nine-day journey through the canyon on a 20-foot motorboat operated by a boatman named Dave Loeffler—would be her last chance that summer. When Szydlo asked a coworker what Loeffler was like, the reply was cryptic: "You'll see."

Szydlo, who'd studied marine biology in Australia and coral reefs in French Polynesia, was drawn to the adventurous nature of the work. "From my earliest memories," she told me, "there was never any place that felt safer or happier to me than the outdoors." On the morning of the trip, she arrived at the boat shop early. She assumed they'd leave at once, to make the most of the day. Instead, she said, Loeffler took her to a coworker's house, and for an hour and a half, she sat uncomfortably as Loeffler told his friend about the battery-powered blender he'd packed to make "the best margaritas on the river."

They set out from Lees Ferry in Marble Canyon, the otherworldly antechamber to "the Grand." From there, the river winds through towering, striated red cliffs and



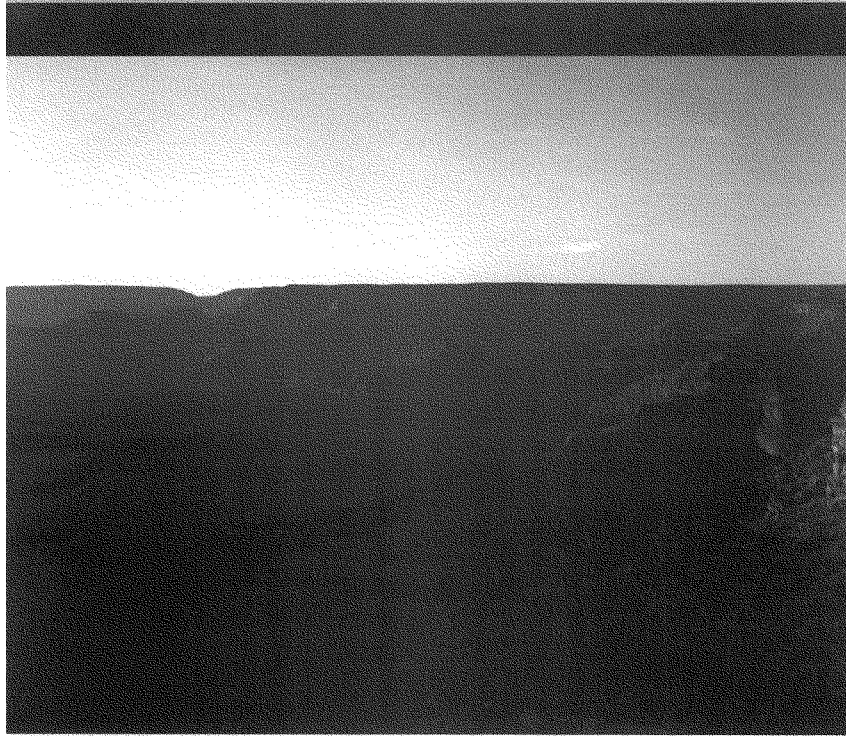
disconnection almost total—a moonscape beyond cell phone reception. For many people, it's a spiritual experience.

It's also an intimate one. Travelers eat and sleep together, and, due to the lack of cover, must often bathe and go to the bathroom in full view, using portable metal ammo cans outfitted with toilet seats. Commercial river guides often say that no one can claim their privacy on the river, so fellow passengers should offer it instead.

In Szydlo's recounting of the trip, Loeffler didn't adhere to this code. When she bent to move provisions or tie up the boat, he commented on a logo on the back of her utility skirt. He asked frank questions about her sex life and referred to Szydlo as "hot sexy biologist." That June, the temperatures at the bottom of the canyon reached 109 degrees, and when Szydlo scorched her skin on a metal storage box, Loeffler said she had a hot ass. He adjusted her bra strap when it slipped and, one chilly night, invited her to sleep in the boat with him if she was cold. When they stopped to take a picture at a particularly scenic spot, he suggested that she pose naked. He told her that another female Park Services staffer would be hiking in to meet them at the halfway point, and that he hoped they would have "a three-way." Szydlo told me she laughed uncomfortably and spoke often of her boyfriend and their plans to get married.

By the third day of the trip, it seemed to Szydlo that Loeffler was getting increasingly frustrated. They stopped at a confluence where the Colorado meets a tributary and forms a short tumble of rapids gentle enough for boaters to swim through with a life jacket. Szydlo pulled on her preserver, but Loeffler insisted she didn't need one. When she entered the river without it, the water sucked her under. She somersaulted through the rapids "like I was in a washing machine," she recalled. She thought she was going to drown. Then the rapids spat her out into a calm, shallow pool. She came up gasping and choking to the sound of Loeffler's laughter, and thought to herself, "I'm in deep shit."





We're used to hearing stories of sexual harassment in the Army, the Navy, or within the police force; 25 years after the Tailhook scandal, when scores of Marine and Naval officers allegedly sexually assaulted some 83 women and seven men at a military convention, there's a general cultural understanding of what women face in traditionally male-dominated public institutions. The agencies that protect America's natural heritage enjoy a reputation for a certain benign progressivism—but some of them have their own troubling history of hostility toward women.



wardens were women. In 2014, in California, female employees of the U.S. Forest Service filed a class-action lawsuit—the fourth in 35 years—over what they described as an egregious, long-standing culture of sexual harassment, disparity in hiring and promotion, and retaliation against those who complained. (That lawsuit is still pending.) And this January, the Department of the Interior’s Office of Inspector General announced that it had “found evidence of a long-term pattern of sexual harassment and hostile work environment” in the Grand Canyon’s River District, a part of the Park Service.

Ever since the U.S. created institutions to protect its wilderness, those agencies have been bound up with a particular image of masculinity. The first park rangers in the U.S. were former cavalrymen, assigned to protect preserves like Yellowstone and Yosemite from poachers and fire. The public quickly became enamored by these rugged, solitary figures. In the early 1900s, as the Park Service was created, a new breed emerged: naturalists who endeavored to teach the public the principles of conservation. As the historian Polly Welts Kaufman has written, the earlier generation of rangers resented the intrusion of “pansy-pickers” and “butterfly chasers.” Also controversial was the presence of a small number of women at the agency. Male naturalists worried that their job would be seen as effeminate, instead of, as one put it, “the embodiment of Kit Carson, Daniel Boone, the Texas Rangers, and General Pershing.” In the 1930s and ‘40s the ranks were mostly filled by returning veterans attracted by the ranger corps’ quasi-military culture. Until 1978, female rangers weren’t permitted to wear the same uniform or even the same badge as the men, but instead wore skirts modeled on stewardesses’ uniforms.





Park ranger or Pan Am stewardess?
(National Park Service)



Enid Michael, a park ranger in the
1920s, overdressed for her dance
with a bear. (National Park Service.)

The other major institution tasked with preserving and managing the American wilderness, the Forest Service, developed on a similar trajectory. Although the Forest Service comes under the direction of the Department of Agriculture (while the Park Service falls under the DOI), its employees perform similar work and its culture is also modeled along military lines. By the 1970s, women held only 2 percent of full-time professional roles in the service nationwide. In California—whose lands are the crown jewel of the national forest system—female employees filed a class-action lawsuit known as *Bernardi v. Madigan*. The case was settled in 1981 with a court-enforced “consent decree” that required the Forest Service’s California region to employ as many women as the civilian workforce—at least 43 percent in every pay grade. The decision ultimately saw hundreds of “Bernardi women” enter the service, to the disgruntlement of many male employees.

Lesla Donnelly is a former Forest Service administrator who worked for the agency from 1978 to 2002. In 1994, she filed a complaint charging that three of her male colleagues were harassing her. After word spread (incorrectly) that she planned to file a class-action lawsuit, she received dozens of calls. She heard from women who claimed they were being threatened with physical and sexual assault, and women who said they’d been punished for making complaints. One said the men on her crew joked about raping her in her sleep and had tied her blood-stained underwear to the antenna of their fire truck. Two women told her that a notice in their office about the Bernardi consent decree had been defaced with a scrawled reference to the “cuntsent



Eventually, Donnelly compiled claims from 50 women, and in 1995 she filed a class-action suit against the Forest Service, including declarations from many of the woman who had reached out to her. The agency negotiated a settlement that allowed for continued court oversight of California's Forest Service. But when the monitoring period ended in 2006, the old problems soon resurfaced, as Donnelly would describe in testimony to Congress two years later. One dispatcher reported that she'd been sexually assaulted and stalked by a manager. He was made to resign, but after six months the Forest Service tried to work with him again. In 2008, a male supervisor at the same forest said that he hated a black female employee and wanted to shoot subordinates he hated. When the employee reported the comment, the district ranger told her to ignore him.

