

Rachel K. Dowell

From: (b) (6), (b) (7)(C) @epa.gov>
Sent: Wednesday, July 18, 2018 2:47 PM
To: Seth Jaffe; Patrick J. Lightfoot
Subject: RE: Call

Seth, I'll call you at 3:30, with SA (b) (6), (b) (7)(C) already on the line.

(b) (6), (b) (7)(C) | Office of Inspector General | Office of Investigations |
Office of Professional Responsibility
1200 Pennsylvania Avenue, NW | Mail Code 2431T | Washington, DC 20460
(b) (6), (b) (7)(C)

To report fraud, waste or abuse impacting EPA, please contact the EPA OIG Hotline via telephone numbers 202-566-2476 or 888-546-8740, fax 202-566-2599, or email at oit_hotline@epa.gov

-----Original Message-----

From: Seth Jaffe [<mailto:sjaffe@oge.gov>]
Sent: Wednesday, July 18, 2018 1:19 PM
To: (b) (6), (b) (7)(C) @epa.gov>; Patrick J. Lightfoot <pjlightf@oge.gov>
Subject: RE: Call

(b) (6), (b) (7)(C)

I could do a call at 3:30pm.

Seth

(b) (6)

-----Original Message-----

From: (b) (6), (b) (7)(C) @epa.gov]
Sent: Wednesday, July 18, 2018 12:55 PM
To: Seth Jaffe; Patrick J. Lightfoot
Subject: Call

Hi Seth and Patrick, do you, by any chance, have time today for a call with me and two other EPA OIG folks? Thank you

(b) (6), (b) (7)(C)

Sent from my iPhone

OGE Confidential Notice: This message may contain Controlled Unclassified Information (CUI) that requires safeguarding or dissemination control under applicable law, regulation, or Government-wide policy. This email, including all attachments, may constitute a Federal record or other Government property that is intended only for the use of the individual or entity to which it is addressed. If you are not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution,

copying or use of this email or its contents is strictly prohibited. If you have received this email in error, please notify the sender by responding to the email and then immediately delete the email.

Rachel K. Dowell

From: Seth Jaffe
Sent: Friday, July 06, 2018 8:58 AM
To: (b) (6), (b) (7)(C)
Cc: Patrick J. Lightfoot; (b) (6), (b) (7)(C)
Subject: RE: Request - Call with Appraiser on Friday

(b) (6), (b) (7)(C)

That sounds good.

Thanks,
Seth

From: (b) (6), (b) (7)(C) @epa.gov]
Sent: Thursday, July 05, 2018 6:34 PM
To: Seth Jaffe
Cc: Patrick J. Lightfoot; (b) (6), (b) (7)(C)
Subject: Re: Request - Call with Appraiser on Friday

How about we postpone the call until we know how we are going to proceed?

Sent from my iPhone

On Jul 5, 2018, at 4:24 PM, Seth Jaffe <sjaffe@oge.gov> wrote:

Hi (b) (6), (b) (7)(C)

Given the recent news – do we still need to have the call? If so, I can still do a call (or calls) prior to 3:00pm - but not at 10:30 – 11:00am.

Thanks,
Seth

From: (b) (6), (b) (7)(C) @epa.gov]
Sent: Thursday, July 05, 2018 3:37 PM
To: Seth Jaffe; Patrick J. Lightfoot
Cc: (b) (6), (b) (7)(C)
Subject: RE: Request - Call with Appraiser on Friday

Thanks Seth. I just got your voicemail and think that it would be best to speak separately (without the appraiser) on timing and logistics of OIG's reporting. Do you have a preference of timing for that call?

(b) (6), (b) (7)(C)

USEPA | Office of Inspector General | Office of Investigations | Office of Professional Responsibility
1200 Pennsylvania Avenue, NW | Mail Code 2431T | Washington, DC 20460

(b) (6), (b) (7)(C)

To report fraud, waste or abuse impacting EPA, please contact the EPA OIG Hotline via telephone numbers 202-566-2476 or 888-546-8740, fax 202-566-2599, or email at oig_hotline@epa.gov

From: Seth Jaffe [<mailto:sjaffe@oge.gov>]

Sent: Thursday, July 05, 2018 2:56 PM

To: (b) (6), (b) (7)(C) @epa.gov; Patrick J. Lightfoot <pilightf@oge.gov>

Cc: (b) (6), (b) (7)(C) @epa.gov>

Subject: RE: Request - Call with Appraiser on Friday

Hello (b) (6), (b) (7)(C)

I will be available for a call tomorrow. I will be leaving the office at 3:00pm for an appointment so I suppose that means we probably should start any call no later than 2:00pm.

My calendar for tomorrow is open at this point. Also, on this call, maybe we could briefly discuss the matter I mentioned in the voicemail I left for you earlier today?

Thanks,
Seth

Seth H. Jaffe
Chief, Ethics Law & Policy Branch
U.S. Office of Government Ethics
(202) 482-9303

From: (b) (6), (b) (7)(C) @epa.gov]

Sent: Thursday, July 05, 2018 2:35 PM

To: Seth Jaffe; Patrick J. Lightfoot

Cc: (b) (6), (b) (7)(C)

Subject: Request - Call with Appraiser on Friday

Good afternoon Gentlemen,

Tomorrow, (b) (6), (b) (7)(C) and I are planning to speak with an appraiser that we vetted through the DOJ. The purpose of the conversation (b) (5) regarding Administrator Pruitt's stay at (b) (6), Washington, DC.

