

MEMORANDUM



TO: Charles E. Grassley, Chairman, Senate Judiciary Committee
FROM: Senate Judiciary Committee, Oversight and Investigations Staff
DATE: December 21, 2018
Re: Senate Judiciary Committee Investigation of Numerous Allegations of Wrongdoing by the U.S. Marshals Service

Introduction

The Committee began investigating allegations of wrongdoing at the U.S. Marshals Service (USMS) approximately three years ago. Throughout the investigation, the Committee identified a culture of mismanagement, reckless spending, favoritism, and a general lack of accountability at the USMS. In what has been described by whistleblowers as a “frat” style of management, senior officials appear to act with impunity while lower level employees are held to a stringent standard.¹ According to the more than 100 current and former employees who have contacted the Committee since early 2015, the actions of managers have a demoralizing effect on the brave men and women of the Marshals Service, and thus tend to undermine the public’s trust in America’s oldest law enforcement agency.²

This memorandum summarizes the Committee’s work and provides a status update on the Committee’s ongoing investigations into allegations of wrongdoing by the USMS. Many of these investigations are still ongoing; therefore, certain topics lack the finality or conclusory results of a completed investigation.

Executive Summary

The Committee began investigating allegations of wasteful spending by the USMS Assets Forfeiture Division (AFD) in early 2015. Since then, approximately 100 whistleblowers have come forward with serious allegations of mismanagement, favoritism, unfair hiring practices, and lack of accountability. Allegations from fifteen whistleblowers have involved violations of federal law.

The Committee investigated complaints from eight whistleblowers alleging wasteful spending by the USMS. It found that the USMS has repeatedly spent taxpayer dollars on lavish and unnecessary items, such as a \$22,000 conference table and a speechwriter who received contracts totaling over a million dollars. It also found that the USMS misused the Assets Forfeiture Fund (AFF) by opening a costly but rarely used training facility in Texas, and by drawing from it to pay the salaries of employees not fully dedicated to asset forfeiture as well as expenses apparently incurred improperly by federal officers involved in Joint Law Enforcement Operations (JLEO).

¹ A whistleblower described USMS upper management as a “boys club” with a “frat” like culture.

² One whistleblower recently sent a letter to Chairman Grassley expressing his appreciation for the Committee’s oversight work. His letter has been included as an attachment to this memorandum. See: Letter from Jason R. Wojdylo to Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (December 3, 2018). [Exhibit 1]

The Committee also investigated complaints from thirteen different whistleblowers alleging ethics violations. The Committee found, and the Office of Inspector General (OIG) concurred, that several senior officials violated hiring practices and federal ethics standards.

The OIG concluded that the Director of the USMS, Stacia Hylton, violated 5 C.F.R. § 2635.702(a) when she recommended a personal friend of hers for a position within the USMS. The OIG also concluded that Deputy Assistant Director for Asset Forfeiture Division, Kimberly Beal, violated 5 C.F.R. § 2635.101(b)(8) when she gave preferential treatment in the hiring process to the individual that Director Hylton recommended. The Committee and OIG also investigated whistleblower allegations that a *quid pro quo* hiring arrangement existed between the two whereby Ms. Beal would receive a promotion to Assistant Director in exchange for giving Director Hylton's friend preferential treatment. The OIG could not substantiate that a formal *quid pro quo* arrangement existed. However, they also found that Ms. Beal violated 5 C.F.R. § 705(b) by having a subordinate fill out part of her application for the Assistant Director position. According to multiple whistleblowers, multiple senior officials in addition to Ms. Beal likewise directed their subordinates to fill out applications for senior executive service positions.

The OIG also confirmed whistleblower complaints that then-Assistant Director of the Tactical Operations Division, William Snelson, and then-Chief of the Office of Protective Operations in the Judicial Security Division, David Sligh, hired each other's wives into their respective divisions. Although the OIG could not substantiate that formal *quid pro quo* arrangement existed, it cited both senior officials for ethical violations relating to favoritism and impartiality in hiring. The OIG also found that Snelson lacked candor in his communications with the OIG. Such behavior for USMS employees could earn them a 14 day suspension or removal according to the agency's table of offenses.

The Committee noted a very troubling overall lack of accountability at the USMS. Just last year, a Chief Deputy United States Marshal (CDUSM) was allowed to retire with full benefits and without receiving any punishment despite two DOJ OIG investigations which concluded that he misused his government vehicle and cell phone, engaged in sexual harassment, threatened and committed acts of retaliation against employees participating in a DOJ OIG investigation, and lacked candor during interviews. According to the OIG, someone in the USMS Office of General Counsel first proposed that the matter be settled, and support for doing so grew in part out of fears at the USMS that the Merit Systems Protection Board would be critical of and possibly reverse a decision to terminate the CDUSM. The DOJ OIG flatly rejected the agency's line of reasoning, characterizing its failure to hold the official accountable as amounting to "gross mismanagement." In another instance, the agency issued suspensions of seven days or less to deputies who solicited prostitutes while on detail abroad, and at one point issued only a letter of reprimand in a case where a judge's signature was forged on hundreds of subpoenas in order to obtain records from telecommunications providers.

The Committee further found evidence that problems of management and accountability have directly put its employees' lives at risk. In 2017, the Committee investigated reports that the USMS had failed to properly plan for, and manage the replacement of, body armor units used by operational personnel. Based on the Committee's findings, by mid-summer 2017, over 2,000

USMS operational employees were using expired or soon-to-be expired body armor. Additionally, the Committee found that the USMS was not adhering to the training protocols outlined by experts for the High Risk Fugitive Apprehension program.

The Committee has also received more than twenty complaints of whistleblower retaliation at the USMS, including complaints of reprisal for making protected disclosures to *this Committee*. Among the allegations received are reports that USMS managers have used the Freedom of Information Act (FOIA) to seek information on employees making disclosures, used trumped up misconduct charges to put pressure on employees to withdraw complaints, and openly threatened employees for speaking to outside investigators.

Finally, in response to its oversight requests, the Committee received on multiple occasions incorrect and misleading responses from USMS. It is paramount that the agency ensure it provides *fulsome and correct* responses to congressional committees, particularly its oversight committee. The agency's repeated failure to provide complete, meaningful, and accurate information to Congress does not inspire confidence in the agency's competence, adherence to basic good government principles, commitment to properly train, equip, and manage its workforce, or its ability to serve as even minimally acceptable stewards of taxpayer and government resources.

The Chairman expects that new leadership will fully implement recommendations from the Committee's investigations, the Inspector General, the Government Accountability Office, and the Office of Special Counsel, pay particular, critical attention to significantly raising the standards for effective and ethical management, and work very hard to foster a culture that supports protected disclosures and treats whistleblower communications appropriately under the law.

Wasteful Spending

The Committee investigated and substantiated multiple instances of misspending and mismanagement of funds by the USMS. In 2017, the Committee received information that the USMS had been paying for an outside speechwriter and management consultant since 2010. The speechwriter, who reportedly worked from home in Kansas but maintained an empty office in D.C., received contracts totaling more than one million dollars.³ Following inquiries by the Committee about specifically allotted office space for an individual who does not even live in D.C., the agency apparently simply removed the name plate from the work station.

In 2015 and 2016, there were also allegations of wasteful spending regarding the relocation of the USMS headquarters in Arlington, VA. According to whistleblowers, the agency arranged to pay for a private gym, personal in-office bathrooms and showers for leadership, several lucrative consultant contracts, expensive and unnecessary audio-visual equipment, and office space for individuals assigned to headquarters divisions who do not live in the commuting area of Washington, D.C.⁴ The spending of public funds on elaborate and unnecessary office furnishings is part of a broader pattern that pre-dated the move to the new offices. Documents produced by

³ Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to David Harlow, Acting Director, U.S. Marshals Service (April 24, 2017). [Exhibit 2]

⁴ Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Loretta Lynch, Attorney General, U.S. Department of Justice (Oct. 1, 2015). [Exhibit 3]

the agency and provided by whistleblowers also confirmed a pattern of excessive spending of the Assets Forfeiture Fund.

The Assets Forfeiture Fund

The Committee found a history of wasteful spending and mismanagement of funds associated with the USMS Assets Forfeiture Fund (AFF), which includes assets seized through the Asset Forfeiture Program (AFP). For example, in an April 3, 2015, letter to the Committee, the USMS admitted to purchasing a conference table for the Asset Forfeiture Division's (AFD) headquarters in Arlington, Virginia, at an excessive cost of approximately \$22,000.⁵

The Asset Forfeiture Academy

It was also from this fund that the agency drew money to establish the recently shuttered Asset Forfeiture Academy (AFA) in Houston, TX – a facility purportedly established to train employees and contractors in the AFD on fundamentals of asset forfeiture law and the AFP. The facility, which cost nearly \$50,000 per month in rent, was outfitted with luxury furnishings such as high-end granite countertops and expensive custom artwork.⁶ Operating costs allotted for the AFA were between \$75,000 and \$175,000 each year from FY 2012 until FY 2017. In FY 2014, the facility was used for approximately 32 days out of the year, and in FY 2017, it was scheduled to be used for approximately 52 days.⁷ When not in use by the USMS, other government agencies could use the facility free of charge.⁸ After repeated oversight inquiries from Chairman Grassley calling attention to exorbitant spending on the AFA, the AFD announced in June 2018 that it would close the facility effective September 30, 2018, and relocate operations to district office space.

There have been several instances when the USMS has not been candid with the Committee about expenditures for the AFA. When whistleblowers alleged that the establishment of the AFA was unnecessary and that its expenses were excessive and wasteful, the Chairman requested detailed explanations for its costs. In response, the USMS underreported its rent costs by \$7,774 per month, or \$93,292 per year.⁹ It also reported that operating costs were \$50,000 per year. However, according to AFF budget requests, between FY 2012 and FY 2017, the Department of

⁵ Letter from William Delaney, Chief of Congressional and Public Affairs, U.S. Marshals Service, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (April 3, 2015). [Exhibit 4]

⁶ Memorandum from the Senate Judiciary Committee, Oversight and Investigations Staff, to the Committees on the Judiciary and Appropriations, United States Senate (Sept. 11, 2017) at 3 (citing AFF brochure and plans), (hereinafter SJC Memo). The SJC Memo was sent to the Department of Justice as an attachment to: Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Lee Lofthus, Assistant Attorney General for Administration, U.S. Department of Justice (Sept. 12, 2017). [Exhibit 5]

⁷ *Id.* (citing AFF Budget Requests); Also see: Letter from Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Loretta Lynch, Attorney General, U.S. Department of Justice (Oct. 1, 2015).

⁸ Letter from Stephen E. Boyd, Assistant Attorney General, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (June 25, 2018) at 6 [Exhibit 6]; also see: U.S. Marshals Service Asset Forfeiture Academy, Brochure (on file with the Committee).

⁹ SJC Memo at 3 (citing AFF brochure and plans).

Justice (DOJ) actually allotted between \$75,000 and \$175,000 per year.¹⁰ The agency also underreported to the Committee the amount of custom granite installed in the facility.¹¹

Asset Forfeiture Salaries

The USMS also has a history of using funds from the AFF to pay employees for work that should have been paid with appropriated funds. By law, the AFF may be used to pay only asset forfeiture-related expenses and certain enumerated investigative expenses.¹² Despite this, the USMS has used AFF funds to pay eight headquarters employees from the AFF who, according to whistleblowers, are not fully dedicated to the asset forfeiture mission.¹³

There have been similar violations for employees working at the district level. Since FY 2013, the salaries of district-level employees who spend a preponderance of their time on asset forfeiture work have been fully funded by the AFF.¹⁴ The AFF has been used to pay not only these employees' salaries but also their leave time, holidays, and benefits. According to whistleblowers, these employees are not actually 100% dedicated to asset forfeiture, and the USMS does not track how much time they devote to non-asset forfeiture work. The flawed rationale used to justify this practice is based on the notion that money paid to non-dedicated district workers for asset forfeiture work should balance out the funds paid to fully funded AFF employees for any work they do that is not related to asset forfeiture. However, since the agency does not track time spent on unrelated work by dedicated AFF employees, there is no way to know whether or not this is actually the case.¹⁵ This makes it impossible to oversee these expenditures and ensure they are proper.

Joint Law Enforcement Operations

The USMS has likely misused funds specifically authorized by Congress to pay the costs of state and local law enforcement officers involved in joint law enforcement operations (JLEO), and has instead used these funds to pay for other expenses. The Technical Operations Group (TOG) has repeatedly sought funds for cellular tracking equipment and associated operating costs – known as circuit costs and intercept fees – through JLEO.¹⁶ However, according to multiple sources, the vast majority of the personnel who use either TOG equipment or USMS surveillance equipment which incur associated circuit costs are federal officers. Task force officers with Regional Fugitive Task Forces do not operate TOG equipment or incur costs for intercept fees.¹⁷

Similarly, funds from JLEO are regularly used to pay database costs, despite the fact that the majority of database users are federal officers. Between FY 2015 – 2017, the USMS did not

¹⁰ SJC Memo at 3 (citing AFF Budget Requests)

¹¹ SJC Memo at 3 (citing Invoices for Table Tops, on file with the Committee)

¹² Enumerated investigative expenses include awards for information, purchase of evidence, equipping of conveyances, and joint law enforcement operations. 28 U.S.C. § 524(c)

¹³ SJC Memo at 5 (citing AFF Budget Request); also see: Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Sally Quillian Yates, Deputy Attorney General, U.S. Department of Justice (June 10, 2015). [Exhibit 7]

¹⁴ SJC Memo at 6 (citing AFF Budget Requests)

¹⁵ SJC Memo at 6-7

¹⁶ SJC Memo at 8-9 (citing an e-mail from J. Kirsch)

¹⁷ SJC Memo at 9 (citing an individual familiar with these investigations who stated, “that should never happen.”)

offer information to the DOJ about the number of federal vs. non-federal task force officers using databases paid for with JLEO money.¹⁸ In response to inquiries by Chairman Grassley, the DOJ sought additional information and learned that just 42% of database users are non-federal task force officers. The DOJ responded by adjusting the percentage of costs allocated from the AFF in its initial FY 2017 AFF budget allocation and by reminding the USMS that Congress has not authorized the use of JLEO funds to pay for unrelated federal expenses.¹⁹ The Chairman trusts that the DOJ will follow continue to appropriately allocate JLEO funds to USMS for these expenses.

Ethical Violations

Unfair hiring practices are a serious issue at the USMS. According to a 2016 Office of Personnel Management Federal Employee Viewpoint Survey, 41% of USMS employees “strongly disagreed or disagreed that USMS promotions are merit-based.”²⁰ Only 34% of respondents felt that USMS promotions were merit based.²¹ A recent GAO report also cited the USMS for awarding points to applicants for having served in an “acting” capacity for a given position. USMS subsequently remedied this situation; however, GAO noted that USMS “could improve employee engagement to promote a stronger merit-based culture.”²²

In early 2015, several whistleblowers approached the Committee with allegations of improper hiring practices and a *quid pro quo* hiring scheme. In a series of letters to the Department of Justice, Chairman Grassley laid out the allegations against then-Director Stacia Hylton and then-Deputy Assistant Director Kimberly Beal, as well as allegations of improper hiring practices by senior USMS officials William Snelson and David Sligh.²³ The Committee ultimately concluded in a staff report that the Director of the USMS recommended an individual with whom she was affiliated in a non-governmental capacity for a contractor position, and, when it was determined he was not the favored candidate for the job, Ms. Beal exerted significant and unusual efforts to ensure he was hired.²⁴

¹⁸ SJC Memo at 10 (citing AFF Budget Requests)

¹⁹ SJC Memo at 11 (citing 2018 AFF Budget Request)

²⁰ U.S. Gov’t Accountability Office, GAO-18-8, U.S. Marshals Service: Additional Actions Needed to Improve Oversight of Merit Promotion Process and Address Employee Perceptions of Favoritism (2017), *available at* <https://www.gao.gov/assets/690/687759.pdf>

²¹ *Id.* at 20

²² *Id.* at 1

²³ Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Sally Q. Yates, Acting Deputy Attorney General, U.S. Department of Justice (Mar. 19, 2015). [Exhibit 8]; Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Sally Q. Yates, Acting Deputy Attorney General, U.S. Department of Justice (Apr. 7, 2015) [Exhibit 9]; Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Sally Q. Yates, Acting Deputy Attorney General, U.S. Department of Justice (Apr. 23, 2015). [Exhibit 10]

²⁴ S. Rpt. 114-25 – Allegations of Improper Hiring Practices and Whistleblower Reprisal at the U.S. Marshals Service (November 1, 2016), *available at* <https://www.govinfo.gov/app/details/CPRT-114SPRT22413/CPRT-114SPRT22413>.

Similarly, in September 2018, the DOJ OIG concluded its investigation into allegations of improper hiring practices stemming from Chairman Grassley's correspondence.²⁵ The report included the following findings: Director Hylton violated 5 C.F.R. § 2635.702(a) when she recommended a personal friend for a position within the Asset Forfeiture Division.²⁶ Director Hylton recommended her friend through a series of phone calls and emails with Deputy Assistant Director Kimberly Beal. The OIG also found that Ms. Beal violated 5 C.F.R. § 2635.101(b)(8) when she gave preferential treatment to Director Hylton's friend during the hiring process – ultimately hiring that individual by creating a new position that was not previously available.²⁷

Whistleblowers alleged that Ms. Beal gave preferential treatment to Director Hylton's friend in exchange for a promotion herself. The OIG was not able to substantiate this *quid pro quo* allegation.²⁸ However, the OIG did find that during Ms. Beal's application process, she delegated the duties of writing her Executive Core Qualifications (ECQ) to a subordinate. The subordinate wrote Ms. Beal's ECQ during work hours in violation of 5 C.F.R. § 705(b).²⁹ This conduct does not appear to be limited to Ms. Beal. Since March 2015, the USMS Office of Professional Responsibility (OPR) has evaluated eleven allegations that USMS employees impermissibly assisted in the preparation of Executive Core Qualifications for other employees.³⁰

The Committee and OIG both investigated whistleblower allegations that a hiring arrangement existed between William Snelson, and David Sligh, whereby each hired the other's wife into his respective division. The OIG was not able to substantiate that a formal *quid pro quo* agreement between Mr. Sligh and Mr. Snelson existed.³¹ However, the OIG did find that several prohibited personnel practices were committed.

The OIG found that Mr. Sligh violated 5 C.F.R. § 2635.502(a)(2) when he did not recuse himself from the hiring of Snelson's wife.³² Similarly, the OIG found that Mr. Snelson violated 5 U.S.C. § 2302(b)(6) when he provided Sligh's wife with an improper advantage during the hiring process. The OIG also found that Mr. Snelson lacked candor in his dealings with OIG.³³

Lack of Accountability

The Committee found that there is a general lack of accountability for many at the USMS who knowingly break the rules.

²⁵ U.S. Department of Justice, Office of the Inspector General., Oversight & Rev. Division 18-05, A Review of Allegations of Improper Hiring Practices in the United States Marshals Service and Related Matters (Sept. 2018) available at <https://oig.justice.gov/reports/2018/o1805.pdf> at i

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Letter from William Delaney, Chief of Congressional and Public Affairs, U.S. Marshals Service, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (Apr. 25, 2018). [Exhibit 11]

³¹ U.S. Department of Justice, Office of the Inspector General., Oversight & Rev. Division 18-05, A Review of Allegations of Improper Hiring Practices in the United States Marshals Service and Related Matters (Sept. 2018) available at <https://oig.justice.gov/reports/2018/o1805.pdf>. at ii

³² *Id.* at 45

³³ *Id.* at 48

A case in point is the USMS' response to the issuance of fraudulent subpoenas by a task force based in the Southern District of Indiana.³⁴ A 2007 OIG investigation prompted by reports from a whistleblower uncovered evidence that a USMS task force there had been routinely customizing an electronic subpoena template and pasting in a digital image of a local judge's signature obtained from legitimate court documents in order to give the appearance of official judicial approval.³⁵ The OIG found that between the years 1995 and 2005, approximately 800 fraudulent subpoenas had been served by the task force.³⁶

In response to an inquiry from the Committee about disciplinary administrative actions taken, the agency explained that one Supervisory Deputy U.S. Marshal who was involved received a letter of reprimand. That person later was later promoted to the position of GS-14 Supervisory Criminal Investigator.³⁷ Two involved personnel retired after the OIG report was completed but before any potential disciplinary action, and two others retired without discipline being imposed after a panel did not substantiate allegations against them. One of the latter received a promotion prior to his retirement.

Another example involves the USMS' response to sexual misconduct by agents on detail assignments abroad. In 2016, the DOJ OIG found evidence to support allegations that in 2010, two USMS Chief Inspectors solicited prostitutes while on detail in Mexico and brought them to a taxpayer-funded apartment. The OIG concluded that the inspectors' solicitation of prostitutes "likely violated USMS Policy Directive 1.2, Code of Professional Responsibility, Section E, paragraph 28 --- Conduct, which states... *Avoid any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, including use of intoxicants and illicit drugs.*"³⁸ The Committee investigated the USMS' response to the OIG's findings and found that the three employees who were involved only received security clearance warning letters and "punishments ranging from three to seven days suspension."³⁹

In 2015, the OIG also reviewed the USMS' handling of a case in which a Deputy U.S. Marshal (DUSM) solicited a prostitute while on an extradition mission in Thailand in 2010. The

³⁴ Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, and Patrick J. Leahy, Ranking Member, U.S. Senate Committee on the Judiciary, to Hon. Lorreta E. Lynch, Attorney General, U.S. Department of Justice (July 15, 2015). [Exhibit 12]

³⁵ U.S. Department of Justice Office of the Inspector General, Report of Investigation, Case Number 2005-006966-I (December 13, 2007). [Exhibit 13]

³⁶ *Id.* Around 2000, the USMS took over the initiative, which had initially been run by state and local law enforcement. The practice of issuing the fraudulent subpoenas predated USMS involvement but continued after the USMS became involved and task force members were sworn-in as Special Deputy U.S. Marshals.

³⁷ Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, and Hon. Patrick J. Leahy, Ranking Member, U.S. Senate Committee on the Judiciary (November 3, 2015). [Exhibit 14]

³⁸ U.S. Department of Justice Office of the Inspector General, Report of Investigation, Case Number 2015-007158 (February 23, 2016) at 3, enclosed in: Letter from Hon. Michael E. Horowitz, Inspector General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (May 16, 2017). [Exhibit 15]

³⁹ Letter from William Delaney, Chief, U.S. Marshals Service, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (October 3, 2017). [Exhibit 16]; Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to David Harlow, Acting Director, U.S. Marshals Service (May 31, 2017). [Exhibit 17]

OIG found that a district supervisor who learned of the misconduct from the DUSM's colleague and failed to promptly report it to the USMS Office of Professional Responsibility- Internal Affairs (OPR-IA) "violated the USMS policy requiring all employees to report allegations of misconduct, whether on duty or off."⁴⁰ The OIG determined that the supervisor was not investigated or disciplined by the USMS for his failure to report the incident to the OPR-IA.⁴¹

Moreover, there is no indication that these problems have been resolved in recent years. Just last year, in what the DOJ OIG called an instance of "gross mismanagement," a Chief Deputy United States Marshal who engaged in sexual harassment, misused his government phone and vehicle, obstructed an OIG investigation by threatening and retaliating against subordinates, and lied to the DOJ OIG, was allowed to retire with full benefits and without receiving any punishment whatsoever. This case will be discussed in greater detail below in the section on whistleblower retaliation.

Agency Mismanagement

In the summer of 2017, Chairman Grassley received information from a whistleblower that the USMS was using expired or soon-to-be expired body armor. The Committee immediately opened an investigation into this matter, and on July 5, 2017, the Chairman wrote to the USMS to inquire about the status of their body armor.⁴² On March 8, 2018, the USMS responded to the Chairman's letter to inform him that new body armor units had been purchased for all operational employees.⁴³ However, the USMS response letter and subsequent document production raise additional concerns about mismanagement and a general lack of accountability.

The USMS outfitted the majority of their operational employees with body armor through a large purchase of 756 units made in 2011, and another purchase of 3,565 units in 2012.⁴⁴ These vests came with a manufacturer's warranty of five years, after which the manufacturer considers the units to be "expired."⁴⁵ In 2013, the USMS conducted body armor testing to determine if these units were safe to use after five years.⁴⁶ These tests determined that expired body armor units had a 13% penetration rate. Based on these findings, the USMS determined that all body armor units needed to be replaced within five years.⁴⁷ This replacement cycle is also consistent with the replacement cycle of other agencies such as DEA, FBI, and ATF.⁴⁸ The USMS then sought to

⁴⁰ U.S. Department of Justice Office of the Inspector General, *The Handling of Sexual Harassment and Misconduct Allegations by the Department's Law Enforcement Components* at 32 (Mar. 2015), available at <https://oig.justice.gov/reports/2015/e1504.pdf> at 18-19

⁴¹ *Id.* at 19

⁴² Letter from Hon. Charles E. Grassley, Chairman, Senate Committee on the Judiciary, to David Harlow, Acting Director, U.S. Marshals Service (Jul. 5, 2017). [Exhibit 18]

⁴³ Letter from William Delaney, Chief, U.S. Marshals Service, to Hon. Charles E. Grassley, Chairman, Senate Committee on the Judiciary (Mar. 8, 2018). [Exhibit 19]

⁴⁴ Memorandum from [redacted] to David Anderson, Assistant Director, U.S. Marshals Service (May 3, 2017); SJC-BA-00350. [Exhibit 20]

⁴⁵ *Id.*

⁴⁵ *Id.*

⁴⁶ U.S. Marshals Service, FY 2017 Performance Budget, President's Budget, Salaries & Expenses and Construction Appropriations (Feb. 2016), available at <https://www.justice.gov/jmd/file/821041/download> at 72; SJC-BA-00129.

⁴⁷ *Id.*

⁴⁸ *Id.*

implement a five year cyclical plan to replace all units. Under this plan, all units would be replaced slowly over the course of five years.⁴⁹

Based on the above referenced set of facts, in order for the USMS to replace the body armor units purchased in 2011/2012, they would have had to either make two large purchases in 2016/2017 or replace each unit slowly over the years leading up to their expiration date. It appears that the USMS did not follow either course.

First, the USMS awarded a 5-year contract for the replacement of body armor units in February 2016.⁵⁰ Under this contract, it appears as though the contractor would supply body armor units over a five year period. This is problematic because 756 units were set to expire that same year, and an additional 3,565 units were set to expire the following year. Under the USMS' plan, it appears as though they would have been replacing body armor units purchased in 2012 as late as 2021.

Second, the USMS did not adequately prepare financially for the impending replacement of body armor. In the FY15 and FY16 budget requests submitted to Congress, the USMS did not request specific funds for the replacement of body armor.⁵¹ In FY17, the USMS submitted a budget request to Congress in which they asked for \$1.3 million for the cyclical replacement of body armor.⁵² This amount is far below what would have been needed to replace the 3,565 units that were set to expire that year.

Several USMS employees took notice of these serious inconsistencies and began warning upper management as early as 2016. In an email obtained by the Committee dated November 14, 2016, someone wrote, "I foresee a time period next year at which there will be numerous operational District and Division employees that will have expired ballistic panels unless a substantial increase in funding is achieved."⁵³ In several other emails received by the Committee, employees pleaded with senior officials in the USMS to replace expired or soon-to-be expired body armor units. Even more alarming, an email sent to Deputy Assistant Director Stephanie Creasy in June 2017 stated, "[a]s you will see it is far more extensive than I believed with many of the body armor expiring in April of 2016 and some as old as April 2011."⁵⁴ By the time this email was sent, approximately 1,381 deputies were using expired body armor with an additional 715 body armor units set to expire later that year.⁵⁵

⁴⁹ Memorandum from [redacted] to David Anderson, Assistant Director, U.S. Marshals Service; SJC-BA-00350.

⁵⁰ *Id.*

⁵¹ U.S. Marshals Service, FY 2015 Performance Budget, President's Budget, Salaries & Expenses and Construction Appropriations (Mar. 2014), *available at* <https://www.justice.gov/sites/default/files/jmd/legacy/2013/12/03/usms-justification.pdf>; U.S. Marshals Service, FY 2016 Performance Budget, President's Budget, Salaries & Expenses and Construction Appropriations (Feb. 2015), *available at* https://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/02/01/20_u.s._marshals_service_usms.pdf

⁵² U.S. Marshals Service, FY 2017 Performance Budget, President's Budget, Salaries & Expenses and Construction Appropriations at 72 (Feb. 2016).

⁵³ SJC-BA-00289 [Exhibit 21]

⁵⁴ SJC-BA-00600 [Exhibit 22]

⁵⁵ *Id.*

On July 7, 2017, Acting Director David Harlow sent an email to all USMS personnel in response to Chairman Grassley's letter regarding expiring body armor and his efforts to call attention to the prior study of actual USMS body armor. In this email, Acting Director Harlow waived off the study showing a 13% failure rate and wrote, "[w]hile some body armor is exceeding its warranty period, this is not the actual lifespan of the armor...research overwhelmingly indicates that the 5-year mark is merely the end of the manufacturers' liability on the product, not the actual lifespan of the armor."⁵⁶ He further wrote, "if the armor is in good condition and has been properly cared for, the Training Division believes it retains its full ballistic capabilities as you await your replacement armor even though the manufacturer period has expired."⁵⁷

This email is very troubling because the USMS **cited** the 13% failure rate of expired armor as a justification for their FY18 budget request.⁵⁸ In short, the USMS was representing to Congress that this study showed that expired body armor was dangerous and needed to be replaced while telling its own employees that the old armor was safe to use.

Acting Director Harlow's email also raises serious concerns about the operational awareness of senior officials. Acting Director Harlow wrote, "if armor is in good condition and has been properly cared for...it retains its full ballistic capabilities."⁵⁹ This statement neglects to take into account that Deputy Marshals across the country perform their duties in the heat, cold, rain, and snow. Exposure to sunlight, humidity, or even excessive flexing or bending of armor can lead to degradation over time.⁶⁰ It is difficult to imagine a situation in which a Deputy Marshal would not expose their body armor to any of those factors on a daily basis. Moreover, the effect of this type of exposure on body armor obviously applies whether the armor in question was the actual DUSM armor used in the previous test or the armor deputies currently wear today.⁶¹ The most significant factor in the rate of degradation in either case are environment, use, and care.

In June 2017, after months of ignoring pleas from junior level employees, the USMS allocated \$6 million to purchase body armor for roughly over 2,000 operational personnel with expired or soon to be expired body armor.⁶² The Committee is currently not satisfied with the response provided by the USMS and continues to investigate this matter.

Around the same time, the Committee investigated whistleblower allegations that the USMS was not adhering to its own training protocols with regard to its the High Risk Fugitive Apprehension Program.

In 2011, USMS established HRFA to create a standardized tactical training program for operation employees and task force officers. The program called for the training of Tactical

⁵⁶ SJC-BA-01034 [Exhibit 23]

⁵⁷ *Id.*

⁵⁸ U.S. Marshals Service, FY 2018 Performance Budget, President's Budget, Salaries & Expenses and Construction Appropriations (May. 2017), *available at* <https://www.justice.gov/file/968956/download> at 73

⁵⁹ SJC-BA-01034

⁶⁰ SJC-BA-01088 [Exhibit 24]

⁶¹ SJC-BA-01034 (Director Harlow argued that newer armor does not suffer from the same degradation over time as the previous DUSM armor).

⁶² SJC-BA-01942 [Exhibit 25]

Training Officers (TTO) who would then deploy across the country and train others in the apprehension of violent fugitives.⁶³ Initial recommendations called for TTOs to have five or more years of consecutive violent fugitive apprehension experience in order to qualify. However, later iterations of the plan reduced this requirement to three years of experience in fugitive apprehension or as a lead instructor experienced in law enforcement curriculum. In theory, under this plan a person could be certified as a TTO without having any experience in high risk fugitive apprehension. Allegedly, this is already occurring since the USMS has been certifying Special Operations Group (SOG) deputies as TTOs without vetting them or subjecting them to the recommended criteria.

According to whistleblowers, this breakdown in the training and vetting of TTOs is what led to the death of a Deputy during a fugitive apprehension in 2015. On June 15, 2018, the USMS responded to Chairman Grassley's letter by stating that the reduction in experience and qualifications was changed to adapt to the available personnel in the smaller judicial districts.⁶⁴ The USMS also pushed back on allegations that SOGs were unprepared for the role of TTOs by arguing that SOGs were chosen to roll out the program because they have completed hundreds of hours of additional arduous tactical training.⁶⁵ But according to a whistleblower, that particular training is not necessarily calibrated to the unique challenges of fugitive apprehension, and the USMS never attempted to recruit candidates with the recommended qualifications. This is currently an ongoing investigation.

Inaccurate Letter to Chairman Grassley

On March 19, 2015, Chairman Grassley wrote to then-Acting Deputy Attorney General Sally Yates regarding allegations of inappropriate hiring practices at the USMS.⁶⁶ On March 26, 2015, the Chairman received a response that contained misleading and inaccurate information.⁶⁷ Subsequently, an OIG report confirmed that the USMS letter contained erroneous information, and the OIG concluded that the error occurred because "the USMS relied on an inadequate and flawed process to gather the information used to draft the response."⁶⁸

In this letter, the USMS made three assertions which were plainly false. First, they claimed, "[t]he Director did not recommend Mr. Lenzie for any position, nor did she instruct Ms. Beal, or anyone else at the USMS or within the Department, to take any action, officially or otherwise, on

⁶³ U.S. Marshals Service, Training Division – U.S. Marshals Academy, Comprehensive Risk Mitigation Training Program (Aug. 2011).

⁶⁴ Letter from William Delaney, Chief, U.S. Marshals Service, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (Jun. 15, 2018). [Exhibit 26]

⁶⁵ *Id.*

⁶⁶ Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Sally Q. Yates, Acting Deputy Attorney General, U.S. Department of Justice (Mar. 19, 2015).

⁶⁷ Letter from Hon. Sally Q. Yates, Acting Attorney General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (Mar. 26, 2015). [Exhibit 27]

⁶⁸ U.S. Department of Justice, Office of the Inspector General., Oversight & Rev. Division 18-05, A Review of Allegations of Improper Hiring Practices in the United States Marshals Service and Related Matters (Sept. 2018), available at <https://oig.justice.gov/reports/2018/o1805.pdf> at 80

behalf of Mr. Lenzie.”⁶⁹ Second, the USMS denied that Mr. Lenzie was improperly hired because “[a] four-member interview panel...unanimously recommended another individual for the SFFS position,” and “the same four-member panel unanimously recommended him for a [FFS] position.”⁷⁰ Third, the USMS argued that no hiring arrangement occurred between Director Hylton and Ms. Beal because her selection was the result of a “unanimous recommendation by a three-member senior executive interview panel...nearly three years later.”⁷¹

The first claim that Director Hylton never recommended Mr. Lenzie is plainly false. The OIG report concluded that Director Hylton took actions that amounted to, and were interpreted as, a recommendation.⁷² The USMS’ letter also alleged that Mr. Lenzie did not get preferential treatment because he was not hired for the SFFS position and was instead chosen for an inferior FFS position.⁷³ However, they neglected to include that Ms. Beal was a member of this panel, and that there was no FFS opening in the Boston office at the time.⁷⁴ Lastly, the USMS response stated that no *quid pro quo* hiring arrangement existed between Director Hylton and Ms. Beal because she was selected by an independent panel and it occurred “nearly three years later.”⁷⁵ However, they did not mention all the steps taken to insure that Ms. Beal was selected for the job.⁷⁶

The OIG concluded that Director Hylton bore primary responsibility for the inaccurate letter to Senator Grassley. They concluded that she was not forthcoming with her staff and failed to provide those individuals writing the agency’s response with emails and other communications that pertained to the contents of the letter.⁷⁷ The OIG also concluded that Ms. Beal’s actions directly contributed to the inaccurate letter. They cited Ms. Beal for her actions both before and after the letter was sent.⁷⁸ The OIG concluded that Ms. Beal’s actions constituted misconduct.⁷⁹ However, she was not referred to the USMS for disciplinary action because she had retired by the time the report was completed.⁸⁰

⁶⁹ Letter from Hon. Sally Q. Yates, Acting Attorney General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (Mar. 26, 2015).

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² U.S. Department of Justice, Office of the Inspector General., Oversight & Rev. Division 18-05, A Review of Allegations of Improper Hiring Practices in the United States Marshals Service and Related Matters (Sept. 2018) at 11

⁷³ Letter from Hon. Sally Q. Yates, Acting Attorney General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (Mar. 26, 2015).

⁷⁴ U.S. Department of Justice, Office of the Inspector General., Oversight & Rev. Division 18-05, A Review of Allegations of Improper Hiring Practices in the United States Marshals Service and Related Matters (Sept. 2018) at 7, 13

⁷⁵ Letter from Hon. Sally Q. Yates, Acting Attorney General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (Mar. 26, 2015).

⁷⁶ U.S. Department of Justice, Office of the Inspector General., Oversight & Rev. Division 18-05, A Review of Allegations of Improper Hiring Practices in the United States Marshals Service and Related Matters (Sept. 2018) at 17

⁷⁷ *Id.* at 83-84

⁷⁸ *Id.*

⁷⁹ *Id.* at 86

⁸⁰ *Id.*

The OIG also cited the USMS Office of General Counsel (OGC) for not disclosing to the drafters of the USMS response letter that allegations of *quid pro quo* hiring had been previously reported in 2013, and that no investigation of these allegation had been conducted.⁸¹ At the time, OGC concluded that the matter should have been referred to OPR for investigation because it involved allegations of employee misconduct.⁸² Unfortunately, no referral was made by OGC to OPR. As a result, the OIG also criticized them for failing to report employee misconduct to OPR for a proper investigation.⁸³

Furthermore, the Committee takes issue with the fact that the USMS sent this letter denying any culpability at the same time that they communicated to Committee staff that they were investigating these allegations.

Whistleblower Retaliation

The Committee has received reports from approximately twenty individuals alleging whistleblower retaliation at the USMS. Among these allegations are reports that managers have used Freedom of Information Act (FOIA) requests to seek information on employees who may have made protected disclosures for the purpose of using that information to retaliate against them.⁸⁴ Whistleblowers have also reported that managers have maintained lists of employees suspected of being whistleblowers, assessed who on those lists is most likely responsible for various allegations, and openly threatened employees for speaking to independent investigators.⁸⁵

Suspensions and removals reportedly have been imposed following internal investigations against employees who have disclosed public safety concerns, questioned the treatment of prisoners within Marshals Service custody, disclosed wrongdoing to or participated in government investigations conducted by the Inspector General, the Department of Justice (including the FBI), the Office of Special Counsel, and USMS OPR.⁸⁶ Employees have reported that they have been subjected to explicit and implicit threats, hostile and unsafe working environments, warnings to disengage from protected activities, and frivolous or vindictive misconduct investigations.⁸⁷

Employees have also reported that participation in the Equal Employment Opportunity (EEO) process has led to misconduct allegations being levied against participants, which USMS management then proposed to settle in return for dismissing the EEO complaint.⁸⁸ This type of management behavior is disturbing, as it unjustly punishes employees who come forward to report bad behavior and chills additional reporting.

⁸¹ *Id.* at 82

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Sally Quillian Yates, Acting Deputy Attorney General, U.S. Department of Justice (April 23, 2015).

⁸⁵ Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Sally Quillian Yates, Deputy Attorney General, U.S. Department of Justice (June 3, 2015). [Exhibit 28]

⁸⁶ Letter from Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Michael E. Horowitz, Inspector General, U.S. Department of Justice (October 14, 2016). [Exhibit 29]

⁸⁷ *Id.*

⁸⁸ Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Gene L. Dodaro, Comptroller General, United States Government Accountability Office (July 31, 2017). [Exhibit 30]

By examining several examples of whistleblower retaliation in greater detail, it is possible to bring the nature and extent of these problems into sharper focus.

Western Oklahoma Whistleblower Reprisal

The circumstances surrounding the retirement of a Chief Deputy United States Marshal (CDUSM) in the Western District of Oklahoma reflect several problems endemic to the agency's culture, including a lack of accountability and lack of regard for whistleblowers.⁸⁹

In 2014, the DOJ OIG investigated misconduct allegations against the CDUSM. The OIG's report of investigation of those allegations "substantiated serious misconduct by [the CDUSM], including misuse of a government vehicle, conduct unbecoming a CDUSM, failure to properly supervise, interfering with an investigation, misuse of government property, and lack of candor."⁹⁰ Among other forms of misconduct, the CDUSM was found to have "engaged in sexual harassment of a subordinate contract employee, misused his USMS cell phone..." and to have given out "inappropriate and offensive awards of a sexual nature at a USMS retreat..." He was also found to have lacked candor during an OIG interview.⁹¹

During the OIG's investigation of these allegations, the CDUSM and other senior officials at the WDOK office proceeded to retaliate against employees who were perceived as cooperating with the OIG's investigation. The OIG investigated allegations of interference and released a second report on February 13, 2017.⁹² In that report, the OIG found that the CDUSM and two other officials had violated the USMS Code of Professional Responsibility by pressuring a subordinate to disclose her level of involvement with the OIG investigation.⁹³ In doing so, the CDUSM made "highly inappropriate comments" that could have been construed "as chilling her from cooperating with the OIG investigation, and as threatening retaliation if she did not side with management in the OIG investigation."⁹⁴

The OIG also found that the CDUSM lacked candor when questioned regarding these matters, in violation of 28 CFR and the USMS CPR, Section E, Paragraphs 23, 26, 28, and 29. In addition, the CDUSM violated both the Inspector General Act of 1978 and 5 USC § 2302 (b) (8) (B), which prohibit reprisal against an employee who makes a complaint or disclosure to an IG.⁹⁵ The OIG also found that the CDUSM violated Section 7(c) of the Inspector General Act of 1978

⁸⁹ "Justice Dept. Watchdog: Senior Marshals Service Staff Punished Employees for Cooperating in Internal Investigation, then Lied about it" (February 24, 2017), *available at* <https://www.grassley.senate.gov/news/news-releases/justice-dept-watchdog-senior-marshals-service-staff-punished-employees>.

⁹⁰ U.S. Department of Justice Office of the Inspector General, Report of Investigation (September 4, 2018) at 3, Enclosed in: Letter from Hon. Michael E. Horowitz, Inspector General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (October 23, 2018). [Exhibit 31]

⁹¹ *Id.* at 1

⁹² U.S. Department of Justice Office of the Inspector General, Report of Investigation (February 13, 2017). Enclosed in: Letter from Hon. Michael E. Horowitz, Inspector General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (February 23, 2017). [Exhibit 32]

⁹³ *Id.* at 1

⁹⁴ *Id.* at 18

⁹⁵ *Id.* at 18-19

and 5 USC § 2302 (b) (8), as well, when he directed a subordinate to restrict the work assignments of another employee due to that employee’s perceived cooperation with the OIG investigation.⁹⁶

The OIG also found that a Task Force Officer violated the USMS CPR, DOJ regulations, and Section 7(c) of the Inspector General Act of 1978 when he made threatening statements toward employees who were perceived to have cooperated with the OIG.⁹⁷ Another Supervisory Deputy U.S. Marshal (SDUSM) committed similar violations when he “made retaliatory statements attempting to dissuade employees from cooperating with the OIG investigation...”⁹⁸ Like the CDUSM, both of these officials also lacked candor when questioned by the OIG about their actions.

Despite an initial proposal from the USMS that the CDUSM be removed from federal service for his misconduct, the USMS allowed him to remain on paid administrative leave for six months. It then opted to enter into a settlement agreement that “rescinded the proposed removal penalty, imposed no discipline whatsoever... for the serious misconduct that both the OIG and USMS had found, and allowed [him] to use a combination of sick leave, annual leave, and unpaid leave for a period of an additional 9 months until ... he became eligible to retire with a full pension.”⁹⁹ According to the OIG, the CDUSM retired “without any discipline having been imposed.”¹⁰⁰

Following a request from the United States Office of Special Counsel (OSC) alleging that the USMS had violated several policies by allowing the CDUSM to enter into this settlement and retire as he did, the OIG issued another report on September 4, 2018.¹⁰¹ In that report, the OIG did not substantiate the OSC’s allegations. However, it did find that the USMS “committed gross mismanagement that resulted in a gross waste of taxpayer funds” by failing to hold the CDUSM accountable for his misconduct violations and retaliation against USMS employees who cooperated with the OIG investigation, as well as by entering into a settlement agreement that enabled the CDUSM to avoid any discipline and reach his full retirement date.¹⁰²

The OIG found that the proposal to enter into a settlement originated at the USMS OGC and that support for the idea grew out of concerns that a Merit Systems Protection Board judge “would be critical of them for not agreeing to a settlement” and might reverse the decision if the CDUSM were terminated.¹⁰³ While the OIG allowed that officials may consider litigation risks

⁹⁶ *Id.* at 1; In a separate case, the DOJ OIG investigated a complaint by the CDUSM that an employee who had cooperated with the OIG’s investigation made an “obscene sexual gesture with a baseball bat behind the CDUSM’s back in the presence of other employees.” The OIG did not substantiate the CDUSM’s allegation. See: U.S. Department of Justice Office of the Inspector General, Report of Investigation (February 13, 2017). Enclosed in: Letter from Hon. Michael E. Horowitz, Inspector General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary December 8, 2017) at 1-2 [Exhibit 33]

⁹⁷ *Id.* at 1

⁹⁸ *Id.*

⁹⁹ U.S. Department of Justice Office of the Inspector General, Report of Investigation (September 4, 2018) at 1-2. Enclosed in: Letter from Hon. Michael E. Horowitz, Inspector General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (October 23, 2018).

¹⁰⁰ *Id.* at 4

¹⁰¹ U.S. Department of Justice Office of the Inspector General, Report of Investigation (September 4, 2018) at 3. Enclosed in: Letter from Hon. Michael E. Horowitz, Inspector General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (October 23, 2018).

¹⁰² *Id.* at 2

¹⁰³ *Id.* at 3, 5

when making personnel decisions, it also rejected the line of reasoning as justification for letting the CDUSM off the hook. The OIG stressed that leaders, managers, and lawyers must “act responsibly and consistent with their management responsibility” and that “the terms of the ... settlement agreement were so clearly not reasonable that they amounted to gross mismanagement.”¹⁰⁴

The OIG concluded its report with strong words of criticism for the USMS’ handling of the case. It noted: “[n]ot only did [the CDUSM] retire with a full law enforcement pension and no discipline... management failures and the settlement potentially send a message to USMS employees that senior USMS officials will not be held to account for their serious misconduct, thereby possibly dissuading USMS employees from coming forward to report misconduct by USMS officials.”¹⁰⁵ The OIG rightly found this “to be wholly unacceptable and antithetical to the interests of accountability for USMS employees.”¹⁰⁶

Cell-Site Simulators Whistleblower

Another example involves efforts undertaken by the USMS to investigate the source of information disclosed to the Wall Street Journal (WSJ) in 2014 pertaining to the agency’s use of planes and cell signals to track criminal suspects. Following the publication of two articles on that topic by the WSJ on November 13, and 14, of 2014, the agency seized several personal portable electronic storage devices and a USMS laptop computer from an individual they considered to be a possible source for the articles. The USMS OPR asked that the DOJ OIG investigate.

The DOJ OIG concluded that the disclosure to the WSJ was a protected disclosure under the Whistleblower Protection Act and Whistleblower Protection Enhancement Act, and informed the USMS that “the USMS should not investigate or otherwise further seek to identify the source of the disclosure to the WSJ.”¹⁰⁷ The OIG also informed the USMS that “any personnel action based on findings relating to the personal devices could also reasonably be construed as having been taken in reprisal for making a protected disclosure.”¹⁰⁸

Despite these words of caution, the USMS sent a follow-up memorandum to the DOJ OIG in which it repeatedly referred to the individual whose materials had been seized by name and referred to him as the “source of the disclosures.” The USMS also asked the OIG to delete law enforcement sensitive information from the individual’s storage devices, verify that he did not have other devices with sensitive information, and request that he acknowledge prohibitions

¹⁰⁴ *Id.* at 7

¹⁰⁵ *Id.* at 8

¹⁰⁶ *Id.*

¹⁰⁷ U.S. Department of Justice Office of the Inspector General, Report of Investigation (March 28, 2016); Letter from William M. Blier, General Counsel, Office of the Inspector General, to Stan Griscavage, Chief Inspector, Office of Inspections, U.S. Marshals Service (January 25, 2016). Both enclosed in: Letter from Hon. Michael E. Horowitz, Inspector General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (October 26, 2016). [Exhibit 34]

¹⁰⁸ Letter from William M. Blier, General Counsel, Office of the Inspector General, to Stan Griscavage, Chief Inspector, Office of Inspections, U.S. Marshals Service (January 25, 2016).

against connecting personal devices to and installing computer applications on government computers.¹⁰⁹

In a strongly worded follow-up letter, the OIG stressed that the individual had never been determined to be the source of the disclosures and reiterated that the disclosures were protected, noting that the USMS' "authority for seizing the devices...was questionable, and in any event, the seizures occurred in connection with an effort to identify the source of protected whistleblowing activity."¹¹⁰ The OIG strongly cautioned against singling out the individual and requesting acknowledgements from him, since such actions "could reasonably be construed as an action by the USMS taken in reprisal for the USMS belief that he made a protected disclosure."¹¹¹

Deputy U.S. Marshal in California

In 2016, a Deputy U.S. Marshal in California was proposed for removal following years of engaging in protected activities. These included reporting threats to public safety created by his superiors and others in the transportation of dangerous fugitives, sharing concerns with management in management meetings, and disclosing concerns about public safety, abuse of authority, and reprisal to the Senate Judiciary Committee.

This Deputy Marshal alleges he was threatened by management to avoid associating with other employees who raised concerns; treated as a criminal suspect by his management in meetings; ordered to sign resignation forms; inappropriately questioned by management about his family life; questioned by a supervisor during an internal investigation about the substance of an EEO complaint; charged with AWOL while on sick leave to care for an ill child and despite providing documentation; harassed and threatened with discipline after requesting FMLA to care for his terminally ill mother; and physically threatened for sending an e-mail to a superior stating he felt he was experiencing retaliation.¹¹²

Expired Body Armor Whistleblower

In 2017, a whistleblower who was then-acting Deputy Assistant Director blew the whistle on various unsafe practices within the USMS, including the use of expired body armor and the watering down of training for the High Risk Fugitive Apprehension Program (HRFA). He suffered severe retaliatory actions as a result.

The most concerning form of retaliation against this whistleblower occurred last spring. On March 12, 2017, the whistleblower met with the Committee for the purpose of disclosing agency misconduct and threats to public health and safety. Prior to this meeting, the whistleblower notified his Assistant Director of his intent to meet with the Committee. Three days after the meeting with Committee staff took place, the whistleblower was removed from his

¹⁰⁹ Letter from William M. Blier, General Counsel, Office of the Inspector General, to Blair Deem, Acting Assistant Director, Office of Professional Responsibility, U.S. Marshals Service (March 28, 2016). Enclosed in: Letter from Hon. Michael E. Horowitz, Inspector General, U.S. Department of Justice, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (October 26, 2016).

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Michael E. Horowitz, Inspector General, U.S. Department of Justice (October 14, 2016).

acting position and forced to move out of his office and sit within direct supervision of the Assistant Director.¹¹³ The timing of this demotion is highly suspect, and the Committee is currently investigating his disclosures and apparent reprisal.

Federal Managers Association

In 2017, the USMS sought to chill communications between the Federal Managers Association (FMA) and Congress. Issues began to arise when the Committee sought the opinion of the local FMA chapter on a proposed bill that would have allowed the Director of USMS to appoint a deputy marshal or criminal investigator in the excepted service. It is typical for the Committee to seek input from various stakeholders, such as the FMA, when considering legislation.

FMA accepted the Committee's request for input and met with Committee staff. Approximately one month later, the USMS sent a letter to the FMA threatening to terminate the agency's longstanding relationship over what they perceived as attempts to "undermine significant Agency initiatives[.]" The letter referred specifically to the recent meeting between the FMA and the Committee, stating: "there have been several widely disseminated emails sent, and outside meetings held," and "[w]e view these efforts to be contrary to the purpose of any positive consultative relationship."¹¹⁴

The President of the FMA informed the Committee of this letter on August 10, 2017, and Senator Grassley sent a letter expressing his concerns to the Department of Justice on August 11, 2017.¹¹⁵ The Committee views the USMS' actions as an attempt to chill communications with Congress. As a major stakeholder in hiring practices, the FMA has the right to express their views on pending legislation.

Recommendations

Based on evidence gathered during its investigation, the Committee offers the following recommendations for the new Director of the USMS:

1. The new Director should, on his first day of office, issue a memorandum which affirms his commitment to whistleblowers. This memorandum should make clear that retaliation against whistleblowers will not be tolerated.
2. The new Director should immediately end all practices requiring whistleblowers involved in retaliation claims to resign or retire as a condition of settlement.

¹¹³ Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice (Mar. 27, 2017). [Exhibit 35]; SJC817-29 [Exhibit 36]

¹¹⁴ Letter from Dave Barnes, President, Federal Managers Association, to Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (Aug. 10, 2018). Enclosed in: Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Jeff Sessions, Attorney General, U.S. Department of Justice (Aug. 11, 2017). [Exhibit 37]

¹¹⁵*Id.*; Letter from Hon. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Jeff Sessions, Attorney General, U.S. Department of Justice (Aug. 11, 2017).

3. The new Director should immediately end the practice of allowing employees who have serious and substantiated misconduct findings against them to use paid or unpaid leave in order to retire and avoid termination.
4. The new Director should implement mandatory training for all management level employees on proper handling of whistleblower disclosures.
5. The new Director should commit to the safety and well-being of all operational personnel by ensuring that all cyclical safety equipment, such as body armor, is up to date.
6. The new Director should commit to resolving all pending claims before the Office of Special Counsel in his first 90 days of office. Furthermore, the new Director should institute a policy of resolving all future claims in a timely manner and improving communication and cooperation with OSC.
7. The new Director should commit to responding to all Congressional inquiries in a manner that is both timely and accurate.
8. The new Director should work with the Justice Management Division to ensure that all AFF expenditures, including JLEO expenditures, are fully documented, tracked, allowable, and made readily available to JMD for oversight purposes.

Conclusion

Throughout this investigation, the Committee has uncovered countless instances of mismanagement, favoritism, and a lack of accountability. The OIG has confirmed many of the allegations the Committee has received, and identified multiple additional instances of misconduct and mismanagement—including by the most senior leaders in the agency. Those leaders set the tone for the entire organization, and their actions affect employees throughout their many districts and divisions. To cite just one example, it's not difficult to comprehend why only 34% of USMS employees felt that hiring was merit based, especially when the Director of USMS recommended her personal friend for a position with an agency contractor, and then denied she had done so to those responsible for crafting a response to a congressional investigators. Her actions and those of her subordinates led to the agency submitting an inaccurate and misleading statement to the Committee.

