

**The House Committee on Oversight and Government Reform**  
**114<sup>th</sup> Congress**  
**Witness Statement**

Witness: Ross Tuttle, Senior Advisor to the Assistant Regional Administrator, U. S. EPA Region 6, Dallas, Texas and former Human Capital Officer, U. S. EPA Region 5, Chicago, IL.

Date: 29 July 2015

**Introduction and Background**

Good morning Chairman Chaffetz; Ranking Member (Congressman) Cummings; and distinguished members of the committee. My name is Ross Tuttle. Since January of 2014, I have been employed as Senior Advisor to the Assistant Regional Administrator in EPA Region 6, Dallas, TX. Prior to this reassignment, from September of 2009 to January of 2014, I was employed as the Human Capital Officer (Supervisory Human Resources Management Specialist) at EPA Region 5 in Chicago, IL. I appreciate the opportunity that has been extended to me to submit a statement for the record with regard to mismanagement, sexual harassment, discrimination, and retaliation, directed at myself and others, that took place in the Region 5, Chicago office by several senior EPA managers within various divisions in the region and that has followed me to Region 6 in Dallas. I do so today with a significant amount of trepidation despite my belief that it is the right and proper action to take.

Mr. Chairman, I respectfully request the committee's indulgence and ask, prior to my testimony, that my Agency Administrator, Ms. Gina McCarthy, go on the record and state there will be no retaliation against me or any of the regional employees who submitted documents for this hearing, including those of us that are appearing before you today.

I watched the EPA hearings titled "EPA Mismanagement," streamed on April 30, 2015 before this same committee. To say the least, it is disheartening and demoralizing to know, with certainty, that the situations that I was involved in, and privy to, in my former position as the Human Capital Officer were not only very similar to what I have experienced, but indeed seem endemic to the Agency. These situations included (but are not limited to) the following: (1) sexual harassment, (2) the length and scope of the harassment, and (3) the ongoing and protracted cover ups about these blatant and intentional discriminatory activities by management officials. After viewing the April 30th Committee proceedings, I am even more appreciative of this opportunity despite my fear and belief that there is even more retaliation to come after sharing my experiences with this Committee.

It is my understanding that these issues, and others, have been the subject of this committee and members of Congress for several years prior and subsequent to my hiring by the EPA in the Fall of 2009. If only 50 percent of what I have learned is true,

then what I have been subjected to would seem to have continued unabated for a significant period of time. It would further seem that very little has changed within the EPA management culture over this same period of time. Based on my own leadership experiences spanning some 35 years, I attribute this lack of change to a direct and corresponding lack of accountability. Accountability seems to be something that our "leadership" says they expect, but seem to rarely do themselves. To use my own words, management (at least in the two regions that I have been a part of), management does what it wants, when it wants, the way it wants, to whom it wants heedless of policies, regulations, laws, etc. To expect any change to the Agency culture given this attitude is absolute folly. The prevailing attitude seems to be "going-along-to-get-along" over personal and professional accountability. In Regions 5 and 6, this thought/action process supported resistance and animosity to change because anyone (including myself and my colleagues) who advocated doing business the right way were viewed as oppositional and not being a "team player". Management's reaction to us was reflected in evaluations, annual performance awards, developmental and promotional opportunities, and our general treatment as "persona non grata" and attendant marginalization. We were made out to be "renegades" and "outliers".

### **Discussion 1: Sexual Harassment in the Great Lakes National Program Office**

(this is also Discussion 4 supporting what happened to me)

As evidence of what I am saying here, and before I get to my own situations, I would bring to your attention two of my former colleagues in Region 5, Mr. Ronald Harris (former Region 5 EEO Specialist) and Dr. Carolyn Bohlen (experienced manager (FMA Manager of the Year in 2010) and Acting Director of the Region 5 Office of Civil Rights). When these two esteemed colleagues had followed Agency protocol and reported allegations of sexual harassment activity towards female interns in the Great Lakes National Program Office to the EPA Washington Headquarters office, they were subjected (both jointly and severally) to office bullying and retaliation by Mr. Bharat Mathur (Deputy Regional Administrator) and were removed from their positions in the Office of Civil Rights.

As the Deputy Regional Administrator for Region 5 and a senior executive, Mr. Mathur had a legal obligation to prevent discriminatory activity. Not only did he continually fail to uphold his professional obligations in this regard, his lack of leadership was rewarded with a Presidential Rank Award and the accompanying performance bonus of approximately \$35,900 approved by EPA Washington Headquarters to further supplement his \$179,000 annual salary. The recommendation for this award given to Mr. Mathur was made by the Regional Administrator, Dr. Susan Hedman, and sanctioned by senior management within EPA Headquarters. Other Region 5 senior managers who were also named participants in these discriminatory cover-ups and retaliatory activities received awards approved by both Regional Administrator Hedman and Deputy Regional Administrator Mathur. In my humble opinion, these monetary awards should have to be repaid to the government so that a strong message will be sent that discrimination and retaliation will not be tolerated or rewarded and that personal and professional accountability is viewed in a much stronger light and context.

