

EMPLOYEE MISCONDUCT: HOW CAN FEMA IMPROVE THE INTEGRITY OF ITS WORK FORCE?

HEARING
BEFORE THE
SUBCOMMITTEE ON
OVERSIGHT AND
MANAGEMENT EFFICIENCY
OF THE
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HOUSE OF REPRESENTATIVES
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CONTENTS

| | Page |
|---|------|
| STATEMENTS | |
| The Honorable Scott Perry, a Representative in Congress From the State of Pennsylvania, and Chairman, Subcommittee on Oversight and Management Efficiency: | |
| Oral Statement | 1 |
| Prepared Statement | 3 |
| The Honorable J. Luis Correa, a Representative in Congress From the State of California, and Ranking Member, Subcommittee on Oversight and Management Efficiency: | |
| Oral Statement | 3 |
| Prepared Statement | 5 |
| The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security: | |
| Prepared Statement | 5 |
| WITNESSES | |
| Mr. David Grant, Acting Deputy Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security: | |
| Oral Statement | 6 |
| Prepared Statement | 8 |
| Mr. Chris P. Currie, Director, Homeland Security and Justice Issues, U.S. Government Accountability Office: | |
| Oral Statement | 11 |
| Prepared Statement | 13 |
| Mr. Jacqueline Simon, Director of Policy, American Federation of Government Employees: | |
| Oral Statement | 27 |
| Prepared Statement | 29 |

EMPLOYEE MISCONDUCT: HOW CAN FEMA IMPROVE THE INTEGRITY OF ITS WORK FORCE?

Thursday, July 27, 2017

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON OVERSIGHT AND
MANAGEMENT EFFICIENCY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:01 a.m., in room HVC-210, Capitol Visitor Center, Hon. Scott Perry (Chairman of the subcommittee) presiding.

Present: Representatives Perry, Higgins, Estes, Correa, Rice, and Barragán.

Also present: Representative Jackson Lee.

Mr. PERRY. The Committee on Homeland Security, Subcommittee on Oversight and Management Efficiency will come to order. The purpose of this hearing is to examine findings of a recent Government Accountability Office or GAO report on employee misconduct at the Federal Emergency Management Agency.

Before we begin, the Chair would like to welcome our new Member, the gentleman from Kansas, Mr. Ron Estes, to the subcommittee. He brings a wealth of experience from the private sector and as Kansas State treasurer that will be invaluable as the subcommittee examines DHS operations.

The Chair recognizes himself for an opening statement. The Federal Emergency Management Agency or FEMA provides Americans invaluable support during times of great need. FEMA leads Federal efforts to prepare for, respond to, and recover from disasters. To accomplish this enormous task FEMA relies on a work force of over 22,000 dedicated men and women, which includes both permanent and disaster-related temporary employees.

Often FEMA employees are among the first responders helping lift up communities devastated by loss and destruction. The American people entrust FEMA's employees with this vital mission which is why instances of employee misconduct are all the more corrosive and concerning.

A year-long review by the Government Accountability Office uncovered troubling instances of employee misconduct and found several areas where FEMA must improve its management of misconduct matters.

GAO analyzed data from January 2014 through September 2016 and identified almost 600 misconduct complaints. The most common alleged misconduct dealt with issues of integrity and ethics.

Examples include a FEMA employee allegedly taking illegal gifts from contractors, a terminated FEMA employee stealing a FEMA-owned laptop, and allegations of a supervisor bullying and cursing at employees. A separate GAO review in 2016 found that four FEMA employees being investigated for personnel matters were placed on a paid administrative leave for a year or more at a cost to taxpayers of over \$600,000.

In addition, FEMA failed to properly investigate several allegations referred to—correction, referred by the DHS Office of Inspector General leaving them to languish without investigation or resolution.

GAO also criticized FEMA for its poor data tracking of misconduct cases which limited its ability to analyze trends in employee misconduct over time.

GAO concluded that FEMA's management of the misconduct process needs sustained improvement despite hundreds—correction. Despite hundreds of misconduct allegations against FEMA's work force, FEMA lacks documented misconduct policies and procedures for its surge capacity force and has not outlined disciplinary actions or the appeals process for its reservist work force. Together, these employees total over half of FEMA's total work force.

Additionally, FEMA does not instruct its work force on the range of offenses and penalties that they might face if misconduct occurs.

Everybody has got to know what the, you know, what the recipe is. You know, what the rules of the game are, right?

Although many agencies utilize a table of offenses and penalties to guide disciplinary actions which would inform everybody, FEMA uses a comparators spreadsheet that is only shared on a case-by-case basis with supervisors. This spreadsheet replaced a previously-used table that had not been updated since 1981. That is a long time, man.

Such an approach most certainly leads to inconsistencies in how discipline is administered across FEMA's regions. Legislation put forward by subcommittee member Clay Higgins, H.R. 2131, the DHS FIRM Act, would require DHS components, including FEMA, to utilize a table of offenses and penalties to improve consistency with discipline across DHS.

GAO's report provides FEMA's new leadership an opportunity to make important changes that will improve the integrity of FEMA's work force. I am encouraged by FEMA's concurrence with the GAO's six recommendations and its plans to refocus on improving the agency's management.

Americans from all corners of the Nation simply rely on FEMA during their darkest hours. We need the men and women of FEMA focused on that critical mission of lifting up our citizens facing disheartening times.

I look forward to hearing how FEMA will improve on the deficiencies laid out in GAO's report and reaffirm its commitment to the integrity of its work force.

[The statement of Mr. Perry follows:]

STATEMENT OF CHAIRMAN SCOTT PERRY

JULY 27, 2017

The Federal Emergency Management Agency (FEMA) provides Americans invaluable support during times of great need. FEMA leads Federal efforts to prepare for, respond to, and recover from disasters. To accomplish this enormous task, FEMA relies on a work force of over 22,000 dedicated men and women, which includes both permanent and disaster-related temporary employees.

Often, FEMA employees are among the first responders helping lift up communities devastated by loss and destruction. The American people entrust FEMA's employees with this vital mission, which is why instances of employee misconduct are all the more corrosive. A year-long review by the Government Accountability Office (GAO) uncovered troubling instances of employee misconduct and found several areas where FEMA must improve its management of misconduct matters.

GAO analyzed data from January 2014 through September 2016 and identified almost 600 misconduct complaints. The most common alleged misconduct dealt with issues of integrity and ethics. Examples included a FEMA employee allegedly taking illegal gifts from contractors, a terminated FEMA employee stealing a FEMA-owned laptop, and allegations of a supervisor bullying and cursing at employees.

A separate GAO review in 2016 found that four FEMA employees being investigated for personnel matters were placed on paid administrative leave for a year or more at a cost to taxpayers of over \$600,000. In addition, FEMA failed to properly investigate several allegations referred by the DHS Office of Inspector General leaving them to languish without investigation or resolution. GAO also criticized FEMA for its poor data tracking of misconduct cases, which limited its ability to analyze trends in employee misconduct over time.

GAO concluded that FEMA's management of the misconduct process needs sustained improvement. Despite hundreds of misconduct allegations against FEMA's work force, FEMA lacks documented misconduct policies and procedures for its Surge Capacity Force and has not outlined disciplinary actions or the appeals process for its Reservist work force. Together, these employees total over half of FEMA's total work force.

Additionally, FEMA does not instruct its work force on the range of offenses and penalties that they might face if misconduct occurs. Although many agencies utilize a table of offenses and penalties to guide disciplinary actions, FEMA uses a "comparators" spreadsheet that is only shared on a case-by-case basis with supervisors. This spreadsheet replaced a previously-used table that had not been updated since 1981. Such an approach most certainly leads to inconsistencies in how discipline is administered across FEMA's regions. Legislation put forward by subcommittee Member Clay Higgins, H.R. 2131—the DHS FIRM Act, would require DHS components, including FEMA, to utilize a table of offenses and penalties to improve consistency with discipline across DHS.

GAO's report provides FEMA's new leadership an opportunity to make important changes that will improve the integrity of FEMA's work force. I am encouraged by FEMA's concurrence with GAO's six recommendations and its plans to refocus on improving the agency's management. Americans from all corners of the Nation rely on FEMA during their darkest hours. We need the men and women of FEMA focused on that critical mission of lifting up our citizens facing disheartening times. I look forward to hearing how FEMA will improve on the deficiencies laid out in GAO's report and reaffirm its commitment to the integrity of its work force.

Mr. PERRY. The Chair now recognizes the Ranking Minority Member of the subcommittee, the gentleman from California, my friend Mr. Lou Correa for his opening statement.

Mr. CORREA. Thank you, Chairman Perry and thank you for holding this most important hearing on a very important topic. The FEMA work force has a very important and critical responsibility and that is to support our citizens and first responders as they face some of the most crippling natural disasters this country has ever seen.

They assist first responders and in many cases are the first responders. FEMA employees risk their lives for the good of the country as a whole and for this we thank you. The FEMA work force exemplifies a DHS mission statement which is, "With honor and in-

tegrity we will safeguard the American people, our homeland, and our values.”

At the Aspen Institute last week, Secretary Kelly commended the patriotism, dedication, and focus of the DHS work force as they protect the Nation even in the face of very dangerous missions.

Today’s hearing starts from a GAO report released last week that concluded that FEMA should improve the manner in which it documents and communicates policies related to employee conduct, a task that is administrative in nature. But witnesses, I would say, is this really the conclusion?

Employees, whether full-time, part-time, or temporary, should know and understand an agency’s policies regarding misconduct, as well as the availability of their rights to challenge or appeal adverse decisions.

While misconduct must be addressed and not tolerated wherever it occurs in the work force, does the GAO report actually say that FEMA has an integrity or misconduct problem that requires improvement? Again, we must never tolerate such behavior. In fact, I believe the report makes it clear that allegations of misconduct made against FEMA employees are less than 2 percent of the entire FEMA work force. Is that the case?

Additionally, one of the FEMA employee categories highlighted in the report, surge capacity force members, has recorded zero cases of misconduct according to FEMA officials. The second class of FEMA employees discussed in the report, reservists, are at-will and intermittent employees.

The second class of employees are not hired under Title 5 and do not receive the same protections of a collectively-bargained contract such as a right to appeal adverse actions, including suspensions or terminations. Again I ask, what is the scope of the misconduct?

Also is morale an issue for FEMA? Measuring morale, FEMA is ranked 284th out of 305 agency subcomponents, which means that the agency index scores fall well below average. The FEMA work force expressed dissatisfaction with agency leadership, their fairness of performance reviews, and opportunities for professional development.

Research shows that effective leadership is the key driver of employee satisfaction. In order to improve employee morale, FEMA must provide robust training to new supervisors, motivate and engage employees, and recognize, of course, high performers.

Very proud that this Congress and this committee have passed legislation to focus on improving morale and employee engagement at the Department. Today I look forward to discussing with the witnesses today how this committee can continue to engage 22,000 full-time, part-time, and volunteer FEMA personnel to help improve morale.

I would also like to again thank the work force for your contributions. You have not been ignored. To the witnesses I would ask what does your data show?

FEMA has been around since I believe 1979. What is the history of misconduct? Are there any patterns? Compared to who? To other agencies? To FEMA? We can always do better. What does this study tell us?

Finally, Mr. Chair, I yield back to you.
[The statement of Ranking Member Correa follows:]

STATEMENT OF RANKING MEMBER J. LUIS CORREA

JULY 27, 2017

The Federal Emergency Management Agency work force has a critical responsibility—to support citizens and first responders as they face some of the most crippling natural disasters this country has seen.

FEMA employees frequently risk their lives for the good of the country at a moment's notice.

To me, the FEMA work force exemplifies and personifies the very basis for the newly-crafted DHS mission statement—With honor and integrity. We will safeguard the American people, our homeland, and our values.

Speaking at the Aspen Institute just last week, Secretary John Kelly commended the patriotism, dedication, and focus of the DHS work force as they protect the Nation, even in the face of a sometimes dangerous mission.

Therefore, I am confused and concerned with the focus of today's hearing, as evidenced by the hearing title insinuating the FEMA work force has a wide-spread integrity problem.

Today's hearing stems from a GAO report released last week that concluded FEMA should improve the manner in which it documents and communicates policies related to employee conduct, a task that is administrative in nature.

This recommendation by GAO is certainly not controversial or problematic.

Employees, whether full-time, part-time, or temporary, should know and understand an agency's policies regarding misconduct as well as the availability of rights to challenge or appeal an adverse decision.

While misconduct must be addressed wherever it occurs in the work force, nowhere in its report does GAO assert that FEMA has an integrity or misconduct problem that requires improvement.

In fact, the report makes clear that allegations of misconduct made against FEMA employees reflects less than 2% of the entire FEMA work force.

Additionally, one of the FEMA employee categories highlighted in the report, Surge Capacity Force members, has recorded ZERO instances of misconduct according to FEMA Office of the Chief Security Officer officials.