Fortunately, new leadership can be a powerful source for organizational change. Based on the results of its investigation, the Committee expects that the next Director of the USMS will put an end to favoritism (or even the appearance of favoritism), and hold each individual accountable for their actions. Additionally, the new Director should immediately put an end to wasteful spending, do more to protect whistleblowers, and commit to providing accurate and complete information to Congress—particularly to the agency's own oversight committee.

Moving forward, it will be critical for the new director to have a firm grasp of the agency's history and its past problems if he is to steer it in the direction that it needs to go. Hopefully, this report has provided some of that context and clarified ways that it can help to inform future decisions.

Exhibit 1


December 3, 2018

The Honorable Charles E. Grassley, Chairman
United States Senate
Committee on the Judiciary
135 Hart Senate Office Building
Washington, D.C. 20510

SUBJECT: Nomination of Donald W. Washington as
Director of the U.S. Marshals Service

Dear Mr. Chairman:

I write to you today serving as an Acting Chief Deputy U.S. Marshal and the Vice President for Law Enforcement Operations of the U.S. Marshals Service (USMS) Chapter of the Federal Managers Association.¹ I speak for many of my colleagues in expressing sincere appreciation for the integral role you play in chairing an essential Congressional Committee which provides oversight of the USMS.

As you are aware, U.S. Marshals are entrusted with the responsibility of protecting and defending the Constitution. In large part it begins most days at the doors of U.S. courthouses across our Nation where the judicial process is carried out. Upholding the rule of law comes with awesome power over people and processes. That said, in the wise words of Dr. Philip Zimbardo, psychologist and Professor Emeritus at Stanford University, "If you give people power without oversight, it's a prescription for abuse."²

I am not alone in having grown weary of the misconduct, often times without consequence, by some at the top of our organization. The misbehavior leads to further malefaction during descent within the ranks. Statistics reportedly demonstrate the USMS has the second highest number of employee misconduct complaints among Department of Justice agencies, only behind the Bureau of Prisons. This is quite remarkable given the relatively lower number of employees at the USMS, compared with its sister agencies. However, it is not unexpected given the example being set by some in leadership positions. The lack of accountability and adherence to the rules and regulations erodes confidence in the system, resulting in lower morale and more often insubordination. Systemic failures throughout the organization follow.

Top level executives should be leaders who emulate the principles of our organization's motto of Justice Integrity Service. These are the people we should aspire to be like.

¹ <https://www.fedmanagers.org/About-Us>

² https://www.ted.com/talks/philip_zimbardo_on_the_psychology_of_evil

The last Director of the USMS issued “A Message about Ethics” to all agency employees within months of her confirmation and subsequent appointment.³ Less than four years later, the Committee you chair launched the most comprehensive Congressional investigation of the USMS seen to date. You sought answers about widespread and egregious misconduct alleged to have occurred among some top officials in the organization. Subsequent to your investigation, the Director and others resigned,⁴ retired,⁵ or were fired.⁶

Early on the evidence you gathered gave you reason to conclude: “U.S. Marshals Service Leadership has a Sordid History of Misconduct, Cooperation with Investigations.”⁷ While many employees with “unique insight into the problems that exist within [the Agency]” experienced regular retaliation for making protected disclosures, it is abundantly clear your instincts were accurate.

While I appreciate the increased stability within the USMS experienced under the current Acting Deputy Director, independent investigations about behavior during the last USMS Administration continue. Alarming, some involve senior career officials who still remain in their posts, perpetuating a culture of mistrust and raising questions whether other abuses persist. It saddens me to be able to offer a snapshot of some findings by independent bodies charged with governmental oversight and investigative functions:

- In November 2016, a 569-page *Majority Staff Report* was issued by the Committee detailing findings into serious allegations of improper hiring practices and whistleblower reprisal at the USMS.⁸
- On October 17, 2017, the Government Accountability Office subsequently issued its own independent report into additional actions needed to improve oversight of hiring practices that seemingly propagated under the watch of the former Director and others.⁹
- On September 20, 2018, the Inspector General issued a Report that further corroborated the findings of the *Majority Staff Report*. It cited: 1) Serious violations of the Standards of Ethical Conduct; 2) prohibited personnel actions; 3) use of inadequate and flawed processes to gather information and failing to exercise reasonable care in investigating allegations that led to misleading Congress; and, 4) other serious findings.¹⁰

³ A Message about Ethics, Stacia A. Hylton, April 27, 2011, Exhibit A

⁴ <https://www.grassley.senate.gov/news/news-releases/grassley-statement-resignation-us-marshals-service-director-stacia-hylton>

⁵ <https://www.grassley.senate.gov/news/news-releases/grassley-statement-retirement-us-marshals-service-assistant-director-kimberly>

⁶ *Noelle B. Douglas v. Department of Justice*, Docket No. DC-0752-17-0130-I-1, Exhibit B

⁷ <https://www.grassley.senate.gov/news/news-releases/grassley-us-marshals-leadership-has-sordid-history-misconduct-cooperation>

⁸ <https://www.grassley.senate.gov/sites/default/files/judiciary/upload/USMS%2C%2011-29-16%2C%20MAJORITY%20REPORT%20-%20Improper%20Hiring%2C%20WB%20Reprisal.pdf>

⁹ <https://www.gao.gov/products/GAO-18-8>

¹⁰ <https://oig.justice.gov/press/2018/2018-09-20a.pdf>

- On October 18, 2018, a subsequent Investigative Summary was issued by the Inspector General detailing misconduct by top officials for committing gross mismanagement resulting in a flagrant waste of taxpayer funds.¹¹
- Troubling evidence recently surfaced involving the conduct of other top officials, one now retired, another still within the Agency.¹² While the USMS General Counsel vowed to review the material I offered, he has instead remained generally unresponsive to the disclosures.
- When Committees of both Houses of Congress failed to act on granting the USMS excepted service hiring authority for an agency already with documented abuses in its hiring practices, the USMS refused to respect the legislative process and instead sought, and obtained, an Executive Order through the Executive Office of the President. The USMS Office of General Counsel refused to even acknowledge an earlier Freedom of Information Act (FOIA) request by the USMS Chapter of the Federal Managers Association for material on the Agency’s proposed implementation plan. The request remains unanswered more than a year later. According to one top USMS official who spoke at a recent USMS management conference, circumventing the legislative process left the Office of Personnel Management displeased. This is understandable. For an agency that cannot seem to follow competitive service hiring rules, excepted service is increasingly ripe for abuse.
- In a recent Report outlining the *Top Management and Performance Challenges Facing the Department of Justice*, its Inspector General states, “The Department faces similar challenges as an employer.”¹³ He went on to say, “The Department continues to face challenges with its employees respecting the role of whistleblowers.” It is obvious the same challenges exist within the USMS (*i.e.*, no less than 2 of the 5 instances, or 40%, of retaliation against whistleblowers cited by the Inspector General in his Memorandum were documented as USMS-specific).¹⁴

Donald W. Washington is being considered as the newest Director of the USMS. He is awaiting your vote before moving to the full Senate for confirmation. I listened to his recent testimony before the Committee. He is well spoken and commands the presence that we have long sought in a Director. His credentials are inspiring and he is unmistakably qualified. Many of my colleagues and I look for his immediate leadership in the following areas:

¹¹ <https://oig.justice.gov/reports/2018/f181018.pdf>

¹² Auerbach/Wojdylo redacted emails, USMS Response to Draft OIG Report, David Musel email, USMS Office of General Counsel and Office of Professional Responsibility guidance emails, and Senate Judiciary Committee oversight hearing of the FBI, Exhibit C

¹³ <https://oig.justice.gov/challenges/2018.pdf>, at page 29

¹⁴ <https://oig.justice.gov/reports/2018/f180718a.pdf> and <https://oig.justice.gov/reports/2017/f170223.pdf>

- Strive to reduce the sheer number of misconduct complaints by establishing an ethical culture where top agency officials are held accountable.¹⁵ The rank and file can hardly be expected to conform to the highest standards expected of civil servants when they repeatedly observe agency executives skirt the rules and regulations for their benefit. Granting those in more senior positions earlier-than-planned retirement with full pensions to avoid discipline rewards bad behavior. The former Director, for example, was issued retirement credentials while lower ranking employees have been denied theirs, the latter even on the allegation of misconduct (*i.e.*, cases that will never be adjudicated). If confirmed, the new Director should consider exercising his discretion to recover the retirement credentials of the former Director, and any other top executive named in recent investigative reports. This would alleviate the perception that top officials are rewarded, despite their transgressions.
- With the anticipated retirement of the current USMS General Counsel, name his successor from outside the Agency, one who will be fair, respect transparency, and timely respond to FOIAs. The perceived culture in the current USMS Office of General Counsel is “win at any cost.” Their strategy of delay exhausts employees mentally and financially. This effectively thwarts the process of equity and justice. New leadership in the *top two positions* of this office is essential for the Agency’s success and to change the views of organizations charged with oversight and investigative functions that some agency attorneys obstruct their important work.
- Recognize the value of whistleblowers and reward them. “Walk the talk” in establishing a safe environment for lawful protected disclosures. We need to foster the disclosure of information by employees and see to it that they do not face retribution for their candor and courage.
- Resolve all open whistleblower complaints accepted by the Office of Special Counsel within the first 90 days of assuming office, some that have been pending for years on end. Forbid any settlement agreements with conditions that include a clause requiring whistleblowers to leave employment. In recent years the Agency has reportedly paid nearly \$700,000 to two whistleblowers in full settlement of retaliation and other complaints. However, despite being the source of the protected disclosures, both were required to leave the Agency and forbidden from re-employment, even as an onsite contractor, as a condition of the settlement.¹⁶ Such a clause is viewed as further reprisal and has a chilling effect on others coming forward.

¹⁵[https://oge.gov/web/OGE/nsf/0/D65181941B4954EB852581B500460DFA/\\$FILE/OGE%20Acting%20Director%20Memo%20to%20Agency%20Heads.pdf](https://oge.gov/web/OGE/nsf/0/D65181941B4954EB852581B500460DFA/$FILE/OGE%20Acting%20Director%20Memo%20to%20Agency%20Heads.pdf)

¹⁶ Settlement Agreement redacted, Exhibit D

- Reduce the size of USMS headquarters' units substantially by leveling the playing field and applying a staffing model consistent with the same staffing levels applied to district offices. Bring the ratio between positions assigned to districts and headquarters more in line with other Department of Justice law enforcement agencies.¹⁷
- Uphold the principle that “equal pay should be provided for work of equal value.”¹⁸ This is particularly important for positions within the Agency's district offices where the incumbents are performing at an equal or higher level as their peers in headquarters' positions, yet aren't equally being compensated (*e.g.*, 36 Administrative Officers and 20 Canine Handler).

After nearly four years of rigorous oversight of the USMS it is clear continued oversight by Congress is a central piece of the organization's activities. This is particularly true in the areas of its asset forfeiture spending and officer safety initiatives.

Despite the belief of a few, this is not about one whistleblower. To the contrary, it is about dozens upon dozens of employees who have grown tired of the dishonest practices by too many—certainly not all—within some of the most senior positions within the USMS. If we as a federal law enforcement organization are entrusted with upholding the rule of law across the Nation, we must first uphold the rule of law from within.

While I anticipate some of my colleagues may view my letter to you unfavorably, I know many more will join me in supporting Mr. Washington as a new Director of the USMS, believing he will do well to focus on pulling the weeds so the flowerbeds in the Agency may again fully blossom by springtime. While the need for strong, ethical leadership is what we want in a new Director, I have no doubt that with such change our organization can exemplify our motto of Justice Integrity Service.

In light of other voluminous and troubling documents recently shared with me that originate from a senior USMS official who retired at the end of last year, I remain available to answer any additional questions of the Committee. I thank you for your service and look forward to your continued oversight. Never underestimate the confidence you have restored in righteousness. Be well Mr. Chairman!

Very truly yours,

/s/ Jason R. Wojdylo

Jason R. Wojdylo

Enclosures

¹⁷ Letter on Staffing at the USMS, Federal Managers Association, USMS Chapter, February 26, 2018, Exhibit E

¹⁸ 5 U.S.C. § 2301

Exhibit A



U.S. Department of Justice

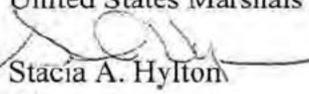
United States Marshals Service

Office of the Director

Alexandria, VA 22301-1025

April 27, 2011

MEMORANDUM TO: United States Marshals Service Employees

FROM: 
Stacia A. Hylton
Director

SUBJECT: A Message about Ethics

The ethics rules and policies are an important part of our federal service in the U.S. Marshals Service. I am committed to these rules, and urge all U.S. Marshals Service employees to continue to uphold our tradition of integrity and ethics compliance.

The principles of ethics compliance and integrity are important for all federal employees. However, I believe these are even more critical for a law enforcement agency entrusted with great authority on behalf of, and a rich tradition of service to, the American public.

It is important that you comply with all the ethics rules, policies and requirements, avail yourselves of ethics training opportunities, and contact Ethics Team members in the Office of General Counsel with any questions. Our reputation and effectiveness depends in large measure on the public's perception of U.S. Marshals Service employees' ethical behavior and integrity.

One source of excellent information about the Standards of Ethical Conduct for Executive Branch Employees and the U.S. Marshals Service ethics policies can be found in the Ethics section of the Office of General Counsel's website. Please take the opportunity to review the contents of that website. In addition, please discuss ethics issues with supervisors and Office of General Counsel Ethics Team members to ensure that we live up to our own, and the American public's, expectations of ethical conduct to make America's Star shine ever brighter.

I thank you for making ethics and integrity a part of your everyday activities as an employee of the U.S. Marshals Service.

Exhibit B



U.S. MERIT SYSTEMS PROTECTION BOARD

Office of the Clerk of the Board

1615 M Street, N.W.
Washington, D.C. 20419-0002

Phone: 202-653-7200; Fax: 202-653-7130; Email: foiahq@mspb.gov

March 31, 2017

SENT VIA E-MAIL [REDACTED]

RE: Final Release for Request MSPB-2017-000099

Dear [REDACTED],

This is the final release to your Freedom of Information Act (FOIA) request to the U.S. Merit Systems Protection Board (MSPB) dated March 29, 2017 and received March 30, 2017. In your request, you sought “copies of any and all MSPB decisions to include appellate decisions in the case(s) of U.S. Marshals Service employee, Noelle Douglas, former Assistant Director for the Judicial Security Division, who was removed from federal service but appealed her removal to the MSPB.” We have interpreted your response to be seeking all Initial Decisions and Final Orders of the Board.

We conducted a comprehensive search of our electronic files for records responsive to your request. We have located the following record which is being released to you full.

Noelle B. Douglas v. Department of Justice, DC-0752-17-0130-I-1

If you have any questions regarding this request, or if you disagree with this disposition, in whole or part, you have the right to seek assistance from the FOIA Public Liaison, appeal the determination, or contact the Office of Government Information Services to participate in dispute resolution services.

If you wish to contact the FOIA Public Liaison, you may do so via email to foiahq@mspb.gov or telephone at (202) 254-4475. If you wish to participate in dispute resolution services, you may contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows:

Office of Government Information Service
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001

E-mail at ogis@nara.gov
Telephone at 202-741-5570
Toll free at 1-877-684-6448
Facsimile at 202-741-5769

If you wish to appeal the determination, you may do so by submitting your appeal through FOIAonline or by mailing your appeal to:

Chairman, c/o Clerk of the Board
U.S. Merit Systems Protection Board
1615 M Street, NW
Suite 500
Washington, DC 20419

Your appeal should be identified as a "FOIA Appeal" on both the letter and the envelope, if applicable. It should include a copy of your original request, a copy of this letter and your reasons for appealing this decision. You may also submit your appeal by email to foiahq@mspb.gov or by fax at (202) 653-7130. Your appeal must be filed within ninety (90) days from the date of this letter.

Sincerely,

//signed//


Government Information Specialist
U.S. Merit Systems Protection Board

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
WASHINGTON REGIONAL OFFICE**

NOELLE B. DOUGLAS,
Appellant,

DOCKET NUMBER
DC-0752-17-0130-I-1

v.

DEPARTMENT OF JUSTICE,
Agency.

DATE: March 27, 2017

Lawrence Berger, Esquire, Glen Cove, New York, for the appellant.

Margo L. Chan, Esquire, and Susan E. Gibson, Esquire, Washington, D.C.,
for the agency.

BEFORE

David A. Thayer
Administrative Judge

INITIAL DECISION

On November 17, 2016, Noelle B. Douglas filed an appeal challenging the action of the Department of Justice that removed her from her position, effective October 21, 2016. The Board has jurisdiction over this appeal pursuant to 5 U.S.C. §§ 7511-7513. A hearing was held at the appellant's request.

Based on the following analysis and findings, the agency's action is MITIGATED.

ANALYSIS AND FINDINGS

The agency bears the burden of supporting its action by preponderant evidence.

Prior to her removal, the appellant encumbered a position as a Chief Investigator, GS-1811-15, with the Justice Prisoner and Alien Transport System

of the U.S. Marshals Service. Appeal File (AF) Vol. 1, Tab 6, p. 8. On July 25, 2016, the agency proposed the appellant's removal based on two charges: (1) misuse of position (2 specifications); and, (2) lack of candor (3 sustained specifications). AF Vol. 1, Tab 6, pp. 134-143. The appellant and her representative presented an oral reply to the proposal on September 29, 2014, as well as a written response. AF Vol. 1, Tab 6, pp. 14-72 (transcript of oral reply), 73-130. On October 19, 2016, after considering the proposal notice, the supporting materials, as well as the appellant's oral and written responses, the deciding official, Cheryl Jacobs, found that the evidence supported Charge 1 (misuse of position, both specifications), and Charge 2 (lack of candor) but only specifications A, C, and D. AF Vol. 1, Tab 6, pp. 8-13. She concluded that the in light of the sustained charges, removal was appropriate. *Id.* The appellant then filed this appeal.

The agency has the burden of supporting its action by a preponderance of the evidence. 5 U.S.C. § 7701(c)(1)(B); 5 C.F.R. § 1201.56(a) (2016). A preponderance of the evidence is that degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue. 5 C.F.R. § 1201.4(q) (2016).

Preponderant evidence supports Charge 1, Specification A, that the appellant misused her position for personal gain.

Under the first charge, the agency provided two specifications, each relating to a subordinate employee whom the appellant is accused of having used to perform non-official work for her own benefit. AF Vol. 1, Tab 6, pp. 134-135. The agency presented the first specification ("Specification A") as follows:

Specification A: During approximately April-May, 2014, you accepted the assistance of a subordinate employee, Kimberly Shelton Jolie, to draft responses for your Senior Executive Service (SES) promotion package.

Id. at 134.

The appellant testified that she worked as a Chief Inspector for the U.S. Marshals Service. She related that she was acquainted with Kimberly Shelton Jolie, who would have been three levels of supervision below her. She described the supervisory chain as Dan Hall being Jolie's immediate supervisor followed by Glen Legus, who would have been Dan Hall's supervisor, and who directly reported to the appellant.

The appellant stated that the agency announced an SES vacancy in April 2014. She described the extensive package of materials to be included in a completed SES application. She indicated that the package required narrative descriptions of her Managerial Technical Qualifications (MTQs) and five different narrative statements, two pages each, to address her Executive Core Qualifications (ECQs). She indicated that she had previously applied for an SES position in July of 2013, and still had the basics of the application package. She explained that the prior application was also for a Marshals Service position, so there was similarity to the newest application, but she still required revisions to make a customized response.

The appellant recalled working with Jolie on a PowerPoint presentation, a very sensitive project on physical access control systems. She related that Jolie demonstrated proficiency with PowerPoint and so the appellant considered her a competent employee. The appellant remembered Jolie asking her if she was planning to apply for the vacant SES position. She said that Jolie seemed very interested in whether she would apply—she was very complimentary and positive—suggesting that she wanted to see the appellant succeed as a woman in the professional position. The appellant recalled that Jolie offered to do anything she could to assist with the process.

The appellant testified that Jolie offered to help write her application, claiming that she had previously worked on the successful SES application for another former boss. The appellant remembered Jolie as being insistent that she help, so the appellant relented and agreed to allow Jolie to review her draft ECQs.

The appellant asserted that she accepted Jolie's offer to help with the caveat that Jolie could not do any work on it during official time, or in any way conflict with her official duties, and it would in no way be considered any kind of official duty.

The appellant acknowledged that she had sent the email identified as Government Exhibit 6 to Jolie (Vol. 3, Tab 17, p. 16). She explained, however, that the exchange was clearly a joke—no one should seriously think she asked Jolie to write the ECQs on a PowerPoint presentation, on “official” format slides in “pink, with butterflies, please.”

The appellant acknowledged that she did communicate with Jolie about her work on the SES package. She agreed that she had sent background materials to Jolie and also asked for her comments to analyze materials that the appellant had written.

The appellant remembered a conversation with Greg Legus in which he asked about Jolie working on the appellant's SES package. The appellant said she was surprised by the question, because she expected, as she had instructed Jolie, to only work on it during off-duty time. The appellant stated that she responded to Legus that, “Oh, she (Jolie) should not be doing that on any official time” after which Legus made no further comment.

The appellant reviewed several email communications sent between her and Jolie (AF Vol. 3, Tab 15, pp. 139, 160, 161, 181). She acknowledged that they had been sent during regular work hours on official email service. She explained that she did not have a concern that Jolie was working on the SES application during her official duty hours, even though she might have received the communication during that time. She reported that she ultimately did not use Jolie's efforts in her final application, although Jolie had obviously spent time on it.

The appellant related that Jolie was “extremely insistent” that she help with the SES application process. She indicated her impression that Jolie became emotionally attached to the idea of the appellant's application, becoming

completely invested in it. The appellant explained that she was sensitive to Jolie's emotional attachment and wanted to avoid making her feel slighted by telling her outright that her efforts would not be used. She justified her attempts at tactful resistance to Jolie's enthusiasm by clarifying that she found Jolie to be "a very difficult person," who took offense easily, without justification.

Kimberly Shelton Jolie testified that she worked in the research and evaluation branch of the Marshals Service Court Security Division. She recalled that her supervisor was Greg Legus, who was supervised by Dan Hall, and the appellant was her third-level supervisor. Jolie noted that the appellant had no involvement in assigning official duties or projects.

Jolie stated that her core work hours were from 10:00 a.m. to 3:00 p.m. She claimed that she typically worked 12 to 16 hour days—basically "from the time she got up in the morning until she went to bed at night." She asserted that she would work on official assignments during those hours.

Jolie reported that, one day, she encountered the appellant walking down the hallway carrying a large, unwieldy stack of materials. Jolie recalled asking if she needed help, and the appellant told her about the SES application; Jolie offered to help with it. She indicated there was no discussion of official time or personal time—it was not addressed. She remembered a brief comment about the announcement and closing date but not much else.

Based on the testimony of the witnesses, there is not a dispute that the appellant used the services of her subordinates to assist with the preparation of her SES application. Thus, notwithstanding the appellant's protestations or pointed instructions, I find preponderant evidence that Jolie's work on the appellant's SES application was mixed with official business. The agency argued that when the assistance was provided—while on duty or while off—is irrelevant to their charge. The mere fact that the appellant, as a supervisor with power and

authority over another employee, would use that employee's skill or effort for her own benefit is an unacceptable use of her position.¹

In her testimony, the appellant stressed that she admonished her subordinates to avoid any work while on duty or in connection with any official activity. Nevertheless, the emails exchanged reflect work done on the SES application during regular business hours. Accordingly, I find preponderant evidence that the appellant misused her public position for private gain. Charge 1, Specification A is sustained.

The agency presented preponderant evidence to support Specification B of Charge 1.

In the proposal notice, the agency alleged that the appellant had improperly used the services of Natalie Pichetvivantana-Mendez;

Specification B: During approximately April-May, 2014, you accepted the assistance of a subordinate employee, Natalie Pichetvivantana-Mendez, to review and edit portions of your SES promotion package.

AF Vol. 1, Tab 6, p. 136.

The appellant testified that Mendez offered to help her update her resume. She recalled that Mendez said she was familiar with the SES application and that she had also assisted a former boss and knew the format. She explained that Mendez offered to help and she accepted the personal offer.

¹ I find the example provided with the government ethics regulation at 5 C.F.R. § 2635.705(b) instructive in this instance: *Example 1*: An employee of the Department of Housing and Urban Development may not ask his secretary to type his personal correspondence during duty hours. Further, directing or coercing a subordinate to perform such activities during nonduty hours constitutes an improper use of public office for private gain in violation of § 2635.702(a). Where the arrangement is entirely voluntary and appropriate compensation is paid, the secretary may type the correspondence at home on her own time. Where the compensation is not adequate, however, the arrangement would involve a gift to the superior in violation of the standards in subpart C of this part.

The appellant acknowledged that she sent Mendez the announcement for the SES position. She recalled that she also sent Mendez a 280B, the Marshals Service form for the merit promotion system. The appellant testified that she expected Mendez to look at the application during a free moment, not during any official duty time.

The appellant remembered that Mendez, when she offered her assistance, indicated that she had helped her prior boss with his application. She said that other agency managers had received help from their subordinates, naming Ron Ruckert, Aldean Lee, and Evan Moarales. She reported also that Evan Driscoll could not get his package approved by OPM, so the director at the time (who had apparently selected Driscoll), instructed his subordinates to recreate Driscoll's package so that it met OPM's requirements.

Natalie Pichet-Vivatana Mendez testified that she works as a Management and Program Analyst in the U.S. Marshals Service Management Support Division. She recalled that in 2013, she worked in the Judicial Security Branch and the appellant was her second-level supervisor. She remembered one afternoon stopping by the appellant's office and offering assistance with her SES application. Mendez asserted that she volunteered her assistance and the appellant "took her up on the offer."

Mendez related that the appellant sent her a copy of the SES vacancy announcement. She recalled that she looked at the appellant's work history information and prepared her resume. She said that after writing it, she sent the resume to the appellant. Mendez admitted that she worked on the resume during regular work hours, even though she did not consider it an official work assignment. Mendez denied having any memory of the appellant telling her to not work on the application during official time. Her recollection was that the conversation was very brief and never covered the distinction between official time or personal time. She said that she volunteered to do the work and was not paid for it.

Regardless of the amount of work, I credit the testimony from Mendez that she worked on the appellant's SES application. Moreover, the work was done during official duty hours and was not compensated. Accordingly, I find preponderant evidence that the appellant accepted the assistance of Natalie Pichetvivatana-Mendez, a subordinate employee, to help write portions of her SES promotion package. Charge 1, Specification B is sustained.

I have sustained both specifications of Charge 1. The charge that the appellant misused her position for private gain is, therefore, sustained.

The agency failed to present preponderant evidence to support Charge 2, that the appellant lacked candor.

The agency charged the appellant with lack of candor. In *Ludlum v. Department of Justice*, 278 F.3d 1280 (Fed. Cir. 2002), the Federal Circuit explained that lack of candor and falsification are distinct charges. While falsification “involves an affirmative misrepresentation, and requires intent to deceive,” lack of candor, by contrast, “is a broader and more flexible concept whose contours and elements depend on the particular context and conduct involved.” *Id.* at 1284. Lack of candor need not involve an affirmative misrepresentation, but “may involve a failure to disclose something that, in the circumstances, should have been disclosed to make the statement accurate and complete.” *Id.* Unlike falsification, lack of candor does not require “intent to deceive.” *Id.* at 1284-85.

Nonetheless, lack of candor “necessarily involves an element of deception.” *Id.* at 1284; *see Parkinson v. Department of Justice*, 815 F.3d 757, 766 (Fed. Cir. 2016); *Rhee v. Department of the Treasury*, 117 M.S.P.R. 640, ¶ 11 (2012), overruled in part on other grounds by *Savage v. Department of the Army*, 122 M.S.P.R. 612 (2015). The Board has held that, in light of *Rhee* and *Parkinson*, a charge of lack of candor requires proof: (1) that the employee gave incorrect or incomplete information; and (2) that she did so knowingly. *Fagnoli v. Department of Commerce*, 123 M.S.P.R. 330, ¶ 17 (2016).

The agency did not present preponderant evidence to support Specification A of the lack of candor charge.

The agency presented the following allegations in the proposal notice under specification A of the second charge:

Specification A: You displayed a lack of candor on February 17, 2016, during your sworn OPR-IA interview, when you stated in part;
" ... *Let me put this very clearly on the record I did not use what Kim wrote or provided.* "

AF Vol. 1, Tab 6, p. 137

The appellant testified that she had no deceptive intent and had no knowledge that what she said to the investigators was in any way inaccurate or untrue. She claimed that she sincerely believed she had instructed both Jolie and Mendez to only work on the application during non-duty hours. She expressed surprise that they would fail to comply with that directive. Further, she asserted that the application was her creation and, regardless of Jolie's insistence, as reported by the investigators, the appellant herself was the author of the application.

The appellant testified that the SES application was due or submitted on May 15, 2014. She noted that the interview with the investigators happened on February 16, 2016, almost two years after she turned in the application. She recalled that the investigators asked her who "authored" the document, but they failed to give her any document to compare while she was being interviewed. She asserted that her responses were based on her recollection. She said that she, alone, made the creative choices about content and editing; she made the stylistic decisions based on her own thought process and ideas.

Jolie testified that she considered the appellant's application an official assignment, because "this is how all her assignments came;" she could have said "no," or she could have talked to her boss (Legus). She claimed that she went and talked to Legus to let him know she would push aside other official duties to accomplish the work on the application. She remembered simply telling Legus

that the appellant wanted her help to write her SES application package. She claimed that she did not work on the application as a personal favor.

Jolie remembered the appellant sending her “many, many documents” to review and incorporate in the application. She asserted that she worked full time, 8 hours a day, 40 hours a week, with her full attention to the SES application assignment. She said she had no time to work on anything else.

Jolie remembered talking to Robin Schroeder about the effort she was putting in to writing the ECQs. She also remembered complaining about the effort to Senator Grassley, that she “may have felt a little defensive.”

She remembered telling Schroeder about all the work she did and that she felt frustrated that it took up so much of her personal time. She asserted that writing the SES project took many 16 hour days of work. She acknowledged that she reviewed ECQs for Greg Legus when he made an SES application, but they were “nothing as intense” as the appellant’s. She asserted that she authored the entire document: “Yes, I wrote them all!”

Robyn Schroeder testified that she worked as an IT (Information Technology) Specialist for the U.S. Marshals Service. She indicated that she knows Kimberly Jolie. She recalled that she talked to Jolie about the appellant’s SES package. She remembered in July or August 2015, reading a letter on Senator Grassley’s page (website) that another director, Kimberly Beal, had subordinates writing her ECQs. She said she talked to Jolie about it. Schroeder recalled that Jolie told her she had written the appellant’s ECQs in evenings when she was off work.

Schroeder reported a second conversation she had with Jolie about a year after the first, in June 2016. She remembered Jolie stepping in to her office and telling her about the appellant’s disciplinary case. She said that Jolie claimed she was the “whistleblower,” and that Jolie wanted to do it because the appellant had made her mad—she was upset about things happening in her work environment.

Schroeder explained that she was unaware that it was improper to use subordinates on their private time to help with a personal application.

I question the plausibility of Jolie's adamant claim that she devoted all her time, both official and a significant portion of her private time for weeks, to the creation of the appellant's application. In this regard, I credit the testimony of Robyn Schroeder that Jolie told her she worked on the application only in the evenings. I find Jolie's descriptions of time usage highly questionable. Further, Schoeder's report that Jolie became somehow embittered and sought occasion to damage the appellant's circumstances lends additional doubt to Jolie's claim of unceasing toil. I do not question that Jolie provided work on the SES application. However, I find it inherently implausible that it was her total and exclusive activity for days on end as she claimed.

Further, although the agency combed through the application, it could identify only a few, very few, phrases common between what Jolie claims she wrote and the actual application submitted by the appellant. The appellant explained that some of the words may be the same, but that is not surprising considering the nature of the application. I find merit in her assertion that the structure of the sentences and the focus of the message is different from Jolie's "draft."

I do not credit the agency's argument that the few sentences and chosen words sprinkled through the first few sentences of only one (out of five) of the ECQ responses (and none of the MTQs) amounts to adequate evidence that Jolie "authored" the application. On the contrary, I credit the appellant's claim that she created, or "authored," the application. She was the one with the personal interest; she was the one responsible for it. Accordingly, I find that the agency has failed to present preponderant evidence: (1) that what the appellant told the investigators was actually incomplete or inaccurate; and (2) that she had any knowledge or belief that her response was in any way inaccurate. *Cf. Fagnoli*, 123 M.S.P.R. 330, ¶ 17. Thus, I find the agency has not provided preponderant

evidence that the appellant lacked candor when she said “Let me put this very clearly on the record. I did not use what Kim wrote or provided.” Specification A is NOT SUSTAINED.

The agency did not present preponderant evidence to support Specification C of the lack of candor charge.

The agency presented the following allegations in the proposal notice under specification C of the second charge:

Specification C: You displayed a lack of candor on February 17, 2016, during your sworn OPR-IA interview, when you minimized the extent of MPA Shelton Jolie's role in assisting you with your SES promotion package.

AF Vol. 1, Tab 6, p. 138.

The appellant testified that she had no idea Jolie’s work on the SES package interfered with her official duties. She said that Jolie never told her it had caused a problem. She stated that Legus, also, did not tell her the SES package work was interfering with Jolie’s official work.

The appellant indicated that she considered Jolie merely as a “second set of eyes” to review her work. She asserted that she knew her application was already “good enough to get in the door” because she had been offered an interview with the prior SES application. She explained that Jolie, apparently on her own volition, went “high and left” taking the volunteer assistance to extreme levels of effort, “going rampant on it” without the appellant’s knowledge.

In a similar manner to my assessment of the “authorship” of the application, I discount the agency’s interpretation of the appellant’s description of Jolie’s contributions. In light of Schroeder’s testimony that Jolie sought occasion to attack the appellant, I find it appropriate to moderate the weight and credit assigned to Jolie’s extravagant claims of work done. I accept the appellant’s perception that Jolie really had little to no substantive contribution to the SES application package; such was her recollection after almost two years had passed since the application was created. Nevertheless, Jolie described herself as

the indispensable, tireless wordsmith, while the appellant came to view her as an intrusive, hyper-sensitive distraction to which she must give some lip-service or risk the consequences of committing some imagined offense. Indeed, this appeal and the investigation that preceded it appear to validate that concern—that it was an outgrowth of some offense felt by Jolie that induced her to become a “whistleblower.” Accordingly, I find that the agency has failed to show knowing deceit or falsity in the appellant’s statement that minimized the extent of Jolie’s assistance on the SES application. Charge 2, Specification C is NOT SUSTAINED.

The agency did not present preponderant evidence to support Specification D of the lack of candor charge.

The agency presented the following allegations in the proposal notice under specification D of the second charge:

Specification D: You displayed a lack of candor on February 17, 2016, during your sworn OPR-IA interview, when you stated that you did not know if assisting you on your SES promotion package interfered with Shelton Jolie's official work.

AF Vol. 1, Tab 6, p. 138.

Based on the evidence already reviewed, I credit the appellant’s testimony that she did not know and was not told that Jolie’s work on the SES application interfered with her official duties—neither by Legus nor by Jolie herself. I credit the appellant’s testimony that she instructed both Jolie and Mendez to only use personal time on the application. Moreover, I discount Jolie’s overwrought descriptions of exclusive, self-sacrificing consecration to the appellant’s cause. Jolie’s subjective choice to wholly commit virtually every waking minute to the appellant’s application was, I find quite understandably, unknown to the appellant.

Again, with Specification D, I find no inconsistency with the appellant’s statement that she did not know if Jolie’s assistance with the appellant’s SES package interfered with Jolie’s official work. Accordingly, I find the agency has

not presented preponderant evidence to support the attribution of that knowledge to the appellant. Specification D is NOT SUSTAINED. I find, therefore, that Charge 2, in its entirety is NOT SUSTAINED.²

The penalty of removal must be mitigated.

An adverse action, such as removal, may be taken by an agency only for such cause as will promote the efficiency of the service. 5 U.S.C. § 7513(a). In other words, there must be a clear and direct relationship between the articulated grounds for an adverse action and either the employee's ability to accomplish her duties satisfactorily or some other legitimate government interest. *Valenzuela v. Department of the Army*, 107 M.S.P.R. 549, ¶ 14 (2007).

The evidence reflects that the appellant's misconduct arose from her status as a supervisor in the U.S. Marshals Service. Her position placed her over the official duties and responsibilities of both Jolie and Mendez. Her status as a supervisor and also as a Federal employee imposed an obligation on her to comply with the ethical restrictions on her authority. The violation sustained, misuse of her position, arose from her official appointment and her official relationship with her subordinate employees. Accordingly, I find a clear and direct relationship between the agency's articulated grounds for the adverse action and the appellant's ability to accomplish her duties as well as other legitimate government interests.

In assessing whether a particular penalty promotes the efficiency of the service, however, it must appear that the penalty takes reasonable account of all relevant mitigating factors in a particular case, referred to as the *Douglas* factors.

² In her prehearing submissions, the appellant raised the affirmative defense of a lack of due process relative to Charge 2, lack of candor, claiming that the agency failed to provide adequate notice of the "words, language, or phrases allegedly provided by Ms. Jolie." AF Vol. 3, Tab 17, p. 14. In light of my findings that the charge is not sustained, I find that additional analysis of the due process claim related to the lack of candor is unnecessary.

See Douglas v. Veterans Administration, 5 M.S.P.R. 280, 299 (1981). If the agency's penalty exceeds the bounds of reasonableness, the Board will mitigate it to the maximum reasonable penalty

Cheryl Jacobs testified that she was the deciding official in the appellant's removal decision. She related that she reviewed the supporting file, including the investigation. She received the appellant's written response and also her oral reply from her attorney.

Jacobs stated that she found the offense serious because the appellant had been the Deputy Assistant Director for Judicial Security. Jacobs noted that the appellant had no prior disciplinary record. She commented that after the proposal notice, but before the issued decision of removal, the appellant had received an oral admonishment. She said that the intervening discipline was not an aggravating factor, but it did show a pattern of misconduct.

Jacobs related that the appellant had received an Outstanding performance appraisal, although it related to her time after being appointed to the SES position.

Jacobs noted that the agency's range of penalties for misuse of position is a reprimand to a 7-day suspension. She commented that, had the misconduct involved only the misuse of position, she would not have imposed removal. She concluded, however, that the lack of candor charge revealed that the agency could not rely on the appellant to perform her duties with integrity and, therefore, removal was the proper penalty.

Jacobs indicated that she did not think rehabilitation was possible because she found the appellant displayed no remorse for her behavior. She recalled that the appellant characterized the whole circumstance as a misunderstanding. Jacobs remembered that the appellant claimed there was no policy in place. She said that the appellant failed to see how it was inappropriate for her to use subordinates work to get her a promotion.

Based on the evidence as a whole, including the deciding official's testimony about what she considered before making her decision, I find that she properly considered the *Douglas* factors. Nevertheless, when not all of the charges are sustained, as in the present appeal, the Board will consider carefully whether the sustained charge merited the penalty imposed by the agency. *Douglas v. Veterans Administration*, 5 M.S.P.R. 280, 308 (1981). If fewer than all of the charges are sustained and the agency has not indicated in either its final decision or in proceedings before the Board that it desires that a lesser penalty be imposed on fewer charges, the Board may mitigate the agency's penalty to the maximum reasonable penalty. *Lachance v. Devall*, 178 F.3d 1246, 1260 (Fed. Cir. 1999).

In this appeal, the deciding official conceded in her hearing testimony that the first charge, standing alone, would not warrant the penalty of removal. She specified, in fact, that the maximum penalty in the agency's Table of Penalties was a 7-day suspension for a first offense. See AF Vol. 2, Tab 9, p. 37 (Section 11, row m, misuse of position/office). Accordingly, I find that the agency's penalty of removal must be mitigated to a 7-day suspension.

DECISION

The agency's action is MITIGATED.

ORDER

I **ORDER** the agency to cancel the removal and substitute in its place a **seven** -day suspension without pay. This action must be accomplished no later than 20 calendar days after the date this initial decision becomes final.

I **ORDER** the agency to pay appellant by check or through electronic funds transfer for the appropriate amount of back pay, with interest and to adjust benefits with appropriate credits and deductions in accordance with the Office of Personnel Management's regulations no later than 60 calendar days after the date this initial decision becomes final. I **ORDER** the appellant to cooperate in good

faith with the agency's efforts to compute the amount of back pay and benefits due and to provide all necessary information requested by the agency to help it comply.

If there is a dispute about the amount of back pay due, I **ORDER** the agency to pay appellant by check or through electronic funds transfer for the undisputed amount no later than 60 calendar days after the date this initial decision becomes final. Appellant may then file a petition for enforcement with this office to resolve the disputed amount.

I **ORDER** the agency to inform appellant in writing of all actions taken to comply with the Board's Order and the date on which it believes it has fully complied. If not notified, appellant must ask the agency about its efforts to comply before filing a petition for enforcement with this office.

For agencies whose payroll is administered by either the National Finance Center of the Department of Agriculture (NFC) or the Defense Finance and Accounting Service (DFAS), two lists of the information and documentation necessary to process payments and adjustments resulting from a Board decision are attached. I **ORDER** the agency to timely provide DFAS or NFC with all documentation necessary to process payments and adjustments resulting from the Board's decision in accordance with the attached lists so that payment can be made within the 60-day period set forth above.

INTERIM RELIEF

If a petition for review is filed by either party, I **ORDER** the agency to provide interim relief to the appellant in accordance with 5 U.S.C. § 7701(b)(2)(A). The relief shall be effective as of the date of this decision and will remain in effect until the decision of the Board becomes final.

As part of interim relief, I **ORDER** the agency to effect the appellant's appointment to the position of Criminal Investigator, GS-1811-15. The appellant shall receive the pay and benefits of this position while any petition for review is

pending, even if the agency determines that the appellant's return to or presence in the workplace would be unduly disruptive.

Any petition for review or cross petition for review filed by the agency must be accompanied by a certification that the agency has complied with the interim relief order, either by providing the required interim relief or by satisfying the requirements of 5 U.S.C. § 7701(b)(2)(A)(ii) and (B). If the appellant challenges this certification, the Board will issue an order affording the agency the opportunity to submit evidence of its compliance. If an agency petition or cross petition for review does not include this certification, or if the agency does not provide evidence of compliance in response to the Board's order, the Board may dismiss the agency's petition or cross petition for review on that basis.

FOR THE BOARD:

_____/S/_____
 David A. Thayer
 Administrative Judge

ENFORCEMENT

If, after the agency has informed you that it has fully complied with this decision, you believe that there has not been full compliance, you may ask the Board to enforce its decision by filing a petition for enforcement with this office, describing specifically the reasons why you believe there is noncompliance. Your petition must include the date and results of any communications regarding compliance, and a statement showing that a copy of the petition was either mailed or hand-delivered to the agency.

Any petition for enforcement must be filed no more than 30 days after the date of service of the agency's notice that it has complied with the decision. If you believe that your petition is filed late, you should include a statement and evidence showing good cause for the delay and a request for an extension of time for filing.

NOTICE TO APPELLANT

This initial decision will become final on **May 1, 2017**, unless a petition for review is filed by that date. This is an important date because it is usually the last day on which you can file a petition for review with the Board. However, if you prove that you received this initial decision more than 5 days after the date of issuance, you may file a petition for review within 30 days after the date you actually receive the initial decision. If you are represented, the 30-day period begins to run upon either your receipt of the initial decision or its receipt by your representative, whichever comes first. You must establish the date on which you or your representative received it. The date on which the initial decision becomes final also controls when you can file a petition for review with the Court of Appeals. The paragraphs that follow tell you how and when to file with the Board or the federal court. These instructions are important because if you wish to file a petition, you must file it within the proper time period.

BOARD REVIEW

You may request Board review of this initial decision by filing a petition for review.

If the other party has already filed a timely petition for review, you may file a cross petition for review. Your petition or cross petition for review must state your objections to the initial decision, supported by references to applicable laws, regulations, and the record. You must file it with:

The Clerk of the Board
Merit Systems Protection Board
1615 M Street, NW.
Washington, DC 20419

A petition or cross petition for review may be filed by mail, facsimile (fax), personal or commercial delivery, or electronic filing. A petition submitted by electronic filing must comply with the requirements of 5 C.F.R. § 1201.14, and

may only be accomplished at the Board's e-Appeal website (<https://e-appeal.mspb.gov>).

NOTICE OF LACK OF QUORUM

The Merit Systems Protection Board ordinarily is composed of three members, 5 U.S.C. § 1201, but currently only one member is in place. Because a majority vote of the Board is required to decide a case, *see* 5 C.F.R. § 1200.3(a), (e), the Board is unable to issue decisions on petitions for review filed with it at this time. *See* 5 U.S.C. § 1203. Thus, while parties may continue to file petitions for review during this period, no decisions will be issued until at least one additional member is appointed by the President and confirmed by the Senate. The lack of a quorum does not serve to extend the time limit for filing a petition or cross petition. Any party who files such a petition must comply with the time limits specified herein.

For alternative review options, please consult the section below titled “Notice to the Appellant Regarding Your Further Review Rights,” which sets forth other review options.

Criteria for Granting a Petition or Cross Petition for Review

Pursuant to 5 C.F.R. § 1201.115, the Board normally will consider only issues raised in a timely filed petition or cross petition for review. Situations in which the Board may grant a petition or cross petition for review include, but are not limited to, a showing that:

(a) The initial decision contains erroneous findings of material fact. (1) Any alleged factual error must be material, meaning of sufficient weight to warrant an outcome different from that of the initial decision. (2) A petitioner who alleges that the judge made erroneous findings of material fact must explain why the challenged factual determination is incorrect and identify specific evidence in the record that demonstrates the error. In reviewing a claim of an erroneous finding of fact, the Board will give deference to an administrative

judge's credibility determinations when they are based, explicitly or implicitly, on the observation of the demeanor of witnesses testifying at a hearing.

(b) The initial decision is based on an erroneous interpretation of statute or regulation or the erroneous application of the law to the facts of the case. The petitioner must explain how the error affected the outcome of the case.

(c) The judge's rulings during either the course of the appeal or the initial decision were not consistent with required procedures or involved an abuse of discretion, and the resulting error affected the outcome of the case.

(d) New and material evidence or legal argument is available that, despite the petitioner's due diligence, was not available when the record closed. To constitute new evidence, the information contained in the documents, not just the documents themselves, must have been unavailable despite due diligence when the record closed.

As stated in 5 C.F.R. § 1201.114(h), a petition for review, a cross petition for review, or a response to a petition for review, whether computer generated, typed, or handwritten, is limited to 30 pages or 7500 words, whichever is less. A reply to a response to a petition for review is limited to 15 pages or 3750 words, whichever is less. Computer generated and typed pleadings must use no less than 12 point typeface and 1-inch margins and must be double spaced and only use one side of a page. The length limitation is exclusive of any table of contents, table of authorities, attachments, and certificate of service. A request for leave to file a pleading that exceeds the limitations prescribed in this paragraph must be received by the Clerk of the Board at least 3 days before the filing deadline. Such requests must give the reasons for a waiver as well as the desired length of the pleading and are granted only in exceptional circumstances. The page and word limits set forth above are maximum limits. Parties are not expected or required to submit pleadings of the maximum length. Typically, a well-written petition for review is between 5 and 10 pages long.

If you file a petition or cross petition for review, the Board will obtain the record in your case from the administrative judge and you should not submit anything to the Board that is already part of the record. A petition for review must be filed with the Clerk of the Board no later than the date this initial decision becomes final, or if this initial decision is received by you or your representative more than 5 days after the date of issuance, 30 days after the date you or your representative actually received the initial decision, whichever was first. If you claim that you and your representative both received this decision more than 5 days after its issuance, you have the burden to prove to the Board the earlier date of receipt. You must also show that any delay in receiving the initial decision was not due to the deliberate evasion of receipt. You may meet your burden by filing evidence and argument, sworn or under penalty of perjury (*see* 5 C.F.R. Part 1201, Appendix 4) to support your claim. The date of filing by mail is determined by the postmark date. The date of filing by fax or by electronic filing is the date of submission. The date of filing by personal delivery is the date on which the Board receives the document. The date of filing by commercial delivery is the date the document was delivered to the commercial delivery service. Your petition may be rejected and returned to you if you fail to provide a statement of how you served your petition on the other party. *See* 5 C.F.R. § 1201.4(j). If the petition is filed electronically, the online process itself will serve the petition on other e-filers. *See* 5 C.F.R. § 1201.14(j)(1).

A cross petition for review must be filed within 25 days after the date of service of the petition for review.

NOTICE TO AGENCY/INTERVENOR

The agency or intervenor may file a petition for review of this initial decision in accordance with the Board's regulations.

**NOTICE TO THE APPELLANT REGARDING
YOUR FURTHER REVIEW RIGHTS**

You have the right to request review of this final decision by the United States Court of Appeals for the Federal Circuit. You must submit your request to the court at the following address:

United States Court of Appeals
for the Federal Circuit
717 Madison Place, N.W.
Washington, DC 20439

The court must receive your request for review no later than 60 calendar days after the date this initial decision becomes final. *See* 5 U.S.C. § 7703(b)(1)(A) (as rev. eff. Dec. 27, 2012). If you choose to file, be very careful to file on time. The court has held that normally it does not have the authority to waive this statutory deadline and that filings that do not comply with the deadline must be dismissed. *See Pinat v. Office of Personnel Management*, 931 F.2d 1544 (Fed. Cir. 1991).

If you need further information about your right to appeal this decision to court, you should refer to the federal law that gives you this right. It is found in Title 5 of the United States Code, section 7703 (5 U.S.C. § 7703) (as rev. eff. Dec. 27, 2012). You may read this law as well as other sections of the United States Code, at our website, <http://www.mspb.gov/appeals/uscode/htm>. Additional information is available at the court's website, www.cafc.uscourts.gov. Of particular relevance is the court's "Guide for Pro Se Petitioners and Appellants," which is contained within the court's Rules of Practice, and Forms 5, 6, and 11.

If you are interested in securing pro bono representation for your court appeal, that is, representation at no cost to you, the Federal Circuit Bar Association may be able to assist you in finding an attorney. To find out more, please click on this link or paste it into the address bar on your browser:

<https://fedcirbar.org/Pro-Bono-Scholarships/Government-Employees-Pro-Bono/Overview-FAQ>

The Merit Systems Protection Board neither endorses the services provided by any attorney nor warrants that any attorney will accept representation in a given case.



DFAS CHECKLIST

INFORMATION REQUIRED BY DFAS IN ORDER TO PROCESS PAYMENTS AGREED UPON IN SETTLEMENT CASES OR AS ORDERED BY THE MERIT SYSTEMS PROTECTION BOARD

AS CHECKLIST: INFORMATION REQUIRED BY IN ORDER TO PROCESS PAYMENTS AGREED UPON IN SETTLEMENT
CASES

CIVILIAN PERSONNEL OFFICE MUST NOTIFY CIVILIAN PAYROLL OFFICE VIA COMMAND LETTER WITH THE FOLLOWING:

1. Statement if Unemployment Benefits are to be deducted, with dollar amount, address and POC to send.
2. Statement that employee was counseled concerning Health Benefits and TSP and the election forms if necessary.
3. Statement concerning entitlement to overtime, night differential, shift premium, Sunday Premium, etc, with number of hours and dates for each entitlement.
4. If Back Pay Settlement was prior to conversion to DCPS (Defense Civilian Pay System), a statement certifying any lump sum payment with number of hours and amount paid and/or any severance pay that was paid with dollar amount.
5. Statement if interest is payable with beginning date of accrual.
6. Corrected Time and Attendance if applicable.

ATTACHMENTS TO THE LETTER SHOULD BE AS FOLLOWS:

1. Copy of Settlement Agreement and/or the MSPB Order.
2. Corrected or cancelled SF 50's.
3. Election forms for Health Benefits and/or TSP if applicable.
4. Statement certified to be accurate by the employee which includes:
 - a. Outside earnings with copies of W2's or statement from employer.
 - b. Statement that employee was ready, willing and able to work during the period.
 - c. Statement of erroneous payments employee received such as; lump sum leave, severance pay, VERA/VSIP, retirement annuity payments (if applicable) and if employee withdrew Retirement Funds.
5. If employee was unable to work during any or part of the period involved, certification of the type of leave to be charged and number of hours.



NATIONAL FINANCE CENTER CHECKLIST FOR BACK PAY CASES

Below is the information/documentation required by National Finance Center to process payments/adjustments agreed on in Back Pay Cases (settlements, restorations) or as ordered by the Merit Systems Protection Board, EEOC, and courts.

1. Initiate and submit AD-343 (Payroll/Action Request) with clear and concise information describing what to do in accordance with decision.
2. The following information must be included on AD-343 for Restoration:
 - a. Employee name and social security number.
 - b. Detailed explanation of request.
 - c. Valid agency accounting.
 - d. Authorized signature (Table 63)
 - e. If interest is to be included.
 - f. Check mailing address.
 - g. Indicate if case is prior to conversion. Computations must be attached.
 - h. Indicate the amount of Severance and Lump Sum Annual Leave Payment to be collected. (if applicable)

Attachments to AD-343

1. Provide pay entitlement to include Overtime, Night Differential, Shift Premium, Sunday Premium, etc. with number of hours and dates for each entitlement. (if applicable)
2. Copies of SF-50's (Personnel Actions) or list of salary adjustments/changes and amounts.
3. Outside earnings documentation statement from agency.
4. If employee received retirement annuity or unemployment, provide amount and address to return monies.
5. Provide forms for FEGLI, FEHBA, or TSP deductions. (if applicable)
6. If employee was unable to work during any or part of the period involved, certification of the type of leave to be charged and number of hours.
7. If employee retires at end of Restoration Period, provide hours of Lump Sum Annual Leave to be paid.

NOTE: If prior to conversion, agency must attach Computation Worksheet by Pay Period and required data in 1-7 above.

The following information must be included on AD-343 for Settlement Cases: (Lump Sum Payment, Correction to Promotion, Wage Grade Increase, FLSA, etc.)

- a. Must provide same data as in 2, a-g above.
- b. Prior to conversion computation must be provided.
- c. Lump Sum amount of Settlement, and if taxable or non-taxable.

If you have any questions or require clarification on the above, please contact NFC's Payroll/Personnel Operations at 504-255-4630.

