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STRENGTHENING AGENCY OVERSIGHT: EMPOWERING THE INSPECTORS
GENERAL COMMUNITY
TESTIMONY OF KATHY A. BULLER
PEACE CORPS INSPECTOR GENERAL

Chairman Issa, Ranking Member Cummings, and distinguished Members of the Committee:

I thank you for inviting me to appear before you today to discuss opportunities to strengthen inspector general oversight. My testimony will provide a brief overview of the Peace Corps Office of Inspector General (OIG) and its impact on the Peace Corps, and will focus on ensuring effective OIG oversight of agency programs and operations. I will also address challenges we face when seeking access to agency information and tools that could enhance our oversight capabilities.

The Peace Corps is a unique agency. Its three goals are: to help the people of interested countries in meeting their needs for trained men and women; to help promote a better understanding of Americans on the part of the peoples served; and to help promote a better understanding of other peoples on the part of Americans. The Peace Corps achieves these goals through volunteers, who serve abroad and are the agency's sole program. The majority of volunteers serve at the grassroots level in rural communities, often in remote areas far from large cities or the Peace Corps office.

The success and well-being of its volunteers depends in part on how effectively the Peace Corps supports their health, safety, and security needs. Everything from applicant selection, training, site selection, housing, and budget allocation has a direct impact on volunteers. The Peace Corps supports more than 7,200 volunteers in 65 countries. The volunteers and their programs are supported by 896 American direct-hire staff and approximately 2,000 locally hired personnel.

OIG and Its Impact on the Peace Corps

OIG's purview includes all agency personnel, contractors, and volunteers. This year marks the 25th anniversary of the establishment of OIG, which was created in 1989 after Congress amended the Inspector General Act of 1978 (IG Act) to include smaller agencies. I was appointed Inspector General (IG) on May 25, 2008, and in my role as IG, I direct a small office of 26 auditors, evaluators, criminal investigators, legal counsel, and support staff.

Our mission is the same as all other federal offices of inspectors general: to provide independent oversight of agency programs and operations in support of the agency mission and goals, while making the best use of taxpayer dollars. As such, OIG promotes effectiveness and efficiency of agency programs and operations and prevents and detects fraud, waste, abuse, and mismanagement.

I am very proud of what my office has been able to accomplish given its global responsibilities and few resources. Since the beginning of my tenure in 2008, we have issued 117 final audit and evaluation reports, management advisory or implication reports, and other reviews. Seven OIG work products have been awarded prestigious Awards for Excellence by the Council of the Inspectors General on Integrity and Efficiency. Many of these awards were given for work that identified substantial weakness in agency processes that significantly affected the support, health, and safety of volunteers.

In that same period of time, OIG investigations of criminal wrongdoing and administrative misconduct have resulted in 21 criminal convictions, 53 administrative separations of staff and volunteers, and 11 suspensions and debarment referrals. Increased visibility from our work and a robust OIG outreach effort has yielded more demand for our services. From fiscal year 2011 to fiscal year 2013 there has been a 159 percent increase in the number of allegations and complaints our office has received annually from staff, volunteers, and others. The activities we are engaged in everyday help ensure the safety and well-being of our volunteers and staff and routinely produce measureable benefits for the taxpayer.

Examples of Recent OIG Oversight

During my tenure, one of OIG's strategic priority areas has been to target critical volunteer support systems. Critical volunteer support systems, such as safety and security and healthcare, form the pillars of the volunteer program. Without efficient and effective support services, volunteers may be put in jeopardy and resources could be misdirected. Some of the more salient work we have done in this area includes:

- In 2008 and 2010, we conducted important reviews of the volunteer safety and security program. Our country program evaluations had identified a number of weaknesses in processes that the agency had in place to ensure volunteer safety at the post-level. The number and frequency of our findings indicated some systemic problems. Our reports highlighted significant inconsistencies in the safety and security program's implementation, and identified areas lacking management oversight and standard processes. As a result, the agency strengthened its program, improved the training and professionalism of its safety and security staff, and entered into the first ever Memorandum of Understanding with the Department of State Office of Diplomatic Security.
- In 2010, we conducted a review of the death of a volunteer in Morocco and made significant findings that both provided closure for the victim's family and pointed to the need to substantially improve clinical oversight of Peace Corps medical officers. The review led to an overhaul of the agency's volunteer medical care program.
- In 2012, we issued an evaluation report reviewing existing agency guidelines for responding to sexual assault. Among other areas for improvement, we recommended the agency create a case management system to manage how the agency responds to sexual assaults and provides services to victims.

