

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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WASHINGTON, DC 20515-6301

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March 16, 2016

The Honorable Willie E. May
Director
National Institute of Standards and Technology
100 Bureau Drive
Gaithersburg, MD 20899-1000

Dear Director May,

The Committee on Science, Space, and Technology is continuing oversight of waste, fraud, and abuse at the National Institute of Standards and Technology (NIST). Today, during the Committee's hearing¹ on March 16, 2016, you appeared to give an incomplete or misleading answer regarding a plutonium incident that occurred at NIST. According to a notice of violation issued by the Nuclear Regulatory Commission (NRC), NRC discovered that "for a period of time estimated to begin in the 1980's until October 2014, NIST failed to keep records showing the receipt, inventory (including location and unique identity), acquisition, transfer, and disposal of all special nuclear material in its possession."² NRC issued its notice of violation in June 2015, just one month before the meth lab explosion at NIST. Your characterization during the hearing that the only incident that occurred at NIST was eight years ago raises serious questions about the security of the NIST campus and the safety of its employees since the NRC recently discovered "radioactive material/sources that were not included" in NIST's inventory.³ To better understand incidents involving radioactive materials and NIST's response to those dangers, we request that NIST provide documents and information to the Committee.

The Committee first wrote to the Department of Commerce on July 22, 2015, regarding an explosion at the NIST campus that occurred when a senior NIST Police Services officer attempted to manufacture methamphetamine.⁴ Through the Committee's oversight efforts, we have discovered a pattern of mismanagement and misconduct, including time and attendance fraud, missing police equipment, and wasteful spending on items such as listening devices intended to prevent police officers from spying on each other during work hours. In light of the

¹ H. Comm. on Science, Space, & Tech., Subcomm. On Research & Tech., *Hearing on an Overview of the Budget Proposal for NIST for Fiscal Year 2017*, 114th Cong. (March 16, 2016).

² NRC Inspection Report No. 07000398/2014001, (June 3, 2015).

³ Mar. 16, 2016 Hearing, *supra* note 1.

⁴ Letter from Hon. Lamar Smith, Chairman, H. Comm. on Science, Space, & Tech., to Hon. Penny Pritzker, Sec'y, U.S. Dep't of Commerce (July 22, 2015).

abuses at the agency, it is disappointing that agency officials have been less than forthcoming with the Committee. For example, after the Committee requested building access records for the building where the meth lab explosion occurred, NIST staff wrote in an e-mail that “NIST cannot make any further comment on the badging records at this time” because of the Department of Commerce Office of Inspector General’s (OIG) ongoing review.⁵ Surprisingly, the OIG informed the Committee that NIST’s claims were inaccurate because the OIG *did not* advise NIST to withhold any information from the Committee.

According to documents obtained by the Committee, in July 2015, NIST Chief of Staff Kevin Kimball sent you an e-mail describing a plutonium incident that occurred at NIST as significantly more severe than the meth lab explosion. He also suggested the information could be withheld from auditors. Specifically, in the aftermath of the meth lab explosion, Mr. Kimball wrote one month after NRC issued its report: **“Can’t see how this rises to an audit risk. Don’t remember briefing the auditors after the plutonium and that was 1000 times more of a risk.”**⁶ Additionally, in the same e-mail chain, George Jenkins, the Chief Financial Officer at NIST appears to be complacent in misleading KPMG auditors. Regarding KPMG, Mr. Jenkins wrote: **“They are getting updates on this via news reports and to them they do not know the magnitude of the issue...”**⁷ If this information is accurate, it raises serious questions about other radioactive incidents and whether NIST officials appropriately responded to the threats. It is concerning that you failed to at least mention the 2014 violations referenced above. This also raises questions about NIST officials being less than forthcoming about wrongdoing occurring at the agency.

This Committee is committed to ensuring the safety of NIST employees and holding the agency accountable for mismanagement. To better understand the plutonium incident and NIST’s response, please provide the following documents and information as soon as possible, but by no later than noon on March 30, 2016:

1. All documents and communications between and among NIST employees related to any plutonium or nuclear material incidents at NIST, including any information related to NIST’s response to the incidents.
2. All documents and communications between and among NIST employees and the Nuclear Regulatory Commission (NRC) related to incidents at the NIST campus from 2009 to present.
3. All documents and communications related to NIST’s policy and procedures for responding to an incident involving plutonium and other radioactive or nuclear materials.

⁵ E-mail from James Schufreider, Director, Office of Congressional & Legislative Affairs, NIST to Staff, H. Comm. on Science, Space, & Tech (Aug. 13, 2015).

⁶ E-mail from Kevin Kimball, Chief of Staff, NIST, to Willie May, et. al, Director, NIST (July 21, 2015).

⁷ Email from George Jenkins, Chief Financial Officer, to Willie May, et. al, Director, NIST (July 21, 2015).

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The Committee on Science, Space, and Technology is the principal oversight committee of the National Institute of Standards and Technology as set forth in House Rule X.

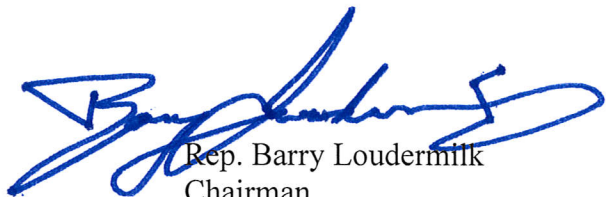
When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2321 of the Rayburn House Office Building and the Minority Staff in Room 394 of the Ford House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment provides information regarding producing documents to the Committee.

If you have any questions about this request, please contact Lamar Echols or Drew Colliatie of the Science, Space, and Technology Committee staff at 202-225-6371. Thank you for your attention to this matter.

Sincerely,



Rep. Lamar Smith
Chairman
Committee on Science, Space, and Technology



Rep. Barry Loudermilk
Chairman
Subcommittee on Oversight

cc: The Honorable Eddie Bernice Johnson, Ranking Minority Member, House Committee on Science, Space and Technology

The Honorable Don Beyer, Ranking Member, Subcommittee on Oversight

Enclosure