Do either of you have time to spare to participate on the call? (b) (6), (b) (7)(C) and I want to make sure that the (b) (5). The time has not been set, but could be made around your schedules.

Thank you,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

USEPA | Office of Inspector General | Office of Investigations | Office of Professional Responsibility
1200 Pennsylvania Avenue, NW | Mail Code 2431T | Washington, DC 20460

(b) (6), (b) (7)(C)

To report fraud, waste or abuse impacting EPA, please contact the EPA OIG Hotline via telephone numbers 202-566-2476 or 888-546-8740, fax 202-566-2599, or email at oig_hotline@epa.gov

OGE Confidential Notice: This message may contain Controlled Unclassified Information (CUI) that requires safeguarding or dissemination control under applicable law, regulation, or Government-wide policy. This email, including all attachments, may constitute a Federal record or other Government property that is intended only for the use of the individual or entity to which it is addressed. If you are not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this email or its contents is strictly prohibited. If you have received this email in error, please notify the sender by responding to the email and then immediately delete the email.

Seth Jaffe

From: Contact OGE
Sent: Wednesday, April 18, 2018 3:48 PM
To: Seth Jaffe
Subject: FW: EPA OIG Request for Point of Contact within General Counsel Division

BPA OIECCAU
4:00pm mthw
call.

FYI

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 18, 2018 12:48 PM
To: Contact OGE
Subject: RE: EPA OIG Request for Point of Contact within General Counsel and Legal Policy Division

Good afternoon,

My name is (b) (6), (b) (7)(C) for the EPA OIG Office of Professional Responsibility.

At your earliest convenience, can you please forward my contact information to the OGE General Counsel and Legal Policy Division?

My request is to touch base concerning Acting Director and General Counsel David J. Apol's memorandum, dated April 6, 2018, to Kevin Minoli, Principal Deputy General Counsel and Designated Agency Ethics Official.

I can be contacted anytime at my mobile number (b) (6), (b) (7)(C) or via email.

Thank you,

(b) (6), (b) (7)(C)

Handwritten Notes - (b)(5)

[Redacted Handwritten Notes]

(b) (6), (b) (7)(C)

Office of Professional Responsibility
Office of Inspector General
Environmental Protection Agency
Mobile: (b) (6), (b) (7)(C)

To report fraud, waste or abuse impacting EPA
2476 or 888-546-8740, fax 202-566-2599, or e

To report threats directed against EPA employees, contractors, facilities and assets, please email
report.EPA.threats@epa.gov

Seth Jaffe

From: (b) (6), (b) (7)(C) @epa.gov>
Sent: Wednesday, May 09, 2018 4:13 PM
To: Seth Jaffe
Cc: (b) (6), (b) (7)(C)
Subject: Conversation Tomorrow?

Hi Seth,

Do you have some time tomorrow to speak with me about some of our ongoing investigations? We may have a chance to conduct some interviews soon and I was hoping to utilize some of your expertise.

Thanks,
(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)
USEPA | Office of Inspector General | Office of Investigations | Office of Professional Responsibility
1200 Pennsylvania Avenue, NW | Mail Code 2431T | Washington, DC 20460

(b) (6), (b) (7)(C)

To report fraud, waste or abuse impacting EPA, please contact the EPA OIG Hotline via telephone numbers 202-566-2476 or 888-546-8740, fax 202-566-2599, or email at oig_hotline@epa.gov



AIMS Agency Information Management System

Resolved Interaction

Interaction Number: 14961	
Initiation Date:	2018-04-18
Title:	(b)(5)
Question:	
Update:	
Categories:	(b)(5)
Origin Of Interaction:	Phone
Source:	Agency Environmental Protection Agency
First Name:	(b) (6), (b) (7)(C)
Last Name:	
Title:	
Position:	
Email:	
Phone:	
Other Contact Notes:	
Assignment:	David J. Apol, Seth Jaffe
Watching:	
Temporary Notes:	
created by:	Seth Jaffe

Resolution Information	
Resolution Date:	2018-04-19
Resolution Category:	Resolved
Response:	(b)(5)
Complexity (level):	4 [Click to view/hide complexity guidelines]
Time Spent (hours):	1-4 hours
Contributor:	

Interaction History Log	
Closed	04/19/2018 05:17:16 PM by Seth Jaffe
Now Assigned: Seth Jaffe David J. Apol	04/19/2018 05:17:16 PM by Seth Jaffe

Division(s) assigned: GCLPD



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 10 2018

THE INSPECTOR GENERAL

Mr. Emory A. Rounds III
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, D.C. 20005

Dear Mr. Rounds:

By letter dated June 15, 2018, David J. Apol, then acting Director and General Counsel, U.S. Office of Government Ethics (OGE), requested that my office investigate certain reports in the press of allegations of ethical misconduct by Scott Pruitt, who was at the time the Administrator of the U.S. Environmental Protection Agency (EPA). Mr. Apol also referred me to his letter of April 6, 2018, to Kevin Minoli, the EPA's Principal Deputy General Counsel and Designated Agency Ethics Official, in which Mr. Apol had raised concerns of other possible violations of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) by Mr. Pruitt while in office. Mr. Apol requested that we complete a review of the matters (both the previous ones he had raised in his April 6 letter and the new allegations) "so that [OGE] can decide whether to begin a formal corrective action proceeding in order to make a formal recommendation to the President."