- In 2013, we issued three legislatively mandated reports, two evaluations and one audit, addressing critical volunteer support areas mandated by the Kate Puzey Volunteer Protection Act of 2011 (Kate Puzey Act).¹
- In October 2013, an OIG investigation conducted in collaboration with the Department of Homeland Security, Department of State, and host country law enforcement led to the conviction of a former volunteer for abusing children in South Africa. He was sentenced in October 2013 to 15 years in federal prison.
- In November 2013, OIG investigators working with U.S. and host country law enforcement solved a 15-year-old homicide of a Peace Corps volunteer in Gabon.

Challenges to OIG's Oversight

Access to Agency Documents and Information

Because of the Peace Corps' unique mission, if an agency program is not effective and/or efficient the result can be tragic for volunteers and their families. An effective IG must have prompt access to all relevant documents within the possession of the agency it oversees. This access is explicitly stated in section 6 of the IG Act.² However, in a number of instances the agency has denied or delayed access to information OIG has requested. OIG has resolved these access issues through discussions with agency senior management. Unfortunately, the Peace Corps is impeding OIG's right of access by creating policies and procedures that deny OIG information found in certain reports made by volunteers who are the victims of sexual assault. The agency's general counsel bases his authority to deny OIG access on his interpretation of the Kate Puzey Act.

The Kate Puzey Volunteer Protection Act of 2011

Congress enacted the Kate Puzey Act following reports that volunteer victims of sexual assaults were being ignored, blamed for their assaults, and that their cases were being mismanaged. These allegations came to light after the ABC network's 20/20 show aired a story on how the agency mishandled sexual assault complaints by former volunteers, as well as an allegation by former Peace Corps volunteer Kate Puzey, who was murdered in Benin in 2009 after a staff member allegedly failed to keep her complaint confidential. Even before the 20/20 broadcast, OIG had conducted two agency-wide reviews focused on the volunteer safety and security program. One of them was specifically prompted by the circumstances surrounding the Peace Corps' handling of the Kate Puzey case.

Among other things, the Kate Puzey Act mandates an extensive oversight role to OIG and the creation of a restricted reporting mechanism that allows volunteer victims of sexual assault to confidentially disclose the details of their assault to specified individuals and receive services without the dissemination of their personally identifying information (PII) or triggering an official investigation.³ The general counsel argues that the restricted reporting provisions in the

¹ Kate Puzey Volunteer Protection Act of 2011, Pub. L. No. 112-57.

² 5 U.S.C. app. § 6(a)(1).

³ Pub. L. No. 112-57 §§ 8A(e)(f), 8E(d).

Kate Puzey Act override any general obligation that the Peace Corps may have under the IG Act to provide OIG with agency records.

Agency's Refusal to Give OIG Information Required by the Kate Puzey Act

Congress created four exceptions to the restricted reporting requirement, including an exception in cases where state or federal courts order disclosure, or if disclosure is required by federal or state statute. Despite the exception for statutorily mandated disclosures, the Peace Corps' general counsel has authored a legal opinion asserting that the exception does not apply to section 6 of the IG Act. OIG is mindful of the sensitive nature of the information and the need to protect the privacy and confidentiality of victims. OIG is committed to following the law and is ready to cooperate with the agency so that if the PII of the victim is disclosed pursuant to an exception, the victim is notified in accordance with the Kate Puzey Act. However, OIG does not accept that a legal opinion issued by the agency's general counsel can result in the preemptive denial of access to information we require to meet our mission.

The denial of access is all the more troubling considering the law provides OIG a central role in improving the Peace Corps' response to sexual assault victims. In particular, the law requires OIG oversee sexual assault mismanagement allegations and conduct a case review of a statistically significant number of sexual assault cases. It defies common sense to imagine that Congress intended to increase OIG's oversight duties over the Peace Corps' response to sexual assaults, while simultaneously curtailing its ability to access the information it needs to fulfill those new duties.⁴

Further frustrating our mission is the legal opinion's overly broad interpretation of PII and the resulting agency policy defining PII as including "...any details of the sexual assault incident" regardless of whether the details are tied to individually identifying information of the victim. The agency's interpretation of PII is broader than the definition stated in the Kate Puzey Act and definitions widely used in the federal government, resulting in a complete information blackout on restricted reports. I would like to thank you, Mr. Chairman, for the letter of inquiry you submitted to the agency in September expressing your concern on this matter. As a result of your letter, the agency began providing three data points from restricted reports that the agency previously classified as PII.⁵ The data is neither tied to the identity of a victim of sexual assault nor to an incident date and is not covered by the prohibition on dissemination of information in section 8A(f) of the Kate Puzey Act.