The second class of FEMA employees highlighted in the report, Reservists, are at-will, intermittent employees.

These employees are not hired under Title 5 and do not receive the same protections of a union contract and the right to appeal adverse actions such as suspensions or terminations, which undoubtedly impacts data related to cases of employee misconduct.

Mr. PERRY. The Chair thanks the gentleman.

Other Members of the subcommittee are reminded that opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JULY 27, 2017

I want to begin my remarks by expressing my appreciation to the men and women of FEMA for the incredible work they do on behalf of our Nation. Secretary Kelly has stated that the men and women of DHS, which includes FEMA, are exceptional and dedicated professionals.

Unfortunately, there are some—including the President of the United States—that fail appreciate the service and commitment of the Federal employee. President Trump has made it clear through budget cuts and hiring freezes that he does not understand the critically important work of FEMA and other agencies across our Government.

Today, my colleagues across the aisle are perpetuating this lack of understanding by asserting that the FEMA work force has an integrity problem, ostensibly based on a recent GAO report. However, my reading of the report does not support such an inference.

Instead, the report states that FEMA needs to do a better job of documenting and communicating policies related to how misconduct is handled at FEMA. I certainly agree with GAO's conclusion that clearly-documented policies and procedures for all

FEMA workers are necessary, and I look forward to the agency carrying out GAO's recommendations. I also hope to engage with GAO today on their findings.

I also expect to confirm that the overwhelming majority of FEMA employees are dedicated public servants who carry out the agency's mission with integrity, showing up at locations across the country with little notice in some of the most stressful and dangerous environments possible. Supporting the work force and focusing on improving morale should be a top priority of this committee.

That is why this Congress I have introduced legislation, co-sponsored by every Democratic member of this committee, to support morale among the DHS work force by establishing a chief learning and engagement officer, an Employee Engagement Steering Committee, and the Secretary's Employee Award Program at the Department.

These are the areas that help improve morale and employee engagement and help move the FEMA work force in the right direction. Indeed, studies show that effective leadership is the No. 1 determinate of employee satisfaction and is therefore integral to the productivity and efficiency of an agency.

I encourage my colleagues to realize that better training, fair policies, and recognition of good work are ways to improve the FEMA work force. I hope on this committee we can work on a bipartisan basis to do just that.

Mr. PERRY. We are pleased to have two distinguished panels of witnesses before us today. The witnesses' entire written statements will appear in the record. The Chair will introduce the first panel of witnesses and then recognize each of you for your testimony.

Mr. David Grant is FEMA's acting deputy administrator. Prior to this position, he served as FEMA's associate administrator for mission support, as well as the chief procurement officer. Prior to joining FEMA Mr. Grant was chief of agency-wide shared services for the Internal Revenue Service. Thank you, Mr. Grant, and welcome.

Mr. Chris Currie is a director in GAO's Homeland Security and Justice team where he leads the agency's work on DHS management, emergency management, National preparedness, and critical infrastructure protection issues.

Prior to this position he served as an acting director in GAO's Defense Capabilities and Management team, where he led reviews of Department of Defense programs. Mr. Currie, thank you, and we appreciate your service as well.

The Chair now recognizes Mr. Grant for your opening statement. Mr. Grant, just push the button and make sure the mike is—

STATEMENT OF DAVID GRANT, ACTING DEPUTY ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. GRANT. Yes, sir.

Mr. PERRY [continuing]. Right at your mouth.

Mr. GRANT. Can you hear me clearly sir? Thank you. Good morning Chairman Perry, Ranking Member Correa, and Members of the committee. As you said, my name is Dave Grant. I am FEMA's acting deputy director and—deputy administrator, excuse me, and thank you for the opportunity to testify today.

This morning I would like to provide an overview of our efforts to address the Government Accountability Office's, or GAO's, performance audit of FEMA's process for handling allegations of employee misconduct. The GAO report does recognize that FEMA has effective and efficient misconduct policies and procedures for its employees, and I appreciate that. Although we agree that we need to do a better job in documenting those procedures, and we have already begun to do so.

FEMA documents its cases and outcomes to ensure timely adjudication, verify that FEMA complies with all legal requirements to treat our employees in a fair and equitable manner, and for auditing purposes.

FEMA also has a process through which misconduct data is shared with Homeland Security's inspector general. The vast majority of FEMA's personnel serve effectively and honorably, and I appreciate you both recognizing that.

They provide critical assistance to communities in their time of greatest need. In those rare instances when a FEMA employee or individual representing FEMA is accused of misconduct FEMA takes immediate action to address those allegations.

Under Stafford Act authorities, FEMA has created unique policies and procedures for taking disciplinary actions Stafford Act employees when required and necessary.

The Stafford Act affords FEMA the latitude to devise disciplinary processes outside those requirements of Title 5. Those allow those cases to be quickly initiated, reviewed, and finalized. FEMA employs an appeals process for those Stafford Act cases to confirm that the appropriate action was taken when misconduct has occurred, ensuring that they are subject to a fair and equitable process.

While FEMA does not have written policies and procedures specifically addressing the surge capacity work force that you mentioned a moment ago, management is empowered to take necessary actions to address the misconduct following FEMA's existing policies and procedures that apply to FEMA personnel.

With regard to surge capacity personnel, it is important to note that they are not FEMA employees. FEMA does not have the authority to take disciplinary action regarding those individuals because they remain officially employed by their sponsoring Federal agencies while engaged in activities on our behalf. The sponsoring agency is responsible for appropriate disciplinary action against those personnel.

For our Title 5 employees, FEMA has made significant strides in documenting and improving our policies and procedures, including the creation of an administrative investigation directive and manual to delineate the process for receiving and adjudicating the complaints of misconduct, sending those complaints as appropriate to the DHS inspector general, and direct misconduct investigations within FEMA.

This directive is currently being reviewed and updated, and we expect it to be completed by December of this year. Although FEMA has an effective misconduct process in place for Title 5 and Stafford Act employees, the GAO recommended that FEMA take additional steps to clarify the process.

The GAO report makes several recommendations, including the documentation of policies and procedures related to FEMA's surge capacity force, its disaster force, and to clearly communicate misconduct policies, including consequences and appeals process.

The GAO also recommended that FEMA work to improve the quality and usefulness of its misconduct data that it collects, and once that quality is improved, conduct routine reporting on misconduct trends. FEMA wholeheartedly agrees with each of those six

recommendations, and we have already initiated several lines of effort that will address those concerns when fully implemented.

I want to assure you that FEMA is committed to effective support of our citizens and our first responders during disasters and emergencies. That is our mission and we take it very seriously. The overwhelming majority of our work force serves honorably and effectively. We are committed to investigating all allegations of misconduct and to appropriately hold those individuals accountable.

One instance of substantiated misconduct is one too many. FEMA takes these allegations seriously. We look forward to working with the committee, with our partners at GAO, our partners in the Inspector General's office to improve our practice.

I thank you for the opportunity to testify, and I am looking forward to answering your questions. Thank you.

[The prepared statement of Mr. Grant follows:]

PREPARED STATEMENT OF DAVID GRANT

JULY 27, 2017

INTRODUCTION

Good Morning, Chairman Perry, Ranking Member Correa, and Members of the committee. I am David Grant, acting deputy administrator of the U.S. Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA). Thank you for this opportunity to meet with you today to discuss ways in which FEMA is improving its disciplinary and misconduct policies and procedures.

From June 2016 through July 2017, the Government Accountability Office (GAO) conducted a performance audit of FEMA's process for handling allegations of employee misconduct. GAO reviewed FEMA's misconduct policies and procedures, data on misconduct cases, and the extent to which FEMA shares misconduct data with the DHS Office of Inspector General (DHS OIG).

The GAO report recognized how FEMA already has effective and efficient misconduct policies and procedures applicable to employees hired under Title 5 of the U.S. Code (covering traditional Federal civilian employees) and employees hired through the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). FEMA records data regarding misconduct cases and outcomes to ensure timely adjudication of misconduct cases, verify misconduct cases are treated in a similar and equitable manner, and for auditing purposes. Finally, there is already a process for FEMA to share misconduct data with DHS OIG.

GAO has not finalized the report; however, the contains the following recommendations to enhance efficiency: misconduct policies regarding Surge Capacity Force (SCF) personnel should be documented; additional guidance on the disciplinary and appeal process for Reservists should be provided; the range of penalties associated with specific acts of misconduct should be communicated; the quality and consistency of misconduct data should be improved; and FEMA should study misconduct data to identify any patterns or trends for further action.

In my testimony today, I will discuss how FEMA is working to improve its misconduct process. FEMA is taking active steps to formalize the misconduct process for SCF employees, provide additional guidance on how Reservist misconduct is reviewed and addressed, and improve the quality of data associated with misconduct cases.

FEMA'S DISASTER WORK FORCE

In assessing FEMA's process for handling misconduct, it is helpful and important to recognize and understand the unique features of FEMA's work force. Most Federal, civilian employees are hired under authorities set forth in Title 5 of the United States Code, which are standard for most of the Federal Government. As a consequence and feature of the special needs and circumstances of FEMA's emergency management mission, however, FEMA utilizes authorities and arrangements beyond those in Title 5. To effectively and efficiently respond to disasters, FEMA augments its permanent Title 5 work force by appointing temporary employees through the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). FEMA has also partnered with the National Civilian Community Corps (NCCC) to

create FEMA Corps, a dedicated volunteer unit of AmeriCorps that supports FEMA's mission. In addition, in response to particularly catastrophic events, FEMA may activate the Surge Capacity Force, comprising specially-designated, non-FEMA, Department of Homeland Security personnel, to reinforce FEMA personnel in support of Stafford Act functions when necessary.

The Stafford Act grants FEMA the authority "to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of Title 5, United States Code, and governing appointments in the competitive service." FEMA uses this Stafford Act appointing authority to hire Reservists, who are intermittent employees serving under 2 year appointments. Reservists are activated and deployed in support of disasters as response and recovery needs require. When not activated or deployed, Reservists remain in a non-duty/non-pay status allowing FEMA to field sufficient disaster personnel in a cost-effective manner.

In 2012, FEMA partnered with the Corporation for National and Community Service (CNCS) to strengthen the Nation's disaster response capacity by establishing a FEMA-devoted unit of 1,600 service corps members, within the AmeriCorps National Civilian Community Corps, to aid in disaster preparedness, response, and recovery activities. Upon completion of an initial orientation by NCCC and FEMA, FEMA Corps members are deployed to help individuals, families, and communities recover following the initial impact of a disaster. Projects include working directly with disaster survivors, providing support to disaster recovery centers, and sharing valuable disaster readiness and mitigation information with the public.

The Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA) requires the Secretary of Homeland Security to establish a Surge Capacity Force of Department of Homeland Security employees, who are not FEMA employees, and employees of other Federal agencies that could deploy in response to natural disasters, acts of terrorism, and other man-made disasters. DHS headquarters and its components, as well as other partnering Federal agencies, designate employees to serve on the SCF and ensure such employees are ready to deploy within 48 hours of a warning, alert, or no-notice activation.

In very rare circumstances, a disaster of extraordinary size may require the DHS Secretary to activate the SCF. During a declared disaster, the DHS Secretary will determine if SCF support is necessary. If the SCF is required, the Secretary will then authorize FEMA to task and deploy SCF personnel from DHS components and other Federal agencies to support disaster operations. The SCF was successfully activated by former DHS Secretary Janet Napolitano, at the request of former FEMA Administrator Craig Fugate in response to Hurricane Sandy. Approximately 1,150 SCF personnel were activated to assist FEMA's disaster response efforts, providing critical support to Individual Assistance, Disaster Survivor Assistance, and Logistics mission areas.

DISCIPLINARY PROCESS FOR DISASTER PERSONNEL

The vast majority of FEMA's disaster personnel effectively and honorably serve the Nation providing critical assistance to communities, first responders, and disaster survivors to respond to and recover from disasters and emergencies. In rare instances when a FEMA employee, or an individual representing FEMA, is accused of misconduct, FEMA takes immediate action to address the allegations.

Using the authority granted by the Stafford Act, FEMA created unique policies and procedures for taking disciplinary actions against Reservists to meet FEMA's mission requirements. The Stafford Act affords FEMA the latitude to devise a disciplinary process outside of the requirements of Title 5. The process in place allows for disciplinary cases to be quickly initiated, reviewed, and finalized. FEMA employs an internal appeals process for Reservist disciplinary cases to confirm appropriate action is taken in response to acts of misconduct. The process ensures Reservists are subject to a fair and equitable disciplinary process, while minimizing the impact of the disciplinary process on disaster operations.

