



# **Investigative Report of Misconduct by a Senior BLM Law Enforcement Manager**

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This is a version of the report prepared for public release.

## SYNOPSIS

We initiated an investigation in November 2016 into allegations concerning a senior law enforcement manager with the Office of Law Enforcement and Security (OLES), Bureau of Land Management (BLM). An OLES official forwarded allegations to us that the senior manager had mishandled evidence from a criminal case by having a subordinate improperly remove several moqui marbles from the OLES evidence room and give them to the senior manager. The senior manager also allegedly gave marbles as gifts to several people. In addition, the OLES official alleged that after the BLM received requests for emails concerning various matters under official inquiry, the senior manager directed his subordinate to review the senior manager's BLM emails and delete any that depicted him unfavorably.

During our investigation, we received an additional allegation that in February 2016, OLES documents related to a congressional request were intentionally deleted from a BLM shared Google drive the day before the request for the documents was received.

We substantiated all but one of the allegations. We found that the senior law enforcement manager instructed his subordinate to remove four moqui marbles from the evidence room and give them to him, which violated BLM and U.S. Department of the Interior (DOI) evidence policy. We also confirmed that the senior manager had his subordinate use the senior manager's computer, personal identity verification (PIV) card, and personal identification number (PIN) to search the senior manager's emails for messages related to the official requests, and to "scrub" any messages that could harm the senior manager or any in which he used demeaning or derogatory language. The senior manager's actions violated Federal security and records management policy as well as various regulations and guidance related to the conduct of Federal employees.

Regarding the final allegation, an OLES budget analyst told us she deleted documents from the Google drive the day before the congressional request, but we did not find that she had intended to obstruct the inquiry. We also did not find that the senior manager or anyone from BLM leadership ordered the documents deleted.

The senior manager declined to be interviewed for this investigation.

We provided this report to the Acting Assistant Secretary for Land and Minerals Management for any action deemed appropriate.

## **DETAILS OF INVESTIGATION**

On November 18, 2016, we initiated this investigation after receiving allegations from an OLES official about a senior OLES law enforcement manager. The OLES official provided a written summary of the allegations, which stated that in late March or early April 2016, the senior manager directed a subordinate employee to take moqui marbles (accumulated masses of iron oxide, often spheroidal, that form in sedimentary rock), which had been seized as evidence in an OLES criminal case, out of the OLES evidence room. The senior manager allegedly had his subordinate remove the marbles so the manager could give them as a personal gift to a contractor who had done work on the OLES evidence room and Salt Lake City offices.

The OLES official also provided a record of an interview of the subordinate concerning an allegation that the senior manager had directed the subordinate to use the senior manager's PIV card and PIN to log on to the senior manager's BLM computer. After the BLM received official requests for documents as part of an employment-related matter and a congressional inquiry, the senior manager allegedly instructed his subordinate to search the senior manager's BLM email account for relevant emails. As part of this search, the senior manager allegedly told his subordinate to flag or "scrub," which the subordinate took to mean "delete," any negative emails that could harm the senior manager or any in which he used demeaning or derogatory language.

We attempted to interview the senior manager for this investigation, but a BLM official informed us that the senior manager's attorney said he was not able to participate in an interview.

### **Mishandling of Moqui Marble Evidence**

#### *Seizure of the Marbles by the OLES*

In 2012, BLM OLES special agents seized thousands of moqui marbles as evidence during an investigation into allegations that the marbles had been collected illegally from a national park. These marbles were eventually stored in the OLES evidence room, located in the BLM State Office in Salt Lake City.

After the marbles were seized, the BLM asked a University of Utah professor who has studied the moqui marbles (see Figure) at the park to inspect the seized marbles, determine whether they were unique to the park, and estimate their dollar value.



Figure: Assorted moqui marbles in a variety of sizes and shapes. Source: Shutterstock.

We interviewed the professor and reviewed her February 2013 report on the seized marbles as part of our investigation. The report concluded that, based on their physical characteristics (golf-ball size, shapes, patina, etc.) and abundance, the seized marbles did come from the park. The report estimated the total wholesale value of the seized marbles at between \$80,000 and \$260,000, with a total retail value of \$160,000 to \$520,000.