Although I believe that EPA has a process for dealing with discrimination, retaliation, and reprisals there is a demonstrated unwillingness to effectively deal with supervisors and managers who retaliate or discriminate and an affirmative tolerance for those subordinate supervisors who do engage in these behaviors.

This Committee can send another strong message that the word "Accountability" applies to these management officials too. I believe that this is the level of reform that the American People expect from their Government and from this Committee which has the power and latitude to address these matters and implement improvements when agency management fails to do so. This record will also reflect how agency senior management officials failed on numerous occasions to follow our own processes, procedures, statutory authorities, ethics, and EEOC Guidance within the EEO Process for addressing sexual harassment and retaliation.

These failures came from those same officials who were entrusted with the utmost responsibility to prevent discrimination. Unfortunately, the employees, and people most affected by these failures, were young female interns; new to EPA, and female employees in the Region's Great Lakes National Program Office in addition to myself and my colleagues here today.

On Thursday afternoon, 17 March 2011, I was made aware of a sexual harassment complaint in the Great Lakes National Program Office (GLNPO). After speaking with two female employees and the female intern that was the subject of the unwanted behaviors, I began a fact finding inquiry into the allegations of Sexual Harassment and Hostile Working Environment complaint brought to my attention by three white females in the EPA Region 5 Great Lakes National Program Office (GLNPO) in the Monitoring Indicators & Reporting Branch (MIRB) brought against a white male employee that had "agreed" to work with them during their internship with EPA Region 5.

From the conversation that I had with the intern who was being harassed, I obtained the names of more than a dozen other female interns that had worked in this same organization going back to the year 2000. I obtained email addresses for each of them and sent them an email asking if they would be willing to provide me a written statement of what had happened to them and how it had been dealt with. Most responded in the affirmative and sent me their statements (I shared these statements with both Dr. Carolyn Bohlen and Ron Harris in the Office of Civil Rights) as well as David Cowgill and Wendy Carney who are mentioned in the ensuing paragraph). From their statements, I learned that not only had this employee been systematically sexually harassing female interns (going back to at least the year 2000), but an email I received from a current employee and male colleague of the perpetrator stated that the perpetrator had been "disciplined" by his university for this same kind of behavior during his Ph.D. program. Most of the statements I received not only spoke about the behaviors of the alleged harasser, but also stated that the intern had contacted the Branch Chief in MIRB (a GS-15 manager (with well over 30 years of federal service) and that nothing had been done by management to address the harassment. One former intern stated that because of this she changed her mind about not only working for EPA

but also for working in the federal sector at all and even went so far as to obtain employment in an unrelated profession.

After I had obtained the written statements, I contacted David Cowgill, the Acting GLNPO Division Director (a Branch Chief in another part of GLNPO) and Ms. Wendy Carney, his Deputy (new to the Division and NOT a part of the complaint) and stated that I needed to meet with them. When we met later that day in my office, I informed them of what I had found out, told them I had obtained statements from current as well as former female interns and employees stating they had been sexually harassed. I went on to say that I was going to recommend that the perpetrator be processed for removal from federal service (as an administrative as opposed to a criminal action) and that after I had finished with this action, I was going to pursue disciplinary actions for the management officials that were knowledgeable about the ongoing harassment by the perpetrator, but had done nothing to stop it or report it to senior leadership. Even after finding out about the numerous harassment victims, the direct reporting manager continued to feed the harasser a steady diet of young women. I found this to be particularly reprehensible considering that one of the management officials in GLNPO that knew of this situation was a woman who had stood by and let other young professional women become victims of this employee for more than 10 years prior to her retirement in December 2010.

Further, I discovered during the fact-finding that the sexual harassment endured by the interns included allegations of unwanted rubbing, touching on their backs, legs, arms, and shoulders. It further included uninvited sexual advances from attempts at kissing them and referring to them as "sexy, sweetheart, sweetie, and darling." This whole sordid affair is made more egregious considering that once the report was provided to the two most senior managers in the region, neither one of them took any steps to discipline the management officials who enabled the harassers.

When I informed my Division Director (who was the Assistant Regional Administrator for Resources Management) about the situation and what I was planning to do, his reaction was significantly less than supporting. After my staff and I had met with Mr. Mathur on 3 separate occasions (along with Dr. Bohlen and Mr. Harris) to discuss the facts, circumstances, and recommendations for the harassment, my office was largely excluded from the administrative processing of the perpetrator. The perpetrator's attorney negotiated with Mr. Mathur to let the perpetrator retire (as he had sufficient service for regular retirement) which we strongly opposed due to the nature of his conduct. (Note: Our goal was not to keep him from retirement; we could not prevent that in an administrative action; but we knew it would take him longer to get his retirement if he was removed.)

