

Testimony for Public Hearing  
House Oversight Committee on Government Reform  
September 22, 2016

Michelle L. Kearney



My name is Michelle L. Kearney. I am a former employee of Grand Canyon National Park. I want to thank Chairman, Rep. Jason Chaffetz and Ranking Member, Rep. Elijah Cummings and other members of the House Oversight and Government Reform Committee for the interest you have shown in demanding accountability and reform on hostile and discriminatory working conditions in the National Park Service.

I wish to provide testimony of my employment history with Grand Canyon National Park, the harassment that I suffered during such employment, the numerous complaints that I submitted to different individuals in leadership roles at the Grand Canyon National Park, and the losses that I have suffered as a result of both the Grand Canyon National Park's failure to act in response to my numerous complaints of sexual harassment, and the Grand Canyon National Park's negligence in improperly disclosing my personal information to the alleged perpetrators of my harassment. I also wish to recommend four areas of reform for the Committee to consider in addressing the appalling working conditions at Grand Canyon National Park.

I understand that this testimony will be accessible to the public via the Committee's website. As such, throughout this testimony, I will be referring to individuals either by their title or by the designation assigned to them in the Office of Inspector General's *Investigative Report of Misconduct at the Grand Canyon River District*. I am available to provide more details as to the identity of the individuals described herein, should the Committee have any difficulty in identifying the individuals described.

Employment History

I was employed at the Grand Canyon National Park in various capacities between 2007 and 2015:

- October 2007, intermittent small craft operator for Grand Canyon River District;
- April 2009 to November 2009, seasonal law enforcement park ranger for the North Rim of the Grand Canyon;
- December 2009, intermittent small craft operator for Grand Canyon River District;

- March 2010 to October 2011, seasonal law enforcement ranger for the Grand Canyon River District;
- October 2011 to September 2012, GS-0025-09 permanent status river ranger for the Grand Canyon River District; and
- December 2012 to present, intermittent GS-05 biological technician with the Grand Canyon Fisheries Department.

As the Office of the Inspector General found, in its *Investigative Report of Misconduct at the Grand Canyon River District*, there has been “a long-term pattern of sexual harassment and hostile work environment in the [Grand Canyon] River District.”

A hostile work environment and long-term pattern of sexual harassment is especially dangerous in an employment context such as the Grand Canyon River District for a few reasons. First, co-workers are completely dependent upon each other for safety, food, and privacy. Privacy is extremely limited, and depends upon individuals to respect each other’s space for changing, bathing, relieving oneself, etc. Second, employees are very regularly alone in isolated areas. As explained below, such an isolated area is ideal for perpetrators to commit acts of sexual harassment. Third, the long-term pattern of sexual harassment and hostile work environment creates a “norm,” in which it is normal, and expected, that female employees will experience sexual harassment. This norm creates an extremely dangerous situation, in which female employees are regularly isolated with individuals who harass them, expose themselves to them, and assault them, in some cases.

Like the thirty-five victims of sexual harassment that the Office of the Inspector General identified, I was subjected to a hostile work environment and numerous explicit acts of sexual harassment by other employees of the Grand Canyon National Park. I outlined my experiences of harassment in a twenty-nine-page letter to Grand Canyon National Park’s Chief Ranger dated June 6, 2013. My letter documents both my own experiences of sexual harassment and other current and former employees’ experiences.

The most egregious incident of sexual harassment that I experienced occurred when Grand Canyon employee Boatman 1 exposed himself to me in April of 2011. I was also repeatedly propositioned by Boatman 1, exposed to naked photos of women by another Grand Canyon small craft operator (who spent the off-season making pornography), and Boatman 1 watched me change clothes in October of 2010.

I described very thoroughly the incident in which Boatman 1 exposed his genitals to me in my detailed letter to the Chief Ranger, and will not repeat all of the details here. However, I will emphasize that I was alone with Boatman 1 in an isolated area when he exposed himself to me, creating a very intimidating and hostile situation.

