

**Hearing before the Subcommittee on
Space, Aeronautics, and Related Sciences
Committee on Commerce, Science, and Transportation
United States Senate**

and

**Subcommittee on Investigations and Oversight
Committee on Science and Technology
United States House of Representatives**

**Written Testimony
Oversight Review of the Investigation
of the
NASA Inspector General
Mr. Robert W. Cobb**

**Debra Herzog
Former
Deputy Assistant Inspector General for Investigations
NASA Office of Inspector General**

My testimony relates to my experiences and observations while in the employ of the NASA Office of the Inspector General (NASA OIG). I was the Deputy

Assistant Inspector General (DAIGI) for Investigations at the NASA OIG from November 29, 2004 through December 11, 2005. For more than half that period, I was Acting Assistant Inspector General (DAIGI) for Investigations.

I began my federal career in 1983 at the U.S. Attorneys Office in the Eastern District of Missouri. In 1986, I the U.S. Attorney appointed me to the position of Chief of the Narcotics Section and Regional Coordinator for the Organized Crime Drug Enforcement Task Force; one of thirteen regional coordinators nation-wide. I held that dual position until my transfer to the Southern District of Florida in July 1990.

I transferred into the Southern District of Florida as a Supervisory Assistant U.S. Attorney. During my 8 years there, I held several supervisory positions in the Ft. Lauderdale Branch Office, including White Collar Crime/Public Corruption Chief, Chief of Major Investigations and Acting Managing Assistant U.S. Attorney. I supervised anywhere from 6 to 12 attorneys as a section chief, and approximately 40 attorneys and 20 support staff personnel while Managing Assistant.

In 1998 I accepted a one-year detail to the Department of Justice Campaign Financing Task Force in Washington, and then another year's detail to the Office of Internal Affairs at the United States Customs Service. At the conclusion of that detail, I accepted the position of Senior Advisor to the Assistant Commissioner,

Office of Internal Affairs. As such, I assisted in supervising investigative activity of over 120 federal agents in up to twenty field offices. The agents investigated allegations of criminal conduct and serious administrative misconduct by Customs employees.

I am currently a Senior Attorney at the U.S. Postal Service Office of Inspector General.

Mr. Cobb selected me as the Deputy Assistant Inspector General (DAIGI) for Investigations in late 2004. When I began working at the NASA OIG, Lance Carrington was Assistant Inspector General (AIGI) and my immediate supervisor. During my pre-employment interview Mr. Cobb, the Inspector General (IG) expressed his unhappiness with management in the Office of Investigations (OI), stating, "They need a grown-up back there." I accepted the position with the impression that Mr. Cobb wished to improve the quality of the work and believed I would be instrumental to that effort.

During my first weeks at the NASA OIG, I endured an episode so disturbing that I considered leaving the OIG. At a regularly scheduled weekly meeting among Mr. Cobb, his deputy and my supervisor, Mr. Cobb berated me, reacting to a word in a letter I'd edited. In the ensuing monologue, which was loudly peppered with profanities, he insulted and ridiculed me. I advised him after the meeting that I had never been spoken to like that in the workplace, that it was unacceptable,

and that I did not expect my boss to use profanity, and I would not tolerate profanity in the workplace. I told him I could not continue to work there if it persisted. During the following months, I observed or learned that Mr. Cobb directed profanity at and humiliated and demeaned other employees. Gradually, I and many other employees as well as others involved in law enforcement lost all respect for Mr. Cobb.

Mr. Cobb exhibited a consistent lack of understanding concerning federal law enforcement. This became most apparent in two cases, approximately six months apart, in which he clearly failed to recognize the propriety and value of federal search warrants.