Exhibit C

Wojdylo, Jason (USMS)

From: Auerbach, Gerald (USMS)
Sent: Friday, November 16, 2018 1:34 PM
To: Wojdylo, Jason (USMS)
Cc: Anderson, David (USMS); Internal Affairs (USMS); [REDACTED] (USMS); OPR Complaints; [REDACTED], [REDACTED] (OIG); Federal Managers Assoc.(USMS); [REDACTED]@judiciary-rep.senate.gov; Dickinson, Lisa (USMS); [REDACTED], [REDACTED] (OIG)
Subject: Re: Reporting Misconduct

I am out today. Thank you for your input. I will review the materials further. Have a nice weekend and holiday.

Sent from my iPhone

On Nov 16, 2018, at 1:47 PM, Wojdylo, Jason (USMS) [REDACTED] wrote:

Good Afternoon –

I very much appreciate your response. I pray your “review” concludes soon. After all, the Congressional investigation began in early 2015, and the Agency had the draft OIG report by at least December 2017, or 11 months ago.

I share with you the attached email from a former senior agency official. Handwritten notes appear to have identified me as the source of protected disclosures involving what the OIG detailed in its [Report](#) were: 1) Violations of the Standards of Ethical Conduct; 2) prohibited personnel actions; 3) lack of candor; 4) a failure to exercise reasonable care in investigating the allegations and crafting the draft response to Congress; and, 5) other troubling conduct. It seems the same senior agency official may have been suggesting a “reassignment” was in order. It is abundantly clear doing so, of course, would very likely have constituted a prohibited personnel practice. If his notes, he wisely didn’t follow through on what may have been his initial thoughts. That said, it is most troublesome that may have been his attitude at the time.

Fundamentally, it is my hope—and that of many of my colleagues—that the USMS has begun to recognize the value of whistleblowers and that the term is no longer viewed as a dirty word at the USMS. This week, a distinguished colleague of ours shared with me an [article](#) published in the Harvard Business Review that reminds us all that it takes courage to call attention to “internal misdeeds,” particularly at the top of an organization where the tone is set for expectations of the rank and file. We heard that last week at the USMS National Management Conference.

I continue to be optimistic that someday soon the USMS will establish the standard set at the FBI (second attachment). On behalf of all of those who promote accountability in government I respectfully ask for your leadership in

achieving this vision so these employees are recognized as “a sign of health, not illness.” Thank you.

Jason R. Wojdylo
Acting Chief Deputy U.S. Marshal
Northern District of Illinois
U.S. Marshals Service
Chicago, Illinois 60604
[REDACTED] – office
[REDACTED] – mobile

From: Auerbach, Gerald (USMS)
Sent: Wednesday, November 14, 2018 2:46 PM
To: Wojdylo, Jason (USMS) [REDACTED]
Cc: Anderson, David (USMS) [REDACTED]; Internal Affairs (USMS)
[REDACTED]; [REDACTED], John (USMS) [REDACTED]; OPR Complaints
[REDACTED]; [REDACTED] (OIG)
[REDACTED]; Federal Managers Assoc.(USMS) [REDACTED];
[REDACTED]@judiciary-rep.senate.gov'; Dickinson,
Lisa (USMS) [REDACTED]
Subject: RE: Reporting Misconduct

Acting Chief Deputy- thank you for your email. We are reviewing the OGC practice regarding reporting allegations of misconduct arising in lawsuits, tort claims, grievances, EEO complaints, ADRs, etc., received by this office. We are already in the process of contacting other DOJ OGCs to determine their practices inasmuch as there is no DOJ guidance. The practice here has been not to routinely refer all tort claims, lawsuit, and grievance allegations of misconduct for OPR/OIG investigation. USMS policy does not provide for reporting allegations of misconduct for investigation to USM/OGC. Rather, the report is to made to OPR. **Our review of this matter is ongoing.**

From: Wojdylo, Jason (USMS)
Sent: Wednesday, November 14, 2018 3:01 PM
To: Auerbach, Gerald (USMS) [REDACTED]
Cc: Anderson, David (USMS) [REDACTED]; Internal Affairs (USMS)
[REDACTED]; [REDACTED] (USMS) [REDACTED]; OPR Complaints
[REDACTED]; [REDACTED] (OIG)
[REDACTED]; Federal Managers Assoc.(USMS) [REDACTED];
[REDACTED]@judiciary-rep.senate.gov'
Subject: Reporting Misconduct

Good Afternoon Gerry –

I recently had an opportunity to read the Agency’s response to the draft OIG report entitled, “A Review of Allegations of Improper Hiring Practices in the United States Marshals Service and Related Matters” (my true name was mentioned therein). I was particularly struck by the section, “Comments of USMS Office of General Counsel.”

- Under 1. it reads, “The USMS Office of General Counsel (OGC) is not the appropriate office in the USMS to report allegations of misconduct for investigation to. The OGC does not conduct misconduct investigations. An employee with knowledge of alleged misconduct must report the information to his or her supervisor for reporting to the USMS Office of Professional Responsibility.”
- Under 2. it reads, “As a practice, every lawsuit, tort claim, and employee complaint allegation presented to the USMS OGC is not forwarded or reported to USMS OPR. The proper procedure is for the employee to report to his supervisor for reporting to USMS OPR as stated above.”
- Under 3. it reads, “OGC was not aware, nor would it have been aware, whether grievant Wojdylo had in fact forwarded his allegations of quid pro quo to USMS OPR since USMS OPR does not routinely disclose what allegations are made to it. The reasonable expectation would be that Mr. Wojdylo had done so since he was very familiar with the USMS OPR filing process.”
- Under 5. it reads, “While General Counsel (GC) Gerald Auerbach believes that grievant Wojdylo’s allegation of quid pro quo should have been reported to the USMS OPR, Wojdylo was responsible for reporting the allegations to his supervisor or reporting it to the USMS OPR.” It goes onto say, “Mr. Wojdylo was very well versed in OPR reporting and knew the process intimately.”
- Under 8. it reads, “Had anyone referred the matter to USMS OPR at some point from 2011 forward, more may have been known and the Congressional response could have perhaps been different.”

I bring to your attention the attachments, the second from the USMS Ethics Officer—an OGC attorney—dating back to February 2012, that explicitly states OGC is, in fact, a repository for allegations of misconduct. Moreover, in June 2014 (third attachment), a subordinate employee was told by OGC, “OGC attorneys have the same obligation to report alleged misconduct as any other USMS employees.” Also in June 2014, a USMS OPR official asserts, “To be sure, all USMS employees, to include OGC attorneys, have a duty to report employee misconduct to the Office of the Inspector General and/or the Office of Inspection - Internal Affairs.” It has more recently come to my attention that OGC may have directed the Office of the Ombuds to report all allegations of misconduct to OPR. If true, the USMS Code of Professional Responsibility applies to all employees, regardless of assignment. Thus, all of this information appears to be contrary to the Agency’s response to the OIG in January 2018 (*i.e.*, others within the Agency, to include the USMS Ethics Officer and OPR, affirmatively take a different position).

It seems the OIG may have rejected each of the responses by OGC in its [final report](#) of September 20, 2018. Given OPR’s response of September 28,

2018, to the subordinate employee remains unanswered, is there an opportunity to better understand OGC's reporting obligation(s) of non-frivolous allegations of misconduct to OPR in light of more than six years of conflicting information from what was reported to the OIG earlier this year?

I am also particularly interested in understanding how, according to OIG's final report, Lisa Dickinson, then and now second in command at OGC, found it appropriate to forward my protected disclosures to Kim Beal on Monday March 23, 2015, or four days after Chairman Grassley's letter (at page 80, "On Monday, March 23, Dickinson forwarded to Beal the employee's February 20, 2014, email to Zimmermann."), yet OGC believes it is absolved from reporting allegations of misconduct to OPR? After all, Beal was known to Dickinson at the time to be a subject of the Congressional investigation. It goes without saying greater importance appears to have been placed upon the Dickinson to Beal exchange than was sharing with the Department all known information so it may timely respond to Congress accurately (*i.e.*, according to the OIG's final report Dickinson forwarded to Beal my protected disclosures on March 23, three days *before* the Department's March 26 response to Congress; at page ii, "The Department issued a letter to Senator Grassley on March 26, 2015, that contained information that was plainly inconsistent with representations made in an email communication written by one of the individuals whose conduct was the subject of Senator Grassley's inquiry.").

The OIG concluded William Snelson lacked candor in his responses (at page 48, "We did not find credible Snelson's statements that he was unable to recall key events in Palmer's hire or actions that he clearly took, and therefore believe his testimony to the OIG lacked candor"). Similarly, based on the totality of the aforementioned information does it raise legitimate questions about the forthrightness of the response(s) by OGC officials to the OIG and Congress, as well? Candidly, I find the attempt to deflect responsibility to me to be quite troublesome.

I look forward to hearing back from you. Thank you.

Jason R. Wojdylo
Acting Chief Deputy U.S. Marshal
Northern District of Illinois
U.S. Marshals Service
Chicago, Illinois 60604

– office
– mobile

P.S. – I have considered your advice and out of an abundance of caution copied my supervisor, OPR, OIG, and Congress to cover any reporting requirements.

<Musel_email.pdf>

<Chairman Grassely_Comey.pdf>



U.S. Department of Justice
United States Marshals Service
Office of the Director

Washington, D.C. 20530-1000

January 30, 2018

MEMORANDUM TO: Michael Horowitz
Inspector General

FROM: David J. Anderson *David J. Anderson*
Acting Deputy Director

SUBJECT: USMS's Response to Draft OIG Report Entitled "A Review of Allegations of Improper Hiring Practices in the United States Marshals Service and Related Matters."

This is response to your Memorandum dated December 20, 2017 to Deputy Director David L. Harlow on this subject. Your Memorandum provided a copy of the draft Office of Inspector General (OIG) Report on the above-captioned subject and requested the United States Marshals Service (USMS) to comment on the draft Report, including whether there are any factual inconsistencies, and also requested a sensitivity review and the USMS views on whether information in the Report is inappropriate for public release.

As you know, David Harlow retired from the USMS on January 3, 2018, and the undersigned was designated by the Deputy Attorney General as the Acting Deputy Director effective January 4, 2018. In my role as Acting Deputy Director, I am committed to assuring the best possible personnel, administrative, and operational practices for the USMS, learning from the past and seeking to use those lessons in the future. In particular, I desire that the hiring practices of the USMS be fair and impartial and above reproach at all times.

I have thoroughly reviewed the draft Report. In the draft Report, OIG concluded that the hiring of a contractor employee in January 2012 was improper as an unfair preference, and that the hiring of an administrative employee in August 2010 also involved an unfair preference. The OIG also concluded that there was no illegal quid pro quo in connection with the January 2012 contractor employee hiring, that there was no illegal quid pro quo in connection with the August 2010 administrative hiring, and that there was no quid pro quo in connection with the promotion of Kimberly Beal to Assistant Director for Asset Forfeiture. In addition, OIG concluded that there was no violation of "internal controls" by allowing an administrative employee to manage a program that was not under the control of her husband who supervised another division, and that the reassignment of that same administrative employee to another division after her husband was elevated to be within her chain of command did not involve any improper preferential treatment.

Finally, the OIG found that an inaccuracy in a Congressional response was due to a flawed process, and specific failures of the retired USMS Director and a retired Assistant Director.

I have noted that the only specific recommendation made in the draft Report, at page 48, is for the USMS to review former Associate Director for Operations (ADO) William Snelson's conduct in connection with the hiring of an administrative employee in August 2010 for disciplinary or administrative action. As an update for your office, ADO Snelson retired from the USMS on December 31, 2017, and is no longer a USMS employee. Inasmuch as referrals of misconduct findings were not made against the retired USMS Director and a retired USMS Assistant Director due to their separation from the federal government, we would expect the same action would follow with respect to retired ADO Snelson.

The findings of improper preferential treatment are taken very seriously and are a very important concern as the USMS moves forward. We believe that proper hiring practices are crucial to the best interests of the USMS, the Department of Justice and the public interest. While the Report details two specific hiring violations, there does not appear to be evidence of a pattern or continuing violations of improper hiring in the Report. Nonetheless, I am committed to emphasizing the need for fair and impartial hiring practices in the USMS.

With respect to your request for a sensitivity and public release review, as well as a review of factual inaccuracies, the following is provided.

Sensitivity Review/Public Release

While the draft Report does not appear to include any law enforcement sensitive information, we do believe that public release of the Report would potentially violate legal privacy protections. While we recognize that this draft Report has been categorized as an Oversight and Review Report, as opposed to a Misconduct Investigation Report, the draft Report does not contain any programmatic recommendations to the agency, and no recommendations at all other than disciplinary consideration for ADO Snelson, which is now moot. Instead, the draft Report deals with discrete and specific allegations of misconduct regarding preferential treatment in employment. Allegations are specifically lodged against four retired agency employees. The draft Report finds violations in two instances, involving three of the retired employees. The referrals of misconduct findings regarding these allegations would have led to disciplinary consideration. Thus, by all appearances, this is a misconduct investigation. The OIG website provides, "Misconduct Investigation Reports are only published in summary form without names being used." The OIG website also notes that for a Misconduct Investigation the subject is provided an opportunity to review the Report and summary for comment by the subject employee. In this case, the subject employees were provided an opportunity to review the draft Report and comment to the OIG. Thus, by all appearances, the draft Report is a Misconduct Investigation.

Moreover, it appears that public release of the Report may violate the Privacy Act of 1974, 5 U.S.C. 552a. As you know, under the Privacy Act, OIG has published a system of records notice, Justice/OIG-001, in the Federal Register, 72 FR 36725 (July 5, 2007), describing the "Office of Inspector General Investigative Records" Privacy Act system of records. The records included in the system of records include investigative reports on former Department of Justice employees subject to misconduct investigations. This draft Report seems to fit squarely within the category of records described by this system of records since it deals specifically with alleged misconduct violations by the four former USMS employees.

The disclosure of records from a system of records is governed by 5 U.S.C. 552a(b) of

the Privacy Act. As to public release, the applicable provision is “routine use.” 5 U.S.C. 552a(b)(3). The routine uses for the Justice/OIG-001 system of records are listed in the system notice cited above. As for public release, a routine use is allowed for disclosure pursuant to 28 C.F.R. § 50.2 when it is determined that release would not constitute an unwarranted invasion of personal privacy. *See* 72 FR 36725, at (K). 28 C.F.R. § 50.2 provides for public release of certain information in criminal and civil cases. It does not deal with administrative investigative reports.

Accordingly, there is reason to believe that public release of the Report, which deals exclusively with misconduct allegations, would violate the Privacy Act of 1974. The USMS is not the pre-eminent Privacy Act expert in the Department of Justice, but we suggests that OIG consult with the Office of Privacy and Civil Liberties before any public release of this Report is made.

Factual Accuracy and Legal Review

The USMS understands that the draft Report has been made available to former Director Stacia Hylton, former Associate Director for Operations William Snelson, former Assistant Director for Asset Forfeiture Kimberly Beal, and former Acting U.S. Marshal David Sligh. We understand they have been provided the opportunity to assert any factual inaccuracies they may contend are present. Thus, the USMS will defer to their individual responses on factual inaccuracies as to any facts or conclusions related to them. As for the others mentioned in the draft Report, including former Associate Director for Administration David Musel (retired effective December 31, 2017), Office of Congressional Affairs Chief William Delaney, and the USMS Office of General Counsel, specific comments from them are included in the Attachment at the end of this response. Of course, in the absence of transcripts of interviews conducted by OIG and review of documents collected by OIG, any of these comments are based on personal recollection and the limited documents that each person may have.

Notwithstanding, we believe there are legal issues which were not considered by OIG relevant to this draft Report which should be considered. In particular, with respect to the legal conclusion in Chapter Two regarding the finding that former Director Hylton improperly “recommended” Donald Lenzie for a contractor employee position, the OIG fails to consider the significance of 5 C.F.R. § 2635.702(b), which states in part, that an employee:

“may sign a letter of recommendation using his official title only in response to a request for an employment recommendation or character reference based upon personal knowledge of the ability or character of an individual with whom he has dealt in the course of Federal employment or whom he is recommending for Federal employment.”

This regulatory language has no express limitation on employee recommendations for persons seeking employment in the recommending employee’s agency or even for positions under the recommending person’s supervision. This regulation would appear to specifically apply to any recommendation made by former Director Hylton for Donald Lenzie, who was seeking federal employment and who was well qualified.¹

In addition, the Office of Government Ethics (OGE) opined on this subject in DO-07-023

¹ In addition, the DOJ Office of Legal Counsel specifically approved a HUD program allowing for monetary awards to its employees for recommending potential candidates, including friends, to fill certain jobs. 13 OLC 277, 1989 WL 595846 (August 17, 1989). Under the award program, recommendations were allowed for positions within the recommending employee’s agency, without any mentioned exclusion for positions under the recommending employee’s supervision.

(August 1, 2007) regarding the “Misuse of Federal Position to Help Another Person Get a Job.” The advice dealt with employment recommendations by federal employees for others’ private employment based on their work with the Federal government, but analyzed the issue under the private gain standard. The OGE recognized that there was no “bright line” and set out several factors to consider. The fact that Lenzie had already applied for the position before he contacted former Director Hylton, that Lenzie had substantial federal experience of which Hylton was aware, and that he was well qualified for the positions are favorable factors. Specifically, OGE stated that:

An employment contact made on behalf of a current or former Federal Government colleague or subordinate may appear to be akin to a written recommendation permitted by section 2635.702(b). In such cases, the employee would be able to comment based on personal knowledge how and why he believes the Federal colleague or subordinate would make a valuable contribution to the prospective employer.

***Id.* at p. 6.**

Thus the issue of federal employees making employment recommendations of others for federal employment has been subject to differing analyses. At minimum, the legality of recommendation of candidates for federal employment based on an employee’s knowledge of the applicant’s specific skills and experience, even within the recommending employee’s own agency or under the recommender’s supervision, was not clear in 2011 when the Lenzie matter occurred. Not until February 2015, when the OIG issued Report 15-04 finding that a recommendation for federal employment by a federal employee was in violation of 5 C.F.R. § 2635.702, was the OIG on record in this regard to the best of our knowledge. Nor has OGE ever forbidden such recommendations to our knowledge. We believe this should be taken into consideration.

Thank you for the opportunity to comment on this draft Report.

Attachment

Attachment

Comments of former Associate Director for Administration David Musel

1. Page 24, second full paragraph: "The interview panel was chaired by the AD for the Witness Security Division, and included . . ." should read, "The interview panel was chaired by the Associate Director for Administration, and included . . ."
2. Page 73, first full paragraph, first sentence is incomplete . . . "email and told him that she found the record "further review," and Delaney . . ." There appears to be a missing word after "record."
3. Beginning page 79: Substantively, the OIG is incorrect in their characterization of actions taken by the Agency regarding DOJ's inaccurate response to Congressional inquiries. I specifically recall asking relevant parties of the allegation (namely Director Hylton and AD Beal) to search their records for email communications. I also specifically recall telling Director Hylton she needed to search her "personal" computer. I was in her office when she conducted a search on her office computer. I also asked her to search her computer at home. During that visit, no additional records were discovered on her office computer.
4. I also specifically recall that I knew that it was impossible to know with 100% certainty that we had all relevant emails and that it was a judgment call on the level of confidence that we had the relevant information before releasing the letter to OLA.
5. Also, I did think to expand the search of records on/about the day we released the draft to OLA because it occurred to me at that time that, although highly unlikely, other people in the division *may* have relevant records and that it was prudent to continue to seek information. It did not occur to me earlier to ask for a division-wide search.

Comments of Chief, Office of Congressional Affairs William Delaney

1. The USMS Office of Congressional Affairs made a good faith effort to gather and analyze the information made available to it in the seven day period of time set by Senator Grassley's March 19, 2015 letter, and the Department's response on March 26, 2015. We accept and appreciate the OIG's suggestion that, despite unrealistic demands for responses in short periods of time, we should take appropriate care and caution to ensure we provide accurate responses to complex oversight allegations.

Comments of USMS Office of General Counsel

1. The USMS Office of General Counsel (OGC) is not the appropriate office in the USMS to report allegations of misconduct for investigation to. The OGC does not conduct misconduct investigations. An employee with knowledge of alleged misconduct must report the information to his or her supervisor for reporting to the USMS Office of Professional Responsibility. See USMS Policy Directive 2.3(D)(1).
2. The USMS OGC receives many allegations of employee misconduct in connection with lawsuits, tort claims, employee complaints, among others. The USMS OGC has no personal knowledge related to these allegations. As a practice, every lawsuit, tort claim, and employee complaint allegation presented to the USMS OGC is not forwarded or reported to USMS OPR. The proper procedure is for the employee to report to his supervisor for reporting to USMS OPR.

as stated above.

3. In connection with the 2013 Alternative Dispute Resolution (ADR), grievant Wojdylo presented three issues to Attorney [REDACTED] none of which were related to the ADR subject matter. One involved the LGBT Recognition Day, one involved a bowling party, and one involved Mr. Lenzie. Although grievant received no reply from USMS OGC on these matters, the only issue he raised with the Associate Director for Administration in February 2014 was the LGBT Recognition Day issue. OGC was not aware, nor would it have been aware, whether grievant Wojdylo had in fact forwarded his allegations of quid pro quo to USMS OPR since USMS OPR does not routinely disclose what allegations are made to it. The reasonable expectation would be that Mr. Wojdylo had done so since he was very familiar with the USMS OPR filing process.

4. USMS OGC had no knowledge whether former USMS Director Hylton had recommended Mr. Lenzie or not. She indicated that she had not. Nor would USMS OGC have had any reason to believe that Assistant Director Beal received a promotion as a quid pro quo (which OIG has concluded was not the case).

5. While General Counsel (GC) Gerald Auerbach believes that grievant Wojdylo's allegations of quid pro quo should have been reported to the USMS OPR, Wojdylo was responsible for reporting the allegations to his supervisor or reporting it to the USMS OPR. The events occurred in 2011 and grievant Wojdylo did not even raise it until December 2013, and then only in his own ADR. Mr. Wojdylo was very well versed in OPR reporting and knew the process intimately.

6. Contrary to the draft Report's summary, at page 76, there was no reason for the OGC to suggest that the Congressional response be amended to reflect that OGC had learned of the quid pro quo allegations before the Senator Grassley letter of March 19, 2015. Since OGC had no basis for believing the validity of the quid pro quo allegation (which OIG has now concluded was not valid), it is unclear how the prior filing of the same untrue allegation would be relevant to the Congressional response.

7. Contrary to the draft Report's inference on page 81, second paragraph, when Senator Grassley's March 19, 2015, letter was responded to, the quid pro quo allegation was on record and there was no reason for USMS OGC to report anything to USMS OPR in March 2015.

8. Although it is implied that the USMS OGC's "failure" to report the quid pro quo allegations attributed to the error in the Congressional response of March 26, 2015, there is no basis for that implication other than mere conjecture. Had anyone referred the matter to USMS OPR at some point from 2011 forward, more may have been known and the Congressional response could have perhaps been different. The Congressional inquiry itself may not have been necessary at all. But, even if a USMS OPR investigation had been commenced, there is no way of telling what information would have been obtained or when. Since history cannot be recreated, OIG's supposition is pure speculation. In fact, the Congressional response was apparently based on misunderstanding or differing views on the definition of the term "recommendation," and was immediately addressed upon discovery of the issue.

Musel, David (USMS)

From: Beal, Kim (USMS)
Sent: Tuesday, April 21, 2015 7:35 AM
To: Musel, David (USMS)
Cc: [REDACTED] (USMS)
Subject: Re: Other Than

Assigned to Asset Management - [REDACTED] and [REDACTED] - reports to [REDACTED], specifically International Operations.

Regional Program Managers - reports to Jason Wojdylo -

[REDACTED] - W/WA
[REDACTED] - S/TX
[REDACTED] - M/FL
[REDACTED] - S/NY

1 vacancy

*WR
Reassignment*

Brett [REDACTED] - reports to Tim

Total - 9.

Sent from my iPad

On Apr 21, 2015, at 7:18 AM, [REDACTED] (USMS) [REDACTED] wrote:

We have 8 deputies in total assigned to AFD. The 2 you list, plus 5 regional managers (1 is currently vacant):

[REDACTED] (W/Wa)
[REDACTED] (S/NY)
[REDACTED] (S/TX)
[REDACTED] (M/FL)

And Chris [REDACTED] (sp?) Assigned to HQS.

From: Musel, David (USMS)
Sent: Tuesday, April 21, 2015 07:07 AM
To: Beal, Kim (USMS); [REDACTED] (USMS)
Subject: Other Than

Other than the AFFIs in the districts, how many 1811's in AFD?

Jason
TJ

Anyone else?

Confirm that the AFFIs are assigned to district chain-of-command??

David F. Musel, J.D.
Associate Director for Administration
United States Marshals Service
[REDACTED] Direct

Subject: FW: Compliance with Standards Against Nepotism and Conflicts of Interest

From: [REDACTED], [REDACTED] (USMS)
Sent: Monday, February 13, 2012 7:05 PM
To: Wojdylo, Jason (USMS)
Subject: Fw: Compliance with Standards Against Nepotism and Conflicts of Interest

From: [REDACTED], [REDACTED] (USMS)
Sent: Monday, February 13, 2012 03:49 PM
To: [REDACTED], [REDACTED] (USMS)
Cc: [REDACTED], [REDACTED] (USMS)
Subject: RE: Compliance with Standards Against Nepotism and Conflicts of Interest

[REDACTED]

I am sorry for the delay in getting back to you.

- 1) If your first paragraph refers to nepotism violations, we may or may not refer to OSC. OII investigates such matters and management may take action against an employee if the facts support the charge(s). Any employee may refer an allegation of misconduct within the scope of OSC, to OSC.
- 2) Nepotism, by definition, does not involve contract employees. The statute applies to federal employees being involved in the hiring of relatives (of a certain family relationship) into federal service. Aside from nepotism, it may not be appropriate for a federal employee to be involved with the hiring of a relative by a contract company to perform work in the USMS. The process is not supposed to work you describe it. A USMS employee should not be telling a contract company who to hire to fill a USMS need under the contract. A USMS employee may pass along the resume of anyone to the contract company to consider for hiring, but generally positions should not filled at the contract company with specific persons USMS employees "designate" or choose. Friends of USMS employees may apply for, and accept a position with the contract company as long as there is a need, and they qualify for the position. Once on board, such contract employees should fulfill functions that are contained in the SOW, etc. While I understand you are saying this may not always be the case, it is also true that oftentimes what USMS employees hear about a matter is not complete or accurate.
- 3) Finally, as you know, allegations of misconduct by USMS employees in contracts, hiring, etc., should be brought to the attention of supervisors, OII, OGC, or OIG.

Thanks,

[REDACTED]

From: [REDACTED], [REDACTED] (USMS)
Sent: Wednesday, January 11, 2012 3:58 PM
To: [REDACTED], [REDACTED] (USMS)
Cc: [REDACTED], [REDACTED] (USMS)
Subject: Re: Compliance with Standards Against Nepotism and Conflicts of Interest

Ok I will standby.

Can I least get one of you to answer my first question - basically a yes or no question.

Thanks.

Sent from Blackberry device

From: [REDACTED], [REDACTED] (USMS)
Sent: Wednesday, January 11, 2012 01:15 PM
To: [REDACTED], [REDACTED] (USMS)
Cc: [REDACTED], [REDACTED] (USMS)
Subject: RE: Compliance with Standards Against Nepotism and Conflicts of Interest

As soon as I can. I have a queue, and questions to answer in the order I receive them as soon as I am able....

Thanks,

[REDACTED]

From: [REDACTED], [REDACTED] (USMS)
Sent: Tuesday, January 10, 2012 5:01 PM
To: [REDACTED], [REDACTED] (USMS)
Cc: [REDACTED], [REDACTED] (USMS)
Subject: RE: Compliance with Standards Against Nepotism and Conflicts of Interest

[REDACTED],

Any idea on when you might be able to answer my questions?

[REDACTED] [REDACTED]

Assistant Chief Inspector
Asset Forfeiture Division

[REDACTED] – office
[REDACTED] – mobile

From: [REDACTED], [REDACTED] (USMS)
Sent: Friday, January 06, 2012 4:15 PM
To: [REDACTED], [REDACTED] (USMS)
Cc: [REDACTED], [REDACTED] (USMS)
Subject: RE: Compliance with Standards Against Nepotism and Conflicts of Interest

Luis,

Happy New Year to you also! Hope your holidays were great. I'm copying [REDACTED] [REDACTED] on this so that he may weigh in. You raise interesting questions and I would prefer that you get the correct response from OGC.

Hope this finds you well.

[REDACTED]

From: [REDACTED] (USMS)
Sent: Friday, January 06, 2012 3:14 PM
To: [REDACTED] (USMS)
Subject: FW: Compliance with Standards Against Nepotism and Conflicts of Interest

Hi [REDACTED],

Happy New Year.

Reference the email and attachment can you tell me if the agency forwards violations of Title 5 to the Office of Special Counsel for further investigation when they are discovered or are the violations handled internally? As you know there have been several violations in the past few years and to the normal employee little to nothing is ever done to hold the public official/employee accountable.

Also, does Title 5 include contract employees? Example; a senior manager who has jurisdiction over another manager recommends a person/friend for a high level (well paid)contractor position. The manager who has the vacancy wants to stay in the good graces of the senior manager. The manager knows promotions will be coming up in the near future and does not want to do anything to hurt their chances so they hire the person that was recommended by the senior manager. There is no doubt that the only reason the person was hired for the contractor position was because of their relationship with the senior manager and the perceived notion that if the recommended person was not hired, the manager would not be considered for future promotions.

Thanks for your help,

[REDACTED]
Assistant Chief Inspector
Asset Forfeiture Division
[REDACTED] – office
[REDACTED] – mobile

From: Administrative Notices (USMS)

Sent: Thursday, January 05, 2012 10:44 AM

To: USMS-ALL

Cc: [REDACTED], [REDACTED] (USMS); [REDACTED], [REDACTED] (USMS); [REDACTED], [REDACTED] (USMS); [REDACTED], [REDACTED] (USMS); [REDACTED], [REDACTED] (USMS)

Subject: Compliance with Standards Against Nepotism and Conflicts of Interest

POC: [REDACTED] [REDACTED] (HRD); [REDACTED]

Memorandum dated January 5, 2012, from the Deputy Director regarding the requirement to comply with standards against nepotism and conflicts of interest.

Wojdylo, Jason (USMS)

From: [REDACTED], [REDACTED] (USMS)
Sent: Friday, September 28, 2018 2:02 PM
To: [REDACTED], [REDACTED] (USMS)
Cc: [REDACTED], [REDACTED] (USMS); Wojdylo, Jason (USMS)
Subject: RE: Memorandum on Whistleblower Training from the Deputy Attorney General

Thank you [REDACTED], I appreciate your office reviewing this matter. I hope you have a great weekend as well.

[REDACTED]

[REDACTED] [REDACTED]
Assistant Chief Inspector
U.S. Marshals Service
[REDACTED] (direct)
[REDACTED] (mobile)

From: [REDACTED], [REDACTED] (USMS)
Sent: Friday, September 28, 2018 12:49 PM
To: [REDACTED], [REDACTED] (USMS) [REDACTED]
Cc: [REDACTED], [REDACTED] (USMS) [REDACTED]; Wojdylo, Jason (USMS) [REDACTED]
Subject: RE: Memorandum on Whistleblower Training from the Deputy Attorney General

Good afternoon [REDACTED] and sorry for the delay in responding. OPR is reviewing this matter and will get back to you as soon as possible. Thank you and have a great weekend, [REDACTED]

From: [REDACTED], [REDACTED] (USMS)
Sent: Monday, September 24, 2018 4:13 PM
To: [REDACTED], [REDACTED] (USMS) [REDACTED]
Cc: [REDACTED], [REDACTED] (USMS) [REDACTED]; Wojdylo, Jason (USMS) [REDACTED]
Subject: FW: Memorandum on Whistleblower Training from the Deputy Attorney General

Acting AD [REDACTED],

I ask that you please read in its entirety the below email thread that I initiated on June 17, 2014 based on the "Memorandum on Whistleblower Training from the Deputy Attorney General" that was sent out by the Department of Justice on April 11, 2014 (see attached memo). I also ask that you read the below excerpt taken from the recent DOJ OIG Report, "A Review of Allegations of Improper Hiring Practices in the United States Marshals Service and Related Matters" dated September 2018.

According to the USMS, it is not OGC's practice or responsibility to refer to OPR allegations of misconduct it learns through tort claims, lawsuits, and employee complaints, and OGC is not informed by OPR of what complaints it receives. The USMS also stated in its comments that because OGC had no basis for believing the validity of the quid pro quo allegation, "it is unclear how the filing of the same untrue allegation would be relevant to the Congressional response."

Please note your email response to me dated June 18, 2014 where you state, "To be sure, all USMS employees, to include OGC attorneys, have a duty to report employee misconduct to the Office of the Inspector General and/or the Office of Inspection- Internal Affairs." directly conflicts with what the agency stated to the OIG. I find this troubling because [REDACTED], the USMS Ethic Officer who is also an Assistant General Counsel, reviewed your email and provided me additional clarification on June 26, 2014 by stating, "OGC attorneys have the same obligation to report alleged misconduct as any other USMS employees".

I believe OPR should, in conjunction with the Office of Professional Responsibility for the Department of Justice, work to immediately establish guidance and oversight for the attorneys assigned to the OGC. It is my understanding all USMS employees, including those in OGC, must annually acknowledge the USMS Code of Professional Responsibility. When OGC personnel do not report/refer to OPR allegations of misconduct it learns through tort claims, lawsuits, and employee complaints (as stated to the DOJ OIG) they violate the USMS Standards for the Code of Professional Responsibility and should be subject disciplinary action.

I would also like to point out the second statement of the excerpt directly conflicts with agency practice. *The USMS also stated in its comments that because OGC had no basis for believing the validity of the quid pro quo allegation, "it is unclear how the filing of the same untrue allegation would be relevant to the Congressional response."* The USMS has taken the stance that OPR allegations are true until proven otherwise. This agency perspective is the very reason individuals who are the subject of an OPR investigation are not allowed to promote through the merit promotion process. It's only after an employee is exonerated through the OPR investigation or the discipline process (which could take years) are they able to be considered for promotion.

Thank you for your time. If your office needs any assistance in finding a solution to these matters, I would be happy to participate in drafting up guidance and/or working with DOJ/OPR and others to implement immediate corrective action. If you have any questions or need any additional information please let me know.

Respectfully,

[REDACTED]

[REDACTED] [REDACTED]

Assistant Chief Inspector
U.S. Marshals Service
[REDACTED] (direct)
[REDACTED] (mobile)

I have copied [REDACTED] [REDACTED] as the agency Ombudsman and Chief Jason Wojdylo as the Law Enforcement Representative to the Federal Managers Association.

From: [REDACTED], [REDACTED] (USMS)
Sent: Thursday, June 26, 2014 7:01 AM
To: [REDACTED], [REDACTED] (USMS) [REDACTED]
Cc: [REDACTED], [REDACTED] (USMS) [REDACTED]
Subject: RE: Memorandum on Whistleblower Training from the Deputy Attorney General

Luis,

You may ask whoever you like for clarification.

As I think both [REDACTED] and I have been saying to you, OGC attorneys have the same obligation to report alleged misconduct as any other USMS employees, unless there is an attorney-client relationship with a USMS employee and pursuant to the attorney's professional responsibility obligations.

Thanks,

[REDACTED]

From: [REDACTED], [REDACTED] (USMS)
Sent: Wednesday, June 25, 2014 5:08 PM
To: [REDACTED], [REDACTED] (USMS)
Cc: [REDACTED], [REDACTED] (USMS)
Subject: RE: Memorandum on Whistleblower Training from the Deputy Attorney General

Hi [REDACTED],

I'm sorry, but I am not at all clear on what you wrote.

I am trying to understand OGC's obligation to report violations and/or alleged violations of law, policy, code of conduct and/or ethical violations to the Office of Inspection as per the last paragraph of the Whistleblowing Training Memo from DAG, dated April, 10, 2014. Per the below email string between Chief [REDACTED] and myself, you can see where I need clarification which I may not have explained clearly in my email to you.

I know you may be swamped in preparing for the training so If you like, I can ask DOJ/OPR for clarification on OGC's requirements and their interpretation of how attorney client privilege can be used with regard to not reporting violations and or misconduct. Let me know.

Thank you,

[REDACTED] [REDACTED]

Assistant Chief Inspector
U.S. Marshals Service
[REDACTED] (direct)
[REDACTED] (mobile)

From: [REDACTED], [REDACTED] (USMS)
Sent: Tuesday, June 24, 2014 1:48 PM
To: [REDACTED], [REDACTED] (USMS)
Cc: [REDACTED], [REDACTED] (USMS)
Subject: RE: Memorandum on Whistleblower Training from the Deputy Attorney General

[REDACTED],

OGC attorneys generally represent the "agency" and its management. However, when any one of us is assigned to a civil litigation case where one or more of its employees is being sued in a personal capacity (and DOJ representation is approved), then we join the defense with the AUSA assigned to the case. At that point, we are like the AUSA: we have an attorney-client relationship with the defendant(s). When OGC is representing the agency and its managers in FTCA (and likely in MSPB or EEOC) cases, OGC attorneys have a client confidentiality obligation to those who represent the agency (similar to the concept of the corporate "control group") although the scope of the principle is less clear than in the context of personal capacity representation of government employees. In the context of official

representation, the question of who is the client, which employees represent the “agency,” and who is entitled to claim the privilege is murkier. These decisions are made by government attorneys in accordance with their professional responsibility obligations as described in the jurisdiction(s) in which they are licensed to practice law.

Does the above clarify the matter for you? I am also attaching a generally applicable written by OIP, DOJ on the subject.

Thanks,

██████████

From: ██████████, ██████████ (USMS)
Sent: Thursday, June 19, 2014 3:21 PM
To: ██████████, ██████████ (USMS)
Subject: FW: Memorandum on Whistleblower Training from the Deputy Attorney General

██████████ - let me know if you have any questions.

From: ██████████, ██████████ (USMS)
Sent: Thursday, June 19, 2014 11:57 AM
To: ██████████, ██████████ t (USMS)
Cc: ██████████, ██████████ (USMS)
Subject: FW: Memorandum on Whistleblower Training from the Deputy Attorney General

Hi ██████████,

I was going to wait for the AFFI orientation to bring up the below question but thought we would be too busy. Thank you for your assistance.

As per the below email thread between myself and Chief ██████████, can you explain the following statement more so that I am completely clear – “The attorney-client privilege attaches to employee-attorney communication only if the employee was scoped for representative purposes.” In the initial email Chief ██████████ states, “OGC attorneys represent the agency, not individual employees” but then states there is an exception when OGC scopes an employee for representation purposes pursuant to civil litigation and occasionally grievance procedures.

My concern (and where I am confused a bit) is with the grievance portion of the last statement. Isn't the purpose of a grievance to correct dissatisfaction with certain qualifying issues, violations or problems/actions between agency (management) and an employee? Why would OGC represent an employee (manager) responsible for an employee grievance action and invoke attorney client privilege? It seems contrary to the grievance process. The grievance procedures policy states under responsibilities that, “Management officials and supervisors are required to recognize and correct the courses of legitimate grievances and make efforts to adjust employee complaints informally whenever possible.” If OGC scopes an employee/manager which requires them to invoke attorney-client privilege then that employee's (manager's) actions can be considered almost immune from an investigation conducted by Internal Affairs because OGC is relieved of their reporting requirements. OGC's lack of reporting in these instances is completely contrary to the DAG memo, grievance policy, and DOJ grievance guidance.

Any clarification would be greatly appreciated.

Thank you,

██████████
Assistant Chief Inspector
U.S. Marshals Service
██████████ (direct)
██████████ (mobile)

From: ██████████, ██████████ (USMS)
Sent: Wednesday, June 18, 2014 3:31 PM
To: ██████████, ██████████ (USMS)
Subject: RE: Memorandum on Whistleblower Training from the Deputy Attorney General

You are welcome. Good luck.

From: ██████████, ██████████ (USMS)
Sent: Wednesday, June 18, 2014 4:28 PM
To: ██████████, ██████████ (USMS)
Subject: RE: Memorandum on Whistleblower Training from the Deputy Attorney General

A little bit. ██████████ will be in Houston in a few weeks I will get him then.

Thank you!

██████████
Assistant Chief Inspector
U.S. Marshals Service
██████████ (direct)
██████████ (mobile)

From: ██████████, ██████████ (USMS)
Sent: Wednesday, June 18, 2014 3:22 PM
To: ██████████, ██████████ (USMS); ██████████, ██████████ (USMS); ██████████, ██████████ (USMS)
Subject: RE: Memorandum on Whistleblower Training from the Deputy Attorney General

The attorney-client privilege attaches to employee-attorney communication only if the employee was scoped for representative purposes pursuant to civil litigation and occasionally grievance procedures (EEO complaints, ethical violations inquires would not qualify). OGC ethics officer ██████████ can give you a more detailed explanation. I hope this helps.

From: ██████████, ██████████ (USMS)
Sent: Wednesday, June 18, 2014 3:33 PM
To: ██████████, ██████████ (USMS); ██████████, ██████████ (USMS); ██████████, ██████████ (USMS)
Subject: RE: Memorandum on Whistleblower Training from the Deputy Attorney General

Thank you Chief. I greatly appreciate your response. Can you provide me with additional information with regard to limited exemption that you reference in your response – see highlighted area, ie: What is the exemption? Where is it referenced in policy or law? What is the agency or DOJ guidance available to employees, etc.

Respectfully,

██████████
Assistant Chief Inspector

U.S. Marshals Service

[REDACTED] (direct)
[REDACTED] (mobile)

From: [REDACTED], [REDACTED] (USMS)
Sent: Wednesday, June 18, 2014 12:44 PM
To: [REDACTED], [REDACTED] (USMS); [REDACTED], [REDACTED] (USMS); [REDACTED], [REDACTED] (USMS)
Subject: RE: Memorandum on Whistleblower Training from the Deputy Attorney General

Assistant Chief [REDACTED],

Thank you for sharing your concerns regarding OGC attorneys' duty to report misconduct. To be sure, all USMS employees, to include OGC attorneys, have a duty to report employee misconduct to the Office of the Inspector General and/or the Office of Inspection- Internal Affairs. I am not aware of any incident in which an OGC attorney attempted to circumvent the reporting requirement using the attorney-client privilege. In fact, aside from a very limited exception involving litigation matters, OGC attorneys represent the agency, not individual employees. Nevertheless, if you have evidence to the contrary, IA would be interested in reviewing it.

With regard to Deputy Attorney General Cole's memorandum on Whistleblower complaints, the last paragraph references misconduct alleged against department attorneys, including OGC attorneys. When made aware of such complaints, IA coordinates with OPR to ensure attorney complaints are properly addressed. Accordingly, it would be unnecessary for the Office of Inspection to create "oversight or agency guidance" as suggested.

Thank you again for sharing your concerns. Rest assured, IA takes allegations of misconduct seriously and all allegations are processed according to established policies and procedures. Please do not hesitate to contact me directly if you have questions or need additional information.

From: [REDACTED], [REDACTED] (USMS)
Sent: Tuesday, June 17, 2014 12:59 PM
To: [REDACTED], [REDACTED] (USMS); [REDACTED], [REDACTED] (USMS); [REDACTED], [REDACTED] (USMS)
Subject: FW: Memorandum on Whistleblower Training from the Deputy Attorney General

Based on the last paragraph of this memo regarding Department attorney misconduct, is the Office of Inspection creating some type of oversight or agency guidance that will ensure our agency's OGC attorneys immediately report violations and/or alleged violations of law, policy, ethics and misconduct to your office that they learn about during the course of their duties while representing the agency during grievance procedures, EEO complaints, ethical violations inquires etc.? Current and past practice has been that OGC attorneys do not report all violations or alleged violations of law, policy, ethics and misconduct that they learn about; instead, they used the attorney client privilege (agency as the client) to circumvent their reporting obligations.

Respectfully,

[REDACTED]
Assistant Chief Inspector
U.S. Marshals Service
[REDACTED] (direct)
[REDACTED] (mobile)

From: The Deputy Attorney General [<mailto:> 
Sent: Friday, April 11, 2014 4:08 PM
To: The Deputy Attorney General (JMD)
Subject: Memorandum on Whistleblower Training from the Deputy Attorney General

Please see attached memorandum on Whistleblower Training.

Oversight of the Federal Bureau of Investigation

Full Judiciary Committee

Date: Wednesday, December 9, 2015

Time: 10:00 AM

Location: Dirksen Senate Office Building 226

Presiding: Chairman Grassley

CEG: I have at least three questions I'd like to ask you. In your confirmation hearing you expressed strong support for whistleblowers and the need for them to feel free to raise their concerns up their chain of command. FBI policy encourages employees to report wrongdoing to their supervisors. First question. Do you support legal protections for FBI employees who follow FBI's own policies and report wrongdoing to their supervisors? If not, why not?

JBC: I do, very much.

CEG: Okay. Under current law FBI agents have no legal protection for reporting wrongdoing to their supervisors. Do you see any justification for not fixing that problem?

JBC: I think it's very, very important that we create the safe zones that all of our people need to raise concerns that they might have. And, so that is not only the way I talk, it is the way I walk at the FBI and I know we're having conversations about, "is, are there additional protections we can offer." I think there might be sensible ways to do that. I have some small concerns I want to make sure that we don't create a system where, to get too deep in the weeds here, an FBI agent or an FBI employee can report not just fraud, waste and abuse, but can get whistleblower protection for reporting bad management. That's potentially a huge range of things. So, I want to be thoughtful about what we're considering whistleblowing as we do this, but I am open to try to improve the way we approach it. As I've said, I have tried to really walk this talk by the way I've acted, the people I've met with, the way I've given out awards in the FBI, and so I will continue to work with you to try to improve that.

CEG: In regard to your last response, you said you try to "walk the talk" on this so why hasn't the FBI imposed discipline in any, of some cases that I've been investigating? What message does it send to FBI employees when the FBI fails to hold retaliators accountable for their actions? That will be my last question.

JBC: Yeah, no, that's a good question and a hard question. I believe we do work very hard to try to hold retaliators accountable. Each case, the challenge of answering it in the abstract level, each case has to be looked at individually. So, I do think that we work very hard to try to hold people accountable. Now often, when people know we're coming for them, they'll retire on us and leave government service, which is a challenge. But, it is not just that enforcement that matters. It's how do we act, how do we conduct ourselves. And, I don't want to brag on myself, but I will for a second. We have annual Director's Awards. And, at the end of the Director's Awards this year I gave

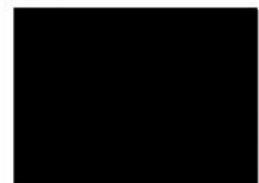
an award to recognize somebody for blowing the whistle on misconduct. And, I went back to the podium and I said, "This matters." The reason I'm saving this one for last is, "This matters." We're an organization dedicated to finding the truth in American life, we have to make sure we're open to seeing the truth about ourselves. So look, we're not perfect and I think we can benefit from working with you to get better, but I believe we have sent the message, "This matters."

Exhibit D

**SETTLEMENT
AGREEMENT**

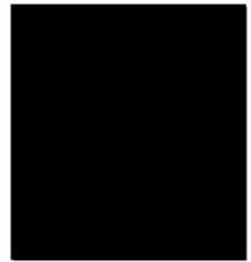
The parties to this Settlement Agreement (Agreement) are the United States Marshals Service (USMS) and [REDACTED]. This Agreement is entered into forever and globally resolve all of [REDACTED] issues, complaints, and/or grievances that have been brought or could have been brought by him as of the executed date of this Agreement, to include but not be limited to, Office of Special Counsel (OSC) Complaint No. [REDACTED] and Equal Employment Opportunity case number [REDACTED]. The terms of this Agreement are as follows:

1. [REDACTED] agrees to retire on or before [REDACTED], 2018. [REDACTED] agrees to submit herewith his application for voluntary retirement effective no later than [REDACTED], 2018. [REDACTED] further agrees to cooperate fully in providing any additional information or documentation that the USMS determines is necessary to process his voluntary retirement application in a timely and accurate manner. [REDACTED] agrees that all information and documentation that he submits pertaining to his retirement will indicate [REDACTED], 2018, or earlier, as the effective date of his retirement. [REDACTED] understands that the Office of Personnel Management is the final authority for computation of his retirement annuity. This paragraph is not to be construed as a waiver by [REDACTED] to any right of review he may have by law concerning any Office of Personnel Management retirement determination.
2. [REDACTED] understands and agrees not to rescind his request for voluntary retirement and any attempts to rescind his voluntary retirement request will be considered null and void by the USMS and his voluntary retirement will nonetheless be effected.
3. Nothing in this Agreement shall operate to prevent [REDACTED] from effecting his retirement at any time earlier than [REDACTED], 2018.
4. The SF-50 in [REDACTED] Official Personnel File shall reflect his departure as a voluntary retirement. The USMS agrees to provide a neutral or better reference regarding any employment inquiries. All personnel records are subject to the requirements of the Privacy Act of 1974.
5. In consideration, the USMS agrees to a lump sum payment of One Hundred and Eighty Thousand dollars and no cents (\$180,000.00) which is inclusive of any and all attorney fees, damages, and/or any other monetary remedy [REDACTED] has or could have sought against the USMS as of the date of this Agreement. The Agency will deposit the lump sum payment via Electronic Fund Transfer into the account [REDACTED] has designated for purposes of salary payments. This sum is made without any deductions, in full compromise of any and all claims. This sum is not in lieu of wages. The Agency will not withhold any taxes of any kind from the sum. However, the Agency will file a Form 1099 with the Internal Revenue Service (IRS) and the determination of [REDACTED] tax liability, if any, is a matter solely between [REDACTED] and the IRS and/or state and local

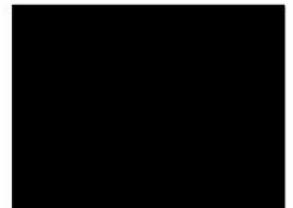


tax authorities. Said payment will be made within thirty (30) days of the date of the final signature on this agreement.

6. The USMS agrees to provide [REDACTED] with his retirement credentials on or before his retirement date of [REDACTED], 2018, to include identification which meets the eligibility requirements of the Law Enforcement Officers Safety Act at 18 U.S.C. Section 926C.
7. The USMS agrees that upon retirement, the Agency will allow [REDACTED] to port his cell phone number to a personal account.
8. [REDACTED] agrees to neither seek reinstatement as a GS-1811 with the USMS, nor future employment with the USMS as an administrative employee, or as an onsite USMS contract employee on its premises.
9. [REDACTED] hereby waives and forever releases any and all appeal rights, causes of action, or liability claims of any nature against the United States, Department of Justice, USMS and its officers and employees in their individual and/or official capacities, which he either raised or could have raised prior to the date of this Agreement, including, but not limited to, any appeal or claims to the Merit Systems Protection Board, complaint to the Equal Employment Opportunity Commission, grievance, arbitration, any other administrative body, or any court regarding the issues related to his OSC complaint [REDACTED], Equal Employment Opportunity case number [REDACTED], and any other employment matter brought by [REDACTED] occurring prior to the Agreement date.
10. [REDACTED] declares that he has read and reviewed this Agreement, is aware of his right to consult with counsel, and fully understands the terms of such Agreement and that he voluntarily accepts it for purposes of making a full and final compromise of all claims of any nature which he may have in connection with his employment with the Agency, including but not limited to, OSC complaint number [REDACTED], Equal Employment Opportunity case number [REDACTED]; and any/all outstanding issues and claims of any nature by [REDACTED].
11. The provisions in this Agreement are consistent with and do not supersede, conflict with or otherwise alter [REDACTED] obligations, rights, or liabilities created by existing statute of Executive order relating to (1) classified information, (2) communications to Congress (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this Agreement and are controlling.
12. This Settlement Agreement does not constitute an admission of fault, error, or wrongdoing by any party.



13. The parties agree that the terms of this Agreement constitute the entire Agreement between the parties and that no other promises or representations, either express or implied, have been made or sought to induce acceptance of this Agreement.
14. Notice of Rights Under the Age Discrimination in Employment and Older Worker's Benefit Protections Act. [REDACTED] acknowledges that he is over the age of 40 and is covered by the Age Discrimination in Employment Act (ADEA) and the Older Worker's Benefit Protection Act (OWBPA), Public Law 101-433. [REDACTED] knowingly and voluntarily waives any rights or protections under the ADEA that he has or could have asserted up to and including the effective date of this Agreement. Under the ADEA and OWBPA, [REDACTED] acknowledges that he was advised to consult and confer with legal counsel prior to executing this agreement and has had the opportunity to do so. Moreover, the Agency offered [REDACTED] twenty-one (21) calendar days within which to consider the terms of this Settlement Agreement. [REDACTED] understands and agrees that he is waiving his rights to consider this Agreement for the full 21 days. [REDACTED] hereby acknowledges and agrees that this waiver is knowing, intentional, voluntary and is not induced by the Agency through fraud, misrepresentation or duress or by any threat to withdraw or alter the offer prior to the expiration of the 21-day time period and that the Agency does not provide different terms to employees who sign a release prior to the expiration of the 21-day consideration period.
15. [REDACTED] has seven (7) days from the date this document is signed by him to rescind this Agreement. In the event [REDACTED] elects' rescission, then this Agreement and all of its terms are null and void. In order to effectively rescind and revoke this Agreement, [REDACTED] must notify the Agency in writing of his decision to rescind no later than seven (7) days from the date he signed this agreement. The Notice of Rescission must be postmarked no later than the seventh day following the date of his signature and mailed to Gerald M. Auerbach, General Counsel, USMS, CG-3, 15th Floor, Washington, DC 20530-0001, faxed to [REDACTED] or emailed to [REDACTED]. If mailed, said Notice shall be postmarked no later than 7 days following [REDACTED] execution of the Agreement. In the event that [REDACTED] elects to rescind this Agreement, then this Agreement and all of its terms are null and void.
16. The parties agree that should any provision of this Agreement be determined'by any court or legal body to be illegal or invalid, the validity of the remaining parts, terms, and provisions shall not be affected thereby, and the illegal or invalid part, term or provision shall be deemed not to be part of the Agreement; however, all other provisions shall remain binding on the Parties.
17. By signature hereto, [REDACTED] represents that this Agreement is entered into freely, voluntarily, and with a sound mind. [REDACTED] represents that this Agreement was not based upon duress, coercion, or misrepresentation of any kind.
18. [REDACTED] has carefully considered the alternatives available to him and the consequences of his decision to enter into this Agreement.



19. The terms of this Agreement comprise the entire Agreement between the parties. Any modification to this Agreement must be in writing and signed by the parties.