Mr. Pruitt resigned his position as the EPA Administrator on July 5, 2018. Since then, our respective staffs have discussed what appropriate actions should be taken regarding the allegations your office referred to us concerning Mr. Pruitt's compliance with the Standards of Conduct. As you know, administrative penalties for violations of the Standards of Conduct can result in disciplinary action up to and including removal. However, as Mr. Pruitt's resignation precludes his being subject to any such potential administrative penalties with regard to these allegations, we understand that the OGE is no longer requesting that we review Mr. Pruitt's alleged actions for potential administrative violations of the Standards of Conduct. As such, the OIG does not intend to pursue the requests in your April 6 and June 15 letters to the extent that they would constitute administrative violations of the Standards of Conduct.

I would appreciate it if you would please confirm your agreement with our intended approach. If you have any questions about this, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,

Arthur A. Elkins Jr.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 25 2018

THE INSPECTOR GENERAL

The Honorable Don Beyer
House of Representatives
Washington, D.C. 20515

Dear Congressman Beyer:

The U.S. Office of Government Ethics (OGE) has the statutory role of ensuring that the ethics laws and regulations of the United States are adhered to throughout the Executive Branch. In carrying out those responsibilities, on April 6, 2018, the acting Director of OGE wrote to the U.S. Environmental Protection Agency's (EPA's) Designated Agency Ethics Official (DAEO) because "reported actions of Scott Pruitt, Administrator of the Environmental Protection Agency (EPA)...raise concern and may constitute a violation of the Standards of Ethical Conduct for Employees of the Executive Branch. ...". Specifically, the OGE letter identified actions involving (1) housing arrangements by the Administrator, (2) expenses for his travel, (3) use of staff and expenditures for security measures, (4) approvals of hiring and salaries for certain employees, (5) use of the Administrator's subordinates' time, and (6) reassignment or demotion of staff who were attempting to ensure that expenses and other actions were in accordance with the law.

In the letter, OGE charged the EPA with needing to "take action to appropriately address any violations." In turn, on that same day—April 6, 2018—the EPA's DAEO referred the OGE letter and request to the EPA OIG for action as the OIG deems appropriate. In short, OGE's concerns and request to EPA are now before the OIG.

We have received multiple requests from multiple members of Congress, as well as other OIG Hotline complaints, regarding these same and related issues. After considering the OGE request, the DAEO's referral to the OIG, your request as well as other congressional requests, and the other Hotline complaints, the OIG has concluded that it will review the matters enumerated above. The matters include issues you have raised to the OIG in your letter of April 3, 2018.

Some of these matters will be reviewed as part of previously announced and still ongoing OIG reviews. Some will be the impetus for new reviews. We will release results of each of these separate reviews as we complete them, and will inform you and your staff when we do so.

For your awareness, the OIG has issued the following project notification memorandums and management alert reports related to reported actions of the current Administrator:

Notification Memorandums:

- *Audit of EPA's Office of Criminal Enforcement, Forensics and Training's Law Enforcement Availability Pay Reporting (Project No. OA-FY18-0075, issued November 30, 2017)*

- *Audit of Administratively Determined Positions* (Project No. OA-FY18-0085, issued January 8, 2018)
- *Audit of EPA's Adherence to Policies, Procedures and Oversight Controls Pertaining to the Administrator's Travel (third notification)* (Project No. OA-FY17-0382, issued January 10, 2018)

Management Alert Reports:

- *Controls Failed to Prevent Employee From Receiving Payment in Excess of Statutory Limit* (Report No. 17-P-0410, issued September 27, 2017)
- *Salary Increases for Certain Administratively Determined Positions* (Report No. 18-N-0154, issued April 16, 2018)

Thank you for your continued interest in the work of the OIG. If you have any questions about this or any other matter, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,



Arthur A. Elkins Jr.

cc: The Honorable Scott Pruitt, Administrator, U.S. Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

APR - 9 2018

**OFFICE OF
GENERAL COUNSEL**

David J. Apol
Acting Director and General Counsel
U.S. Office of Government Ethics
1201 New York Avenue, NW Suite 500
Washington, D.C. 20005

Dear Mr. Apol:

As the Designated Agency Ethics Official for the United States Environmental Protection Agency (EPA), I am writing to acknowledge receipt of your April 6, 2018, letter. In that letter, you cited press articles regarding EPA Administrator E. Scott Pruitt's reported actions. You asked the EPA ethics office to review and analyze those alleged actions to determine whether any constitute a violation of the Standards of Ethical Conduct for Employees of the Executive Branch.

We are committed to ensuring that the EPA and all of its employees serve the public trust free from any actual or perceived conflicts. To that end, EPA's ethics officials provide advice and counseling to prospective, current and former employees regarding federal ethics laws and regulations based upon the information available to us. As you and I discussed briefly, however, federal ethics officials lack independent investigatory authority. Consequently, in an instance in which the EPA ethics office lacks sufficient evidence to assess fully an ethics matter, we have a long-standing practice of referring it to the EPA's Inspector General (IG) for investigation. As you know, the IG has independent authority to investigate allegations of fraud, waste, abuse, and corruption. When the IG is investigating a matter, we generally defer to his office to take the lead.

Consistent with our practice, we referred your letter to the EPA IG. We will coordinate as closely as possible with the EPA IG as he carries out his review. To the extent that there are ethics issues to resolve, we will serve as the subject matter expert on those issues. As always, the EPA's ethics office stands ready to assist the IG in any way. Finally, if the IG identifies recommendations or areas for improving our counselling effort, we will pursue improvements to the program.

