

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

January 10, 2018

Mr. Brian Steed
Acting Director
Bureau of Land Management
1849 C Street, N.W., Room 5665
Washington, D.C. 20240

Dear Mr. Steed:

On January 8, 2018, a federal judge denied prosecutors' request to retry Nevada cattle rancher Cliven Bundy and his supporters for their actions during a 2014 armed standoff with the Bureau of Land Management (BLM).¹ This ruling follows a December 20, 2017 decision by the court to declare a mistrial based on federal prosecutors improperly withholding evidence from the defense.² The court's decision follows numerous reports of serious and systemic misconduct by the BLM officials involved in the Bundy case. Of concern, a recent memo from a BLM whistleblower to the Department of Justice (DOJ) appears to show that information regarding extensive misconduct and unprofessional behavior by BLM officials involved in the Bundy case, as well as other relevant information, was knowingly withheld from prosecutors.³ In this report, the employee alleges a "widespread pattern of bad judgment, lack of discipline, incredible bias, unprofessionalism and misconduct" exists among senior and supervisory BLM law enforcement officers.⁴

These allegations are alarming for several reasons. First, these reports appear to indicate that BLM officials purposefully withheld critical information from the prosecution and subsequently retaliated against the BLM employee who attempted to bring the withheld information to the prosecution.⁵ In addition, it is highly unusual for a federal prosecution to end in a mistrial that bars retrying the case. Approximately 91 percent of people charged with a

¹ David Montero, *Nevada Judge Dismisses Case Against Cliven Bundy and Sons, Says Government Cannot Retry Them*, LA TIMES, Jan. 8, 2018, available at <http://www.latimes.com/nation/la-na-bundy-mistrial-2018-story.html>.

² Richard Pérez-Peña and Julie Turkewitz, *Mistrial Declared in Bundy Armed Standoff Case*, N.Y. TIMES, Dec. 20, 2017, available at <https://www.nytimes.com/2017/12/20/us/cliven-bundy-mistrial.html>.

³ James Bovard, *Cliven Bundy-FBI Debacle: Another Example of why the Feds Needs to be Leashed*, USA Today, Jan. 5, 2018, available at <https://www.usatoday.com/story/opinion/2018/01/05/bundy-fbi-misconduct-another-example-why-feds-need-leashed-james-bovard-column/1001603001/>. See also Maxine Bernstein, *BLM Investigator Alleges Misconduct by Feds in Bundy Ranch Standoff*, OREGON LIVE, Dec. 15, 2017, available at http://www.oregonlive.com/oregon-standoff/2017/12/blm_investigator_alleges_misco.html.

⁴ *Id.*

⁵ *Id.*

crime in federal court are found guilty and 77 percent of defendants standing trial are convicted.⁶ The failure of prosecutors to achieve a conviction in the Bundy case raises questions about the conduct of BLM law enforcement and their ability to carry out effective, fair, and professional law enforcement investigations.

The failures in the Bundy case and previous cases display serious misconduct by BLM law enforcement officials, and strongly suggest that there are systemic issues within BLM's law enforcement operations. Previous Department of the Interior (DOI) Office of the Inspector General (OIG) reports, as well as whistleblower accounts, detail a litany of law enforcement problems from poor evidence handling procedures due to a lack of professionalism, and even the deliberate withholding of information from Congress.⁷ While many of these reports revolve around a former single BLM law enforcement officer, Dan Love, who abused his authority in multiple instances,⁸ misconduct is not exclusive to this one individual. For example, in June 2015, a BLM law enforcement officer failed to adequately safeguard his loaded firearm. The pistol was stolen from a backpack and left in his personal vehicle. This stolen gun was subsequently used in the shooting death of San Francisco resident Kate Steinle.⁹ In spite of the incident, rather than facing disciplinary action, the BLM officer whose gun was stolen was promoted to a supervisory role.¹⁰ Just this month, a federal judge allowed a wrongful death lawsuit against the BLM on behalf of Ms. Steinle's estate to move forward.¹¹

These types of examples continue to fuel the concerns of many Americans in the western United States, whose interactions with BLM are frequent and impactful. BLM's apparent culture of impunity for law enforcement misconduct is a detriment to the public and those employees committed to ethical service. Both employees and supervisors have a duty to report any wrongdoing and misconduct to ensure a respectful, professional, and safe work environment. The Committee is encouraged by the work DOI has already initiated to address some of these issues at the agency level, including the emphasis on ensuring retaliation or reprisal for reports of misconduct is not tolerated. We are also hopeful that the new DOI leadership will take action to

⁶ U.S. Dep't of Justice, Bureau of Labor Statistics, "Federal Justice Statistics, 2014 – Statistical Tables", Mar. 2017, available at <https://www.bjs.gov/content/pub/pdf/fjs14st.pdf>, at 17.

⁷ See OFFICE OF INSPECTOR GENERAL, U.S. DEP'T OF THE INTERIOR, INVESTIGATIVE REPORT OF MISCONDUCT BY A SENIOR BLM LAW ENFORCEMENT MANAGER (2017) available at https://www.doi.ig.gov/sites/doi.ig.gov/files/MishandlingofEvidencebyBLMLEManager_Public.pdf.

⁸ See OFFICE OF INSPECTOR GENERAL, U.S. DEP'T OF THE INTERIOR, INVESTIGATIVE REPORT OF ETHICAL VIOLATIONS AND MISCONDUCT BY BUREAU OF LAND MANAGEMENT OFFICIALS (2017) available at https://www.doi.ig.gov/sites/doi.ig.gov/files/EthicalViolationsAndMisconductByBLMOfficials_Public.pdf.

⁹ Abigail Hauslohner and Maria Sacchetti, *Immigrant Sentenced in Kate Steinle Shooting as Steinle Family Prepares for Next Fight*, WASH. POST, Jan. 5, 2018, available at https://www.washingtonpost.com/national/as-illegal-immigrant-is-sentenced-on-gun-charge-kate-steinles-family-prepares-for-next-fight/2018/01/05/c69a48d4-db9e-11e7-b859-fb0995360725_story.html?utm_term=.b4efala4abe0.

¹⁰ Alex Emslie, *Federal Agency Promoted Ranger Five Months After His Gun Was Stolen and Used in Steinle Killing*, KQED NEWS, Oct. 20, 2017, available at <https://www.kqed.org/news/2017/10/20/federal-agency-promoted-ranger-just-months-after-his-gun-was-stolen-and-used-in-steinle-killing/>.

¹¹ *Steinle v. City and County of San Francisco, et al.*, No. 16-c-02859-JCS, (N.D. CA. Filed Jan. 6, 2017), available at <http://i2.cdn.turner.com/cnn/2017/images/01/10/steinledecision.pdf>.

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address the root cause of BLM's past failures and help restore trust in the bureau's ability to effectively and fairly enforce the law on federally owned land.

To assist the Committee in its oversight of BLM law enforcement operations and investigations, please provide a briefing to Committee staff concerning the outcome of the Bundy case, as well as any updates to BLM policy or guidelines addressing the issues outlined in this letter no later than January 24, 2017.

Please contact the Oversight and Investigations Subcommittee staff at (202) 225-7107 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Rob Bishop
Chairman
Committee on Natural Resources



Bruce Westerman
Chairman
Subcommittee, Oversight & Investigations