Essentially, this employee got a "free pass" to retire after years of this behavior.) Subsequent to the "retirement" of this employee, I met with a labor attorney in the Office of Regional Counsel to begin disciplinary proceedings on the management officials that had condoned and tolerated this behavior. At this point, senior management must have come together and decided that this was not going to happen and I was stonewalled and stymied in my attempts to hold management responsible.

To date, NO ACTION has been taken against either of the two remaining managers who knew about the harassment and did nothing to stop it, one of which was the manager of the perpetrator.

## **Discussion 2: Reassignment of Ronald Harris and Carolyn Bohlen**

In the middle of May 2011, due to his investigative involvement in the GLNPO Sexual Harassment Scandal from the Office of Civil Rights side of the Region and within some 3 months of reaching out to our HQ in Washington, DC seeking advice and disclosing this information to a senior management official in HQ, Mr. Harris was reassigned and constructively demoted from his position as the Regional EEO Officer to a position in the Employee Services Branch in Resources Management Division (RMD). This action was taken by Mr. Mathur based on a meeting that I was asked to attend along with my Associate Director, Cynthia Colantoni. Mr. Mathur did not speak to me (as the HCO) or ask my opinion on anything; he directed his conversation to Ms. Colantoni. He stated that he did not "like the way that Ron Harris was handling things" and that Mr. Mathur felt that Mr. Harris had been "too cozy with the Union", so he wanted to reassign him and asked Ms. Colantoni what her recommendation was. Ms. Colantoni suggested that he could be reassigned to RMD to handle Reasonable Accommodation (he was already the Local Reasonable Accommodation Coordinator) and help with facilities management issues. Thus, on 31 May 2011, Mr. Harris was notified by Mr. Mathur with Karen Vasquez (newly appointed acting Director of the Office of Civil Rights) present that he was being removed from his position of record and reassigned to "Unclassified Duties" in the Employees Services Branch, Health & Safety Office. I firmly believe that this change was punitive; essentially stripping him of 75% of his official duties and banished him from the 19<sup>th</sup> floor to the 12<sup>th</sup> floor.

I am certain that this action caused him personal and professional embarrassment and humiliation. Karen Vasquez, who had been assigned as the Acting Director of the Office of Civil Rights after the removal of Dr. Bohlen (also by Mr. Mathur)(while on Medical leave for conditions exacerbated by working many long hours to fix the Office of Civil Rights after the firing of the previous Director in early 2010) had NO previous EEO experience and was uniquely unqualified for that position. She conspired with Cyndy Colantoni and others to remove Mr. Harris' access to access to databases, statements, e-mails, notes, and updated statuses of EEO complaints filed while he was on annual leave following his involuntary reassignment.

Her lack of relevant experience and competence in Civil Rights notwithstanding, Karen Vasquez, would also receive a significant cash award approved by the Regional Administrator (Hedman) and the Deputy Regional Administrator (Mathur) despite the fact that the EEOC found her to be a discriminating management official in another EEO complaint indirectly related to this issue. The actions of these seniors managers has led to additional erosion of the Region 5 OCR office, an office they see as unnecessary and unwanted, in essence a "thorn in their side".

**\*\*What follows is an indication of the retaliation that I have been subjected to for doing my job.\*\***

**Discussion 3: Recruitment Irregularity (EEO Violation) in Superfund Program**

In the Spring of 2010, Mr. Harris brought to my attention a recruitment violation (EEO) in Region 5 Superfund Division. The Division was recruiting a Community Involvement Coordinator (CIC) to work with the Hispanic communities in West Chicago. The solicitation was put on USAJobs, a list of eligibles was prepared from the responses to the advertisement, and an experienced cross-divisional interview panel from Superfund reviewed the resumes and prepared a list of candidates for interview. Based on the interviews, the panel selected the best qualified person which was an older Hispanic man that had extensive community outreach experience in the private sector. The panel certified their choice to the hiring manager (Jeff Kelly who is currently the Director of the Office of External Affairs). Mr. Kelly overrode the panel's recommendation and instead chose to hire a young white female whose only qualification seemed to be that she had taken Spanish in college. My reaction was that his action had placed the Region in a precarious position that I felt could not be defended if other candidates were to file a discrimination complaint.

I immediately informed my Division Director (who was also the Assistant regional Administrator for Resources Management). I briefed him on the problem and the potential impact. I then called the Cincinnati Shared Services Center and spoke with the HR Specialist that was responsible for the pending action. I asked if she had extended an employment offer to this young woman yet. The specialist stated that she had done so two (2) weeks prior, it had been accepted, and that the prospective employee was in transit to Chicago from South Carolina. The specialist asked if there was a problem. I replied that there was as this was not the person deemed best qualified by the panel. (Note: The HR Specialist was not aware of this issue at any time prior to speaking with me). Subsequent to this discussion, I called and e-mailed the selecting official (Kelly) and stated that he had put the Region in a bad position and that I hoped he had room to hire 2 CIC's since he should have hired the "Best Qualified". He never responded to my email or voicemail, but Superfund did come up with another position to hire the man deemed "Best Qualified".