We appreciate your interest in the EPA and your assistance as we fulfill our obligations to ensure compliance with federal ethics laws and regulations.

Sincerely yours,

A handwritten signature in black ink, appearing to read "K. Minoli".

Kevin S. Minoli
Designated Agency Ethics Official and
Principal Deputy General Counsel

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



April 6, 2018

Kevin Minoli
Principal Deputy General Counsel
and Designated Agency Ethics Official
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 2310A
Washington, DC 20460

Dear Mr. Minoli:

As the supervising ethics office for the executive branch, the U.S. Office of Government Ethics (OGE) leads an ethics program designed to prevent conflicts of interest on the part of executive branch employees. Public trust demands that all employees act in the public's interest, and free from any actual or perceived conflicts, when fulfilling the governmental responsibilities entrusted to them. Agency heads in particular bear a heightened responsibility, as they are required to "exercise personal leadership in . . . establishing and maintaining an effective agency ethics program and fostering an ethical culture in the agency."¹ As the Acting Director of OGE, I am writing to you regarding (1) the recently reported actions of Scott Pruitt, Administrator of the Environmental Protection Agency (EPA), that raise concerns and may constitute a violation of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) and Executive Order 13770, and (2) the resulting need for your agency take action to appropriately address any violations.²

First, questions have been raised regarding the Administrator's rental agreement with a lobbyist whose husband's clients were seeking action by the EPA.³ Our understanding is that the Administrator apparently did not seek ethics advice prior to entering into the lease regarding whether entering into such a lease could raise questions about his impartiality.⁴ Similarly, he apparently did not seek ethics advice in advance as to whether the terms of the lease were so favorable as to be a gift from the lobbyist.⁵ Only after the existence of the lease was reported in the press did he provide EPA ethics advisors with limited information about the lease. He then received, based on the incomplete information he provided, an after-the-fact opinion that the lease did not constitute a gift. Additional information has now come to light that calls into question whether the earlier determination that the Administrator paid market value for the use he made of the apartment would still be valid.

¹ 5 C.F.R. § 2638.107.

² See 5 U.S.C. app. § 402(f)(2); 5 C.F.R. § 2638.501.

³ *Pruitt Had a \$50-a-Day Condo Linked to Lobbyists. Their Client's Project Got Approved.*, The New York Times (April 2, 2018) (online at <https://www.nytimes.com/2018/04/02/climate/epa-pruitt-pipeline-apartment.html>).

⁴ See 5 C.F.R. § 2635.502.

⁵ See 5 C.F.R. Pt. 2635, subpt. B; Exec. Order 13770 (Jan. 28, 2017), sec. 1, par. 5.

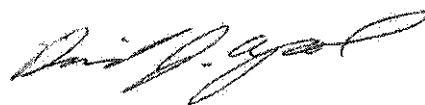


Second, questions have been raised regarding the Administrator's expenses for travel, security, and salaries for some employees,⁶ as well as the use of his subordinates' time. Whether or not an official's travel and other expenses are consistent with regulations or are an appropriate use of scarce government resources is beyond the purview of OGE. Nevertheless, reports of the Administrator making frequent official trips to his home state at Government expense to offset the expense of returning home for personal or political reasons⁷ do raise concerns about whether the Administrator is using his public office for personal gain in violation of ethics rules.⁸ Further, reports that the Administrator's subordinates may have assisted him in finding housing⁹ also raise concerns about whether the Administrator misused his position.¹⁰

Finally, there are extremely concerning reports that the Administrator has reassigned or demoted staff who were attempting to ensure that the expenses and other actions were in accordance with laws and regulations.¹¹ If true, it is hard to imagine any action that could more effectively undermine an agency's integrity than punishing or marginalizing employees who strive to ensure compliance with the laws and regulations that safeguard that integrity.

The success of our Government depends on maintaining the trust of the people we serve. The American public needs to have confidence that ethics violations, as well as the appearance of ethics violations, are investigated and appropriately addressed. Agency officials are generally in the best position to ascertain the relevant facts and address any individual conflicts of interest or systemic deficiencies in agency programs or procedures. Therefore, as the supervising ethics office for the executive branch, OGE expects that the EPA will review and analyze the alleged conduct described above. I understand that the agency's Office of Inspector General is already reviewing requests for an investigation of some of these matters. If a violation is found, OGE also expects that appropriate action will be taken in response. Similarly, if a violation or misconduct is found, your agency should ensure that processes are in place to prevent similar occurrences in the future. If you have any questions, please do not hesitate to contact my office.

Sincerely,



David J. Apol
Acting Director and General Counsel

⁶ *A Trip to Morocco. A Condo Rental. Here's Why Scott Pruitt Is Under Fire.*, The New York Times (April 4, 2018) (online at <https://www.nytimes.com/2018/04/04/climate/scott-pruitt-condo-travel.html>).

⁷ *Scott Pruitt, Trump's Rule-Cutting E.P.A. Chief, Plots His Political Future*, The New York Times (March 17, 2018) (online at <https://www.nytimes.com/2018/03/17/climate/scott-pruitt-political-ambitions.html>).

⁸ See 5 C.F.R. § 2635.702.

⁹ *EPA staffer helped Pruitt search for housing on weekends: report*, The Hill (April 3, 2018) (online at <http://thehill.com/policy/energy-environment/381442-epa-staffer-helped-pruitt-search-for-housing-on-weekends-report>).