While FEMA does not have written policies and procedures specifically for guiding misconduct investigations involving SCF personnel, if such cases arise, the Office of Chief Counsel, the Office of the Chief Component Human Capital Officer, and the Office of the Chief Security Officer are empowered to take necessary actions to address misconduct and would follow FEMA's existing policies and procedures for conducting misconduct investigations that apply to FEMA personnel. With regard to taking disciplinary action against SCF personnel as a result of misconduct investigations, it is important to note that SCF personnel are not FEMA employees. FEMA does not have the authority to take disciplinary actions regarding these individuals because SCF personnel remain officially employed by their sponsoring organization (e.g., DHS headquarters, component, other Federal agency) while engaging

in activities on FEMA's behalf. The sponsoring organization would be responsible for effecting any appropriate disciplinary action against its SCF personnel.

DEVELOPMENT OF FEMA'S MISCONDUCT POLICY

Over the past several years, FEMA made significant strides in documenting and improving the disciplinary and misconduct policies and procedures.

Prior to 2012, FEMA did not have written or established policies or procedures on how to conduct employee misconduct investigations. Although FEMA had a process for imposing disciplinary action, FEMA did not have a uniform process for investigating the facts surrounding a misconduct allegation to determine whether disciplinary action was warranted. Rather, the Office of the Chief Component Human Capital Officer (OCCHCO) Labor and Employee Relations Branch conducted ad hoc investigations to clarify the factual circumstances associated with a misconduct allegation. On some occasions, the Office of the Chief Security Officer (OCSO) would assist OCCHCO to gather necessary witness statements. Alternatively, an attorney with the Office of Chief Counsel (OCC) General Law Division would investigate a misconduct allegation in the process of reviewing a disciplinary action.

In 2012, OCC, OCCHCO, and OCSO collaborated in creating FEMA Directive 123-19, Administrative Investigations Policy (Administrative Investigations Directive), and an accompanying manual, FEMA Manual 123-19-1, Administrative Investigations (Administrative Investigations Manual), establishing a process for the three offices to receive complaints of employee misconduct, send complaints to the DHS Office of Inspector General as required by DHS policy, and direct misconduct investigations within FEMA. The Administrative Investigations Directive and Manual require the three offices to meet weekly and review all known complaints to ensure complaints are properly investigated. The Administrative Investigations Directive and Manual also institute a formalized process for appointing investigators and finalizing investigative reports, which are reviewed by the OCCHCO Labor and Employee Relations Branch for potential disciplinary action.

In practice, if there are misconduct allegations against SCF personnel, the misconduct investigation process would follow the current investigations process for FEMA employees. FEMA would notify the parent organization of the allegation. Simultaneously, depending on the nature and credibility of the allegation, the SCF personnel may be demobilized and returned to their employing agency. Any additional information gathered through the investigations process would be provided to the employing agency for that agency's consideration in its determination of what action to take.

Currently, the Administrative Investigations Directive and Manual are undergoing a periodic review and update as mandated by FEMA policy. The updated version of the directive and manual will streamline some of the processes and are expected to be finalized and signed in 2017.

GAO RECOMMENDATIONS

Although FEMA has an effective misconduct process in place for Title 5 and Stafford Act employees, GAO has recommended that FEMA take additional steps to clarify the process and improve data associated with misconduct cases. The GAO report makes several recommendations to improve managing misconduct. FEMA agrees with those recommendations, and has already initiated several lines of effort that will address GAO's concerns when fully implemented.

Recommendation 1: Document policies and procedures to address potential Surge Capacity Force misconduct.

Proper documentation of the misconduct process for SCF personnel helps to ensure a consistent and reliable investigation process. Although FEMA would apply its existing administrative investigation procedures to allegations against SCF personnel, the FEMA policies governing those procedures do not specifically state that they apply to investigations of SCF personnel. Ensuring that application of the existing administrative investigation procedures to SCF personnel is spelled out clearly, in writing, will help eliminate any potential confusion. DHS charged FEMA with developing a human capital plan for the SCF to address this issue and other human capital related aspects of deploying the SCF.

Recommendation 2: Document Reservist misconduct policies and procedures, to include disciplinary actions and appeals currently in practice at FEMA.

FEMA is committed to providing employees subject to allegations of misconduct a fair and equitable process for addressing such allegations. FEMA already applies a consistent process for reviewing misconduct allegations involving Reservists and taking appropriate disciplinary actions, but FEMA can do more to make employees

aware of the process. To address employee perceptions, FEMA will issue additional guidance regarding the disciplinary process for Reservists.

Recommendation 3: Communicate the range of penalties for specific misconduct offenses to all employees and supervisors.

FEMA is committed to communicating with employees and providing guidance on the disciplinary process, while ensuring FEMA complies with applicable privacy laws and regulations. Such information will increase the perception among supervisors and employees that the disciplinary process results in fair and equitable decisions. FEMA's Office of the Chief Component Human Capital Officer drafted a Table of Penalties, which is undergoing agency review. FEMA anticipates the new Table of Penalties will be approved and finalized in the near future.

Recommendation 4: Improve the quality and usefulness of the misconduct data it collects by implementing quality control measures, such as adding additional drop-down fields with standardized entries, adding unique case identifier fields, developing documented guidance for data entry, or considering the adoption of database software.

The Office of the Chief Component Human Capital Officer, the Office of Chief Counsel, and the Office of the Chief Security Officer are working together to provide consistent and accurate misconduct data. FEMA is working on securing funding to purchase a case management system that supports FEMA's misconduct process. Until sufficient funding can be secured, FEMA is modifying its existing tracking tools to include drop-down fields in order to provide standardized data entries and include a column to cross-reference any case referred to DHS OIG, received from the DHS OIG, or investigated by OCSO.

Recommendation 5: Once the quality of data is improved, conduct routine reporting on employee misconduct trends.

Stakeholders managing the disciplinary and misconduct processes are constantly seeking ways to improve the investigation process, identify misconduct trends for strategic remediation, and ensure consistent and fair results. FEMA already provides trend analysis to program areas upon request; however, FEMA is currently seeking to acquire a system that enables additional analytic capabilities. Analyzing misconduct data will allow FEMA to identify and address emerging trends of misconduct through targeted training to promote integrity within the work force.

Recommendation 6: Develop reconciliation procedures to consistently track referred cases.

FEMA is working with the DHS OIG to establish processes and procedures that will improve reconciliation of case data. FEMA is also working on the feasibility of using the same cases management system used by the DHS OIG. This would allow for a seamless flow of case information between the two agencies. A case management system will help in this endeavor. Until then, more care will be taken to reconcile cases manually.

CONCLUSION

FEMA is committed to providing effective support to our citizens and first responders during disasters and emergencies. That commitment includes a commitment to investigate allegations of misconduct and appropriately hold individuals accountable. FEMA currently has an effective misconduct and disciplinary process and routinely looks for ways to improve that process. FEMA appreciates GAO's assistance and recommendations in this regard and will take appropriate action to address the concerns they identify in their final report. Again, thank you for allowing me to testify, and I am happy to answer any questions the committee may have.

Mr. PERRY. Thank you, Mr. Grant.

The Chair now recognizes Mr. Currie for his opening statement. Sir.

STATEMENT OF CHRIS P. CURRIE, DIRECTOR, HOMELAND SECURITY AND JUSTICE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. CURRIE. Thank you, Chairman Perry. Thank you Ranking Member Correa and other Members of the subcommittee that are here today. I would like to summarize the report we issued just

last week on FEMA misconduct. I will try not to duplicate too much of what was already mentioned in the summary of the opening statements.

To be clear, any amount of misconduct in any agency is never a good thing and in FEMA's case, as was discussed, its full-time and reserve employees interact with State and local first responders and officials and citizens during times of extreme stress and vulnerability.

Misconduct by its employees cannot only hamper FEMA's mission, but also damage the agency's reputation. We all saw how quickly public trust can be lost after Hurricane Katrina in 2005 and how long it takes to rebuild it.

However, cases of employee misconduct exist at every agency. That is why it is so important that agencies have procedures to address it quickly, take consistent disciplinary action, and have the systems needed to monitor misconduct across the entire agency, especially one as large as FEMA.

Now, to quickly summarize our report, first, I would like to discuss the numbers and the types of cases we saw at FEMA. Second, I will summarize our assessment of FEMA's policies and process for handling these cases.

First we identified, as the Chairman noted, about 600 misconduct cases at FEMA from January 2014 to September 2016. That is about a 3-year time period across an agency of 20,000 employees, give or take which work force is included in that number. The most common cases related to integrity and ethics violations, inappropriate conduct, and misuse of Government funds.

For example, one alleged case involved a FEMA employee in the field accepting illegal gifts from a contractor. Other cases involved more internal issues such as supervisor harassment and favoritism.

The data showed that misconduct was most common among FEMA's part-time reservists, and the agency took a range of disciplinary actions in these cases. The most common disciplinary action was removal or termination, followed by reprimands and various levels of suspension.

While these cases are always shocking to hear, agencies send a clear message when they have strong processes, controls, and systems to handle them quickly and effectively. We found a number of areas where we think FEMA could improve in this area.

For example, we found that while FEMA had discipline policies for many of its employees, it had no policies for reservists. And that is about 7,000 employees at the agency. FEMA also had not developed a table of offenses and penalties to communicate to employees.

We also found FEMA's misconduct data and systems for tracking cases frankly, was a bit messy. For example, various internal FEMA offices maintained information in different formats making it very difficult to track cases and identify trends across the whole agency. We recommended that FEMA improve its data and better report on these trends.

We also identified problems in FEMA's process for sharing and following up on cases referred from the DHS Office of Inspector General. I think it is important I understand this process. DHS policy requires components like FEMA to send serious misconduct

cases to the I.G. The I.G. then determines whether they want to investigate it or not.

The I.G. typically handles the more serious cases, such as criminal or those involving very senior staff such as senior executive service officials, and refers the rest back to FEMA for internal investigation.

What we found is that FEMA sometimes missed cases referred from the I.G. We took a random sample of these cases and found a number of them where there was no follow-up investigation conducted. Now, after we alerted FEMA, they did follow up and adjudicate the cases. So we recommended that they work with the I.G. to strengthen that whole process.

As Mr. Grant noted, and to FEMA's credit, they have agreed with all of our recommendations and are taking action to address them. For example, they are working to document discipline policies for reservists now and plan to communicate a table of offenses and penalties to all the agency staff.

FEMA is also working with the I.G. to develop a new case management system to clean up the data and better ensure reconciliation of cases. This concludes my statement, and I look forward to your questions.

[The prepared statement of Mr. Currie follows:]

PREPARED STATEMENT OF CHRIS P. CURRIE

JULY 27, 2017

Chairman Perry, Ranking Member Correa, and Members of the subcommittee: I am pleased to be here today to discuss our recent report on employee misconduct at the Federal Emergency Management Agency (FEMA). FEMA is responsible for coordinating Government-wide efforts in preparing for, protecting against, mitigating the effects of, responding to, and recovering from all domestic natural or man-made disasters, including acts of terror. To accomplish this mission, the agency relies on a total work force of more than 22,000 permanent and disaster-related temporary employees.¹ These employees play a key role in supporting communities and first responders. However, incidents of misconduct can detract from FEMA's mission, damage the agency's reputation, and hamper the agency's ability to respond to disasters and maintain public trust if not effectively managed.

Within FEMA, three primary offices are involved in reviewing, investigating, and adjudicating employee misconduct allegations.²

- *Office of the Chief Security Officer (OCSO) Internal Investigations Branch.*—Conducts investigations related to more serious allegations, such as those that may involve potential criminal misconduct.
- *The Office of the Chief Component Human Capital Officer Labor and Employee Relations Branch (LER).*—Advises supervisors who conduct lower-level investigations and inquiries, such as time and attendance violations, and provides recommendations on any counseling or any disciplinary or adverse action for all cases.
- *The Office of the Chief Counsel Personnel Law Branch (PLB).*—Provides legal advice during investigations and conducts legal reviews of certain reports of investigation and all disciplinary and adverse actions.³

Representatives from these three offices form FEMA's Administrative Investigations Directive (AID) Committee, which reviews misconduct allegations, assigns investigators, and tracks the status of open cases. The Department of Homeland Security

¹ FEMA's combined work force includes permanent and disaster response employees, as well as individuals from two newer personnel groups—the Department of Homeland Security (DHS) Surge Capacity Force and FEMA Corps—who are not FEMA employees, but who are included in FEMA's work force categories for the purposes of our review.

² FEMA's Office of Equal Rights may also be involved in certain cases involving allegations of discrimination.

³ According to PLB officials, PLB does not review Reservist disciplinary actions or terminations unless requested to do so.

rity (DHS) Office of Inspector General (OIG) also plays a role in reviewing and investigating certain misconduct allegations, such as allegations of criminal misconduct against a DHS employee and any allegations of misconduct against senior employees.⁴

My testimony discusses findings from our July 2017 report on the handling of employee misconduct allegations at FEMA.⁵ Accordingly, my testimony addresses: (1) The extent to which FEMA has developed policies and procedures for addressing employee misconduct; (2) available data on FEMA employee misconduct cases and their outcomes and the extent to which FEMA uses these data to identify and address trends; and (3) the extent that information regarding misconduct cases is shared within FEMA's personnel management offices and with DHS OIG.