In the first case, Mr. Cobb was notified that search warrants were to be executed by NASA OIG agents and FBI agents at NASA's Stennis Space Center. I was not involved in the matter in anyway until I was called into a meeting regarding the warrant. Mr. Cobb apparently received the information that a warrant was to be executed at the Stennis Space Center within hours of the planned execution. Mr. Cobb said he would not allow the warrants to proceed before he read the warrant, despite the fact that NASA OIG agents and FBI agents were poised to execute the warrant, a NASA OIG supervisor approved the warrant and it was signed by a United States Magistrate Judge. Yet, after reading the affidavit in support of the warrant, Mr. Cobb opined that there was no probable cause established and maintained his position that the NASA agents should not

execute the warrant. When reminded that an Assistant United States Attorney believed the warrant was sufficient and that a United States Magistrate Judge signed the warrant – his response was essentially that: 1) the Assistant United States Attorney involved was stupid, and 2) that the assigned NASA agents must have “hoodwinked” the Magistrate. He actually said, “Who knows *what* our guys (the investigating agents) told the judge.”

After much discussion, Mr. Cobb reluctantly allowed the agents to execute the warrant. However, his arrogance appeared to have interfered with any possibility of educating him in the matter. Six months later, the scenario was repeated.

On Monday, June 27, 2005, while I was Acting Assistant Inspector General for Investigations, the Resident Agent in Charge (RAC) at NASA’s Marshall Space Flight Center emailed me. His email informed that agents in his office were working with an Assistant United States Attorney on a search warrant for an NASA employee’s office at the Marshall Center. The email noted that the agents wanted to execute the warrant by Thursday, June 30, as the employee was about to be reassigned and they were concerned about losing evidence.

On Wednesday, June 29, the RAC called and advised that the Assistant United States Attorney approved the warrant and wanted to take it to the Magistrate Judge forthwith. I hadn’t finished reading the affidavit, but as I am intimately familiar with the warrant review process in U.S. Attorneys offices and the in the

courts, I advised the agents to proceed to the Magistrate as requested by the AUSA. After the warrant was signed by the U.S. Magistrate Judge, I emailed Mr. Cobb (who was out of town) advising that a warrant would be executed the following day at Marshall. I advised the Deputy Inspector General by email and in person and provided a copy of the warrant and affidavit to him.

Mr. Cobb asked that I call him that evening. I did, and was greeted by his loudly-voiced accusations that there was no probable cause for the warrant; an interesting position as he had yet to see the affidavit in support of the warrant. I had sent it to him in encrypted form as required by agency policy and he was unable to open it on his Blackberry. As with the earlier warrant, Mr. Cobb was primarily concerned with first, why he I did not tell him about it earlier, and second, with the fact that it was a warrant at a NASA Center. He directed me to tell the agents they could not to execute the warrant (despite the fact he had not seen the warrant or affidavit). They in turn, had to advise the FBI agents working with them that they could not participate in the warrant execution the following day. The warrant allows for execution within 10 days of the date the U.S. Magistrate Judge signs it. I advised the agents not to tell the U.S. Attorney's Office, of Mr. Cobb's decision as I hoped to persuade Mr. Cobb to change his mind when I had an opportunity to speak with him in person. The FBI agents, however, said they would proceed with the warrant alone if the NASA OIG agents were not permitted to participate.

--Original Message-----

From: Herzog, Debra (HQ-WRH10) <debra.herzog@nasa.gov>

To: Cobb, Robert W. (HQ-WAH10) <robert.w.cobb@nasa.gov>

CC: Howard, Thomas J. (HQ-WAH10) <thoward@nasa.gov>

Sent: Wed Jun 29 19:21:18 2005

Subject: Search warrant

Moose:

If, after reading the affidavit you still believe that the warrant should not be executed, Jim Haughton is prepared to walk you through the case in D.C. on Friday. I want to reiterate, however, that I am fully responsible for authorizing this warrant.

I believe that using criminal processes in a criminal investigation, particularly this one, is appropriate and acted accordingly. I also believe that everyone else involved acted with the same sincere belief.

Jim had the affidavit faxed this evening so it should be at KSC in the morning.

My Palm is not receiving/sending mail again, so I am working from my laptop. I have a medical appointment tomorrow afternoon so will be out of the office after 2:00. You can reach me on my cell at 202.607.0977. Feel free to call me at home if you need to at 301.493.9388.