¹⁰ See 5 C.F.R. §§ 2635.702, 2635.705(b).

¹¹ *E.P.A. Officials Sidelined After Questioning Scott Pruitt*, The New York Times (April 5, 2018) (online at <https://www.nytimes.com/2018/04/05/business/epa-officials-questioned-scott-pruitt.html>).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

JUN 27 2018

OFFICE OF
GENERAL COUNSEL

Mr. David J. Apol
Acting Director and General Counsel
U.S. Office of Government Ethics
1201 New York Avenue, N.W. Suite 500
Washington, D.C. 20005

Dear Acting Director Apol:

I write in my capacity as the Designated Agency Ethics Official (DAEO) to provide you with information regarding actions taken by the Environmental Protection Agency's (EPA's) Ethics Program to strengthen our Program and to respond to concerns raised by you and your office.

Office of Government Ethics Review of EPA's Ethics Program

The Office of Government Ethics (OGE) completed a review of EPA's Ethics Program in March 2017 and documented that review in Report 17-16.¹ OGE provided EPA with eight recommendations in two areas that are delegated to EPA's Deputy Ethics Officials (DEOs): the confidential financial disclosure program and ethics requirements for special government employees (SGEs). To respond to recommendations related to the timeliness, retention, and accuracy of the confidential financial disclosure forms, EPA's Ethics Program is committed to migrating from a paper-based system to an electronic filing system by the 2020 reporting year. I am pleased to report that we have signed a Memorandum of Understanding with the Department of Treasury that allows EPA to use code from and begin the testing of an electronic filing system that is based on the Department of Treasury's current system.

With regard to the recommendations related to SGEs, EPA's Ethics Program shares OGE's concern about the discrepancies the review uncovered in the ethics training and financial disclosure filings of SGEs who serve as experts, consultants, or members of advisory committees. The Ethics Program is beginning an engagement with EPA's Office of Research and Development (ORD) to understand the particular challenges surrounding financial disclosure requirements for experts and consultants, and to then improve our support of the DEOs responsible for counseling this type of SGE. For SGEs who are advisory committee members, the Ethics Program met with the Designated Federal Officers Network to emphasize the obligation of Designated Federal Officers to train SGEs and to collect, review, and certify their financial disclosure reports. Over the course of the past year, the Ethics Program has worked with many of EPA's Federal Advisory Committee Act (FACA) committees. For example, we worked closely with the Science Advisory Panel (SAP) staff to

¹ Office of Government Ethics, Report No. 17-16: *Ethics Program Review U.S. Environmental Protection Agency*, March 2017 (Program Review).

discuss and resolve conflicts and impartiality issues as they arise. The Ethics Program and the SAP jointly met with the relevant EPA program to explain how SGEs are selected and their ethical obligations. We met with the staff of EPA's largest FACA committee, the Science Advisory Board, to explain conflicts of interest analysis and fact patterns. Most recently, the Ethics Program provided in-person ethics training to the Science Advisory Board. Similar training is being scheduled for the Human Studies Review Board and can be replicated as often as necessary. Finally, we are committed to revising the relevant existing online ethics training module and to providing training to EPA's Designated Federal Officers.

In addition to the recommendations, the Report also expressed OGE's concerns with the staffing level of the Ethics Office located in the Office of General Counsel (OGC). The OGC Ethics Office supports the DAEO and serves as the nucleus of EPA's decentralized Ethics Program. Among the responsibilities of the Ethics Office is the support and oversight of the Deputy Ethics Officials who reside in program and regional offices across EPA. At the time of the initiation of the Program Review in 2016, the OGC ethics team was a subcomponent of the OGC Immediate Office and comprised of a Senior Counsel for Ethics, who served as a non-supervisory team lead, and two staff positions (one filled with a full-time employee and one filled by two part-time employees who "shared" the position). During the time the review was ongoing, we established the OGC Ethics Office as a stand-alone office on par with OGC's law offices and converted the Senior Counsel to a supervisory position. By the time the report was issued, we had added a temporary third staff position for a two-year period. OGE expressed the following concerns:

OGC Ethics may be insufficiently staffed to ensure the long-term effectiveness of EPA's ethics program. At the very least, OGE is concerned that at current staffing levels, OGC Ethics may not be able to absorb the impact of any staffing changes, such as medical leave or retirement, or any unforeseen events. Additional responsibilities or priorities may stretch existing resources even further. Moreover, the effective administration of certain elements of the ethics program relies largely on the competency of the DEOs who are not directly supervised by OGC Ethics. Again, OGE is concerned that OGC Ethics staffing may be insufficient to provide the DEOs with continuous oversight and necessary guidance and training.²

In fact, a number of the potential events OGE identified as difficult for the OGC Ethics Office to overcome actually occurred after the Review was completed. The two full-time staff members left federal service (leaving the team with no full-time staff members for a period of time), two members of the team were granted extended absences, and the team was asked absorb additional responsibilities, including vetting potential political appointees for financial conflicts of interest. In addition to challenges faced by OGC's Ethics Office, from January 2017 to January 2018, I served as EPA's Acting General Counsel while maintaining my role as the DAEO. At times during 2017, OGC's Ethics Office had fewer staff than we did when OGE expressed its concern.