As explained below, I reported this incident of sexual harassment to Supervisor 1, my supervisor and the harasser's supervisor; to the Deputy Chief Ranger for the River District; and to the Superintendent of the Grand Canyon. As far as I know, none of these individuals conducted an investigation of my allegations.

Ultimately, I resigned from my permanent position with the Grand Canyon in September of 2012 because of the hostile environment created by employees and supervisors with whom I worked. It was with great disappointment that I did so, as I had hoped to do the work that I was doing at the time for the rest of my life.

After my resignation in September of 2012, I agreed to work occasionally as an intermittent biological technician with the Fisheries Department of the Grand Canyon. I only agreed to do this work because I was assured that my work would not bring me into any contact with the River District. In fact, I was assured that I would conduct this work nine miles from the river, along waterways within the Grand Canyon which could only be reached on foot.

In October of 2013, while I was working as an intermittent biological technician, I learned that the Grand Canyon Trail Crew had received knowledge of the letter that I submitted to the Chief Ranger. At that time, the Trail Crew regularly and actively harassed the employees of the Fisheries Department. Also during this time, an employee of the Trail Crew assaulted an employee of the Fisheries Department at the Phantom Ranch Bunkhouse. This was a very dangerous group to have such information of my complaint, and there was no legitimate reason for the Trail Crew to have such information.

I reported to my supervisor in the Fisheries Department at the time, when I learned that the Trail Crew knew of my letter. My supervisor reported this information to his supervisor, the Deputy Superintendent for Grand Canyon. However, yet again, the Grand Canyon leadership failed to take any corrective action, either for the improper disclosure of the letter or for the incidents clearly outlined in the letter.

The disclosure of the letter that I wrote to the Chief Ranger released a great deal of allegations that I had raised against numerous individuals. Because such information was released, I am now terrified to work in the Grand Canyon for fear of retaliation by the perpetrators that I had reported. I turned down work offered to me with the Fisheries Department in March of 2014 because I would have had to spend a week with the Trail Crew and was concerned that I would be retaliated against by either the River District employees or the Trail Crew. Throughout 2015, I remained an intermittent employee with the Fisheries Department, but was too concerned of retaliation to take part in any trips with the Fisheries Department.

As explained below, however, I do not have to come to the Grand Canyon for the perpetrators that I reported to find me and retaliate against me, as Deputy Superintendent of the Grand Canyon, Diane Chalfant, provided my personal contact information directly to those perpetrators.

In January of 2016, I learned, for the first time, that Deputy Superintendent of Grand Canyon National Park Diane Chalfant had disclosed my personal contact information, along with the personal contact information of numerous other individuals who complained of sexual harassment, to the alleged perpetrators of the sexual harassment described in the complaints. The November 16, 2015 Memorandum between Jon Jarvis, Director of the National Park Service, and Mary Kendall, Deputy Inspector General, describes this disclosure. This disclosure became public in a Management Advisory from the Office of Inspector General on January 12, 2016.

#### Complaints Lodged

Throughout my employment with the Grand Canyon, I reported numerous complaints about the boatmen to my supervisor, the Deputy Chief Ranger for the River District. The first time that I did so, the Deputy Chief Ranger informed me that the “problem” was that participants on river trips “would sleep with each other on day 3, but by day 12 they hated each other, and suddenly it became sexual harassment.” The Deputy Chief Ranger also informed me that the “problem” was also that a female Supervisory Plant Biologist at Grand Canyon, “would get these girls pre-loaded to think they had been sexually harassed,” so that when they came off of the river, she would get them all “worked up” to file a Complaint. The Deputy Chief Ranger did not, to my knowledge, conduct an investigation of any of the complaints of sexual harassment that either I or any other employee raised.

Later, following Boatman 1’s exposure of his genitals to me, I immediately reported the incident to the Deputy Chief Ranger. The Deputy Chief Ranger responded to my report by informing me that, in the ski patrol world they “used to not call it sexual harassment until the guy whipped out his penis and slapped you across the face with it.” This was the Deputy Chief Ranger’s only response to the incident. He did not counsel me on my rights to report the incident, nor, to my knowledge, did he even speak to Boatman 1 regarding his completely inappropriate behavior.

