

TESTIMONY OF MARY L. KENDALL
DEPUTY INSPECTOR GENERAL, U.S. DEPARTMENT OF THE INTERIOR
BEFORE THE
HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
JUNE 14, 2016

Mr. Chairman and members of the committee, good morning. Thank you for the opportunity to testify today about a series of reports the Office of Inspector General has issued regarding misconduct and mismanagement in the National Park Service. This hearing highlights the importance of bringing into the public view the vital role of the Office of Inspector General (OIG) as an independent, objective body to investigate matters that ultimately violate public trust. Through our investigations, we lay bare misconduct on the part of Federal employees so they can be held accountable, advise those who are brave enough to bring misconduct to the attention of the OIG or other responsible officials, encourage others to do the same, make transparent the consequences of misconduct, and deter future misconduct.

As you know, the OIG has a great deal of experience uncovering ethics and other conduct violations by Interior employees and officials. For many years, we have had a specialized unit dedicated to investigating cases of ethical and other misconduct, particularly by high-ranking officials and others whose positions of trust make their misconduct particularly detrimental to the operations of the Department, the morale of its employees, and the reputation of all Federal Government employees.

When I testified recently before the House Committee on Natural Resources, Subcommittee on Investigations and Oversight, I explained that in my experience, the majority of Interior's 70,000 employees take the mission of the Department and their individual responsibilities very seriously. I remain convinced that, as a whole, those who engage in wrongdoing are in the minority.

Yet, I am continually surprised by the variations of misconduct brought to our attention. Unfortunately, misconduct by those few receives notoriety and casts a shadow over the entire Department.

That shadow looms large, especially over the National Park Service (NPS), following our recent release of OIG investigative reports, including those that substantiated sexual harassment at Grand Canyon National Park and Canaveral National Seashore; ethics violations by Director Jarvis in authoring a book without seeking approval or advice from the Department's Ethics Office; and misuse of Park housing by the Chief Ranger at Yellowstone National Park.

Our investigative report on the pattern and practice of sexual harassment at Grand Canyon National Park provided a glaring example of NPS management failing to take proper

action when employees reported wrongdoing. We continue to wait and see what action is taken against the managers who failed to act when notified of the harassment, and how NPS intends to address the issue of sexual harassment NPS-wide.

Similarly, after receiving an investigative report on the Chief Ranger of Yellowstone National Park violating the rules on the use of Park housing, the Chief Ranger was transferred to another park and named superintendent. Although I understand this was a “downgrade,” the appearance of rewarding bad behavior is not the desired outcome – nor a proper deterrent.

A recent media article raised concerns about the leadership at Cape Canaveral National Seashore. The OIG has issued four reports in four years on alleged misconduct and/or mismanagement at this park. Three of the four reports substantiated allegations against the park’s Chief Ranger, including violations of Federal procurement rules, conduct unbecoming an NPS law enforcement officer, and sexual harassment.

The Chief Ranger was disciplined for the procurement violation, but of particular concern was that in 2015, the Chief Ranger publicly disputed a media story about a former Canaveral park employee who had provided information to the OIG about allegations of improper hiring and procurement irregularities. We had substantiated those allegations and we reported our findings to Director Jarvis in 2012, but he has yet to respond to our office. To date, NPS has also taken no action to address the Chief Ranger’s unbecoming conduct.

Last week, we issued a report to the National Park Service on a pattern and practice of sexual harassment by the same Chief Ranger, who continues to serve in that position despite three substantiated allegations against him in less than 2 years. NPS has not had time to respond to this most recent report, but with three other reports in 4 years, this is a profound example of a leadership problem that NPS has failed to address at multiple levels.

Finally, the same Superintendent has been at Canaveral since 2010 and was named as a subject in our 2012 report to Director Jarvis. The employee who reported the allegations of misconduct in our 2012 report made additional allegations of reprisal that were founded by the Merit Systems Protection Board (MSPB) and resulted in a settlement with NPS. MSPB noted that the Superintendent was aware of the employee’s allegations of procurement misconduct, did nothing to address the issue, and then failed to process an administrative request made by the whistleblower as reprisal against her for contacting OIG.