20. This Agreement will be effective immediately upon the latest date that all parties sign this Agreement.



11/1/18

Date

A handwritten signature in cursive script, appearing to read "Gerald Auerbach", written over a horizontal line.

Gerald Auerbach
General Counsel

United States Marshals Service
15th Floor CS-3, Washington, D.C. 20530-0001

Email: 

11/1/18

Date

Exhibit E



United States Marshals Service – FMA Chapter 373
fma.usmarshals@gmail.com

February 26, 2018

Mr. David J. Anderson
Acting Deputy Director
Office of the Director
U.S. Marshals Service
Washington, D.C. 20530-0001

SUBJECT: Staffing at the U.S. Marshals Service (USMS)

Dear Acting Deputy Director Anderson:

Last year the USMS Federal Manager’s Association (FMA) engaged with the former Acting Director/Deputy Director to address human capital resources in our District offices. We issued two letters, one on March 24, 2017,¹ and another on April 11,² raising concerns with “the unsustainable depletion of staff in Districts compared with what appears to be disproportional growth of Headquarters.” Then in July, we wrote two DOJ budget officials within the Justice Management Division about staffing at the USMS.

Our efforts appear to have made some difference:

- A May 4 letter from the former Acting Director/Deputy Director to the USMS FMA demonstrated a different course on what was progressing down an alarming path to exclusively and unfairly promote 68 criminal investigators assigned to IOD’s Regional Fugitive Task Forces (RFTFs) through an accretion of duties exercise. Following our letters, Mr. Harlow instead changed direction and committed to announcing the positions “on a future career board with the resulting selections made in accordance with merit promotion principles.”³

¹ Letter to David L. Harlow, Acting Director, from Dave Barnes, President, and Jason R. Wojdylo, Vice-President for Law Enforcement Operations, USMS FMA, Subject: Merit Promotion in the U.S. Marshals Service (USMS), dated March 24, 2017

² Letter to David L. Harlow, Acting Director, from Dave Barnes, President, and Jason R. Wojdylo, Vice-President for Law Enforcement Operations, USMS FMA, Subject: Merit Promotion in the U.S. Marshals Service (USMS) – Part 2, dated April 11, 2017

³ Letter from David L. Harlow, Acting Director, to David Barnes, President, USMS FMA, dated May 4, 2017

- DOJ recently published an FY 2019 restructuring initiative that calls for administrative savings at the USMS by “*propos[ing] to reduce headquarters positions to refocus positions toward agent field operations.* The request includes a –\$2.6 million reduction and a non-agent reduction of –15 positions” for Headquarters.⁴

We understand you are committed to promptly addressing the staffing needs in our District offices. This change from former agency executives, of course, is welcome news.

Despite no less than nine separate attempts throughout 2017 with the former Acting Director/Deputy Director who rebuffed our invitations to come together,⁵ we also appreciate your recent offer to meet with us on excepted service hiring authority for the USMS. We do not want to lose precious time in sharing additional recommendations on staffing in advance of scheduling the meeting. Therefore, we also offer these proposals for your review and careful consideration to sooner address the more urgent human capital resource needs in our District offices, to include spring Career Board staffing decisions:

1. Issue an immediate moratorium on hiring at the Headquarters level until, if ever, a staffing model is published that is comparably applicable to both Districts and Divisions and Staff Offices (*i.e.*, Districts have long been subject to a District Staffing Model where no such model exists for Headquarters). Without further delay balance the scales to increase the staffing percentage for Districts from 76% to 88% (+12 points) and decrease the percentage for Headquarters from 100% to 88% (–12%). Include contractors, exclusive of Court Security Officers, within these percentages across the *entire* workforce.⁶

In July 2017, the USMS Chief Financial Officer and then-Assistant Director for Human Resources (now Acting Associate Director for Administration) both informed the USMS FMA neither FSD, nor HRD monitor/track the number of contractors at the USMS.⁷ Skeptical of these assertions, we later learned through further inquiry that Headquarters contractor information appears to be maintained in the Contractor Workforce Information Exchange (C-WISE). It is available on the USMS Executive Portal, and “enables Divisions and Staff Offices to track their contractors by name, office, cost, and period of performance.” A recent screenshot shared with us reflects more than 700 contractors assigned to Divisions and Staff Offices. We would be interested in a comparison of the number assigned to our 94 Districts and 218 sub-offices.

⁴ <https://www.justice.gov/jmd/page/file/1034726/download>

⁵ Letter to William Delaney, Chief, Office of Congressional Affairs, from Dave Barnes, President, USMS FMA, dated December 8, 2017

⁶ The District Staffing Model counts contractor employees against a District’s staffing level, yet no such formula exists for Headquarter Division and Staff Offices

⁷ Email between Jason Wojdylo, Vice-President for Law Enforcement Operations, USMS FMA, Katherine Mohan, Assistant Director, Human Resources Division, USMS, and Holley O’Brien, Chief Information Officer, USMS, dated July 24 & 28, 2017

2. Develop a committee of District and Headquarters senior managers to partner with the USMS FMA to study staffing decisions. Determinations should not rest exclusively with Headquarters officials, but should also include equal representation from the Districts. We envision a single committee for what was the District Allocation Working Group (DAWG) and the Program and Budget Advisory Committee (PBAC), both that were abolished in 2011 under a former Director whose policies sometimes raised questions of dividing over unifying the workforce.

In April 2017, the USMS FMA obtained data from HRD that gave us the information to conduct a 14-year analysis of human capital resource distribution at the USMS. Thereafter, a United States Marshal represented eleven Districts in making an appeal to the Acting Director/Deputy Director on the urgency to address the depletion of staffing across all Districts.⁸ Instead, despite our obtaining the data from HRD, the Acting Director/Deputy Director suggested “misperceptions in [the] representations.” The efforts by dozens of managers across eleven Districts proved futile.

3. Establish a clearly-defined line of authority for Headquarters employees scattered about the country with shared reporting requirements up through the Chief Deputy U.S. Marshal and United States Marshal. Reassign a significant number of Division and Staff Office employees assigned to cities throughout the field, instead to Districts, starting with the RFTFs;⁹
4. Modify Policy Directive 10.23, Special Assignments, requiring Divisions and Staff Offices to also support Headquarters-generated special assignments at the same ratio as required by Districts; and, equally important,
5. Implement the recommendations of the District Administrative Structure Study, as issued by the former Deputy Director on January 3, 2018.¹⁰ Without further delay assign and timely announce a GS-0341-14 Administrative Officer to each District with a GS-1811-15 Chief Deputy U.S. Marshal to uphold the principle that “equal pay should be provided for work of equal value.”¹¹ There has long been a call to bring these administrative managers in line with their peers in other federal law enforcement agencies in the same geographic areas,¹² as well as in Divisions and Staff Offices.¹³

⁸ Email between David P. Gonzales, U.S. Marshal, District of Arizona, and David Harlow, Deputy Director, dated June 17, 2017

⁹ This model has long worked in the Pacific Northwest and was the original model of the Florida Caribbean RFTF.

¹⁰ <http://intranet.usms.doj.gov/Correspondence/04-010318-01.pdf>

¹¹ 5 U.S.C. § 2301

¹² As one of many examples: <https://www.usajobs.gov/GetJob/ViewDetails/490645700>

¹³ Appendix A, Table of USMS administrative announcements through OPM’s USAJobs since December 24, 2014, reflecting 293 announcements for Districts, while 434 for Divisions and Staff Offices

For example, it defies logic that the Administrative Officer in the Middle District of Florida who reports to the office each day in Tampa is a GS-13, yet HRD's Accountability and Strategic Planning Manager works full-time from home in Orlando as a GS-14. It is simply not right that the Administrative Officer in Northern District of Ohio is a GS-13, yet TOD has an Electronics Technician assigned in the very same Cleveland office as a GS-14. It raises questions how the Administrative Officers in each of the Southern District of Texas, Northern District of Illinois, Eastern District of California, D.C. District Court and Superior Court, and the Northern District of Florida are GS-13s, all with responsibility for supporting hundreds of employees, as well as equally complex work, yet last month ITD announced Supervisory Information Technology Specialists as GS-14s in Houston and Brownsville, Chicago, Sacramento, Washington, D.C., and Pensacola.¹⁴

It is disappointing that former USMS executives often ignored sound staffing decisions for our District offices. We are encouraged, however, you are taking steps to closely examine human capital resources at the USMS. It appears DOJ is as well.

We look forward to working with you and further discussing these topics in greater detail as a follow-on to our upcoming meeting on excepted service hiring authority. In the meantime, we urge you to carefully consider each proposal we have raised on behalf of many managers across the USMS. A good starting point will be the staffing decisions for the upcoming spring Career Board.

We know you will continue to display the leadership needed to restore confidence across the entire workforce in our Senior Staff by providing our Districts with the human capital resources to safely carry out our important mission. We thank you for taking a different and more constructive approach to unite our dedicated employees.

With warm regards,

Dave Barnes

Dave Barnes
President

Jason R. Wojdylo

Jason R. Wojdylo
Vice-President for
Law Enforcement Operations

cc: Jolene A. Lauria
Deputy Assistant Attorney General / Controller
Justice Management Division
U.S. Department of Justice

Andrew Deserto
Acting Chief of District Affairs
Office of the Director
U.S. Marshals Service

¹⁴ <https://www.usajobs.gov/GetJob/ViewDetails/488248200#>

Appendix A

USMS Administrative Position Announcements*

Districts vs. HQ Offices

December 24, 2014 - February 25, 2018

GS-13
GS-14
GS-15

* (Source: OPM's USAJobs)

	District	Position	Series/Grade	Date		HQ	Position	Series/Grade	Date
1	S/NY	Criminal Program Specialist	GS-0301-09	1/5/2015		FSD	Budget Analyst	GS-0560-09/11/12/13	12/24/2014
2	D/NV	Criminal Program Specialist	GS-0301-09	1/5/2015		HRD	HR Specialist	GS-0201-09/11/12	1/12/2015
3	W/VA	Budget Analyst	GS-0560-09	1/8/2015		AFD	Training Specialist	GS-1712-12/13	1/21/2015
4	W/TX	Asset Forfeiture Coordinator	GS-0301-11	1/9/2015		IOD	Supervisory Management & Program Analyst	GS-0343-15	1/22/2015
5	N/TX	Asset Forfeiture Coordinator	GS-0301-11/12	1/9/2015		ITD	Supervisory IT Specialist	GS-2210-15	1/22/2015
6	E/TN	Operations Support Specialist	GS-0301-09	1/12/2015		ITD	Supervisory IT Specialist	GS-2210-15	2/3/2015
7	E/MO	Purchasing Agent	GS-1105-08	1/15/2015		ADA	Supervisory Operations Research Specialist	GS-1515-14	2/11/2015
8	Various	Administrative Officer	GS-0341-12/13	1/16/2015		HRD	Human Resource Specialist	GS-0201-13	2/23/2015
9	Various	Operations Support Specialist	GS-0301-09	1/26/2015		IOD	Statistician	GS-1530-14	2/24/2015
10	S/TX	Investigative Research Specialist	GS-0301-09	1/26/2015		IOD	Business Process Engineer/MPA	GS-0343-14	2/24/2015
11	W/OK	Administrative Officer	GS-0341-12/13	1/26/2015		ITD	IT Specialist	GS-2210-14	2/24/2015
12	E/MI	Criminal Program Specialist	GS-0301-09	1/26/2015		JPATS	Quality Assurance Specialist	GS-1910-11/12	3/2/2015
13	D/AZ	Administrative Support Assistant	GS-0303-07	1/26/2015		IOD	Management & Program Analyst	GS-0343-11/12	3/17/2015
14	S/TX	Physical Security Specialist	GS-0080-12	1/27/2015		TOD	Public Safety Communications Specialist x 2	GS-0301-07/09	3/17/2015
15	S/TX	Operations Support Specialist	GS-0301-09	1/27/2015		ITD	Executive Assistant	GS-0301-13	3/18/2015
16	S/TX	Property Management Specialist	GS-1101-11	1/28/2015		JPATS	Aviation Enforcement Officer	GS-1801-07/09	3/19/2015
17	N/OH	Operations Support Specialist	GS-0301-09	1/6/2015		AFD	Supervisory Property Management Specialist	GS-1101-14	3/23/2015
18	D/AZ	Investigative Research Specialist	GS-0301-09	2/9/2015		IOD	Information Management Specialist	GS-0301-11/12	3/23/2015
19	S/TX	Management & Program Analyst	GS-0343-11	2/9/2015		TOD	Management & Program Analyst	GS-0343-13	3/25/2015
20	S/IN	Financial Specialist	GS-0501-09	2/16/2015		JSD	Budget Analyst	GS-0560-09/11	3/31/2015
21	D/PR	Administrative Support Specialist	GS-0301-09	2/19/2015		HRD	Occupational Health Nurse	GS-0610-13	4/1/2015
22	Various	Administrative Support Assistant	GS-0303-07	2/26/2015		POD	Management & Program Analyst	GS-0343-13	4/7/2015
23	D/NM	Criminal Program Specialist	GS-0301-09	2/26/2015		TOD	Management & Program Analyst	GS-0343-13	4/13/2015
24	D/NM	Administrative Support Specialist	GS-0303-09	2/26/2015		TOD	Management & Program Analyst	GS-0343-13	4/17/2015
25	Various	Administrative Support Assistant	GS-0303-07	3/2/2105		FSD	Budget Analyst	GS-0560-13	4/20/2015
26	Various	Property Management Specialist	GS-1101-09	3/5/2015		IOD	Statistician	GS-1530-14	4/24/2015
27	C/IL	Operations Support Specialist	GS-0301-09	3/5/2015		TOD	Management & Program Analyst	GS-0343-14	4/27/2015
28	E/CA	Operations Support Specialist	GS-0301-09	3/6/2015		IOD	Statistician	GS-1530-13	4/29/2015
29	W/PA	Administrative Officer	GS-0341-12/13	3/6/2015		JSD	Contract Specialist	GS-1102-12/13	4/30/2015
30	E/CA	Purchasing Agent	GS-1105-08	3/16/2015		ITD	IT Specialist	GS-2210-13	5/8/2015
31	D/ND	Financial Specialist	GS-0501-09	3/18/2015		IOD	Management & Program Analyst	GS-0343-13	5/7/2015
32	D/SD	Financial Specialist	GS-0501-09	3/18/2015		IOD	Management & Program Analyst	GS-0343-13	5/7/2015
33	E/TN	Financial Specialist	GS-0501-09	3/18/2015		ADA	Management & Program Analyst	GS-0343-12/13	5/11/2015
34	W/OK	Administrative Officer	GS-0341-12/13	3/20/2015		AFD	Supervisory Management & Program Analyst	GS-0343-15	5/15/2015
35	N/TX	Seizure and Forfeiture Specialist	GS-1101-09	3/23/2015		MSD	Management & Program Analyst	GS-0343-09/11	5/19/2015
36	S/IN	District Asset Forfeiture Coordinator	GS-0301-11/12	3/25/2015		FSD	Contract Specialist	GS-1102-11/12	5/19/2015
37	M/PA	Investigative Research Specialist	GS-0301-09	3/27/2015		JSD	Intelligence Research Specialist	GS-9132-13	5/20/2015
38	W/VA	Management & Program Analyst	GS-0343-11/12	3/30/2015		JPATS	Emergency Medical Technician	GS-0640-05/06	5/20/2015
39	D/SD	Criminal Program Specialist	GS-0301-09	4/1/2015		JPATS	Emergency Medical Technician	GS-0640-05/06	5/20/2015
40	N/OH	District Asset Forfeiture Coordinator	GS-0301-11/12	4/13/2015		JPATS	Emergency Medical Technician	GS-0640-05/06	5/20/2015
41	S/TX	Administrative Support Specialist	GS-0301-09	5/1/2015		MSD	Management & Program Analyst	GS-0343-9/11/12/13	5/21/2015
42	W/KY	Criminal Program Specialist	GS-0301-09	5/4/2015		JSD	Supervisory Intelligence Research Specialist	GS-0132-14	5/22/2015
43	Various	Administrative Support Assistant	GS-0303-06	5/4/2015		IOD	Supervisory Management & Program Analyst	GS-0343-14	5/22/2015

44	E/TX	Operations Support Specialist	GS-0301-07/09	5/7/2015	ADA	Supervisory Chief Data Officer	GS-0301-15	5/26/2015
45	W/MI	Criminal Program Specialist	GS-0301-09	5/11/2015	JSD	Supervisory Physical Security Specialist	GS-0080-14	5/26/2015
46	S/TX	Lead Administrative Support Assistant	GS-0303-08	5/11/2015	JSD	Management & Program Analyst	GS-0343-07/09/11	5/27/2015
47	Various	Administrative Officer	GS-0341-11/12/13	5/13/2015	JSD	Management & Program Analyst	GS-0343-11/13	5/28/2015
48	DC/DC	Program Analyst	GS-0343-11	5/20/2015	JSD	Management & Program Analyst	GS-0343-11/13	5/28/2015
49	N/GA	District Asset Forfeiture Coordinator	GS-0301-11/12	5/21/2015	JSD	Management & Program Analyst	GS-0343-11/13	5/28/2015
50	N/OH	District Asset Forfeiture Coordinator	GS-0301-11/12	5/21/2015	JSD	Intelligence Research Specialist	GS-0132-13	6/1/2015
51	N/IL	Management & Program Analyst	GS-0343-11	5/21/2015	POD	Supervisory Management & Program Analyst	GS-0343-14	6/3/2015
52	D/AZ	Operations Support Specialist	GS-0301-09	5/26/2015	POD	Management & Program Analyst	GS-0343-13	6/3/2015
53	D/NJ	Property Management Specialist	GS-1101-11	5/28/2015	IOD	Intelligence Research Specialist	GS-0132-14	6/3/2015
54	W/OK	District Asset Forfeiture Coordinator	GS-0301-12	5/29/2015	AFD	Auditor	GS-0501-13	6/4/2015
55	D/AK	District Asset Forfeiture Coordinator	GS-0301-11/12	6/1/2015	JSD	Contract Specialist	GS-1102-9/11	6/4/2015
56	D/OR	District Asset Forfeiture Coordinator	GS-0301-11/12	6/1/2015	FSD	Management & Program Analyst	GS-0343-14	6/17/2015
57	D/MT	Operations Support Specialist	GS-0301-09	6/1/2015	POD	Management & Program Analyst	GS-0343-13	6/22/2015
58	E/WA	Financial Specialist	GS-0501-11	6/2/2015	TD	Training Technician	GS-1702-12	7/1/2015
59	E/WI	Administrative Officer	GS-0341-12/13	6/2/2015	JSD	Supervisory Management & Program Analyst	GS-0343-15	7/6/2015
60	N/MS	Financial Specialist	GS-0501-07/09	6/2/2015	AFD	Business Property Analyst	GS-1101-12/13	7/8/2015
61	S/TX	Administrative Support Specialist	GS-0301-09	6/11/2015	JPATS	Airplane Pilot	GS-2181-13	7/13/2015
62	N/GA	District Asset Forfeiture Coordinator	GS-0301-11/12	6/16/2015	POD	Management & Program Analyst	GS-0343-13	7/14/2015
63	E/KY	Administrative Support Assistant	GS-0303-07	6/26/2015	MSD	Supervisory Facility & Space Management Specialist	GS-0301-14	7/15/2015
64	E/MI	Criminal Program Specialist	GS-0301-09	7/6/2015	HRD	Lead Human Resources Specialist	GS-0201-13	7/16/2015
65	GU	Criminal Program Specialist	GS-0301-09	7/6/2015	HRD	Supervisory Human Resources Specialist	GS-0201-14	7/16/2015
66	D/NV	Investigative Research Specialist	GS-0301-09	7/13/2015	MSD	Supervisory Facility & Space Management Specialist	GS-0301-14	7/21/2015
67	W/VA	Management & Program Analyst	GS-0343-11	7/14/2015	ITD	Supervisory IT Specialist	GS-2210-14	7/24/2015
68	D/AK	Criminal Program Specialist	GS-0301-09	7/15/2015	ITD	IT Specialist	GS-2210-13	7/24/2015
69	S/FL	Administrative Support Assistant	GS-0301-09	7/22/2015	JPATS	Supervisory Accountant	GS-0510-14	7/27/2015
70	S/CA	Management & Program Analyst	GS-0343-12	7/27/2015	JPATS	Supervisory Airplane Pilot	GS-2181-14	7/27/2015
71	D/NM	District Asset Forfeiture Coordinator	GS-0301-11/12	7/28/2015	ITD	Information Technology Specialist	GS-2210-13	8/3/2015
72	S/TX	Operations Support Specialist	GS-0301-09	8/6/2015	IOD	Supervisory Statistician	GS-1530-14	8/4/2015
73	M/TN	Financial Specialist	GS-0501-09	8/10/2015	ITD	Information Technology Specialist	GS-2210-13	8/6/2015
74	E/MO	Investigative Research Specialist	GS-0301-09	8/11/2015	JPATS	Aircraft Dispatcher	GS-2151-08	8/7/2015
75	W/MO	Financial Specialist	GS-0501-09	8/12/2015	IOD	Extradition Analyst	GS-0301-13	8/7/2015
76	E/NY	Management & Program Analyst	GS-0343-11/12	8/13/2015	ADA	Supervisory Chief Data Officer	GS-0301-15	8/13/2015
77	S/TX	Administrative Support Assistant	GS-0303-06	8/14/2015	IOD	Behavioral Analyst	GS-0101-13	8/13/2015
78	S/TX	Lead Administrative Support Assistant	GS-0303-08	8/14/2015	MSD	Printing Officer	GS-1654-14	8/14/2015
79	D/MT	Administrative Support Assistant	GS-0303-07	8/17/2015	TOD	Administrative Officer	GS-0341-13	8/20/2015
80	S/FL	Administrative Support Specialist	GS-0301-09	8/17/2015	JSD	Supervisory Intelligence Research Specialist	GS-0132-14	8/21/2015
81	E/CA	Management & Program Analyst	GS-0343-11	8/24/2015	IOD	Management & Program Analyst	GS-0343-13	8/25/2015
82	E/TX	Operations Support Specialist	GS-0301-7/9	8/24/2015	IOD	Management & Program Analyst	GS-0343-13	8/25/2015
83	W/VA	Management & Program Analyst	GS-0343-11	8/25/2015	ADA	Data Governance Program Manager	GS-0301-15	8/27/2015
84	E/CA	Financial Specialist	GS-0501-11	9/1/2015	IOD	Supervisory Management & Program Analyst	GS-0343-15	8/31/2015
85	W/TX	Investigative Research Specialist	GS-0301-09	9/24/2015	POD	Program Manager	GS-0340-15	8/31/2015
86	S/TX	Operations Support Specialist	GS-0101-09	9/29/2015	JPATS	Aviation Enforcement Officer	GS-1801-09	9/4/2015
87	W/TX	Administrative Support Assistant	GS-0303-07	9/29/2015	JPATS	Paramedic	GS-0640-07	9/10/2015
88	W/NC	Criminal Program Specialist	GS-0301-09	9/29/2015	JPATS	Lead Paramedic	GS-0640-08	9/10/2015
89	D/KS	Criminal Program Specialist	GS-0301-09	9/29/2015	ITD	Supervisory IT Specialist	GS-2210-14	9/15/2015
90	S/NY	District Asset Forfeiture Coordinator	GS-0301-13	9/29/2015	ADA	Supervisory Management & Program Analyst	GS-0343-15	9/21/2015
91	E/MI	Purchasing Agent	GS-1105-09	9/29/2015	IOD	Management & Program Analyst	GS-0343-13	9/22/2015
92	S/TX	Property Management Specialist	GS-1101-09	9/29/2015	IOD	Behavioral Analyst	GS-0101-13	9/22/2015
93	S/TX	Civil Process Specialist	GS-0301-09	9/30/2015	AFD	Business Property Analyst	GS-1101-12/13	9/23/2015
94	W/WA	Purchasing Agent	GS-1105-09	9/30/3015	IOD	Supervisory Statistician	GS-1530-14	9/24/2015

95	N/IL	Management & Program Analyst	GS-0343-11	9/30/2015	POD	Information Management Specialist	GS-0301-13	9/25/2015
96	E/NY	Property Management Specialist	GS-1101-11	10/1/2015	ITD	Supervisory IT Specialist	GS-2210-14	9/25/2015
97	W/OK	Administrative Support Assistant	GS-0303-07	10/5/2015	ITD	Supervisory Management & Program Analyst	GS-0343-14	9/25/2015
98	S/TX	Property Management Specialist	GS-1101-09	11/4/2015	POD	Budget Analyst	GS-0560-09	9/25/2015
99	D/OR	District Asset Forfeiture Coordinator	GS-0301-11/12	12/10/2015	OPR	Management & Program Analyst	GS-0343-13	9/29/2015
100	D/NM	District Asset Forfeiture Coordinator	GS-0301-11/12	12/11/2015	HRD	Human Resource Specialist	GS-0201-12	9/29/2015
101	S/FL	Property Management Specialist	GS-1101-11	12/16/2015	IOD	Contract Specialist	GS-1102-13	9/30/2015
102	D/SC	Administrative Officer	GS-0341-11/12/13	1/4/2016	TD	Supervisory Management & Program Analyst	GS-0343-15	9/30/2015
103	E/MI	Property Management Specialist	GS-1101-9/11	1/4/2016	JSD	Intelligence Research Specialist	GS-0132-13	9/30/2015
104	D/MD	District Asset Forfeiture Coordinator	GS-0301-12	1/7/2016	HRD	Human Resource Specialist	GS-0201-12	9/30/2015
105	E/AR	District Asset Forfeiture Coordinator	GS-0301-11/12	1/7/2016	JPATS	Supervisory Aircraft Dispatcher	GS-2151-10	9/30/2015
106	C/CA	Property Management Specialist	GS-1101-9/11	1/11/2016	WSD	Administrative Officer	GS-0341-09	9/30/2015
107	E/OK	Administrative Officer	GS-0341-11/12/13	1/11/2016	MSD	Supervisory Management & Program Analyst	GS-0343-15	10/1/2015
108	D/ND	Operations Support Specialist	GS-0301-09	1/15/2016	FSD	Contract Specialist	GS-1102-09/11	10/1/2015
109	W/MO	Administrative Support Specialist	GS-0301-09	1/22/2016	WSD	Contract Specialist	GS-1102-12/13	10/1/2015
110	W/VA	Purchasing Agent	GS-1105-09	1/29/2016	POD	Contract Specialist	GS-1102-13	10/1/2015
111	D/VI	Administrative Officer	GS-0341-11/12/13	2/8/2016	POD	Supervisory Management & Program Analyst	GS-0343-15	10/1/2015
112	D/AZ	Property Management Specialist	GS-1101-11	2/22/2016	JSD	Program Analyst	GS-0343-13	10/2/2015
113	W/MO	Financial Specialist	GS-0501-07/09	2/22/2016	WSD	Management & Program Analyst	GS-0343-13	10/2/2015
114	DC/DC	Financial Specialist	GS-0501-07/09	2/22/2016	WSD	Management & Program Analyst	GS-0343-13	10/2/2015
115	M/PA	Administrative Officer	GS-0341-11/12/13	2/22/2016	EEO	Equal Employment Opportunity Specialist	GS-0260-07	10/2/2015
116	N/IL	Criminal Program Specialist	GS-0301-09	2/24/2016	WSD	Management & Program Analyst	GS-0343-13	10/7/2015
117	W/MO	Administrative Support Specialist	GS-0301-09	2/25/2016	WSD	Management & Program Analyst	GS-0343-13	10/7/2015
118	D/AZ	Lead Administrative Support Assistant	GS-0303-08	2/29/2016	JSD	Management & Program Analyst	GS-0343-07/09/11	10/20/2015
119	E/NY	Purchasing Agent	GS-1105-09	2/29/2016	HRD	Lead Human Resources Specialist	GS-0201-13	11/5/2015
120	E/PA	Administrative Support Assistant	GS-0301-06	2/29/2016	JPATS	Aircraft Dispatcher	GS-2151-08	11/20/2015
121	E/KY	Administrative Support Assistant	GS-0303-07	3/1/2016	FSD	Financial Specialist	GS-0501-11	12/1/2015
122	E/KY	Administrative Support Assistant	GS-0303-07	3/1/2016	JPATS	Supervisory Airplane Pilot	GS-2181-14	12/5/2015
123	D/AZ	Investigative Research Specialist	GS-0301-09	3/2/2016	JSD	Management & Program Analyst	GS-0343-11/12	1/6/2016
124	D/AZ	Purchasing Agent	GS-1105-09	3/7/2016	JPATS	Quality Assurance Specialist	GS-1910-11/12	1/15/2016
125	E/NY	Criminal Program Specialist	GS-0301-09	3/7/2016	HRD	Lead Human Resources Specialist	GS-0201-13	1/15/2016
126	W/NY	Criminal Program Specialist	GS-0301-09	3/7/2016	HRD	Human Resource Specialist	GS-0201-14	1/25/2016
127	W/MO	Financial Specialist	GS-0501-07/09	3/11/2016	HRD	Human Resource Specialist	GS-0201-12/13	1/25/2016
128	DC/SC	Financial Specialist	GS-0501-07/09	3/11/2016	POD	Program Manager	GS-0340-15	2/4/2016
129	E/NY	Administrative Officer	GS-0341-13	3/14/2016	JPATS	Paramedic	GS-0640-07	2/5/2016
130	D/HI	Budget Analyst	GS-0560-09	3/21/2016	HRD	Human Resource Specialist	GS-0201-9/11	2/5/2016
131	D/RI	Administrative Support Assistant	GS-0303-07	3/23/2016	HRD	Supervisory Human Resources Specialist	GS-0201-15	2/12/2016
132	D/MA	Administrative Support Assistant	GS-0301-09	4/5/2016	AFD	Contract Specialist	GS-1102-11/12	2/19/2016
133	DC/DC	Financial Specialist	GS-0501-11	4/6/2016	AFD	Contract Specialist	GS-1102-11/12	2/19/2016
134	W/AR	Administrative Officer	GS-0341-11/12/13	4/7/2016	ADA	Management & Program Analyst	GS-0343-12/13	2/22/2016
135	E/MI	Investigative Research Specialist	GS-0301-09	4/22/2016	JPATS	Accountant	GS-0510-12	2/25/2016
136	E/MO	Investigative Research Specialist	GS-0301-09	4/22/2016	POD	Budget Analyst	GS-0560-09	2/29/2016
137	E/MO	Administrative Support Assistant	GS-0303-07	4/25/2016	POD	Statistician	GS-1530-9/11	3/8/2016
138	N/IL	Administrative Support Assistant	GS-0303-07	4/25/2016	POD	Information Management Specialist	GS-0301-13	3/8/2016
139	C/CA	District Asset Forfeiture Coordinator	GS-0300-12/13	5/20/2016	JSD	Supervisory Physical Security Specialist	GS-0080-14	3/14/2016
140	E/VA	Senior Administrative Support Asst.	GS-0303-08	5/24/2016	IOD	Supervisory Management & Program Analyst	GS-0343-14	3/22/2016
141	D/AZ	Investigative Research Specialist	GS-0300-11	5/26/2016	JSD	Physical Security Specialist	GS-0080-12/13	3/23/2016
142	W/NC	Criminal Program Specialist	GS-0300-07	6/2/2016	WSD	Administrative Officer	GS-0341-09	3/29/2016
143	W/TX	Management & Program Analyst	GS-0343-11/12	6/2/2016	WSD	Administrative Officer	GS-0341-09	3/29/2016
144	W/TX	Management & Program Analyst	GS-0343-11/12	6/2/2016	FSD	System Accountant	GS-0510-13	3/28/2016
145	E/OK	Criminal Program Specialist	GS-0300-09	6/3/2016	HRD	Employee Health Programs Manager	GS-0601-14	4/3/2016

146	D/HI	Administrative Support Assistant	GS-0300-07	6/8/2016	ADA	Operations Research Analyst	GS-1515-13	4/3/2016
147	D/WY	Financial Specialist	GS-0500-09	6/14/2016	WSD	Operations Analyst	GS-0301-11/12	4/5/2016
148	E/NY	Management & Program Analyst	GS-0343-11	6/22/2016	JPATS	Airplane Pilot	GS-2181-13	4/6/2016
149	DC/SC	Administrative Support Specialist	GS-0301-09	6/30/2016	FSD	Systems Accountant	GS-0510-13	4/11/2016
150	S/FL	Investigative Research Specialist	GS-0301-09	6/30/2016	ADO	Program Manager	GS-0340-15	4/14/2016
151	E/CA	Administrative Support Assistant	GS-0303-07	7/5/2016	HRD	Human Resource Specialist	GS-0201-13	4/18/2016
152	D/SD	Criminal Program Specialist	GS-0301-09	7/26/2016	JSD	Supervisory Contract Specialist	GS-1102-14	4/19/2016
153	D/NM	District Asset Forfeiture Coordinator	GS-0301-11/12	8/1/2016	JSD	Contract Specialist	GS-1102-12	4/20/2016
154	D/AZ	Investigative Research Specialist	GS-0301-09	8/5/2016	IOD	Intelligence Research Specialist	GS-0132-13	4/27/2016
155	W/OK	Administrative Officer	GS-0341-11/12/13	8/11/2016	JPATS	Supervisory Management & Program Analyst	GS-0343-15	4/29/2016
156	W/TX	Management & Program Analyst	GS-0343-11/12	8/16/2016	HRD	Lead Human Resources Specialist	GS-0201-13	4/29/2016
157	D/NM	Management & Program Analyst	GS-0343-11	8/19/2016	HRD	Human Resource Specialist	GS-0201-13	5/2/2016
158	DC/SC	Criminal Program Specialist	GS-0301-09	8/19/2016	ADA	Supervisory Operations Research Specialist	GS-1515-14	5/2/2016
159	E/WI	District Asset Forfeiture Coordinator	GS-0301-11/12	8/22/2016	FSD	Contract Specialist	GS-1102-11/12/13	5/2/2016
160	D/AZ	Investigative Research Specialist	GS-0301-09	8/26/2016	FSD	Contract Specialist	GS-1102-11/12/13	5/2/2016
161	DC/DC	Financial Specialist	GS-0501-11	8/29/2016	FSD	Contract Specialist	GS-1102-11/12/13	5/2/2016
162	D/MA	Criminal Program Specialist	GS-0301-09	8/29/2016	TOD	Lead Public Safety Telecommunication Specialist	GS-0300-12	5/6/2016
163	D/NJ	Administrative Officer	GS-0341-13	8/29/2016	IOD	Management & Program Analyst	GS-0343-13	5/6/2016
164	D/VI	Financial Specialist	GS-0501-09	8/29/2016	TD	Management & Program Analyst	GS-0343-13	5/6/2016
165	E/NY	Investigative Research Specialist	GS-0301-09	8/29/2016	AFD	Supervisory Financial Specialist	GS-0500-15	5/10/2016
166	E/NY	Criminal Program Specialist	GS-0301-09	9/12/2016	HRD	Occupational Health Nurse	GS-0600-13	5/12/2016
167	NE	Criminal Program Specialist	GS-0301-09	9/16/2016	HRD	Occupational Health Nurse	GS-0600-13	5/12/2016
168	E/TN	Financial Specialist	GS-0501-09	9/20/2016	MSD	Physical Security Specialist	GS-0080-13	5/13/2016
169	E/CA	Purchasing Agent	GS-1105-08	9/20/2016	JSD	Supervisory Management & Program Analyst	GS-0343-15	5/13/2016
170	E/CA	Management & Program Analyst	GS-0343-11	9/21/2016	HRD	Human Resources Assistant	GS-0200-05	5/16/2016
171	D/OR	Investigative Research Specialist	GS-0301-09	9/28/2016	ITD	Supervisory IT Specialist	GS-2200-15	5/19/2016
172	W/OK	Administrative Officer	GS-0341-11/12/13	9/29/2016	HRD	Human Resources Specialist	GS-0200-12	5/20/2016
173	E/MO	Investigative Research Specialist	GS-0101-09	10/5/2016	HRD	Human Resources Specialist	GS-0200-13	5/23/2016
174	W/TX	Criminal Program Specialist	GS-0301-09	10/27/2016	ITD	Information Technology Specialist	GS-2200-13	5/25/2016
175	W/TX	Operations Support Specialist	GS-0301-09	10/27/2016	AFD	Supervisory Management & Program Analyst	GS-0343-15	5/26/2016
176	D/OR	Investigative Research Specialist	GS-0301-09	11/9/2016	HRD	Management & Program Analyst	GS-0300-07	5/26/2016
177	DC/SC	Management & Program Analyst	GS-0343-12	11/9/2016	HRD	Management & Program Analyst	GS-0300-07	5/26/2016
178	W/TX	Management & Program Analyst	GS-0343-11	11/11/2016	POD	Contractor Administrator	GS-1100-13	5/27/2016
179	N/WV	Investigative Research Specialist	GS-0301-09	11/16/2016	POD	Contractor Administrator	GS-1100-13	5/27/2016
180	W/TX	Property Management Specialist	GS-1101-09	11/28/2016	FSD	Contract Specialist	GS-1100-11	5/27/2016
181	D/VT	Budget Analyst	GS-0560-09	12/9/2016	FSD	Contract Specialist	GS-1100-11	5/27/2016
182	S/FL	Seizure and Forfeiture Specialist	GS-1101-09	12/12/2016	FSD	Contract Specialist	GS-1100-11	5/27/2016
183	M/FL	Management & Program Analyst	GS-0343-11/12	12/15/2016	HRD	Human Resource Specialist	GS-0201-09/11/12	5/27/2016
184	S/TX	Supervisory Management & Program Analyst	GS-0343-12	12/19/2016	ADA	Operations Research Analyst	GS-1500-13	5/31/2016
185	N/IL	Administrative Support Assistant	GS-0303-07	12/28/2016	FSD	Supervisory Accountant	GS-0510-14	6/6/2016
186	D/NJ	Administrative Officer	GS-0341-13	12/30/2016	FSD	Contract Specialist	GS-1100-11	6/3/2016
187	W/OK	Administrative Officer	GS-0341-11/12/13	12/30/2016	FSD	Contract Specialist	GS-1100-11	6/3/2016
188	D/UT	Administrative Support Assistant	GS-0303-05	12/29/2016	FSD	Contract Specialist	GS-1100-11	6/3/2016
189	D/VT	Criminal Program Specialist	GS-0301-07	1/6/2017	OPR	Management & Program Analyst	GS-0343-13	6/8/2016
190	N/CA	Administrative Support Assistant	GS-0303-07	1/13/2017	HRD	Human Resource Specialist	GS-0200-13	6/22/2016
191	DC/SC	Financial Specialist	GS-0501-11	3/3/2017	JSD	Budget Analyst	GS-0560-11/12/13	6/24/2016
192	C/IL	Operations Support Specialist	GS-0201-09	3/4/2017	FSD	Management & Program Analyst	GS-0343-14	7/1/2016
193	N/IN	Investigative Research Specialist	GS-0301-09	3/6/2017	MSD	Supervisory Management & Program Analyst	GS-0343-14	7/1/2016
194	N/IL	Administrative Support Assistant	GS-0303-07	3/9/2017	AFD	Supervisory Financial Specialist	GS-0501-14	7/15/2016
195	C/CA	Physical Security Specialist	GS-0080-12	3/13/2017	AFD	Supervisory Business Operations Specialist	GS-1101-15	7/19/2016
196	C/CA	Administrative Support Assistant	GS-0303-07	3/17/2017	POD	Grants - Cooperative Agreement Specialist	GS-1101-12/13	7/22/2016

197	DC/DC	Criminal Program Specialist	GS-0301-09	3/21/2017	TOD	Personnel Security Specialist	GS-0080-13	8/1/2016
198	N/MS	Administrative Officer	GS-0341-11/12/13	3/23/2017	ITD	Information Technology Specialist	GS-2210-13	8/1/2016
199	D/OR	Investigative Research Specialist	GS-0301-09	3/23/2017	FSD	Supervisory Accountant	GS-0510-14	8/4/2016
200	S/FL	Investigative Research Specialist	GS-0301-09	3/28/2017	ADA	Data Governance Program Manager	GS-0301-15	8/5/2016
201	N/NY	Administrative Support Assistant	GS-0303-07	3/31/2017	AFD	Supervisory Financial Specialist	GS-0501-15	8/8/2016
202	D/NM	Management & Program Analyst	GS-0343-12	3/31/2017	AFD	Contract Specialist	GS-1102-11/12	8/9/2016
203	DC/SC	Property Management Specialist	GS-1101-09	4/5/2017	JSD	Management & Program Analyst	GS-0343-11/12	8/10/2016
204	D/NH	Administrative Officer	GS-0341-11/12/13	4/7/2017	MSD	Architect	GS-0808-13	8/11/2016
205	W/WA	Administrative Officer	GS-0341-11/12/13	4/7/2017	ADA	Operations Research Analyst	GS-1515-13	8/16/2016
206	S/CA	Criminal Program Specialist	GS-0101-11	4/7/2017	HRD	Supervisory Human Resources Specialist	GS-0201-14	8/16/2016
207	E/WI	Budget Analyst	GS-0560-09	4/11/2017	JSD	Intelligence Research Specialist	GS-0132-13	8/18/2016
208	W/TX	Investigative Research Specialist	GS-0301-09	4/20/2017	HRD	Human Resources Specialist	GS-0201-12	8/19/2016
209	W/TX	Operations Support Specialist	GS-0301-09	4/20/2017	HRD	Human Resources Specialist	GS-0201-13	8/19/2016
210	W/TX	Lead Administrative Support Assistant	GS-0303-08	4/20/2017	HRD	Human Resources Specialist	GS-0201-13	8/22/2016
211	E/CA	Management & Program Analyst	GS-0343-11	4/21/2017	JSD	Security Specialist	GS-0080-09/11	8/22/2016
212	N/GA	Administrative Officer	GS-0341-13	5/1/2017	JSD	Security Specialist	GS-0080-09/11	8/22/2016
213	DC/SC	Administrative Officer	GS-0341-13	5/1/2017	JSD	Security Specialist	GS-0080-09/11	8/22/2016
214	W/MO	Financial Specialist	GS-0501-11	5/2/2017	JSD	Contract Specialist	GS-1101-12/13	8/24/2016
215	S/AL	Administrative Support Assistant	GS-0303-07	5/22/2017	JSD	Contract Specialist	GS-1101-12/13	8/24/2016
216	W/NY	Investigative Research Specialist	GS-0301-09	6/27/2017	JSD	Contract Specialist	GS-1101-12/13	8/24/2016
217	D/GU	Budget Analyst	GS-0560-08	6/30/2017	ITD	Information Technology Specialist	GS-2210-14	8/26/2016
218	W/WA	Administrative Officer	GS-0341-11/12/13	7/5/2017	HRD	Human Resources Specialist	GS-0201-13	8/29/2016
219	S/CA	Administrative Support Assistant	GS-0303-07	7/6/2017	OPR	Management & Program Analyst	GS-0343-13	8/29/2016
220	S/TX	Property Management Specialist	GS-1101-09	7/10/2017	ADA	Data Governance Program Manager	GS-0301-15	9/20/2016
221	N/OK	Budget Analyst	GS-0560-09	7/10/2017	WSD	Administrative Officer	GS-0341-09	9/12/2016
222	W/TX	District Asset Forfeiture Coordinator	GS-0301-12	7/10/2017	HRD	Human Resources Specialist	GS-0201-09/11	9/19/2016
223	DC/SC	Accounting Technician	GS-0525-07	7/14/2017	TOD	Management & Program Analyst	GS-0343-13	9/21/2016
224	DC/SC	Accounting Technician	GS-0525-07	7/14/2017	JPATS	Paramedic	GS-0640-07	9/26/2016
225	DC/SC	Accounting Technician	GS-0525-07	7/14/2017	ITD	Supervisory IT Specialist	GS-2210-14	9/28/2016
226	DC/SC	Accounting Technician	GS-0525-07	7/14/2017	ITD	Supervisory IT Specialist	GS-2210-14	9/30/2016
227	DC/SC	Accounting Technician	GS-0525-07	7/14/2017	OD	Internal Communications Specialist	GS-1001-13	9/30/2016
228	DC/SC	Accounting Technician	GS-0525-07	7/14/2017	JSD	Physical Security Specialist	GS-0080-12/13	10/3/2016
229	DC/SC	Accounting Technician	GS-0525-07	7/14/2017	OCA	Congressional Affairs Analyst	GS-0301-13	10/10/2016
230	S/TX	Administrative Support Assistant	GS-0303-06	7/21/2017	JSD	Supervisory Contract Specialist	GS-1102-14	10/12/2016
231	M/TN	Operations Support Specialist	GS-0301-07	7/31/2017	JSD	Budget Analyst	GS-0560-09	10/6/2016
232	D/CT	Administrative Support Assistant	GS-0303-07	8/2/2017	JPATS	Investigative Research Specialist	GS-0132-11	10/4/2016
233	N/CA	Administrative Support Assistant	GS-0303-07	8/2/2017	WSD	Management & Program Analyst	GS-0343-13	10/11/2016
234	DC/SC	Administrative Support Assistant	GS-0303-06/07	8/2/2017	JPATS	Aircraft Dispatcher	GS-2151-08	10/19/2016
235	E/MO	Criminal Program Specialist	GS-0301-07/09	8/11/2017	JPATS	Airplane Pilot	GS-2181-13	10/19/2016
236	D/OR	Contract Specialist	GS-1102-09	8/18/2017	OPR	Management & Program Analyst	GS-0343-13	10/24/2016
237	D/AZ	Contract Specialist	GS-1102-11	8/30/2017	FSD	Budget Analyst	GS-0560-13	10/26/2016
238	W/WA	Financial Specialist	GS-0501-11	9/8/2017	ITD	IT Specialist	GS-2210-14	10/26/2016
239	D/ID	Management & Program Analyst	GS-0343-11	9/29/2017	HRD	Supervisory Human Resources Specialist	GS-0201-15	12/1/2016
240	E/MO	Property Management Specialist	GS-1101-11	9/25/2017	HRD	Lead Human Resources Specialist	GS-0201-13	11/25/2016
241	W/TX	Investigative Research Specialist	GS-0301-09	9/28/2017	HRD	Human Resources Specialist	GS-0201-13	11/28/2016
242	D/CO	Administrative Support Assistant	GS-0303-07	9/29/2017	MSD	Safety & Occupational Health Manager	GS-0018-14	12/19/2016
243	D/MA	Operations Support Specialist	GS-0301-09	10/2/2017	ITD	Supervisory IT Specialist	GS-2210-14	12/9/2016
244	S/CA	Administrative Support Specialist	GS-0303-07	10/2/2017	HRD	Supervisory Management & Program Analyst	GS-0343-14	12/13/2016
245	D/CO	Financial Specialist	GS-0501-09	10/2/2017	OPR	Management & Program Analyst	GS-0343-13	12/14/2016
246	DC/DC	Administrative Officer	GS-0341-13	10/3/2017	MSD	Physical Security Specialist	GS-0080-13	12/23/2016
247	DC/DC	Investigative Research Specialist	GS-0301-09	10/5/2017	FSD	Supervisory Contract Specialist	GS-1102-14	12/23/2016

248	DC/SC	Investigative Research Specialist	GS-0301-09	10/5/2017	OGC	Government Information Specialist	GS-0306-12/13	12/27/2016
249	W/OK	Investigative Research Specialist	GS-0301-09	10/6/2017	AFD	Supervisory Contract Specialist	GS-1102-14	12/27/2016
250	D/NM	Operations Support Specialist	GS-0301-09	10/10/2017	JPATS	Prisoner Transportation Assistant	GS-0303-07	12/30/2016
251	W/WI	Criminal Program Specialist	GS-0301-09	10/10/2017	JPATS	Prisoner Transportation Assistant	GS-0303-07	12/30/2016
252	S/OH	Administrative Support Specialist	GS-0301-09	10/10/2017	JPATS	Intelligence Research Specialist	GS-0132-11	12/30/2016
153	C/CA	Administrative Officer	GS-0341-13	10/16/2017	WSD	Operations Analyst	GS-0301-11/12	1/9/2017
254	D/WY	Investigative Research Specialist	GS-0301-09	10/17/2017	WSD	Management & Program Analyst	GS-0343-12	1/6/2017
255	S/AL	Criminal Program Specialist	GS-0301-09	10/19/2017	AFD	Management & Program Analyst	GS-0343-11/12	1/6/2017
256	DC/SC	Criminal Program Specialist	GS-0301-09	10/19/2017	ITD	Supervisory IT Specialist	GS-2210-14	1/12/2017
257	E/CA	Financial Specialist	GS-0501-09	10/20/2017	OPR	Management & Program Analyst	GS-0343-13	1/27/2017
258	D/NH	Financial Specialist	GS-0501-09	10/20/2017	FSD	Budget Analyst	GS-0560-09/11	1/13/2017
259	E/LA	Criminal Program Specialist	GS-0301-09	10/23/2017	AFD	Property Management Specialist	GS-1101-13	1/17/2017
260	N/GA	Management & Program Analyst	GS-0343-11/12	10/23/2017	EEO	Equal Employment Opportunity Specialist	GS-0260-12/13	1/25/2017
261	E/MO	Criminal Program Specialist	GS-0301-07/09	10/25/2017	IOD	Supervisory Financial Specialist	GS-0501-15	1/18/2017
262	D/MN	Criminal Program Specialist	GS-0301-09	10/25/2017	MSD	Management & Program Analyst	GS-0343-13	1/17/2017
263	D/OR	Operations Support Specialist	GS-0301-07/09	10/27/2017	HRD	Human Resources Specialist	GS-0201-12	1/19/2017
264	W/WI	Criminal Program Specialist	GS-0301-09	10/30/2017	TOD	Public Safety Communications Specialist	GS-0301-07	1/24/2017
265	D/HI	Administrative Support Assistant	GS-0303-07	10/30/2017	HRD	Human Resources Assistant	GS-0203-05	1/26/2017
266	E/MI	Administrative Support Assistant	GS-0303-07	10/30/2017	JPATS	Senior Aviation Enforcement Officer	GS-1801-11	1/26/2017
267	W/TX	Administrative Support Assistant	GS-0303-07	10/30/2017	JPATS	Senior Aviation Enforcement Officer	GS-1801-11	1/26/2017
268	D/NV	Management & Program Analyst	GS-0343-11	11/2/2017	HRD	Human Resources Specialist	GS-0201-13	1/27/2017
269	N/MS	Operations Support Specialist	GS-0301-07/09	11/3/2017	HRD	Supervisory Human Resources Specialist	GS-0101-15	1/27/2017
270	D/HI	Purchasing Agent	GS-1105-08/09	11/14/2017	HRD	Management & Program Analyst	GS-0343-13	1/27/2017
271	W/TX	Administrative Support Assistant	GS-0303-07	11/17/2017	FSD	Supervisory Accountant	GS-0510-15	1/27/2017
272	W/TX	Investigative Research Specialist	GS-0301-09	11/29/2017	HRD	Employee Health Programs Manager	GS-0343-14	1/27/2017
273	D/DE	Criminal Program Specialist	GS-0301-09	12/1/2017	HRD	Management & Program Analyst	GS-0343-14	1/27/2017
274	E/TX	Operations Support Specialist	GS-0301-09	12/5/2017	FSD	Contract Specialist	GS-1102-09	1/30/2017
275	DC/SC	Property Management Specialist	GS-1101-11	12/11/2017	FSD	Contract Specialist	GS-1102-09	1/30/2017
276	DC/SC	Property Management Specialist	GS-1101-09	12/11/2017	IOD	Management & Program Analyst	GS-0343-14	3/6/2017
277	D/CO	Financial Specialist	GS-0501-09	12/12/2017	FSD	Contract Specialist	GS-1101-09	3/6/2017
278	E/NY	Criminal Program Specialist	GS-0301-09	12/13/2017	FSD	Contract Specialist	GS-1101-09	3/6/2017
279	DC/SC	Property Management Specialist	GS-1101-11	1/2/2018	HRD	Human Resources Specialist	GS-0201-13	3/9/2017
280	N/FL	Operations Support Specialist	GS-0301-09	1/8/2018	ITD	Supervisory Intelligence Research Specialist	GS-2210-14	3/10/2017
281	D/CT	Administrative Support Assistant	GS-0303-07	1/8/2018	ITD	Information Technology Specialist	GS-2210-13	3/10/2017
282	DC/DC	Financial Specialist	GS-0501-09	1/8/2018	FSD	Budget Analyst	GS-0560-12/13	3/17/2014
283	E/KY	Property Management Specialist	GS-1101-11	1/12/2018	JSD	Contract Specialist	GS-1102-9/11/12/13	3/21/2017
284	D/NM	Criminal Program Specialist	GS-0301-09	1/16/2018	JSD	Contract Specialist	GS-1102-9/11/12/13	3/21/2017
285	D/HI	Administrative Support Assistant	GS-0303-07	1/19/2017	JSD	Contract Specialist	GS-1102-9/11/12/13	3/21/2017
286	W/OK	Financial Specialist	GS-0501-09	1/24/2018	HRD	Human Resources Specialist	GS-0201-13	3/22/2017
287	E/TX	Operations Support Specialist	GS-0301-09	1/24/2018	TOD	Personnel Security Specialist	GS-0080-12/13	3/23/2017
288	W/MI	Criminal Program Specialist	GS-0301-09	1/26/2018	FSD	Management & Program Analyst	GS-0343-11/12/13	3/28/2017
289	D/NM	Investigative Research Specialist	GS-0301-09	1/30/2018	EEO	Administrative Officer	GS-0341-12	3/28/2017
290	D/NM	Investigative Research Specialist	GS-0309-09	1/30/2018	HRD	Management & Program Analyst	GS-0343-13	3/28/2017
291	W/NY	Administrative Support Assistant	GS-0303-07	1/31/2018	HRD	Management & Program Analyst	GS-0343-13	3/28/2017
292	D/NV	Financial Specialist	GS-0501-09	2/8/2018	JSD	Supervisory Intelligence Analyst	GS-0132-15	3/29/2017
293	E/AR	Criminal Program Specialist	GS-0301-09	2/8/2018	HRD	Human Resources Specialist	GS-0201-9/11/12	4/5/2017
294					HRD	Human Resources Specialist (Salisbury, NC)	GS-0101-13	4/5/2017
295					FSD	Budget Analyst	GS-0560-13	4/12/2017
296					OPR	Management & Program Analyst	GS-0343-13	4/12/2017
297					FSD	Contract Specialist (Austin)	GS-1102-11/12	4/18/2017
298					FSD	Lead Contract Specialist (Austin)	GS-1102-13	4/18/2017