To conduct this work, among other things, we reviewed, where available, FEMA's documented policies and procedures for reporting, investigating, and adjudicating allegations of misconduct across all of the agency's work force categories, including the following: Title 5 employees,⁶ Cadre of On-Call Response/Recovery Employees (CORE), Reservists, Surge Capacity Force members, and FEMA Corps members.⁷ We also interviewed officials from FEMA units with responsibilities related to managing misconduct and analyzed available FEMA data on employee misconduct. Specifically, we reviewed and analyzed available 2014 through 2016 data contained in three misconduct case tracking spreadsheets maintained by FEMA's OCSO, LER, and PLB. Our July 2017 report includes a detailed explanation of the scope and methods used to conduct our work, which was performed in accordance with generally accepted Government auditing standards.

FEMA HAS DEVELOPED AND DOCUMENTED MISCONDUCT POLICIES AND PROCEDURES FOR MOST EMPLOYEES, BUT NOT ITS ENTIRE WORK FORCE

FEMA has developed a policy and procedures regarding misconduct investigations that apply to all FEMA personnel and has also documented policies and procedures regarding options to address misconduct and appeal rights for Title 5 and CORE employees. However, FEMA has not documented complete misconduct policies and procedures for Surge Capacity Force members or Reservists.

DHS issued the *Surge Capacity Force Concept of Operations* in 2010, which outlines FEMA's base implementation plan for the Surge Capacity Force.⁸ However, the document does not address any elements pertaining to Surge Capacity Force human capital management, specifically misconduct and disciplinary policies and procedures. According to the FEMA Surge Capacity Force Coordinator, despite the lack of documentation, any incidents of misconduct would likely be investigated by FEMA's OCSO, which would then refer the completed report of investigation to the employee's home component for adjudication and potential disciplinary action. However, although no allegations of misconduct were made at the time, the Federal Coordinating Officer in charge of one of the Hurricane Sandy Joint Field Offices said he had not seen anything in writing or any formal guidance that documents or explains how the process would work and stated that he would have had to contact FEMA headquarters for assistance in determining how to address any misconduct.⁹

Without documented guidance, FEMA cannot ensure that Surge Capacity Force misconduct is addressed adequately in a timely and comprehensive manner. Therefore, in our July 2017 report we recommended that the FEMA administrator document policies and procedures to address potential Surge Capacity Force misconduct. DHS concurred and stated that FEMA is developing a Human Capital plan for the Surge Capacity Force and will include policies and procedures relating to potential

⁴ Senior employees include those at the GS-15 level or higher.

⁵ GAO, *Federal Emergency Management Agency: Additional Actions Needed to Improve Handling of Employee Misconduct Allegations*, GAO-17-613 (Washington, DC: July 18, 2017).

⁶ Generally, Title 5 refers to the section of United States Code that establishes the law for managing human resources in the Federal Government. Title 5 employees can be hired on a permanent or temporary, full- or part-time basis. Over 90 percent of FEMA's Title 5 work force is permanent full-time.

⁷ Work force categories are defined as: Title 5 (generally permanent employees), CORE (temporary employees who support disaster-related activities), Reservist (intermittent disaster employees), Surge Capacity Force (employees of other DHS components who may augment FEMA's work force in the event of a catastrophic disaster), and FEMA Corps (a National service program managed by AmeriCorps National Civilian Community Corps).

⁸ See 6 U.S.C. § 711(a) (requiring the FEMA administrator to prepare a plan to establish and implement the Surge Capacity Force).

⁹ Joint field offices are Federal multi-agency centers which are established locally in order to coordinate the response to domestic incidents, such as terrorist attacks, major disasters, or other emergencies.

misconduct. DHS estimated that this effort would be completed by June 30, 2018.

This action, if fully implemented, should address the intent of the recommendation. Additionally, we found that *FEMA's Reservist Program Manual* lacks documented policies and procedures on disciplinary options to address misconduct and appeal rights for Reservists.¹⁰ Both LER and PLB officials told us that, in practice, disciplinary actions for Reservists are limited to reprimands and termination. According to these officials, FEMA does not suspend Reservists because they are an intermittent, at-will work force deployed as needed to respond to disasters. Federal Coordinating Officers and cadre managers have the authority to demobilize Reservists and remove them from a Joint Field Office if misconduct occurs, which may be done in lieu of suspension. Furthermore, LER and PLB officials also told us that, in practice, FEMA grants Reservists the right to appeal a reprimand or termination to their second-level supervisor. However, these actions are not documented in the *Reservist Program Manual*.

Without documented Reservist disciplinary options and appeals policies, supervisors, and Reservist employees may not be aware of all aspects of the disciplinary and appeals process. Thus, in our July 2017 report, we recommended that FEMA document Reservist disciplinary options and appeals that are currently in practice at the agency. DHS concurred and stated that FEMA will update its Reservist program directive to include procedures for disciplinary actions and appeals currently in practice at the agency. DHS estimated that this effort would be completed by December 31, 2017. This action, if fully implemented, should address the intent of the recommendation.

We also reported in our July 2017 report that FEMA does not communicate the range of offenses and penalties to its entire work force. Namely, FEMA revised its employee disciplinary manual for Title 5 employees in 2015, and in doing so, eliminated the agency's table of offenses and penalties. Tables of offenses and penalties are used by agencies to provide guidance on the range of penalties available when formal discipline is taken. They also provide awareness and inform employees of the penalties which may be imposed for misconduct. Since revising the manual and removing the table, FEMA no longer communicates possible punishable offenses to its entire work force. Instead, information is now communicated to supervisors and employees on an individual basis. Specifically, LER specialists currently use a "comparators" spreadsheet with historical data on previous misconduct cases to determine a range of disciplinary or adverse actions for each specific misconduct case. The information used to determine the range of penalties is shared with the supervisor on a case-by-case basis; however, LER specialists noted that due to privacy protections they are the only FEMA officials who have access to the comparators spreadsheet.¹¹

Because information about offenses and penalties is not universally shared with supervisors and employees, FEMA management is limited in its ability to set expectations about appropriate conduct in the workplace and to communicate consequences of inappropriate conduct. We recommended that FEMA communicate the range of penalties for specific misconduct offenses to all employees and supervisors. DHS concurred and stated that FEMA is currently drafting a table of offenses and penalties and will take steps to communicate those penalties to employees throughout the agency once the table is finalized. DHS estimated that this effort would be completed by December 31, 2017. This action, if fully implemented, should address the intent of the recommendation.

FEMA RECORDS DATA ON EMPLOYEE MISCONDUCT CASES AND THEIR OUTCOMES, BUT COULD IMPROVE THE QUALITY AND USEFULNESS OF THESE DATA TO IDENTIFY AND ADDRESS TRENDS

Multiple FEMA Offices Collect Misconduct Data; FEMA OCSO Recorded Approximately 600 Misconduct Complaints from January 2014 through September 30, 2016

The three offices on the AID Committee involved in investigating and adjudicating employee misconduct complaints each maintain separate case tracking spreadsheets with data on employee misconduct to facilitate their respective roles in the misconduct review process. We analyzed data provided by OCSO in its case tracking spreadsheet and found that there were 595 complaints from January 2014 through

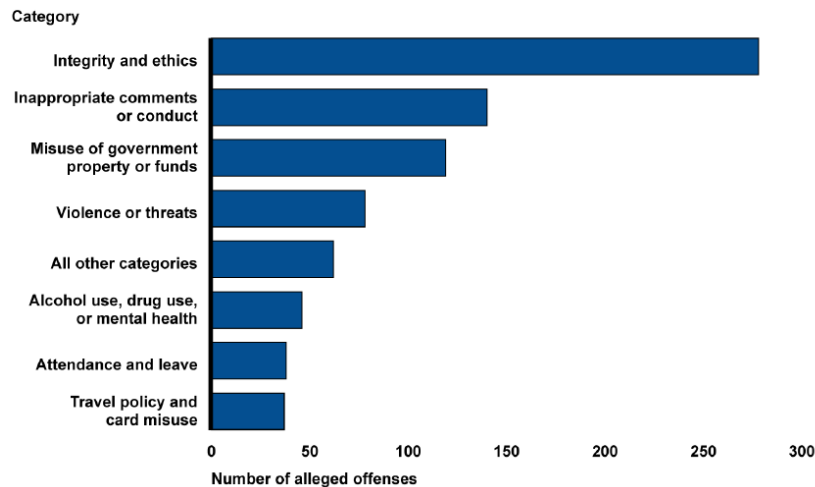
¹⁰Federal Emergency Management Agency, *FEMA Reservist Program FD 010-6 Revision Number: 02* (Jan. 25, 2017).

¹¹The comparators spreadsheet contains personally identifiable information about specific cases, such as subject names. According to LER and PLB officials, this information is subject to privacy protections.

September 30, 2016. The complaints involved alleged offenses of employee misconduct which may or may not have been substantiated over the course of an investigation.

Based on our analysis, the 595 complaints contained approximately 799 alleged offenses from January 2014 through September 30, 2016. As shown in figure 1 below, the most common type of alleged offenses were integrity and ethics violations (278), inappropriate comments and conduct (140), and misuse of Government property or funds (119). For example, one complaint categorized as integrity and ethics involved allegations that a FEMA employee at a Joint Field Office was accepting illegal gifts from a FEMA contractor and a State contractor. Another complaint categorized as inappropriate comments and conduct involved allegations that a FEMA employee's supervisor and other employees had bullied and cursed at them, creating an unhealthy work environment. Finally, a complaint categorized as misuse of Government property or funds involved allegations that a former FEMA employee was terminated but did not return a FEMA-owned laptop.

Figure 1.—Alleged FEMA Employee Misconduct Offenses Reported to OCSO by Category: January 2014 through September 30, 2016



Note.—According to agency officials, lower-level alleged offenses, such as being absent without leave, are typically addressed by the Labor and Employee Relations Branch and may not be included in the OCSO data we reviewed.

Aspects of FEMA's Data Limit Their Usefulness for Identifying and Addressing Trends in Employee Misconduct

OCSO, LER, and PLB collect data on employee misconduct and outcomes, but limited standardization of fields and entries within fields, limited use of unique case identifiers, and a lack of documented guidance on data entry restricts their usefulness for identifying and addressing trends in employee misconduct. FEMA employee misconduct data are not readily accessible and cannot be verified as accurate and complete on a timely basis. These limitations restrict management's ability to process the data into quality information that can be used to identify and address trends in employee misconduct. For example, an OCSO official stated that senior OCSO officials recently requested employee misconduct information based on employee type, such as the number of Reservists. However, the data are largely captured in narrative fields, making it difficult to extract without manual review.

In our July 2017 report we recommended that FEMA improve the quality and usefulness of the misconduct data it collects by implementing quality control measures, such as adding additional drop-down fields with standardized entries, adding unique case identifier fields, developing documented guidance for data entry, or considering the adoption of database software. In addition, we recommended that FEMA conduct routine reporting on employee misconduct trends once the quality of the data is improved. DHS concurred and stated that FEMA is working with the DHS OIG to develop a new case management system. The system will use drop-down fields with standardized entries and provide tools for trend analysis. Once the

new system is implemented, DHS stated that FEMA will be able to routinely identify and address emerging trends of misconduct. DHS estimated that these efforts would be completed by March 31, 2018. These actions, if fully implemented, should address the intent of the recommendations.

FEMA SHARES MISCONDUCT CASE INFORMATION INTERNALLY AND WITH DHS OIG, BUT DOES NOT ACCURATELY TRACK DHS OIG REFERRED MISCONDUCT COMPLAINTS

FEMA Offices Meet Regularly to Discuss Misconduct Allegations and On-going Investigations and Send Monthly Status Updates to DHS OIG

Officials from OCSO, LER, and PLB conduct weekly AID committee meetings to coordinate information on misconduct allegations and investigations. The committee reviews allegations, refers cases for investigation or inquiry, and discusses the status of investigations. In addition to the weekly AID committee meetings, LER and PLB officials stated that they meet on a regular basis to discuss disciplinary and adverse actions and ensure that any penalties are consistent and defensible in court. Employee misconduct information is also shared directly with FEMA's chief security officer and chief counsel. Within FEMA, these regular meetings and status reports provide officials from key personnel management offices opportunities to communicate and share information about employee misconduct. FEMA also provides DHS OIG with information on employee misconduct cases on a regular basis through monthly reports on open investigations.