Evidently, there was some kind of discussion between the Superfund Division Director and my Division Director about my intercession as my DD was very terse in dealing with me for about 2 weeks following this action.

**Discussion 4: Sexual Harassment in the Great Lakes National Program Office**(from my perspective as the Human Capital Officer)

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behaviors, I began a fact finding inquiry into the allegations of Sexual Harassment and Hostile Working Environment complaint brought to my attention by three white females in the EPA Region 5 Great Lakes National Program Office (GLNPO) in the Monitoring Indicators & Reporting Branch (MIRB) brought against a white male employee that had "agreed" to work with them during their internship with EPA Region 5.

From the conversation that I had with the intern who was being harassed, I obtained the names of more than a dozen other female interns that had worked in this same organization going back to the year 2000. I obtained email addresses for each of them and sent them an email asking if they would be willing to provide me a written statement of what had happened to them and how it had been dealt with. Most responded in the affirmative and sent me their statements (I shared these statements with both Dr. Carolyn Bohlen and Ron Harris in the Office of Civil Rights) as well as David Cowgill and Wendy Carney who are mentioned in the ensuing paragraph). From their statements, I learned that not only had this employee been systematically sexually harassing female interns (going back to at least the year 2000), but an email I received from a current employee and male colleague of the perpetrator stated that the perpetrator had been "disciplined" by his university for this same kind of behavior during his Ph.D. program. Most of the statements I received not only spoke about the behaviors of the alleged harasser, but also stated that the intern had contacted the Branch Chief in MIRB (a GS-15 manager (with well over 30 years of federal service) and that nothing had been done by management to address the harassment. One former intern stated that because of this she changed her mind about not only working for EPA but also for working in the federal sector at all and even went so far as to obtain employment in an unrelated profession.

After I had obtained the written statements, I contacted David Cowgill, the Acting GLNPO Division Director (a Branch Chief in another part of GLNPO) and Ms. Wendy Carney, his Deputy (new to the Division and NOT a part of the complaint) and stated that I needed to meet with them. When we met later that day in my office, I informed them of what I had found out, told them I had obtained statements from current as well as former female interns and employees stating they had been sexually harassed. I went on to say that I was going to recommend that the perpetrator be processed for removal from federal service (as an administrative as opposed to a criminal action) and that after I had finished with this action, I was going to pursue disciplinary actions for the management officials that were knowledgeable about the ongoing harassment by the perpetrator, but had done nothing to stop it or report it to senior leadership. Even after finding out about the numerous harassment victims, the direct reporting manager continued to feed the harasser a steady diet of young women. I found this to be particularly reprehensible considering that one of the management officials in GLNPO that knew of this situation was a woman who had stood by and let other young professional women become victims of this employee for more than 10 years prior to her retirement in December 2010.

Further, I discovered during the fact-finding that the sexual harassment endured by the interns included allegations of unwanted rubbing, touching on their backs, legs, arms, and shoulders. It further included uninvited sexual advances from attempts at kissing

them and referring to them as "sexy, sweetheart, sweetie, and darling." This whole sordid affair is made more egregious considering that once the report was provided to the two most senior managers in the region, neither one of them took any steps to discipline the management officials who enabled the harassers.

When I informed my Division Director (who was the Assistant Regional Administrator for Resources Management) about the situation and what I was planning to do, his reaction was significantly less than supporting. After my staff and I had met with Mr. Mathur on 3 separate occasions (along with Dr. Bohlen and Mr. Harris) to discuss the facts, circumstances, and recommendations for the harassment, my office was largely excluded from the administrative processing of the perpetrator. The perpetrator's attorney negotiated with Mr. Mathur to let the perpetrator retire (as he had sufficient service for regular retirement) which we strongly opposed due to the nature of his conduct. (Note: Our goal was not to keep him from retirement; we could not prevent that in an administrative action; but we knew it would take him longer to get his retirement if he was removed.

Essentially, this employee got a "free pass" to retire after years of this behavior.) Subsequent to the "retirement" of this employee, I met with a labor attorney in the Office of Regional Counsel to begin disciplinary proceedings on the management officials that had condoned and tolerated this behavior. At this point, senior management must have come together and decided that this was not going to happen and I was stonewalled and stymied in my attempts to hold management responsible. To date, NO ACTION has been taken against either of the two remaining managers who knew about the harassment and did nothing to stop it, one of which was the manager of the perpetrator.

