



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Employee Misconduct at the U.S. Environmental Protection Agency

**Statement of Patrick Sullivan
Assistant Inspector General for Investigations**

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

April 30, 2015

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Good morning, Chairman Chaffetz, Ranking Member Cummings and members of the committee. I am Patrick Sullivan, Assistant Inspector General for Investigations for both the U.S. Environmental Protection Agency (EPA) and the U.S. Chemical Safety and Hazard Investigation Board (CSB). Thank you for inviting me to appear before you today to discuss specific Office of Inspector General (OIG) investigations of employee misconduct at the EPA. My testimony will provide an overview of several cases of EPA employees who viewed and downloaded pornography on government-issued computers, as well as two Reports of Investigations (ROIs) that detail our findings on a senior-level EPA official who exhibited inappropriate behavior toward many women over many years.

OIG Investigation of Office of Air and Radiation Employee (Employee “A”)

The EPA OIG hotline received a complaint on September 11, 2013, alleging that an EPA geologist in the Office of Air and Radiation (OAR) had downloaded more than 7,000 files (1.3 gigabytes) of potentially pornographic files onto an EPA server.

On September 18, 2013, an OIG Special Agent went to the employee’s work location to retrieve the employee’s EPA-issued computer and schedule an interview with him. As the Special Agent entered the employee’s assigned workspace, he observed the employee viewing pornography on his computer monitor. The Special Agent subsequently retrieved the employee’s EPA-issued laptop for forensic analysis.

That same day, the employee was interviewed by OIG Special Agents. The employee admitted that— for approximately 2 to 6 hours during his assigned work hours daily, over a period of “several years”—he had viewed and downloaded pornographic images on EPA computer equipment. The employee stated that much of his workday was devoted to organizing the downloaded pornography into saved folders. It was his belief that he was not doing anything wrong by accessing pornographic websites, since he was completing his required work and that other colleagues spend much of their assigned duty hours doing “personal” things rather than official EPA business.

During the course of the OIG’s investigation, the employee also stated that he had received several performance awards, which included monetary awards ranging from \$600 to \$2,000 and a time-off award of 16 hours.

On December 11, 2013, this case was presented to the U.S. Attorney's Office for the District of Columbia for criminal prosecution of 18 USC 641, theft of government funds, under the theory that the employee was claiming hours worked on his timecard and receiving pay for hours he was not doing EPA business. The U.S. Attorney's Office accepted prosecution and granted permission for the EPA to pursue administrative action concurrently. On December 17, 2013, the OIG informed the employee's supervisor that the agency could proceed with administrative action concurrent with the criminal prosecution. The employee was placed on paid administrative leave by EPA on May 9, 2014.

On June 19, 2014, as part of OIG's continued coordination with EPA regarding this investigation, the OIG provided the EPA with the employee's unredacted sworn statement and the memorandum of his interview.

Through continued coordination with the agency, OIG met with Labor Employee Relations (LER) representatives on October 3, 2014, to ensure that LER had the information needed to proceed with possible administrative action against the employee. On October 9, 2014, the OIG provided LER an electronic copy of the pornographic images found on the employee's EPA laptop, the pornographic images found on the EPA share drive, pornographic images found on the employee's thumb drives located at his desk, a computer forensic report, and reports on the employee's data usage and Internet history.

OIG investigators reviewed and analyzed the files on the employee's government-issued laptop and discovered approximately 20,000 adult pornographic files. None of these files contained images of child pornography.

On March 10, 2015, after doing extensive research into the applicability to the fact pattern of this case to 18 USC 641, theft of government funds, the U.S. Attorney's Office declined federal prosecution of the EPA employee. On March 13, 2015, the OIG provided the final summary memorandum report to EPA senior leaders. On March 24, 2015, the EPA notified the OIG that the agency had proposed removal of the employee. On April 22, 2015, the EPA notified the OIG that the employee had retired from federal service.

OIG Investigation of Office of the Administrator Employee (Employee "B")

The OIG received a complaint on May 2, 2014, alleging employee misconduct involving an EPA employee in the Office of the Administrator. Specifically, on April 24, 2014, the employee allegedly had been witnessed viewing pornography on his government laptop during work hours by a child who happened to be visiting during the EPA's "Bring Your Daughters and Sons to Work Day." The OIG immediately initiated an investigation into the violation of misuse of government time and resources.

