

Testimony of Danielle Brian, Executive Director
Project On Government Oversight (POGO)
before a joint hearing of the
Senate Commerce, Science and Transportation Committee's
Subcommittee on Space, Aeronautics and Related Sciences
and the
House Science Committee's Subcommittee on Oversight and Investigations
regarding
"Oversight Review of the Investigation
of the
National Aeronautics and Space Administration (NASA) Inspector General"

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253 Russell Senate Office Building

Chairmen Nelson and Miller, thank you for inviting me to testify today. My name is Danielle Brian, Executive Director of the Project On Government Oversight (POGO). POGO is an independent nonprofit that has, for over 25 years, investigated and exposed corruption and misconduct in order to achieve a more accountable federal government.

The subject of this hearing raises a number of timely issues. Inspector General (IG) offices play a tremendously important role in advancing good government practices, but only if they are led by independent and qualified IGs. Next year will be the 30th anniversary of the 1978 Inspector General Act. This is the perfect time to determine the strengths and possible weaknesses of the IG system given the current investigations into several IGs.

The intent of Congress in creating these watchdogs was to have an office within agencies that would balance the natural inclinations of agency or department heads to minimize bad news, and instead give Congress a more complete picture of agency operations. That intention is clearly shown by Congress' decision to break with tradition, and create a dual-reporting structure where IGs would report not only to the agency head but also directly to Congress itself.

It is this independence from the agency the IG is overseeing that gives the office its credibility. Not only the actual independence, but also the *appearance* of independence allows the IG's stakeholders, including the Administrator, Congress, the IG's auditors and investigators, and potential whistleblowers, to have faith in the office. In this case, it appears Inspector General Robert W. Cobb no longer enjoys that credibility with any of the constituencies other than the Administrator's office.

Over the past year, POGO has held monthly bi-partisan Congressional Oversight Training Sessions for Capitol Hill staff. We regularly tell participants that the IGs at agencies within their jurisdiction can be important allies and sources of honest assessments. Unfortunately, we also have to point out that not all IGs are qualified and independent.

In the case of NASA IG Cobb, current and former IG staff allege, and the President's Council on Integrity and Efficiency (PCIE) confirms, an abuse of power and the appearance of a lack of independence. Mr. Cobb disputes the basic facts in both cases cited by the PCIE¹. However, even if one were to discount the two cases as inconclusive, there remains indisputable evidence that Mr. Cobb simply does not understand the need to, or even how to, remain at arms

¹ One of the cases Mr. Cobb disputes involves the hacking of sensitive computer data regarding NASA rocket engines, known as the ITAR case. It is worth noting that, whether or not he was required to report to the State Department in the ITAR case, numerous IG staff stated he aggressively undermined the issuance of a report on it. Their impression was that Mr. Cobb did not want to embarrass NASA. As a point of comparison, the Department of Energy's Inspector General has issued numerous reports about cases similar to the NASA computer hacking case.

length from NASA's Administrator. For example, he defends himself against these findings by citing NASA Administrator Michael Griffin's approval of his work as proof he should remain the NASA IG. That, in itself, indicates how insensitive Mr. Cobb is to the problem. In fact, Administrator Griffin should be the last person he cites as evidence of his independence.

Much has been made in the press of Mr. Cobb's golfing and lunches with former NASA Administrator Sean O'Keefe, which are somewhat disturbing. But those are really just atmospherics. From POGO's perspective, there are far more troubling problems. It is untenable that, according to the PCIE report, Mr. Cobb has on occasion conferred with NASA's Administrator and General Counsel regarding the scope and findings of his audits. Furthermore, Mr. Cobb at least twice delayed the execution of search warrants approved by law enforcement, expressing concerns that the NASA managers whose staff or vendors were the targets would be unhappy. Mr. Cobb reportedly even asked, "Are we going to apologize to them?" In response to questions from investigators, Mr. Cobb confirmed that he would give the NASA Administrator a heads up regarding impending search warrants. There is no way of knowing what impact the disclosure of secret warrants had on investigations.