However, following this issue and because I would not knuckle under to the "get along, go along" management "good old boy" system, I started getting systematically bypassed by Walt Kovalick (my Division Director/ARA) as well as senior leadership on any further inclusion on issues that I should rightly have been a part of as the HCO. I was not included in meetings, discussions, or asked for my advice or recommendations on any matters of significance including the reorganization in the Office of the Regional Administrator in late 2001 to mid-2012. When I was contacted by HQ Office of Civil Rights on an EEO complaint filed on the Regional Acting Director of Civil Rights (Ms. Karen Vasquez) and contacted her to demand documents requested by HQ, she contacted my Division Director and I was directed by him to "stand down". When I explained to him that I am required to assist in any investigation, he again told me to "stand down". I informed him at that time that he had directed me to violate the law by so doing. My response seemed to make him angry and he said that I was being borderline insubordinate (words to that effect). This same situation recurred in late summer of 2012 when I was again contacted by a HQ EEO Investigator and told that she needed documents. I drafted another email to Karen Vasquez, but this time, I decided to clear it with my new Division Director, Cheryl Newton. Cheryl responded that she did not like the tone of my email and thought I was being too formal. When I explained to her the reason for my formality, she got angry and told me to "stand down" just like her predecessor. I contacted the investigator by phone and email and

told her what I had been directed to do. She said that she was "appalled" by the direction I had been given, but responded to me and stated she would contact Vasquez directly. (Note: The Region lost this EEO case and was compelled to hire another GS-13 EEO Manager as a result and still nothing was done to Vasquez for what her actions had caused the Region and the Agency)

### **Discussion 5: The Reorganization in the Office of the Regional Administrator (ORA)**

In late 2011/early 2012, the Human Capital Office was approached by Elissa Speizman, (Senior Policy Advisor to the Regional Administrator) for recommendations on a reorganization that they wanted to do. As part of the Agency's efforts to centralize web content and appearance, she had received approval from Susan Hedman (Regional Administrator) to create an "Office of External Communication" which would contain the existing Office of Public Affairs (OPA) and would also create a new Office of Web Communication (to standardize web content and appearance). I assigned this project to Mr. Gil Colston, Section Chief for Labor and Employee Relations. He brought our Position Manager with him to meet with Elissa to begin determining how best to help them with this effort. After several meetings with Elissa over a period of three weeks, we were clear that what she wanted to do was just create this new organization without getting approval from HQ and to hand pick the employees that she wanted to have in the new section. When we tried to explain that she could not do it that way, she got upset and told Mr. Colston that I said it could be done that way. When Mr. Colston called me to the meeting and she was asked to repeat what she said, she got visibly upset and stormed out of the room. Subsequent to those meetings, she tried to bypass my office and send recruitment actions directly to the Shared Services Center (SSC). When the SSC noted that the actions did not have Human Capital approval on them, they returned them to Elissa who was even more furious than before. Unknown to me and my staff, she then "conspired" with Cyndy Colantoni (my Associate Director) and Ms. Nancy Ciccarello, Operations Branch Chief at the Cincy SSC, to create "details so that Elissa could get who she wanted and thus disenfranchising every other regional employee who had been doing web work from having an opportunity to participate and perhaps get promoted.

After the details were put into place, Elissa began preparing the required reorganization package for submission to EPA HQ. This was done with no input or consultation with the Human Capital Branch and none of us (including me) knew this was in the works. I did not know what was being done until about May of 2012. When I went to a Human Capital Branch meeting with my ARA (Cheryl Newton and the Associate Director, Cyndy Colantoni on a Wednesday afternoon, Cyndy handed me a package as I walked into Cheryl's office. She told me to get it to HQ. I looked at the cover page and saw that it was a reorganization package for the Office of the Regional Administrator. I handed it directly to Mr. Colston and directed him to make sure it got to "where it needed to go". A few days later, I got a call from the reorganization section of HQ. The Acting Section Chief, Veronica Smith, told me that she had just received the package and it did not

contain my signature (as the HCO). She asked why and I said that I had not looked at it because we (Human Capital Office) was not included or consulted about the content. I asked her to send me an electronic copy which she did. On review, I immediately notice clear evidence of pre-selection in the proposed new section. This constituted an illegal action in and of itself. Further review of the proposal showed that other employees in the region were not taken into consideration when discussing impact on promotion and career development. For those reasons, I called Veronica and said that, in my opinion, the proposal was illegal and I would not sign it. I stated that my signature as the HCO constitutes an approval of the proposal and I did not approve.

She reviewed the package again and concurred with my assessment. She stated that processing would be terminated and the package would be returned and she was going to send me an email to that effect. I asked her to include Cheryl Newton, Cyndy Colantoni, Elissa, Mr. Mathur (DRA), Susan Hedman (RA) and Regional Counsel on the email, which she did. When Cheryl got the email she was furious. She sent a response to HQ stating that they (HQ) were not going to hold up the processing. She then called me and demanded an explanation from me. I calmly explained what was wrong with the package and stated that, had we not been bypassed in an attempt to do what they wanted to do INSTEAD of what was right, this would not have happened. Minutes later, I received an email scheduling a face-to-face meeting with me the following morning at 9:00 AM. Cyndy Colantoni was copied and was asked to attend. This was followed by another email stating that "in preparation for our meeting tomorrow, I want a written explanation of what you believe is illegal....." I provided her a written explanation about 2 hours later. I have provided a copy of my response to the Committee.