Under the logic of the general counsel's legal position Peace Corps country directors would not have been authorized to receive these three data points. Yet, agency policy provided the country directors access while simultaneously denying it to OIG. In a letter dated September 16, 2013, acting Director Hessler-Radelet reversed the position of the agency and began providing the information to OIG on a weekly basis.⁶ However, the letter reserved the right of the agency to

⁴ To understand the importance of OIG's oversight role in this area it is appropriate to consider that the Kate Puzey Act was passed on the heels of two Congressional hearings where sexual assault victims testified that their allegations were not taken seriously by Peace Corps managers, that in many cases they were blamed for the assaults, and that they were not provided with adequate services.

⁵ The three data points are limited to the country where the incident took place, the type of incident (rape, aggravated sexual assault, sexual assault), and the location type (transportation, residence, etc.).

⁶ The policy was changed on December 2, 2013. OIG began receiving the information on October 31, 2013.

withhold the information from OIG in the future if it becomes “clear” that the information is PII as asserted in the general counsel opinion.

It is important to note that restricted reports are not a narrow subset of allegations. In fact, new agency policy establishes that all reports are restricted, regardless of to whom they are made, until such time as a volunteer affirmatively changes his or her report to unrestricted; thus making restricted reporting the default reporting avenue for all sexual assault allegations. Lack of access to such information impedes my office’s ability to comply with the law, provide proper oversight, and makes the agency’s response to sexual assault allegations susceptible to mismanagement and impunity.

Moreover, we have offered to work with the agency to minimize the information needed to conduct our work; for example, by redacting names of victims and using identifying numbers. But because of the overly broad definition of PII contained in the general counsel’s legal opinion it is impossible to get the information necessary to provide meaningful oversight. One practical obstacle is the lack of an agency sexual assault case management system, a finding we made in 2012. Although we understand the agency has made progress in developing such a system, the recommendation remains open.

Under the leadership of acting Director Hessler-Radelet and former Director Williams, the agency has taken substantial measure to improve the way it handles sexual assaults. The Peace Corps has spent the last two years focusing on implementing the Kate Puzey Act; though not all of its requirements are in place. Future OIG work will focus on the effectiveness and implementation of the sexual assault risk-reduction measures that have been established. Continued independent oversight by my office is essential to ensure that the agency does not undo improvements it has previously made while it fully implements the remaining requirements of the Kate Puzey Act.

Enhancing OIG’s Oversight

Access to information about a sexual assault is not only necessary to meet the reporting requirements of the Kate Puzey Act, it is critical for providing the type of effective oversight that OIGs are required to perform. OIG may require access to this information for a variety of reasons. For example in a 2008 review, we found that data included in the agency system to categorize and track crime incidents, including sexual assaults, was unreliable. Denial of access to restricted reports would prohibit a follow-up to such a review. In other cases OIG would be unable to review complaints from volunteers other than the victim, or employee whistleblowers that an allegation of sexual assault was mismanaged or ignored altogether. We are unable to predict all the potential future requirements for access, and it is clear that denying this information will prohibit OIG from performing key oversight functions. The denial of access is all the more remarkable considering OIG personnel has longstanding experience in protecting confidentiality and dealing with sensitive information, including information about victims.

We have experienced other recent access to information problems unrelated to restricted reporting, however they have been resolved.⁷ Nonetheless, IGs should not have to seek the intervention of the head of the agency to access information they already have the authority to obtain under the IG Act. IGs must independently determine whether a request for access to documents is relevant or appropriate. Independence is critical to effective oversight. If agency management or senior officials seek to approve the IG's access to information and documents, this compromises the IG's independence. Agency staff will receive the wrong messages about cooperation with OIG. Even if information is not denied it might be delayed, which has an impact on our operations. My office relies on Peace Corps staff's cooperation to fulfill its mission. Without its help, we cannot do our jobs. In this regard, I would like to acknowledge that prior to this hearing the acting Director Hessler-Radelet sent an email message to all Peace Corps staff encouraging it to cooperate with OIG and reminding staff of its obligation to report fraud, waste, and abuse.

As Congress considers laws protecting the privacy and confidentiality of individuals vis-à-vis information held by federal agencies, it should consider any impact on the ability of OIGs to perform the type of oversight that is expected by Congress and the American people. Perhaps the committee can look at what could be done legislatively to make absolutely clear that OIG access to all agency documents and information is required under the IG Act regardless of provisions contained in other laws unless specifically stated otherwise. Hearings like this one send an important message to federal agencies that OIG oversight and unfettered access to agency information is essential.