#### *The Senior Law Enforcement Manager Directed the Unauthorized Removal of Moqui Marbles From the Evidence Room*

We interviewed the senior manager's subordinate, who said that in late April 2016, he was in the OLES evidence room with an OLES budget analyst and an OLES contract specialist counting the moqui marbles, which were stored in 5-gallon buckets. (He confirmed during his interview that the marbles were kept in more than 80 buckets.) He said the senior manager told the three of them while they were doing this that they could each take a marble from the evidence room and display them on their desks. The subordinate said he did not take a marble, but he later saw marbles on the desks of the other two employees. He was certain that the marbles had come from the evidence room and stated, "They were clearly evidence."

When interviewed, both the budget analyst and the contract specialist confirmed that, based on the senior manager's offer, they each took a marble from the evidence room and displayed them in their offices. The budget analyst said she had believed it was all right to take a marble because she had seen marbles on display in the senior manager's office, and the contract specialist said she had assumed it was all right because a senior law enforcement manager said it was. They returned the marbles during our investigation.

The senior manager's subordinate stated that the senior manager also told him while he was counting the marbles to remove three or four of the "best" marbles from evidence and give them to the senior manager. He said the senior manager did not tell him why he wanted the marbles; nevertheless, the subordinate selected two spheroidal marbles and two "Saturn-type" marbles (which have additional mass around their middles, resembling rings), and gave them to the senior manager. The subordinate told us he "had a bad feeling" about removing the marbles from evidence, but he did not question the instructions because the senior manager was a law enforcement official and was "scary." The subordinate said he knew at the time the marbles were evidence in an ongoing criminal prosecution.

The budget analyst confirmed that while they were counting marbles she heard the senior manager tell his subordinate to bring him "a few" or "a couple" of marbles from the evidence room. The contract specialist stated she saw the subordinate give the senior manager four or five marbles while he was in the senior manager's office.

A review of the evidence room's access log showed the subordinate accessed the evidence room for the moqui marble case, but it did not show that marbles were removed. He said there was no evidence control sheet or evidence receipt attached to the buckets of marbles where he could document the removal.

We also reviewed the BLM OLES evidence policy and the *Departmental Manual's* chapter on evidence handling and storage. Neither policy provides for the display of evidence, in employee offices or elsewhere, and both state that law enforcement officers are responsible for safeguarding all property taken into custody as evidence.

#### *The Senior Law Enforcement Manager Gave Moqui Marbles as Gifts on at Least Four Occasions*

The budget analyst stated that in April 2016 she had a conversation with the senior manager and a contractor who was doing work on the OLES' new evidence room and offices at the BLM State Office. She said that during the conversation the senior manager told the contractor about the buckets of moqui marbles and said that it would take time to relocate them to the new evidence room. She said the senior manager described the marbles to the contractor after the contractor expressed an interest in them.

The budget analyst said that a week later she saw the contractor in the OLES office. She said the contractor excitedly showed her two or three marbles he was holding and said to her, "Hey, I'm not supposed to say anything, but . . . look at what [the senior manager] gave me." He told her that the senior manager had also given him a business card and said he could use it like a "get-out-of-jail-free card" if he ever got into trouble.

The budget analyst said that a couple of days later, she asked the senior manager if he had given the contractor some marbles. She said he responded, "Shh! Don't say anything. If you say it too loud, [a BLM State ranger whose office was nearby] will hear, and he'll call OIG."

We interviewed the contractor, who said he had chatted often with the senior manager about various matters. He said that near the end of the project, he was in the OLES office space and saw a moqui marble on the senior manager's desk, and the senior manager explained to him how the marbles formed. He said either the senior manager or the budget analyst told him that thousands of marbles had been seized during an investigation.

About 2 weeks later, the contractor said, he was working in the OLES office when the senior manager called him into his (the senior manager's) office and gave him five or six moqui marbles, a business card, a BLM law enforcement coin, and other items. He said the senior manager told him these things were in appreciation for a job well done and that he should contact the senior manager if he ever got into trouble with law enforcement because the senior manager "knew a lot of people in a lot of places." He said he was later contacted by a BLM special agent, who had him return the marbles.