I also reported the incident to the Supervisory Law Enforcement Ranger in the River District in September of 2011. To my knowledge, this supervisor took no action regarding this report. Additionally, in my 2013 letter to the Chief Ranger, I describe a conversation that I had with the River District Supervisory Law Enforcement Ranger about Boatman 1 in August of 2012, upon my resignation from the Grand Canyon National Park River District. This supervisor described to me a sexual harassment complaint that another Grand

Canyon employee had filed with the EEOC regarding Boatman 1. In the conversation, this supervisor drastically minimized the legitimacy of the complaint.

The result of this separate EEOC complaint was that Boatman 1 was no longer to be scheduled on any river trips, in any capacity. However, by October of 2012, only two months after he reviewed the EEOC Complaint, the River District Supervisory Law Enforcement Ranger scheduled Boatman 1 to run a shuttle for a river trip.

In addition to raising my own complaints regarding sexual harassment, I have been involved in other sexual harassment complaints by Grand Canyon employees. I testified in the investigation by the Office of Inspector General in October of 2014, and submitted a Witness Affidavit in an EEOC complaint filed by Employee 5 in December of 2014. Employee 5 was employed in the same permanent position from which I resigned.

Additionally, I reported the incidents of sexual harassment, both against myself and against other employees, to numerous other individuals. Specifically, I reported such incidents to a human resources specialist from the Regional Office in Denver; Dave Uberuaga, former Superintendent of the Grand Canyon National Park; and to my supervisor in the Fisheries Department at Grand Canyon National Park.

#### Response to Complaints by Grand Canyon National Park Leadership

In short, Grand Canyon National Park simply did not respond to my complaints. As noted above, the Deputy Chief Ranger made light of my report that Boatman 1 had exposed his genitals to me. The River District Supervisory Law Enforcement Ranger made no response to, and no investigation of, my report of the same incident. In May of 2013, over two years after I reported Boatman 1 exposing his genitals to me, the River District Manager contacted me to ask me to make a statement regarding the incident, since he had received more sexual harassment complaints about Boatman 1. Of course, because the Grand Canyon had failed to act upon my report in 2011, Boatman 1 continued to sexually harass women on river trips.

The only action that any Grand Canyon employee did take in response to my complaints was in response to my 29-page letter to the Chief Ranger in 2013. The Chief Ranger, upon receiving my letter, initiated an EEOC investigation that did not, to my knowledge, lead to any discipline, corrective action, training, or any other action by the Grand Canyon.

In September of 2014, having had no action from the Grand Canyon National Park, thirteen former and current employees of the Grand Canyon National Park River District sent a letter directly to Sally Jewell, Secretary of the U.S. Department of the Interior. The letter contained, as attachments, my twenty-nine-page letter to the Chief Ranger and Declarations of all of the letter's signors. It was this letter that Deputy Superintendent Diane Chalfant distributed directly to the individuals complained of in the letter.

Following receipt of this letter, the Office of Inspector General conducted an investigation. On January 12, 2016, the Office of the Inspector General for the U.S. Department of the Interior released its *Investigative Report of Misconduct at the Grand Canyon River District*. As noted above, the report found a long pattern of sexual harassment within the Grand Canyon River District.

#### Culture of Defense of Perpetrators at Grand Canyon National Park

Prior to my employment with the Grand Canyon National Park, a Grand Canyon employee reported sexual harassment by a River District employee referred to as Boatman 2. Boatman 2 was disciplined and his employment was ultimately terminated in connection to those allegations. From December of 2009 until my resignation in September of 2012, employees of the Grand Canyon River District maintained a statue of Jesus Christ wearing a crown of thorns, labeled with his name in the boat shop. This statue made it clear that the employees of the River District believed Boatman 2 to be a martyr, sending a strong message that sexual harassment was to be accepted and that those accused of sexual harassment would be defended, rather than properly investigated.

At least in 2010, and possibly other times, Boatman 2 came on a river trip with National Park Service employees as a volunteer-in-park. Boatman 2 was in the Grand Canyon boat shop, where the statue of him as Jesus Christ was displayed, while the group was preparing for the trip.