When I showed up at her office for the meeting the following morning, I was surprised to see that Mr. Eric Cohen, Supervisory Attorney-Advisor (and the manager of the Labor Relations Attorneys in Regional Counsel) was sitting in the office. I said that I did not know that Eric was invited to the meeting as he was not on the invite that I received from Cheryl the previous day. That seemed to take Cheryl by surprise but she said "I just wanted Eric here for his legal perspective." I honestly felt that Cheryl intended to use that meeting to initiate an adverse action on me, but I took my seat and explained my position. When I finished, I turned to Eric Cohen and asked "Did I say anything that was not true, Counselor?" He shook his head "No" but did not say anything. Cheryl asked what needed to be changed so that I would sign the package. I told her that all evidence of pre-selection must be removed. I further stated "I know what you all are going to do anyway, but don't wave it in my face". I also stated that the impact on ALL regional employees doing web work needed to be addressed, not just the employees in the Office of Public Affairs.

### **Discussion 6: Fallout**

The fallout from this latest incident seemed to be the proverbial "last straw" and it has had long term impact on me. By opposing the reorganization as it was written I

angered quite a few people. For my annual performance appraisal in October of 2012, I received an adjective grade of "Fully Successful" after two consecutive years of "Exceeds Expectations". In July of 2012, when performance awards were handed out, each of the six Branch Chiefs in RMD received "Time Off" awards in lieu of cash. I was okay with that part; however (of the six of us) 3 of my peers received 36 hours; 2 (including a brand new supervisor) received 27 hours; and I received 16. I had no reason to view these actions as anything other than punishment. As the Fall of 2012 came and went, the micro-management got worse. When I agreed to mentor two employees in different divisions, I was required, by Cheryl, to submit my mentoring plans to her. This was not required of ANY OTHER MENTOR or ANY OTHER SUPERVISOR. However, this was part of ongoing efforts to marginalize and minimize employees who stand up for what is right and call out management when abuses are taking place. Further, in all of the years that I have been a mentor to other employees, I have NEVER seen this done. This was a form of retaliation by Cheryl because I would not be "part of the team". Along with my Deputy (Juanita Smallwood) and my Labor and Employee Relations Supervisor (Gil Colston), we shared a commitment to do business the right (legal) way. We saw ourselves as "gatekeepers" responsible for telling people what they needed to KNOW instead of what they wanted to HEAR.

When I returned to Chicago after Christmas vacation on 31 December 2012, I was told (by Gil Colston) that an attorney in Regional Counsel had told him that Susan Hedman had directed Mr. Mathur and Ms. Newton to "get rid of me" because of the problems "I created" stemming from the bungled ORA reorganization. While this was hearsay, it had sufficient credibility with me that I contacted my counterpart in Region 6 in Dallas to ask if his ARA would be willing to let me come for a 120 day detail. As my wife and I had been dealing with some serious medical issues for her, I felt that this would serve two purposes; one to allow me to help her, and two to give me a break from the retaliation and micro-management in Region 5 for a period. The Acting ARA in Region 6, Ronnie Crossland, stated it was fine with him if it was okay with Region 5. I approached Cheryl Newton in January of 2013 and asked if she would consider allowing to go on a 120 day detail to Region 6. Her immediate response was "have you considered an IPA?" As IPA's were generally 1 to 3 years in length, that was not my thought, but I thought it was strange that she leaped right to that extreme when all I had asked for was 120 days. I stated that I thought 120 days would be sufficient and she stated that she would need approval from Mr. Mathur, but she would support it. I left Region 5 for the 120 day detail in Region 6 on 6 February 2013.

In mid-May 2013, Cheryl again summoned me back to Chicago for my mid-year performance review. I found that more than a little disconcerting since EPA policy on Performance Evaluations states that my mid-year should have been performed by my supervisor in Dallas which, at the time, was Ray Rodriguez (Region 6 HRO). Adding to my angst was that she wanted me back in Chicago even after HQ had directed all activities to limit unnecessary travel in light of budget issues. I raised those concerns

and that I believed that her wanting me to return was because she was considering an adverse action on me. She denied this was true and stated that the sole purpose was to have a face-to-face review. In response to my question, she "guaranteed" that it would be just the two of us in the room.

On 9 May 2013, I had my mid-year with Cheryl Newton. I have provided the Committee with a copy of Ms. Newton's Summary and my responses to same. I found the general tone to be adversarial and non-productive. She was somewhat taken aback when I told her at the end of the conversation that I knew that there was a plan to get rid of me. She did not know where I would have gotten that information. I told her that I did not need to be micro-managed and that I had been a supervisor, manager or executive longer than she had. I asked if the Region would consider extending my detail until the end of the fiscal year, 30 September. She said that she would need to get Mr. Mathur's approval but she did not foresee a problem and she would also call James McDonald. I went on to say that if I returned in October (2013), that I was inclined to ask for reassignment in the Region since I did not trust her or any other leader.