Based on a workload evaluation by the team and with the support of the General Counsel and Chief of Staff, I am expanding the capacity of the OGC Ethics Office by increasing the number

² Program Review at 5.

of staff positions. As a first step, I have already filled the two vacated staff positions. I recruited one new ethics official from within OGC and I facilitated the transfer of one ethics official from another headquarters office to the OGC Ethics Office. Second, I granted a request from a part-time employee to increase her hours by 20%. Third, I created three new staff positions on the team. One of those new staff positions will be filled through the phased reassignment of a current OGC employee with experience in the ethics requirements. The second new staff position will be filled at a junior level and the third will be filled at a senior level. These additional staff positions will double the staff positions on the team and far exceed any previous staffing level for the OGC Ethics Office. These additional resources will focus on expanding the availability of ethics officials to provide ethics advice and increasing the support and oversight of DEOs across EPA. We look forward to continuing our engagement with OGE on this and other issues raised in the Program Review.

Office of Government Ethics' Engagement with EPA Regarding the EPA Administrator

On April 6, 2018, you wrote to me as EPA's Designated Agency Ethics Official and advised me to review and analyze the reported actions of Administrator E. Scott Pruitt that you identified in your letter. The letter ended with the expectation that "that appropriate action will be taken in response."³

As you know, I initially responded to your letter on April 9, 2018, and informed you that I referred your letter to EPA's Office of Inspector General (OIG).⁴ I received confirmation from Inspector General Arthur Elkins that his Office accepted my referral and opened investigations into those issues. At present, we understand that several investigations are open and on-going, and my staff and I are providing "ready and active assistance" to the OIG inspectors, as required by Office of Government Ethics regulations.⁵

When we become aware of an ethics-related matter, the OGC Ethics Office reviews the known facts and determines the appropriate path forward. When the known facts demonstrate that all actions were consistent with ethics requirements, we may nonetheless determine that there is a need for additional training or education, but otherwise take no further action. In certain instances, the known facts are not sufficient for us to fully evaluate the matter. If the OGC Ethics Office determines additional fact-finding is necessary, we will refer the matter to EPA's Inspector General if the matter involves a criminal provision or a senior agency official. If the matter does not involve a criminal provision or a senior agency official, we work with the employee and the employee's supervisor, as appropriate, to obtain any additional information.

When the known facts demonstrate that some actions were inconsistent with the ethics requirements, we refer the matter to the Inspector General.⁶ If the OIG accepts a matter for investigation, OGE's regulations require ethics officials to provide support to the OIG, as

³ Letter from David J. Apol, Acting Dir. and Gen. Counsel, U.S. Office of Gov't Ethics, to Kevin S. Minoli, Principal Deputy Gen. Counsel and Designated Agency Ethics Official, U.S. Env'tl. Prot. Agency (Apr. 6, 2018).

⁴ Letter from Kevin S. Minoli, Principal Deputy Gen. Counsel and Designated Agency Ethics Official, U.S. Env'tl. Prot. Agency to David J. Apol, Acting Dir. and Gen. Counsel, U.S. Office of Gov't Ethics (Apr. 9, 2018).

⁵ 5 C.F.R. § 2638.104(c)(10).

⁶ 5 C.F.R. 2635.101(b)(11) ("Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.").

requested.⁷ If the violation is of a non-criminal provision and does not involve a senior agency official, the Office of the Inspector General historically has agreed that the Ethics Program can address the matter administratively without referral. In those instances, we work to bring the employee into compliance, if possible. As you know, regardless of the type of violation or employee involved, ethics officials do not have authority to discipline an employee. Should the supervisor determine corrective or disciplinary action is appropriate in response to a violation of the ethics requirements, however, we will provide assistance to the supervisor upon request.⁸

Since your letter in April, additional potential issues regarding Mr. Pruitt have come to my attention through sources within EPA and media reports. Consistent with my obligations under Office of Government Ethics regulations, I have referred a number of those matters to EPA's Inspector General and have provided "ready and active assistance" to the Inspector General and his office. Several of those matters were also included in your recent letter to the EPA Inspector General.⁹ To the best of my knowledge, all of the matters that I have referred are either under consideration for acceptance or under active investigation.

Engaging Deputy Ethics Officials and Supervisors to Provide them with Necessary Support

Even as we are challenged by the concerns described above, I have also challenged the OGC Ethics Office to use this moment to take a look at our Program and evaluate where we are strong and where we might do better. When we take a step back, the picture that we see is an Ethics Program implemented by Deputy Ethics Officials across the agency and that depends on first-line supervisors to help guide their employees and create an ethical culture at EPA. Our responsibility as the OGC Ethics Office is to provide DEOs and first-line supervisors with the support and resources they need to fulfill their critical roles. To ensure we are doing that well, OGC's Ethics Office is embarking on an initiative to *Engage in Ethics* with our DEOs and first-line supervisors.

The Program Review reminded us that DEOs are the front line of EPA's Ethics Program. They are our presence in the field, and are the people that the majority of EPA employees turn to when they have an ethics question. And, yet, those DEOs have accepted the DEO responsibilities as "other duties as assigned," in addition to some other area of responsibility that is seen by their supervisor and home office as their primary responsibility. The OGC Ethics Office needs to provide support and assistance to EPA's DEOs so that they can efficiently – and effectively – counsel employees on the wide range of issues that they see. More than ever, the OGC Ethics Office needs to *Engage in Ethics* with our network of Deputy Ethics Offices to ensure they have access to the resources they need.