This year, I met Donnelly, who is 58, in El Dorado Hills, outside Sacramento. Now the vice president of the USDA Coalition of Minority Employees, a civil rights group, she has the demeanor of a friendly bulldog. She told me that nearly every year for the last 15 years, she has traveled to Washington, D.C., to lobby the USDA, Congress, and the White House to protect women in the service. She managed to enlist the help of representatives Jackie Speier of California, Peter DeFazio of Oregon and Raúl Grijalva of Arizona, who in 2014 petitioned the USDA to investigate, without success. Each time Donnelly comes to D.C., she added, she brings details of 20 to 25 new allegations. But while her fight against the Forest Service has persisted for more than two decades, in the Grand Canyon, similar questions about the treatment of women have only started to surface.





“On the river, the boatman is god,” Cheyenne Szydlo told me. In the Grand Canyon, river guides enjoy an almost exalted status, revered for their ability to “read water.” Boatmen have almost total responsibility for their passengers—they keep the food and determine when and where to sleep, explore, or go to the bathroom. They also control the satellite phone, the only means of contact with the outside world. But within the Park Service, boatmen were more important still. Men like Dave Loeffler guided visiting officials or VIPs on adventures within the canyon, undertook rescue missions, and were featured in travel stories in newspapers and magazines. They “made it seem [to park management] like the river



In the early 2000s, three men turned the boat shop into a small fiefdom. There were the “two Daves”—Loeffler and his supervisor, Dave Desrosiers—and Bryan Edwards, the boat shop manager. In addition to this small core of permanent staffers, the park periodically hired intermittent boatmen. One, Dan Hall, worked in the canyon during this period and was friendly with the trio. Hall is garrulous and not remotely prudish. “I have offended people I’ve worked with,” he told me. “I do my best to apologize and not let it happen again But with the Daves, it had this very dark side to it.” He remembered the three talking about who could sleep with the most women on the river. “They were always on the make,” he said. In a written response sent via Facebook, Edwards said that “no competition ever existed.”

Rafting on the Colorado has always had a bit of a party vibe, and that attitude held for Park Service trips, too. Boats sometimes carried a large quantity of alcohol. Participants sometimes hooked up. But during the early 2000s, Hall told me, it seemed short-lived river affairs were almost expected of female employees. According to one former employee, veteran female staffers warned new hires to make sure they set up tents with a friend rather than sleeping on the boats, as the boatmen usually did. Sometimes, Hall said, boatmen would lobby supervisors to send women from completely unrelated park divisions—an attractive new hire at the entry booth, for instance—on trips. Often, though, the targets were from science divisions that required river access, such as vegetation and wildlife.

The field leader of the vegetation program from 2002 to 2005, Kate Watters, said that she complained to her supervisor about the boatmen’s behavior. In October 2005, an expedition was planned to see if the two groups could overcome their difficulties. The trip was led by Bryan Edwards. Participants included Watters, who was married to Dan Hall at the time, and her new intern, a biologist I’ll call Anne.

**“I did flash a camera below her skirt as she stood next to me,”
Edwards said. “It was intended for shock value only.”**



wings and a dress—was in the camp’s kitchen area, when Edwards—dressed as a pirate—came up behind her. He grabbed the camera she’d left on the table. “The next thing I knew, his hand was between my legs,” she said. Then Edwards shot a picture up her skirt.

Watters observed aloud that Edwards’ behavior was unacceptable. Loeffler, who was attired as “a hillbilly axe murderer” and carrying a real axe, demanded that Watters talk it out with Edwards instead of filing a report. She recalled that he bellowed at her, axe in hand, “Fuck you, Kate Watters. You can’t have control over people’s jobs.” Loeffler told me that he was unable to answer questions since he is still a park employee. Edwards wrote in his response, “I did flash a camera below her skirt as she stood next to me. It was intended for shock value only” as Anne had been drinking, he explained.

Watters said that in a meeting after her return with Edwards and Desrosiers’ boss, Edwards glared at her and cleaned his nails with a 6-inch buck knife. (Edwards called this description “entirely false.”) In 2006, he received a 30-day suspension over the incident, after which he resigned. Edwards confirmed this to me, but wrote in another message, “I suspect nearly everything you have been told is at least either ‘misrepresentation’ or outright lie.” He felt that he had done “a lot of good in my 12 yrs in Grand Canyon,” he went on. “Because of my abilities, I did things people dreamed about doing but simply could not on that River and dealt with their envy and accusations constantly.” Edwards added, “But as the joke goes: ‘... ach, you fuck one sheep!’”

Following Edwards’ resignation, relations between the boat shop and vegetation devolved into a cold war. On trips, according to multiple sources, some of the boatmen withheld food or avoided taking volunteers to work sites. Watters complained to the director of the science division and to regional Park Service authorities. After getting nowhere, she quit in frustration and Anne eventually assumed her place. According to Anne and Hall, Loeffler later showed up at a campsite where Anne was working to harangue her about Edwards. He and Desrosiers made it so difficult for her to schedule trips that sometimes she had to use a helicopter, at great expense. These acts of sabotage “became an art form for the two



Edwards' name written on the base in Sharpie. The implication was clear: Edwards had been martyred.

It was around the time of Edwards' departure that Szydlo took her boat trip with Loeffler. After the scare in the rapids, she said, the uneasy balance between them shifted. Szydlo stopped laughing at his come-ons. Loeffler would sleep in late and then tell her they didn't have time to visit her next work site. "This person was in complete control of everything I needed to survive," she said. "I was terrified." She began to formulate a plan to get out of the canyon if she needed to. "Even if there were trails to take, which in most places there were not, they'd land me in the middle of nowhere, in the desert, up on the rim," she said. "I didn't have enough food or water to attempt that." She could try to hike out on the Bright Angel Trail when they reached the halfway point at Phantom Ranch. But doing so would mean missing the nesting sites on the lower half of the river--and, she feared, abandoning any hope of being hired back next season.



Cheyenne Szydlo.



every beach. Finally, in the middle of a channel, she heard the motor go quiet. Loeffler came up behind her, grabbed her shoulders and asked her to describe her sexual fantasies so he could act them out.

"I broke down crying," Szydlo said. "Saying, 'Get off me, stop harassing me.' As soon as I used the word 'harassment,' he was like, 'Whoa, stop. I don't know what you're talking about.'" He revved the engine and sped to Phantom Ranch. For the last five days, she said, they barely spoke, and at meals, Loeffler gave her minuscule portions. After she returned, she emailed her then-boyfriend and told him what had happened. Szydlo worried for months about whether she should file a report. When she finally contacted an HR representative almost six months later, she said, she received a brief response informing her she'd need dates, times and witnesses in order to pursue a complaint. She let it drop, not wanting to start a "huge, ugly fight." Much as she suspected, other women in similar situations have discovered that taking formal action can bring on its own host of problems.





The Eldorado National Forest is a mountainous expanse of nearly 1,000 square miles that stretches from east of Sacramento to the crest of the Sierra Nevada. Denice Rice has worked here for 15 years as a firefighter—on engines and fire crews and as a prevention officer. These days, she likes to operate by herself, driving a truck with a small reserve of water through the hundreds of miles of back roads that cut into the Eldorado. She is often the first on the scene at a fire, helping direct in crews of “hot shots,” the firefighting elite who clear the tree line. On slower days, she might serve as “Smokey’s wrangler,” accompanying the unlucky staffer who has to don the sweaty mascot costume and make safety presentations to kids.



who exudes a no-bullshit air of competence, prided herself on her toughness. When I visited her at her home in January, she drove to meet me on a four-wheeler, flanked by two bulldogs. “When you work in fire, you have to have a really thick skin,” she said.