FEMA's Procedures for Tracking DHS OIG Referred Cases Need Improvement

We found that OCSO has not established effective procedures to ensure that all cases referred to FEMA by DHS OIG are accounted for and subsequently reviewed and addressed. As discussed earlier, OCSO sends a monthly report of open investigations to DHS OIG. However, while these reports provide awareness of specific investigations, according to OCSO officials, neither office reconciles the reports to a list of referred cases to ensure that all cases are addressed. We reviewed a non-generalizable random sample of 20 fiscal year 2016 employee misconduct complaints DHS OIG referred to FEMA for review and found that FEMA missed 6 of the 20 complaints during the referral process and had not reviewed them at the time of our inquiry. As a result of our review, FEMA subsequently took action to review the complaints. The AID committee recommended that OCSO open inquiries in 3 of the 6 cases to determine whether the allegations were against FEMA employees, assigned 2 cases to LER for further review, and closed 1 case for lack of information. According to an OCSO official, OCSO subsequently determined that none of the allegations in the 3 cases they opened involved FEMA employees and the cases were closed. The remaining 2 cases were open as of April 2017.

The results from our sample cannot be generalized to the entire population of referrals from DHS OIG to FEMA; however, they raise questions as to whether there could be additional instances of misconduct complaints that FEMA has not reviewed or addressed. Therefore, in our July 2017 report we recommended that FEMA develop reconciliation procedures to consistently track referred cases. DHS concurred and stated that once the new case management system described above is established and fully operational, FEMA will be able to upload all DHS OIG referrals into a single, agency-wide database. Additionally, FEMA will work with DHS OIG to establish processes and procedures that will improve reconciliation of case data. DHS estimated that these efforts would be completed by March 31, 2018. These actions, if fully implemented, should address the intent of the recommendation.

Mr. ESTES [presiding]. Thank you, Mr. Currie.

Now we will go into questions from the Members. I will recognize myself first to ask the first series of questions. We will go through the 5-minute time period for each Member as well.

Mr. Grant, you know, the reservist program manual currently does not include information on the disciplinary process or appeals rights for reservists. Is that part of what FEMA is planning to add to the manual as part of this review?

Mr. GRANT. Yes, sir. The reservist misconduct policies and procedures will be updated to include disciplinary actions and the appeals. We intend to issue that by December 31 of this year.

Mr. ESTES. Thank you. Again for Mr. Grant, what is FEMA doing to ensure that misconduct and discipline are handled consist-

ently across its work force categories or regions or different field offices?

Mr. GRANT. Well, as Mr. Currie correctly noted, we do have some inconsistent systems. We currently maintain three different systems from three different offices: Office of Chief Council, Office of Chief Security Officer, and labor relations within the Chief Human Capital Office. Those three organizations meet weekly to discuss the various caseloads.

The problems could come in to any one of those groups and then they meet every week to discuss and make sure that nothing slips through the crack.

Those issues that are raised to the level of the inspector general are reported by chief security officer to the I.G. As Mr. Currie indicated, they make the decision whether or not they will investigate and they return them to us.

We did note that six of those cases that they found were not appropriately investigated by us in a timely manner. We have subsequently taken that under advisement and fixed that problem. We don't believe that that problem will occur again.

The other issue that we are doing, which Mr. Currie noted and I appreciate, is that we are partnering with the I.G. to actually adopt their system, their I.T. system or case management system. They have given us the system.

We have deployed it in our test environment to determine whether or not it will operate in the FEMA network. If it will—we hope that it will—that testing should be done by October. Then we will deploy it within the chief security officer as a pilot.

If that then works, then we will deploy it across our enterprise, and it will become a singular system with common nomenclature, common case management numbers so that—one of the issues that the GAO recognized was that having a singular case number system to go up to the I.G. and back would allow us to track every case to completion.

We don't have that today. We don't have common nomenclature between the three systems. That is what causes us to then have a manual conversation every week. So we try and manage it manually. We think by deploying the I.G. system that will enable us to fix much of the problem that GAO raised.

Mr. ESTES. It does seem that it would be much more logical to have the one system that you could work from and be consistent across the offices, as well as—

Mr. GRANT. Yes, sir.

Mr. ESTES [continuing]. Tracking.

Mr. Currie, you know, in 2006, you know, FEMA ranked 284th out of the 305 agencies in terms of best places to work. Can you talk about a little bit about what you may have observed in terms of what is the cause of this or what practices might be improved?

Mr. CURRIE. Yes, sir. Well first of all, we look at morale across all of the Department of Homeland Security and all of the components. It is a key reason that the Departmental management is still on GAO's high-risk list.

It is very, very important. You cannot separate the morale of the employees from the mission of the organization. Those two are tied together. They are not separate things.

We have been very interested in watching FEMA's progress in this area. I am not sure I have a reason, per se, for the low morale. We have looked at their recent plans they put together to increase employee engagement.

One of the key reasons that FEMA itself has cited is, frankly, a lack of trust of upper-level leadership. That is much higher actually than trust of immediate supervisors. So I think the morale issue feeds directly into that.

Employees want to know that other employees are being held accountable and that their leaders are playing fairly and following the rules. I think having stronger misconduct policies and procedures and communicating those will help that.

Mr. ESTES. All right, thank you.

I am about out of time here, so I will turn the questioning over to Ranking Member Correa.

Mr. CORREA. Thank you, Chairman Estes. I just wanted to follow that line of questioning, and I think the Chair is absolutely on to something, which is morale and misconduct.

Mr. Currie, you just said there is lack of trust in upper-level management. If I pull back and think about FEMA, as I mentioned earlier, you are effectively first responders. Your workplace is a challenging one.

When you are called to respond to a disaster, you encounter things that are very difficult to work with. You do your job, and I would imagine you do it with honor.

That is why you continue to do what you do. Yet if you have a lack of morale, that tells me that there is something there that is not connected, lack of trust in upper management.

Also the issue of misconduct. You want to know that that person that you are working next to is an honorable individual.

So I would ask both of you, misconduct, percentage-wise—FEMA has been around since 1979. Is this a pattern that has exploded? Is it State level? Has this gone up or down? What are the percentages of, you know, levels of misconduct or categories?

Mentioned a laptop missing, a person taking a gift from a contractor, how many times do you have this happen percentage-wise? Personnel issues. Somebody gets mad at their, you know, co-worker and files a complaint. Give me a picture. I wanna see what these numbers are actually telling us.

Open it up.

Mr. GRANT. If you don't mind, Mr. Currie, I will take the first stab at answering that.

Thank you very much for the question. As you noted earlier in your opening statement, sir, less than 2 percent, about a little over 1 percent of our staff have been alleged to have this kind of misconduct. As I mentioned—

Mr. CORREA. So less than 1 percent are complaining?

Mr. GRANT. No. Less than 2 percent of the folks have had a complaint. But we have gone—

Mr. CORREA. Lodged against them?

Mr. GRANT [continuing]. Yes.

Mr. CORREA. OK.

Mr. GRANT. Then we have gone back and looked at what, what I call, how it has been adjudicated. That turns out to be slightly less than 50 percent of those that have been alleged actually—

Mr. CORREA. So about 2 percent and then about 1 percent are actually substantiated?

Mr. GRANT. A little less than 1 percent.

Mr. CORREA. Less than 1 percent. OK.

Mr. GRANT. So I want to make two points. No. 1, I am actually encouraged by a number of complaints because I think that sends the message that employees feel safe and free to lodge a complaint. I don't want employees to feel as though they are inhibited from lodging a complaint or a question. I want them to feel free to go to management, to the—

Mr. CORREA. What did you do? Create an 800 anonymous number or what—

Mr. GRANT. Yes. We actually do. One of the questions I had in preparing for this hearing was how do employees—I wanted to validate and look at it myself—how do employees lodge such a complaint? We have that as an icon on our chief security officer web page.

I asked for it to be moved to the front page of the FEMA intranet site. I want every employee to have access to that.

We also have annual training, such as the No FEAR Act, where every employee is made aware that they can contact the DHS I.G. hotline directly or contact labor relations or contact their supervisor or contact the chief security officer.

So we want the complaint to come in. We want to follow the process to adjudicate it. We hope that they are not substantiated. But when they are, then we want to follow a consistent, quick process to take care of the problem and to issue discipline as required.

Mr. CORREA. So again, the pattern has been complaints going up or down or steady?

Mr. GRANT. I would say they have been fairly steady. It depends on the kind of system. Kind of—

Mr. CORREA. So would you say that based on your new policy of encouraging folks to come forward, the actual number of complaints has remained steady or again—

Mr. GRANT. Well again, that is just recent, in preparation for this hearing, that we moved it to the front page. So I would expect, again, the number of complaints coming in doesn't concern me as much as those that are substantiated. What we have seen is about two-thirds or three-quarters of 1 percent of our population would have a substantiated issue against them.

Those are the issues. As I said in my opening statement, one issue of substantiated misconduct is one too many. We don't like that. We don't tolerate it.

As you indicated in your statement, that causes a morale issue because if I am sitting next to someone who I think is getting away with something like that, that could be an issue. I don't want people thinking about that.

As the Chairman said in his opening statement, when we are out in the field, these are stressful times. These are communities. These are survivors who are having potentially the worst day of

their life. They wanna know that they have the full focus and attention of our staff.

As I said in my opening statement, the vast majority of our employees serve honorably and with distinction in very difficult circumstances, with a lot of tension. They handle it well.

In those cases that do happen, we wanna handle it consistently. We wanna handle it quickly. We want to remove those individuals or put them in a place where they can be educated better and understand that what they just did is not tolerated. Then we will bring them back in.

Mr. CORREA. Mr. Chair, I yield.

Mr. ESTES. Thank you, Mr. Correa.

I would now like to call on Miss Rice for 5 minutes.

Miss RICE. I think this administration has made it very clear through hiring freezes, reductions to employee retirement programs, and just overall budget cuts, that the Federal worker is just simply not a priority for this administration. So we can talk about morale all we want, but when the Government that you work for doesn't support you, I can't imagine a worse situation in terms of morale.

So to what extent does the administration's clear attempt to shrink the work force, the Federal worker work force, what does that have on their ability to do their job, No. 1 and the morale of the agency overall? That is for both of you.

Mr. CURRIE. Well, ma'am, at GAO we have not analyzed the recent efforts to try to reduce or streamline the Federal work force. But I can say this.

In terms of Department of Homeland Security and FEMA, and all agencies across Government, you know everybody in Government, all departments are operating under the same environment and have been for a long time. We assess employee morale and engagement using several different factors and criteria.

What we have seen is that agencies that have high-morale exercise certain behaviors that lead to that morale being higher than other agencies. So in FEMA's case, as the Chairman noted in opening up, they have tended to be lower on that side of thing, as have most of the DHS components.

Mr. GRANT. Ma'am, thank you for the question. One of the things—I have been acting in this job since January 20. Mr. Bob Fenton was the previous acting administrator. Mr. Long is now on board.

One of the things that Mr. Fenton and I did, and now Mr. Long and I have done, is we have conducted four agency-wide town hall meetings in the 6 months that I have been in this job. That is more than we did in the previous year or two.

Mr. Long has also initiated a plan to have, what he calls listening sessions in the next 8 weeks, with both our employees and our constituents that we work with.

One of his intentions, one of Mr. Fenton's intentions and my own, was to reach out and talk to employees and the folks that we serve and find out what are we doing well. We wanna replicate that. Where do we need to improve, and we want to work on that. But we wanna hear it from the ground up and we wanna hear it from those that we serve.

So that is an initiative that we have undertaken for the last several months and we will continue to undertake. I think that is terribly important.

As Mr. Currie indicated, I think that engagement will help. One of the factors that Mr. Long has clearly articulated in the month, maybe just under a month he has been here, is that he expects leadership to get out from behind the desk and to go out and meet with the folks.

I myself have walked Mr. Long through the entire building. We will walk up, talk to employees wherever they are, 7 o'clock in the morning to 7 o'clock at night and find out how they are doing and what could we do to help them. Because, quite frankly, the work of the agency is done by those folks, not honestly by us.

Those are the folks that are going out and meeting with the survivors and ensuring that our mission is being met. We have initiated a significant increase in our communication and engagement. We hope in the long run that will help drive those employee morale scores up.

Miss RICE. So FEMA also took a beating in the aftermath of Katrina and Superstorm Sandy. Certainly, you know, I have been in this position for 3 years, since I was the D.A. of my county when Superstorm Sandy happened. One of the biggest issues we still face is people trying to recover from that.

The problem with the program there had really nothing to do with any of the FEMA employees. It had to do with the flood insurance program and how it was administered. There is going to be a major overhaul, we hope, in the future on that program, at least.

So to what extent does that have an effect on the morale? Which, you know, what FEMA did in those two instances was really—the workers, how quickly they responded and how much they helped people in the immediate aftermath of these tragedies, No. 1.