#### Impacts of this environment

It is difficult to overstate the vulnerable position that I was in in my job on the River District. I was isolated with individuals known to me and to my supervisors, and to their supervisors, to have a history of sexual harassment. This experience was extremely traumatizing, and I am in counseling, attempting to work through this trauma. I have been diagnosed with severe post-traumatic stress disorder and depression. I continue to suffer nightmares from the experience. I had to take leaves of absence from the piecemeal employment that I have had for the last few years. While I am now employed full-time in a position that I expect to remain in for many years, I have not had such security since 2012.

The most recent act of harassment and retaliation, of which I learned in January of 2016, was Diane Chalfant's disclosure of my personal information to the accused perpetrators of the sexual harassment that I complained of. As described above, knowing that the individuals about whom I complained have my contact information causes me to live in fear of retaliation by individuals named in the complaints, as well as the friends and supporters of those individuals.

As the Office of Inspector General's notice, dated January 12, 2016, states "GRCA managers compromised the privacy of 13 current and former GRCA employees who had filed

harassment complaints against other employees. The managers shared the complaints, which contained sensitive and private information about the complainants, with various GRCA employees who did not need to review them.”

Not only had the individuals who were required to respond to the allegations fail to act, in this case the one required to act chose to disclose the private, personal information, including complainants’ addresses and phone numbers, to the alleged perpetrators. Given the culture of retaliation and hostility towards the victims within the Grand Canyon River District, I, along with the other victims of Diane Chalfant’s negligence, am rightfully terrified that the alleged perpetrators will contact us directly to retaliate against us.

I assumed that, upon receipt of the Office of Inspector General’s notice regarding the release of private information, the National Park Service would take immediate disciplinary action against the individuals responsible for releasing that information – Diane Chalfant, the Chief Ranger and the River District Manager. To my knowledge, no disciplinary action has been taken.

This failure by the National Park Service prompted me to file a complaint with the EEOC for discrimination based on a hostile work environment in February 2016 and to file a separate tort claim against the National Park Service in June 2016.

#### Recommendations for Reform

Based on my experiences, I recommend that the Committee consider the following areas for reform:

1. ***Reform the disciplinary policies within the federal government.*** Federal employees should be terminated if they repeatedly violate law or agency policies. The National Park Service had sexual harassment policies in place. The Park failed to hold employees and managers accountable for violating or failing to enforce those policies.
2. ***Hold mid-level managers accountable for violating policy or failing to enforce policy.*** To my knowledge, not a single mid-level manager has been disciplined for allowing a 15-year hostile work environment to exist at Grand Canyon National Park. Nor, to my knowledge, has there been any disciplinary action taken against Deputy Superintendent Diane Chalfant.
3. ***Reform National Park Service Law Enforcement policies:*** I would like to bring to the attention of the Committee that many of the mid-level managers for the River District at Grand Canyon were also federally-commissioned law enforcement officers. While all federal employees should be held to a high standard, law

enforcement officers should be held to an even higher standard because of the authority vested in them.

I also recommend that the Committee request that the National Park Service review its law enforcement policies. I bring forth the following incidents as examples of law enforcement practices within the National Park Service that contributed to the hostile work environment. The information below was directly provided to me by former GRCA employees that I will refer to as Employee 1, Employee 2, and Employee 4, or is based on my personal observations.