Around 2008, Rice was a captain being groomed for promotion when she was befriended by her boss' boss, a division chief named Mike Beckett. After about a year, their interactions took on a different tone. By Rice's account, Beckett would describe sexual dreams he'd had about her and comment on her body. When they texted about work, he responded with crass double entendres. He cornered her in the office, followed her into the bathroom, and tried to touch her or lift her shirt. She said he groped or touched her inappropriately at least 20 times.

Even when she was out in the field, Rice felt as if there was no escape. Sometimes Beckett would wait late for her to return to the office. He took to radioing in to ask her location and seemed to monitor the line for word of her whereabouts: He'd appear, unannounced, when she was in some remote location—say, a tower lookout high in the Sierras. “He was paying a lot of attention to an employee three to four pay grades below him, which is uncommon,” recalled Rice's former direct supervisor, who still works at the Forest Service. “He was constantly going around me.”

It became so uncomfortable that Rice stopped calling in her location—a significant safety risk. Eventually, Beckett arranged for her to be moved out of the office she shared with a colleague and into a room on her own. It was more of a storage area, recalled the former supervisor, tucked in the back of the building. During this time, her oversight duties were stripped from her one by one, Rice later said in a signed affidavit, and the former supervisor confirmed in an interview. (Beckett declined to answer any questions, and the Forest Service said it couldn't comment on specific allegations.)

Still, Rice was reluctant to take formal action. She didn't want to be “one of those women,” she explained. “You don't cry in front of the guys, you don't show weakness in front of them. And you don't file. You just don't file. You suck up and deal.” But one day in 2011, she said, after three years of harassment, Beckett came into her



phone call from Rice “that scared me to death. She was highly emotional and beside herself.” He told a senior forest manager that he was prepared to alert the police—and “then everybody and his brother got involved in this mess.”



Denice Rice.

In the ensuing investigation, some 30 of Rice’s and Beckett’s colleagues were interviewed about humiliating details that Rice hadn’t even confided to her husband. “Everybody knew that he took me in the bathroom, tried to take my clothes off, things that he would say to me: ‘I want to watch you pee.’ They all knew,” she said. “And I still work with these people.” Rice said she got sick from the stress. The supervisor added that once, after he went to check on Rice, Beckett threatened him with disciplinary action.

In 2012, at the district ranger’s request, Rice’s supervisor called an all-hands meeting. Rice was certain that Beckett would be on the agenda. She begged not to have to attend, but said she was required to show up. (Rice’s former supervisor couldn’t



situation with Beckett was discussed in front of at least 50 colleagues; Rice walked out in tears. "I think that was the worst thing that ever happened to me," she said.

When we spoke, Rice was jumpy and broke down several times. "I can't go anywhere without wondering, 'Do people know who I am?'" she said. One male firefighter who has worked with Rice for five years told me, "It changed her whole life. People know Denice's story on the forest, so she has this cloud around her. I've seen it for four years. I see Denice 'trigger' all the time: in classroom settings, out in the woods."

Ultimately, the ranger in charge of the investigation recommended that Beckett should be fired. But Beckett retired before any action could be taken. Meanwhile, Rice's career has effectively stalled. The firefighter who worked with Rice requested anonymity, explaining, "If the powers that be tie me to her in any way, I'll never promote here again."

Rice's ordeal wasn't unique. Lesa Donnelly said that in her capacity as an advocate, she has been contacted by scores of women in the service in California who allege they've been punished for pursuing sexual harassment complaints. One 22-year-old forestry technician filed a claim, and, several days afterwards, was visited by officials who searched only her side of the barracks with a drug dog. According to a subsequent complaint she lodged with the Forest Service, her roommate told her that one official had remarked, "You guys must have pissed someone off." The woman left the service soon afterwards.

Elisa Lopez-Crowder, a 34-year-old Navy veteran, was hired as a firefighter in 2010. She ran 45-pound sections of hose into the forest and cleared live trees to create fuel breaks. In her first months on the Eldorado, she said, an assistant captain asked her whether she'd been a "bitch" or a "slut" in the Navy, and whether her skin was really that color or just dirty. One day while she was clearing brush, she claimed, he hoisted her by her line gear and threw her to the ground; according to a male coworker's account, he held her down with his foot. The coworker intervened, and later joined her to report the matter to their captain.



jokingly placed my foot on her pack.") While an investigation was still underway, he was assigned to the same work sites as Lopez-Crowder. About a year later, she traveled with Donnelly and other Forest Service women to bring their concerns to USDA Secretary Tom Vilsack in Washington, D.C. Lopez-Crowder said Vilsack apologized and assured her that the assistant captain had been removed from his position; it fell to Lopez-Crowder to tell the secretary that he was still on the Forest Service payroll. A short time later, the assistant captain left the force. Lopez-Crowder transferred out of the firefighting division anyway, fearing that she had become a target. "In the years I served in the military," she said, "I never encountered such discrimination and harassment as I have working for the U.S. Forest Service."

Alicia Dabney, a mother of three who lives on the Tule River Indian reservation, became a firefighter, like her father and uncles before her, at the age of 26 in the Sequoia National Forest. According to Equal Employment Opportunity complaints she filed in 2011 and 2012, Dabney claimed that coworkers made disparaging remarks about her Latina and Comanche heritage and joked about sexually assaulting women. She said a male supervisor instructed her and another female firefighter to tell him when they began menstruating. At a training academy, other participants left lewd sexual propositions on her voicemail. One day she arrived at work to find the floor of the engine house strewn with printouts that read "Alicia Dabney The Whore." (She provided a photo of the printouts.)





| Alicia Dabney.

Some of the harassment was physical. Once, a male coworker jumped on her neck, “riding me like a big horse,” she recalled. On an assignment in Texas, she said, a supervisor put her in a chokehold and threw her on his hotel bed. A USDA investigation substantiated the first of those incidents but denied that there had been a “pattern of harassment.” In 2012, Dabney was informed that the Forest Service was initiating her termination, claiming she had omitted part of her criminal record—a misdemeanor vandalism charge—and failed to disclose federal debt on her application. (Dabney maintains that she disclosed both.) In 2013, Dabney left and signed a settlement agreement with the Forest Service.

In 2011, the USDA put the Forest Service into temporary receivership for its failure to adequately respond to sexual harassment claims. For the next year, all EEO complaints were handled by the secretary’s office in Washington. Tom Tidwell, the chief of the Forest Service, explained in an email to staff that the change would allow the agency “to better process a series of EEO complaints within the Forest Service that, frankly, we have not handled well.”





In the Canyon's River District, the problems had continued unabated since Cheyenne Szydlo's 2006 trip. Certain boatmen were repeatedly accused of harassing or assaulting women in strikingly similar scenarios. One young boatman covered his Park Service boat hatch with pictures of topless women and boasted to coworkers, including Dan Hall, about a side gig recruiting college women for Girls Gone Wild-style videos. Hall said that half a dozen intermittent boatmen who, like him, objected to the boat shop's culture, found themselves blacklisted from river assignments. And even in the rare cases when management did take swift action, the targets weren't always the people you'd expect.



her to pull to the shore, away from their group, and announced that he was going to take a bath. Then, she said, he removed all of his clothes and invited Kearney to join him in the water. When Kearney asked if they could leave, he put on his life jacket and climbed back on the boat naked. He “stood there with his penis completely exposed,” Kearney later wrote in a detailed letter to park leadership. “I stated to Harris, ‘Do not get on this boat until you put your clothes on.’ He stated to me that he needed to dry his clothes out. I said, ‘No, do not get on this boat without your clothes.’ He finally put on a pair of long underwear pants.” Harris confirmed to me that he climbed onto the front of the boat naked: “I just wanted to sit in the sun and dry out,” he said. However, he said he thought he had permission from Kearney to bathe and didn’t ask her to join him.

Upon Kearney’s return, she said she told a supervisor about the incident. The supervisor, she alleged, joked that they “used to not call it sexual harassment until the guy whipped out his penis and slapped you across the face with it.” Kearney didn’t take the matter further.