Additionally, based on our report, MSPB noted that the Superintendent showed a “lack of candor” when responding to investigators and highlighted actions she took to obstruct the investigation. Yet, we have no indication that NPS has taken disciplinary action against her.

With fewer than 80 investigators, we work with constrained resources and can never detect all of the wrongdoing at Interior. We have addressed this in part by capitalizing on a culture at Interior that, for the most part, is one populated by individuals who are committed to the mission and doing the right thing. In fact, they are quick to report wrongdoing to the OIG. We were one of the first in the OIG community to create a Whistleblower Protection Program, one that is regularly referred to as a model by the Office of Special Counsel and other OIGs. Our Whistleblower Protection Program helps to advise, and thereby protect, those brave enough to shine a light on the wrongdoing they observe. In 2015 alone, the Whistleblower Protection Program has supported and protected well over 100 employees, contractors, or other individuals willing to come forward with allegations of fraud, waste, abuse, misconduct, or retaliation.

Unfortunately, not all leadership in DOI fully supports their employees contacting the OIG to report potential wrongdoing. There is a pervasive perception by many employees in some DOI bureaus that contacting the OIG to report wrongdoing places them in jeopardy of retaliation. We often learn that management makes more effort to identify the source of a complaint than to explore whether the complaint has merit. In some instances, efforts have been made to restrict the ability of employees to contact us. When we become aware of such incidents we have been able to successfully intervene; however, we seldom see corrective action taken against individuals who attempt to silence their employees or identify whistleblowers.

The Department does not do well in holding accountable those employees who engage in mismanagement and/or misconduct that violates laws, rules, and regulations. We see too few examples of senior leaders making the difficult decision to impose meaningful corrective action and hold their employees accountable. Often, management avoids discipline altogether and attempts to address misconduct by transferring the employee to other duties or to simply counsel the employee. The failure to take appropriate action is viewed by other employees as condoning misbehavior.

NPS, in particular, has a real opportunity to address employee misconduct and mismanagement more meaningfully. A pattern and practice of accountability must begin at the top. Consistent messaging by senior leadership provides a clear message of what behavior is expected. We have encouraged Department leadership to demonstrate more support for those who serve in gatekeeper roles, such as contracting officers and human resource personnel. We are aware, however, that many gatekeepers feel undue pressure from managers to “make things happen” regardless of rules and regulations. This pressure was recently detailed in our report concerning allegations that the now former Director of the NPS Denver Service Center improperly directed a contract award.

We have also encouraged the Department to consider requiring annual ethics training for all DOI employees, following the example of two of its bureaus: the Bureau of Land Management and U.S. Geological Survey. We do not make this suggestion naively. Ethics

training is not, in itself, a panacea for misconduct. But it is an action that can be taken easily, with little investment by and at little cost to the Department. Ethics awareness is the first step toward ethics compliance.

Inspectors General do not have authority to compel action within their agencies. To influence change, we rely mostly on our audits and investigations. To this end, the OIG recently implemented a policy of making public essentially all of our investigative reports, whether allegations are substantiated or not. A little more than a year ago, we were called out by the media on the relatively small number of investigations that we made public. In responding to that challenge, we realized that we were simply practicing what had been done in the past and following the practice of much of the IG community. Having nothing to hide, and, as it turns out, much to gain by making our investigative results more transparent, we reversed our policy and now publish all investigative results, unless there is a compelling reason not to do so.

To spur the Department into taking swifter and more effective action, we have also recently instituted a practice of posting the results of our administrative investigations on our website 30 days after providing the report to the Department for review and action. With a 30-day public release date, we hold the Department accountable for prompt action and provide Congress and the public with more timely notice of our investigative results.

These new practices appear to be having an impact. Working with Interior's Deputy Secretary, Chief of Staff, and Office of the Solicitor, we have witnessed an increased effort to be more responsive and decisive in their actions regarding employee wrongdoing.

We are encouraged by this at the Department level, but we would like to see the same at the bureau level—taking prompt, appropriate disciplinary action in response to OIG reports of misconduct.

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

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