Cheryl and I negotiated a settlement to my EEO complaint in late May 2013. I have provided a copy of that settlement to the Committee. In that agreement, I was permitted to remain on detail in Region 6 through 30 September 2013. During that time, I would be reassigned to "Unclassified Duties" and would negotiate a new position before I returned to Chicago. However, I was never moved to "Unclassified Duties". My position was advertised (with me still encumbering it) in August 2013 and was filled by Ms. Amy Sanders effective early October 2013 (after the shutdown). Ms. Sanders and I DOUBLE ENCUMBERED the position (not legal) until 11 January 2014 when I was permanently reassigned to Region 6.

### **Discussion 7: The Retaliation Continues in Region 6**

I started my detail in Region 6 on Monday 11 February 2013. Ronnie Crossland was the Acting Assistant Regional Administrator for Management when I reported for duty. Early in the month of April 2013, I filed an EEO complaint against my Division Director, Cheryl Newton (the first time in more than 40 years of work including 26 years in military service) for retaliation. Also in mid-April, I was summoned back to Chicago to be deposed in an EEO case for Dr. Carolyn Bohlen. My testimony in that deposition was not favorable to Region 5 or to Mr. Mathur which further exacerbated an already untenable situation for me.

Region 6 got their new, permanent ARA, James McDonald, in April of 2013. I had not previously known, or met, James McDonald prior to his arrival in Dallas. I had my first meeting with him on 27 June 2013 at 3:30 PM in his office. His first words to me were "I don't know how you got here or why you are here. I would not have agreed to this; I would have done something different, but I was not consulted." (To that effect) I told him that I had been approved for the detail to help me deal with some family issues. He asked me what I was working on and I shared that I was helping HR with some

programs and issues that had previously been agreed to by Ronnie Crossland incident to my request for a detail. The overall tone of the meeting was negative and Mr. McDonald made it clear that I was not welcome here as far as he was concerned. It was at this point that I suspected that he had spoken with Cheryl Newton prior to our meeting to find out about me from her.

In another meeting that I had with Mr. McDonald in September or October of 2013, Mr. McDonald asked me when I was eligible for retirement. Suspicious of his motives, I responded that I was eligible in December of 2015. My suspicions were confirmed in mid-November of 2013 when I was handed a Modification of Settlement Agreement by James McDonald which stated, in part, that **"in exchange for being permanently reassigned to Region 6, under this Agreement Modification, Mr. Tuttle agrees to retire from employment with the EPA no later than January 2, 2016....."** **Incident to this reassignment, I was downgraded from GS-15 to GS-14, removed from supervisory status, and told that I would "never see GS-15 or supervisor status again"**. This was pure retaliation on the part of James McDonald. There was no valid business reason for the downgrade, removal from supervision or the other comments made to me. This was further punishment that started in Region 5 and continued in Region 6 under James McDonald. He is acting as the instrument of Region 5's drive to run me out of the Agency and federal employment. I only signed the modification in November of 2013 because my only options were to a) sign and hope he would reconsider; b) return to Region 5 and the untenable situation there; or c) resign from federal service. Choices b and c were not viable options then or now, so I did what I had to do for the benefit of my family and me.

As a result of these actions, I filed a Breach of Settlement with the Office of Civil Rights in EPA HQ. James McDonald had no legal right to insert himself into my settlement with Cheryl Newton and Region 5. He was not a party to the original complaint and should not have made himself a signatory party to the settlement. The letter was received by EPA on 01 June, but to date, there has been no response to my allegations. This is vintage EPA; dragging their feet until the complainant gives up or is hounded into submission.

Further, during my tenure in Region 6, I have had exactly 2 "major" assignments. I coordinated an Early Out/Buy Out (VERA/VSIP) program for Region 6. Instead of doing the process as it should have been done, I simply put together a proposal package based on the input I got from senior leadership and when the approval came back, I coordinated keeping track of who applied and who received approval. Following the VERA/VSIP, I was originally tasked to guide the Region through a reorganization/restructuring/realignment. In reality, all I did was check divisional packages to make sure that the required forms were included and that required signatures were obtained. Only one of Region 6's Program Divisions included me in their process. I was not even included in my own Division's deliberations. Since early April 2015, when our divisional reorganization packages were submitted to HQ for approval, I have essentially been idled. I am not assigned any work by my supervisor.

As the Senior Advisor to the Assistant Regional Administrator, I should have a lot of meaningful work to do. Instead, I have little to none.