The next year, on another trip, a biologist I’ll call Lynn said Harris repeatedly asked her to sleep in his tent when hers started leaking during a rainstorm. After she refused, he set up his tent directly next to hers. Harris told me that he only asked Lynn to join him in his tent once, and hadn’t meant the invitation as a come-on. “It wasn’t to have sex,” Harris said. “I think I said something like ‘We could snuggle and that’s all.’”

Lynn said she emailed her supervisor about the episode. After a third female employee filed an EEO complaint about his behavior in 2013, Harris resigned. Lynn’s complaint was supposed to be confidential, but she noticed that boatmen she’d been friendly with began to act coldly toward her. And matters only escalated from there.

The supervisor, Kearney alleged, joked that they “used to not call it sexual harassment until the guy whipped out his penis” 

In February 2014, Dave Loeffler led a joint Park Service-private sector trip. Both Anne and Lynn were apprehensive about being on the river with him. At one point, Lynn said, a passenger inquired about a boatman who'd been let go and Loeffler ranted about "complainers" who had ruined boatmen's lives. The following day, as the group approached a campsite, Lynn was standing in the bow of her boat when Loeffler pulled her out roughly by her life jacket—a shocking breach of river norms. Anne came up to Lynn on the beach to find her concealing tears behind her sunglasses. Lynn wanted to leave, but at that point there was no way for her to hike out.

On the last night, the party celebrated with dinner and drinks. A woman who worked for a private boat company produced a novelty penis-shaped straw she'd received at a bachelorette party and dropped it in a colleague's drink. People laughed and passed the straw around. At one point, Lynn was holding it when Loeffler tried to take her picture. Then, someone put on music. It was an eclectic playlist, and people danced accordingly: interpretive dance, head-banging, two-stepping. A hip-hop song came on, and the group started talking about twerking. Lynn gave a comically awkward demonstration in her heavy canvas Carhartt pants, puffy down jacket and rubber boots.

Two days later, Anne and Lynn were called into the offices of upper management and informed that they'd been accused of sexual misconduct. In written statements, Loeffler and two of his friends claimed that Anne and Lynn had shoved the penis straw in Loeffler's face, danced provocatively in short skirts, and, as one complainant put it, behaved "coquettishly" throughout the trip. "I felt I needed to remove myself from this increasingly hostile work environment," Loeffler wrote in his statement. "They were being so rude and inappropriate to myself and others." According to notes from the manager assigned to look into the situation, Loeffler said he wanted Anne and Lynn to be "treated similarly" to other employees accused of harassment—that is, with the Park Service deciding not to renew their contracts.



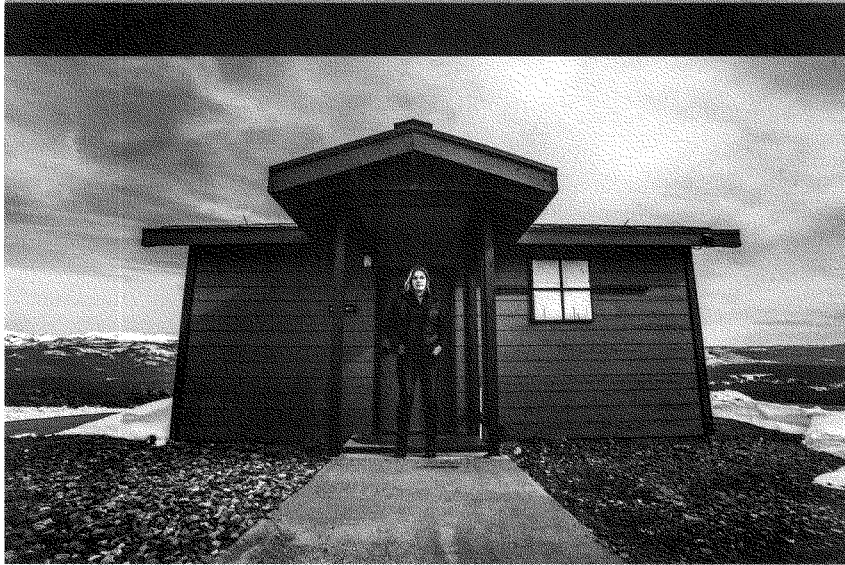
investigation, although both Superintendent David Uberuaga and Deputy Superintendent Diane Chalfant would later acknowledge in an official report that it may not have been thorough enough. In particular, the investigators weren't made aware of the history between Anne, Lynn and the boatmen.

In a meeting, Lynn said Chalfant told her that Loeffler's charges couldn't be retaliatory, since Lynn's previous sexual harassment complaint was confidential. Both Lynn and Anne were informed that their contracts would not be renewed. In Lynn's termination letter, Chalfant wrote, "We cannot afford to have team members in our employment who are not on board with management's expectations and requirements."

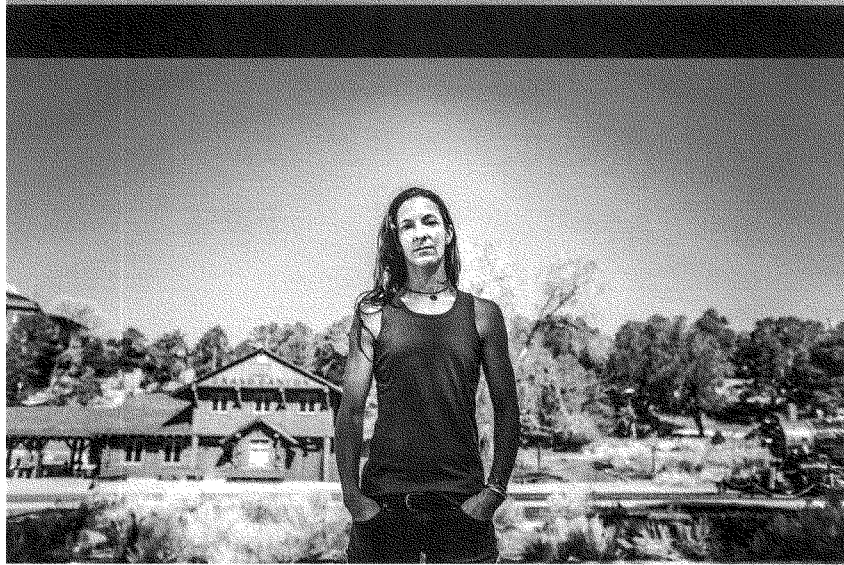
"What happened to [Lynn] was the most horrifying thing I'd ever seen," said Chelly Kearney, who had made her own efforts to draw attention to the treatment of women on the river. About a year after she resigned in 2012, she wrote a 29-page letter to Grand Canyon Chief Ranger Bill Wright documenting multiple instances of harassment, assault and retaliation and describing a culture that protected male harassers while allowing victims to be targeted for retaliation. The Park Service requested a formal EEO investigation, but the final report was never distributed beyond the uppermost level of park management and no disciplinary actions were taken.

Following Lynn and Anne's dismissals, Kearney tried again. She forwarded her letter to Uberuaga, writing that she had witnessed a "disturbing and pervasive level of hatred" toward Anne and her boss and that Anne should be protected by federal whistle-blower laws. She received a brief response from Uberuaga thanking her for her concern.









| Clockwise from top: Denice Rice, Cheyenne Szydlo, and Alicia Dabney.

Some former park employees now ruefully refer to the fateful party as “The Night on Cock-Straw Beach,” and the incident became an unlikely rallying point. Hall sent around an email asking a core group of former park employees and colleagues in private rafting companies to gather names of other women who’d been harassed or run out of the River District. With Donnelly’s help, 12 women and Hall wrote to Secretary of the Interior Sally Jewell, requesting a formal investigation into the “pervasive culture of discrimination, retaliation, and a sexually hostile work environment” in the River District.

Where Donnelly had tried for decades to get federal authorities to intervene more decisively in the Forest Service, the DOI responded quickly. In October, its Office of Inspector General launched an investigation that grew from the 13 initial complainants to include multiple interviews with more than 80 people. Their final report would identify 22 additional victims or witnesses. It included accounts of



Anne and Lynn, and several allegations involving a boatman that a former employee identified as Mike Harris.