Because if you look at, you know, the overall number of, what is it, 248 complaints annually related to alleged misconduct by FEMA personnel, it reflects less than 2 percent of the entire FEMA work force, which I would think it is probably low, on the low end for, at least, a lot of Federal agencies. They just seem to be the ones to get beat up all the time.

So, you know, to what extent does that have to do—

Mr. GRANT. Well, I think one of the issues, I think you are correct. When you are an agency like FEMA, generally speaking you are not in the press until a bad day happens. When that bad day happens, it is a stressful situation for the communities, the localities, the public entities, but most importantly for the private citizens that we serve.

These are difficult times and our employees do work terribly hard, sometimes 18-, 20-hour days in very difficult situations where they themselves are often, you know, sleeping on a cot in a tent to make sure that they can do their job. So it is stressful.

But actually during those periods, our morale goes up because our people want to help. We have a first mentality responder, a first responder mentality within our organization. Frankly, the busier we are, the higher the morale goes.

Mr. CURRIE. Can I mention, I would agree with that. I think the issues of morale at FEMA are not related to the mission. I think

everyone there has bought into the mission and are there because of the mission.

I think that where morale becomes a problem, and this happens across DHS components, we have talked about this a lot at TSA and CBP and constantly being in the public limelight. The morale issues tend to creep in with leadership and supervision and how connected and trusting folks feel and supported they feel by their leadership.

So the actions that Mr. Grant talked about that he and the new administrator are taking, town halls trying to connect with officials, trying to make employees a priority, just as much of a priority as the mission and not separate because they are not separate, I think are great steps.

Miss RICE. Well, I agree with you—

Mr. ESTES. All right.

Miss RICE. I agree you, but I think it all—you say morale all comes from the top. If the President of the United States is not putting an emphasis on—

Mr. ESTES. Thank you for the comments.

Miss RICE [continuing]. Protecting Federal workers—

Mr. ESTES. But—

Miss RICE. Oh, I am sorry. I was—

Mr. ESTES [continuing]. The time has expired. Time has expired. Thank you for your comments.

Miss RICE. You have got to be kidding me.

Mr. ESTES. I would like to call on Ranking Member Correa.

Mr. CORREA. Thank you, Mr. Chair. I would like ask unanimous consent to have Ms. Jackson Lee participate in the hearing?

Mr. ESTES. Without objection, so ordered.

Ms. JACKSON LEE. I thank the Chairman for his courtesies, and I thank the Ranking Member for his leadership, and I thank Miss Rice for a very consistent and thoughtful line of questioning. I think she may have gotten her insight from being one of the areas that experienced Hurricane Sandy and obviously engaged a lot with FEMA staff.

Making a very viable point that, if I may use the terminology, commander-in-chief sets the tone all over the Nation and really all over the world on how our Federal employees are treated, including in the last 24 hours how the United States military is treated.

So this hearing is a very vital hearing because if we as Members of Congress can be helpful, I think it is important that we do so. That we do what is constructive and not do what undermines, I think, a very able work force.

Now let me personally thank the entire FEMA work force and emphasize that I believe they comply with the DHS mission with honor and integrity. We will safeguard the American people, our homeland, and our values.

Let me say that I am a, how should I say, beneficiary of FEMA's good works. I am a hurricane victim. I might not use that term in such that I ask for sympathy, but I have been through any number of hurricanes and storms.

If the Chairman and the Ranking Member would allow me, when my daughter was 3 years old, in essence we had to ship her off to her grandparents because we were displaced for 6 weeks in what

we call Storm Allison some many years ago. The Texas Medical Center's major research was eliminated in a terrible disaster during that storm.

Then successive storms from Rita to Katrina to Hurricane Ike, we have all been impacted in Houston and my constituents. I say this to say because I want to applaud the FEMA workers. I know that there was a great episode with Hurricane Katrina with the leadership, but I can tell you that the FEMA workers were on the ground working to try and overcome what the National image was.

Visiting with my colleague, Congresswoman Sewell right after her election, with the terrible tornadoes in Alabama, I saw FEMA workers on the ground.

So to the FEMA workers, including the reservists, let me thank you very much from a personal perspective. Maybe that is what we should be doing is ensuring that they understand the value that they serve for the American people.

They are there before others are there, and they are there after others have gone. So I particularly want to acknowledge your leadership that I have worked with in Washington and that on the ground.

I want to take note of the reservists because I think we should understand that the reservists come in and come out. That is a tough life. So I am going to ask a line of questioning.

I also want to thank Ms. Simon and the president of the AFGE, dear friends of mine. I don't mind saying it. I apologize. I have to step out to another meeting, but you already have me on record as being a chauvinist, if I may use that term, and advocate for all of you.

Now, let me quickly try to in the minutes I have left, to be able to ask a question about follow-up. I want to know, once an allegation of misconduct is made against a FEMA employee, what recourse does the employee have then to refute the allegation or appeal?

Then both of you can answer it, and maybe it should be you, Mr. Grant?

Then FEMA uses three separate offices as well as an administrative investigations committee to handle allegations of employee misconduct, which appear to average less than 300 cases per year.

Does FEMA need to adjust or improve how employee misconduct is managed at the agency? That may be part of morale. There is no seamless way to—for these employees to respond. I want to know what kind of added benefits do you give?

This is tough work. So morale goes about what incentives or benefits that you give to make sure that they are, in fact, rewarded for this very tough work. Because it is not—to the Chairman and Ranking Member, it is not money. So if you can ask that and the Chairman would indulge me for them to give their answer, I would greatly appreciate it.

I just want to be on the record that the U.S. Congress in particular, this Member from hurricane country, greatly appreciates the work that FEMA offices and FEMA staff does. Any misconduct should be corrected, but the work should be applauded. Would you answer those two questions please?

Mr. GRANT. Yes, ma'am, I will do my best to do so. The first is that I believe GAO did note that we have a practice in place that is consistently followed to review and adjudicate each of the allegations that come up. Where we do not have adequate procedures in place is at the system level to make sure that they are captured in a unique system.

So what we have done is have a manual process where each of those three groups you mentioned, Chief Counsel, Chief Security Officer, and Chief Human Capital Officer, meaning labor relations, will meet weekly to ensure that issues do not fall between the cracks. Unfortunately, that has occurred at times.

As I indicated earlier, we are working with our partners at the I.G. to adapt their system and deploy it across our enterprise as a singular sort of parent or umbrella system to ensure that we have current, accurate, and complete records for all cases with common nomenclature, common case management numbers, et cetera.

We believe that will allow us to do the trend analysis that Mr. Correa asked about earlier in a more effective manner. So I believe that answers most of your questions.

Ms. JACKSON LEE. The refuting. How does an employee refute?

Mr. GRANT. Oh. At any time that an allegation is made against an employee, they are advised that they have the opportunity to meet with the investigation organization and refute that, provide whatever information they deem necessary. They are advised of their appeal rights should the decision go contrary to their belief.

Mr. ESTES. Thank you. Thank you for your answers——

Ms. JACKSON LEE. Through AFGE?

Mr. PERRY. Time has expired now.

Ms. JACKSON LEE. Thank you, Mr. Chairman. If I could just put this on the record for an answer in writing, I would like to know how you work with AFGE for those employees that have that relationship with them?

Mr. GRANT. Yes, ma'am.

Ms. JACKSON LEE. I would like that writing.

Thank you, Mr. Chairman. Thank you to the Ranking Member.

Mr. ESTES. Thank you.

Ms. JACKSON LEE. I yield back.

Mr. ESTES. Now, I recognize Mr. Higgins for 5 minutes of questions.

Mr. HIGGINS. Thank you, Mr. Chairman.

Gentlemen, thank you for appearing before the subcommittee, and thank you for your service to our Nation.

Mr. Currie, my question is for you. How do FEMA's misconduct policies and procedures reflect best practices or internal control standards to ensure an efficient and effective organization?

Specifically, while you reflect upon that, please give us some insight as to why did FEMA not properly investigate certain cases referred by the Department of Homeland Security's Office of Inspector General? What was the effect of this delay?

So give us some insight, please, to your policies.

Mr. CURRIE. Yes, sir. I think you used the perfect wording which is internal controls. I think that is the biggest problem we found

in this process. Mr. Grant has talked about three separate systems collecting information on misconduct.

When I say systems, don't think about I.T. systems. We are talking about spreadsheets here, manual spreadsheets and then a physical adjudication process to discuss those.

So frankly, the data we presented in our report, we presented to give a sense of what we knew about misconduct cases, but it was not reliable, which is why we had several findings and recommendations to strengthen the data.

So I am not inferring that it was understated or overstated. We just don't feel good about the data. I am not sure if that was comprehensive or not. So the controls are critical. If you don't have a system to track it and monitor it, then you have no idea whether you are following up.

The other part of that is, the process of the complaint coming in and the adjudication and disciplinary action are separate and those don't track through the process.

So we couldn't go back and find out if there was disciplinary action taken in all allegations or not and why, because the system was, the data was just kind of a mess.

The I.G. issue, it is the same issue. This is not just an issue for FEMA. Other DHS components, TSA and CBP, we found similar issues. They are supposed to communicate constantly with the I.G. Some of these components are getting thousands of cases. So there just has to be a better system to automatically communicate and track the cases between the I.G. and the component.

I think the burden is really on the component to make sure they are not missing the cases because the I.G. gets, you know, 15,000 to 20,000 cases a year.

Mr. HIGGINS. So you are saying that it is very difficult for you to track whether or not disciplinary action has been taken at some other stage within the agency or within some—

Mr. CURRIE. Well, we have—

Mr. HIGGINS [continuing]. Some context of the agency?

Mr. CURRIE. FEMA provided us data on the number of disciplinary actions it took and what those actions were. What we couldn't do is track them to each case all throughout the process from allegation to investigation to adjudication and disciplinary action because the systems were just different.

Mr. HIGGINS. Are case files not created on each individual investigation into misconduct within the Department of Homeland Security?

Mr. CURRIE. Case files are created, but mostly manually and inputted into a system. But—

Mr. HIGGINS. Do telephones not get answered from one supervisor to another or from the director to a supervisor? Is there—

Mr. CURRIE. Well, there—

Mr. HIGGINS. Can people—are people not allowed to talk to each other?

Mr. CURRIE. Absolutely. FEMA has a process for handling these cases and what supervisors and employees are supposed to do, as Mr. Grant said. It is just, you know, that may not always happen.

Mr. HIGGINS. Mr. Grant, do you have something to add there, sir?

Mr. GRANT. Yes, sir. I think of the six recommendations that Mr. Currie in his report indicated or provided us, we agree with them all. We do do case management. We identify each case. We track it through the system.

We do not have a singular system, as I indicated earlier, in place that would allow a unique case identifier number. Each of those three systems have different nomenclatures, and that is why we have to meet manually each week to make sure that each office is on the same page.

It is inefficient. It allows for opportunity for mistakes to be made. That is why we are adopting, as I mentioned earlier, the Department of Homeland Security's inspector general has a system.

We are testing that system in our environment right now. We are going to pilot it in our Chief Security Office. That is the office that most closely interacts with the inspector general. That will ensure that we are using the same nomenclature, the same case numbering they have.

Once we establish that in our architecture and it works, we will then deploy it across FEMA. So all of the offices involved in this process will be using the same parent system. I believe that will take care of many of the issues raised by GAO.

Mr. HIGGINS. Thank you, gentlemen. It appears that the creation of a solid case file with an identifying number that would gradually build upon itself with supplemental reports as cases of misconduct are investigated, could be quite beneficial to the efficiency of your procedure.

Mr. Chairman, I yield back.

Mr. ESTES. Thank you, Mr. Higgins.

Now the Chair would like to thank the witnesses for their valuable testimony and the Members for their questions. The first panel is now excused. The clerk will prepare the witness table for the next panel. Thank you very much.

[Recess.]

Mr. ESTES. The Chair will now introduce our witness for the second panel. Ms. Jacqueline Simon is director for the Public Policy Department at the American Federation of Government Employees, AFGE. AFGE is the largest Federal employee union, representing 700,000 Federal and D.C. government workers.

AFGE provides its members with legal representation, legislative advocacy, technical expertise, and informational services. Thank you for being here today.

Now the Chair recognizes Ms. Simon for an opening statement.

**STATEMENT OF JACQUELINE SIMON, DIRECTOR OF POLICY,
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES**

Ms. SIMON. Mr. Chairman, Ranking Member Correa and Members of the subcommittee, thank you for the opportunity to testify today. GAO's report takes pains to explain the numerous distinct types of employment tenure at FEMA.

First are Title 5 employees, who are both permanent and temporary workers hired only after a rigorous and competitive merit-based examination process, one that includes the application of veterans' preference.

FEMA employees who are covered by Title 5 are afforded full civil service protections and where the workers have voted to form a union are covered by a collective bargaining agreement as well.