On May 8, 2014, the employee was interviewed by OIG Special Agents. During the interview and in a sworn statement, the employee admitted that he viewed pornography at work between 1 to 4 hours per day. In addition, he stated that approximately 30 to 40 percent of the data stored on his external electronic media devices contained pornography. Approximately 3,500

pornographic images were recovered from the employee's laptop and external media. The EPA placed the employee on paid administrative leave by the EPA on May 8, 2014.

This case was presented to the U.S. Attorney's Office for the District of Columbia on May 28, 2014, for criminal prosecution of 18 USC 641, theft of government funds, under the theory that the employee was claiming hours worked on his timecard and receiving pay for hours he was not doing EPA business.

On June 19, 2014, through continued coordination with the EPA, the OIG provided LER with a memorandum of interview with sworn statement for the employee, a memorandum of interview for a witness who reported her concerns to management, and an interim forensic report. These documents were redacted to protect the identity of the witness and the child. On August 26, 2014, the final forensic report was provide to LER.

In a continued effort to coordinate with EPA, the OIG met with LER on October 3, 2014 to discuss LER's concerns with the reports already provided by the OIG and to determine what additional information LER needed to proceed with possible administrative action against the employee. On October 9, 2014, the OIG provided the additional requested information to LER in an electronic format, including copies of thumb drives, external hard drives, a laptop hard drive, forensic reports, timelines for non-work related activities and copies of pornographic images.

On March 4, 2015, the U.S. Attorney's Office formally declined this case for federal prosecution, again citing the applicability of the 18 USC 641, theft of government funds, to the facts of the case. The OIG provided on March 13, 2015, a final summary memorandum report to EPA senior leadership. On March 24, 2015, the EPA notified the OIG that the employee had been proposed for removal.

OIG Investigation of Thomas Manning

In July 2012, the OIG received information that potential child pornography was found on an EPA-Region 5 computer. An attempt had been made to erase the pornography, but during a routine service, EPA information technology personnel discovered it and notified their management who then notified the OIG.

Our investigation discovered that Thomas Manning, who was a Region 5 EPA Information Technology Specialist, was responsible for downloading the child pornography onto the computer. During our interview of Mr. Manning, he admitted to viewing child pornography on the EPA computer and attempting to erase it afterward. Our investigation also determined that Mr. Manning possessed tens of thousands of additional images of child pornography on a personal hard drive that he stored in his EPA workspace.

Mr. Manning resigned while under investigation on August 25, 2013. He later pleaded guilty in July 2014 to possession of child pornography violation of 18 USC 2252A for certain activities relating to material constituting or containing child pornography. On April 13, 2015, Mr. Manning was sentenced to 30 months in federal prison to be followed by 5 years of supervised release. He was also ordered to pay restitution to identified victims in addition to a fine of \$12,500.

OIG Investigation of Peter Jutro

On August 1, 2014, the OIG received an allegation that Peter Jutro, acting Associate Administrator for the Office of Homeland Security (OHS), from the EPA Security Management Division. The allegation stated that between July 16 and July 30, 2014, Jutro engaged in a series of interactions involving a 21-year-old female intern from the Smithsonian Institution.

The EPA presented OIG with the allegation regarding the Smithsonian Institution intern, and the OIG subsequently developed four additional allegations in this investigation.

The allegations investigated in this case are as follows:

- (1) Between July 16, 2014 and July 30, 2014, Jutro engaged in a series of interactions involving a 21-year-old female intern from the Smithsonian Institution who reported the interactions to her supervisor at the Smithsonian and indicated that she was “uncomfortable and scared” by their interactions.
- (2) From 2004 through July 2014, Jutro engaged in conduct and exchanges considered to be unwelcome by 16 additional females.
- (3) Jutro was not in compliance with building entry security procedures in the William Jefferson Clinton North facility.
- (4) Jutro discussed classified information in violation of safeguarding and access restriction requirements either in an unsecure location or in a careless manner.
- (5) A lack of due diligence by senior-level officials at the EPA in responding to earlier claims of unwelcome conduct and verbal exchanges, including some of a sexual nature, may have violated any mandate to take action, thereby resulting in additional women being subjected to inappropriate behavior by Jutro from January to July 30, 2014.

On August 4, 2014, Jutro was placed on paid administrative leave by the EPA pending the outcome of the OIG investigation. In coordination with the OIG, EPA’s Security Management Division also suspended Jutro’s top-secret clearance pending the results of the OIG investigation.