We spoke to this BLM special agent, who said that sometime around October 2016, after he learned the senior manager had given marbles to the contractor and others, he called the contractor into the office and took custody of the marbles. The special agent said that while meeting with the contractor, the contractor told him he understood that if the marbles had been removed from the evidence room, this could constitute "tampering with evidence." The special agent said the contractor asked him, "Is [the senior manager] going to get in trouble for this?"

The BLM special agent also said that in the fall of 2015, the senior manager gave him a marble from a handful on his desk. The special agent said he did not ask whether the marble was evidence; he told us that he "would certainly hope" a senior law enforcement manager "would know acceptable evidence practices."

Sal Lauro, the former OLES director, told us that shortly after he briefed his then-supervisor, BLM Deputy Director Steven Ellis, about the OLES moqui marble case, he received three marbles. He was certain the senior manager gave them to him but could not recall whether he did so in person, by mail, or via a coworker. He said he had no reason to believe that the senior manager would have removed these marbles from evidence, and he assumed they had been obtained from a university for educational purposes. During our investigation, we took custody of these marbles and placed them in our evidence room.

We interviewed another former OLES official, who said that he saw three marbles on Lauro's desk one day and asked what they were. The official said he later said to the senior manager, "Oh yeah, great. So you give the boss [Lauro] gifts, but you don't give any to me." According to the official, a few months later the senior manager gave him three marbles. We took custody of these marbles and placed them in our evidence room as well.

#### *Other BLM Law Enforcement Officials and Employees Also Had Moqui Marbles*

During our investigation, we learned of other BLM OLES employees and individuals who reportedly had moqui marbles that may have originally been seized as evidence during the OLES investigation. We contacted and interviewed the following individuals:

- A BLM special agent said she found a marble in a cubicle she moved into in 2014. She said that another special agent had previously occupied the cubicle. She recalled asking the senior manager and others about the marble, and being told that she was allowed to have it and that the marbles could be collected in small numbers for personal use. She said another BLM special agent had already taken custody of the marble.
- A BLM State ranger gave us one marble during his interview, saying that he found it in a box in his home. He said a BLM special agent had already taken custody of a second marble, which had been left on his desk. He did not know who gave him either of the two marbles, but stated that other employees in the office had marbles and the senior manager was “giving them out like candy.”
- A former administrative employee said that when she worked at the OLES she found marbles in her office. She did not know whether the senior manager had put them there, but she left them behind when she left the OLES. We took custody of three marbles provided by an employee who later occupied the office.

Another BLM special agent who had been assigned to the OLES moqui marble investigation said it was improper for a BLM employee to have a marble that had been seized pursuant to a Federal warrant. He also said BLM law enforcement officers had no authority to give evidence from an ongoing investigation to other employees for their personal use or to display in their offices.

Regarding the senior manager’s possession of moqui marbles, this special agent said he believed that the senior manager could only have acquired the marbles from those that had been seized as evidence. He said he had no knowledge of the senior manager ever obtaining marbles from anywhere else.

The first BLM special agent said he learned in late 2016 that marbles seized during that investigation might have been taken from the OLES evidence room. He confirmed that he collected one marble each from four employees, plus the five marbles from the contractor, and returned them—along with the one the senior manager had given him—to the evidence room.

### **The Senior Law Enforcement Manager Violated Federal Information Security Policy and DOI Rules of Behavior While Providing Documentation in Response to Official Requests**

#### *Emails Pertaining to an Employment-Related Matter*

A BLM State official provided information about two document requests the BLM received in 2015. Per these requests, the senior manager and other OLES personnel were ordered to provide documents, including emails sent during a specified period, concerning an employment-related matter.

During his interviews, the senior manager’s subordinate provided details about two email searches he conducted in response to this document request. He said that in 2015, the senior manager directed him to sit at the senior manager’s Dell computer, access the senior manager’s BLM email account using the senior manager’s PIV card, and search for emails related to the

employment matter. The subordinate said the senior manager was logged on to his (the senior manager's) computer at the time and showed him what to search for. He said the senior manager also said to show him any emails "that could be bad" for the senior manager so that the senior manager could review them before they were included in the response. He understood these instructions to mean any email where the senior manager wrote anything demeaning or inappropriate. The subordinate said he deleted a few emails from the search results, printed the rest and put them in a binder, and flagged some of them with sticky notes for the senior manager to review.