Stafford Act employees, on the other hand, are hired only for temporary or term appointments. They do not undergo rigorous vetting through competitive examination. They are employed at-will, and they may be terminated at any time for any reason or no reason and have no rights of appeal and no due process protections.

FEMA also employs surge capacity force volunteers who are otherwise employed by the Department of Homeland Security. They are deployed in the case of catastrophic disaster.

Finally there is the FEMA Corps National service program, whose members are fewer than 500 and are part of the AmeriCorps program.

These distinctions matter. Under Title 5, employees are subject to well-defined disciplinary procedures and penalties, and they have the right to appeal adverse actions, either through grievance and arbitration procedures in their collective bargaining agreements, where applicable, or through access to the MSPB.

FEMA Corps members have a disciplinary process that is determined by the AmeriCorps program. Surge capacity force volunteers have no documented misconduct policies and are presumed to be referred back to their home component for action.

Stafford Act employees, reservist and CORE employees, make up a second-class work force at FEMA. They are described by GAO as having poorly-defined or nonexistent disciplinary processes and no rights of appeal for adverse actions.

It is the lack of policy or procedures to address misconduct and appeal rights for this segment of FEMA's work force that makes up the heart of GAO's report.

Let's start with the numbers. The average annual number of employee misconduct complaints for 2016 amounted to less than 2 percent of all employees. Of the complaints filed within the 3-year period under examination, the agency's actions were decisive—65 percent of the accused were terminated, 21 percent received reprimands, and 12 percent received suspensions.

This appears to me to be a system at work. Allegations were investigated and the agency responded. Importantly, about 12 percent of those investigated were found innocent. We must remember that these innocents are why we have due process.

The result of GAO's efforts to research and report the policies in place to handle allegations of misconduct among FEMA workers is the realization that no consistent process exists at all for anyone other than Title 5 employees.

If there is a problem with investigating misconduct at FEMA, AFGE believes that the reason is the overabundance of at-will employees. These workers have not been hired competitively. Their background, skills, and qualifications have not been rigorously tested, and it seems as though they receive neither adequate training nor adequate supervision.

Most important from the standpoint of the concerns about integrity addressed in the GAO report, because they lack protection of a union contract and the right to appeal adverse actions such as

suspensions and terminations, their whistleblower protections are entirely pro forma and thus ineffective.

Corruption is an ever-present danger when the Government is providing assistance after a disaster. There are cash transfers, direct provision of goods and services, and procurement decisions that all present risk.

For those who either don't have clear policy and supervision or are vulnerable to pressure from corrupt supervisors or managers to engage in misappropriation, there is danger of being charged with inappropriate behavior.

FEMA is therefore the last agency that should ever be staffed by an at-will work force with no collective bargaining rights and no avenue of appeal for adverse action by managers. There should be no surprise that there are allegations of impropriety in a work force that is so much at the mercy of managers.

If this subcommittee is truly interested in providing the public with well-trained, qualified, and accountable emergency workers, the the current practice of hiring reservist and CORE employees at-will should end. Rather the entire emergency work force at FEMA should be hired under Title 5 authorities.

This will ensure they are properly vetted, trained, and disciplined and protect the public from potential financial or political corruption.

This concludes my statement, and I will be happy to answer any questions you may have.

[The prepared statement of Ms. Simon follows:]

PREPARED STATEMENT OF JACQUELINE SIMON

JULY 27, 2017

Mr. Chairman, Ranking Member Correa, and Members of the subcommittee: My name is Jacqueline Simon and I am the policy director of the American Federation of Government Employees, AFL-CIO (AFGE). On behalf of the almost 700,000 Federal and District of Columbia employees AFGE is proud to represent, I thank you for the opportunity to testify today on the Government Accountability Office (GAO) report which is at the center of this hearing.

GAO's report takes pains to explain the numerous, distinct types of employment tenure that exist among the work force at the Federal Emergency Management Agency (FEMA). Most title 5 employees constitute the permanent and temporary work force and are usually hired only after a rigorous and competitive merit-based examination process (one that includes applications of veterans preference). FEMA employees who are covered by Title 5 are afforded full civil service protections and where the workers have voted to form a union, are covered by a collective bargaining agreement as well. Stafford Act employees, on the other hand, are hired for temporary or term appointments. They do not undergo rigorous vetting through competitive examination, are employed "at will," and may be terminated at any time for any reason or no reason and have no rights of appeal, and no due process protections. FEMA also employs Surge Capacity Force volunteers who are otherwise employed by the Department of Homeland Security; they are deployed in the case of catastrophic disaster. Thus far, the only time this volunteer force has been used was during the response to Hurricane Sandy in 2012. Finally, there is the FEMA Corps National service program, whose members are fewer than 500 and are part of the AmeriCorps program.

These distinctions matter. Under Title 5, employees are subject to well-defined disciplinary procedures, penalties, and have the right to appeal adverse actions either through grievance and arbitration procedures in their collective bargaining agreements (where applicable) or through access to the Merit Systems Protection Board (MSPB). FEMA Corps members have a disciplinary process that is determined by the AmeriCorps program. Surge Capacity Force volunteers have no documented misconduct policies and are presumed to be referred back to their "home component" for action.

Stafford Act employees—Reservists and CORE employees—make up a second-class work force at FEMA. They are described by GAO as having poorly-defined or non-existent disciplinary processes and no rights of appeal for adverse actions. It is the lack of policy or procedures to address misconduct and appeal rights for this segment of FEMA's work force that makes up the heart of this report.

Let's start with the numbers. The average annual number of employee misconduct complaints for 2016 amounted to less than 2 percent of the all employees. Not to belittle any instance of alleged misconduct, but 2 percent hardly constitutes an epidemic of bad behavior within the agency. Next, of the complaints filed within a 3-year period (January 2014 to December 2016), the agency's actions were decisive: 65 percent of the accused were terminated, 21 percent received reprimands, and 12 percent received suspensions of less than 2 weeks' duration. This appears to me to be a system at work. Allegations were investigated and the agency responded.

The result of the GAO's efforts to research and report on the policies in place to handle allegations of misconduct among FEMA workers is the realization that no consistent process exists at all for anyone other than Title 5 employees. And there is a need for better record-keeping.

The report recommends instituting clearly documented policies and procedures to address misconduct among Surge Capacity Force volunteers and Reservists. This is certainly not controversial.

If there is a problem with investigating misconduct at FEMA, AFGE believes that the reason is the overabundance of "at-will" employees. These workers have not been hired competitively. Their backgrounds, skills, and qualifications have not been rigorously tested. And it seems as though they receive neither adequate training nor adequate supervision. Most important from the standpoint of the concerns about integrity addressed in the GAO report, because they lack the protection of a union contract and the right to appeal adverse actions such suspensions and terminations, their "whistleblower" protections are entirely pro forma and thus ineffective.

Corruption is an ever-present danger when the Government is providing assistance after a disaster. There are cash transfers, direct provision of goods and services, and procurement decisions that are all occasions for those who either don't have clear policy and supervision, or are vulnerable to pressure from corrupt supervisors or managers to engage in misappropriation. FEMA is the last agency that should be staffed by an at-will work force with no collective bargaining rights and no avenue of appeal for adverse actions by managers. There should be no surprise that there are allegations of impropriety among a work force that is so much at the mercy of managers.

If this subcommittee is truly interested in providing the public with well-trained, qualified, and accountable emergency workers, then the current practice of hiring Reservists and CORE employees "at will" should end. Rather the entire emergency work force at FEMA should be hired under Title 5 authorities. This will ensure they are properly vetted, trained, and disciplined, and protect the public from potential financial or political corruption.

Mr. ESTES. Thank you, Ms. Simon. Now the Chair recognizes himself for 5 minutes of questioning. I mean, do you believe that having the documented misconduct policies and procedures for all FEMA work force categories would help improve the perception that FEMA is being able to treat their cases adequately and equally?

Ms. SIMON. Yes, but when there is an at-will work force there is no need to use any procedures. People can just be fired for not toeing the line.

Mr. ESTES. But if we had—are you thinking that adequate or consistent policies couldn't address some of that, even if you had a policy for the at-will work force—hired under the Stafford Act versus other under Title 5?

Ms. SIMON. Well, the Government has access to a system that is demonstrably working. That is the systems that are described in Title 5. That is why I have argued that the procedures in Title 5 should be applied to the entire FEMA work force, particularly emergency workers.

Not particularly necessarily, but to all workers, and that is the best protection for the public that is put in a situation involving an emergency.

Mr. ESTES. Part of my questions around that centers around, I mean, in my past life as State treasurer, I had both employees that were under the Classified as well as non-Classified positions.

I think we were able to effectively make that work for both classifications of employees, even though there were actually technically some different criteria in how you worked with them. But, you know, having good management practices seemed to address some of those things.

Ms. SIMON. Well, of course, if you don't have—where management is not corrupt you don't have this problem. But what our responsibility is to protect the public from the potential of corruption.

Mr. ESTES. Another question is, I mean, FEMA recently has been using the comparators spreadsheet to determine the range of disciplinary actions and table of offenses. Due to some of the personal information maintained on that, only certain management were able to see that spreadsheet.

Do you think it would be beneficial for the entire FEMA work force to have better transparency in terms of the range of offenses and penalties?

Ms. SIMON. Well, I think that this question of using the comparators as opposed to a table of penalties is complex and there are arguments on both sides. On the one hand, a table of penalties in theory provides consistency.

But you raised the questions with privacy and, you know, having the comparators of what kinds of discipline have actually been applied in similar situations might in theory produce even more consistency than a table of penalties that gives you a range of possibilities.

I think that is why there was a move from the table of penalties to the comparators. Personally, I come down on the side of the table of penalties.

Mr. ESTES. All right. Thank you.

I would now like to recognize Ranking Member Correa for 5 minutes of questioning.

Mr. CORREA. Thank you, Mr. Chair.

Ms. SIMON. first of all, welcome and thank you for being here. As I listened to my colleagues and their testimony, I am reminded that I am from southern California, Los Angeles, Orange County. Back in the early 1990's I was actually there to witness—I was part of that little earthquake that hit us and stopped cold about 10 million people.

It was the first time in my life I actually thought I was gonna die. It was a horrific situation and the aftermath was quite something and seeing FEMA there. Again, I thank all of you for being there at our most critical moment in our life.

The aftermath, all the stories of fake insurance companies coming in, people trying to make a buck off other people's disaster. The stories of corruption were countless.

You remind me when you talk about risk of corruption, part-time employees, I imagine that these at-will employees that we are talk-

ing about, are they employees that are essentially brought in when you have a surge? Is that what it is?

Ms. SIMON. Yes.

Mr. CORREA. What I am hearing you say, and I don't want to put any words in your mouth, is these are the folks that probably need to be at the front lines in terms of having the ability to blow the whistle when they see corruption happening at the grassroots level.

Because it didn't do any of my neighbors and friends any good to figure out that they were actually being duped a month or two after their money had been taken away.

So I guess trying to follow up with the Chairman's line of questioning with you is would you say then that you want to bring in these temporary employees under collective bargaining to give them the protection so they can call out the corruption that either management or outside of FEMA during these, you know, moments of crisis?

Ms. SIMON. Absolutely, yes. A strong collective bargaining agreement with protection against retaliation for blowing the whistle is the best protection the public can have to make sure that taxpayer dollars are being handled in a way that is consistent with the public good.

We have data across the Government in every agency that shows the whistleblowers who come forward with the strongest protections are those covered by a collective bargaining agreement. As you describe, disasters, intense disasters where there is a lot of money floating around—

Mr. CORREA. Money and chaos.

Ms. SIMON. Money and chaos.

Mr. CORREA. And hurt and pain.

Ms. SIMON. That is a moment when you want to have the strongest possible protections, especially for the front-line employees, because it is inevitable that there will be pressure placed upon them by those who are in that chain of possession of the money and making decisions about distribution of the money.

They need to be held to account. Those managers need to be held to account. If the front-line employees are completely subject to the whim of those who are supervising them, you have got a recipe for corruption.

Mr. CORREA. A follow-up question, I am very concerned with some of the testimony from the prior panel and you as well, this lack of trust at upper levels of management. Can you get any more specific? Because, again, FEMA in my opinion, you are front-line responders.

Your mission is an important one. I think morale has to be the driving force. If you really love your job and your job is to go into very, very terrible places, and so why is it that you have lack of trust at the upper level and therefore low morale? How do you fix that?

Ms. SIMON. Well, I think there is a—

Mr. CORREA. Speculate please.

Ms. SIMON. It is hard. You know, I think that Representative Rice was certainly on to something when she discussed the attacks on the Federal work force. That certainly lowers morale, not only

in the Department of Homeland Security and all its components, but across the Government.

When it comes to lack of trust, you know, I don't want to have——

Mr. CORREA. Do you feel you are attacked as a work force?