In my mid-year performance review on 30 April 2015; James thanked me for my work on the reorganization and asked where I saw myself fitting with the reorganization process going forward. My response was that I have no involvement going forward. My part is done. He then asked if I had given any thought to what projects I wanted to work on "**for the remainder of my time here (in Region 6)**". (At this point, I fully confirmed that I had "outlived my usefulness" to James McDonald. I worked on the two projects because no one else had the knowledge or expertise to do so, and even then I really was not allowed to do them as they should have been done.) I told him that I had not given it any thought, but I would do so. He wanted to know what I was currently working on and I told him that I was assisting the HRO in putting together some Standard Operating Procedures to help him manage the HR function and staff (he asked me to be his mentor when he was accepted into the Leadership Development Program). He concluded by asking if I needed anything from him. I said: "To clarify this conversation; are you disinclined to reconsider my settlement agreement?" (Note: I have asked three separate times for him to reconsider my settlement modification for "forced retirement". Two of those times, he said that he would "revisit" the agreement as we get closer to the end. I am now at the 11th hour with nowhere to go.) He quickly responded: "I am. Sam wants to flatten the organization. He says we have too many people." These statements fly in the face of region 6 taking on at least 1 person from HQ permanently and another that is supposed to be on an IPA in the Rio Grande valley that Region 6 either already has, or will at the end of the IPA, take on permanently from HUD. This also does not mesh with the current aggressive recruiting effort taking place. Immediately following this meeting, I filed an EEO Complaint against James McDonald for ongoing retaliation in a separate action from the Breach of Settlement mentioned earlier. It is currently in the informal stage.

In an ongoing effort to help myself, I have been applying for other opportunities; however, I have received no offers to date. On the few interviews where I was told references would be checked, I did not receive an offer either. I am loathe to suspect a "less than stellar" recommendation, but cannot prove it.

Although I was, in mid-November 2014, tasked to take over the Reasonable Accommodation process for Region 6, there is not a lot of work involved with that.

**Conclusion:**

Based on the evidence submitted to this Committee, I am, without doubt, one of the victims retaliated against by senior management officials for providing precisely the recommendations and advice that was required of me as the Human Capital Officer and for my protected actions in Title VII matters that I was a part of or were brought to me as the HCO.

At this point, I am fighting for my professional life. I do not want to have to retire at the end of this year. If that happens, I will not be able to support my family and will be

compelled to rely on public assistance. I am 62 years of age. If I were to be involuntarily unemployed, it is highly unlikely that I would be able to find other meaningful employment at my current level of experience and compensation. I have much left to contribute and cannot afford to absorb that serious a reduction in income. I should not have to pay this kind of price for doing what I was hired to do and for calling out fraud, waste, and abuse. Unless I am able to correct this injustice, I will be "forced out" and "the system" (EPA) will have prevailed again. The actions of these senior managers has led to an erosion of the Region 5 Human Capital Office whose reputation and dependability I had worked hard to restore, an office they view as unnecessary, unwanted, and an impediment to how they want to operate. I strongly suspect this erosion continues unabated. I can only hope that my story, as presented to this Committee, will cause change in how management conducts itself. I know that we have many good supervisors and managers because I have met a lot of them; however I implore this Committee to act as the catalyst for change and end the unlawful and egregious Agency conduct that my colleagues here today, my other colleagues that are not here but are dedicated to our mission, and I, have been, and are, subjected to on a daily basis.

Among any recommendations that I might make for your consideration are:

1. First and foremost, I recommend the committee examine the roles of the Agency General Counsels with regard to allegations of Title VII violations and their premature involvement in the EEO Complaints process. Government attorneys must be held to a higher standard of accountability in enforcing the laws afforded to every government employee. If agency officials stopped getting free legal service from their agencies due to their titles, then there should be a significant reduction in the number of Title VII violations.
2. We need to do a much better job selecting supervisors and managers. There are some that should never be permitted to be in a superior position to any employee; they are not suited for management. This is especially important in the Senior Executive Service.
3. We should require a mobility agreement for every supervisor so that the good and effective managers can spread their expertise throughout an organization in addition to expanding their own knowledge and skill base.
4. We should also require supervisors to sign a "Statement of Understanding" that clearly says if a person does not perform well as a supervisor or manager, they are removed immediately and reassigned at their previous grade and series.
5. Lastly, I encourage this committee to hold the agency accountable for initiating a process that holds all management officials (including the SES) accountable for their actions and/or managerial inaction, especially when violations of Title VII laws occur. This process should also include issues when settlements are made with regard to agency officials. By adopting these recommendations the committee can send another strong message that the word "Accountability" applies to everyone, irrespective of their

title or position. I believe that this is the level of reform that the American people expect from such an Honorable Committee with the power to address these matters and implement improvements when senior agency management officials fail to do so.

In closing, I am reminded of a quote from a late 1980's movie that said **"Whenever you have a group of individuals, who are beyond any investigation, who can manipulate the press, judges, Members of our Congress; you're always going to have, within our government, those who are above the law."**

I would like to extend a final "Thank You" to all the members of the Committee for affording me this rare opportunity to be heard.