The women's complaints, the investigators said, were "extremely credible." The investigators also determined that Chalfant, the deputy superintendent, had allowed the complaint letter signed by the 12 women and Hall to make its way to some of the accused boatmen, in violation of policy. In an interview, the lead investigator, Greg Gransback, criticized the park's handling of the accusations against Anne and Lynn. "If you compare what had happened to these two in the past and what they were accused of, I mean there's just no comparison. It's apples and oranges," he said. "The park got it wrong where they went overboard."

In a February response to the investigation, the Park Service's Intermountain Region didn't contest any of the details in the report, and admitted that, in many instances, appropriate action hadn't been taken. In the OIG report two boatmen whose actions are clearly consistent with those of Loeffler and Desrosiers deny all allegations made against them. (I was unable to reach Desrosiers directly despite contacting the Park Service, former colleagues, and two family members.) Boatman 3—whom a former employee identified as Loeffler—told the OIG that he "acknowledged making sexual remarks to women, but said that he did so only when he sensed a 'mutual attraction.'" James Doyle, the communications chief for the Intermountain Region, said he couldn't discuss individual allegations against employees and added, "We maintain a zero tolerance for sexual harassment and hostile workplace environment."

During the year and a half that the investigation was underway, the park made some changes. After Bill Wright transferred out of the district, his role was filled by a woman. The policy for staff boat trips was revised. There would be no alcohol permitted and an outside supervisor would be required on all expeditions. Dave Desrosiers retired in May 2015. According to its response to the OIG, the Park is introducing a detailed plan to improve its sexual harassment policies, and considering disciplinary action against managers who mishandled complaints. All employees are now required to wear "standard uniforms" on river trips.



when 12 Army officers were charged with assaulting female trainees. Still, Gransback told me that even he and his seasoned colleagues teared up when they heard Grand Canyon women describe the fine line they had to walk to do their jobs, “between not being hated and not being desired.”


In the Tailhook case, he noted, the accused military members had developed a “Top Gun” mentality, believing they were too important to be taken down. He observed the same dynamic at work among the boatmen. “They became almost untouchable,” he said. But the military, Gransback pointed out, has made “drastic changes,” including evidence-based sexual harassment and assault prevention programs. So far, neither the Park or Forest Service has proposed anything so extensive. (Since June 2015, the Forest Service’s California region has strengthened its protocols for sexual harassment training and reporting, a spokesperson said.)

In my conversations with the women, they expressed great pride in their strength. For years, they had performed dangerous, physically demanding jobs. Many of them had faced life-threatening situations. All of them had operated within environments in which women had very little room for error. The harassment they described had not only brought about personal humiliation or the loss of a job or even a career. It had shaken their entire perception of themselves—as tough and resilient, able to handle anything that man or nature could throw at them.

They lost other things, too. After her boat trip with Loeffler, Cheyenne Syzdlo found herself avoiding the river. “When I’d hear people talk about how much they loved river trips, I’d be like, ‘Oh God, I hated them, I hated them,’” she told me. Then, in the course of our conversations, she came across an email she’d written to a friend after her second time in the Grand Canyon, before she’d ever met Dave Loeffler.

In her message, Syzdlo described the thrill of riding huge rapids in the bow of an inflatable boat. She remembered how even the most experienced guides would pause and become tense, studying the water before steering them in. She recalled the night her group camped on a sliver of beach when a thunderstorm suddenly erupted, sending loose boulders tumbling down the sheer cliff face. She and her colleagues had huddled in their tents and contemplated the possibility that they might die, and then,



change everything. It was magical," she told me. "It's so primitive and you feel so free. You never experience that in life." She'd forgotten about it for nearly a decade, but that morning on the river, she hadn't wanted to leave. 

CREDITS

This article was reported in partnership with The Investigative Fund at The Nation Institute.

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Kathryn Joyce is the author of *The Child Catchers: Rescue, Trafficking and the New Gospel of Adoption*. Her work has appeared in *Pacific Standard*, *The New Republic*, *Slate*, *Mother Jones* and many others.



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Gladeye is a New Zealand-based digital design agency.



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Promoting Fire Ecology Research, Education, and Management

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STATEMENT OF DR. LEDA KOBZIAR,
PRESIDENT, ASSOCIATION FOR FIRE ECOLOGY,
SUBMITTED FOR THE FULL HOUSE COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
HEARING ON EXAMINING SEXUAL HARASSMENT AND GENDER DISCRIMINATION
AT THE US DEPARTMENT OF AGRICULTURE,
DECEMBER 1, 2016, 9:00 AM

Chairman Chaffetz, Ranking Member Cummings, and members of the committee, thank you for inviting the Association for Fire Ecology (AFE) to submit testimony on the important topic of sexual harassment and gender discrimination in wildland fire management. Because of concerns regarding the prevalence of this issue, and in recognition of the paucity of quantitative data, AFE composed and distributed a survey on this topic during the spring and summer of 2015, the results of which we report here. As the President of the Association for Fire Ecology, I feel it is my duty to advocate for the diverse membership of our professional association, which represents thousands of wildland fire professionals from across the country. Our mission to enhance wildland fire management through science and education is threatened when federal work environments are complacent about sexual harassment and gender discrimination: this complacency negatively impacts an employee's participation and discourages potential employees from joining the workforce. A culture of complacency prevents effective communication and knowledge exchange, which are critical to solving complex problems in natural resource management. In some cases, such a culture directly limits scientists and managers from safely doing their jobs. We strongly encourage this Committee to encourage the US Department of Agriculture to adopt proactive policies and practices to ensure that employees experiencing sex- or gender-based discrimination have consistent and comprehensive access to meaningful solutions.

While the AFE survey concentrated on instances of sexual harassment and gender discrimination in wildland fire management, such instances are unfortunately part of a broader pattern that occurs globally in other vocations as well as outside of the workplace. For example, within the general workplace population in the US, 40-75% of women and 13-31% of men have reported being sexually harassed.

Our survey confirmed that sexual harassment and gender discrimination are prevalent in wildland fire management. Of 342 respondents, 81% lived in the United States at the time they responded and 45% worked for a Federal Agency. Of the respondents, 32% reported observing

incidents of sexual harassment in the workplace while 24% reported having experienced it. Additionally, 54% reported observing gender discrimination of others in the workplace and 44% reported personally experiencing discrimination. Instances of gender discrimination and sexual harassment were widely varied, ranging from comments (such as, “The engine captain had me ride alone with him and spoke in great detail about my breasts”), to lack of inclusion of women in discussions regarding strategy and tactics, to sexual assault.

In our survey of wildland fire professionals, the majority of respondents who experienced sexual harassment (64%) and gender discrimination (60%) did not report it. Factors that inhibited reporting included: fear of job loss (especially for temporary or seasonal employees), fear of retribution or retaliation, being viewed as a victim or as overly sensitive, belief that the harasser would not be penalized, lack of knowledge regarding rights, and limited accessibility to external supports (e.g., mental health or legal counseling services). Results of our survey indicated that those who reported being sexually harassed were supported by their manager 58% of the time and by their organization 53% of the time, but rarely by external entities or legal intervention. Those who reported gender discrimination and requested support reported receiving support less often than those who reported sexual harassment. In these cases, managers were supportive only 28% of the time, and organizations were supportive only 25% of the time. Some respondents indicated that gender discrimination was difficult to prove or was so entrenched in the culture that “nobody will give [it] credence.”

Respondents in our wildland fire workforce survey indicated that they cope with sexual harassment and gender discrimination by: 1) trying to ignore the issue or avoid the perpetrator; 2) resigning (sometimes with negative repercussions for career); 3) working harder and focusing on goals; 4) feeling depressed, bitter, isolated, angry, stressed, or anxious (with at least one respondent reporting a mental health breakdown); 5) reaching out to colleagues (especially female colleagues) for advice; 6) speaking directly to the offender; 7) seeking assistance with mental health support; 8) engaging in meditation, yoga, or prayer; 9) using legal intervention; and 10) engaging in substance abuse. Research indicates that the gravest psychological outcomes tend to occur when harassment is perpetrated by a supervisor, when it involves sexual coercion, occurs cross-racially, takes place over a long period of time, or occurs in a male-dominated setting, such as wildland fire management.