299					TD	Training Administrator	GS-1712-13/14	4/19/2017
300					ITD	Information Technology Specialist	GS-2210-13	4/20/2017
301					WSD	Operations Analyst	GS-0301-11/12	5/1/2017
302					TD	Financial Specialist	GS-0501-09/11	5/3/2017
303					JPATS	Aircraft Dispatcher	GS-2151-08	5/16/2017
304					JPATS	Airplane Pilot	GS-2181-13	5/19/2017
305					ITD	Information Technology Specialist	GS-1102-13	5/19/2017
306					JSD	Intelligence Research Specialist	GS-0132-13	5/19/2017
307					JSD	Intelligence Research Specialist	GS-0132-13	5/19/2017
308					JSD	Intelligence Research Specialist	GS-0132-13	5/19/2017
309					JSD	Intelligence Research Specialist	GS-0132-13	5/19/2017
310					IOD	Management & Program Analyst	GS-0343-11/12/13	5/22/2017
311					IOD	Management & Program Analyst	GS-0343-11/12/13	5/22/2017
312					IOD	Management & Program Analyst	GS-0343-11/12/13	5/22/2017
313					HRD	Supervisory Human Resources Specialist	GS-0201-14	5/23/2017
314					FSD	Supervisory Contract Specialist	GS-1102-15	5/25/2017
315					POD	Contractor Administrator	GS-1101-13	5/25/2017
316					ITD	Information Technology Specialist	GS-2210-14	6/21/2017
317					ITD	Information Technology Specialist	GS-2210-13	6/26/2017
318					ITD	Information Technology Specialist	GS-2210-13	6/26/2017
319					JSD	Physical Security Specialist	GS-0080-12/13	6/26/2017
320					JPATS	Aircraft Dispatcher	GS-2151-08	6/27/2017
321					JPATS	Aircraft Dispatcher	GS-2151-08	6/28/2017
322					HRD	Human Resources Specialist	GS-0201-13	6/30/2017
323					HRD	Human Resources Specialist	GS-0201-13	6/30/2017
324					WSD	Administrative Officer	GS-0341-09	7/5/2017
325					HRD	Human Resources Assistant	GS-0203-05/07	7/10/2017
326					HRD	Human Resources Assistant	GS-0203-05/07	7/10/2017
327					HRD	Human Resources Assistant	GS-0203-05/07	7/10/2017
328					HRD	Human Resources Assistant	GS-0203-05/07	7/10/2017
329					HRD	Human Resources Assistant	GS-0203-05/07	7/10/2017
330					HRD	Human Resources Assistant	GS-0203-05/07	7/10/2017
331					HRD	Human Resources Assistant	GS-0203-05/07	7/10/2017
332					JPATS	Quality Assurance Specialist	GS-1910-13	7/11/2017
333					FSD	Supervisory Accountant	GS-0510-14	7/21/2017
334					HRD	Employee Health Programs Manager	GS-0601-14	7/24/2017
335					HRD	Senior Human Resources Specialist	GS-0201-13	7/31/2017
336					OGC	Government Information Specialist	GS-0306-09/11	8/9/2017
337					OGC	Government Information Specialist	GS-0306-09/11	8/9/2017
338					IOD	Statistician	GS-1530-13	8/9/2017
339					IOD	Statistician	GS-1530-13	8/9/2017
340					JSD	Supervisory Contract Specialist	GS-1102-15	8/10/2017
341					OGC	Attorney Advisor	GS-0890-15	8/14/2017
342					OGC	Attorney Advisor	GS-0890-15	8/14/2017
343					JPATS	Supervisory Airplane Pilot	GS-2181-14	8/16/2017
344					JSD	Physical Security Specialist	GS-0080-9/11	8/17/2017
345					JSD	Physical Security Specialist	GS-0080-9/11	8/17/2017
346					JSD	Physical Security Specialist	GS-0080-9/11	8/17/2017
347					TD	Training Specialist	GS-1712-12/13	8/18/2017
348					POD	Finance Officer	GS-0501-15	8/21/2017
349					TOD	Interdisciplinary	GS-0101/0180/0185-15	8/21/2017

350					JPATS	Parmedic	GS-0640-07	8/23/2017
351					JSD	Supervisory Contract Specialist	GS-1102-14	8/24/2017
352					ITD	Supervisory IT Specialist	GS-2210-14	8/24/2017
353					ITD	Supervisory IT Specialist	GS-2210-14	8/24/2017
354					WSD	Case Analyst	GS-0301-13	9/5/2017
355					TOD	Supervisory Public Safety Communications Specialist	GS-0301-14	9/7/2017
356					HRD	Human Resources Specialist	GS-0201-07/09/11/12	9/12/2017
357					HRD	Human Resources Specialist	GS-0201-07/09/11/12	9/12/2017
358					JSD	Management & Program Analyst	GS-0343-13	9/13/2017
359					HRD	Human Resources Specialist	GS-0201-13	9/14/2017
360					HRD	Human Resources Specialist	GS-0201-13	9/15/2017
361					WSD	Supervisory Operations Analyst	GS-0301-13	9/18/2017
362					POD	Contract Administrator	GS-1101-13	9/19/2017
363					POD	Contract Administrator	GS-1101-13	9/19/2017
364					POD	Contract Administrator	GS-1101-13	9/19/2017
365					POD	Contract Administrator	GS-1101-13	9/19/2017
366					POD	Contract Administrator	GS-1101-13	9/19/2017
367					POD	Contract Administrator	GS-1101-13	9/19/2017
368					POD	Contract Administrator	GS-1101-13	9/19/2017
369					POD	Contract Administrator	GS-1101-13	9/19/2017
370					WSD	Supervisory Case Analyst	GS-0301-14	9/21/2017
371					FSD	Contract Specialist	GS-1102-9/11	9/20/2017
372					FSD	Contract Specialist	GS-1102-9/11	9/20/2017
373					FSD	Contract Specialist	GS-1102-13	9/20/2017
374					FSD	Contract Specialist	GS-1102-13	9/20/2017
375					JSD	Management & Program Analyst	GS-0343-11/12/13	9/25/2017
376					OGC	Government Information Specialist	GS-0306-09/11/12/13	9/25/2017
377					JSD	Contract Specialist	GS-11-02-9/11/12/13	9/25/2017
378					AFD	Management & Program Analyst	GS-0343-11/12	9/27/2017
379					FSD	Supervisory Financial Management Analyst	GS-0501-14	9/27/2017
380					JSD	Supervisory Physical Security Specialist	GS-0080-14	9/28/2017
381					FSD	Supervisory Contract Specialist	GS-1102-14	10/2/2017
382					IOD	Supervisory Management & Program Analyst	GS-0343-14	10/6/2017
383					ITD	Information Technology Specialist	GS-2210-13	10/6/2017
384					HRD	Management & Program Analyst	GS-0343-13	10/10/2017
385					IOD	Supervisory Operations Research Analyst	GS-1515-14	10/11/2017
386					HRD	Supervisory Human Resources Specialist	GS-0201-14	10/13/2017
387					OGC	Government Information Specialist	GS-0306-12/13	10/19/2017
388					IOD	Supervisory Management & Program Analyst	GS-0343-14	10/23/2017
389					JPATS	Aviation Enforcement Officer (OKC)	GL-1801-07/09	10/26/2017
390					JPATS	Aviation Enforcement Officer (LAS)	GL-1801-07/09	10/26/2017
391					FSD	Contract Specialist	GS-1102-13	10/30/2017
392					HRD	Supervisory Human Resources Specialist	GS-0101-14	10/30/2017
393					JPATS	Financial Analyst	GS-0501-09/11	11/13/2017
394					HRD	Human Resources Specialist	GS-0201-13	11/13/2017
395					JSD	Supervisory Contract Specialist	GS-1102-15	11/16/2017
396					MSD	Management & Program Analyst	GS-0343-11/12/13	11/21/2017
397					POD	Financial Management Analyst	GS-0501-09/11/12/13	11/22/2017
398					JPATS	Supervisory Aviation Enforcement Officer	GS-1801-12	11/28/2017
399					TOD	Supervisory Personnel Security Specialist	GS-0080-14	11/29/2017
400					JPATS	Supervisory Airplane Pilot	GS-2181-14	12/1/2017

401					TD	Training Specialist	GS-1712-12/13	12/5/2017
402					POD	Supervisory Detention Facilities Program Manager	GS-0301-14	12/8/2017
403					JPATS	Paramedic	GS-0640-07	12/11/2017
404					IOD	Extradition Analyst	GS-0301-13	12/15/2017
405					HRD	Employee Health Programs Manager	GS-0601-14	12/23/2017
406					JSD	Management & Program Analyst	GS-0343-12/13	12/23/2017
407					JPATS	Airplane Pilot	GS--2181-13	1/5/2018
408					JPATS	Airplane Pilot	GS--2181-13	1/5/2018
409					ITD	Supervisory IT Specialist (Sacramento)	GS-2210-14	1/10/2018
410					ITD	Supervisory IT Specialist (Pensacola)	GS-2210-14	1/10/2018
411					ITD	Supervisory IT Specialist (Washington, DC)	GS-2210-14	1/10/2018
412					ITD	Supervisory IT Specialist (Chicago)	GS-2210-14	1/10/2018
413					ITD	Supervisory IT Specialist (Brownsville)	GS-2210-14	1/10/2018
414					ITD	Supervisory IT Specialist (Houston)	GS-2210-14	1/10/2018
415					HRD	Human Resources Specialist	GS-0201-07/09/11/12	1/10/2017
416					HRD	Human Resources Specialist	GS-0201-09/11/12	1/10/2017
417					JPATS	Prisoner Transportation Assistant	GS-0303-07	1/19/2018
418					OPR	Management & Program Analyst	GS-0343-13	1/24/2018
419					TOD	Supervisory Personnel Security Specialist	GS-0080-14	1/25/2018
420					TOD	Supervisory Public Safety Communications Specialist	GS-0301-13	1/25/2018
421					OPA	Public Affairs Specialist	GS-1035-13	1/26/2018
422					OPR	Management & Program Analyst	GS-0343-13	1/30/2018
423					ITD	Information Technology Specialist	GS-2210-13	2/1/2018
424					JSD	Supervisory Contract Specialist	GS-1102-14	2/2/2018
425					ITD	Information Technology Specialist (Philadelphia)	GS-2210-13	2/7/2018
426					ITD	Information Technology Specialist	GS-2210-13	2/8/2018
427					JSD	Supervisory Physical Security Specialist	GS-0080-14	2/8/2018
428					ITD	Information Technology Specialist	GS-2210-14	2/8/2018
429					ITD	Information Technology Specialist	GS-2210-13	2/8/2018
430					IOD	Statistician	GS-1530-13	2/12/2018
431					IOD	Statistician	GS-1530-13	2/12/2018
432					JPATS	Lead Paramedic	GS-0640-08	2/14/2018
433					AFD	Business Operations Specialist	GS-1101-14	2/19/2018
434					JSD	Executive Officer	GS-0340-15	2/21/2018

Footnote 3



U.S. Department of Justice

United States Marshals Service

Office of the Director

Washington, DC 20530-0001

May 4, 2017

Mr. David Barnes
Chapter President
Federal Managers Association
1641 Prince Street
Alexandria, Virginia 22314-2818

Dear Mr. Barnes:

Thank you for the Federal Managers Association (FMA) letters dated March 24, 2017, and April 11, 2017, discussing some FMA members' views of two merit promotion issues in the United States Marshals Service (USMS). As with all USMS matters, I welcome constructive comments and feedback from employees.

Regarding the Investigative Operations Division and the Regional Fugitive Task Forces (RFTF), I was briefed on a proposed restructure of the task forces and I requested additional information from both the Human Resources Division (HRD) and the Financial Services Division (FSD). After reviewing the information provided by HRD and FSD, as well as extensive discussions with my executive leadership, I have decided to proceed with the proposal by establishing a new RFTF structure which will include positions at the GS-1811-13, 14, and 15 levels. These positions will be announced on a future career board with the resulting selections made in accordance with merit promotion principles.

Regarding the Selective Placement Factors (SPF) in the Witness Security Division (WSD) job announcements, the SPFs were established in conjunction with WSD management after completion of a job analysis. The analysis supported that the experience established in the SPFs is necessary for immediate successful performance on the job. If other divisions believe SPFs are necessary, the Assistant Director of that division is welcome to make a request and complete a job analysis as was done by WSD. As you cite in your letter, the Judiciary Committee's Majority Staff Report acknowledged that we have already limited the use of SPFs, but the USMS will continue to use allowable SPFs when warranted.

Merit promotions are often a sensitive issue because, by definition, many of the people who do not receive promotion are disappointed by the outcome. Nevertheless, the USMS continues to assess and discuss changes that can further strengthen our promotion processes. I **take pride** in knowing that that according to the 2016 Federal Employee Viewpoint Survey, when considering all aspects of the survey, 70.5 percent of USMS employees are satisfied with our

Mr. David Barnes
Page 2

organization, which surpasses the Department of Justice's (DOJ) score and is considerably superior to the federal government average. I also take pride in the fact that the USMS was the highest ranked Law Enforcement agency in DOJ and third in the Law Enforcement and Border Protection agencies category of the Partnership for Public Service's 2016 Best Places to Work in the Federal Government rankings.

Thank you for your interest in USMS merit promotion and please convey to your membership my appreciation for their hard work and dedicated service to the USMS.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Harlow", written in a cursive style.

David L. Harlow
Acting Director

cc: Mari Barr Santangelo
Deputy Assistant Attorney General for Human Resources and Administration
Justice Management Division

DeLisa Lay
Investigative Counsel
Committee on the Judiciary
United States Senate

Footnote 5



United States Marshals Service – FMA Chapter 373
fma.usmarshals@gmail.com

December 8, 2017

Mr. William Delaney, Chief
Office of Congressional Affairs
United States Marshals Service
Washington, D.C. 20530-0001

Subject: Response to your e-mail on excepted service hiring authority at the U.S. Marshals Service (USMS)

Dear Mr. Delaney:

Thank you for your E-mail message of November 30th. Since the legislation you discuss is entitled the *U.S. Marshals Hiring Improvement Act of 2017* (S. 1124), we share a common interest of *improving* hiring and promotion practices at the USMS.

While there has been some suggestion that we “oppose” excepted service hiring authority, you can rest assured it is an unfortunate mischaracterization. We do not necessarily oppose anything that is deemed good for the USMS. However, we, like many managers in the USMS,¹ believe there are opportunities to improve the Bill, specific to hiring and promotion practices within the Agency.

The *Ensuring a Qualified Civil Service (EQUALS) Act* (H.R. 4182) was recently passed by House lawmakers. The FMA supports this legislation that allows managers and supervisors sufficient time to thoroughly evaluate their workers’ skills and abilities by having a two-year probationary period,² much like the proposed Bill (S. 1124) would do in granting the USMS excepted service hiring authority. As you will note in the *Washington Post* article, the FMA stepped forward in support of this Bill. Longer probationary periods are one area where we already agree, and that is reflected in both Bills.

I last met with the Acting Director/Deputy Director on March 3rd as a part of regularly-scheduled USMS/USMS FMA meetings. That was more than nine months ago. Since that time, we have extended multiple opportunities to meet. For example, we suggested a meeting in each of our letters on hiring and promotion practices dated March 24th and April 11th. Our Vice-President for Law Enforcement Operations requested meetings with the Acting Director/Deputy

¹ In the past, senior managers in the districts enjoyed representation by their peers to agency executives through the District Allocation Working Group that was abolished in 2011. Since then, many district managers believe they do not have a voice in agency operational decisions and instead, increasingly look to the USMS FMA to collectively share their viewpoints with leadership for improving the workforce.

² [House to vote on lengthening trial period for federal employees from one to two years](#)

Director on July 13th, July 23rd, October 24th, and as recent as November 28th, 29th, and 30th. Excepted service hiring authority was an agenda item for these meetings.

Disappointingly, each of our offers to schedule a meeting have been rebuffed. Instead, I was informed the Associate Director for Administration may have recently told Congressional staffers we declined to meet with the Agency. The written record shows otherwise. Given our multiple offers since springtime to meet with the Acting Director/Deputy Director, I find this assertion, if true, to be misleading.

I am concerned our offers to meet and maintain regularly-scheduled consultative meetings ceased, only after we began communicating with Congress on excepted service hiring authority. We did so because it was apparent our own Agency did not wish to discuss with us opportunities to improve hiring and promotion practices. This may have also led to the Acting Director/Deputy Director's letter to the FMA national president on August 3rd.³ This prompted our subsequent letter to the Chairman of the Senate Judiciary Committee on August 10th, and his letter to the Attorney General on August 11th.⁴

Despite our multiple best efforts, we were unable to first share our concerns internally on excepted service hiring authority when meetings ceased. We are open, however, to a reset to quash the chilling appearance that diverse viewpoints from within the ranks are unwelcome.

In our continued effort to provide our membership with information the Agency has gathered or developed on excepted service hiring authority, I transmitted a FOIA request on September 28th to the USMS on this very subject. I followed up with the USMS FOIA Officer on November 16th. Now 70 days later, neither of my communications have been as much as acknowledged, as required by law.

To have a more meaningful discussion we would like to obtain the documents requested through FOIA, giving us time to review them over the holidays. We would then like to meet and would also be eager to share with agency officials the same presentation that we made to Congress.

We would appreciate it if you would be so kind to determine the reason the FOIA request has not been acknowledged, and if the requested documents may otherwise be provided, consistent with our Consultative Agreement.⁵ If your office could then ensure that the information is transmitted to me, trust we will review the materials over the holidays and be in touch to schedule further internal agency communication. Given the time of year, many of our friends are on holiday and using their end of year leave.

³ Rather than come directly to me to share his concerns, the Acting Director/Deputy Director sent a letter to the national office stating, in part, "...we question whether any continuing relationship with FMA is viable" based on what he suggested was his belief our efforts were "designed to undermine significant Agency initiatives and to further the personal agenda of certain FMA local officer of officers." The FMA Executive Director responded to the Acting Director/Deputy Director's letter on August 16th.

⁴ [Grassley to Sessions - FMA Letter](#)

⁵ Our Consultation Agreement states, in part: "The USMS grants permission and agrees that the USMS FMA membership may utilize the following agency items free of charge to further the goals of the FMA: "...the use of any agency document that is obtainable under FOIA, without having to FOIA the document..."

We appreciate your E-mail and are very supportive of a meeting to discuss the proposed legislation for excepted service hiring authority, and other agenda items. Our offer to meet remains as important to us as does improving the Agency's hiring and promotion practices. We look forward to hearing back from you, reviewing the documents requested through FOIA, and discussing S. 1124.

Thank you for your invitation to work together to better understand legitimate concerns raised to us by the workforce.

With warm regards,

Dave Barnes

Dave Barnes
President, Chapter 373

Enclosure: Acting USMS Director's August 3, 2017 letter to Renee Johnson

Footnote 7

Wojdylo, Jason (USMS)

From: [REDACTED] (USMS)
Sent: Friday, July 28, 2017 12:25 PM
To: Wojdylo, Jason (USMS)
Cc: Federal Managers Assoc.(USMS)
Subject: RE: USAJOBS Daily Saved Search Results for USMS for 7/15/2017

Jason, FSD does not monitor the contractor workforce. We do however work with Districts who are having administrative staff(ing) challenges and help bridge that gap with contractor and other resources. I believe those contractors are added to the DSM "on board" staffing percentages. [REDACTED]

From: Wojdylo, Jason (USMS)
Sent: Monday, July 24, 2017 6:25 PM
To: [REDACTED] (USMS)
Cc: Federal Managers Assoc.(USMS)
Subject: FW: USAJOBS Daily Saved Search Results for USMS for 7/15/2017

Hi [REDACTED] –

Is there someone in FSD who tracks the contractor workforce?

Jason

From: Mohan, Katherine (USMS)
Sent: Monday, July 24, 2017 5:16 PM
To: Wojdylo, Jason (USMS)
Subject: RE: USAJOBS Daily Saved Search Results for USMS for 7/15/2017

Jason –

No, HRD does not track the contractor workforce.

Kat

Katherine T. Mohan
Assistant Director
Human Resources Division
[REDACTED]

From: Wojdylo, Jason (USMS)
Sent: Monday, July 24, 2017 6:12 PM
To: Mohan, Katherine (USMS)
Cc: Federal Managers Assoc.(USMS)
Subject: RE: USAJOBS Daily Saved Search Results for USMS for 7/15/2017

Thank you very much. My purpose in asking is you may recall since late December 2014 I have been tracking (on behalf of the USMS Federal Manager's

Association) all USMS administrative positions announced by OPM to identify trends on the numbers and grades for the 95 district and 218 sub-offices, against the 12 divisions and half dozen, or so, HQ staff offices (attached). Currently there have been 103 more positions announced for HQ, compared to the districts. The grade structure is rather obvious in its significance for HQ.

The Federal Manager's Association uses this data when communicating with the Director and JMD. We anticipate doing so again with the new Director when s/he is confirmed.

We note the data does not include the contractor workforce where the numbers are anticipated to also be far greater for HQ than the districts. Unfortunately, we have not been able to nail down with any certainty the contractor workforce within the Agency to compare and contrast those numbers. In the FY 2017 appropriation for the USMS, the appropriators included the following language that was specific to the USMS:

In addition to receiving direct appropriations, the Committee is aware that USMS also receives funding from the Department's Assets Forfeiture Fund [AFF] to augment salaries and expenses that are intended to directly administer AFF-related activities like the management and sale of forfeited assets. In an effort to increase transparency to USMS's use of AFF funding, the Department is directed to provide the Committee with quarterly reports that include: a detailed list of USMS's AFF expenditures; the number of Federal employees and contractor staff, including the assigned division for each, for any personnel expenses using AFF funds; and justifications for each expenditure, including connections with AFF-related operations.

We can obtain AFF-funded contractor positions based on the quarterly reports to the Committee. I understand the DSM now also counts the contractor workforce for districts. Is there any reliable record within HRD for the number of contractors assigned to divisions and staff offices?

From: Mohan, Katherine (USMS)
Sent: Monday, July 24, 2017 4:35 PM
To: Wojdylo, Jason (USMS)
Subject: RE: USAJOBS Daily Saved Search Results for USMS for 7/15/2017

Jason,

The Accounting Tech positions are for DC Superior Court. They currently have potentially 7 vacancies but that can change depending on staff movement and pending selections and their admin hiring threshold. Similarly, there are currently 7 HR Assistant vacancies in HR. If applicants have questions about a posting, I encourage them to contact the POC noted on each vacancy announcement.

Kat

Katherine T. Mohan
Assistant Director
Human Resources Division
[REDACTED]

From: Wojdylo, Jason (USMS)
Sent: Monday, July 24, 2017 12:43 PM
To: Mohan, Katherine (USMS)
Cc: Federal Managers Assoc.(USMS)
Subject: FW: USAJOBS Daily Saved Search Results for USMS for 7/15/2017

Similarly, are these district or division positions? Assigned where? And, the total number to be filled? Thanks.

From: <notifications@usajobs.gov> [DO NOT REPLY] [<mailto:notifications@usajobs.gov>]
Sent: Saturday, July 15, 2017 12:04 AM
To: Wojdylo, Jason (USMS)
Subject: USAJOBS Daily Saved Search Results for USMS for 7/15/2017

Hello Jason,

Here are your newest search results for USMS for 7/15/2017.

Some jobs listed in this email may no longer be available—the job may have been canceled or may have closed. Click the link for each job to see the full job announcement.

Accounting Technician (OA)

Department: Department of Justice
Agency: U.S. Marshals Service
Number of Job Opportunities & Location(s): Few vacancies - Washington DC, District of Columbia
Salary: \$44,941.00 to \$58,428.00 / Per Year
Series and Grade: GS-0525-7
Open Period: Friday, July 14, 2017 to Thursday, July 20, 2017
Position Information: Permanent - Full-Time
Who May Apply: U.S. Citizens

We only include up to 10 new search results in this email. To view the complete list of results on the USAJOBS web site, please click [View All Opportunities](#).

This saved search shall expire on 4/9/2018.

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1900 E Street NW. Washington, DC 20415

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From: Wojdylo, Jason (USMS)
Sent: Monday, July 24, 2017 11:40 AM
To: Mohan, Katherine (USMS)
Cc: Federal Managers Assoc.(USMS)
Subject: FW: USAJOBS Daily Saved Search Results for USMS for 7/11/2017

Hi Kat –

Is there an opportunity to better understand the total number of positions to be filled under this announcement in HRD? It reads “many vacancies” without defining a number. Thanks.

Jason

From: <notifications@usajobs.gov> [DO NOT REPLY] [<mailto:notifications@usajobs.gov>]
Sent: Monday, July 10, 2017 11:47 PM
To: Wojdylo, Jason (USMS)
Subject: USAJOBS Daily Saved Search Results for USMS for 7/11/2017

Hello Jason,

Here are your newest search results for USMS for 7/11/2017.

Some jobs listed in this email may no longer be available—the job may have been canceled or may have closed. Click the link for each job to see the full job announcement.

Human Resources Assistant (Recruitment & Placement) (OA)

Department: Department of Justice
Agency: U.S. Marshals Service
Number of Job Opportunities & Location(s): Many vacancies - Arlington, Virginia
Salary: \$36,281.00 to \$47,171.00 / Per Year
Series and Grade: GS-0203-5
Open Period: Monday, July 10, 2017 to Friday, July 14, 2017
Position Information: Permanent - Full-Time
Who May Apply: All U.S. Citizens

We only include up to 10 new search results in this email. To view the complete list of results on the USAJOBS web site, please click [View All Opportunities](#).

This saved search shall expire on 4/9/2018.

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Wojdylo, Jason (USMS)

Monday, February 26, 2018

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[USMS Executive Portal](#) ▶



Contractor – Workforce Information System Exchange

C-WISE enables all Divisions and Staff Offices to track their contractors by name, office, cost, and periods of performance. Built-in features indicate which contractors are “excepted” in the event of a Government shutdown as well as indicate those who are authorized to telework or travel.

Managers have full visibility on business information of their contractor workforce without keeping separate cuff records. AD’s, DAD’s, BIC Chiefs, and Administrative Officers have access by default. Permissions may be extended to other government employees, such as CO’s and COR’s. Contractors are not allowed to have access to C-WISE.

Click [here](#) to view instructions.

After reading instructions, if need help still, click [here](#) to fill out the request.



Footnote 8

From: Gonzales, David (USM)

Sent: Friday, June 16, 2017 3:25 PM

To: Harlow, David (USMS)

Cc: Snelson, William (USMS); Musel, David (USMS); Mohan, Katherine (USMS); [REDACTED] (USMS);

[REDACTED] (USMS); [REDACTED] (USMS); [REDACTED] (USMS); [REDACTED] (USMS);

[REDACTED] (USMS); [REDACTED] (USMS); [REDACTED] (USMS-CA/S); [REDACTED] (USMS);

[REDACTED] (USMS); [REDACTED] (USMS); [REDACTED] (USMS); [REDACTED] (USMS);

[REDACTED] (USMS); [REDACTED] (USMS); [REDACTED] (USMS); [REDACTED] (USMS);

[REDACTED] (USMS); Tobin, Peter (USM); [REDACTED] (USMS)

Subject: Recommendations to Address District Staffing Concerns and Request for Status Update on DEO Positions

Deputy Director Harlow,

The purpose of this email is to request your support in addressing staffing challenges many districts are experiencing. We are aware that you are dealing with many challenges and priorities demanding your attention. We respectfully submit recommendations and an appeal in augmenting district resources.

Several districts (DC/SC, S/TX, N/TX, W/TX, NM, C/CA, S/CA, S/OH, E/TN, D/AZ and N/OH) have been discussing operational resource challenges and we are collectively providing recommendations, and requesting assistance to aid our efforts to effectively and safely execute the USMS mission. Over the past two to five years, many districts across the organization have voiced frustration with staffing and our inability to effectively carry out our various missions due to a steady decrease in operational resources. This situation is aggravated with the DEO vacancies counting against the staffing formula, specifically for those large districts which rely heavily on the DEO positions to ensure operational consistency, quality of work and safety. A review of national workload numbers, specifically prisoner workload, has decreased for the agency which may be leading agency leadership to assume the decreased resources are in line with decreased workload. The fact that there are efficiencies with volume may be a factor which is not taken into account in the workload models skewing the perspective that the districts are adequately staffed.

To provide perspective, we have attached a historical comparison of the distribution of resources between admin, op, districts and HQ which provides data on the growth or decrease of these resources. The recent practice in which the agency promotes over 200 individuals per year, has approximately 130 retirements per year and has at most 96 individuals graduating as new DUSMs per year, with many of the new hires coming from within the organization, i.e. DEOs, appears to be unsustainable. The facts are the districts, intentionally or unintentionally, are not being provided equitable staffing when compared to the distribution of resources to our HQ components.

We are mindful that some of the growth during this time has come from reimbursable positions or other agency priorities for both HQ and the districts. In regards to the districts, many of district positions were specialists, SOICs, AFFIs, JSIs and PIIs added as of 2002. The district specialists must amount to over 300 positions which are not broken down in the historical staffing figures. These specialists counted as operational positions hide the real loss of manpower to the districts. Bottom line, the attached charts don't tell the true loss of operational resources over the past 20 years by which the historical and primary mission of the USMS is carried out by the districts. This is mitigated somewhat when it comes to administrative employees due to the recent expansion of contractors over the past few years at districts. We believe it is safe to assume the use of contractors at HQ is significantly greater than the use by districts further compounding the disparity in growth reflected by these charts.

We routinely have program specialists (i.e. JSIs, PIIs, SOICs, etc.) and managers staffing court operations. Several years ago, it reached a point which led some districts to advise JSD-OPO and WSD that they can no longer support requests to staff details unless the assignment occurs in their district.

Past agency senior HQ leadership have criticized districts for not using resources as intended. The agency's priorities of 1) judicial security; 2) investigative services; 3) detention management; 4) law enforcement safety; etc. lead districts to responsibly prioritize supporting our primary mission judicial security and court operations, with the unintended consequence of districts being viewed as overstepping their authority by utilizing specialized resources in line with original intent. Prudent district managers have prioritized goal one, judicial security/court operations, pragmatically and responsibly re-directing resources effectively in the best interest of the organization and our stakeholders. If there were sufficient staffing, the utilization of program specialists would be mitigated. We are left with no safe alternative and to do otherwise would undermine the confidence of the agency. We would argue that our use of SOICs, JSIs, PIIs, and AFFIs demonstrate responsible and pragmatic stewardship.

Current staffing challenges are compounded by a recent 9th Circuit decision issued on May 31, 2017, regarding the use of restraints on prisoners within the courtroom during non-jury proceedings. The 9th Circuit Court of Appeals concluded that all prisoners will remain unrestrained during court proceedings, unless the presiding judge makes an individualized decision for each prisoner indicating that the utilization of restraints is the least restrictive means for maintaining security in the courtroom. This new procedure of producing unrestrained prisoners for court hearings will place an immense staffing burden on USMS districts that routinely produce large quantities of prisoners per day. In many busy district, prisoners are routinely produced in the courtroom three to five at a time for Change of Plea hearings, 5 to 30+ for Initial Appearances and Arraignments, and Operation Streamline type productions in the SWB has experienced upwards of 100 at one time. District managers in those impacted districts in the 9th Circuit will have no choice but to adjust already taxed resources in each courtroom during these hearings to ensure the safety and security of the judicial process in furtherance of goal one. Those districts dealing with volume, specifically C/CA, S/CA and the D/AZ are forced to revert to a one on one plus one practice of DUSM to prisoner ratio creating tremendous resource challenges. This reallocation of resources will also ultimately result in unintentionally neglecting the USMS' critical mission of fugitive investigations, thus failing our local communities and stakeholders.

There have been recent efforts borne out of discussions with senior leadership to address these matters. A recent example was the District Detention Enforcement Providers (DDEP) working group which took place in 2016 and a final report was provided to agency leadership in late 2016. It has been approximately eight months since the committee prepared the proposal and we have not heard any feedback on the status of these efforts which would go a long in addressing many of these concerns, specifically the current process in allocating operational resources.

We are respectfully requesting: 1) the current governance process be re-evaluated to ensure district input (resurrecting the DAWG in some format is recommended); 2) consideration of an Associate Director for Field Operations primarily focused on ensuring awareness and advocating for district needs; 3) an update on the status of the DDEP project; 4) immediately discontinuing the practice of counting vacant DEOs as on-board positions for future OPREF announcements and the filling of new BDUSM classes; 5) and a prioritization of field staffing so the districts can carry out the mission safely and effectively. Our staff shortages are becoming critical and are starting to affect our effectiveness, productively, and moral within the DUSM and SDUSM ranks.

Your consideration is greatly appreciated and we are available to assist in crafting long-term solutions.

Respectfully,

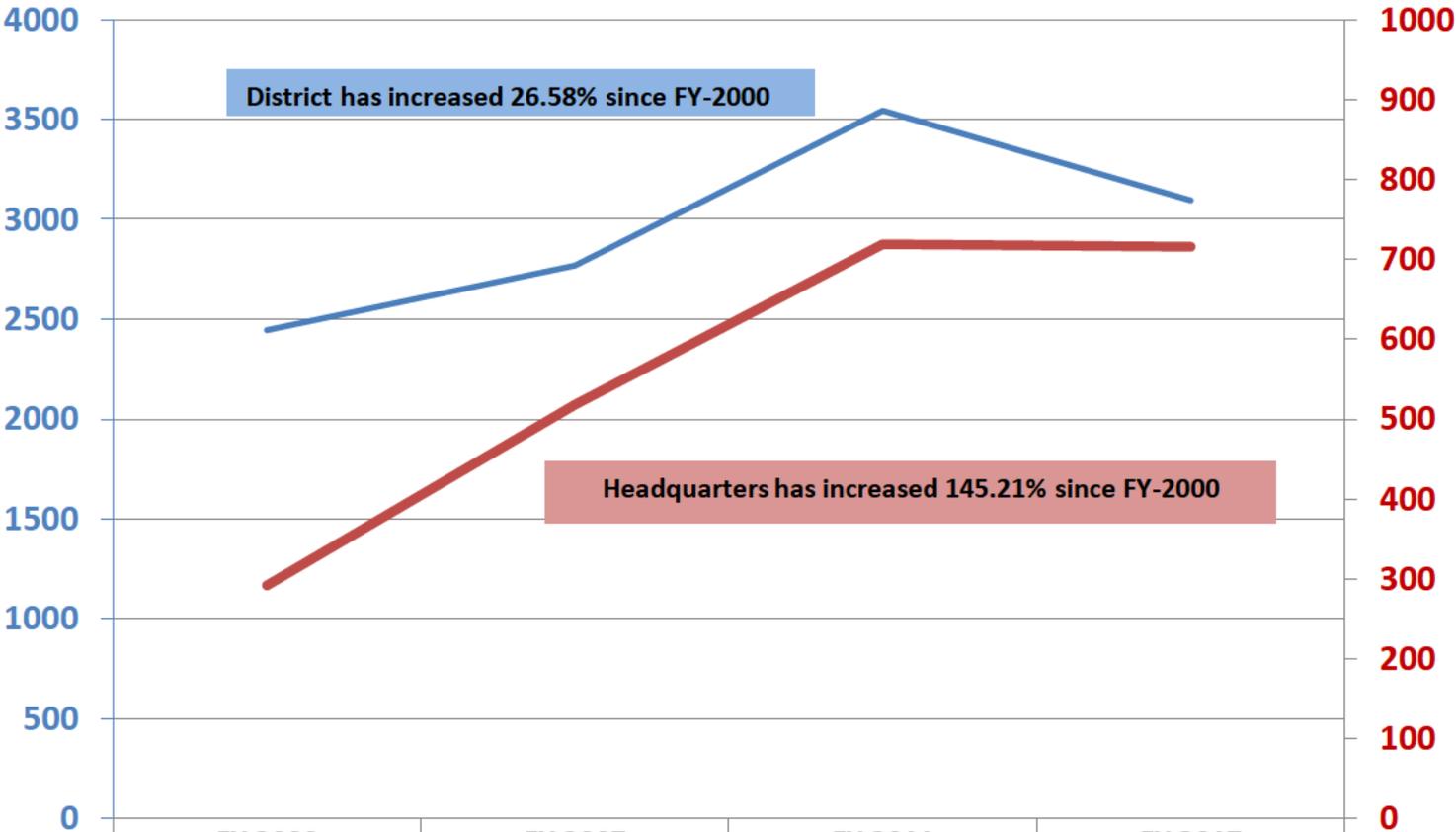
David P. Gonzales
U.S. Marshal
District of Arizona

On Behalf of:
District of Arizona
Central District of California
Southern District of California
District of Columbia Superior Court
District of New Mexico
Northern District of Ohio
Southern District of Ohio
Northern District of Texas
Western District of Texas
Southern District of Texas
Eastern District of Tennessee

District vs. Headquarters Operational Employee Comparison FY 2000 - FY 2017

DISTRICT

HDQTRS

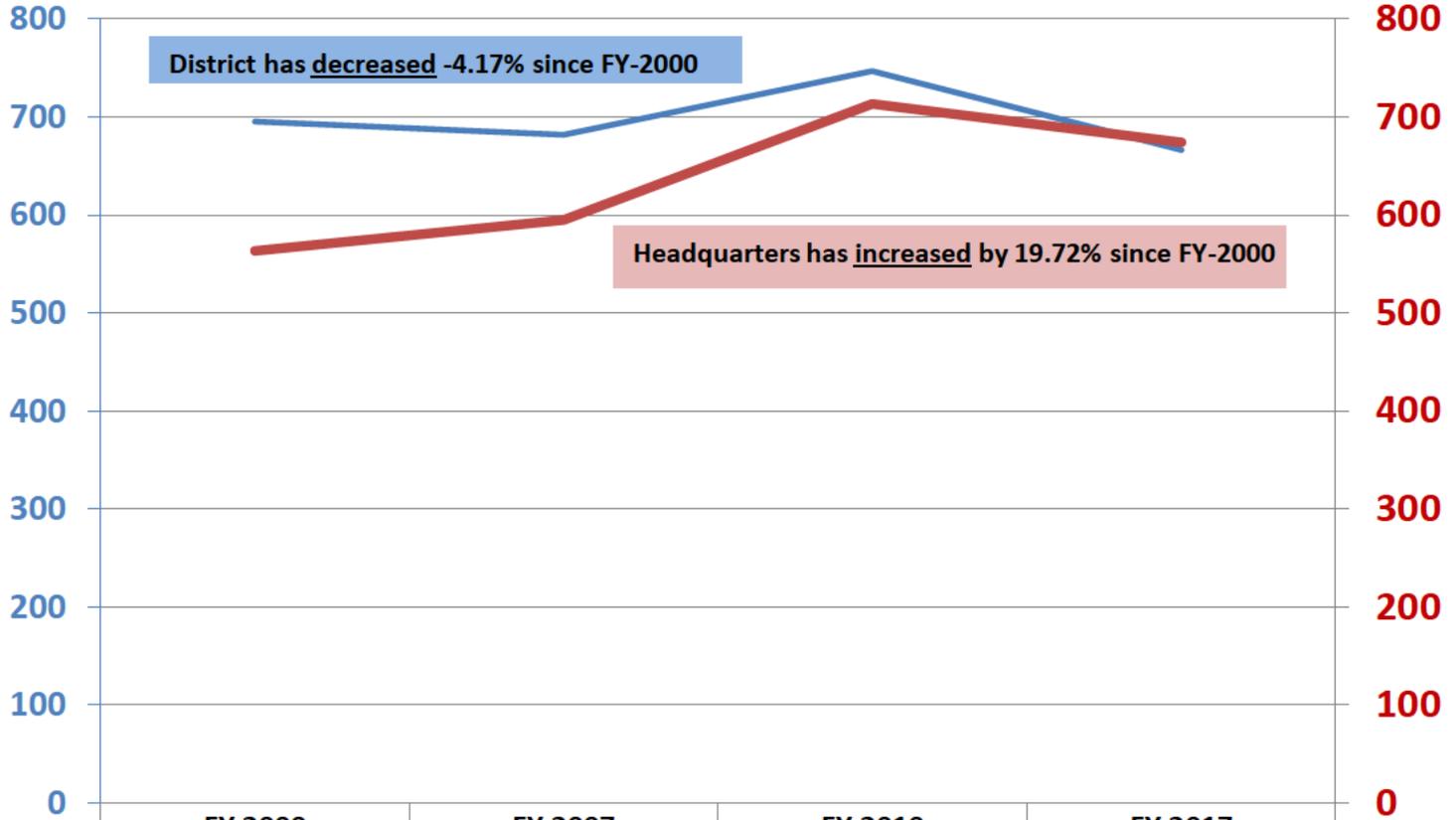


— District Operational	2445	2769	3545	3095
— Hdqtrs Operational	292	518	719	716

**District vs. Headquarters Administrative Employee Comparison
FY 2000 - FY 2017**

DISTRICT

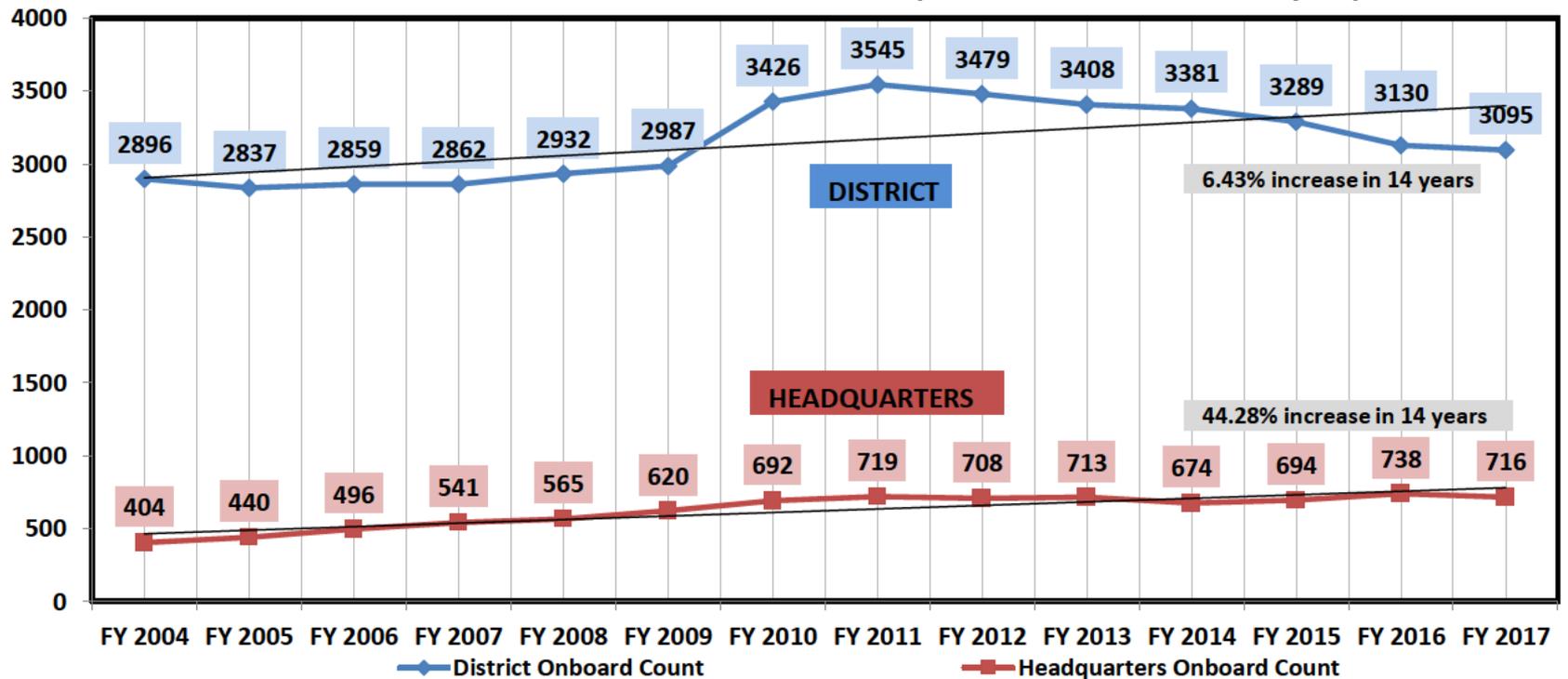
HDQTRS.



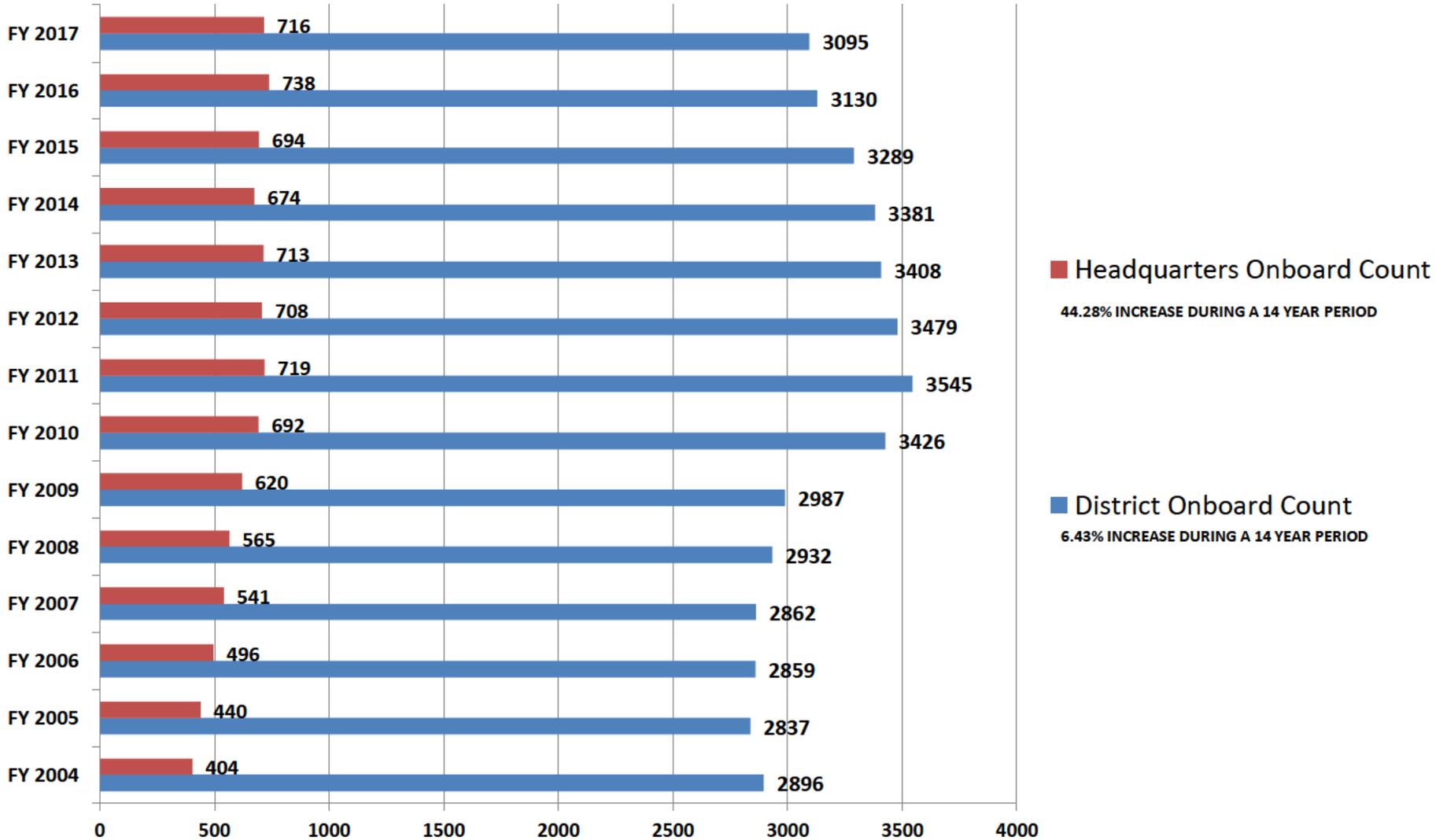
	FY 2000	FY 2007	FY 2010	FY 2017
District Admin.	695	682	747	666
Hdqtrs. Admin.	563	595	713	674

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
District Onboard Count	2896	2837	2859	2862	2932	2987	3426	3545	3479	3408	3381	3289	3130	3095
Difference from Prior Year		-59	22	3	70	55	439	119	-66	-71	-27	-92	-159	-35
% Difference from Prior Year		-2.08%	0.77%	0.10%	2.39%	1.84%	12.81%	3.36%	-1.90%	-2.08%	-0.80%	-2.80%	-5.08%	-1.13%
Increase during 14 year period	199													
Headquarters Onboard Count	404	440	496	541	565	620	692	719	708	713	674	694	738	716
Difference from Prior Year		36	56	45	24	55	72	27	-11	5	-39	20	44	11
% Difference from Prior Year		8.18%	11.29%	8.32%	4.25%	8.87%	10.40%	3.76%	-1.55%	0.70%	-5.79%	2.88%	5.96%	1.54%
Increase during 14 year period	312													

OPERATIONAL ON-BOARD COUNTS (as of Oct. 1 of each fiscal year)



OPERATIONAL EMPLOYEES ONBOARD COMPARISON FY-2000 THRU FY-2017 YTD



Footnote 10



U.S. Department of Justice

United States Marshals Service

Office of the Director

Washington, DC 20530-0001

January 3, 2018

MEMORANDUM TO: United States Marshals Service Employees

FROM: David L. Harlow
Deputy Director

SUBJECT: District Administrative Structure Study

Goal Five of the United States Marshals Service (USMS) Strategic Plan prioritizes the professionalization of our Agency's workforce. In 2015, the USMS initiated a study of the administrative positions in the district offices to redefine and enhance career paths in light of the changing landscape of technology, missions, and regulations. As part of this initiative, the Human Resources Division (HRD) completed on-site reviews and worked with many subject matter experts in the districts and at Headquarters (HQ) and recently presented their recommendations.

I am pleased to announce the initiation of the first comprehensive transformation of the district administrative structure, which I believe is critical to the success of our district operations. Implementation is complex and reliant on individual district circumstances. However, the primary changes that will be implemented in the districts are as follows:

1. Establishment of an Assistant Administrative Officer position;
2. Utilization of the Financial Specialist position throughout the districts;
3. Establishing Procurement Specialist positions in districts with a large procurement workload;
4. Standardization of multiple Support Specialist positions; and
5. Defined core positions by district workload.

HRD will communicate further details on the implementation plan, which due to both the number of positions involved and existing budget constraints, will take place over the next several years. Over the coming months, HRD will work with each district to establish their individual way forward.

I strongly believe these changes are essential to providing a capable and appropriately skilled administrative staff, in addition to a career path necessary to retain our best and brightest employees. I want to thank all of the dedicated employees in the districts, HRD and other HQ programs for all their hard work on this initiative.

Exhibit 2

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JEFF FLAKE, ARIZONA
MIKE CRAPO, IDAHO
THOM TILLIS, NORTH CAROLINA
JOHN KENNEDY, LOUISIANA

DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
AL FRANKEN, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Staff Director*

April 24, 2017

VIA ELECTRONIC TRANSMISSION

David Harlow
Acting Director
U.S. Marshals Service
Washington, D.C. 20530-00001

Dear Acting Director Harlow:

As you know, the Committee continues to examine allegations of wasteful spending by the U.S. Marshals Service (USMS). Additional allegations suggest that the USMS may have wasted significant funds for certain contracts that are unnecessary and may pose conflicts of interest.

First, my office has received information indicating that the USMS has been paying for an outside speechwriter and management consultant since 2010. The original five-year contract was worth more than half a million dollars, and a second four-year contract was recently awarded at a value of more than \$825,000. The speechwriter reportedly works from her home in Longton, Kansas, even though she has a desk and a telephone number in USMS headquarters in Arlington, VA. Public information shows that the contractor previously had a five-year contract with the Office of the Federal Detention Trustee for more than \$900,000, at a time when former Director Stacia Hylton served as the Trustee, and has likely known Ms. Hylton since at least 1995.

Second, according to public information, the USMS issued an RFI for a Beechcraft King Air 350 Aircraft Lease.¹ The USMS Technical Operations Group (TOG) reportedly plans to use the aircraft as an air surveillance platform for its Mexico operations. According to information received by my office, TOG and USMS leadership have been in discussions to acquire not simply a larger air surveillance platform, but this specific aircraft model, for some time. However, the lease allegedly would impose an unnecessarily high cost and would not, as the USMS RFI suggests, “fulfill . . . unique mission objectives.”

¹ Solicitation Number DJM-17-A41-R-0026

<https://www.fbo.gov/index?s=opportunity&mode=form&id=0633678a15e5fa8d27ff2440b34a82e6&tab=core&cview=0>.

For example, the USMS currently has seven planes, five pilots, and at least one hanger that has sat empty for more than two years in Morristown, New Jersey, with no planes and no pilots. Most of the planes are smaller and flown domestically, but, according to information received by my office, domestic flights are not frequent. The larger plane, a Cessna, is currently used by the USMS in Mexico.

That particular model reportedly is more suited to TOG's operations. It is not, like the King Air, a loud, multi-engine aircraft with a low wing that allegedly interferes with the cellular tracking equipment on board. It is also apparently much less expensive, to the point that the USMS could acquire or lease another platform like it and spend about half as much money. Further, no current TOG pilot is licensed to fly a King Air. Accordingly, leasing that particular aircraft will impose further costs required to train and certify pilots. The King Air's internal space restrictions also pose problems in physically reaching the tracking equipment if it malfunctions during an operation. Finally, the King Air allegedly poses added safety risks because it is more complex to operate.

Whistleblowers allege that pilots rated on multi-engine aircraft are more eligible to compete for work in the private sector upon government retirement. It has also been suggested that a former USMS employee has a business relationship with a vendor for this aircraft. Based on the information I have received, it is unclear why the King Air is necessary, or what purpose it serves. In the absence of reasonable and transparent justification, the RFI fuels a perception of conflicts of interest.

Please respond to the following questions by May 8, 2017, and number your answers according to the corresponding questions.

1. Were any of the contracts awarded to the contractor located in Kansas competed?
2. Please describe in detail the services provided by the contractor, and explain why speechwriting and management services could not be performed by existing USMS employees.
3. How much has the USMS paid the contractor to date?
4. Has the USMS paid for any of the contractor's travel since 2010?
5. Why is there a physical work space for the contractor in Virginia if the contractor is located in Kansas?
6. Why is the USMS seeking to lease King Air? What benefits does it have over the plane currently used in Mexico for TOG?
7. Please provide a detailed estimated cost analysis of leasing a King Air versus leasing a second model like the large platform the USMS currently operates in Mexico. Does the USMS currently employ individuals capable of performing the maintenance on its current model?
8. How much would it cost to train and certify TOG pilots to fly a King Air?