- a. Law enforcement officers did not open criminal investigations or even file law enforcement reports as appropriate.
  - In approximately 2005, Employee 1 reported to a River District Law Enforcement Ranger that Boatman 2 had held a camera under her skirt and took a photograph. This law enforcement officer did not open a criminal investigation nor did he explain to Employee 1 that the incident she was reporting was a crime. She was not informed that she was a victim of a crime until the statute of limitations had passed. As a consequence, there was no accountability.
  - In approximately 2005, Employee 4 reported to a River District Law Enforcement Officer that Boatman 3 was intoxicated, waving an axe and threatening her if she reported sexual harassment. This law enforcement officer did not open a criminal investigation nor did he explain to employee 4 that the incident she was reporting was a crime. Again, there was no accountability.
- b. Law enforcement officers who conducted investigations into the river district staff had conflicts of interest.
  - In approximately 2005, an investigation was conducted into River District employees. This investigation was conducted by an NPS law enforcement ranger who was the wife of the Deputy Chief Ranger for the River District. This constitutes a conflict of interest.
  - In 2014, Employee 2 reported to the Chief Law Enforcement Ranger at Grand Canyon that she had been physically assaulted twice by Boatman 3 on a river trip. Boatman 3 worked under the Chief Ranger's chain of command. The Chief Ranger investigated the matter himself, an inherent conflict of interest. The Chief Ranger did not interview all potential witnesses in the incidents described by Employee 2. The Chief Ranger did not find any wrongdoing. Again, there was no accountability.

- c. Law enforcement officers who have been disciplined for sexual harassment, or who have been complicit in the culture of sexual harassment, are being promoted into supervisory law enforcement positions.
- The DOI Office of the Inspector General *Investigative Report of Misconduct at the Grand Canyon River District*, in figure 1 documents that “Supervisor 1” was disciplined with a 10-day suspension for grabbing a Contract employee’s crotch on July 12, 2005. “Supervisor 1” is a commissioned law enforcement officer. He was promoted to the Supervisory law enforcement position in the River District at Grand Canyon in approximately 2007 and held this position until his retirement in 2015. It should come as no surprise that a “long-term pattern of sexual harassment and hostile work environment” ensued in the River District.
  - I just learned that the River District manager from 2011 to present is temporarily being promoted to the Chief Law Enforcement position at Gunnison National Park. The OIG *Investigative Report of Misconduct at the Grand Canyon River District* found evidence of a “long-term pattern of sexual harassment and hostile work environment in the GRCA River District,” so this pattern of sexual harassment has existed under his leadership.

4. ***Recognition by the National Park Service on the limitations of the Equal Employment Opportunity Commission.*** The National Park Service’s policy on sexual harassment, NPS Director’s Order #16E: Sexual Harassment, states “When receiving complaints of sexual harassment, managers or supervisors shall work with their servicing Equal Employment Opportunity Office to promptly conduct an inquiry into the matter.”

The Equal Employment Opportunity settles discrimination complaints and lawsuits against the federal government to avoid over-burdening the court system. Based on my experiences with the EEOC and on that of other victims, the EEOC does not do the following:

- Provide crisis intervention for victims, e.g. remove victims from an unsafe environment and provide for their safety, refer victims for health care or assist victims in making a law enforcement report.
- Conduct investigations to identify violations of law or policy, conduct investigations to identify perpetrators, or conduct investigations into root-cause analyses for multiple discrimination cases coming out of the same place. The EEOC only conducts investigations to determine if a victim is entitled to monetary or other damages by the agency.

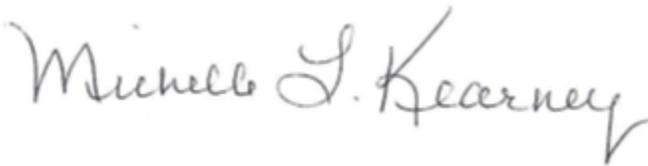
- Issue disciplinary actions against individuals or the agency. The EEOC does not effectively stop bad behavior.

Based on my experience and that of other victims, the EEOC is not victim-centered. Victims need to retain attorneys at their own cost. Victims were left in extremely unsafe conditions by the agency while going through their EEOC complaints. I found the process extremely re-traumatizing. Filing an EEOC complaint should be the last resort when everything else fails, not the first step.

The agency should be responsible for providing safe routes of reporting, advocacy for victims, including safety planning and appropriate referrals, an investigation team responsible for investigating wrong-doing, and a clear-cut disciplinary process.

Thank you for taking the time to consider my testimony.

Sincerely,

A handwritten signature in cursive script that reads "Michelle L. Kearney". The signature is written in dark ink and is positioned below the word "Sincerely,".

Michelle L. Kearney