Debbie

When Mr. Cobb arrived back in the office on July 1, 2007, I met with him and the Deputy Inspector General for several hours. The meeting was lengthy, and at times, Mr. Cobb called in his counsel. Mr. Cobb's expressed concerns were: 1) the NASA Center Director's reaction to OIG executing a warrant and what he would say when the Center Director called asking why the OIG was at his center.

2) that the Assistant United States Attorney didn't know what he was doing and by implication, as the warrant was signed by a U.S. Magistrate Judge, that he did not either, and 3) the agents were only undertaking this warrant because they were "out to get him. "

In both of these search warrant matters, it was Mr. Cobb's position that everyone supporting the warrant – the agents, the prosecutor, me, the U.S. Magistrate – were either wrong, out to get him, stupid, or all of the above. Throughout this episode, Mr. Cobb kept referring back to the first warrant and its issues and accused me and the agents of pursuing this warrant "to rub his face in it."

In my short tenure at NASA, at least 5 other warrants were issued and executed at locations other than NASA property. Mr. Cobb did not express *any* interest in those affidavits or warrants.

The last incident and the one that convinced me I could no longer be effective in my job, occurred just 2 months later. In June, 2005, agents in the field office presented a case to the Civil Frauds Division of the U.S. Attorneys Office for the Central District of California. The case was accepted for civil prosecution. A letter outlining the case and containing a number of attachments was provided to the Assistant U.S. Attorney assigned to the matter.

On Tuesday, August 23, 2005, en route to conduct in-service training for the NASA OIG Western Field Office, I received an email from Mr. Cobb regarding a case. The email began:

I would like [the Western Field Office Special Agent in Charge] to send (ASAP) a letter to the US Attorney withdrawing the August 1 report on the Genesis investigation pending a review of the investigation at OIG headquarters.

I took the opportunity to consult with the Western Field Office Special Agent in Charge and Counsel to the Inspector General the next morning as we were all at the same training. I wanted to see if they knew of any reason why Mr. Cobb would direct this withdrawal. When I determined they did not, I emailed Mr. Cobb. In my email I asked Mr. Cobb if there was any urgency to the request as the Western Field Office Special Agent in Charge and I wished to speak with him or in the alternative, have him speak with the AUSA before this "withdrawal" was undertaken. He directed me to do as previously instructed. The Western Field Office Special Agent in Charge letter wrote the letter and delivered it to the U.S. Attorney's Office.

After reviewing the letter, Mr. Cobb told me he thought the the Western Field Office Special Agent in Charge was trying to "set him up." He said he only meant to withdraw the document, not the case. That was simply not true. His emails

made it quite clear that he thought the case should be re-evaluated to determine if it should have been referred to the U.S. Attorneys Office in the first place. He also claimed he was not advised the case had been presented, but a bi-weekly case reporting document provided to Mr. Cobb in June unmistakably contradicts his claim.

The Assistant United States Attorney assigned to the matter, a 10-year veteran of her office and Deputy Chief of the Civil Frauds Division, wrote a letter applauding the efforts of the agents on the case, expressed her support for the case and outlined potential legal theories. At a meeting between the two of us, Mr. Cobb insinuated to me that we “had” the AUSA write the letter. He leaned over his desk, just feet from my face, his face red, and his fists clenched and screamed at the same time slamming his hand on his on desk so hard I jumped....”you know as well as I do that this report is a fucking piece of shit” (or “crap”).¹

Mr. Cobb’s arrogance, his abusive, bullying style, absence of managerial experience, limited understanding of investigative processes, egotism and misplaced sense of self-importance make it impossible for him to successfully manage and lead an organization.

Many employees left, many are trying to. As recently as last week, a newly-hired employee who took the job because it was a promotion, called the agency she

¹ I am unsure which at this time which of these words he used.

left requesting her old job back after only 2 days at the NASA OIG. The new hire said that much of the staff spent a good portion of the workday looking for a way out.