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Chairman

cc: The Honorable Dianne Feinstein
Ranking Member

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice

The Honorable Michael Horowitz
Inspector General
U.S. Department of Justice

Exhibit 3

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
JEFF SESSIONS, ALABAMA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
JEFF FLAKE, ARIZONA
DAVID VITTER, LOUISIANA
DAVID A. PERDUE, GEORGIA
THOM TILLIS, NORTH CAROLINA

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
CHARLES E. SCHUMER, NEW YORK
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
AL FRANKEN, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

October 1, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Loretta Lynch
Attorney General
United States Department of Justice

Dear Attorney General Lynch:

On March 18, 2015, I sent a letter to former Director Stacia Hylton of the U.S. Marshals Service (USMS) inquiring into questionable spending of the Assets Forfeiture Fund by officials in the Asset Forfeiture Division (AFD). On April 3, 2015, the USMS responded. In a follow-up letter dated May 6, 2015, I described how information obtained by the Committee suggests that the USMS April 3 letter was incomplete and potentially misleading. Unfortunately, the Committee has received additional whistleblower allegations that suggest further discrepancies between statements in the April 3 USMS letter and the agency's actual spending habits. In light of these new allegations, and as the investigations by the Committee and the Inspector General continue, this letter requests additional information regarding potentially wasteful expenditures by the USMS.

USMS Headquarters Relocation

In its April 3, 2015, letter, the USMS informed the Committee that it will relocate its headquarters offices in Washington, D.C., in December 2016. According to whistleblowers, the cost of the relocation has skyrocketed to approximately double original projections. The final total allegedly amounts to tens of millions of dollars and much more than the \$30.8 million apparently allotted for the work plans of all 94 U.S. Marshals Service districts in Fiscal Year 2015. The agency allegedly is paying for a private gym, personal in-office bathrooms and showers for leadership, several lucrative consultant contracts related to the build-out, expensive and unnecessary audio-visual

equipment, and office space for individuals assigned to headquarters divisions but who do not live in the commuting area of Washington, D.C.

This spending does not conform to the impression left by the April 3 letter that the relocation is aimed at saving money. The USMS stated in its April 3 letter that the move “will save \$9 million in rent annually totaling \$145 million in cost savings over the 15-year lease period.”¹ Such savings are commendable and of significant value for the agency and the taxpayer. However, they do not clearly justify the inefficient use of funds on arguably unnecessary and ballooning construction costs.

Additionally, the Committee’s original March 18, 2015, inquiry asked the agency for details about lavish spending of the Assets Forfeiture Fund on office furniture and fixtures in its Crystal City headquarters location in Arlington, Virginia, and the Asset Forfeiture Academy in Houston, Texas. In its April 3, 2015 response, the USMS explained that many of the expensive furnishings acquired for its Crystal City headquarters offices would be reused when the agency relocated to new space in December 2016. The USMS wrote that, while the fixtures would remain in the current headquarters, “[r]emovable items . . . such as the framed prints and furniture—including the [\$22,000] conference table” would be “re-used by USMS or excessed to GSA for use by the Department or other federal agencies.”²

Information obtained by the Committee demonstrates that, in fact, the USMS is buying primarily, if not entirely, new furniture for its new offices. These new purchases follow closely on the heels of allegedly excessive spending not only by the Asset Forfeiture Division but also other USMS headquarters divisions. For example, the Prisoner Operations Division (POD) allegedly acquired brand new furniture for its employees just last year—furniture that the USMS apparently will leave behind.

Asset Forfeiture Academy

The Committee’s May 6, 2015, letter also noted that the USMS’ stated reasons for building the Asset Forfeiture Academy in a downtown office building in Houston to achieve “greater consolidation and efficiency” appeared disingenuous. For example, as the letter describes, the USMS already had access to other training facilities at the time the agency built the Academy.

According to new information obtained by the Committee, the USMS also had—and still has—access to additional conference rooms for no additional charge by virtue of the rent it already pays for office space in the Allen Center in downtown Houston.

¹ Letter from William Delaney, Chief of Congressional and Public Affairs, U.S. Marshals Service to Senator Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (Apr. 3, 2015).

² *Id.*

These “Brookfield” conference rooms offer wi-fi internet access and audiovisual equipment, and some can accommodate up to 140 individuals. It is difficult to understand why the agency spent millions of dollars on the Academy when it already had access to ample space for training at multiple venues.

In light of the additional information received by the Committee, please provide written responses to the following requests by October 14, 2015:

1. Please provide a copy of the GSA lease agreement for the new headquarters location.
2. How much did the USMS originally budget for the headquarters relocation?
 - a. What is the current projection for all spending for the relocation?
 - b. Please provide a detailed explanation for any discrepancy.
3. Please provide a detailed cost breakdown for all obligations and all expenditures, by fiscal year, for all expenses related to the relocation. Please provide cost projections, by fiscal year, including fiscal years 2016-2017, and beyond, as applicable.
 - a. Please provide the obligations and expenditures, and future projections, by cost category, including, but not limited to, moving, furnishings, security, records management, construction, architecture, information technology, audio-visual equipment, and any other related project costs.
 - b. Please also detail the source of funds for each category of costs, specifically note which expenditures derive from the Assets Forfeiture Fund, and cite the corresponding statutory and regulatory authorization for the agency’s intended use of those funds.
4. What is the current cost savings projection for the 15-year lease period of the new USMS headquarters location?
5. What, if any, furniture or audio-visual equipment will be reused in the new headquarters location?
6. Please provide a copy of all consultant contract documents, including statements of work.
7. What use, if any, has the USMS made of the Brookfield conference rooms in Houston, Texas?

Sincerely,



Charles E. Grassley
Chairman
Senate Committee on the Judiciary

cc: The Honorable Patrick J. Leahy
Ranking Member
Senate Committee on the Judiciary

The Honorable Richard C. Shelby
Chairman
Subcommittee on Commerce, Justice, Science,
and Related Agencies
Senate Committee on Appropriations

The Honorable Barbara A. Mikulski
Ranking Member
Subcommittee on Commerce, Justice, Science,
and Related Agencies
Senate Committee on Appropriations

The Honorable John Culberson
Chairman
Subcommittee on Commerce, Justice, Science,
and Related Agencies
House Committee on Appropriations

The Honorable Chaka Fattah
Ranking Member
Subcommittee on Commerce, Justice, Science,
and Related Agencies
House Committee on Appropriations

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice

Exhibit 4



U.S. Department of Justice

United States Marshals Service

Office of Congressional Affairs

Washington, DC 20530-1000

April 3, 2015

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter to Director Hylton dated March 18, 2015 regarding allegations of misuse of the Assets Forfeiture Fund (AFF) resources by the Asset Forfeiture Division (AFD) within the United States Marshals Service (USMS). More specifically, your letter suggests misuse of AFF resources on office renovations and furnishings and misuse of funds provided for Joint Law Enforcement Operations (JLEO). We value the opportunity to answer your questions and appreciate the additional time you provided in order to fully research and report on events which occurred as long ago as 2008.

Crystal Mall 4

In 2009, AFD moved its offices to Crystal Mall 4 in Arlington, Virginia to accommodate a USMS headquarters space expansion of the Judicial Security mission. The USMS worked closely with the General Services Administration (GSA) in the design and construction of the required build out of this GSA-leased space. GSA approved and authorized the build out, which met standards set forth in the GSA lease agreement. These renovations were incorporated into the GSA build out pursuant to standard terms of the lease agreement for all interior finishing. Finishing work, including millwork, painting, staining, and wall coverings, cost approximately \$23,800. The approvals for the build out were in compliance with USMS internal controls at the time.

As to your specific questions, AFD did purchase a multi-purpose conference table for its large conference room from the lowest offeror in a competitive procurement. AFD utilizes this table for meetings and trainings because it is equipped to accommodate 16 local area network connections so that multiple users can simultaneously connect to the network for efficient interactive computer-application training sessions. The conference room table, including installation of the noted technical capabilities, cost approximately \$22,000 (including shipping).

As to window treatments, those initially provided in the existing office space blocked out all light when closed. Unfortunately, this design was not conducive to the structure of AFD's office space, which contains a number of cost-effective cubicles sharing the available windows. As a result, AFD engaged in a competitive procurement process to change the window

treatments to a type that would allow natural light into the office even when the shades are closed. Again, AFD chose the lowest offer in the competitive procurement process, spending approximately \$12,300 total for 128 roller shades to enhance employee working conditions and productivity through this alteration.

Likewise, AFD engaged in a competitive procurement process and selected the lowest offer received to purchase framed prints for the entire office space at a total cost of approximately \$3,200. AFD also purchased a metal Asset Forfeiture Academy (AFA) sign for approximately \$2,000, which hangs in a conference room. Other renovation and design features such as molding and wall coverings were also competitively bid and are part of the total project costs noted above.

In December 2016, the USMS headquarters is scheduled to relocate to new office space as directed by GSA because the majority of the current leases will expire at that time. The new space will reduce USMS' overall square footage and will consolidate its several current leases into a single lease. This move will save \$9 million in rent annually totaling \$145 million in cost savings over the 15-year lease period. Fixtures such as millwork, wall coverings and window shades, will remain in place when the AFD vacates its current space. Removable items, however, such as the framed prints and furniture—including the conference table noted above—will be re-used by USMS or excessed to GSA for use by the Department or other federal agencies. The new AFD offices in the USMS headquarters building will include standardized finishes with a similar/uniform appearance for all divisions/offices throughout the building. The new USMS headquarters location and lease terms were selected through GSA's competitive bidding process and the build out of the new space will adhere to requirements outlined in the GSA lease.

The Asset Forfeiture Training Academy

The Asset Forfeiture Training Academy (AFA) is co-located within the Southern District of Texas' Asset Forfeiture Unit (S/TX AFU) for greater consolidation and efficiency. By locating the Academy within the S/TX AFU, students benefit from on-the-job training provided by experienced staff in both office and field settings. The cost to establish this specialized training facility and educational resources was approximately \$1,780,600, including all construction, equipment, and furnishings.

The facility is located in a downtown Houston high-rise office building. It is also equipped with an audio/visual system, which is utilized for presentations and video-teleconferencing capabilities during training. As a result of the radiant heat and light, the rooms required a temperature and light control solution. The chosen solution was a remote controlled two shade window system that can regulate temperature and light. This system was included in the build-out of the AFA using the standard GSA reimbursable work agreement. The total cost of the window system, including integration within the audio/visual system, was approximately \$29,000, which was the lowest bid in the competitive procurement process. The fully integrated audio/visual and teleconference system, which includes the window shades, has an annual service plan cost of approximately \$10,700, which provides for technical support of the audio-visual conferencing system.

The granite mentioned in your letter is limited to five small surfaces and one built-in reception desk, all totaling approximately 57 square feet. We are unable to provide the total cost because it was included in the overall contractor build out cost — again, bid competitively and procured by GSA pursuant to standard terms of the lease agreement for interior finishing.

You also requested information on asset forfeiture trainings at the AFA. In FY 2014, during a time of government-wide fiscal restraints and limited government travel for trainings, the facility was used for 33.5 days of training. The agenda consisted of courses on the Business of Forfeiture, Financial Investigator Orientation and Information Sessions, Contracting Officer Representative training, and Best Practices for BankScan training. We have enclosed the agendas for the FY 2014 events. From FY 2011 through FY 2014, the AFA trained over 1,800 students at the facility.

The USMS strives to be good stewards of the appropriations entrusted to us as we carry out our important law enforcement mission. The approvals for the items raised in your letter occurred as far back as 2008 and were compliant with the USMS' internal controls at the time and the senior USMS officials who approved the questioned expenditures retired years ago. The current Associate Director for Administration has implemented additional approval safeguards for furniture and equipment expenditures across USMS headquarters functions, including AFD, while USMS reviews internal controls and Agency-wide policies.

Joint Law Enforcement Operations Funds

JLEO funds are provided from the AFF to support state and local task force operations. No JLEO funds have been used to directly support any USMS employee. JLEO funds are used, however, to pay a share of circuit and database service costs proportional to the usage of those services by state and local law enforcement.

The invoices for the circuit costs do not provide sufficient detail to determine which charges are attributed to federal versus state and local cases. Therefore, we relied on historical analysis to determine that approximately 80% of circuit costs are associated with state and local investigative cases. Accordingly, the Department approved, as a permissible use of the JLEO funding, 80% of the circuit and database costs that are attributed to state and local investigations.

Likewise, for the Commercial-Assisted Legal Research (CALR) databases, which are the most widely used tools for investigators in developing information to locate and arrest fugitives, the USMS monitors the number of monthly searches for cases that are non-federal. Of the approximately 270,000 monthly database searches, 79.4% are run for state or local cases, regardless of whether they are adopted by the USMS or retained by the state or local agency. Accordingly, the Department approved use of JLEO funds for the same proportional share to cover the costs of CALR databases.

The Presidential Threat Protection Act of 2000 (Public Law 106-544) resulted in the implementation of seven USMS Regional Fugitive Task Forces. The USMS also is the lead agency in 60 district-led fugitive task forces across the nation. These regional and district task forces, consisting of federal, state, and local law enforcement officers, locate and apprehend

thousands of dangerous fugitives charged with drug-related offenses associated with the possession, transportation and distribution of illegal narcotics.

The only "non-JLEO AFF allocations" used to support fugitive task forces is the funding classified as "Awards for Information." These allocations occur because state and local law enforcement agencies generally do not have sufficient resources to provide such funding. These funds are used to pay for information leading to the location and apprehension of fugitives wanted for drug offenses. Over the last two and a half fiscal years, the USMS has transferred \$26,000 of non-JLEO/AFF funds to the District of Arizona for payments under the Awards for Information funding for drug cases.

Thank you for bringing these matters to our attention and for your support of the USMS and law enforcement in general. If you have further questions, please contact me at [REDACTED], or at [REDACTED].

Sincerely,



William Delaney
Chief of Congressional and Public Affairs
United States Marshals Service

Enclosures

cc: The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate

The Honorable Michael E. Horowitz
Inspector General
Office of the Inspector General
U.S Department of Justice

Exhibit 5

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Staff Director*

September 12, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

The Honorable Lee Lofthus
Assistant Attorney General for Administration
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Sessions and Assistant Attorney General Lofthus:

This letter follows the August 11, 2016, letter from the U.S. Marshals Service (USMS) providing information in response to multiple inquiries regarding allegations of excessive and wasteful spending by the USMS of the Assets Forfeiture Fund (AFF) and funds dedicated to Joint Law Enforcement Operations (JLEO).

Although a Department of Justice Office of Inspector General (DOJ OIG) Report of Investigation examining some of these allegations found that the USMS “did not violate the Federal Acquisition Regulation or other policies,”¹ the OIG questioned the wisdom of certain of these expenditures and recommended that the Department update JLEO policy guidance. The DOJ OIG report also did not resolve all allegations raised in my previous letters. Attached for your review is a courtesy copy of a memorandum detailing the findings and conclusions regarding these allegations.

To gauge what progress the USMS and the Department have made in properly administering and overseeing these funds, I also respectfully request that the Department respond to the following questions by September 26, 2017:

¹ U.S. Dep’t of Justice Office of the Inspector General, Report No. 2015-005333 (May 12, 2016) [OIG AFF Report].

1. Is the Department reviewing and updating the Colgate Memo? What is the status of that effort? Please provide a copy of any changes to guidance regarding JLEO expenditures.

2. The Department's March 8, 2016, letter to me indicated that Justice Management Division staff was reviewing AFF allocations to the USMS to, among other things, "identify tools to increase transparency and improve oversight, and make recommendations for future program efficiencies." In that letter, the Department also stated it was "conducting a broader review of reimbursable payments made to participants in the Asset Forfeiture Program," working with Department components "to standardize the tracking and reporting of program-related expense data" and "anticipates conducting regular reviews of AFF allocations in the future."
 - a. What oversight tools has the Department identified and implemented?
 - b. What changes, if any, have been made to avoid wasteful spending and ensure AFF resources are allocated efficiently and appropriately?
 - c. Please provide an oversight briefing on the results of the Department's review of AFF payments, plans for regular reviews going forward, and all efforts to oversee and administer appropriate expenditures of AFF funds by Department components, particularly the USMS.

3. In the FY 2017 allocation to the USMS of the AFF, the Department wrote that it was working with the USMS Investigative Operations Division (IOD) to accurately document circuit cost expenditures. What are the results of those efforts? What internal controls are in place to ensure IOD expenditures of JLEO funds are allowable under the statute?

4. Please provide copies of all allotments and suballotments of AFF funds, including JLEO funds, provided to the USMS for FY 2017; a copy of any additional requests by the USMS under the AFF for FY 2017; and, when available, a copy of the initial FY 2018 AFF budget allocation for the USMS. To the extent the information is not readily apparent in FY 2017 suballotment documents, please provide documentation demonstrating when and what amount amounts of JLEO funds have been allocated to the USMS thus far in FY 2017 to support circuit costs.

5. Please provide documentation describing the assets currently managed by each district employee who is "dedicated" to the Asset Forfeiture Program. Please also provide answers to the questions previously asked on this topic in my letter of June 10, 2015.

6. Please provide documentation demonstrating that headquarters positions “dedicated” to and fully funded by the Asset Forfeiture Program are 100% devoted to AFF work. Please also provide answers to the questions asked on this topic in my letter of June 10, 2015.
7. How many days has the Asset Forfeiture Academy in Houston been used for Asset Forfeiture-related training in FY 2017? How many days has the Academy been used for non-AFP training in FY 2017? For non-AFP training, is the AFF reimbursed for non-AFP use of the Academy?
8. What items, if any, are being reused by the USMS in its new headquarters location?
9. How many offices in the new USMS headquarters location are not physically occupied on a full-time basis? How many offices in the new USMS headquarters location are dedicated to positions that are physically located outside of the local commuting area? This includes, but is not limited to, offices where the name plate on the office or cubicle designates an employee or contractor who does not live in the local commuting area.
10. Please provide the total expenditures for travel of the two individuals associated with the Asset Forfeiture Division international unit to and from Washington, D.C., and other destinations since those individuals joined the unit. Please provide a list of all international destinations.

Thank you for your cooperation in this matter. If you have any questions, please contact DeLisa Lay of my staff at (202) 224-5225.

Sincerely,



cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

The Honorable Michael Horowitz
Inspector General
U.S. Department of Justice

Attachment

MEMORANDUM

To: Committee on the Judiciary, United States Senate
Committee on Appropriations, United States Senate

From: Senate Judiciary Committee, Oversight and Investigations Staff

Subject: Spending of the Assets Forfeiture Fund by the U.S. Marshals Service

Date: September 11, 2017

This memorandum outlines findings as a result of Chairman Grassley's inquiries into allegations of wasteful spending by the U.S. Marshals Service (USMS) of the Assets Forfeiture Fund (AFF). It examines certain expenditures in greater detail, including those related to the USMS Asset Forfeiture Academy, the USMS headquarters relocation, so-called "dedicated" asset forfeiture positions, and joint law enforcement operations. It concludes that the USMS wasted asset forfeiture money, spent it contrary to the Fund's authorizing statute, and made questionable representations to the Committee, and likely the Department of Justice. There is a clear need for more robust and consistent oversight of asset forfeiture expenditures by components participating in the Asset Forfeiture Program.

The Asset Forfeiture Program:

Congress established the Assets Forfeiture Fund in 1984 and authorized the Attorney General to use the Fund for limited purposes.¹ First, the Attorney General may use the Fund to support the Department's Asset Forfeiture Program (AFP or "the Program"). The Program, according to the Department of Justice website, administers "the seizure and forfeiture of assets that represent the proceeds of, or were used to facilitate federal crimes."² Multiple Department of Justice components participate in the program, including the Money Laundering and Asset Recovery Section, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), U.S. Attorney's Offices, and the USMS.³

The USMS plays a unique role in the Program. It does not initiate underlying investigations that lead to seizures. Rather, the USMS is the "primary custodian of seized property for the Program" and "manages and disposes of the majority of the

¹ 28 U.S.C. § 524(c).

² <https://www.justice.gov/afp>.

³ Organizations outside of the Department that also participate in the fund include the U.S. Postal Inspection Service, the Food and Drug Administration, the U.S. Department of Agriculture Office of the Inspector General, the Department of State's Bureau of Diplomatic Security, and the Defense Criminal Investigative Service.

property seized for forfeiture” by other Program participating components.⁴ The bulk of Program costs associated with asset management and disposal and certain other Program operations expenses are incurred by the USMS Asset Forfeiture Division (AFD).⁵ AFD also administers third party interest and equitable sharing payments.⁶

Second, Congress authorized the Attorney General to use the AFF to offset costs associated with specific enumerated investigative expense categories. Those categories include awards for information, purchase of evidence, equipping of conveyances, and joint law enforcement operations (JLEO).⁷ JLEO funds are a subcategory of the AFF. Statutory restrictions particular to the use of JLEO funds are described further below.

Inaccurate and Misleading Responses to the Committee:

Chairman Grassley wrote to the USMS with questions about specific instances of reportedly wasteful spending of the AFF on multiple occasions.⁸ Although the Office of the Inspector General (OIG) did not find violations of the Federal Acquisitions Regulation or applicable policies with respect to certain of these expenditures, the Committee’s inquiry also considered whether they appeared excessive and wasteful.⁹ The Chairman further determined that, on several of these topics, the USMS failed to accurately report simple facts about its AFF spending or to offer sufficient justifications. Overall, the agency demonstrated a clear need for significantly more robust oversight of its AFF expenditures.

Asset Forfeiture Academy

The USMS Asset Forfeiture Academy (AFA) is a facility built by the USMS purportedly to train employees and contractors in the AFD on fundamentals of asset forfeiture law and the Justice Department’s Asset Forfeiture Program. The AFA is located in Houston, Texas in a privately-owned high rise building called the Allen Center. It is adjacent to USMS office space and a weapons storage facility. According to a USMS brochure, “[t]he AFA includes a classroom that holds 48 student consoles and an instructor podium, a conference room, a business center and a kitchenette/galley.”¹⁰ When whistleblowers alleged that the establishment of the AFA was unnecessary and that its expenses were excessive and wasteful, the Chairman requested detailed explanations for the costs associated with the AFA. Several of the USMS’s explanations are incomplete and misleading.

⁴ <https://www.justice.gov/afp/participants-and-roles>.

⁵ <https://www.justice.gov/afp/page/file/934031/download>.

⁶ *Id.*

⁷ 28 U.S.C. § 524(c).

⁸ *See, e.g.*, Letter from Hon. Charles E. Grassley, Chairman, Senate Judiciary Committee, to Stacia A Hylton, Director, USMS (Mar. 18. 2016).

⁹ DOJ OIG AFF Report.

¹⁰ U.S. Marshals Service Asset Forfeiture Academy brochure (Attachment 1).

First, the USMS underreported to the Committee the AFA's ongoing rent costs. The USMS stated that it pays \$42,000 per month for its facilities at the Allen Center, which, as noted, includes the AFA.¹¹ However, the USMS only reported the square footage of the AFA classroom, and did not include square footage of the AFA reception area, "conference room, a business center and kitchenette/galley" constructed as part of the AFA build out.¹² This means the USMS underreported to the Committee the amount it spends on rent for the AFA by \$7,774 per month, or \$93,292 per year.

Second, the USMS underreported the amount of custom granite installed in the facility.¹³

Third, the USMS underreported the AFA's operating costs. The USMS claimed these costs are \$50,000 per year.¹⁴ But budget documents show that for every year from FY 2012 to FY 2017, the USMS has requested and the Department has allotted between \$75,000 and \$175,000 for the AFA's "operating costs."¹⁵

The AFA's limited use of the space calls into question whether its costs—whatever they actually are—are justified. In FY 2014, the AFA was used for approximately 32 days out of the entire year.¹⁶ In FY 2017, based on documents reviewed by the Committee, the USMS has hosted or plans to host Asset Forfeiture-related trainings for approximately 52 days—an improvement from prior years but still not even accounting for two total months out of the year. Although other divisions have used and still plan to use the facility, it is for non-Asset Forfeiture purposes and it is unknown whether those

¹¹ Letter from William Delany, Chief of Congressional & Public Affairs, USMS, to Hon. Charles E. Grassley, Chairman, Senate Judiciary Committee (Aug. 11, 2016).

¹² *Id.*; U.S. Marshals Service Asset Forfeiture Academy brochure (Attachment 1). The USMS reported that 3,186 square feet at the Allen Center was dedicated to the Asset Forfeiture Academy, but blueprints indicate that an additional 2,192 square feet make up the Academy's reception area, conference rooms, and kitchen—all constructed as part of the Academy's build out. AFA Plans (Attachment 2). The USMS has reported to the Committee expenditures related to the reception and conference room area as part of its total build out cost and advertises these facilities as benefits of using the AFA space. At the entrance to the AFA from the S/TX office space, the USMS has labeled the entire suite, including the reception area, kitchen, conference rooms, and classroom as the "Asset Forfeiture Academy."

¹³ The USMS stated in an April 2015 letter that the custom granite in the facility was limited to five small surfaces and a reception desk, but invoices and photographs show the same granite used for two custom table tops in the conference and reception areas. Invoices for Table Tops, On File with the Committee.

¹⁴ Letter from William Delaney, Chief of Congressional and Public Affairs, U.S. Marshals Service to Charles E. Grassley, Chairman, U.S. Sen. Comm. on the Judiciary (Aug. 11, 2016).

¹⁵ FY 2012 USMS AFF Budget Request; FY 2013 USMS AFF Budget Request; FY 2014 USMS AFF Budget Request; FY 2015 USMS AFF Budget Request; FY 2016 USMS AFF Budget Request; FY 2017 USMS AFF Budget Request; FY 2012 USMS AFF Budget Allocation; FY 2013 USMS AFF Budget Allocation; FY 2014 USMS AFF Budget Allocation; FY 2015 USMS AFF Budget Allocation; FY 2016 USMS AFF Budget Allocation; FY 2017 USMS AFF Budget Allocation. In FY 2014, the USMS actually was allocated \$207,000 for the AFA's operating costs.

¹⁶ Letter from Charles E. Grassley, Chairman, U.S. Sen. Comm. on the Judiciary to Loretta Lynch, Attorney General, U.S. Dep't of Justice (Oct. 1, 2015).

divisions and groups have reimbursed or will reimburse the Assets Forfeiture Fund for use of the AFA.¹⁷

Moreover, the Allen Center has always had conference rooms available for tenants to use at no cost. The USMS claimed that these are difficult to use, do not have USMS intranet access, and pose security concerns.¹⁸ However, it is alleged that only one of many courses at the AFA require intranet access. Additionally, both the USMS and the Department have used these rooms with no reported security concerns.¹⁹

Headquarters Relocation

In October 2015, the Chairman wrote to the Department outlining whistleblower allegations that the USMS planned headquarters relocation was rife with wasteful spending.²⁰ Whistleblowers alleged, among other things, that the USMS planned to construct personal in-office bathrooms for senior leadership, procure expensive and unnecessary furniture and audio-visual equipment, and provide office space for individuals who do not live or work in the local commuting area.²¹ The Chairman requested information about these expenditures, some of which still has not been provided. In August 2016, the USMS wrote to the Committee that it planned to take steps to minimize unnecessary expenditures for the relocation, including reusing certain furniture. Yet, whistleblowers reported that most furniture, including office furniture and TVs, was not reused and may have been discarded. Additionally, USMS reportedly installed television cable in offices of USMS employees who are prohibited by policy from actually using it. The agency also built office space specifically for employees who do not live or work in the local commuting area.

Fully Funded Asset Forfeiture Positions:

Outside of the four enumerated categories of investigative expenses,²² Congress has authorized use of the Fund only to pay Asset Forfeiture-related expenses.²³ As the USMS Asset Forfeiture Division itself noted in May 2013, an employee whose salary and expenses are paid by the AFF means that they are “preclude[d from] realigning their

¹⁷ It is also alleged that many AFF-related courses offered in the Academy are taught by instructors that have to be flown in from FLETC in Georgia, and some classes contain a high instructor/student ratio.

¹⁸ Letter from William Delaney, Chief of Congressional and Public Affairs, U.S. Marshals Service to Charles E. Grassley, Chairman, U.S. Sen. Comm. on the Judiciary (Aug. 11, 2016).

¹⁹ Additionally, the USMS Strategic Plan calls for centralized training within the USMS organized under and administered by its own Training Division. The Plan also encourages the use of cost-effective distance learning that would not require the establishment of the separate AFA and conceivably would be an efficient way to train asset forfeiture personnel, many of whom are distributed in districts throughout the country.

²⁰ Letter from Charles E. Grassley, Chairman, U.S. Sen. Comm. on the Judiciary to Loretta E. Lynch, Attorney General, U.S. Dep't of Justice (Oct. 1, 2015).

²¹ *Id.*

²² 28 U.S.C. §§ 524(c)(1)(B), (C), (F), (G), (I).

²³ *Id.* § 524(c)(1)(A); *id.* §§ 524(c)(1)(D), (E), (H).

work outside supporting the asset forfeiture mission.”²⁴ But information provided to the Committee shows that is exactly what the USMS has been doing, and provides additional evidence that the Department must exercise more thorough oversight of its components’ AFF expenditures.

Headquarters Employees

First, the Chairman has raised questions about headquarters employees who are funded by the AFF but not fully available for asset forfeiture work.²⁵ A memorandum of understanding (MOU) between the USMS and Department of Justice authorized funding from the AFF for eight “dedicated” headquarters employees.²⁶ USMS has since requested and received funding for these positions each fiscal year. According to whistleblowers, these fully funded employees are not fully dedicated to the Asset Forfeiture Program, and in some cases spend only a small portion of their time on asset forfeiture work. Despite requests from the Committee, the USMS has failed to provide any information demonstrating otherwise.²⁷ Moreover, the FY 2017 Asset Forfeiture Fund allocation provided to the USMS states that for FY 2017 the USMS requested funding for ten dedicated headquarters positions rather than the eight authorized by the MOU.²⁸ The Department indicated it would “evaluate the propriety” of using AFF funds to support the additional positions.²⁹

District Employees

The Chairman also has raised questions about whether the USMS is using the AFF to fully fund the salaries and expenses of district employees who are not actually fully dedicated to the asset forfeiture mission.³⁰

Prior to 2013, the USMS paid the salaries and expenses of all district employees whose work included asset forfeiture-related tasks from appropriated funds. The USMS kept track of this work by having employees bill any time allocated to asset forfeiture

²⁴ Memorandum from Kimberly Beal, Acting Assistant Director, Asset Forfeiture Division, U.S. Marshals Service to United States Marshals and Chief Deputy United States Marshals, U.S. Marshals Service (May 10, 2013).

²⁵ Letter from Charles E. Grassley, Chairman, U.S. Sen. Comm. on the Judiciary to Sally Quillian Yates, Deputy Attorney General, U.S. Dep’t of Justice (June 10, 2015).

²⁶ See, e.g., FY 2010 USMS AFF Budget Request.

²⁷ Letter from Charles E. Grassley, Chairman, U.S. Sen. Comm. on the Judiciary to Sally Quillian Yates, Deputy Attorney General, U.S. Dep’t of Justice (June 10, 2015).

²⁸ FY 2017 USMS AFF Budget Allocation.

²⁹ *Id.*

³⁰ Letter from Charles E. Grassley, Chairman, U.S. Sen. Comm. on the Judiciary to Sally Quillian Yates, Deputy Attorney General, U.S. Dep’t of Justice (June 10, 2015); Memorandum from Kimberly Beal, Acting Assistant Director, Asset Forfeiture Division, U.S. Marshals Service to All United States Marshals, All Chief Deputy United States Marshals, and All Administrative Officers (Jan. 9, 2013).

work to a specific asset forfeiture code. The USMS was then reimbursed from the AFF for costs of employee time spent on asset forfeiture work.

In 2012, the Asset Forfeiture Division conducted an analysis of the asset forfeiture workload performed by these district employees. The Assistant Director at the time determined that the USMS would seek full funding from the AFF for any district employee who worked a “preponderance” of their time on asset forfeiture. She determined that any employee who billed at least 70% of their time, based on a 1,740 hour work year, to asset forfeiture work would qualify.³¹ According to documents, she made exceptions for some employees who billed less than 70% of their time to asset forfeiture and directed that they too would be considered as devoting a “preponderance” of their time to asset forfeiture.³² The USMS would then discontinue seeking reimbursement for any asset forfeiture work performed by the remaining district employees. Theoretically, those costs would offset whatever non-asset forfeiture work was performed by fully funded employees. The analysis showed that this arrangement would yield an approximate \$1.3 million “net gain” to the USMS.³³

So, in FY 2013, the USMS requested full AFF funding for the employees it claimed spent a preponderance of their time on asset forfeiture work.³⁴ Converting these positions to “fully funded” AFF positions meant that the AFF would not only pay for actual work hours dedicated to asset forfeiture, but also for the employees’ leave time, holidays, and benefits. In the budget request, the USMS represented to the Department that it would be “[r]edefining these positions” and “devoting them entirely to [asset forfeiture] duties.”³⁵ The request was approved. In its FY 2013 asset forfeiture allocation for the USMS, the Department approved approximately \$1.3 million “to convert part-time forfeiture government employees to 100% dedicated forfeiture personnel.”³⁶

However, those employees were not 100% dedicated to asset forfeiture, and the USMS stopped tracking how much time they devoted to both asset forfeiture and non-asset forfeiture work. On the other hand, the USMS *did* track how much time non-dedicated employees spent on asset forfeiture work. Non-dedicated employees billed their asset forfeiture work to an asset forfeiture-specific project code, but dedicated employees billed all of their time to an asset forfeiture code and did not designate their non-asset forfeiture work with a non-asset forfeiture project code.³⁷ This practice left no

³¹ Spreadsheet, On File with the Committee; E-mail re: Spreadsheet (Nov. 2, 2012).

³² E-mail re: Spreadsheet (Nov. 2, 2012).

³³ Spreadsheet, On File with the Committee.

³⁴ FY 2013 USMS AFF Budget Request at 25-27.

³⁵ FY 2013 USMS AFF Budget Request at 27.

³⁶ FY 2013 USMS AFF Budget Allocation.

³⁷ Memorandum to United States Marshals, Chief Deputy United States Marshals, and Administrative Officers from Holly O’Brien, Assistant Director, Financial Services Division, U.S. Marshals Service, *Recording Asset Forfeiture Work in WebTA* (May 2013).

method to verify whether non-asset forfeiture work performed by dedicated employees offset asset forfeiture work performed by non-dedicated employees.

Furthermore, the asset forfeiture workload has decreased since FY 2013. Below is a table from the 2016 USMS annual report showing how many assets the program received from FY 2013 through FY 2016. According to this data, the number of assets received fell by 39%.



Additionally, according to whistleblowers, approximately 65% of assets currently in USMS inventory are cash. Cash is the easiest and least time-consuming asset to manage—once the cash is in custody and placed in an account, it requires very little maintenance. Moreover, many types of assets are not managed by the dedicated district personnel, but “nationally” either by contractors or by Asset Forfeiture Division headquarters personnel. The types of assets in this category include aircraft, jewelry, antiques and collectibles, commercial businesses, financial instruments, firearms, and real property. Thus, the workload associated with management of those assets cannot support full AFF funding for *district* personnel.

Recognizing the decrease in the asset forfeiture workload, the Department decreased AFF funding for both USMS federal employees and contractor personnel in FY 2017. The Department stated that its allocation for district asset forfeiture personnel would be reduced by “10 FTEs [full-time equivalent positions] from the requested level of 235 authorized FTEs in accordance with workload data showing a significant decline in asset seizure activity over the last several fiscal years.” The Department further noted that “[c]onsistent with the FY 2016 allocation, no funding is provided in FY 2017 for the salary and benefits of USMS personnel performing non-forfeiture related work.”³⁸

In response to these cuts, the USMS reportedly is in the process of realigning its workforce to reflect the workload. However, based on the above information, the USMS has for some time been using the AFF to fund work that otherwise would—and probably should—be paid by appropriated funds.

³⁸ FY 2017 USMS AFF Allocation.

Joint Law Enforcement Operations:

As discussed above, JLEO is one of the categories of investigative expenses authorized by Congress to be paid from the AFF.³⁹ The statute provides that JLEO funds may be used for “payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of *state or local law enforcement officers* that are incurred in a joint law enforcement operation[s].”⁴⁰ The statute does *not* say that JLEO funds are available to pay *federal* expenses incurred by *federal officers* in joint operations. Again, the law does allow for payments for federal activities from the Fund, but only for those directly related to asset forfeiture and for the other specified investigative categories.⁴¹ Further guidance on the use of JLEO to support state and local officers is outlined in a 1997 Department of Justice document known as the Colgate Memorandum.⁴²

Chairman Grassley’s letters have raised questions about the agency’s methodology and justification for two subcategories of its JLEO expenditures: circuit costs and databases. Among the questions raised were whether the USMS improperly directly funded these costs rather than seek reimbursement and whether the USMS used the funds for expenses incurred by federal, and not state and local, officers.⁴³ Although the Office of the Inspector General (OIG) found no “issues” with these expenditures, the OIG recommended that the Department update the Colgate Memorandum “to more fully address issues related to direct payment versus reimbursement of certain task force costs and to clarify certain allowable uses of these funds.”⁴⁴ It also does not appear the OIG examined the question of whether the USMS JLEO expenditures funded federal officers. Further inquiry shows that they did.

Circuit Costs

The USMS Asset Forfeiture Division is not the only USMS unit that has sought to secure a greater portion of the AFF to pay questionable expenses. The Investigative Operations Division (IOD) reportedly has long viewed the money set aside for the Asset Forfeiture Program as a lucrative “funding stream” that IOD could “tap” to expand its various programs, particularly those managed by the Technical Operations Group (TOG).⁴⁵ Initially, the IOD sought funding from the AFF for what it claimed were “investigative costs leading to seizure.” However, according to individuals familiar with

³⁹ 28 U.S.C. § 524(c)(1)(I).

⁴⁰ 28 U.S.C. § 524(I) (emphasis added).

⁴¹ 28 U.S.C. § 524(c)(1)(A)(ii), (iv); *id.* § 524(c)(1)(B), (C), (F), (G).

⁴² Memorandum from Stephen R. Colgate, Assistant Attorney General for Administration re: Guidance on Use of the Assets Forfeiture Fund (AFF) to Pay State and Local Law Enforcement Officer Overtime and Other Costs In Joint Law Enforcement Operations (July 1, 1997).

⁴³ See Letter from Charles E. Grassley, Chairman, U.S. Sen. Comm. on the Judiciary to Sally Quillian Yates, Acting Deputy Attorney General, U.S. Dep’t of Justice (May 6, 2015).

⁴⁴ DOJ OIG AFF Report at 2.

⁴⁵ E-mail from J. Kirsch to TOG personnel (Sept. 21, 2009).

TOG operations, the group could never provide meaningful data demonstrating how its investigations regularly lead to seizures, because they do not.

TOG ultimately was unable to secure this funding stream, but it also sought funds for cellular tracking equipment and associated operating costs—known as circuit costs and intercept fees—through JLEO.⁴⁶ Arguably, the USMS has long been aware of the statutory restrictions on the use of JLEO to support state and local officers, because it has repeatedly taken pains to justify the purchase of cellular tracking equipment for task force officers who work for TOG by citing to the Colgate Memorandum.⁴⁷ The USMS also has clearly understood that task force JLEO funding for overtime and other state and local expenses supported state and local officers.⁴⁸ However, according to multiple sources, the vast majority of users of USMS surveillance equipment who incur associated circuit costs have always been federal officers. However, USMS requests for JLEO funds for these circuit costs may not have made this clear to the Department.

In Fiscal Year 2011, for example, TOG explicitly attributed the increase in the portion of non-federal circuit costs to “an increase in state and local investigators being assigned” to task forces (both Regional Fugitive Task Forces and Technical Operations Centers).⁴⁹ However, the request did not clarify that task force officers with Regional Fugitive Task Forces do not operate the TOG equipment or themselves incur costs for intercept fees.⁵⁰ The request also did not clarify that the majority of TOG equipment users are federal officers. Later requests simply point to increased costs attributed to the percentage of cases the USMS says are “state and local cases.”⁵¹

Apparently for this reason, the Department has recently taken issue with the USMS’s use and justifications for this funding stream. For FY 2017, the Department

⁴⁶ Further, the unit sought to lean more heavily on increased use of sophisticated surveillance equipment in its Air Surveillance Program, by “setting aggressive and more ambitious performance targets,” in order to “sell the argument” for more resources, in that case “additional ASO personnel and larger aircraft.” Email from Kirch (Sept. 22, 2009).

⁴⁷ E-mail from M. Arnold to E. Morales (June 23, 2010); FY 2011 USMS AFF Budget Request, FY 2012 USMS AFF Budget Request, FY 2013 USMS AFF Budget Request. (FY 2014 also contains “Colgate Memo” justification but requests only funding to cover circuit costs, not for surveillance equipment).

⁴⁸ FY 2009 USMS AFF Budget Request at 16 (noting past use of JLEO funds to support “state and local law enforcement officers”); *see also* Internal Document discussing requirements of JLEO, on file with the Committee, which in response to the question “Can any of the JLEO funding be used to pay for any USMS expenses (USMS employee or contract OT, travel, etc)?” stated “No. JLEO program funds can only be used for State & local full time TFOs.”)

⁴⁹ FY 2011 USMS AFF Budget Request.

⁵⁰ *Id.*; According to an individual familiar with these operations, “that should never happen.”

⁵¹ FY 2012 USMS AFF Budget Request; FY 2013 USMS AFF Budget Request; FY 2014 USMS AFF Budget Request; FY 2015 USMS AFF Budget Request; FY 2016 USMS AFF Budget Request; FY 2017 USMS AFF Budget Request. Also, the FY 2012 request, unlike others, specifically noted that a portion of Circuit Costs would be directed to costs required to maintain the TOG network. TOG uses its own hardware and software to support the intercepts. To the extent that state and local officers who are themselves operating this equipment also use the network, the expense associated with the use of the network would appear to be allowable under JLEO.

allocated the agency's requested \$4,160,000 for circuit costs.⁵² However, the Department limited the USMS's ability to obligate the funds "until the USMS and AFMS can agree on a set of internal controls and procedures necessary to firmly establish that these expenses are 'costs of State or Local law enforcement officers' pursuant to 28 USC 524(c)(1)(I)." The Department went on to "remind" the Marshals Service, as the Chairman has argued,⁵³ "that funds authorized under 28 USC 524(c)(1)(I) are not available for Federal agency expenses, regardless of whether those expenses support a State or local investigation." Unfortunately, the agency's FY 2018 request inexplicably continues to disregard the plain limits of the law, requesting the same amount again for circuit costs based on the same faulty justification.⁵⁴

Databases

OIG also determined that the USMS does have "a method to estimate the portion of database costs that are related to federal vs. non-federal fugitives."⁵⁵ However, the database funding faces the same problem as the circuit costs—it primarily supports the work of federal officers. The portion of costs described by OIG is based on *cases*, not on the number of registered state and local task force *officers* ("TFOs") who use the databases. In recent years, as shown in the table below, the percentage of database costs paid from JLEO has dwarfed the percentage of state and local registered database users.

Notably, in earlier years, the USMS stated explicitly in its budget requests that a minority of its database users were TFOs.⁵⁶ The Department thus should have been aware that the USMS was entitled to less JLEO money than it requested—and perhaps this is why the percentage of database costs actually paid by JLEO in the first few years was so low. However, from FY 2015-FY 2017, the USMS did not offer this information in its requests.⁵⁷ In the most recent budget rounds, however, after the Chairman asked questions about these costs, the Department sought additional information about the registered users and learned that only approximately 42% of them are TFOs. Accordingly, the Department allocated 42% of USMS's requirement for database costs in its initial FY 2017 AFF budget allocation. As it did with respect to circuit costs, the

⁵² FY 2017 Initial AFF Allocation.

⁵³ Letter from Charles E. Grassley, Chairman, U.S. Sen. Comm. on the Judiciary to Sally Quillian Yates, Acting Deputy Attorney General, U.S. Dep't of Justice (May 6, 2015).

⁵⁴ FY 2018 AFF Budget Request.

⁵⁵ According to the OIG report, the USMS states that there is a field in the system where users can identify whether they are searching for state or federal cases. However, it allegedly was not until the Committee first asked about these costs that the USMS notified database users alerting them to the "federal v. state" box in the system, and that box is not a mandatory field. There also is no way to verify whether searches conducted actually relate to a federal or state case, even on a general level.

⁵⁶ FY 2012 Mid-Year AFF Budget Request; FY 2013 USMS AFF Budget Request; FY 2014 USMS AFF Budget Request.

⁵⁷ FY 2015 USMS AFF Budget Request; FY 2016 USMS AFF Budget Request; FY 2017 USMS AFF Budget Request.

Department reminded the USMS that Congress has not authorized JLEO funds to pay federal expenses. Unlike the agency's circuit costs request, in FY 2018 the agency finally accepted that JLEO funds are not available to pay expenses incurred by federal law enforcement officers.⁵⁸

Conclusion:

Evidence shows that the USMS wasted and misused money it received from the Assets Forfeiture Fund. The agency also provided incomplete and in some cases misleading details about some of these expenditures to the Committee and potentially to the Department.

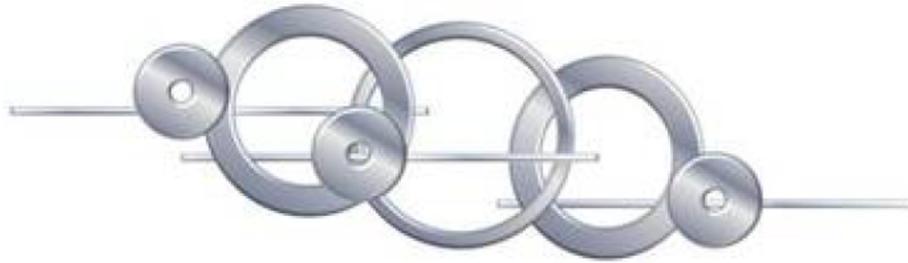
Equally concerning, however, is that the Department's more stringent oversight of AFF expenditures, described in the sections above examining fully funded positions and JLEO, did not begin until the Chairman raised whistleblower allegations of waste and abuse. The Department's FY 2017 AFF allocation to the USMS shows that the Department is capable of requiring more substantive justification for its components' budget requests than it appears to have done in past years. In this last budget round the Department asked more probing questions about the USMS's AFF expenditures and was thus finally equipped to push back. The Department also:

- challenged "excessively high" USMS rent requests for the amount of funded government positions allocated to the agency, causing the USMS to lower the requests by \$790,000;
- drastically reduced funds for "Awards for Information" after a closer look found that a full "80 percent of all USMS awards" in the past "were unrelated to any of the federal violations enumerated" in the applicable statute; and
- cut funding for an asset management and tracking system the USMS spent millions developing only to have it proven redundant to a system already in place.

To ensure that careful scrutiny continues to be applied to AFF expenditures, at least by the USMS, the Chairman is sending the attached letter with follow-up questions. The Committee will continue to exercise oversight on these expenditures, and strongly encourages the Department to do the same.

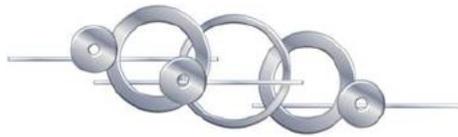
⁵⁸ FY 2018 AFF Budget Request.

U.S. Marshals Service Asset Forfeiture Academy



**Three Allen Center
333 Clay Street
Suite 3050
Houston, TX 77002**

U.S. Marshals Service Asset Forfeiture Academy



The U.S. Marshals Service Asset Forfeiture Academy (AFA) sits on the 30th floor of the Three Allen Center building in the heart of downtown Houston, TX. The AFA includes a classroom that holds 48 student consoles and an instructor podium, a conference room, a business center and a kitchenette/galley. The AFA is a federally approved training facility; there is no cost for federal agency use of the AFA other than travel and per diem for attendees.



Classroom

The classroom consists of individual student consoles and an instructor podium. Each student console provides a USMS-network enabled desktop computer, microphone, SMARTSync connectivity, TurningPoint Audience Response System, Microsoft Office programs, Internet and access to color printers, scanners and fax machines.



The instructor podium offers USMS network-enabled desktop computer with SMART-Podium panel and laptop connection. Video feed from the podium is displayed on two projectors and a confidence monitor. Presentation tools available in the classroom include cable TV, DVD/BluRay, MP3 player, document camera and video-conferencing technology.

Conference Room & Business Center

In addition to the classroom, the AFA has a conference room with two seating areas that can accommodate up to 14 people. Meeting technology available in the conference room includes USMS-network connections, a 360-degree Lync webcam, video-conferencing and speaker-phone capability, cable TV, DVD/BluRay player and video feed from the main classroom. The AFA Business Center offers access to a copier, fax machine, color printer, scanner, telephone, shredder, laptops, cable TV and classroom video to support business needs or instructor preparation during meetings or training sessions.



Hotels

The AFA is within walking distance to the following hotels:

- Hyatt Regency Houston
- DoubleTree by Hilton Hotel Houston Downtown
- Residence Inn Houston Downtown
- Courtyard Houston Downtown

The AFA can be accessed from the Hyatt Regency Houston and DoubleTree by Hilton Hotel through the underground tunnel system, without leaving the building.

Airport Information

The AFA has easy access to two airports:

- George Bush Intercontinental Airport (IAH), 22 miles
- William P. Hobby Airport / Houston Hobby Airport (HOU), 12 miles

Transportation in Houston

The following transportation services are available:

- **Greenlink:** Environment-friendly buses travel routes in the downtown area regularly with stops every 7-10 minutes. Routes connect major office buildings along Smith and Louisiana streets to METRO transit, the convention corridor, hotels, restaurants, shopping, and entertainment. Greenlink is free Monday thru Friday, 6:30 AM to 6:30 PM.
- **METRO Rail:** Houston's METRO Rail offers inexpensive transportation in close proximity to more than 70 dining and entertainment options, professional sports arenas, and many cultural institutions and districts. Tickets cost \$1.25 (one-way) and can be purchased using cash, credit or debit card at all rail stops via the METRO Ticket Vending Machine (TVM). METRO Rail hours are:
 - 4:30am-11:40pm (M-TH) 4:30am-2:20am (F)
 - 5:30am-2:20am (SAT)
 - 5:30am-11:40pm (SUN)
- **Taxi Services:** "Six in the City" is a special offer provided by local taxi cabs. Guests can go anywhere in the Downtown area for \$6.

Interested in reserving the U.S. Marshals Service Asset Forfeiture Academy?

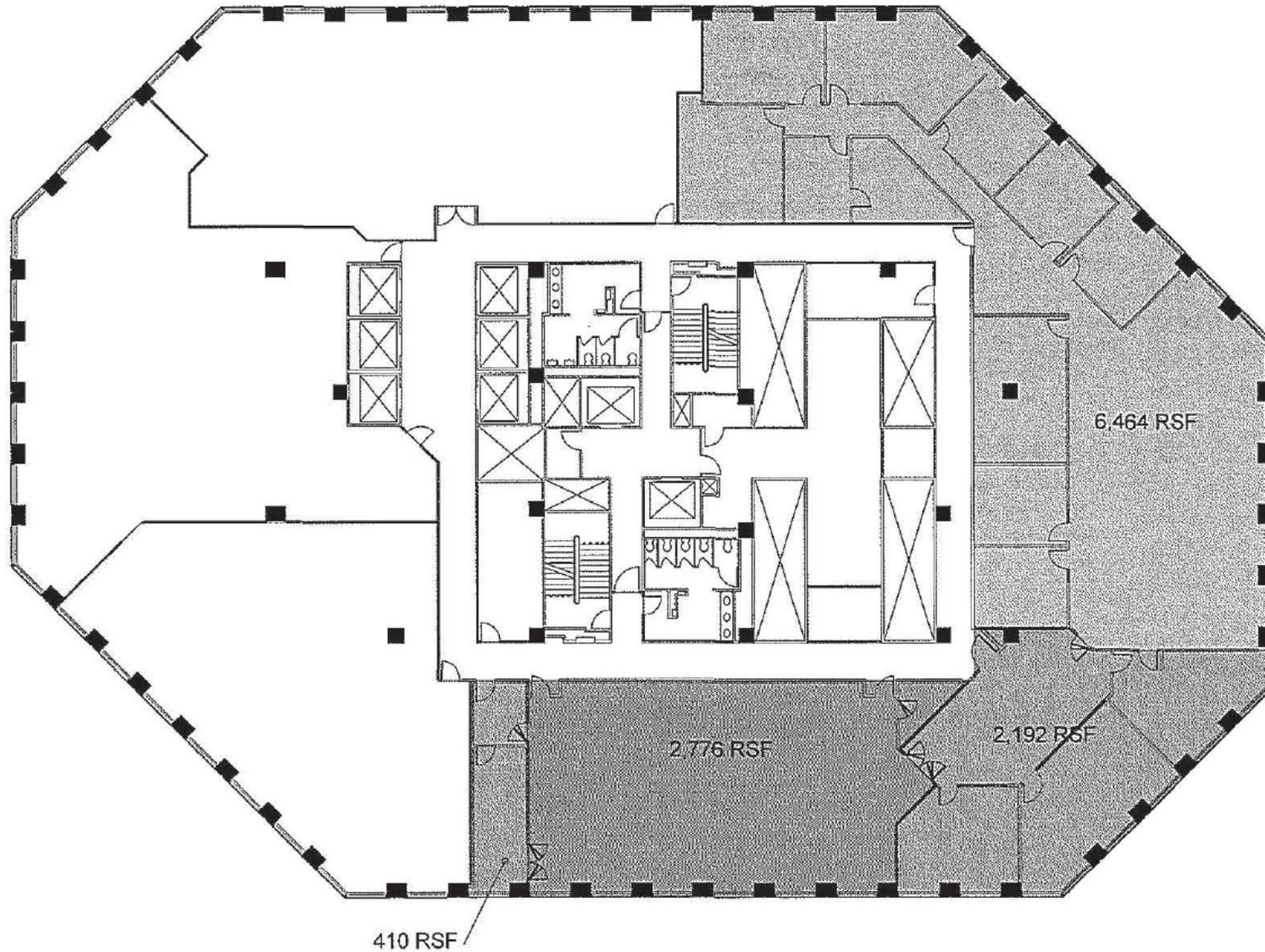
CONTACT US!

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Three Allen Center - F30 - Floorplan



Three Allen Center

333 Clay Street Houston, Texas 77002
Brookfield Properties (713) 651-1515



Floor 30

October 30, 2013



Exhibit 6



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

JUN 25 2018

Dear Chairman Grassley:

This responds to your letter to the Attorney General and to the Assistant Attorney General for Administration dated September 12, 2017, regarding the use of funds from the Assets Forfeiture Fund (AFF) by the United States Marshals Service (USMS). We apologize for our delay in responding to your letter. We recognize that you have made a number of inquiries related to the USMS and we are responding on a rolling basis consistent with the priorities discussed with your staff.