About a week or two later, the subordinate said, a second request for emails was received, this time with a longer date range, and the senior manager again had him sit at the senior manager's Dell computer and review his email. The subordinate said he reviewed the senior manager's emails and had his PIV card and PIN for about 4 days. He said the senior manager told him to "scrub" the emails; based on the previous email search, the subordinate understood this to mean he was to delete inappropriate emails. He said he again deleted some emails from the search results, then printed and flagged others and placed them in a binder for the senior manager to review.

The OLES contract specialist explained to us that the senior manager instructed her and the subordinate to go through the senior manager's email account and flag emails "that could get him [the senior manager] in trouble." She and the subordinate searched for and printed copies of all pertinent emails and placed them into binders to provide to the BLM official. She said the subordinate did most of the flagging and she did not recall any specific emails flagged.

The OLES budget analyst also confirmed during her interview that she heard the senior manager tell his subordinate to search the senior manager's email for anything related to the employment matter, and to print and flag emails the subordinate thought were "inappropriate."

#### *Emails Pertaining to a Congressional Inquiry*

On February 4, 2016, Congressman Jason Chaffetz (R-UT), Chairman of the Committee on Oversight and Government Reform, and Congresswoman Cynthia M. Lummis (R-WY), Chairwoman of the Subcommittee on the Interior, wrote to then-BLM Director Neil Kornze requesting documents and information related to various matters.

The senior manager's subordinate said that in 2016, he left the OLES. He was asked to continue working there temporarily, however, so he returned and worked for over a week. During that time, the senior manager had him again sit at the senior manager's Dell computer with the senior manager's PIV card and PIN and review the senior manager's email to identify anything pertaining to one of the matters Congress had inquired into. The subordinate said the senior manager told him he only had a week to respond to the request, but the subordinate was to use the same process as before. He understood this to mean he should conduct the email search per the senior manager's previous instructions, then review the resulting emails and delete or show the senior manager any that would be inappropriate, prior to submitting them as the senior manager's response to the inquiry.

The subordinate stated that when he did his review, he created folders on the senior manager's computer desktop and labeled them "keep," "sensitive," and either "delete" or "discard" (he could not remember which). He then converted the emails he found to PDFs and placed them in the folders. He also deleted multiple emails. He said the search took him about a week to complete.

The subordinate told us he felt morally wrong about deleting the emails, but he did not discuss his feelings with the senior manager. He stated that he was "not going to tell a senior law enforcement [manager] no" because he felt that doing so might jeopardize his employment. He also said the senior manager was very intimidating, manipulative, and controlling, and he did not believe he could report the matter to Lauro or other OLES officials because the senior manager was "very, very close" to them.

The OLES budget analyst and contract specialist confirmed during their interviews that the senior manager was fully aware his subordinate was deleting emails. The budget analyst said the senior manager told her that BLM Deputy Director Steve Ellis had been disgusted by "unprofessional" emails from the senior manager about one of the matters under congressional inquiry. She said the senior manager asked her, "Do you know if [my subordinate] has gone through everything? Do you know if he's gotten rid of what he should [have]?" In addition, the contract specialist confirmed that she had heard the senior manager use the word "scrub" when telling the subordinate to go through his email. She said that, to her, this meant the subordinate should not include certain emails in the senior manager's response to the request.

On May 6, 2016, Chaffetz and Lummis sent a second letter to Kornze stating they had not received an official response to the February 4 letter or any documents. They demanded that the BLM provide a response, or a subpoena would be issued.

The senior manager's subordinate said that by May 2016, he was reemployed by the OLES. He said that after the second letter from Congress arrived, the senior manager directed him to use the same process to "scrub" his email for any related to the matter under inquiry. He said he first worked at the senior manager's computer and converted the emails he found to PDFs, then later used a thumb drive to transfer the folders he created to his own computer to finish the review.

The subordinate said he placed many emails into a "discard" folder but did not show them to the senior manager. He said, however, that he did discuss the emails with the senior manager and described the ones he had placed in the folder. He uploaded the emails in the "keep" folder to a shared Google drive for final submission and did not upload the emails in the "discard" folder.