Paperwork Reduction Act

I would like to highlight challenges we have faced in complying with the Paperwork Reduction Act of 1995⁸ (PRA) and the Computer Matching and Privacy Protection Act of 1988 (Computer Matching Act).⁹ We recognize the need to minimize the paperwork burden on the public that results from the collection of information by or for the federal government. However, as applied, the PRA restricts OIG's ability to ask questions of more than nine non-federal entities without participating in a collection review process and obtaining the approval of the Office of Management and Budget.¹⁰ This process can often take up to a year or more. By that time, the

⁷ In one case OIG personnel requested continued access to the unrestricted portion of the agency's Consolidated Incident Reporting System database (CIRS), a crime incident database for all crimes committed against volunteers. OIG had always had access to CIRS, but prior to launching its restricted reporting system on September 1, 2013, the agency modified CIRS limiting OIG's access to the standard CIRS system. The limitation to standard unrestricted crime data had no relationship with the Kate Puzey Act and was incompatible with both the Kate Puzey Act and the IG Act. On September 30, I sent a letter to the acting Director making her aware of this impediment and asking her assistance pursuant to the IG Act. Thanks to her intervention, we now have access to this critical information. In another recent incident, OIG investigators requested access to a volunteer applicant database. The agency's general counsel suggested that the Privacy Act of 1974, Pub. L. No. 93-579, prohibited access unless OIG could provide a need to know. We discovered, however, this standard had not been applied to other users of the system. In fact there are hundreds of registered users in our relatively small agency have access to that database. When we presented these facts, the agency immediately committed to provide information on specific applicants when requested by my office.

⁸ Pub. L. No. 104-13.

⁹ Pub. L. No. 100-503.

¹⁰ There is a limited exception for Inspectors General "during the conduct of an administrative action, investigation, or audit involving an agency against specific individuals." 44 U.S.C. § 3518(c)(1)(B)(ii).

program being evaluated may have changed and the proposed survey may need to be modified. Rather than going through this process, many IGs opt to interview nine or fewer entities. As a result, stakeholders such as agency management or Congress may not be getting the most effective recommendations and reports may not, for example, include all the best practices agencies could implement to become better stewards of taxpayers' funds.

Computer Matching Act

Changes to the Computer Matching Act so that offices of inspectors general can more easily detect and prevent fraud would also facilitate our work. Generally, the Computer Matching Act places restrictions on cross referencing information found in separate computer databases of different agencies. In the case of our office, we review staff and volunteer Federal Employee Compensation Act claims for possible fraud. Being able to cross reference such claims with other government benefit databases would likely save taxpayer dollars as certain fraudulent benefits would be reduced.

Conclusion

In conclusion, I want to thank the Committee for the opportunity to testify on the challenges facing my office. We have a proven track record of making meaningful findings and recommendations that improve agency effectiveness and support volunteers. To continue to provide effective oversight we need unfettered access to agency documents and information. As the committee considers legislation to support the work of IGs I ask that you consider further strengthening or clarifying IG Act access provisions as well as supporting OIG's in developing some of the oversight tools that I have outlined above.

Kathy A. Buller
Inspector General
Peace Corps

Ms. Kathy A. Buller was named by the Director to be the Inspector General of the Peace Corps on May 25, 2008. Ms. Buller has over 27 years of experience in the Inspector General community. She began her civil service career with the U.S. Agency for International Development as an attorney advisor in the Office of General Counsel in 1983. Ms. Buller later became a project officer with the Office of Administration of Justice and Democratic Development working to improve Latin American and Caribbean justice systems. In 1986, Ms. Buller transferred to the Office of Inspector General where she became the Deputy Legal Counsel and ultimately the Assistant Inspector General for Resource Management. In August 1998, Ms. Buller accepted the Senior Executive Service position as the Chief Counsel to the Inspector General for the Social Security Administration where she remained until becoming the Peace Corps Inspector General.

As a member of the Council of Inspectors General on Integrity and Efficiency, Ms. Buller is a member of the Executive Council, co-chair of the Inspections and Evaluations Committee and a member of the Legislation Committee. In 2009 she was appointed to the Government Accountability Office Advisory Council on Government Auditing Standards. During her career in the Inspector General community she also served as past Chair of the Council of Counsels to the Inspectors General and received numerous awards including the 2004 Glenn/Roth Exemplary Service Award given jointly by the President's Council on Efficiency and Integrity and the Executive Council on Integrity and Efficiency.

Ms. Buller attended Creighton University in Omaha, Nebraska, where she received a Bachelor of Arts degree in 1977 with majors in Political Science and Philosophy and a Juris Doctor degree in 1981. She continued her legal education and received an LLM in International and Comparative Law from Georgetown University in 1985.