Given the results of AFE’s survey, it is apparent that reporting of cases of sexual harassment and gender discrimination needs to be increased, as the majority of those who experienced it did not report it. This will require dismantling of the culture of non-reporting due to fear of reprisals or suggestions that the target is somehow responsible for her or his

harassment or discrimination. Perpetrators need to realize that failure to attenuate behavior will have real and negative consequences, and these consequences must be institutionalized as well as embraced in a new culture of inclusion.

A model recently implemented in Canada may provide a template for the wildland fire fighting community. A 2015 study conducted by an external reviewer to the Canadian Armed Forces (CAF) found that the cultural value and functional necessity of maintaining the chain of command in the Forces contributed to stifling of incident reporting, lack of awareness on the part of senior leaders, and subsequent inability of senior leadership to act effectively. This same study

noted that “dismissive responses” regarding sexual harassment and gender discrimination were present within leadership, and would no longer be tolerated. In direct response to this report, in September 2015, the CAF created an external Sexual Misconduct Reporting Centre, which removed the initial reporting for sexual harassment and discrimination from the chain of command. It is staffed with professionals who are familiar with the working systems of the CAF and who offer counseling, and can liaise with other local, national, and emergency resources as well as assist in navigating the reporting system within the CAF.

The Association for Fire Ecology recommends that wildfire agencies might benefit from establishing external reporting centers similar to the CAF in Canada, following the emerging best practices, in order to: 1) facilitate reporting and protect reporting individuals from retaliation or retribution, and 2) provide much-needed support to victims. Having such an external center reduces the considerable stigma and personal cost often incurred by those reporting sexual harassment or gender discrimination within the chain of command. These centers could still be affiliated within the structure of the organization, in line with the CAF model, but not be within the chain of command or supervisory reporting structure.

Workplace leadership also needs to address significant failures in creating a harassment- and discrimination-free workplace, in which those responsible for harassment or discrimination are held accountable for their actions by those in supervisory or leadership positions. Increased training at all levels, with regard to unacceptable behavior and what processes and policies are in place for reporting and support, will also assist in changing cultural perceptions. Accountability must be perpetuated via the fomenting of a zero-tolerance culture through education, training, and serious repercussions for misconduct.

As proponents of the power of education to create change, AFE also recommends that the National Wildfire Coordinating Group develop modules to be embedded into existing Incident Command System leadership training courses. Content for these modules can come from any number of existing courses on the subject area in use by other command-and-control type environments such as structural fire, police, or the military. The wildland fire management community can take a leadership role by delivering training that will educate personnel on acceptable and unacceptable behavior, policy, process, and consequences.

This proactive approach, underscored by appropriate reactions to misconduct, will help to prevent incidents before they occur and help leaders to deal with incidents that do occur in a responsible and timely manner.

We have attached an AFE report and infographic with more complete information on the results of our survey.

AFE thanks the Committee for devoting its time and attention to resolving this important matter.

Sincerely,



Leda Kobziar, President
Association for Fire Ecology

On the evening of November 8th, 2015, at approximately 2300, while on an assignment with the National Wildland Firefighter Apprentice Program, I was standing at the bar at the Lion's Gate refilling my water and closing my tab. I had been sharing a table with WFAP staff, observing the Apprentice and Americorps students. I was not intoxicated, and was the most modestly dressed woman in the bar. As I was leaning on the bar waiting for service, a man (later determined to be an Apprentice, [REDACTED]) came up behind me, groped my buttocks and vagina, leaned over me, and said "What's up, baby?" I immediately felt threatened and surprised, and was thrown into a full blown PTSD reaction stemming from previous sexual assault experiences. I panicked, turned around, and asked him who he was, and clearly stated that he had no business touching me. He stated that he thought I was somebody else. I returned to my table, found [REDACTED], the acting Duty Officer, and told him what had happened. I asked him to accompany me to talk with the perpetrator. We confronted [REDACTED], and he was apologetic. At this point, I still had not realized he was a student, and was not thinking clearly. I remained at the establishment, and engaged in a conversation with an Apprentice I had attended Engine Academy earlier in the spring with. I told him about what had just happened, thinking [REDACTED] was a random member of the public. When I pointed [REDACTED] out, I was informed that he was one of our students. I went back up to [REDACTED], and told him that I was the Logistics Coordinator for his Academy, and reiterated the despicable nature of his behavior. At that point, another student who was quite inebriated tried to get involved. At this point, I removed myself from the situation, and left the establishment in the company of [REDACTED] and [REDACTED].

This incident was mishandled from the beginning. The behavior that Mr. [REDACTED] demonstrated is by California Law considered sexual assault. Law Enforcement should have been called right away. I was in the midst of a severe physiological stress reaction, and did not have the presence of mind to request law enforcement, and no one else present considered that as the necessary course of action. After leaving the Lion's Gate, I was left to manage my PTSD reaction alone. I could not sleep, and could not stop crying.

The following day was Academy Graduation. This is a one day planned event with type 3 complexity. As Logistics Coordinator, Graduation is a huge undertaking, which requires a high level of engagement and coordination. I showed up to the training Center the next morning, and told my superiors [REDACTED] and [REDACTED] what had happened. They assured me they would find the perpetrator, and handle the situation. I dove into the task at hand, which was to coordinate graduation. There was difficulty and confusion in locating the perpetrator. Once he was found, notifications were made, and he was sent home. I was assured everything was handled. I continued with my day. Once graduation was over, I had a complete mental and emotional breakdown. The stress of the previous night and day debilitated me that evening.

In hindsight, I see the second failure in the way this situation was handled. Once I reported the incident, my superiors should have relieved me of my responsibility and insisted that documenting and reporting the incident was now my priority. I had a trainee, and should not have had to continue fulfilling Coordinator duties that day.

On November 20, 2015 I reported to duty fully exhausted. I had been working 10-12 hr shifts in a high paced environment for 5 weeks. I had just endured a full blown PTSD reaction prior to coordinating Graduation, which was a highly stressful event on its own. I was at the end of my rope, and managing all of the tasks necessary to close out the Academy for the season. The Program Manager at

the time, [REDACTED] came into the logistics office and asked me to type my statement. It took 45 minutes to write 3 paragraphs in a crowded office, due to the constant questions I had to field, and guidance I had to provide.

I wrote my 3 paragraph statement under the duress of multiple causal factors. I wrote my statement under the assumption that I would have an opportunity to speak with someone in more detail about the incident. At the time, I was embarrassed to write that while he grabbed my buttocks, he also made contact with the rear portion of my vagina. I was really hoping to be able to convey the events verbally, and I was never afforded this opportunity.

Upon leaving the Academy, I was assured that the situation had been handled, and that Mr. [REDACTED] would be removed from his position. In hindsight, I realize that while my managers were hopeful of this outcome, they were speaking out of place. This was another failure.

I didn't hear anything more about the incident until December, when I missed a call from a Region 5 Civil Rights representative. Upon hearing her voicemail, I returned her call and expressed that I was looking forward to speaking to her. I never heard anything else about it. I figured no news is good news, and left it at that. I assumed that Mr. [REDACTED] had been removed from his position once he substantiated his actions.

On October 20, 2016 I was back at the Academy, coordinating once again. We had brought [REDACTED] and some other Civil Rights representatives in to speak with the Crew Bosses. Since they were in house, I figured this would be a great opportunity to follow up on the outcome of the incident from last fall. I caught the Region 5 Apprentice Coordinator in the hall, and asked if he knew what ended up happening with Mr. [REDACTED]. I was informed that, to [REDACTED] knowledge, the determined outcome was a 7 day suspension. This information deeply upset me. Following the Crew Boss briefing, I approached the Civil Rights ladies, and asked them about the incident's outcome. They informed me that all they could tell me was that the behavior was substantiated, and nothing else. I then stated: "So you're telling me I could still run into this man on an incident?" At this time people began coming back into the class room. I started to feel myself getting upset, and ended the conversation. Upon returning home that night, I began to imagine running into my perpetrator while on an incident. I imagined him doing this to other women. I began to feel unsafe. Once again, I relived that night, and all the other nights that I have been victimized by sexual predators. Again, I had a PTSD reaction while having to show up for work the next day.