Allegation 1: Inappropriate Conduct with Smithsonian Intern

On August 4, 2014, during an interview with the OIG, Jutro provided a sworn statement regarding his interactions with the Smithsonian intern. The intern corroborated this information in a statement she provided to OIG. Jutro stated that his initial contact with the intern took place on or around July 16, 2014. Jutro confirmed that he gave the intern his business card, so that she could contact him regarding career questions. He stated that, after several failed attempts to meet, they finally met for lunch at a restaurant on July 30, 2014. Jutro stated, during lunch, that he invited the intern to his office, so they could talk where it was less noisy. Once in his office, Jutro confirmed he asked the intern what turned her on and what excited her. He explained to the OIG that he asked these questions from a career standpoint. Jutro admitted he took a photograph of the intern’s face and toes.

Contrary to what the intern stated, Jutro denied brushing up against, attempting to kiss or grabbing the intern's buttocks, but conceded that he might have put his hand on the small of her back as they walked through security. He admitted to wiping something off of the intern's face during lunch, but did not feel it was inappropriate.

Following their August 4, 2014, interview of Jutro, OIG Special Agents conducted numerous interviews of other EPA personnel and followed up on information provided by witnesses and victims. The OIG determined that, in addition to his inappropriate behavior toward the intern, from 2004 through July 2014, Jutro engaged in conduct and exchanges considered to be unwelcome with 16 additional females.

Allegation 2: Inappropriate Conduct with 16 EPA Females

Over the course of several months following the initial allegation from the intern, OIG interviews determined that 16 additional victims who described examples of Jutro's conduct toward them as unwelcome, including the following behavior: touching, hugging, kissing, photographing, and making double-entendre comments with sexual connotations. Of the 16 additional females, 13 had reported the matter(s) to their management. Of the three victims who did not report the matter(s) to their management, two were senior executives in EPA and the third did not report the matter to her management for fear of retaliation. In addition, two more females had been subjected to similar conduct and/or exchanges with Jutro, but did not consider it unwelcome. Although other potential victims were identified, the OIG's investigation ceased after the interviews of 16 additional victims and therefore not all identified victims were interviewed.

On January 8, 2015, the OIG attempted to schedule an interview with Jutro to provide him an opportunity to respond to the allegations regarding his conduct and interactions with 16 women. Jutro's attorney stated that Jutro would be willing to meet to discuss the allegations on January 12, 2015. However, on that day, his attorney contacted an OIG investigator and stated that Jutro had retired from the EPA effective immediately and therefore would not be speaking to the OIG regarding the allegations.

The EPA and OIG confirmed that Jutro, who was on paid administrative leave at the time, was still an EPA employee on January 12, 2015. The OIG informed Jutro's attorney of that fact, and attempted—with the assistance of EPA management—to compel Jutro's appearance for an interview. Jutro's attorney refused to allow the OIG access to Jutro. Jutro officially submitted his paperwork for retirement from federal service on January 12, 2015.

On January 13, 2015, Jutro amended his retirement package and requested that his retirement date be changed to January 9, 2015.

Allegation 3: Violations of Building and Security Procedures

The OIG investigation substantiated that Jutro had violated building entry security procedures when he bypassed the security checkpoint in bringing the intern into EPA headquarters and did not have her sign in as a visitor.

Allegation 4: Discussion of Classified Information

Our investigation determined that the allegation that Jutro discussed classified information in violation of federal requirements for safeguarding and restricting access to classified information was unsubstantiated. Although the investigation was able to determine that—from approximately 2004 to July 2014—Jutro repeatedly represented that he was sharing classified information in an unclassified environment, the investigation was unable to determine if, during these discussions, Jutro actually discussed classified information in an unsecure environment. However, the investigation was able to substantiate that he discussed potentially classified information in either an unsecure location or in a careless manner. Furthermore, the investigation revealed information that demonstrates Jutro is not “reliable or trustworthy,” per Executive Order 10450. Therefore, had this information been available as part of his background investigation or any future reinvestigations of Jutro’s background, it is likely he would not have been allowed to retain his clearance or the position requiring it.