We know that you share the Attorney General's desire that the Asset Forfeiture Program (AFP) be effectively and responsibly managed. As you know, in October 2017, the Attorney General directed the creation of a new position of Director of Asset Forfeiture Accountability within the Office of the Deputy Attorney General (ODAG). The Director, Mr. Corey Ellis, a career prosecutor, has begun work on several Department of Justice (Department) priority initiatives, including updating the program's policy guidance and improving controls over the use of program funds. The Director will also gather such data and make such recommendations as will advance the integrity, efficiency, and effectiveness of the program.

We respond to your specific questions below.

1. Is the Department reviewing and updating the Colgate Memo? What is the status of that effort? Please provide a copy of any changes to guidance regarding JLEO expenditures.

As you know, some portion of AFF funds are designated by Congress to be used for the Joint Law Enforcement Operations (JLEO) program. State and Local officers, often deputized as federal agents, act as critical force multipliers in helping to achieve the law enforcement mission of the Department's law enforcement agencies, i.e., Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and the USMS. The JLEO program pays for officer overtime and a variety of other critical needs. Operations supported in part by JLEO funding include FBI task forces associated with the Violent Gang and Violent Crime Safe Streets, Indian Country Safe Trails, and Crimes

Against Children. JLEO funding also helps to support the USMS's Fugitive Apprehension Task Forces.

The Department is reviewing the 1997 "Colgate Memo" in the context of its broader review of policies and guidance related to the AFP. In addition, the Department's Justice Management Division Asset Forfeiture Management Staff (AFMS) has recently standardized the collection, tracking and recording of JLEO expenses by the Department's law enforcement components.

2. The Department's March 8, 2016, letter to me indicated that Justice Management Division staff was reviewing AFF allocations to the USMS to, among other things, "identify tools to increase transparency and improve oversight, and make recommendations for future program efficiencies." In that letter, the Department also stated it was "conducting a broader review of reimbursable payments made to participants in the Asset Forfeiture Program," working with Department components "to standardize the tracking and reporting of program-related expense data" and "anticipates conducting regular reviews of AFF allocations in the future."

a. What oversight tools has the Department identified and implemented?

The Department has devoted more program management personnel to improve oversight, transparency, and accountability of the AFP. In addition to the appointment of the Director of Asset Forfeiture Accountability within ODAG, AFMS has formed a small cadre of AFP subject matter experts focused solely on oversight and evaluation of AFF-supported programs and associated expenditures. AFMS experts were augmented by contractor support teams and 1811-series law enforcement agents on detail from ATF, DEA, and FBI during FY 2016 and FY 2017. In order to keep senior leaders in the Department apprised of his efforts over the course of the past two years, the Senior Executive-level Director of AFMS routinely engages with senior USMS officials regarding USMS compliance with applicable laws, regulations, and policies.

b. What changes, if any, have been made to avoid wasteful spending and ensure AFF resources are allocated efficiently and appropriately?

Improved Budget Review

In FY 2016, AFMS initiated a robust budget review process focused on the identification of core critical forfeiture program expenses that must be funded to maintain basic program functionality. This review process involved over 60 hours of meetings among senior officials. As a result, the FY 2017 and FY 2018 budget allocations, *i.e.*, the internal process by which the Department allocates AFF funds to Department components, were tightly controlled and funding was restricted if there was not transparency as to the nature or necessity for the expenditure. AFMS documented these allocation decisions, provided components with the specific rationale

for these decisions, and identified the data and documentation that will be needed to support future resource allocations.

This FY 2017 improved budget review and allocation process reduced the number of program-wide AFF-paid government positions by approximately 5% and reduced the number of contract support personnel by approximately 8%. The FY 2018 budget review made further reductions, totaling a nearly 8% decrease in AFF-paid government personnel and a just over 13% decrease in contract support personnel over the two-year period from FY 2016 to FY 2018.

New Quarterly Allocation Process

Beginning in FY 2017, AFMS also instituted a new process for allocations from the AFF to components. Under the new process, the allocations are made quarterly instead of obligating and transferring an entire year's AFF allocation to each component at the beginning of each fiscal year. This new quarterly allocation process provides another opportunity for more frequent and continuous oversight of spending within each component throughout the year.

New Real Time Analysis of AFF Expenditure Data

AFMS can access AFF expenditure data for the USMS through the Unified Financial Management System (UFMS). Beginning in April 2017, AFMS began using this data to conduct near real-time analysis of expenditures by the USMS and provide regular feedback to USMS leadership.

Review of FY 2015, FY 2016, and FY 2017 AFF Expenditures

A team of AFMS employees, augmented by contractor support from a private sector accounting firm, reviewed and analyzed a sample of FY 2015 AFF expenditures for the eight Department components receiving AFF support, plus the five external law enforcement agencies who participate in the AFP.¹ The results of these reviews were shared with each of the partner components or agencies in January 2017 and a follow-on effort has been underway for several months in order to evaluate similar samples of FY 2016 and FY 2017 AFF expenditures.

c. Please provide an oversight briefing on the results of the Department's review of AFF payments, plans for regular reviews going forward, and all efforts to oversee and administer appropriate expenditures of AFF funds by Department components, particularly the USMS.

The Department is happy to provide a briefing regarding its oversight efforts in this area.

¹ These include the United States Postal Inspection Service (USPIS), the Food and Drug Administration (FDA), the Department of Agriculture Office of Inspector General (OIG), the Department of State Bureau of Diplomatic Security (DS), and the Defense Criminal Investigative Service (DCIS).

3. In the FY 2017 allocation to the USMS of the AFF, the Department wrote that it was working with the USMS Investigative Operations Division (IOD) to accurately document circuit cost expenditures. What are the results of those efforts? What internal controls are in place to ensure IOD expenditures of JLEO funds are allowable under the statute?

AFMS sought and evaluated detailed information about the entire scope of the USMS Investigative Operations Division's (IOD) JLEO expenditures, including overtime expenses of state and local task force officers, database costs, vehicle expenditures and costs associated with implementation of the court orders related to communications service providers, *i.e.*, so-called "circuit costs." As part of this process, IOD drafted standard operating procedures (SOPs) to help guide field and headquarters personnel in distinguishing circuit costs incurred in federal cases from those costs incurred in state and local cases. In general, the new procedures already include, or will include, separate accounting for federal versus state and local expenditures, monthly reconciliation procedures, and end-of-year cost projections for operations crossing fiscal years. A team of AFMS officials has reviewed samples of supporting documentation to help test the effectiveness of these SOPs and has provided feedback to USMS to help them further refine and improve those SOPs. This improvement process is still ongoing and not yet finalized.

During August-September 2017, AFMS employed a small team of audit firm contractors familiar with circuit cost operations to evaluate a larger sample of circuit cost expenditures in an effort to better understand the percentage attributed as State and local costs. Final results and conclusions of that review are still pending. However, because of the volume and complexity of the underlying transactional data, AFMS has issued another task order for a larger team of contractors to support the review. The review is expected to be completed within the next few months.

4. Please provide copies of all allotments and suballotments of AFF funds, including JLEO funds, provided to the USMS for FY 2017; a copy of any additional requests by the USMS under the AFF for FY 2017; and, when available, a copy of the initial FY 2018 AFF budget allocation for the USMS. To the extent the information is not readily apparent in FY 2017 suballotment documents, please provide documentation demonstrating when and what amount of JLEO funds have been allocated to the USMS thus far in FY 2017 to support circuit costs.

The FY 2017 and FY 2018 allocation and suballotment documents are enclosed.

5. Please provide documentation describing the assets currently managed by each district employee who is "dedicated" to the Asset Forfeiture Program. Please also provide answers to the questions previously asked on this topic in my letter of June 10, 2015.

The Department does not collect data in the precise manner you have requested. However, the USMS has provided the enclosed spreadsheet that indicates the number of assets being managed in districts.

6. Please provide documentation demonstrating that headquarters positions “dedicated” to and fully funded by the Asset Forfeiture Program are 100% devoted to AFF work. Please also provide answers to the questions asked on this topic in my letter of June 10, 2015.

The USMS seeks to ensure that AFF funds are used to conduct asset forfeiture related work in compliance with applicable statutes. While the USMS funds much of its AFP-related personnel costs from AFF resources, there are also some AFP personnel costs that are not paid from AFF resources.

The USMS conducts forfeiture activities in its headquarters offices as well as in its district offices located throughout the country. To respond to your questions, we believe it may be useful to describe AFP-related personnel in four conceptual categories: (1) AFD headquarters dedicated AFP personnel; (2) non-AFD non-dedicated headquarters personnel; (3) district based dedicated AFP personnel; and (4) district based non-dedicated AFP personnel. Employees in categories 2, 3 and 4 are not assigned to AFD and therefore do not appear on the AFD organizational chart.

The first category includes AFP dedicated personnel in headquarters AFD positions which are included on the AFD organizational chart and whose daily work is devoted to AFP work. The salaries for these personnel are paid from AFF resources. The USMS has provided the enclosed chart that shows the number of positions in this category and the units they are assigned to.

The second category consists of employees and contractors in headquarters non-AFD administrative support divisions. Although not assigned on organizational charts to the AFD, these personnel and others within these divisions provide assistance and support integral to the AFD’s operations. For example, personnel in the USMS General Counsel’s Office advise on forfeiture related matters; support Department attorneys who handle forfeiture litigation; and provide training to AFD and district staff on asset forfeiture related legal issues. Similarly, personnel in the USMS Human Resources Division support recruitment and hiring actions for the AFD and advise on employee performance related matters; and personnel in the Information Technology Division provide technical support and equipment needed to perform daily AFP operations.

USMS analyzed the aggregate AFP work hours of each of these non-AFD administrative support divisions and, for planning, hiring, and budgeting purposes, converted those hours worked by federal employees into a number of Full Time Equivalent (FTE) positions, whose

salaries are paid from AFF resources. The expectation is that the aggregate AFP related work conducted by employees within each of the support divisions collectively meets or exceeds the number of AFF-funded FTE positions assigned to these support divisions. As requested, the USMS has provided the enclosed list of positions, currently in this second category, which are funded by AFF resources.

The third category includes district based employees and contractors whose daily activities are dedicated to AFP work and who are assigned to asset forfeiture related position descriptions. These employees and contractors include District Asset Forfeiture Coordinators, Seizure and Forfeiture Specialists, Realty Specialists, and Property Management Specialists, Property Custodian, Records Examiner/Analyst, as well as Criminal Investigators specific to the AFP.² The salaries for these dedicated personnel are paid from AFF resources. USMS has provided the enclosed spreadsheet, referenced above, that shows the number of positions and the assets managed by district within this category.

The fourth category includes personnel assigned to district based positions such as Administrative Officers, Budget Analysts, and Deputy U.S. Marshals, whose core responsibilities are not AFP-specific but whose ancillary assistance is required to support the AFP. Even though some portion of their time supports the AFP, the salaries of these personnel are not funded by AFF resources. We understand from USMS that employees in this category contribute approximately 25,000 hours on asset seizure and forfeiture related activities annually, although their salaries are not paid from AFF resources.

7. How many days has the Asset Forfeiture Academy in Houston been used for Asset Forfeiture-related training in FY 2017? How many days has the Academy been used for non-AFP training in FY 2017? For non-AFP training, is the AFF reimbursed for non-AFP use of the Academy?

No fee is charged for non-AFP use of the space occupied by the Asset Forfeiture Academy (AFA). As such, there is no reimbursement to the AFF for non-AFP use of the classroom by the USMS. The chart below lists the dates that the AFA space was used for training in FY 2017.

² Where district resources are maximized and AFF funded personnel have completed all AFP related work, these employees are not prohibited from providing assistance on an as needed basis.

Training Dates	Event Type	Notes
11/14/16 – 11/18/16	USMS – Other	Federal Law Enforcement Training Center Protective Investigations Training Program
12/06/16 – 12/07/16	DOJ AFP	Executive Office of United States Attorneys Suspicious Activity Report (SAR) Training
01/10/17 – 01/12/17	USMS – AFD	Business of Forfeiture; 1811 Edition Session 17A
02/07/17 – 02/10/17	USMS – AFD	Contracting Officer’s Representative Refresher Training (AFA Classroom)
02/07/17 – 02/09/17	DOJ AFP	Money Laundering and Asset Recovery Section Financial Investigation Seminar (Brookfield Conf)
02/14/17 – 02/17/17	USMS – AFD	Advanced Asset Forfeiture Administration Session 17B
03/01/17 – 03/02/17	USMS – AFD	Asset Forfeiture for District Leadership Subject Matter Experts Working Group
03/27/17 – 03/31/17	USMS – Other	Sex Offender Investigations Coordinator Basic School #1
04/25/17 – 04/28/17	USMS – AFD	Advanced Asset Forfeiture Administration Session 17C
05/02/17 – 05/04/17	DOJ AFP	Executive Office of United States Attorneys Consolidated Asset Tracking System Working Group & Training
05/08/17 – 05/12/17	USMS – Other	Sex Offender Investigations Coordinator Basic School #2
05/16/17 – 05/18/17	DOJ AFP	Money Laundering and Asset Recovery Section Chiefs and Experts Conference (Brookfield Conf)
06/13/17 – 06/14/17	USMS – AFD	Asset Forfeiture Financial Investigator District Information Session
06/21/17 – 06/22/17	USMS – AFD	Asset Forfeiture for District Leadership Pilot Session
07/11/17 – 07/13/17	USMS – AFD	Business of Forfeiture; 1811 Edition Session 17B
07/18/17 – 07/20/17	DOJ AFP	Food and Drug Administration Office of Criminal Investigations Training
07/25/17 – 07/28/17	USMS – AFD	Advanced Asset Forfeiture Administration Session 17B
08/08/17 – 08/10/17	USMS – AFD	Asset Forfeiture Financial Investigator Orientation

08/14/17 – 08/18/17	USMS – AFD	Business of Forfeiture Session 17B
08/29/17 – 08/31/17	USMS – Other	Sex Offenders Investigation Branch Missing Child Orientation (Postponed to FY 2018 due to Hurricane Harvey)
09/11/17 – 09/15/17	USMS – Other	Judicial Security Division Security Awareness Training Seminar for District Managers (Cancelled due to Hurricane Harvey Recovery)

8. What items, if any, are being reused by the USMS in its new headquarters location?

The USMS is reusing the following in its new headquarters location: approximately 1,300 pieces of furniture; 3,700 pieces of information technology equipment such as computers and monitors; and 28 pieces of audio-visual equipment.

9. How many offices in the new USMS headquarters location are not physically occupied on a full-time basis? How many offices in the new USMS headquarters location are dedicated to positions that are physically located outside of the local commuting area? This includes, but is not limited to, offices where the name plate on the office or cubicle designates an employee or contractor who does not live in the local commuting area.

There are five offices or workspaces in the new USMS headquarters that are designated for specific employees who are not physically located in the DC local commuting area on a full time basis. There are other workspaces available for any employee who may need to work in the headquarters building on a temporary basis while in DC for meetings or on a short-term project.

10. Please provide the total expenditures for travel of the two individuals associated with the Asset Forfeiture Division international unit to and from Washington, D.C., and other destinations since those individuals joined the unit. Please provide a list of all international destinations.

For the two employees currently assigned to the International Unit of the AFD, since each joined the unit in 2013 and 2016 respectively, through April 1, 2018, the USMS has paid \$157,514.04 in travel expenditures.

The travel for these two employees is funded by multiple sources. As a general matter, the funding source is determined by the underlying purpose of the travel. For example, travel associated with one of the employee’s membership on the Critical Incident Response Team (CIRT) is not funded by the AFF as the purpose of that travel is not related to forfeiture. Sources

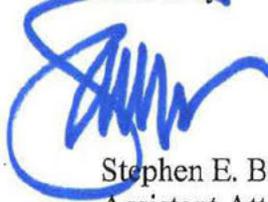
The Honorable Charles E. Grassley
Page Nine

of funding for the travel of these two employees have included: the AFF, the USMS Salaries and Expenses Appropriation, the State Department, the European Union Agency for Law Enforcement Cooperation (EUROPOL), and the Department's Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT).

The international destinations of these two individuals are as follows: Aruba, Netherlands Antilles; Asuncion, Paraguay; Bali, Indonesia; Bonaire, Netherlands Antilles; Bucharest, Romania; Catania, Italy; Dubai, UAE; Dublin, Ireland; Guatemala City, Guatemala; Hague, the Netherlands; Kingston, Jamaica; Kuala Lumpur, Malaysia; Lombok/Jakarta, Indonesia; London, United Kingdom; Madrid, Spain; Muscat, Oman; Port of Spain, Trinidad And Tobago; Rotterdam, Netherlands; San Jose, Costa Rica; San Salvador, El Salvador; Santiago de Compostela, Spain; Santo Domingo, Dominican Republic; Sarajevo, Bosnia & Herzegovina; St Peter Port, Guernsey, GBR; Stockholm, Sweden; Vienna, Austria; and Zagreb, Croatia.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,



Stephen E. Boyd
Assistant Attorney General

Enclosures

cc: The Honorable Dianne Feinstein
Ranking Member

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice

Asset Forfeiture District Employee Summary Report - As of 03/31/2018

Custodial Office	Assets Managed April 1 2017- March 31, 2018	Positions On Board			Positions in Recruitment			Positions Vacant			Total Admin	Total Contractor	Total Operational
		Admin	Contractor	Operational	Admin	Contractor	Operational	Admin	Contractor	Operational			
ALM - Middle District of Alabama	203	1									1	0	0
<i>ALS- Southern District of Alabama</i>											0	0	0
FLS - Southern District of Florida	1167	4	5	1							4	5	1
<i>ALN- Northern District of Alabama</i>											0	0	0
<i>GAS- Southern District of Georgia</i>											0	0	0
<i>GAM- Middle District of Georgia</i>											0	0	0
AK - District of Alaska	110	1									1	0	0
AZ - District of Arizona	436	2	1	1							2	1	1
ARE - Eastern District of Arkansas	200	1				1	1				1	1	1
ARW - Western District of Arkansas	59		1								0	1	0
CAN - Northern District of California	446	2	1	1	1						3	1	1
CAC - Central District of California	1895	4	6	1							4	6	1
CO - District of Colorado	692	2		1		1					2	1	1
<i>WY- District of Wyoming</i>											0	0	0
CT - District of Connecticut	365		1	1	1						1	1	1
FLN - Northern District of Florida	103	1									1	0	0
FLM - Middle District of Florida	656	3	1			1	1				3	2	1
GAN - Northern District of Georgia	475	1	2	1							1	2	1
HI - District of Hawaii	74		1								0	1	0
ILN - Northern District of Illinois	846	2	1	1							2	1	1
INN - Northern District of Indiana	161	1	0.75								1	0.75	0
INS - Southern District of Indiana	333	1	0.6	1							1	0.6	1
IAN - Northern District of Iowa	75		0.5								0	0.5	0
KS - District of Kansas	365	1	1	1							1	1	1
KYE - Eastern District of Kentucky	632	1	2	1	1						2	2	1
<i>KYW- Western District of Kentucky</i>											0	0	0
LAE - Eastern District of Louisiana	276				1						1	0	0
<i>LAM - Middle District of Louisiana</i>													
MD - District of Maryland	825	2	1.75	1							2	1.75	1
<i>DE- District of Delaware</i>											0	0	0
MA - District of Massachusetts	960	2	1	1		1					2	2	1
<i>RI- District of Rhode Island</i>											0	0	0
<i>ME- District of Maine</i>											0	0	0
MIE - Eastern District of Michigan	765	1	2	1							1	2	1
<i>MIW- Western District of Michigan</i>											0	0	1
MN - District of Minnesota	376	1	1	1							1	1	1
<i>ND- District of North Dakota</i>											0	0	0
MSS - Southern District of Mississippi	325	1	1	1							1	1	1
MOE - Eastern District of Missouri	837	1	1	1	1	1					2	2	1
<i>ILC- Central District of Illinois</i>											0	0	0
<i>ILS- Southern District of Illinois</i>											0	0	0
MDW - Western District of Missouri	225	1	1	1							1	1	1

Custodial Office	Assets Managed April 1 2017- March 31, 2018	Positions On Board			Positions in Recruitment			Positions Vacant			Total Admin	Total Contractor	Total Operational
		Admin	Contractor	Operational	Admin	Contractor	Operational	Admin	Contractor	Operational			
NE - District of Nebraska	340	1	1		1						2	1	0
SD - District of South Dakota											0	0	0
IAS - Southern District of Iowa											0	0	0
NV - District of Nevada	167	1									1	0	0
NH - District of New Hampshire	96	1									1	0	0
NJ - District of New Jersey	632	2	1	1							2	1	1
NM - District of New Mexico	238	1	1	1							1	1	1
NYN - Northern District of New York	164	1		1							1	0	1
NYE - Eastern District of New York	691	2	2								2	2	0
NYS - Southern District of New York	1573	2	2	2	1						3	2	2
NYW - Western District of New York	438	1		1		1					1	1	1
NCE - Eastern District of North Carolina	301	1	1	1							1	1	1
NCM - Middle District of North Carolina	143		1								0	1	0
NCW - Western District of North Carolina	267	1	2	1							1	2	1
OHN - Northern District of Ohio	471	1	1						1		1	2	0
OHS - Southern District of Ohio	390	1	2	1							1	2	1
OKW - Western District of Oklahoma	404	1			1		1				2	0	1
ONE - Eastern District of Oklahoma											0	0	0
ORN - Northern District of Oklahoma											0	0	0
OR - District of Oregon	301	1	1	1							1	1	1
PAE - Eastern District of Pennsylvania	349	1	1	1							1	1	1
PAM - Middle District of Pennsylvania	158	1									1	0	0
PAW - Western District of Pennsylvania	330	1	1	1							1	1	1
PR - District of Puerto Rico	463	1	3	1							1	3	1
SC - District of South Carolina	240	1	0.5	1							1	0.5	1
TNE - Eastern District of Tennessee	117	1	1	1							1	1	1
TNM - Middle District of Tennessee	169	1		1							1	0	1
TNW - Western District of Tennessee	201	1		1							1	0	1
NMS - Northern District of Mississippi											0	0	0
TXN - Northern District of Texas	850	2	2	1							2	2	1
TXE - Eastern District of Texas	195	1	1	1							1	1	1
TXS - Southern District of Texas	988	5	1	2	2				1		7	2	2
LAW - Western District of Louisiana											0	0	0
TKW - Western District of Texas	615	3	1	1							3	1	1
UT - District of Utah	229	1									1	0	0
VT - District of Vermont	84	1									1	0	0
VAE - Eastern District of Virginia	791	2	2							1	2	2	1
DC - District of Columbia				1							0	0	1
VAW - Western District of Virginia											0	0	0
WAE - Eastern District of Washington	282	1	0.75								1	0.75	0
ID - District of Idaho				1							0	0	1
MT - District of Montana											0	0	0
WAW - Western District of Washington	273	1		2							1	0	2
WVN - Northern District of West Virginia	71										0	0	0

Custodial Office	Assets Managed April 1 2017- March 31, 2018	Positions On Board			Positions in Recruitment			Positions Vacant			Total Admin	Total Contractor	Total Operational
		Admin	Contractor	Operational	Admin	Contractor	Operational	Admin	Contractor	Operational			
WIE - Eastern District of Wisconsin	253	1									1	0	0
WWW - Western District of Wisconsin											0	0	0
WVS - Southern District of West Virginia	74		1								0	1	0
GU - District of Guam	72		0.5								0	0.5	0
VI - District of Virgin Islands	24										0	0	0
CAE - Eastern District of California	379		1	1	1						1	1	1
CAS - Southern District of California	549	3	1	1							3	1	1
To Be Determined								2	15	3	2	15	3
		84	66.35	47	11	6	3	2	17	4	97	89.35	54

Assets Managed April 1, 2017 to March 31, 2018: the number of assets on hand as of 4/1/2017 + number of assets received in the year + number of assets disposed in the year. The calculation ensures that no asset is double counted through the process.

Right Sizing: The Asset Forfeiture Division (AFD) is currently performing an evaluation of the AF workload across the country, and in districts where diminishing AF workloads are identified, AFD is working to right size the AF workforce (administrative, operational and/or contractor). This ongoing work is resulting in not backfilling positions as they become vacant, consolidation of the AF workload from a district with small workload into a larger district, and in some cases, phasing out or reassignment of a current position funded by AFD.

Districts that currently manage/dispose of an asset workload are formatted on the left side of the first column. A district that has taken on the asset forfeiture work of another district is referred to as a "host" district. Permanently transitioned districts are shown to the right side of the first column and their "assets managed" are reflected within their "host" district. All administrative and contract staff supporting a given "host" district are reflected in the counts of that "host" district. The Operational staff (Asset Forfeiture Financial Investigators) are reflected in the judicial district in which they reside.

Transition districts include:

FLS hosts: ALN, SGA, MGA

ALM hosts: ALS

CO hosts: WY

KYE hosts: KYW

LAE hosts: LAM

MA hosts: RI, ME

MD hosts: DE

MIE hosts: MIW

MOE hosts: JLC, ILS

MN hosts: ND

NE hosts: SD, IAS

OKW hosts: OKE, OKN

TNW hosts: NMS

TXS hosts: LAW

VAE hosts: DC, VAW

WAE hosts: ID, MT

WIF hosts: WIW

"To Be Determined": To Be Determined positions enable AFD to respond to fluctuations in work due to workload increase, change in policy, etc. The USMS has discretion to change the ratio between administrative and contractor positions based in AFD HQ and those based in the USMS districts in order to optimize operations.

USMS Asset Forfeiture Division (HQ) "Dedicated" Positions as of 03/31/2018

	# of Positions FILLED			# of Positions in RECRUITMENT			# of Positions VACANT			TOTAL # of Positions		
	Admin	Operational	Contractor	Admin	Operational	Contractor	Admin	Operational	Contractor	Admin	Operational	Contractor
Deputy Assistant Director	1									1		
Asset Management Section										15	2	16
Program Manager	1		1									
Personal Property Unit	5		1						1			
Real Property Unit	5		5			1						
Complex Assets Unit	2		6	1								
International Unit		2	1									
Financial Management Section										16		6.75
Program Manager	1											
Financial Operations Unit	5		3									
Financial Services Unit	5		1									
Procurement Unit	4		2.75	1								
Business Integration Center (BIC) (Includes Audit, Strategic Planning, Policy and Training Units)										11		7
Program Manager	1						1					
BIC	9		6	1		1						
Financial Investigations Section										1	6	2
Program Manager		1										
Operations Unit	1	5	1			1						
Administrative Support Center										3		2
Administrative Unit	2		2	1								
To Be Determined							1	1	6	1	1	6
TOTALS	41	8	29.75	4	0	3	2	1	7	47	9	39.75

** 1 contractor under Financial Services Unit funded outside of FY18 FSA budget allocation

**To Be Determined positions enable AFD to respond to fluctuations in work due to workload increase, change in policy, etc. The USMS has discretion to change the ratio between administrative and contractor positions based in AFD HQ and those based in the USMS districts in order to optimize operations.

**USMS HQ non-AFD Administrative Support Positions funded by the Assets Forfeiture
Fund as of March 15, 2018 (Pay Period 5)**

Attorney, Office of General Counsel

Attorney, Office of General Counsel

Human Resources Specialist, Human Resources Division

Human Resources Specialist, Human Resources Division

Information Technology Specialist, Information Technology Division

Supervisory IT Specialist, Information Technology Division

Supervisory IT Specialist, Information Technology Division

Contract Specialist, Financial Services Division

Systems Accountant, Financial Services Division

Management & Program Analyst, Management Support Division

Paralegal, Contractor, Office of General Counsel



U.S. Department of Justice
Justice Management Division
Asset Forfeiture Management Staff
145 N St., N.E., Suite 5W.511
Washington, D.C. 20530

[REDACTED]

OCT 18 2016

MEMORANDUM FOR HOLLEY O'BRIEN

Assistant Director
Financial Services Division
United States Marshals Service

FROM:

Kenneth A. Arnold
Director

SUBJECT:

Initial Full-Year Assets Forfeiture Fund Allocation for FY 2017

I am writing to transmit the USMS' initial full-year Assets Forfeiture Fund (AFF) allocation for FY 2017 as approved by Deputy Attorney General Yates. Your initial allocation is \$700,535,000, which includes \$700,249,000 for Program Operations Expenses and \$286,000 for Investigative Expenses. Attached is a summary listing the allocation levels for specific programs and activities along with any conditions on their use, and a Suballotment Advice reflecting these resources.

With the ever-present public scrutiny of our Asset Forfeiture Program, it is imperative that all expenditures of this allocation not only withstand potential criticism, but also demonstrate our careful stewardship over these non-appropriated funds. While additional allocations might be possible later in the year depending upon the health of the AFF, we cannot fully commit to providing your agency any additional funds with the fiscal uncertainties we currently face. Therefore, you should first look within your agency's available appropriations for support of any unfunded needs that exceed this initial AFF allocation. The policy guidance contained in the Attorney General's Guidelines on Seized and Forfeited Property, supplemental policy memoranda, and guidance found in previous allocation letters continue to apply until superseded.

AFF monies for Investigative Expenses are subject to statutory funding limitations and the amount initially provided is the maximum that can be apportioned under the Continuing Resolution for FY 2017 (H.R. 5325), which covers the period October 1, 2016 to December 9, 2016. Additional funds will be made available when the enacted appropriation or another continuing resolution provides added authority for these expenses.

Attachments

Holley O'Brien

Page 2

cc: Jolene A. Lauria
Deputy Assistant Attorney General, Controller
Justice Management Division

M. Kendall Day, Chief
Asset Forfeiture and Money Laundering Section
Criminal Division

Timothy Virtue, Assistant Director
Asset Forfeiture Division
United States Marshals Service

**United States Marshals Service
FY 2017 Initial Allocation Summary**

Program Operations Expenses (permanent, indefinite authority)	Amount Requested	Amount Approved
Asset Management and Disposal		\$40,389,000
Third-Party Interests		\$240,000,000
Equitable Sharing		\$325,000,000
Joint Law Enforcement Operations		\$32,775,000
Special Contract Services		\$13,742,000
Information Systems		\$5,447,000
Training and Printing		\$1,466,000
<u>Other Program Management</u>		<u>\$41,430,000</u>
Total, Program Operations Expenses		\$700,249,000
Investigative Expenses (appropriated, definite authority)	Amount Requested	Planning* Estimate
Equipping of Conveyances		\$183,000
<u>Awards for Information</u>		<u>\$103,000</u>
Total, Investigative Expenses		\$286,000
Grand Total		\$700,535,000

* The Planning Estimate is for planning purposes only. Congressional action and other events may result in changes to estimates.

Program Operations Expenses (permanent, indefinite authority)

ASSET MANAGEMENT AND DISPOSAL

Amount Requested	Amount Approved
	\$40,389,000

\$40,389,000 are provided for Asset Management and Disposal expenses to include the following programs and activities:

- \$20,713,000 for the personal property contracts, including the management of vehicles, vessels, and aircraft;

**United States Marshals Service
FY 2017 Initial Allocation Summary**

- \$14,739,000 for the national real property management contracts;
- \$3,287,000 for the national jewelry, art, antiques, and collectibles program;
- \$1,000,000 for unique asset management in major cases;
- \$500,000 for international asset management; and
- \$150,000 for travel directly associated with the disposition and management of seized assets.

This amount fully funds the USMS's request for Asset Management Disposal expenses in order to cover contract minimum requirements. However, CATS data shows a significant decline in overall asset management workload for the USMS. For example, the AFP seized 42 percent fewer vehicles in FY 2015 than we seized in FY 2012 and currently-available data for FY 2016 indicates further declines. Therefore, AFMS will closely monitor these expenditures throughout FY 2017 and will adjust allocated funding levels as necessary via the suballotment process.

We also strongly encourage USMS to begin exploring the possibility of aligning and/or consolidating aspects of the USMS real property program with the real property program of the Treasury Executive Office on Asset Forfeiture (TEOAF). Initial data and anecdotal evidence indicates TEOAF maintains the same level of inventory with far fewer complaints from the Assistant U.S. Attorneys who must judicially seize and forfeit all real property the Government takes.

THIRD-PARTY INTERESTS

<u>Amount Requested</u>	<u>Amount Approved</u>
██████████	\$240,000,000

\$240,000,000 are provided for the payment of third party interests. This amount is based on recent trends that point to a smaller funding requirement in FY 2017. The allocation will be continually monitored throughout the fiscal year and additional allocations will be provided, if necessary.

EQUITABLE SHARING

<u>Amount</u>	<u>Amount Approved</u>
██████████	\$325,000,000

\$325,000,000 are provided for equitable sharing payments to state and local agencies based on the degree of participation in federal investigations resulting in the seizure and forfeiture of assets. This amount is based on recent trends that point to a smaller funding requirement in FY 2017. As

**United States Marshals Service
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with the Third-Party Interests allocation, this allocation will be continually monitored throughout the fiscal year and additional allocations will be provided, if necessary.

JOINT LAW ENFORCEMENT OPERATIONS

<u>Amount Requested</u>	<u>Amount Approved</u>
██████████	\$32,775,000

\$32,775,000 are provided for the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or Local law enforcement officers that are incurred in a joint law enforcement operation with the USMS. Based on your budget estimates and supporting justifications, this initial allocation includes specific non-fungible funding levels in the following programs and activities. However, if unforeseen operational circumstances support realigning funds between these programs or activities during FY 2017, AFMS stands ready to assist in making any necessary adjustments between these cost areas:

- \$23,525,000 for State or local law enforcement officer overtime incurred in a joint law enforcement operation with the USMS;
- \$4,160,000 for Technical Operations/Circuit Costs that are subject to judicial authorization. No more than one-fourth (\$1,040,000) of this allocation may be obligated or expended until the USMS and AFMS can agree on a set of internal controls and procedures necessary to firmly establish that these expenses are “costs of State or Local law enforcement officers” pursuant to 28 USC 524(c)(1)(I). AFMS will engage with the USMS Investigative Operations Division during the first quarter of FY 2017 to develop improved internal controls and a Standard Operating Procedure for documenting these expenses going forward. The USMS is reminded that funds authorized under 28 USC 524(c)(1)(I) are not available for Federal agency expenses, regardless of whether those expenses support a State or local investigation;
- \$1,890,000 for commercial database access for State or local law enforcement officers participating in a joint law enforcement operation with the USMS. This amount provides 42 percent of the USMS’s \$4.5 million total requirement for commercial database access and is based on the proportion of task force officers with access to this system. USMS stated that approximately 2,100 (42 percent) of the 4,926 active database users were task force officers and that the remaining 2,800 users are USMS employees. The USMS is reminded that funds authorized under 28 USC 524(c)(1)(I) are not available for Federal agency expenses, regardless of whether those expenses support a State or local investigation;

United States Marshals Service
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- \$1,400,000 for the annual lease or rent of 190 vehicles for State or local law enforcement officers participating in a joint law enforcement operation with the USMS. No funds from this allocation may be used to purchase vehicles. Not only is this approach consistent with other DOJ JLEO programs, but we believe that leasing or renting vehicles will enhance officer safety by removing older, high-mileage vehicles from service and by also allowing TFOs to more easily change-out vehicles as necessary during sensitive operations. AFMS will engage with the USMS Investigative Operations Division during the first quarter of FY 2017 to establish future year lease requirements for all task force officer vehicles;
- \$950,000 for the retrofitting or equipping of vehicles used by State or local law enforcement officers participating in a joint law enforcement operation with the USMS. This amount provides funding for equipping 190 leased/rented vehicles and is based on similar rates incurred by ATF for installing equipment in leased/rented TFO vehicles;
- \$600,000 for High Risk Fugitive Apprehension Training (HRFA) and Adam Walsh Training for State or local law enforcement officers participating in a joint law enforcement operation with the USMS; and
- \$250,000 for background investigations of State or local law enforcement officers participating in a joint law enforcement operation with the USMS.

All expenses under this cost category must conform with 28 USC § 524(c)(1)(I) and the policy directive contained in the memo known as the “Colgate Memo,” i.e., Stephen R. Colgate, Assistant Attorney General for Administration, Subject: Guidance on Use of the Assets Forfeiture Fund (AFF) to Pay State and Local Law Enforcement Officer Overtime and Other Costs In Joint Law Enforcement Operations, dated July 1, 1997.

Please note that reimbursement for state or local task force salary expenses with AFF monies is available for state or local officer overtime salary expenses and shall not include any costs for benefits, such as retirement, FICA, or other expenses.

As a condition of funding, the USMS is required to submit the amount of JLEO funds paid to each state and local law enforcement agency for FY 2016 (by agency and NCIC number), and the amount allocated to each agency in FY 2017, to AFMLS and AFMS within 60 days of the FY 2017 allocation. We note that this requirement has not been complied with in the past. AFMS will closely monitor compliance during FY 2017.

A recent JLEO program review by AFMS and AFMLS revealed inconsistencies and likely redundancies in expenditures among the AFF’s investigative agencies. Therefore, AFMS will explore whether there are better ways to allocate JLEO resources across the Asset Forfeiture Program in FY 2017.

Agencies are reminded about the limitations on using either **JLEO or equitable sharing** funds to purchase certain military-style equipment for use by state and local agencies. On January 16,

**United States Marshals Service
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2015, President Barack Obama issued Executive Order 13688, "Federal Support for Local Law Enforcement Equipment Acquisition," that identified and implemented actions to improve federal support for the appropriate use, acquisition, and transfer of equipment by state, local, and tribal law enforcement agencies. This Executive Order prohibits Law Enforcement Agencies (LEAs) from using federal funds to purchase certain military-style equipment. The order also requires LEAs to obtain pre-approval from the funding federal agency and follow new guidelines when purchasing equipment found on the Controlled Equipment List. Effective October 1, 2016, the following equipment is on the Controlled Equipment List and is subject to these requirements when using federal funds:

- Manned Aircraft, Fixed Wing and Rotary Wing;
- Unmanned Aerial Vehicles;
- Armored Vehicles, Wheeled;
- Tactical Vehicles, Wheeled;
- Command and Control Vehicles;
- Breaching Apparatus; and
- Riot/Crowd Control Batons and Shields.

If an LEA intends to use Department of Justice or Department of the Treasury JLEO or equitable sharing funds to purchase any Controlled Equipment, the agency must submit a request to the funding federal agency for approval. LEAs shall not obligate or spend any federal JLEO or equitable sharing funds for a Controlled Equipment purchase until approval has been granted by the funding federal agency. For the Department of Justice, the Asset Forfeiture and Money Laundering Section (AFMLS) will review requests and notify agencies when the request has been approved or denied.

SPECIAL CONTRACT SERVICES

<u>Amount Requested</u>	<u>Amount Approved</u>
██████████	\$13,742,000

\$13,742,000 are provided for special contract services costs to include the following programs and activities:

- \$13,403,000 for 147 authorized full-time equivalents (FTEs) for Forfeiture Support Associates (FSA) contractor support. We note that these 147 FTEs matches the same number of FTEs the USMS ordered against the FSA contract for FY 2016, irrespective of subsequent hiring freezes and vacancy rates that occurred after the first quarter of

**United States Marshals Service
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FY 2016. While the USMS asserts this is more than a 10 percent reduction to its current authorized position count of 165 FTEs, this FY 2017 initial allocation for FSA support is only 4.9 percent below the USMS requested level of funding. AFMS believes this slightly reduced level of support should be easily absorbed because workload data shows a significant decline in asset seizure activity over the last several fiscal years. Nearly complete data for FY 2016 shows that trend is accelerating. AFMS anticipates the possibility of making further adjustments to this amount in FY 2018 and FY 2019 as part of a phased plan to right-size contractor position requirements. Rather than managing reductions solely via attritions, the USMS is strongly encouraged to begin actively managing these contractor positions to meet changing workload dynamics of its forfeiture program. This may involve transferring on-board contractor positions from locations with declining workload to locations where the resource may be more effectively utilized;

- \$314,000 for FSA contractor case-related travel; and
- \$25,000 for FSA contractor overtime.

INFORMATION SYSTEMS

Amount	Amount <u>Approved</u>
██████████	\$5,447,000

\$5,447,000 are provided for Information Systems expenses to include the following programs and activities:

- \$2,197,000 as a planning estimate for Unified Financial Management System (UFMS) operational support. This amount includes \$1,547,000 for the AFF portion of JMD's billing for operations and maintenance expenses and \$650,000 for the Asset Forfeiture Division UFMS Help Desk. We understand that this amount is based on the proportion of transactional workload attributable to the AFF;
- \$1,683,000 for ADP Cost Sharing for the cost of information technology and telecommunication services for Asset Forfeiture Division personnel, including software and services used by AFF-funded personnel and a proportional amount of the USMS's IT infrastructure services used by the Asset Forfeiture Division;
- \$225,000 for the purchase of computers, IT peripherals, and cellular services and related equipment;
- \$750,000 for asset forfeiture data reporting, analysis, and dashboard management tools associated with the CRAD. This amount was requested in the Exhibit 1a but was not included in the USMS's narrative AFF budget submission for FY 2017. Please provide a narrative justification for this expense in future AFF budget requests;

**United States Marshals Service
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- \$92,000 for software purchases and license renewals. This amount was requested in the Exhibit 1a but was not included in the USMS's narrative AFF budget submission for FY 2017. Please provide a narrative justification for this expense in future AFF budget requests; and
- \$500,000 for Business Objects for in-house reporting and analysis needs related to implementation of the UFMS 2.2 upgrade. We understand this represents 50 percent of the USMS's total cost for this requirement.

No funds are provided for the USMS Property Asset and Control Enterprise System (PACES) due to concerns that the USMS no longer plans to implement the system's Radio Frequency Identification Technology that served as the original basis for AFF funding. Because the asset tracking functionality of PACES is now essentially redundant with the Consolidated Asset Tracking System (CATS), this project was not considered among the highest priority activities that are "core" to the overall Asset Forfeiture Program (AFP), which utilizes CATS for all asset management and disposal functions across the AFP.

TRAINING AND PRINTING

Amount	Amount <u>Approved</u>
██████████	\$1,466,000

\$1,466,000 are provided for forfeiture training activities based on a recommendation provided by the Criminal Division, Asset Forfeiture and Money Laundering Section, with AFMS concurrence. A list of courses or events specifically approved will be provided by AFMLS.

OTHER PROGRAM MANAGEMENT

Amount <u>Requested</u>	Amount <u>Approved</u>
██████████	\$41,430,000

\$41,430,000 are provided for other program management. Based on your budget estimates and supporting justifications, this initial allocation includes specific non-fungible funding levels in the following programs and activities. However, if unforeseen operational circumstances support realigning funds between these programs or activities during FY 2017, AFMS stands ready to assist in making any necessary adjustments between these cost areas:

\$22,076,000 for the salaries and \$10,370,000 for the benefits of 225 authorized FTEs for government positions across four program categories, including:

United States Marshals Service FY 2017 Initial Allocation Summary

- 67 Deputy U.S. Marshals. Currently, the USMS has allocated 58 Deputy U.S. Marshals based in the United States Attorney's Offices for the Asset Forfeiture Financial Investigator (AFFI) program and 9 Deputy U.S. Marshals based in the Asset Forfeiture Division (AFD). However, the USMS has discretion to change this ratio to optimize operations;
- 148 administrative positions based in the USMS districts and in AFD. Currently, the USMS has 55 positions allocated to AFD and 103 positions allocated to districts; however, the USMS has the discretion to change this ratio when implementing the reduction; and
- 10 administrative positions based in non-AFD divisions of the USMS.

This amount provides for a reduction of 10 FTEs from the requested level of 235 authorized FTEs in accordance with workload data showing a significant decline in asset seizure activity over the last several fiscal years. Consistent with the FY 2016 allocation, no funding is provided in FY 2017 for the salary and benefits of USMS personnel performing non-forfeiture related work. Because this 4.3 percent reduction is well below the significant declines in asset seizure activity, AFMS anticipates the possibility of making further adjustments to this amount in FY 2018 and FY 2019 as part of a phased plan to right-size government employee position requirements;

- \$7,815,000 for rent associated with AFF-funded government FTE positions. This amount provides rent for District Office personnel (\$6,575,000), Non-AFD Headquarters personnel (\$95,000), and AFD Headquarters personnel (\$1,145,000). Rent funding for AFD Headquarters personnel of \$1,145,000 includes space occupied by AFD at the USMS headquarters in Arlington, VA (\$678,000) and at the Asset Forfeiture Academy in Houston, TX (\$467,000). This cost category causes a significant concern. The USMS's original request of \$8,605,000 for rent was subsequently lowered to \$7,815,000 based on AFMS's requested explanation of the rent calculation methodology. However, this amount still appears excessively high for 167 funded government positions in USMS space. AFMS will therefore conduct an independent review of the data and make any necessary adjustments to this total in FY 2017;
- \$335,000 for non-salary Asset Forfeiture Division operational expenses;
- \$208,000 for background investigations for AFF-funded USMS government employees;
- \$336,000 for JMD Reimbursable requirements. This amount was requested in the Exhibit 1a but was not included in the USMS's narrative AFF budget submission for FY 2017. Please provide a narrative justification for this expense in future AFF budget requests;
- \$200,000 for the on-site reviews of district asset forfeiture units in association with the USMS Office of Compliance Review;

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- \$75,000 for the operating costs of the Asset Forfeiture Academy in Houston, TX; and
- \$15,000 for printing and publications.

AFMS will conduct a review of the 2010 Memorandum of Understanding between AFMS and the USMS regarding the funding of Other Program Management expenses, including rent, non-AFD USMS government positions, and other requirements. As part of this initiative, AFMS will also evaluate the propriety of the AFF's support for the 10 administrative personnel based outside of AFD, especially because the current signed MOU provided for only 8 of these positions.

Investigative Expenses (annual, definite authority)

These monies are limited by an annual obligation cap enacted into law in the appropriations process. These caps have remained at about the \$21 million level for more than a decade. There is essentially no flexibility to exceed that overall cap, and therefore, agency allocation for the expenses below are the same as the previous year. The Planning Estimates below reflect that reality.

Because the Congress has not yet enacted the full-year Appropriations Act for the Department of Justice, we are unable to provide funding for those categories of investigative expense that are subject to appropriations limitations; namely, awards for information, purchase of evidence, and equipping of conveyances. When the enacted appropriation provides authority for these expenses, an allocation will be made.

EQUIPPING OF CONVEYANCES

<u>FY 2016 Allocation</u>		<u>Amount Approved</u>	<u>Planning Estimate</u>
\$183,000		\$0	\$183,000

The use of AFF monies under this cost category is described in the Attorney General's Guidelines and is governed as follows:

- Payments to Equip Conveyances
 - Decisions to equip a government-owned or leased conveyance (vehicle, vessel, or aircraft) for drug law enforcement functions shall be made by the organizational component within the agency which is responsible for management of the conveyance.
 - Reimbursable payments may be made to equip conveyances which are used the majority of the time for activity relating to the investigation or apprehension of violators of the federal laws and the seizure and forfeiture of their assets.

**United States Marshals Service
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- Monies from the Fund may not be used for recurring expenses such as fuel, spare or replacement parts, maintenance, or replacement of equipment due to wear and tear by the agency using the conveyance.
- Equipping should generally occur before the conveyance is placed into official use and only if it is intended to be in service for at least two years.

AWARDS FOR INFORMATION

<u>FY 2016 Allocation</u>		<u>Amount Approved</u>	<u>Planning Estimate</u>
\$515,000		\$0	\$103,000

AFMS conducted a program wide review of agency payments made under the AFF's Awards for Information authority and found that 80 percent of all USMS awards were unrelated to any of the federal violations enumerated in 28 U.S.C. § 524(c)(1)(B). Therefore, this planning estimate reflects an 80 percent reduction to amounts allocated in prior years.

In accordance with the provisions of 28 U.S.C. § 524(c)(1)(B), USMS is reminded that these funds are available exclusively for the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States or of chapter 77 of title 18, sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986.

U.S. Department of Justice
Asset Forfeiture Management Staff

Suballotment Advice

Fund Symbol and Title:	15 X 5042 Assets Forfeiture Fund	Code Number ALLOC Oct FY17
Suballottee: Director, U.S. Marshals Service	Fiscal Year or Period Covered: FY 2017	Suballotment No. 1

You are hereby allotted and authorized to obligate funds from the Assets Forfeiture Fund (AFF) for expenses expressly authorized in your organization's most recent allocation summary. No other agency expenses, even if they are forfeiture-related, will be authorized. Schedule A shows the net total of the suballotment. Schedule B shows the distribution of the total suballotment by expense category.

An officer or employee of the United States Government who makes or authorizes an obligation or expenditure exceeding the amount of the suballotment will be in violation of U.S.C. § 1514 and 31 U.S.C. § 1517(a)(2), and will be subject to penalties under the Antideficiency Act to include administrative disciplinary action, a fine of not more than \$5,000, and imprisonment for not more than two years. Further, obligation of AFF funds is subject to statutory controls under 28 U.S.C. § 524 (c), policy controls contained in the Attorney General's Guidelines on Seized and Forfeited Property, and amplifying policy statements from the Department.

Asset Forfeiture Program participants must maintain proper supporting documentation for all expenses billed to the AFF and must make such documentation available to AFMS representatives upon request. Documentation must comprehensively establish the basis for each obligation, including the relationship to expenses approved in the most recent allocation summary. More specifically, AFF participants may be required to provide acquisition documents, contract invoices, purchase card details, payroll journals, travel vouchers, accounting system cost allocation entries, and other transaction support for AFF expenditures.

A. Funds Allocated By Fiscal Year

	Prior Amount	Change Amount	Present Amount
Fiscal Year 2017	-	700,304,000	700,304,000

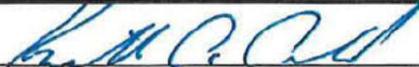
B. Funds Allocated By Category of Expense

Category of Expense	Prior Amount	Change Amount	Present Amount
<i>Program Operations Expenses</i>			
Asset Management and Disposal		40,389,000	40,389,000
Third Party Interests		240,000,000	240,000,000
Equitable Sharing Payments		325,000,000	325,000,000
Case Related Expenses		-	-
Joint Law Enforcement Task Forces		32,775,000	32,775,000
Special Contract Services		13,742,000	13,742,000
Storage/Destruction of Substances		-	-
Information Systems		5,447,000	5,447,000
Training and Printing		1,466,000	1,466,000
Other Program Management		41,430,000	41,430,000
Contracts to Identify Assets		-	-
Awards Based on Forfeiture		-	-
Investigative Costs Leading to Seizures		-	-
Subtotal.....	-	700,249,000	700,249,000
<i>Investigative Expenses</i>			
Purchase of Evidence		-	-
Equipping of Conveyances		35,000	35,000
Awards for Information		20,000	20,000
Subtotal.....	-	55,000	55,000
Grand Total.....	-	700,304,000	700,304,000

Remarks:

This document provides USMS' initial Assets Forfeiture Fund (AFF) allocation for FY 2017 as approved by Deputy Attorney General Yates. AFF monies for Investigative Expenses (IE) are subject to statutory funding limitations and are apportioned quarterly by OMB. The amount provided for IE in this document (19.18 percent of the annual allocation) is the maximum allowable under the Continuing Resolution for FY 2017 (H.R. 5325), which covers the period October 1, 2016 to December 9, 2016. Additional IE funds will be made available when the enacted appropriation or another continuing resolution provides added authority for these expenses.

Approved:


Kenneth A. Arnold, Director

Date:

10/18/16

**U.S. Department of Justice
Asset Forfeiture Management Staff**

Suballotment Advice

Fund Symbol and Title:	15 X 5042 Assets Forfeiture Fund	Code Number ALLOC Oct FY17
Suballottee: Director, U.S. Marshals Service	Fiscal Year or Period Covered: FY 2017	Suballotment No. 2

You are hereby allotted and authorized to obligate funds from the Assets Forfeiture Fund (AFF) for expenses expressly authorized in your organization's most recent allocation summary. No other agency expenses, even if they are forfeiture-related, will be authorized. Schedule A shows the net total of the suballotment. Schedule B shows the distribution of the total suballotment by expense category.

An officer or employee of the United States Government who makes or authorizes an obligation or expenditure exceeding the amount of the suballotment will be in violation of U.S.C. § 1514 and 31 U.S.C. § 1517(a)(2), and will be subject to penalties under the Antideficiency Act to include administrative disciplinary action, a fine of not more than \$5,000, and imprisonment for not more than two years. Further, obligation of AFF funds is subject to statutory controls under 28 U.S.C. § 524 (c), policy controls contained in the Attorney General's Guidelines on Seized and Forfeited Property, and amplifying policy statements from the Department.

Asset Forfeiture Program participants must maintain proper supporting documentation for all expenses billed to the AFF and must make such documentation available to AFMS representatives upon request. Documentation must comprehensively establish the basis for each obligation, including the relationship to expenses approved in the most recent allocation summary. More specifically, AFF participants may be required to provide acquisition documents, contract invoices, purchase card details, payroll journals, travel vouchers, accounting system cost allocation entries, and other transaction support for AFF expenditures.

A. Funds Allocated By Fiscal Year

	Prior Amount	Change Amount	Present Amount
Fiscal Year 2017	700,304,000	88,000	700,392,000

B. Funds Allocated By Category of Expense

Category of Expense	Prior Amount	Change Amount	Present Amount
<i>Program Operations Expenses</i>			
Asset Management and Disposal	40,389,000	-	40,389,000
Third Party Interests	240,000,000	-	240,000,000
Equitable Sharing Payments	325,000,000	-	325,000,000
Case Related Expenses	-	-	-
Joint Law Enforcement Task Forces	32,775,000	-	32,775,000
Special Contract Services	13,742,000	-	13,742,000
Storage/Destruction of Substances	-	-	-
Information Systems	5,447,000	-	5,447,000
Training and Printing	1,466,000	-	1,466,000
Other Program Management	41,430,000	-	41,430,000
Contracts to Identify Assets	-	-	-
Awards Based on Forfeiture	-	-	-
Investigative Costs Leading to Seizures	-	-	-
Subtotal.....	700,249,000		700,249,000
<i>Investigative Expenses</i>			
Purchase of Evidence	-	-	-
Equipping of Conveyances	35,000	56,500	91,500
Awards for Information	20,000	31,500	51,500
Subtotal.....	55,000	88,000	143,000
Grand Total.....	700,304,000	88,000	700,392,000

Remarks:

AFF monies for Investigative Expenses (IE) are subject to statutory funding limitations and are apportioned quarterly by OMB. The amount provided for IE in this document (50 percent of the annual allocation) is the maximum allowable for the quarter ending March 31, 2017.