Another problem is that, although IGs are given a wide latitude to staff their offices, Mr. Cobb's frequent reorganization of the audit section has made his office anything but more productive. Since he took office, the number of audit reports has plummeted from an average of 51 reports annually to only 26 annually. While quantity does not equal quality, a nearly 50% reduction in the number of reports means many topics are not receiving the attention they would have in the past. One possible reason for this drop is that Mr. Cobb disbanded the IG's safety audit team in the fall of 2005 – only two years after the Columbia Space Shuttle tragedy. The PCIE report indicates that Mr. Cobb made it clear to his staff that he did not believe they had the technical know-how to challenge NASA's engineers, despite the fact that engineers were members of his staff. Given that the Columbia Accident Board concluded that NASA's safety culture has eroded, there may be no more important task for NASA's IG than safety audits to prevent future tragedies.

A final example of Mr. Cobb's inability to protect the NASA IG Office from the appearance of a lack of independence is the infamous all-hands meeting held by Administrator Griffin. At this meeting, Administrator Griffin spoke to IG employees, with Mr. Cobb present, and allegedly rebutted the findings of the PCIE report – findings based on the allegations made by numerous IG employees. NASA Assistant IG for Investigations Evelyn Klemstine testified before the House Science Committee that Administrator Griffin's inappropriate directions to the IG staff regarding the types of investigations and audits they should be performing was in no way protested by Mr. Cobb. Administrator Griffin allegedly went on to inform the IG staff that they shouldn't bother with work that involved less than \$1 billion in NASA funds – an extraordinary threshold under any circumstances. Not only should the head of an agency play no role in determining the work scope of the IG, but the fact that the IG himself did nothing to stop him is further evidence that Mr. Cobb clearly does not understand what it means to be an IG – independence and the *appearance of independence* are everything. I can only imagine the impact on the morale on the IG staff, and in particular on those whistleblowers who were sitting in the room.

With this atmosphere, you can imagine the reception NASA whistleblowers meet when they go to the IG for help. One whistleblower, a NASA research pilot, refused to fly what he believed was an unsafe aircraft, and was then reassigned and grounded in apparent retaliation. He reported his experience to the IG, only to be met with inaction. Others found the same lack of action, or were simply forwarded without investigation by the IG to the Office of Special Counsel to be sentenced to a bureaucratic black hole.² As nearly half of the NASA IG staff left or were removed from the office, some of them came forward to Senator Nelson and the PCIE revealing the deeply troubled inner workings of their office, and alleging that Mr. Cobb was turning a blind eye to their concerns. Senator Nelson should be congratulated for stepping in to assist these insiders.

So what should be done? The record reflects Mr. Cobb's overriding sense of loyalty to NASA's image above a sense of duty to the public and Congress. POGO agrees with Chairmen Nelson and Miller, as well as with the President's Council on Integrity and Efficiency (PCIE), that Inspector General Cobb has clearly demonstrated an appearance of a lack of independence from NASA. It is because of this behavior that I believe Mr. Cobb is unable to fulfill his role as an Inspector General.

An opportunity will be missed, however, if Congress does not look at this case in the broader context. During the Reagan Administration, a small group of IGs from the PCIE recruited and screened IG nominees. They then supplied lists of candidates from which the White House could select. This peer review was an important way to ensure that unqualified or partisan people were not placed in the role of IG. The Congress should consider recreating that model. Ultimately, however, it is essential that the Congress play a more active role in overseeing the IGs.

POGO is beginning an investigation into the IG system to determine if there are other ways to ensure those important offices can meet their mission. We look forward to providing you with our findings when our investigation is completed.

² While it may be appropriate to refer a whistleblower case to the Office of Special Counsel to determine whether a prohibited personnel practice has occurred, it is also necessary for an IG themselves to investigate whether there is a need for corrective action regarding the underlying problem at the agency.