When I returned to work on the 21st of October, I composed an email to [REDACTED] and [REDACTED], outlying my concerns in regards to the Agency's resolution, and asked to have a private audience when they returned for Orientation the following Sunday.

My concern is not with revenge. My concern is the message that we are sending to the perpetrators and victims who are employees of this Agency. We are effectively saying that it is acceptable to demonstrate sexually predatory behavior, and still be an employee of the USDA Forest Service. We are also telling the employees who are on the receiving end of this behavior that they need to anticipate PTSD reactions and facing their perpetrator throughout their career. The Agency is telling us that they are NOT concerned with our safety, wellbeing, and mental/emotional health, and that they will not protect us.

Following orientation, I caught [REDACTED], [REDACTED], and the other women, and asked if they had seen my email. They said yes. I asked if we could have a closed door meeting, and if we could revisit this issue. [REDACTED] said she "wasn't sure what needed to be revisited." We went into the learning library. I shared my experience with the incident and how it has affected me. I shared my concerns about what we are saying to our employees by essentially condoning this action. I shared that I did not feel that the Agency was providing a safe work environment for myself, and my brothers and sisters. I shared that I was disappointed that I never had an opportunity to verbally convey my side of the story, while my perpetrator did have that opportunity. I shared how deeply disappointed and disheartened I was by how the situation had been handled by the Agency. Following my statements, [REDACTED] addressed me. She shared that she too had experienced sexual assault in her life, and the subsequent affects. I will paraphrase, but in essence, stated that "There is nothing else that can be done, stop acting like a victim, don't give him power or control, if you run into him keep your head held high, and let us know" There were 3 other women in the room who witnessed this statement: [REDACTED], [REDACTED], and [REDACTED]

Following [REDACTED] advice, I realized that she had completely missed the point I was trying to make, and basically said: you're on your own, deal with it. While I'm sure this wasn't the intent, that's the message I got. I felt myself becoming infuriated, and ended the meeting.

This incident is a demonstration of the pervasive misogyny that is imbedded in our organization. The outcome is a demonstration of the Agency's acceptance of this behavior. This acceptance is precisely why these incidents continue to occur. Following these incidents, the Agency will not even dignify victims with the knowledge of whether or not they will have to face their perpetrators again in the work place. This is one of the reasons we are unable to retain women in the upper echelons of Fire Management.

I am not seeking revenge or restitution. I am simply asking the Agency to appropriately respond to these incidents. I am asking the Agency to revisit the nexus of discipline, and to consider a simple solution: If an individual displays sexually predatory behavior which is substantiated, they are NOT fit to be a federal employee. I'm asking the Agency to provide a safe work environment for myself and my brothers and sisters.

The entire foundation upon which I have built my 13 year career with the Forest Service has been shaken. I no longer feel like the Agency that I have sacrificed so much for, that I have risked my life for, and shouldered the burden of other people's lives for, cares for me as I care for my employees. I don't feel advocated for. I don't feel valued. I don't feel safe. As USDA employees, we should never have to worry about facing our perpetrators at work once their behavior has been substantiated. We shouldn't feel scared to come forward to report. We should know resoundingly, as USDA employees that sexually predatory behavior is unacceptable by law, and Agency policy, and is grounds for immediate removal.

Melissa Moore 11/16/16



U.S. OFFICE OF SPECIAL COUNSEL
 1730 M Street, N.W., Suite 300
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The Special Counsel

May 18, 2015

The President
 The White House
 Washington, D.C. 20510

Re: OSC File Nos. DI-14-2558, DI-14-4627, and DI-15-0001

Dear Mr. President:

Pursuant to my duties as Special Counsel, enclosed please find the U.S. Department of Agriculture's (USDA) report based on disclosures of wrongdoing at the Office of the Assistant Secretary for Civil Rights (OASCR), Washington, D.C. The Office of Special Counsel (OSC) has reviewed the report and, in accordance with 5 U.S.C. §1213(e), provides the following summary of the allegations and our findings.

Three USDA OASCR employees, Gayle Petersen, the former branch chief of the Corporate Services Division (CSD), Nadine Chatman, a CSD program manager, and Lawrence Albert, an early resolution specialist, alleged that OASCR managers engaged in conduct that may constitute a violation of law, rule, or regulation; gross mismanagement; and an abuse of authority. The whistleblowers alleged that OASCR managers did not take timely action on Equal Employment Opportunity (EEO) civil rights complaints filed against high level USDA officials, that the organizational structure of OASCR violated EEO management directives and USDA regulations, and that senior OASCR managers directed the intentional deletion of EEO complaints filed against USDA senior management.

The agency substantiated these allegations in part, concluding that almost 50 percent of civil rights complaints filed against high level USDA officials were not acted on within the legally required time frame. The report further substantiated that OASCR's use of contractors to process complaints filed against high level USDA officials violated USDA regulations. However, the investigation did not reveal any evidence indicating that these complaints were intentionally delayed or deleted by OASCR managers. In response to these findings, the agency has reduced complaint processing times and is working to implement case review processes that do not violate regulations.

I have reviewed the agency's reports and the whistleblowers' comments and determined that the agency's findings are partially unreasonable. While the agency implemented reasonable corrective actions that appear to resolve the identified

The Special Counsel

The President
May 18, 2015
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wrongdoing moving forward, these actions do not provide redress for already aggrieved employees. The agency should consider reviewing cases to determine whether harm resulted from delays, and how affected individuals could be made whole. Further, the reports demonstrate that OASCR has been seriously mismanaged, thereby compromising the civil rights of USDA employees.

The whistleblowers' allegations were referred to Secretary Thomas J. Vilsack to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). Secretary Vilsack referred the allegations to the USDA Office of the Inspector General (OIG). On November 18, 2014, Secretary Vilsack submitted the agency's report to OSC. OSC determined that this report was not responsive to the statutory requirements of 5 U.S.C. § 1213(d) and requested a supplemental report. Secretary Vilsack submitted a supplemental report on February 2, 2015. Pursuant to 5 U.S.C. § 1213(e)(1), Ms. Petersen and Ms. Chatman provided comments on the agency report on March 23, 2015. Mr. Albert declined to file comments. As required by 5 U.S.C. § 1213(e)(3), I am now transmitting the reports and the whistleblowers' comments to you.¹

I. The Whistleblowers' Disclosures

OASCR is responsible for ensuring compliance with federal civil rights laws including Title VI and VII of the Civil Rights Act of 1964. OASCR also serves as a secure channel for individuals to file EEO complaints against the agency. CSD is a unit within OASCR and is responsible for reviewing EEO complaints filed against USDA officials to determine whether conflicts of interest exist. Conflicts occur when EEO complaints are filed against department-level management, an employee of the Office of the Secretary, or an employee of other civil rights offices within USDA.

Failure to Act on EEO Complaints

Under EEO regulations, an agency must conduct an impartial and appropriate investigation into an EEO complaint within 180 days of filing, unless an extension is agreed upon by the claimant and agency. *See* 29 CFR § 1614.108. If this deadline is not met, the agency is subject to sanctions, such as attorney's fees or default judgments. *See* 29 CFR § 1614.109(f)(3).

¹ The Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety. 5 U.S.C. § 1213(a) and (b). OSC does not have the authority to investigate a whistleblower's disclosure; rather, if the Special Counsel determines that there is a substantial likelihood that one of the aforementioned conditions exists, she is required to advise the appropriate agency head of her determination, and the agency head is required to conduct an investigation of the allegations and submit a written report. 5 U.S.C. § 1213(c). Upon receipt, the Special Counsel reviews the agency report to determine whether it contains all of the information required by statute and that the findings of the head of the agency appear to be reasonable. 5 U.S.C. § 1213(e)(2). The Special Counsel will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete based upon the facts in the disclosure, the agency report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

The Special Counsel

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The whistleblowers discovered a number of EEO complaints in the USDA case management system that exceeded the 180-day limit for investigation, without an agreed extension. Ms. Petersen determined that many outstanding complaints were filed against Winona Lake Scott, the associate assistant secretary for civil rights; Frederick Pfaeffle Arana, the deputy assistant secretary for civil rights; Joe Leonard Jr., the assistant secretary for civil rights; plus USDA management officials in Human Resources, Labor Relations, and the Office of General Counsel. The whistleblowers asserted that there were over 100 unresolved cases filed against these individuals, some of which were unaddressed for up to five years.