Ms. SIMON. Certainly when it comes to the pay and benefits and the quality of their work with threats to dismantle programs and eliminate jobs, the questioning of the quality of Federal employees' work constantly. Yes, we very much feel under attack.

I think we see that in the Federal employee viewpoint survey.

Mr. CORREA. Very quickly, how does that translate to lack of trust in upper management?

Ms. SIMON. Well, there are two sort-of streams of upper management: One is political appointees, another are career managers. When political appointees follow the Federal, you know, attack the Federal work force line, that is a problem.

You know, I think that there has been a lot of rhetoric in this Congress about how we need to make it easier to fire a Federal employee. Federal employees are always presumed to be poor performers and somehow a drain on the taxpayer rather than providing valuable services to the American public.

To the degree that, you know, managers continue to repeat that rather than to praise the good work that Federal employees do and express appreciation for how much they do with very, very modest compensation, you have got a problem.

Mr. CORREA. Mr. Chair, I yield back.

Mr. ESTES. Thank you, Ranking Member Correa.

I would now like to call on Mr. Higgins for 5 minutes of questioning.

Mr. HIGGINS. Thank you, Mr. Chairman.

Ms. SIMON. Thank you for appearing before this subcommittee, and thank you for your service to your Nation.

Ms. SIMON. Thank you.

Mr. HIGGINS. Reading your testimony and listening to you speak, you are an intelligent and passionate representative for your cause, but is it your suggestion that the solution to the problems at FEMA, including during disaster response, be they man-made or natural, the solutions to the problems would be that 100 percent of the employees of FEMA, full-time and part-time, should be union employees?

Ms. SIMON. Well, my testimony focused exclusively on the subject of the GAO report that was published last week, not the——

Mr. HIGGINS. You suggested that——

Ms. SIMON [continuing]. Not the question of all of FEMA's problems.

Mr. HIGGINS [continuing]. That the at-will employees, are they union employees?

Ms. SIMON. No, they are not.

Mr. HIGGINS. You are——

Ms. SIMON. They are not covered by a collective bargaining agreement.

Mr. HIGGINS [continuing]. You are suggesting that that they should be union employees. They should be better trained and under union control.

Ms. SIMON. They—

Mr. HIGGINS. You specifically suggest that they need union protections regarding their employment status and so that they can be—their “whistleblowing” will be more effective.

Ms. SIMON. Absolutely. A union contract as well as the provisions of Title 5, civil service protection.

Mr. HIGGINS. So respectfully I ask you, if we staffed FEMA with 100 percent response-capable employees at that level, that were union employees, what would they do when they were not responding to a disaster?

Ms. SIMON. Oh, the union can represent workers who are employed only in a surge capacity. The unions can certainly represent temporary employees and term employees. You don’t have to be a full-time permanent employee in order to be covered by a collective bargaining agreement.

Mr. HIGGINS. Intelligent response. I represent a south Louisiana district. In August of last year our citizens suffered what was referred to as epic flooding, 1,000-year flooding with 56 inches of rain in just a couple of days.

The water management systems were overwhelmed. Rivers overflowed their levees, et cetera. Tens of thousands, scores of thousands of homes and businesses were flooded.

May I respectfully suggest to you to consider the fact that during that flooding and immediate aftermath, before FEMA was on the ground, a volunteer staff of thousands and thousands of south Louisiana citizens, churches, volunteer groups, formed what was called a Cajun Navy and a supply chain.

Tens of thousands of people were rescued from flooded homes and rooftops. Hundreds of tons or perhaps thousands of tons of food and clothing and shelter were distributed by volunteer staff before FEMA was on the ground. Those guys are not certainly union employees.

So would you please clarify for this subcommittee the disparity of what I just described, an actual, effective, practical response by real American citizens working for themselves for free for their fellow citizen and had largely addressed the emergency status of the flooding before FEMA was on the ground?

Ms. SIMON. I think volunteerism is wonderful, and it is part of citizenship, and it is part of what any humane response would be to a disaster. So I am very glad that the people of your community were beneficiaries of volunteerism.

Mr. HIGGINS. Well, thank you for your response, ma’am.

Mr. Chairman, I yield the balance of my time.

Mr. PERRY [presiding.] The Chair thanks the gentleman.

The Chair now recognizes the gentlelady from California, Ms. Barragán.

Ms. BARRAGÁN. Thank you, Mr. Chairman.

I am still trying to make the connection on how the volunteers that came out ties into the GAO report which is what we are here to hear about, the how to improve the situation at FEMA.

When Hurricane Katrina hit, I was one of those volunteers. I was a lawyer. I flew out to Biloxi, Mississippi to help people file their insurance claims.

I did it because I had a certain skill that I think I could provide and wanted to just help. I think that is a very different situation than what I did in my full-time job or what anybody would do in their full-time job. So I am also grateful for the volunteers we have.

But in this situation, I think we have employees who are working at FEMA and kind-of hearing your testimony today about why you believe that the at-will relationships provides, I guess, less protections and some hesitation, maybe, on the part of employees to come forward.

As somebody who has actually served as an employment lawyer before, I can understand this first-hand. As an employee I can understand that as well when you are reluctant to kind-of come forward.

I am interested in hearing a little bit more about if you have testimonials from employees maybe that were at-will who were hesitant to come forward because of that relationship? How it would have—they may have come forward because if they had some protection that they would have come forward?

Ms. SIMON. Well, thank you for the question. I don't have those kinds of testimonials and to my knowledge no one who is part of the at-will work force at FEMA has come to AFGE asking for assistance or advice.

We do get people who are in our bargaining units come to us for legal advice and assistance when they are preparing to come forward as whistleblowers. We, you know, we advise them, especially in the context of retaliation, which happens more often than anybody would like to believe—

Ms. BARRAGÁN. Yes.

Ms. SIMON [continuing]. In Federal agencies. But we never hear from—these are the people we never hear from. You know, they become part of the statistics on termination.

Ms. BARRAGÁN. Right.

Ms. SIMON. We don't know. We never get the story and we never have an objective third party to hear the evidence—

Ms. BARRAGÁN. OK.

Ms. SIMON [continuing]. That they would bring forward.

Ms. BARRAGÁN. The reason I ask was my sister happens to be a Federal employee. She has actually come to me before with stories of people who are at-will and saying, you know, people want to come forward but they don't because they are concerned about it.

I was just curious if you had heard any of those stories, because I certainly have heard some of those and understand what it means when you have those collective bargaining rights.

Having come from a labor household all my life, I have seen first-hand what the difference could be when you are trying to make sure to report some misconduct or in this case you know, any issues of corruption that may be happening, especially during a time of crisis.

Just to clarify, do you believe that the table of penalties would be beneficial to the FEMA work force?

Ms. SIMON. Before I answer that question, I would have to see a lot more information than what was provided in the GAO report. I, of course do not have access to the comparators. I think that, you

know, the question of privacy was raised with regard to the comparators.

The question becomes, you know, to what degree does management have discretion when there is a range of penalties that can be applied in a certain situation. I am not sure that the difference between the table of penalties and the comparator system is as enormous as it might be, you know, presumed to be.

But, you know, the discretion and the range is where you get inconsistency. On the other hand, you know, just a cookbook that gives absolutely no opportunity for, you know, mitigation of penalties on the part of a supervisor to say, well, you know, there were circumstances that justify a less harsh penalty or, you know, the harshest penalty.

There is an argument to be made for the discretion, too, but I haven't seen enough data to really give a good answer.

Ms. BARRAGÁN. OK. Thank you.

I yield back.

Mr. PERRY. The Chair thanks the gentlelady.

Mr. Simon, I regret and I apologize for not being here for your testimony. That having been said, I just have a couple questions for you, and I am hoping maybe they are germane to what you know as opposed to the other witnesses.

According to GAO's report, OSCO, or the Office of Chief Security has not established an effective procedure to ensure all cases referred to FEMA by DHS OIG are accounted for and subsequently reviewed and addressed. Indeed, according to the report there were some that were referred and then sent back and then never adjudicated.

What is the effect on the employee population, if you know from your experience, when these things go unaddressed, is the best way to ask it? I mean, I guess. I mean, is there—does anybody care? Is there an effect?

Because in my mind somebody probably either was wrongly accused or wrongly got away with something, for lack of a better way to put it. I imagine in any organization that has an effect, but I just want to hear your thoughts on that?

Ms. SIMON. Of course, I mean, I don't know anything about specific cases. I can just speak generally to the question. Of course, you know, everyone wants a Federal Government that is run with the highest standards of integrity. No one wants to tolerate corruption.

No one likes to see a manager or a low-level employee get away with something that he or she should not get away with and go unpunished. No one likes to see inconsistency.

So when there are cases that are not dealt with that are, you know, swept under the carpet, of course, nobody is happy about that. But I don't have any actual knowledge of specific cases.

Mr. PERRY. Do you think, do you view it—do employees view it as corruption, incompetence, a broken system, too many things going? Do you know how—well, how do people view that?

Ms. SIMON. I can't really give you a clear answer because the range of allegations is so broad. You know, allegations can be lodged in all kinds of situations. Sometimes there is a personality

conflict. Sometimes, you know, sometimes there is smoke sometimes and no fire and sometimes there really is an issue.

So that is why it is so important, as I testified, to have a procedure where an objective third party weighs evidence. We don't have that for the reservist and CORE work force. There they can simply be terminated with no consideration of evidence.

Mr. PERRY. Well, we are concerned on both sides of the equation. We don't want people falsely accused, however, we don't want things to go unadjudicated for the sake of the taxpayer, for the sake of the employees, for the sake of the agency and its reputation. All those things are important, and I appreciate your insight.

Out of a curiosity that came to my mind during the previous testimony and I didn't get to ask those folks, so I am gonna ask you if you know? The volunteers, and I guess that is the reserve force, right, that comes into place when there is a disaster?

They come from other agencies of their own volition but they cannot be disciplined by FEMA if they are found to have done something incongruent with the codes of conduct and standards, et cetera.

I am wondering if that has to do with an administrative process, if you know? Or if that has to do with a collective bargaining agreement that this employee might have with his normal employer or her normal employer as opposed to the time they are at FEMA?

From my standpoint as a military officer, when I would get a soldier or a service member from another organization to work in my organization, there was a status for that individual that I knew or the unit that I knew either had tactical control so I could order them to go do whatever I needed to do and their owning or parent unit provided their logistics and their UCMJ, the Code of Military Justice whatever, or they were what we would call operational control.

I own them for the period of time. I write their evaluation. I order them. I feed them. I clothe them. I adjudicate, you know, if there is a problem.

So I am just wondering if, if you know, if this is an administrative oversight or if there is a rationale or a problem or a roadblock that has to do with collective bargaining, multiple bargaining agreements or what have you. Do you know?

Ms. SIMON. Well, two things. I am not 100 percent certain, but my recollection reading the GAO report, that segment of the work force didn't have any kind of allegations of impropriety or misconduct that had been adjudicated.

There were no—but the answer to your question is no, that it is not the collective bargaining agreement, not at all. They were, you know, sort-of on loan. This work force is on loan to FEMA from other components, mostly of DHS. They are referred back to their employing agency.

It is up to the agency. Remember, discipline is a management responsibility. So if the employing agency doesn't follow through and investigate and ultimately discipline, that is not the fault of the collective bargaining agreement. That is a management failure.

Mr. PERRY. Well, I would agree with you unless there is something that inhibits—

Ms. SIMON. No.

Mr. PERRY [continuing]. The management from——

Ms. SIMON. Absolutely not.

Mr. PERRY [continuing]. From taking action. I am well past my time here, but I appreciate your input.

I think from an editorial standpoint I think it would be hard as a manager to be able to exact discipline on somebody that I didn't have jurisdiction over that could go back to their parent agency, for lack of a better term, and claim ignorance or what have you. Then that agency doesn't take any action.

But I——

Ms. SIMON. Well——

Mr. PERRY [continuing]. I also accept, and because I don't know whether these individuals had been involved in any of the infractions. It is great if they haven't.

Ms. SIMON. I think not.

Mr. PERRY. But even so, I think it is important that there is a system in place for instances because even though they are volunteers and we appreciate their service and taking time away from what they do, they are representing FEMA at a critical time when all eyes are on FEMA.

So we must be ensured of their integrity and their work ethic and everything that goes with that.

Ms. SIMON. I agree with you. I think it probably should be a— FEMA should have the opportunity to handle these issues.

Mr. PERRY. I appreciate you being here. Thank you very much.

The Chair thanks you, Ms. Simon, and all the witnesses for their very valuable testimony and the Members for their questions. Members may have some additional questions for the witness, and we will ask you to respond as witnesses in writing. Pursuant to committee rule VII(D), the hearing record will remain open for 10 days.

Without objection, the subcommittee stands adjourned.

[Whereupon, at 11:23 a.m., the subcommittee was adjourned.]