Allegation 5: Lack of Due Diligence by Senior-Level EPA Officials

The OIG investigation substantiated that senior-level officials at the EPA had received information regarding multiple claims of unwelcome conduct and verbal exchanges by Jutro. The investigation further substantiated that those officials did not take any action against Jutro as a result of receiving this information about him. Subsequent to these officials receiving information about the Jutro’s actions, from January 2014 to July 30, 2014, six additional women were subjected to behavior by Jutro that they felt was inappropriate. Specifically, the former Deputy Administrator, former Associate Deputy Administrator, Chief of Staff, and the career Deputy Chief of Staff were advised prior to or immediately following Jutro’s February 2014 selection as acting Associate Administrator for OHS that he exhibited inappropriate behavior toward women. After receiving information from one of the victims and having uncomfortable interaction with Jutro herself, the former Associate Deputy Administrator reported her concerns regarding Jutro to the other senior-level officials, but none of the others took any action. On February 23, 2014, Jutro was designated the acting Associate Administrator for OHS, a position he held until he was placed on paid administrative leave on August 4, 2014.

From August 2014 until the time the OIG interviewed these senior officials (including the former Associate Deputy Administrator), the OIG had four meetings with these senior-level officials regarding Jutro and OHS issues, but none of the senior officials provided information to the OIG regarding the additional victims of which they were aware. In one case, the Deputy Chief of Staff was interviewed twice by the OIG regarding OHS and Jutro’s role with OHS, yet this senior-level official did not advise the OIG that he was aware of additional victims of Jutro’s conduct.

The OIG examined whether there was any requirement that the senior officials who were made aware of Jutro’s actions had a duty to take any specific action as a result of that knowledge, including reporting that information to OIG. In particular, the OIG examined whether their inaction violated any ethical regulations or the Inspector General Act of 1978, as amended, or breached the EPA’s anti-harassment policy. The investigation determined that there was no

affirmative duty of these senior officials to act on or report the information to OIG or anyone else.

However, the OIG's investigation was negatively impacted and delayed due to the fact that these senior officials did not notify the OIG about their knowledge of other incidents of Jutro's inappropriate behavior toward women.

This case revealed no criminal violations and was therefore investigated as a purely administrative matter. As such, no criminal declination was sought or received from the U.S. Attorney's Office. Jutro retired from federal service on January 12, 2015.

Conclusion

The OIG takes very seriously its overall responsibility for investigations into allegations of employee misconduct at the EPA. To that end, we will continue to work closely with the agency, the U.S. Department of Justice, our law enforcement partners and Congress to ensure that allegations of employee misconduct, including sexual harassment, are quickly and properly addressed. We appreciate your continued interest in the work of the OIG.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer any questions that you, the Ranking Member and the committee members may have.

Biography of Assistant Inspector General for Investigations Patrick Sullivan



Patrick Sullivan is the Assistant Inspector General for Investigations, Office of the Inspector General of the U.S. Environmental Protection Agency (EPA). He supervises the OIG's criminal investigative activities, including allegations of grant fraud, contract fraud, employee misconduct, threats directed against EPA officials and facilities, and other violations of federal law within the OIG's jurisdiction. He has more than 30 years of service in federal law enforcement with significant supervisory, administrative, intelligence, counter-terrorism and criminal investigative experience.

Prior to his appointment at the EPA-OIG, Mr. Sullivan served as a Deputy Assistant Director with the Transportation Security Administration's (TSA's) Federal Air Marshal Service. He supervised TSA's participation in the Joint Terrorism Task Force program, the Federal Air Marshals' intelligence program and the imbedding of Federal Air Marshals with the Federal Bureau of Investigation, the Central Intelligence Agency, Immigration and Customs Enforcement, and Customs and Border Protection. He also was responsible for supervising TSA's domestic and foreign law enforcement liaison activity.

Previously, Mr. Sullivan was an Assistant Director with the Government Accountability Office, Office of Special Investigations, where he worked on cases involving allegations of misconduct by high-level government officials as well as special investigations requested by congressional committees.

He spent more than 20 years in the U.S. Secret Service, where his last assignment was the worldwide supervision of counterfeiting investigations. He also was assigned to the U.S. Department of Justice, Organized Crime Strike Force, in Brooklyn, NY, where he worked cases targeting the traditional mafia crime families in New York City. Furthermore, he spent four years assigned to the Presidential Protection Division under Presidents Ronald Reagan and George H.W. Bush.

Early in his career, Mr. Sullivan worked for the FBI as an Investigative Assistant assigned to the surveillance of foreign intelligence officers engaged in suspected espionage and other intelligence activities directed against the United States.

He is a graduate of the John Jay College of Criminal Justice with a B.S. degree in Police Science and Criminal Justice. He is also a graduate of the Naval Postgraduate School, Center for Homeland Defense and Security, Executive Leadership Program and a member of the federal Senior Executive Service.