Improper Oversight of CDS

Relevant EEO directives state: “Agencies must avoid conflicts of position or conflicts of interest as well as the appearance of such conflicts” and the agency director of the EEO process “must ensure that there is no conflict or appearance of conflict of interest in the investigation of complaints.” *See* MD-110 §1 (III) and §6 (IV)(A). USDA policy states: “All employment discrimination complaints will be resolved without exposure to conflicts of position, conflicts of interest, or the appearance of such conflicts. To ensure compliance with the requirement and to maintain the integrity of the EEO complaint program, all functions related to personnel actions will be kept separate from the EEO complaint process.” *See* USDA 4300-007 §3(b)(6).

Ms. Petersen and Ms. Chatman alleged that as the acting director of CSD, Ms. Scott had access to information on all complaints filed against USDA management, including those filed against her, Mr. Leonard, and Mr. Arana. The whistleblowers alleged that Ms. Scott, by virtue of her position in CSD, had access to USDA systems containing case information and dispositions. This information includes claimants’ names, personal information, and their reasons for filing. Ms. Petersen and Ms. Chatman explained that because conflict cases reviewed in CSD involved individuals in OASCR, it was inappropriate and in violation of law and agency policy for Ms. Scott to be directly involved in the management of those complaints.

In addition, Ms. Petersen noted under OASCR processes, when complaints were identified as conflicts, they were transmitted to Innovative Management Solutions (IMS), a contract vendor tasked with providing conflict complainants with alternative dispute resolution services, EEO counseling, reports of investigation and final agency decisions. Ms. Petersen asserted that because Ms. Scott served as a USDA technical representative to IMS, she had inappropriate access to information concerning the progress of complaints filed against her and other USDA managers even when they are transferred to IMS for processing.

The Special Counsel

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Improper Destruction of Records

Ms. Petersen also alleged that a number of complaints filed against Ms. Scott and other senior USDA managers had been removed, deleted, or otherwise disappeared from the USDA complaint tracking system. Ms. Petersen explained that she and several coworkers filed discrimination complaints against USDA senior managers. When status updates were requested, no associated files were found. A subsequent review indicated that these files had been completely removed from the USDA complaint system or were closed.

According to Ms. Petersen, the deletion of these complaints violates USDA regulations requiring the appropriate preservation of agency records. *See* USDA DR 3080-001. These complaints are considered federal records, and the unauthorized removal of such records is prohibited by law and subject to penalty. *See* DR 3080-001 § 7(k)(5).

II. The Agency's Report and Supplemental Report

The report substantiated that a large number of EEO complaints had not been acted on in a timely manner. The investigation revealed that from November 2009 through September 2014, OASCR received 231 complaints filed against senior USDA managers, including thirteen filed against Ms. Scott or other OASCR officials. Overall, 112 of these complaints, including at least five filed against Ms. Scott or another OASCR official, were not investigated and reported on within the 180-day time limit established by law. The report noted that from fiscal year 2010 until fiscal year 2013, on average, eighty-one percent of complaints filed against USDA senior managers were not acted on in a timely manner. In addition, the report explained that approximately five percent of these complaints were filed against Ms. Scott or other OASCR officials. The supplemental report explained that in FY2014, OASCR made substantial changes within CSD, including instituting new standard operating procedures to emphasize processing time. The supplemental report explained that in 2014, no EEO complaints filed against USDA or OASCR managers exceeded the 180-day time limit.

The investigation substantiated OASCR's use of contractors to process conflict of interest complaints violated USDA regulations. The report contained sworn statements from Tami Trost, the assistant general counsel for Civil Rights, in which Ms. Trost asserted that based upon her interpretation of MD-110, OASCR took proper steps to avoid the appearance of a conflict of interest, by transferring cases to IMS when conflicts were presented. However, the report explained that while OASCR's use of contractors to process these complaints did not directly violate MD-110, the practice violated provisions of USDA Department Regulation DR-4300-09. This regulation requires that USDA enter into memoranda of understanding with other federal agencies to process complaints filed against the Civil Rights Director, or other senior USDA managers, rather than sending these complaints to contractors.

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Supplemental information provided by the agency explained that in response to this identified deficiency, OASCR began a comprehensive update to internal EEO complaint processing regulations, and that all current EEO complaints filed against senior USDA or OASCR leadership are being handled by an outside federal agency. The supplemental report explained that OASCR intends to finalize agreements with several federal agencies in fiscal year 2015 to ensure that this practice continues.

With respect to the allegations asserting that complaints were intentionally delayed or deleted, the report noted that the investigation did not reveal any evidence of deliberate interference with EEO complaints filed against senior USDA or OASCR managers. The report attributed complaint file anomalies to server and power failures.

III. The Whistleblowers' Comments

Ms. Petersen and Ms. Chatman objected to the content and structure of the report. Both Ms. Petersen and Ms. Chatman indicated that the investigative findings contained in the report confirmed their original allegations. However, both stated that the report featured a number of omissions and characterized it as substandard and barely adequate given the statutory requirements.

Ms. Petersen's Comments

Ms. Petersen stated that because OASCR is responsible for protecting the civil rights of USDA employees, this office should be held to a higher standard of professional conduct. She acknowledged that the report properly indicated that there were a large number of EEO complaints filed against USDA and OASCR management that were over 180 days old. She further reported that issues concerning improper conflict management processes within OASCR were confirmed. Ms. Petersen noted that under proposed revisions to MD-110, released in January 2014, OASCR's current organizational structure would constitute a conflict of interest. She objected to the investigation's finding that complaints were not improperly deleted. She stated that the testimony of important witnesses was improperly omitted from the report, and management's explanations and responses were evasive.

Ms. Chatman's Comments

Ms. Chatman likewise questioned the integrity of the EEO process administered by OASCR. She noted that an EEO report released in September 2014 indicated that the EEOC reversed and accepted 46 percent of USDA EEO complaints that had been dismissed by the agency.² She asserted that this high reversal rate coupled with the failure of OASCR to provide timely review of complaints created a chilling effect which dissuaded aggrieved USDA employees from filing complaints. Ms. Chatman further

² See: Preserving Access to the Legal System: Common Errors by Federal Agencies in Dismissing Complaints of Discrimination on Procedural Grounds September 15, 2014 <http://www.eeoc.gov/federal/reports/dismissals.cfm>

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stated that the USDA EEO complaint process was compromised by mismanagement and infighting between senior OASCR managers.

IV. The Special Counsel's Findings

I have reviewed the original disclosure, the agency reports, and the whistleblowers' comments. I have determined that the reports contain all the information required by statute. However, the agency's findings are partially unreasonable. As the whistleblowers noted, OASCR is tasked with protecting the civil rights of all USDA employees. As such, this office should set the standard not only for processing claims, but also for creating an environment free of discrimination. Rather than leading this effort, the report confirmed that OASCR has an unusually high number of complaints filed against its own leadership. In addition, almost half of these complaints were not acted on in a timely manner, and even when they were addressed within the legally mandated period, they were processed in a manner that violated agency regulations. While the report did not reveal any intentional wrongdoing, it demonstrated that OASCR has been seriously mismanaged, thereby compromising the civil rights of USDA employees.

Given the seriousness of these concerns, the corrective actions appear to only partially resolve the identified wrongdoing. While they adequately address the management and conduct of OASCR going forward, the proposed corrective actions do not provide sufficient redress for affected individuals. The agency should consider reviewing cases to determine whether harm resulted from delays and how affected individuals could be made whole. As required by 5 U.S.C. §1213(e)(3), I have sent copies of the agency reports and the whistleblowers' comments to the Senate Committee on Agriculture, Nutrition, and Forestry, and the House Committee on Agriculture. I have also filed copies of the agency reports and whistleblowers' comments in our public file, which is available at www.osc.gov. OSC has now closed this file.

Respectfully,



Carolyn N. Lerner

Enclosures