We reviewed the senior manager's emails and found many that appeared to coincide with ones that his subordinate said he either deleted or flagged for review during his searches. In particular, we showed the subordinate four emails related to one of the searches, and the subordinate said he recalled three of them; he said he had flagged two of these emails and "probably would have deleted" the third. We then compared these four emails to those that had been uploaded to the Google drive for submission to Congress; we did not find any of the four emails among the uploaded emails. In addition, we showed the subordinate approximately 40 emails related to another inquiry, and he indicated that he would have deleted 11 of those emails. The OLES

budget analyst informed us the documents pertaining to the inquiry were no longer on the Google drive; therefore, we could not compare any with those that we showed the subordinate. As a result, we were not able to identify all emails that had been deleted or that the senior manager might have intentionally withheld from submission.

We also examined the senior manager's Dell computer and the thumb drive the subordinate used to transfer folders to his own computer. On the computer, we found no "delete" or "discard" folder containing emails added by the subordinate. Although we did locate a "discard" folder on the thumb drive, the subordinate said he was "carelessly grabbing files" and transferring them to the drive. Therefore, we were unable to rely on the contents of the thumb drive's "discard" folder for our investigation.

Finally, we reviewed the senior manager's training records, which disclosed that he completed annual Federal Information Systems Security Awareness + Privacy and Records Management (FISSA+) policy training in 2015 and 2016. The training required him to certify that he knew he should not share his PINs or his PIV card, and that Government equipment and PIV cards must not be used for illegal or inappropriate activities.

### **No Evidence That the Senior Law Enforcement Manager or BLM Leadership Directed Deletion of Documents from Shared Google Drive**

In a February 14, 2017 letter to our office, Chaffetz and Congressman Blake Farenthold (R-TX), Chairman of the Subcommittee on the Interior, Energy, and Environment, alleged that relevant documents had been deleted from a shared Google drive the day before Chaffetz sent his February 4, 2016 request to the BLM.

During this investigation, the OLES budget analyst contacted us, told us that she was aware of Chaffetz's February 2017 letter, and said she wanted to provide information about what had happened. She explained that on February 3, 2016, she deleted outdated documents from the Google drive, but stated she did so only to free up space. She said she deleted drafts and duplicate copies of documents from 2012 and 2013, but no originals.

The budget analyst stated that she and the other OLES employees were not notified of Chaffetz's document request until on or about February 26, 2016. She provided emails showing that a BLM employee in Washington, DC, forwarded Chaffetz's request to an OLES official on February 23, 2016, and it was not provided to the budget analyst until February 26, 2016. She stated that no one instructed her to delete the documents.

### **The Senior Law Enforcement Manager Failed To Safeguard Sensitive IT Equipment**

Our review of OLES property receipts showed that the senior manager had been issued two MacBook computers. We contacted him in order to secure his Government-owned computer equipment for our investigation, but he informed us that he was unable to locate either of the MacBooks. The OLES budget analyst, the contract specialist, and a BLM special agent subsequently informed us that the senior manager had stated to them on several occasions that

the MacBook he used would “disappear” or be reported as broken if “things ever get bad” or if anyone “comes after” him or his job.

We learned that the BLM reviewed the matter and found in early 2017 that both of the MacBooks assigned to the senior manager had been lost due to his negligence. The BLM made multiple attempts to contact the senior manager to return the MacBooks, but he did not respond. Contact attempts sent to him via certified mail were returned unclaimed.

An OLES official informed us that the missing MacBooks had been used for law enforcement purposes and were not traceable to the BLM. Our Computer Crimes Unit confirmed that the senior manager’s MacBooks never accessed the DOI or BLM networks.

### **SUBJECTS**

1. Senior law enforcement manager, OLES, BLM.
2. Senior law enforcement manager’s subordinate, OLES, BLM.

### **DISPOSITION**

We presented our findings with regard to the evidence mishandling to the U.S. Attorney’s Office for Utah, which declined to prosecute this case. We provided this report to the Acting Assistant Secretary for Land and Minerals Management for any action deemed appropriate.

As of the date of this report, we still have custody of a quantity of moqui marbles that BLM employees gave us during our investigation. We will return these marbles to the BLM when this investigation is closed.