When you accepted my invitation to address EPA's Executive Management Council on April 13, 2018, you spoke about studies that show how employees' faith in the integrity of their organization derives primarily from their immediate supervisor. If an employee's immediate

⁷ 5 C.F.R. § 2638.104(c)(9)(i).

⁸ 5 C.F.R. 2638.104(c)(9) (responsibilities of the Designated Agency Ethic Official include "Assisting the agency in its enforcement of ethics laws and regulations *when agency officials...take disciplinary action*" (Emphasis Added)).

⁹ Letter from David J. Apol, Acting Dir. and Gen. Counsel, U.S. Office of Gov't Ethics, to Arthur A. Elkins, Jr., Inspector General, U.S. Env'tl. Prot. Agency (June 15, 2018).

supervisor behaves ethically, then an employee's awareness of that ethical behavior contributes to their perception of the ethical culture of their organization. You encouraged supervisors to talk about the importance of ethics and take pride in ethical behavior. In recognition of the important role of supervisors, *Engage in Ethics* will include our engagement with EPA's First Line Supervisors Advisory Group and first-line supervisors across the agency to understand how the Ethics Program can support them as they fulfill their "heightened personal responsibility for advancing government ethics" and their obligation to "to help ensure that subordinates are aware of their ethical obligations under the Standards of Conduct and that subordinates know how to contact agency ethics officials."¹⁰

Finally, our effort to *Engage in Ethics* with DEOs and first line supervisors is designed to recognize the contributions they make to EPA's Ethics Program and thank them for their role in creating an ethical culture at the agency. The resources that we will deploy, such as an EPA-wide Ethics Helpline, an agency-wide email box (ethics@epa.gov), and a redesigned Ethics Program intranet site, are a reflection of my commitment to better serve them as the DAEO, not of any weakness in their performance. I believe that the OGC Ethics Office's work to become more visible, more accessible, and more available to our DEOs and first-line supervisors will ultimately make EPA's Ethics Program even more effective at serving the needs of employees across the agency. EPA employees work daily to make their ethical federal service a point of pride, and through the *Engage in Ethics* initiative, we will ensure that EPA's Ethics Program is doing all we can to help them achieve that goal.

Conclusion

Thank you for your continued support of EPA's Ethics Program. We would appreciate any insights or advice you and your staff may offer regarding our effort. We have appreciated your willingness to *Engage in Ethics* with us, and have benefited greatly from your guidance and assistance.

Sincerely,



Kevin S. Minoli
Principal Deputy General Counsel
& Designated Agency Ethics Official

¹⁰ 5 C.F.R. § 2638.103.

Draft Letter - Withheld in Full - (b)(5)



Draft Letter - Withheld in Full - (b)(5)



Seth Jaffe

From: Seth Jaffe
Sent: Thursday, June 14, 2018 9:24 AM
To: Patrick J. Lightfoot
Cc: David J. Apol
Subject: RE: Updated EPA letter

Patrick,

Thank you. I have no further edits.

Thanks again,
Seth

From: Patrick J. Lightfoot
Sent: Thursday, June 14, 2018 8:57 AM
To: David J. Apol
Cc: Seth Jaffe
Subject: Updated EPA letter

Revised draft saved [here](#) with edits completed

Draft Letter - Withheld in Full - (b)(5)



Seth Jaffe

From: Patrick J. Lightfoot
Sent: Wednesday, June 13, 2018 9:25 AM
To: David J. Apol
Cc: Seth Jaffe
Subject: EPA Letter

Hi Dave,

I've saved a new draft of the EPA letter, incorporating your edits, [here](#). I'll also bring a hard copy for your reference to the staff meeting this morning.

Thanks!

--Patrick

Draft Letter - Withheld in Full - (b)(5)



[Redacted content]

Draft Letter - Withheld in Full - (b)(5)



UNITED STATES OFFICE OF
GOVERNMENT ETHICS



June 15, 2018

Arthur A. Elkins, Jr.
Inspector General
U.S. Environmental Protection Agency
Office of Inspector General
1200 Pennsylvania Avenue, N.W. (2410T)
Washington, DC 20460

Dear Inspector General Elkins:

As the supervising ethics office for the Executive branch, the U.S. Office of Government Ethics (OGE) leads an ethics program designed to prevent conflicts of interest on the part of Executive branch employees. In an April 6, 2018, letter to Kevin Minoli, Principal Deputy General Counsel and Designated Agency Ethics Official of the U.S. Environmental Protection Agency (EPA), I raised concerns about the various reported actions of Scott Pruitt, Administrator of the EPA as they may have constituted violations of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) and Executive Order 13770.¹ I now write to you to request that your office investigate new allegations in addition to those identified in my April 6 letter.²

A variety of sources raise concerns about the Administrator's use of his position. Specifically, recent reports raise additional questions regarding the Administrator's use of subordinates' time to search for housing and furniture for the Administrator.³ Recent news reports further allege that the Administrator used his security detail to complete other personal errands for him on official time.⁴ Additionally, recent articles suggest that Administrator used a staff member and his official position to seek business opportunities for his wife with

¹ Letter from David J. Apol, Acting Dir. and Gen. Counsel, U.S. Office of Gov't Ethics, to Kevin Minoli, Principal Deputy Gen. Counsel and Designated Agency Ethics Official, U.S. Env'tl. Prot. Agency (Apr. 6, 2018), <https://t.co/s4yN7EcbO9>.

² See 5 U.S.C. app. § 402(f)(2); 5 C.F.R. § 2638.501.

