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INSPECTORS
GENERAL

Alleged Misconduct by
NASA Inspector
General





United States
General Accounting Office
Washington, D.C. 20548

Office of Special Investigations

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February 10, 1995

The Honorable John Glenn
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Carl Levin
Ranking Minority Member
Subcommittee on Oversight of Government
Management and the District of Columbia
Committee on Governmental Affairs
United States Senate

This report responds to your March 25, 1994, request that we review allegations of misconduct by the then-National Aeronautics and Space Administration (NASA) Inspector General, William Colvin.¹ The report discusses the results of our investigation concerning Mr. Colvin's (1) prenotification of senior NASA employees who were targets of impending Office of the Inspector General (OIG) investigations, (2) unauthorized disclosure of grand jury-related information, and (3) premature closing of selected audits and investigations.

Results in Brief

Mr. Colvin's practice concerning prenotification matters appears to constitute a failure to exercise due professional care and could be viewed as an impairment of his office's execution of investigations. For example, we found that before the OIG began an investigation into a possible conflict-of-interest matter, Mr. Colvin told a senior-level NASA official who was the subject of an investigation about the allegations.

In another matter involving the alleged prenotification of a high-level NASA official, we found that Mr. Colvin had not prenotified the official. However, Mr. Colvin, after communicating with the NASA administrator, used questionable judgment in not notifying his agent in charge of the investigation that the matter might be handled administratively.

In the matter of the alleged unauthorized release of grand jury information pertaining to an OIG contractor investigation, the Assistant U.S. Attorney stated that although such disclosures would normally constitute a

¹Mr. Colvin resigned his Inspector General position effective September 3, 1994.

violation of 6(e) regulations,² Mr. Colvin's alleged discussion of grand jury-related information in this specific incident did not violate the 6(e) provisions since the U.S. Attorney's Office had already apprised the defendants in the matter of an impending indictment.

Further, evidence indicates that Mr. Colvin did not close audits or investigations prematurely, as alleged. For example, the NASA Office of General Counsel (OGC) suggested that insufficient evidence existed in a matter concerning violations of the Anti-Deficiency Act. In another matter regarding space station contracts, NASA auditors terminated the audit independently of Mr. Colvin. With regard to a situation involving the acceptance of gratuities from a NASA contractor, Mr. Colvin questioned the need for additional work because the OIG had sufficient evidence to show misconduct.

Prenotification of Targets of Investigations

Prenotification

A former NASA Center Director allegedly attempted to improperly relocate a NASA program from Reston, Virginia, to Houston, Texas, and attempted to pressure NASA contractor officials to hire a friend to manage the program. When an OIG investigator met with the Center Director, the Director stated that Mr. Colvin had previously told him of the allegations against him. The Director offered the investigator several documents that he had assembled as a consequence of his conversation with Mr. Colvin. Further, the investigator reported to his superiors about the Center Director's statement that Mr. Colvin had informed him of the pending investigation.

The former Center Director confirmed that he had been informed of the nature of the allegations before the OIG investigator interviewed him. When questioned about this case, Mr. Colvin responded that although he was not able to recall having had a conversation with the subject, he did not dispute that it may have occurred.

²Rule 6(e)(2) of the Federal Rules of Criminal Procedure prohibits the disclosure of information gathered by a grand jury, unless the disclosure is made by a witness or to persons with responsibility for investigating or prosecuting the matter.

IG's Position on Prenotification

Mr. Colvin stated that it was his practice to contact high-level NASA officials to advise them that they were the subject of an investigation and would be interviewed by an OIG staff member. He also informed them of the nature of the allegation. We asked Mr. Colvin if he had any concerns with prenotifying individuals of allegations against them in investigations having potential criminal merit. We referred specifically to situations involving conflict of interest, which could possibly cause the destruction/alteration of documents, conspiracy with others, or otherwise compromise an investigation. Mr. Colvin replied that it would not be a concern. He further remarked that he did not see a problem in letting high-level employees know that they were subjects of an investigation.

The investigator told us that he was unable to determine whether Mr. Colvin's premature disclosure compromised his investigation. However, he believed that Mr. Colvin's actions eliminated the ability to obtain from the former Center Director spontaneous and unrehearsed responses to questions. Subsequently, the case was closed as unsubstantiated.

We learned from the Assistant IG for Investigations that the OIG has no written or unwritten policy regarding the prenotification of subjects and targets of investigations. However, according to the Assistant IG, although the previously identified investigation was noncriminal in nature, it is his opinion that the OIG practice in criminal investigations would apply: Subjects or targets of investigations should not be prenotified of the allegations prior to the official initiation of an investigation. Further, he would be concerned upon learning that any OIG agent had intentionally forewarned a subject of an investigation.

Failure to Inform Investigator of Discussion With NASA Administrator

In another matter, it was alleged that a senior NASA official had misused NASA aircraft because he had taken his wife with him on a business trip. In consideration of the official's minority status and a "volatile" Equal Employment Opportunity situation that existed at that particular NASA facility, NASA OIG opened the matter for investigation.

When the OIG investigator interviewed the senior official, the official stated that NASA's Chief of Staff had already told him of the allegations against him. Therefore, the official had initiated steps to repay the agency for his wife's airfare. According to the then-Chief of Staff, Mr. Colvin suggested that the nature of the allegation be discussed with the official and that the official arrange to reimburse NASA for the equivalent commercial airfare for his wife. Mr. Colvin told us that in a meeting he attended with the

Administrator and the Chief of Staff, the Administrator had asked how NASA should address the situation. The Chief of Staff recommended pursuing administrative action to include recoupment of the commercial cost of the airfare. Mr. Colvin stated that he had concurred with the suggested action.

We do not believe that Mr. Colvin's discussions with the NASA Administrator and Chief of Staff concerning possible resolution of the travel matter were inappropriate. However, we believe that he erred in failing to apprise his field investigative staff of the decision to pursue an administrative resolution of the matter.

Unauthorized Release of Grand Jury Information

We received information suggesting that Mr. Colvin had improperly revealed grand jury-related information during a meeting with NASA officials who were not OIG personnel. Mr. Colvin may have told the participants that a specific NASA contractor was under indictment, and he may have revealed the proposed number of criminal counts under consideration in the indictment. Within 1 week following the meeting, a story about the impending indictment appeared in the local newspaper of the area where the contractor was located. Credit for the content of the news article was attributed to a "confidential source."

Mr. Colvin stated that during the course of a meeting with two associate administrators from the Houston office, he may have advised them to anticipate press exposure of a pending indictment. However, he could not recall whether he had discussed the specific number of counts in the indictment.

According to the cognizant Assistant U.S. Attorney, any information released prematurely could have precluded using that information for trial, but that was not a concern in this particular instance. He stated that Mr. Colvin's disclosures of grand jury-related information to anyone not authorized to receive it would normally be inappropriate. However, since the defendants in this matter were clearly aware of the ongoing investigation and knew that an indictment would eventually result, Mr. Colvin's disclosures would not, in his opinion, constitute a violation of the general rule for secrecy of grand jury proceedings.

Premature Closing of and Interference in Audits/ Investigations

Some allegations concerned Mr. Colvin's premature closing of and interference in audits or investigations involving Anti-Deficiency Act violations, space station contracts, and a senior NASA official's acceptance of gratuities from a contractor.

It was alleged that Mr. Colvin pressured OIG staff to end an audit that had identified violations of the Anti-Deficiency Act. The allegation noted that no record of the audit ever surfaced nor did the OIG issue an audit report on the matter. Additionally, the IG offered no comments to the audit team as to the disposition of the report. We learned that the Deputy Assistant IG for Audits had decided not to issue a report on the Anti-Deficiency Act matter because the NASA OGC did not believe that sufficient evidence existed to show that a violation had occurred. Further, after contacting an appropriate congressional staff member, the OIG was told that no additional reporting on the matter would be necessary.

Concerning an audit of space station contracts, it was alleged that Mr. Colvin had persuaded a Center Director to abandon the audit and encouraged the Center Director to discourage the Assistant Inspector General for Audits from attempting to issue a management letter addressing the issue. We did not corroborate any information to support the allegation. OIG staff members disclosed that NASA auditors decided to terminate the space station audit without consulting Mr. Colvin once it had become evident that the Space Station Program Office had issued termination letters to contractors. Additionally, NASA auditors noted, when the termination letters were to take effect, that the contractor had independently decided to cease further work under the contract. The Assistant IG for Audits subsequently determined that it was too late to report on the matter.

Finally, in an investigation involving a senior NASA official accused of accepting gratuities from a NASA contractor, Mr. Colvin allegedly instructed OIG investigators not to pursue part of the allegation after he received a telephone call from a friend who was employed by a NASA contractor. The senior official had been accused of accepting favors from the NASA contractor, i.e., free or reduced-cost housing and private club membership. We learned that Mr. Colvin had questioned the need for further work since the OIG, in his opinion, had sufficient evidence to take action against the senior official. Further, because Mr. Colvin had questioned the need for additional investigative work, the OIG did not pursue the allegation pertaining to the club membership. Finally, the OIG investigative report

showed that sufficient evidence existed to act on the case and that the senior official subsequently resigned voluntarily.

Mr. Colvin stated that he had no recollection of having discouraged OIG staff from pursuing allegations relative to club membership, although he conceded that it may have happened. However, according to Mr. Colvin, as a result of a decision made by his headquarters staff, the Defense Contract Audit Agency is pursuing the allegation concerning the club membership as a “spin-off” from the original investigation.

Methodology

We conducted our investigation from March 1993, when the GAO Hotline received allegations of possible misconduct, through July 1994. We conducted it in Washington, D.C.; Slidell, Mississippi; Houston, Texas; Los Angeles, California; and Cleveland, Ohio. We interviewed NASA-OIG management officials, as well as approximately 40 current and former OIG investigators and auditors, to assess the merits of the allegations. In addition, we reviewed pertinent OIG audit and investigative files and related correspondence. We also reviewed relevant OIG investigative and audit policies and guidelines. Finally, we interviewed other NASA officials purported to have information about the alleged activities.

As requested, we plan no further distribution of this report until 30 days from the date of the letter. At that time, we will send copies to the Acting NASA Inspector General and to the Director of the Office of Management and Budget and will make copies available to others upon request. If you have any questions concerning our investigation, please contact me or Assistant Director Barney Gomez of my staff at (202) 512-6722.



Richard C. Stiener
Director

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