³ Lisa Friedman & Eric Lipton, *Aide Sought a New Apartment for Scott Pruitt, and an 'Old Mattress' from Trump Hotel*, N.Y. TIMES (June 4, 2018), <https://www.nytimes.com/2018/06/04/climate/pruitt-epa-apartment-aide.html>; Erica Orden, *EPA Chief Scott Pruitt Asked Employee to Run Personal Errands*, WALL ST. J. (June 4, 2018), <https://www.wsj.com/articles/epa-chief-scott-pruitt-asked-employee-to-run-personal-errands-1528138826>.

⁴ Juliet Eilperin et al., *Pruitt Enlisted Security Detail in Picking Up Dry Cleaning, Moisturizing Lotion*, WASH. POST (June 7, 2018), https://www.washingtonpost.com/news/energy-environment/wp/2018/06/07/pruitt-enlisted-security-detail-in-picking-up-dry-cleaning-moisturizing-lotion/?noredirect=on&utm_term=.fd9997e1e1df.



Chick-fil-A,⁵ among others.⁶ These reports raise concerns about whether the Administrator misused his position.⁷

Based on correspondence from Mr. Minoli,⁸ your letter to Congress,⁹ and OGE's communications with your office in which we have provided technical assistance at your request on several issues related to that investigation, I know that you are already looking into the alleged conduct I raised in my April 6 letter. OGE now requests that you also investigate and analyze the newly alleged conduct described above. Further, it is our understanding that you plan to issue a report concerning the previous (and possibly new) allegations. We ask you to complete your report, as soon as possible, so that we can decide whether to begin a formal corrective action proceeding in order to make a formal recommendation to the President.¹⁰

As noted to Mr. Minoli, the American public needs to have confidence that ethics violations, as well as the appearance of ethics violations, are investigated and properly addressed. The efficacy of, and public trust in, our Government demands it. If you have any questions, please do not hesitate to contact my office.

Sincerely,



David J. Apol
Acting Director and General Counsel

cc: Kevin Minoli, Principal Deputy General Counsel and Designated Agency Ethics Official,
U.S. Environmental Protection Agency

⁵ Alexander C. Kaufman, *Scott Pruitt Faces Mounting Calls for Investigations into Chick-fil-A Scandal*, HUFFINGTON POST (June 11, 2018), https://www.huffingtonpost.com/entry/scott-pruitt-chick-fil-a-investigations-oge_us_5b1ebd43e4b09d7a3d75b3cf; Ellen Knickmeyer & Michael Biesecker, *EPA Director Pruitt Laughs off Chick-fil-A Controversy as Senior Aide Quits*, TIME (June 6, 2018), <http://time.com/5303918/epa-scott-pruitt-chick-fil-a-aide-quits/>; Lisa Friedman, *Scott Pruitt Sought 'Business Opportunity' With Chick-fil-A While Leading E.P.A.*, N.Y. TIMES (June 5, 2018), <https://www.nytimes.com/2018/06/05/climate/pruitt-epa-chick-fil-a.html>.

⁶ Juliet Eilperin et al., *EPA Chief Scott Pruitt Tapped Aid, Donors to Help Wife Land Job at Conservative Group*, WASH. POST (June 13, 2018), https://www.washingtonpost.com/national/health-science/epa-chief-scott-pruitt-tapped-aid-donors-to-help-wife-land-job-at-conservative-group/2018/06/13/f54c87fa-6db1-11e8-afd5-778aca903bbe_story.html?utm_term=.eff67c03c8bf.

⁷ 5 C.F.R. §§ 2635.702, .705(b).

⁸ Letter from Kevin Minoli, Principal Deputy Gen. Counsel and Designated Agency Ethics Official, U.S. Env'tl. Prot. Agency, to David J. Apol, Acting Dir. and Gen. Counsel, U.S. Office of Gov't Ethics (Apr. 9, 2018).

⁹ Letter from Arthur A. Elkins, Jr., Inspector Gen., U.S. Env'tl. Prot. Agency, to Hon. Don Beyer, U.S. House of Representatives (Apr. 25, 2018).

¹⁰ 5 C.F.R. § 2638.504.

AIMS Agency Information Management System

[My Dashboard](#)[New Interaction](#)[New Outreach](#)[Search](#)[Trends](#)[Agencies](#)[Administration](#)

Resolved Interaction

Interaction Number: 15694

Initiation Date*: 2018-07-18

Title*: (b) (5)

Question*:

Update:

Categories*: Gifts from Outside Sources, Misuse of Position, Prohibited Personnel Practices

Origin Of Interaction*: Phone

Source*: Agency
Environmental Protection Agency

(b)(6), (b)(7)(C)

Other Contact Notes:

Assignment: Patrick J. Lightfoot, Seth Jaffe

Watching:

Temporary Notes:

created by: Patrick J. Lightfoot

Resolution Information

Resolution Date*: 2018-07-18

Resolution Category*: Resolved

Response*: (b) (5)

Complexity (level):

5

[\[Click to view/hide complexity guidelines\]](#)

Time Spent (hours): 0-1 hour

Contributor:

[reopen](#)

Interaction History Log

Closed	07/18/2018 04:35:43 PM by Patrick J. Lightfoot
Now Assigned: Patrick J. Lightfoot Seth Jaffe	07/18/2018 04:35:43 PM by Patrick J. Lightfoot

Division(s) assigned: GCLPD