Approved:



Kenneth A. Arnold, Director

Date:

1/12/17



U.S. Department of Justice
Justice Management Division
Asset Forfeiture Management Staff
145 N St., N.E., Suite 5W.511
Washington, D.C. 20530

██████████
MAY 11 2017

MEMORANDUM FOR HOLLEY O'BRIEN

Assistant Director
Financial Services Division
United States Marshals Service

FROM:

Kenneth A. Arnold
Director

SUBJECT:

FY 2017 Assets Forfeiture Fund Suballotment Advice #3

In response to your FY 2017 Mid-Year Review request dated March 3, 2017, I am writing to transmit Suballotment Advice Number 3, which reflects the following adjustments to USMS's FY 2017 Assets Forfeiture Fund (AFF) annual allocation:

- Realigns \$421,000 from 'Asset Management and Disposal' to 'Information Systems' to terminate the asset forfeiture portion of the Property Asset and Control Enterprise System (PACES).
- Increases the Q3 and Q4 spending limits for discretionary Investigative Expenses to the amount that has been automatically apportioned through June 4, 2017.
- The request to realign \$600,000 within 'Other Program Management' from HQ Dedicated AFD Administrative Personnel salaries and benefits to District AF Dedicated Administrative Personnel salaries and benefits is approved. This is a technical adjustment that does not affect the FTE caps provided in the FY 2017 allocation.
- The request to realign \$250,000 within 'Other Program Management' to extend contract support for the UFMS Helpdesk through February 2018 is approved.

The following requests were deferred or denied for the reasons stated below:

- The request for \$1,884,000 in 'Information Systems' to support the development of the Capture system, which will replace the Judicial Detainee Information System (JDIS), is denied because both the AFF statute (28 U.S.C. § 524(c)) and the *Attorney General's Guidelines on Seized and Forfeited Property* preclude use of the AFF to fund information systems unless "a majority" of the system will be dedicated to asset forfeiture program related work. The "Capture" system that will replace JDIS does not meet that threshold.

If you have any questions, please call Kevin Arnwine at [REDACTED], or email him at [REDACTED]

Attachment

cc: Jolene A. Lauria
Deputy Assistant Attorney General, Controller
Justice Management Division

Deborah Connor, Acting Chief
Money Laundering and Asset Recovery Section
Criminal Division

Timothy Virtue, Assistant Director
Asset Forfeiture Division
United States Marshals Service

U.S. Department of Justice
Asset Forfeiture Management Staff

Suballotment Advice

Fund Symbol and Title:	15 X 5042 Assets Forfeiture Fund	Code Number ALLOC Oct FY17
Suballottee:	Fiscal Year or Period Covered:	Suballotment No.
Director, U.S. Marshals Service	FY 2017	3

You are hereby allotted and authorized to obligate funds from the Assets Forfeiture Fund (AFF) for expenses expressly authorized in your organization's most recent allocation summary. No other agency expenses, even if they are forfeiture-related, will be authorized. Schedule A shows the net total of the suballotment. Schedule B shows the distribution of the total suballotment by expense category.

An officer or employee of the United States Government who makes or authorizes an obligation or expenditure exceeding the amount of the suballotment will be in violation of U.S.C. § 1514 and 31 U.S.C. § 1517(a)(2), and will be subject to penalties under the Antideficiency Act to include administrative disciplinary action, a fine of not more than \$5,000, and imprisonment for not more than two years. Further, obligation of AFF funds is subject to statutory controls under 28 U.S.C. § 524 (c), policy controls contained in the Attorney General's Guidelines on Seized and Forfeited Property, and amplifying policy statements from the Department.

Asset Forfeiture Program participants must maintain proper supporting documentation for all expenses billed to the AFF and must make such documentation available to AFMS representatives upon request. Documentation must comprehensively establish the basis for each obligation, including the relationship to expenses approved in the most recent allocation summary. More specifically, AFF participants may be required to provide acquisition documents, contract invoices, purchase card details, payroll journals, travel vouchers, accounting system cost allocation entries, and other transaction support for AFF expenditures.

A. Funds Allocated By Fiscal Year

	Prior Amount	Change Amount	Present Amount
Fiscal Year 2017	700,392,000	50,536	700,442,536

B. Funds Allocated By Category of Expense

Category of Expense	Prior Amount	Change Amount	Present Amount
<i>Program Operations Expenses</i>			
Asset Management and Disposal	40,389,000	(421,000)	39,968,000
Third Party Interests	240,000,000	-	240,000,000
Equitable Sharing Payments	325,000,000	-	325,000,000
Case Related Expenses	-	-	-
Joint Law Enforcement Task Forces	32,775,000	-	32,775,000
Special Contract Services	13,742,000	-	13,742,000
Storage/Destruction of Substances	-	-	-
Information Systems	5,447,000	421,000	5,868,000
Training and Printing	1,466,000	-	1,466,000
Other Program Management	41,430,000	-	41,430,000
Contracts to Identify Assets	-	-	-
Awards Based on Forfeiture	-	-	-
Investigative Costs Leading to Seizures	-	-	-
Subtotal.....	700,249,000		700,249,000
<i>Investigative Expenses</i>			
Purchase of Evidence		-	-
Equipping of Conveyances	91,500	32,336	123,836
Awards for Information	51,500	18,200	69,700
Subtotal.....	143,000	50,536	193,536
Grand Total.....	700,392,000	50,536	700,442,536

Remarks:

This document reflects the FY 2017 Mid-Year Review adjustments detailed in the accompanying cover memo. AFF monies for Investigative Expenses (IE) are subject to statutory funding limitations. The additional amount provided for IE in this document is 67.67 percent of the annual allocation, which is the amount automatically apportioned after passage of the Consolidated Appropriations Act 2017 and covers the period through June 4, 2017. Additional IE funds will be made available when the full-year apportionment has been approved.

Approved:  Kenneth A. Arnold, Director	Date: 5/10/17
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U.S. Department of Justice
Asset Forfeiture Management Staff

Suballotment Advice

Fund Symbol and Title:	15 X 5042 Assets Forfeiture Fund	Code Number ALLOC Jun FY17
Suballottee: Director, U.S. Marshals Service	Fiscal Year or Period Covered: FY 2017	Suballotment No. 4

You are hereby allotted and authorized to obligate funds from the Assets Forfeiture Fund (AFF) for expenses expressly authorized in your organization's most recent allocation summary. No other agency expenses, even if they are forfeiture-related, will be authorized. Schedule A shows the net total of the suballotment. Schedule B shows the distribution of the total suballotment by expense category.

An officer or employee of the United States Government who makes or authorizes an obligation or expenditure exceeding the amount of the suballotment will be in violation of U.S.C. § 1514 and 31 U.S.C. § 1517(a)(2), and will be subject to penalties under the Antideficiency Act to include administrative disciplinary action, a fine of not more than \$5,000, and imprisonment for not more than two years. Further, obligation of AFF funds is subject to statutory controls under 28 U.S.C. § 524 (c), policy controls contained in the Attorney General's Guidelines on Seized and Forfeited Property, and amplifying policy statements from the Department.

Asset Forfeiture Program participants must maintain proper supporting documentation for all expenses billed to the AFF and must make such documentation available to AFMS representatives upon request. Documentation must comprehensively establish the basis for each obligation, including the relationship to expenses approved in the most recent allocation summary. More specifically, AFF participants may be required to provide acquisition documents, contract invoices, purchase card details, payroll journals, travel vouchers, accounting system cost allocation entries, and other transaction support for AFF expenditures.

A. Funds Allocated By Fiscal Year

	Prior Amount	Change Amount	Present Amount
Fiscal Year 2017	700,442,536		700,535,000

B. Funds Allocated By Category of Expense

Category of Expense	Prior Amount	Change Amount	Present Amount
Program Operations Expenses			
Asset Management and Disposal	39,968,000		39,968,000
Third Party Interests	240,000,000	-	240,000,000
Equitable Sharing Payments	325,000,000	-	325,000,000
Case Related Expenses	-	-	-
Joint Law Enforcement Task Forces	32,775,000	-	32,775,000
Special Contract Services	13,742,000	-	13,742,000
Storage/Destruction of Substances	-	-	-
Information Systems	5,868,000		5,868,000
Training and Printing	1,466,000	-	1,466,000
Other Program Management	41,430,000	-	41,430,000
Contracts to Identify Assets	-	-	-
Awards Based on Forfeiture	-	-	-
Investigative Costs Leading to Seizures	-	-	-
Subtotal.....	700,249,000		700,249,000
Investigative Expenses			
Purchase of Evidence		-	-
Equipping of Conveyances	123,836	59,164	183,000
Awards for Information	69,700	33,300	103,000
Subtotal.....	193,536	92,464	286,000
Grand Total.....	700,442,536	92,464	700,535,000

Remarks:

This document increases Investigative Expenses (IE) to the full-year budget authority of \$286,000. AFF monies for IE are subject to statutory funding limitations and are apportioned quarterly by OMB. The amount provided for IE in this document represent the entire annual appropriated amount. Your agency's cumulative quarterly IE limitations are as follows: Q3: \$214,500 and Q4: \$286,000. These quarterly obligation limitations must not exceeded.

Approved:  Kenneth A. Arnold, Director	Date: 6/13/17
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U.S. Department of Justice
Asset Forfeiture Management Staff

Suballotment Advice

Fund Symbol and Title:	15 X 5042 Assets Forfeiture Fund	Code Number ALLOC Sep FY17
Suballottee: Director, U.S. Marshals Service	Fiscal Year or Period Covered: FY 2017	Suballotment No. 5

You are hereby allotted and authorized to obligate funds from the Assets Forfeiture Fund (AFF) for expenses expressly authorized in your organization's most recent allocation summary. No other agency expenses, even if they are forfeiture-related, will be authorized. Schedule A shows the net total of the suballotment. Schedule B shows the distribution of the total suballotment by expense category.

An officer or employee of the United States Government who makes or authorizes an obligation or expenditure exceeding the amount of the suballotment will be in violation of U.S.C. § 1514 and 31 U.S.C. § 1517(a)(2), and will be subject to penalties under the Antideficiency Act to include administrative disciplinary action, a fine of not more than \$5,000, and imprisonment for not more than two years. Further, obligation of AFF funds is subject to statutory controls under 28 U.S.C. § 524 (c), policy controls contained in the Attorney General's Guidelines on Seized and Forfeited Property, and amplifying policy statements from the Department.

Asset Forfeiture Program participants must maintain proper supporting documentation for all expenses billed to the AFF and must make such documentation available to AFMS representatives upon request. Documentation must comprehensively establish the basis for each obligation, including the relationship to expenses approved in the most recent allocation summary. More specifically, AFF participants may be required to provide acquisition documents, contract invoices, purchase card details, payroll journals, travel vouchers, accounting system cost allocation entries, and other transaction support for AFF expenditures.

A. Funds Allocated By Fiscal Year

	Prior Amount	Change Amount	Present Amount
Fiscal Year 2017	700,535,000	388,000,000	1,088,535,000

B. Funds Allocated By Category of Expense

Category of Expense	Prior Amount	Change Amount	Present Amount
<i>Program Operations Expenses</i>			
Asset Management and Disposal	39,968,000	-	39,968,000
Third Party Interests	240,000,000	457,000,000	697,000,000
Equitable Sharing Payments	325,000,000	(69,000,000)	256,000,000
Case Related Expenses	-	-	-
Joint Law Enforcement Task Forces	32,775,000	-	32,775,000
Special Contract Services	13,742,000	-	13,742,000
Storage/Destruction of Substances	-	-	-
Information Systems	5,868,000	-	5,868,000
Training and Printing	1,466,000	-	1,466,000
Other Program Management	41,430,000	-	41,430,000
Contracts to Identify Assets	-	-	-
Awards Based on Forfeiture	-	-	-
Investigative Costs Leading to Seizures	-	-	-
Subtotal.....	700,249,000	388,000,000	1,088,249,000
<i>Investigative Expenses</i>			
Purchase of Evidence	-	-	-
Equipping of Conveyances	183,000	-	183,000
Awards for Information	103,000	-	103,000
Subtotal.....	286,000	-	286,000
Grand Total.....	700,535,000	388,000,000	1,088,535,000

Remarks:

This document increases the USMS's annual allocation by \$388,000,000. These additional funds are provided in the Third Party Interests cost category to cover anticipated obligations for victims in the Western Union fraud case. This document also realigns \$69,000,000 from Equitable Sharing Payments to Third Party Interests for the same purpose.

Approved:



Kenneth A. Arnold, Director



Date



U.S. Department of Justice
Justice Management Division
Asset Forfeiture Management Staff
145 N St., N.E., Suite 5W.511
Washington, D.C. 20530

MEMORANDUM FOR HOLLEY O'BRIEN

Assistant Director
Financial Services Division
United States Marshals Service

FROM:

Kenneth A. Arnold
Director

Kenneth A. Arnold 10/2/17

SUBJECT:

Initial Full-Year Assets Forfeiture Fund Allocation for FY 2018

I am writing to transmit the USMS' initial full-year Assets Forfeiture Fund (AFF) allocation for FY 2018 as approved by the Office of the Deputy Attorney General. Your initial full-year allocation is \$559,615,000, which includes \$559,329,000 for Program Operations Expenses and \$286,000 for Investigative Expenses. The second attachment is a summary listing the allocation levels for specific programs and activities along with any conditions on their use. The third and final attachment is Suballotment Advice reflecting your available FY 2018 AFF funding. Please note that this document does not include any funds for Joint Law Enforcement Operations circuit costs for the reasons noted in the allocation summary.

AFF monies for Investigative Expenses are subject to statutory funding limitations and the amount initially provided is the maximum that can be apportioned under the Continuing Appropriations Act, FY 2018 (P.L. 115-56, H.R. 601), which covers the period October 1, 2017 through December 8, 2017. Additional funds will be made available when the enacted appropriation or another continuing resolution provides added authority for these expenses. Please note that the House version of the FY 2018 Appropriations Bill would reduce the AFF's discretionary funding for Investigative Expenses by \$10 million, which is nearly half the amount we've historically received each year. We encourage you to manage these expenses carefully in the event that Congress ultimately enacts the proposed reduction in this area.

With the ever-present public scrutiny of our Asset Forfeiture Program, it is imperative that all expenditures of this allocation not only withstand potential criticism, but also demonstrate our careful stewardship over these non-appropriated funds. While additional allocations might be possible later in the year depending upon the health of the AFF, we cannot fully commit to providing your agency any additional funds with the fiscal uncertainties we currently face. Therefore, you should first look within your agency's available appropriations

for support of any unfunded needs that exceed this initial AFF allocation. The policy guidance contained in the Attorney General's Guidelines on Seized and Forfeited Property, supplemental policy memoranda, and guidance found in previous allocation letters continue to apply until superseded.

Attachments

cc: Jolene A. Lauria
Deputy Assistant Attorney General, Controller
Justice Management Division

Deborah Connor, Acting Chief
Money Laundering and Asset Recovery Section
Criminal Division

Timothy Virtue, Assistant Director
Asset Forfeiture Division
United States Marshals Service

**United States Marshals Service
FY 2018 Initial Allocation Summary**

Program Operations Expenses (permanent, indefinite authority)	Current FY 2017 Allocation	FY 2018 Request	Amount Approved
Asset Management and Disposal	\$39,968,000		\$35,618,000
Third-Party Interests	\$240,000,000		\$200,000,000
Equitable Sharing	\$325,000,000		\$230,000,000
Joint Law Enforcement Operations	\$32,775,000		\$33,285,000
Special Contract Services	\$13,742,000		\$11,925,000
Information Systems	\$5,868,000		\$6,578,000
Training and Printing	\$1,466,000		\$1,193,000
<u>Other Program Management</u>	<u>\$41,430,000</u>		<u>\$40,730,000</u>
Total, Program Operations Expenses	\$700,249,000		\$559,329,000
Investigative Expenses (appropriated, definite authority)	Current FY 2017 Allocation	FY 2018 Request	Planning* Estimate
Equipping of Conveyances	\$183,000		\$183,000
<u>Awards for Information</u>	<u>\$103,000</u>		<u>\$103,000</u>
Total, Investigative Expenses	\$286,000		\$286,000
Grand Total	\$700,535,000		\$559,615,000

* The Planning Estimate is for planning purposes only. Congressional action and other events may result in changes to estimates.

FY 2018 PROGRAM REVIEWS:

Review of International Asset Seizure and Forfeiture-Related Activities – In view of the growing level of international asset seizure costs incurred by DEA, the Criminal Division’s Money Laundering and Asset Recovery Section and Office of International Affairs, and the USMS, as well as the inherent challenges in bringing these cases to forfeiture, AFMS will conduct a program review to carefully examine the synergies between these separately-funded programs. Ideally, this review will help establish and document the full scope of law enforcement benefits inherent in DOJ’s international asset forfeiture-related activities. For the USMS, these activities include:

**United States Marshals Service
FY 2018 Initial Allocation Summary**

- The Asset Forfeiture Division’s International Unit responsible for seizure, inventory, appraisal, packing, movement, storage, maintenance, security, and disposition of seized and forfeited assets located abroad. This includes repatriation of funds in connection with active cases involving international assets, requiring investigators to travel abroad.

Program Operations Expenses (permanent, indefinite authority)

ASSET MANAGEMENT AND DISPOSAL

Current FY 2017 Allocation	FY 2018 Request	Amount Approved
\$39,968,000	██████████	\$35,618,000

\$35,618,000 are provided for Asset Management and Disposal expenses to include the following programs and activities:

- \$17,750,000 for the personal property contracts, including the management of vehicles, vessels, and aircraft;
- \$14,850,000 for the national real property management contracts;
- \$2,768,000 for the national jewelry, art, antiques, and collectibles program; and
- \$250,000 for travel directly associated with the disposition and management of seized assets.

This amount fully funds the USMS’s request for Asset Management Disposal expenses in order to cover contract minimum requirements. CATS data show a significant and continued decline in overall asset management workload for the USMS. AFMS applauds USMS efforts to reduce government and contractor personnel costs by consolidating the number of staffed field offices from 80 in FY 2016 to 58 by the middle of FY 2018 based on workload analysis, and encourage the continuation of this process.

While AFMS understands that the USMS has decided against aligning and/or consolidating aspects of the USMS real property program with the real property program of the Treasury Executive Office on Asset Forfeiture (TEOAF), it is pleased that the USMS is re-evaluating the best ways to restructure its real estate contracts based on feedback from TEOAF and the AUSA community. With the Attorney General’s expressed commitment to pursue real estate forfeitures in a more deliberate and cautious manner, please provide AFMS with any revised seizure guidelines or performance measures that have been developed to help reduce further the backlog of real property assets and avoid the seizure of underwater assets.

**United States Marshals Service
FY 2018 Initial Allocation Summary**

THIRD-PARTY INTERESTS

Current FY 2017 <u>Allocation</u>	FY 2018 <u>Request</u>	Amount <u>Approved</u>
\$240,000,000	██████████	\$200,000,000

\$200,000,000 are provided for the payment of third party interests. The allocation will be continually monitored throughout the fiscal year and additional allocations will be provided, if necessary.

EQUITABLE SHARING

Current FY 2017 <u>Allocation</u>	FY 2018 <u>Request</u>	Amount <u>Approved</u>
\$325,000,000	██████████	\$230,000,000

\$230,000,000 are provided for equitable sharing payments to State and local law enforcement agencies based on the degree of participation in federal investigations resulting in the seizure and forfeiture of assets. As with the Third-Party Interests allocation, this allocation will be continually monitored throughout the fiscal year and additional allocations will be provided, if necessary.

JOINT LAW ENFORCEMENT OPERATIONS

Current FY 2017 <u>Allocation</u>	FY 2018 <u>Request</u>	Amount <u>Approved</u>
\$32,775,000	██████████	\$33,285,000

\$33,285,000 are provided for the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in a joint law enforcement operation with the USMS. Based on the USMS's budget estimates and supporting justifications, this initial allocation includes specific non-fungible funding levels in the following programs and activities. However, if unforeseen operational circumstances support realigning funds between these programs or activities during FY 2018, AFMS stands ready to assist in making any necessary adjustments between these cost areas:

United States Marshals Service FY 2018 Initial Allocation Summary

- \$23,210,000 for State and local law enforcement officer overtime incurred in a joint law enforcement operation with the USMS. Because this level of funding matches the amount requested by the USMS and is almost identical to the amount requested for FY 2017, AFMS assumes there is no planned FY 2018 increase in the number of fugitive Task Force Officers (TFOs);
- \$4,160,000 for Technical Operations/Circuit Costs that are subject to judicial authorization has been allocated; however, none of this amount will be allotted or expended until AFMS fully audits FY 2017 expenditures in this area. First, the USMS must establish firm legal authority to maintain the separate account where these funds are deposited. Second, AFMS is still evaluating the effectiveness of recently approved internal controls for obligating and spending in support of these operations. Finally, AFMS is still evaluating the methodology used to allocate the amount of federal expenses versus the costs of State and local law enforcement officers. This separation is critical because fugitive operations is a core USMS mission, often without regard to whether a particular fugitive is wanted under a federal or state warrant. The USMS is reminded that funds authorized under 28 USC 524(c)(1)(I) are not available for Federal agency expenses, regardless of whether those expenses support a State and local investigation. Because of internal control and other concerns AFMS identified last year, the USMS must provide monthly reconciliation reports reflecting all account activity, and all unused funds must be returned to the AFF at the end of each fiscal year;
- \$1,915,000 for commercial database access for State and local law enforcement officers participating in a joint law enforcement operation with the USMS. This amount provides 42.7 percent of the USMS's \$4.485 million total requirement for commercial database access and is based on the proportion of task force officers with access to this system. Because there is no evidence to suggest that all TFOs are actually using these database services, AFMS will continue to refine this funding model over time. Again, the USMS is reminded that funds authorized under 28 USC 524(c)(1)(I) are not available for Federal agency expenses, regardless of whether those expenses support a State and local investigation;
- \$2,950,000 to lease 500 vehicles for the final 8 months of FY 2018 for State and local law enforcement officers participating in a joint law enforcement operation with the USMS;
- \$200,000 (of the \$625,000 requested) for temporary contract support to help manage the vehicle lease program as it is established. Ideally, these vehicles should be managed by existing USMS vehicle fleet managers to help ensure better integration and standardization of vehicle policies and procedures at the fugitive task force level;

**United States Marshals Service
FY 2018 Initial Allocation Summary**

- \$600,000 for High Risk Fugitive Apprehension Training (HRFA) and Adam Walsh Training for State and local law enforcement officers participating in a joint law enforcement operation with the USMS; and
- \$250,000 for background investigations of State and local law enforcement officers participating in a joint law enforcement operation with the USMS.

All expenses under this cost category must conform with 28 USC § 524(c)(1)(I) and the policy directive contained in the memo known as the "Colgate Memo," i.e., Stephen R. Colgate, Assistant Attorney General for Administration, Subject: Guidance on Use of the Assets Forfeiture Fund (AFF) to Pay State and Local Law Enforcement Officer Overtime and Other Costs In Joint Law Enforcement Operations, dated July 1, 1997.

Please note that reimbursement for state and local task force salary expenses with AFF monies is available for state and local officer overtime salary expenses and shall not include any costs for benefits, such as retirement, FICA, and other expenses.

Despite aggressive enforcement of the requirement for agencies to identify the amount of JLEO funds paid to each state and local law enforcement agency for FY 2016 (by agency and NCIC Code/Originating Agency Identifier ORI), AFMS was only able to account for **63 percent** of the JLEO funds spent in FY 2016, and only **52 percent** by geographic location. Properly tracked, Program-wide distributions of JLEO spending around the country could better inform the USMS and other senior DOJ leaders on whether there are gaps and seams in DOJ's collective efforts to reduce violent crime, gangs, and drug trafficking. As a condition of funding, the USMS is required to submit an Exhibit 6 by the end of the first quarter of FY 2018. AFMS will distribute the template and instructions for this exhibit in the next few weeks.

A recent JLEO program review revealed inconsistencies and likely redundancies in expenditures among the AFF's investigative agencies. Therefore, AFMS will continue to explore whether there are better ways to allocate JLEO resources across the Asset Forfeiture Program in FY 2018.

SPECIAL CONTRACT SERVICES

Current FY 2017 Allocation	FY 2018 Request	Amount Approved
\$13,742,000	██████████	\$11,925,000

\$11,925,000 are provided for special contract services costs to include the following programs and activities:

- \$11,550,000 for 130 authorized full-time equivalents (FTEs) for Forfeiture Support

**United States Marshals Service
FY 2018 Initial Allocation Summary**

Associates (FSA) contractor support, a reduction of 17 from the 147 FTEs authorized in FY 2017. AFMS commends USMS efforts to right-size its FSA staffing based on workload analysis and encourage the continuation of this process because seizure activity appears to be steadily declining at a higher rate than these relatively modest personnel reductions;

- \$350,000 for FSA contractor case-related travel; and
- \$25,000 for FSA contractor overtime.

INFORMATION SYSTEMS

<u>Current FY 2017 Allocation</u>	<u>FY 2018 Request</u>	<u>Amount Approved</u>
\$5,868,000	██████████	\$6,578,000

\$6,578,000 are provided for information systems expenses to include the following programs and activities:

- \$2,294,000 for Unified Financial Management System (UFMS) operational support to include:
 - \$1,624,000 for the AFF portion of JMD’s billing for operations and maintenance expenses; and
 - \$670,000 for the Asset Forfeiture Division (AFD) UFMS Help Desk based on the proportion of transactional workload attributable to the AFF;
- \$1,767,000 for ADP Cost Sharing for the cost of information technology (IT) and telecommunication services for AFD personnel, including software and services used by AFF-funded personnel and a proportional amount of the USMS’s IT infrastructure services used by the AFD;
- \$1,440,000 for a new initiative that will integrate asset management-related data found in multiple stand-alone systems (e.g., multiple vendor tracking and reporting systems, SharePoint case management tools, CATS, UFMS, etc.) to improve asset tracking and reporting. AFMS will evaluate whether this effort is fully consistent with a central tenet of the AFP from its inception: “implementation of a single Departmental asset forfeiture information system”;
- \$250,000 for the purchase of computers, IT peripherals, and cellular services and related equipment for headquarters and district asset forfeiture staff;
- \$730,000 for UFMS in-house reporting; and

**United States Marshals Service
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- \$97,000 for software purchases and license renewals.

No funds are provided for the development of the CAPTURE System (\$3,103,000), the planned replacement for the Judicial Detainee Information System (JDIS). The AFF statute, its legislative history, and the implementing Attorney General's Guidelines are clear: the AFF may not be used to fund information systems unless "a majority" of the system will be dedicated to asset forfeiture program related work. The CAPTURE system does not even come close to meeting that threshold.

TRAINING AND PRINTING

Current FY 2017 Allocation	FY 2018 Request	Amount Approved
\$1,466,000	██████████	\$1,193,000

\$1,193,000 are provided for forfeiture training activities based on a recommendation provided by the Criminal Division, Money Laundering and Asset Recovery Section, with AFMS concurrence. MLARS will provide a list of the specific courses or events that are approved.

OTHER PROGRAM MANAGEMENT

Current FY 2017 Allocation	FY 2018 Request	Amount Approved
\$41,430,000	██████████	\$40,730,000

\$40,730,000 are provided for other program management. Based on the USMS's budget estimates and supporting justifications, this initial allocation includes specific non-fungible funding levels in the following programs and activities. However, if unforeseen operational circumstances support realigning funds between these programs or activities during FY 2018, AFMS stands ready to assist in making any necessary adjustments between these cost areas:

- \$31,693,000 for the salaries and benefits of 217 authorized FTEs, reflecting a reduction of 8 FTEs from the 225 positions funded in FY 2017. Because this 3.6 percent reduction is well below the significant decline in asset seizure activity, AFMS anticipates the possibility of making further adjustments in future years as part of a phased plan to right-size government position requirements. As always, no funding is provided in FY 2018 for the salary and benefits of USMS personnel performing non forfeiture related work. The 217 AFF-funded positions are assigned as follows:

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- 54 Deputy U.S. Marshals based in the United States Attorneys' Offices for the Asset Forfeiture Financial Investigator (AFFI) program;
 - 9 Deputy U.S. Marshals based in the AFD;
 - 49 administrative positions in the AFD headquarters;
 - 95 administrative positions based in the USMS districts. The USMS has discretion to change the ratio between administrative positions based in AFD headquarters and those based in the USMS districts in order to optimize operations; and
 - 10 administrative positions based in non-AFD divisions of the USMS.
- \$6,021,000 for rent, security, and administrative overhead costs for space occupied by AFF-funded government and contractor positions assigned full-time to asset forfeiture responsibilities in USMS district offices;
 - \$686,000 for rent, security, and administrative overhead costs for AFD personnel assigned to USMS headquarters in Arlington, VA;
 - \$519,000 for the rental cost of space occupied by the Asset Forfeiture Academy in Houston, TX;
 - \$75,000 for the operating costs of the Asset Forfeiture Academy in Houston, TX;
 - \$80,000 for rent, security, and administrative overhead costs of non-AFD administrative personnel;
 - \$506,000 for AFFI non-salary expenses including travel expenses, fuel, administrative supplies, and ammunition consumed in mandatory firearms qualification and training;
 - \$50,000 for furniture and equipment for full-time AFF-funded government and contractor personnel assigned to headquarters or district offices;
 - \$320,000 for the operating expenses of AFD headquarters including office supplies, services, copier leases, and express mail costs;
 - \$208,000 for background investigations for AFF-funded government and contractor employees;
 - \$185,000 for reimbursement agreements with JMD for National Finance Center payroll charges, JMD Personnel Services, Workers Compensation charges, and electronic personnel folder (eOPF) charges;
 - \$200,000 for the on-site reviews of district asset forfeiture units in association with the USMS Office of Compliance Review;
 - \$97,000 for access to the Accurint and CLEAR databases for AFFIs and government and

**United States Marshals Service
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contract employees assigned to AFD's Complex Assets and International Units. Because this is in part a cost of pursuing international assets, the efficacy of supporting these costs will be evaluated as part of the larger review of resource commitments for international seizure activity;

- \$15,000 for printing and publications; and
- \$75,000 to extend the detail of an AUSA to the USMS Real Property Working Group for 5 months.

USMS and AFMS staff have been working together to address some of the inconsistencies in the 2010 Memorandum of Understanding (MOU) between AFMS and the USMS regarding the funding of Other Program Management expenses, including rent, non-AFD USMS government positions, and other requirements. Accordingly, AFMS plans to revise the MOU during the first quarter of FY 2018.

Investigative Expenses (annual, definite authority)

These monies are limited by an annual obligation cap enacted into law in the appropriations process. These caps have remained at about the \$21 million level for more than a decade. There is essentially no flexibility to exceed that overall cap, and therefore, the agency allocation for the expenses below are the same as the previous year. The Planning Estimates below reflect that reality.

Because the Congress has not yet enacted the full-year Appropriations Act for the Department of Justice, AFMS is unable to provide funding for those categories of investigative expense that are subject to appropriations limitations; namely, awards for information, purchase of evidence, and equipping of conveyances. An allocation will be made when the enacted appropriation provides authority for these expenses.

EQUIPPING OF CONVEYANCES

<u>FY 2017</u> <u>Allocation</u>	<u>FY 2018</u> <u>Request</u>	<u>Amount</u> <u>Approved</u>	<u>Planning</u> <u>Estimate</u>
\$183,000	██████████	\$0	\$183,000

The use of AFF monies under this cost category is described in the Attorney General's Guidelines and is governed as follows:

- Payments to Equip Conveyances
 - Decisions to equip a government-owned or leased conveyance (vehicle, vessel, or aircraft) for drug law enforcement functions shall be made by the organizational

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component within the agency, which is responsible for management of the conveyance.

- Reimbursable payments may be made to equip conveyances which are used the majority of the time for activity relating to the investigation or apprehension of violators of the federal laws and the seizure and forfeiture of their assets.
- Monies from the Fund may not be used for recurring expenses such as fuel, spare or replacement parts, maintenance, or replacement of equipment due to wear and tear by the agency using the conveyance.
- Equipping should generally occur before the conveyance is placed into official use and only if it is intended to be in service for at least two years.

AWARDS FOR INFORMATION

<u>FY 2017</u> <u>Allocation</u>	<u>FY 2018</u> <u>Request</u>	<u>Amount</u> <u>Approved</u>	<u>Planning</u> <u>Estimate</u>
\$103,000	██████████	\$0	\$103,000

AFMS conducted a program wide review of agency payments made under the AFF's Awards for Information authority and found that 80 percent of all USMS awards were unrelated to any of the federal violations enumerated in 28 U.S.C. § 524(c)(1)(B). Therefore, this planning estimate reflects an 80 percent reduction to amounts allocated in prior years.

In accordance with the provisions of 28 U.S.C. § 524(c)(1)(B), USMS is reminded that these funds are available exclusively for the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States or of chapter 77 of title 18, sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986.

**U.S. Department of Justice
Asset Forfeiture Management Staff**

Suballotment Advice

Fund Symbol and Title:	15 X 5042 Assets Forfeiture Fund	Code Number: ALLOC Oct FY18
Suballottee: Director, United States Marshals Service (USMS)	Fiscal Year or Period Covered: FY 2018	Suballotment No.: 1

You are hereby allotted and authorized to obligate funds from the Assets Forfeiture Fund (AFF) for expenses expressly authorized in your organization's most recent allocation summary. No other agency expenses, even if they are forfeiture-related, will be authorized. Schedule A shows the net total of the suballotment. Schedule B shows the distribution of the total suballotment by expense category.

An officer or employee of the United States Government who makes or authorizes an obligation or expenditure exceeding the amount of the suballotment will be in violation of U.S.C. § 1514 and 31 U.S.C. § 1517(a)(2), and will be subject to penalties under the Antideficiency Act to include administrative disciplinary action, a fine of not more than \$5,000, and imprisonment for not more than two years. Further, obligation of AFF funds is subject to statutory controls under 28 U.S.C. § 524 (c), policy controls contained in the Attorney General's Guidelines on Seized and Forfeited Property, and amplifying policy statements from the Department.

Asset Forfeiture Program participants must maintain proper supporting documentation for all expenses billed to the AFF and must make such documentation available to AFMS representatives upon request. Documentation must comprehensively establish the basis for each obligation, including the relationship to expenses approved in the most recent allocation summary. More specifically, AFF participants may be required to provide acquisition documents, contract invoices, purchase card details, payroll journals, travel vouchers, accounting system cost allocation entries, and other transaction support for AFF expenditures.

A. Funds Allocated By Fiscal Year

	Prior Amount	Change Amount	Present Amount
Fiscal Year 2018	-	555,222,800	555,222,800

B. Funds Allocated By Category of Expense

Category of Expense	Prior Amount	Change Amount	Present Amount
<i>Program Operations Expenses</i>			
Asset Management and Disposal	-	35,618,000	35,618,000
Victim and Other Third Party Payments	-	200,000,000	200,000,000
Equitable Sharing Payments	-	230,000,000	230,000,000
Case Related Expenses	-	-	-
Joint Law Enforcement Operations	-	29,125,000	29,125,000
Special Contract Services	-	11,925,000	11,925,000
Storage/Destruction of Controlled Substances	-	-	-
Information Systems	-	6,578,000	6,578,000
Training and Printing	-	1,193,000	1,193,000
Other Program Management	-	40,730,000	40,730,000
Contracts to Identify Assets	-	-	-
Awards Based on Forfeiture	-	-	-
Investigative Costs Leading to Seizures	-	-	-
Subtotal	-	555,169,000	555,169,000
<i>Investigative Expenses</i>			
Purchase of Evidence	-	-	-
Equipping of Conveyances	-	34,400	34,400
Awards for Information	-	19,400	19,400
Subtotal	-	53,800	53,800
Grand Total	-	555,222,800	555,222,800

Other Provisions:

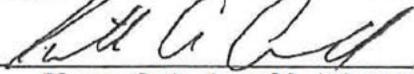
On a case-by-case basis, the period of performance for AFF-funded contracts and agreements may be extended beyond September 30, 2018 upon approval by AFMS.

Remarks:

This document provides the USMS with its initial Assets Forfeiture Fund (AFF) allocation for FY 2018 as approved by the Office of the Deputy Attorney General.

AFF monies for Investigative Expenses (IE) are subject to statutory funding limitations and are apportioned quarterly by OMB. The amount provided for IE in this document is the maximum allowable under the Continuing Appropriations Act, FY 2018 (P.L. 115-56, H.R. 601), which covers the period October 1, 2017 through December 8, 2018. Additional IE funds will be made available when the enacted appropriation or another continuing resolution provides added authority for these expenses.

Pursuant to the allocation summary, this document does not include any funds for JLEO circuit costs.

Approved: 
Kenneth A. Arnold, Director


Date

**U.S. Department of Justice
Asset Forfeiture Management Staff**

Suballotment Advice

Fund Symbol and Title:	15 X 5042 Assets Forfeiture Fund	Code Number: ALLOC Oct FY18
Suballottee: Director, United States Marshals Service (USMS)	Fiscal Year or Period Covered: FY 2018	Suballotment No.: 2

You are hereby allotted and authorized to obligate funds from the Assets Forfeiture Fund (AFF) for expenses expressly authorized in your organization's most recent allocation summary. No other agency expenses, even if they are forfeiture-related, will be authorized. Schedule A shows the net total of the suballotment. Schedule B shows the distribution of the total suballotment by expense category.

An officer or employee of the United States Government who makes or authorizes an obligation or expenditure exceeding the amount of the suballotment will be in violation of U.S.C. § 1514 and 31 U.S.C. § 1517(a)(2), and will be subject to penalties under the Antideficiency Act to include administrative disciplinary action, a fine of not more than \$5,000, and imprisonment for not more than two years. Further, obligation of AFF funds is subject to statutory controls under 28 U.S.C. § 524 (c), policy controls contained in the Attorney General's Guidelines on Seized and Forfeited Property, and amplifying policy statements from the Department.

Asset Forfeiture Program participants must maintain proper supporting documentation for all expenses billed to the AFF and must make such documentation available to AFMS representatives upon request. Documentation must comprehensively establish the basis for each obligation, including the relationship to expenses approved in the most recent allocation summary. More specifically, AFF participants may be required to provide acquisition documents, contract invoices, purchase card details, payroll journals, travel vouchers, accounting system cost allocation entries, and other transaction support for AFF expenditures.

A. Funds Allocated By Fiscal Year

	Prior Amount	Change Amount	Present Amount
Fiscal Year 2018	555,222,800	-	555,222,800

B. Funds Allocated By Category of Expense

Category of Expense	Prior Amount	Change Amount	Present Amount
<i>Program Operations Expenses</i>			
Asset Management and Disposal	35,618,000	-	35,618,000
Victim and Other Third Party Payments	200,000,000	150,000,000	350,000,000
Equitable Sharing Payments	230,000,000	(150,000,000)	80,000,000
Case Related Expenses	-	-	-
Joint Law Enforcement Operations	29,125,000	-	29,125,000
Special Contract Services	11,925,000	-	11,925,000
Storage/Destruction of Controlled Substances	-	-	-
Information Systems	6,578,000	-	6,578,000
Training and Printing	1,193,000	-	1,193,000
Other Program Management	40,730,000	-	40,730,000
Contracts to Identify Assets	-	-	-
Awards Based on Forfeiture	-	-	-
Investigative Costs Leading to Seizures	-	-	-
Subtotal	555,169,000	-	555,169,000
<i>Investigative Expenses</i>			
Purchase of Evidence	-	-	-
Equipping of Conveyances	34,400	-	34,400
Awards for Information	19,400	-	19,400
Subtotal	53,800	-	53,800
Grand Total	555,222,800	-	555,222,800

Other Provisions:

On a case-by-case basis, the period of performance for AFF-funded contracts and agreements may be extended beyond September 30, 2018 upon approval by AFMS.

Remarks:

This document realigns \$150 million from the Equitable Sharing Payments cost category to Victim and Other Third Party Payments (VTPP) to enable immediate obligation of funds necessary to cover potential victim liabilities against recently-deposited receipts from the Western Union fraud case. AFMS will seek additional allocations of Equitable Sharing Payments and VTPP, as necessary.

Approved:


Kenneth A. Arnold, Director


Date

**U.S. Department of Justice
Asset Forfeiture Management Staff**

Suballotment Advice

Fund Symbol and Title:	15 X 5042 Assets Forfeiture Fund	Code Number ALLOC Oct FY18
Suballottee: Director, United States Marshals Service (USMS)	Fiscal Year or Period Covered: FY 2018	Suballotment No. 3

You are hereby allotted and authorized to obligate funds from the Assets Forfeiture Fund (AFF) for expenses expressly authorized in your organization's most recent allocation summary. No other agency expenses, even if they are forfeiture-related, will be authorized. Schedule A shows the net total of the suballotment. Schedule B shows the distribution of the total suballotment by expense category.

An officer or employee of the United States Government who makes or authorizes an obligation or expenditure exceeding the amount of the suballotment will be in violation of U.S.C. § 1514 and 31 U.S.C. § 1517(a)(2), and will be subject to penalties under the Antideficiency Act to include administrative disciplinary action, a fine of not more than \$5,000, and imprisonment for not more than two years. Further, obligation of AFF funds is subject to statutory controls under 28 U.S.C. § 524 (c), policy controls contained in the Attorney General's Guidelines on Seized and Forfeited Property, and amplifying policy statements from the Department.

Asset Forfeiture Program participants must maintain proper supporting documentation for all expenses billed to the AFF and must make such documentation available to AFMS representatives upon request. Documentation must comprehensively establish the basis for each obligation, including the relationship to expenses approved in the most recent allocation summary. More specifically, AFF participants may be required to provide acquisition documents, contract invoices, purchase card details, payroll journals, travel vouchers, accounting system cost allocation entries, and other transaction support for AFF expenditures.

A. Funds Allocated By Fiscal Year

	Prior Amount	Change Amount	Present amount
Fiscal Year 2018	555,222,800	293,000,000	848,222,800

B. Funds Allocated By Category of Expense

Category of Expense	Prior amount	Change amount	Present amount
<i>Program Operations Expenses</i>			
Asset Management and Disposal	35,618,000	-	35,618,000
Victim and Other Third Party Payments	350,000,000	143,000,000	493,000,000
Equitable Sharing Payments	80,000,000	150,000,000	230,000,000
Case Related Expenses	-	-	-
Joint Law Enforcement Task Forces	29,125,000	-	29,125,000
Special Contract Services	11,925,000	-	11,925,000
Storage/Destruction of Substances	-	-	-
Information Systems	6,578,000	-	6,578,000
Training and Printing	1,193,000	-	1,193,000
Other Program Management	40,730,000	-	40,730,000
Contracts to Identify Assets	-	-	-
Awards Based on Forfeiture	-	-	-
Investigative Costs Leading to Seizures	-	-	-
Subtotal	555,169,000	293,000,000	848,169,000
<i>Investigative Expenses</i>			
Purchase of Evidence	-	-	-
Equipping of Conveyances	34,400	-	34,400
Awards for Information	19,400	-	19,400
Subtotal	53,800	-	53,800
Grand Total	555,222,800	293,000,000	848,222,800

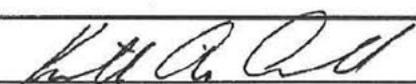
Other Provisions:

On a case-by-case basis, the period of performance for AFF-funded contracts and agreements may be extended beyond September 30, 2018 upon approval by AFMS.

Remarks:

This document increases the USMS initial Assets Forfeiture Fund (AFF) allocation for FY 2018 by \$293 million, as approved by the Office of the Deputy Attorney General. This is to restore \$150 million to the allocation for Equitable Sharing payments, and increase the cost category of Victim and Other Third Party Payments (VTPP) by \$143 million to cover projected FY 2018 costs above those already incurred in the Western Union fraud case.

Approved:


Kenneth A. Arnold, Director

Date:

11/21/17

**U.S. Department of Justice
Asset Forfeiture Management Staff**

Suballotment Advice

Fund Symbol and Title:	15 X 5042 Assets Forfeiture Fund	Code Number ALLOC Oct FY18
Suballottee: Director, United States Marshals Service (USMS)	Fiscal Year or Period Covered: FY 2018	Suballotment No. 4

You are hereby allotted and authorized to obligate funds from the Assets Forfeiture Fund (AFF) for expenses expressly authorized in your organization's most recent allocation summary. No other agency expenses, even if they are forfeiture-related, will be authorized. Schedule A shows the net total of the suballotment. Schedule B shows the distribution of the total suballotment by expense category.

An officer or employee of the United States Government who makes or authorizes an obligation or expenditure exceeding the amount of the suballotment will be in violation of U.S.C. § 1514 and 31 U.S.C. § 1517(a)(2), and will be subject to penalties under the Antideficiency Act to include administrative disciplinary action, a fine of not more than \$5,000, and imprisonment for not more than two years. Further, obligation of AFF funds is subject to statutory controls under 28 U.S.C. § 524 (c), policy controls contained in the Attorney General's Guidelines on Seized and Forfeited Property, and amplifying policy statements from the Department.

Asset Forfeiture Program participants must maintain proper supporting documentation for all expenses billed to the AFF and must make such documentation available to AFMS representatives upon request. Documentation must comprehensively establish the basis for each obligation, including the relationship to expenses approved in the most recent allocation summary. More specifically, AFF participants may be required to provide acquisition documents, contract invoices, purchase card details, payroll journals, travel vouchers, accounting system cost allocation entries, and other transaction support for AFF expenditures.

A. Funds Allocated By Fiscal Year

	Prior Amount	Change Amount	Present amount
Fiscal Year 2018	848,222,800	500,000	848,722,800

B. Funds Allocated By Category of Expense

Category of Expense	Prior amount	Change amount	Present amount
<i>Program Operations Expenses</i>			
Asset Management and Disposal	35,618,000	-	35,618,000
Victim and Other Third Party Payments	493,000,000	-	493,000,000
Equitable Sharing Payments	230,000,000	-	230,000,000
Case Related Expenses	-	-	-
Joint Law Enforcement Task Forces	29,125,000	500,000	29,625,000
Special Contract Services	11,925,000	-	11,925,000
Storage/Destruction of Substances	-	-	-
Information Systems	6,578,000	-	6,578,000
Training and Printing	1,193,000	-	1,193,000
Other Program Management	40,730,000	-	40,730,000
Contracts to Identify Assets	-	-	-
Awards Based on Forfeiture	-	-	-
Investigative Costs Leading to Seizures	-	-	-
Subtotal	848,169,000	500,000	848,669,000
<i>Investigative Expenses</i>			
Purchase of Evidence	-	-	-
Equipping of Conveyances	34,400	-	34,400
Awards for Information	19,400	-	19,400
Subtotal	53,800	-	53,800
Grand Total	848,222,800	500,000	848,722,800

Other Provisions:

On a case-by-case basis, the period of performance for AFF-funded contracts and agreements may be extended beyond September 30, 2018 upon approval by AFMS.

Remarks:

This document increases the USMS Assets Forfeiture Fund (AFF) suballotment for FY 2018 by \$500,000 to fund initial AFF circuit costs within the allocation of Joint Law Enforcement Operations. The initial FY 2018 allocation was conditional upon USMS providing AFMS monthly reconciliation reports reflecting all account activity. The USMS CFO forwarded the State and Local undercover bank statement and reconciliation for October and November, on 12/28/17. The USMS CFO provides assurance that adequate controls are now in place to ensure all expenditures from the account are limited to costs for state and local officers participating on federal task forces. Further, to support this initial circuit cost suballotment, the CFO agrees to forward the requested undercover account balance information and to specify the total amounts of both direct and AFF resources deposited, expended, and accrued to date, to support the FY 2018 circuit cost program.

Approved:


Kenneth A. Arnold, Director

Date:

12/21/17

**U.S. Department of Justice
Asset Forfeiture Management Staff**

Suballotment Advice

Fund Symbol and Title:	15 X 5042 Assets Forfeiture Fund	Code Number: ALLOC Jan FY18
Suballottee: Director, United States Marshals Service (USMS)	Fiscal Year or Period Covered: FY 2018	Suballotment No.: 5

You are hereby allotted and authorized to obligate funds from the Assets Forfeiture Fund (AFF) for expenses expressly authorized in your organization's most recent allocation summary. No other agency expenses, even if they are forfeiture-related, will be authorized. Schedule A shows the net total of the suballotment. Schedule B shows the distribution of the total suballotment by expense category.

An officer or employee of the United States Government who makes or authorizes an obligation or expenditure exceeding the amount of the suballotment will be in violation of U.S.C. § 1514 and 31 U.S.C. § 1517(a)(2), and will be subject to penalties under the Antideficiency Act to include administrative disciplinary action, a fine of not more than \$5,000, and imprisonment for not more than two years. Further, obligation of AFF funds is subject to statutory controls under 28 U.S.C. § 524 (c), policy controls contained in the Attorney General's Guidelines on Seized and Forfeited Property, and amplifying policy statements from the Department.

Asset Forfeiture Program participants must maintain proper supporting documentation for all expenses billed to the AFF and must make such documentation available to AFMS representatives upon request. Documentation must comprehensively establish the basis for each obligation, including the relationship to expenses approved in the most recent allocation summary. More specifically, AFF participants may be required to provide acquisition documents, contract invoices, purchase card details, payroll journals, travel vouchers, accounting system cost allocation entries, and other transaction support for AFF expenditures.

A. Funds Allocated By Fiscal Year

	Prior Amount	Change Amount	Present Amount
Fiscal Year 2018	848,722,800	48,147	848,770,947

B. Funds Allocated By Category of Expense

Category of Expense	Prior Amount	Change Amount	Present Amount
<i>Program Operations Expenses</i>			
Asset Management and Disposal	35,618,000	-	35,618,000
Victim and Other Third Party Payments	493,000,000	-	493,000,000
Equitable Sharing Payments	230,000,000	-	230,000,000
Case Related Expenses	-	-	-
Joint Law Enforcement Operations	29,625,000	-	29,625,000
Special Contract Services	11,925,000	-	11,925,000
Storage/Destruction of Controlled Substances	-	-	-
Information Systems	6,578,000	-	6,578,000
Training and Printing	1,193,000	-	1,193,000
Other Program Management	40,730,000	-	40,730,000
Contracts to Identify Assets	-	-	-
Awards Based on Forfeiture	-	-	-
Investigative Costs Leading to Seizures	-	-	-
Subtotal	848,669,000	-	848,669,000
<i>Investigative Expenses</i>			
Purchase of Evidence	-	-	-
Equipping of Conveyances	34,400	30,832	65,232
Awards for Information	19,400	17,315	36,715
Subtotal	53,800	48,147	101,947
Grand Total	848,722,800	48,147	848,770,947

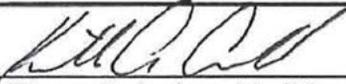
Other Provisions:

On a case-by-case basis, the period of performance for AFF-funded contracts and agreements may be extended beyond September 30, 2018 upon approval by AFMS.

Remarks:

This document increases the USMS allocation for Investigative Expenses to the maximum that can be apportioned under the FY 2018 Continuing Resolution No. 4 through February 08, 2018.

Approved:



Kenneth A. Arnold, Director

1/26/18

Date

Exhibit 7

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

June 10, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Sally Quillian Yates
Deputy Attorney General
United States Department of Justice

Dear Deputy Attorney General Yates:

This letter follows a series of inquiries made by the Committee regarding allegations received by dozens of whistleblowers regarding misconduct at the U.S. Marshals Service.

The Committee appreciates the Department's intent to cooperate with the Committee's continuing inquiry. The Committee is also coordinating its inquiry in parallel with the Office of Inspector General and expects timely, good faith responses to document and witness interview requests, as has already been discussed with Department staff.

Beyond the many allegations that appear to outline a pattern of improper hiring practices throughout the Marshals Service,¹ this letter requests information regarding additional allegations of mismanagement and misuse of government resources, including the Assets Forfeiture Fund (AFF).

Misuse of Government Funds for Private Gain

The Committee has received allegations from multiple whistleblowers with direct knowledge that senior executives misused government resources for their personal benefit.

¹ See Letter from Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary to Sally Quillian Yates, Acting Deputy Attorney General (Apr. 23, 2015); 5 U.S.C. § 1214(a)(5).

According to whistleblowers, while in the process of applying for the position of Assistant Director (AD) of the Asset Forfeiture Division, then-Acting AD Eben Morales directed a government contractor to draft a portion of Morales' application for the permanent AD position. Each application for a Senior Executive Service (SES) position—of which the AD position is one—requires applicants to submit Executive Core Qualification (ECQ) statements. The USMS contractor allegedly billed time spent drafting Morales' ECQs to the government. Mr. Morales then allegedly directed a different government contractor to make corrections to those ECQs. That contractor allegedly also billed the time to the USMS under that contract.

Additionally, multiple whistleblowers allege that current AD of AFD Kimberly Beal directed Jennifer Crane and Pam Bass, her government employee subordinates, to draft Ms. Beal's ECQs so that Beal could apply for the permanent SES position that she currently occupies.

The AD of the Judicial Security Division, Noelle Douglas, also allegedly directed a government employee subordinate to draft her ECQs for her current permanent SES position.

According to at least one publicly available website, federal government employees may pay several thousand dollars of their own funds for private contractors to spend up to two weeks drafting ECQs and other materials for Senior Executive Service (SES) application packages. These allegations, if true, may amount to serious ethics violations² and thousands of dollars in contract fraud.

Assets Forfeiture Fund and Travel

The Committee also has received allegations from multiple whistleblowers that the USMS AFD uses AFF money to pay for extensive and often unnecessary travel expenses. For example, as I wrote in my April 23, 2015, letter to the Department, multiple whistleblowers have alleged that former AD for AFD Eben Morales, now AD of the Prisoner Operations Division, frequently traveled to Miami on business but spent much of his time on personal matters.

The AFF also allegedly pays for the travel of certain USMS employees to AFD headquarters in Arlington, VA to participate in an "Asset Forfeiture Leadership Council," according to multiple whistleblowers. Those council meetings allegedly are "a waste of time" that produce not "one positive benefit" and "never accomplish anything." Nevertheless, AFF monies pay for these employees to fly across the country twice a year.

² 5 C.F.R. § 2635.705(b) ("An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation."); *see also id.* §§ 2635.702, 2635.302.

Assets Forfeiture Fund Salaries for Non-Asset Forfeiture Work

Information obtained by the Committee also strongly suggests that the USMS is using AFF money not only to pay for luxurious decor, but also to fund regular Marshals Service activities that have *nothing to do* with asset forfeiture.

Specifically, information obtained by the Committee demonstrates that the AFD uses the AFF to fully fund the salaries and benefits of several non-AFD personnel, including within the USMS Office of General Counsel. However, it is alleged that at least some of those personnel are *not* fully engaged in work related to asset forfeiture.

It is not clear that the USMS can demonstrate with any degree of accuracy that non-asset forfeiture work is precisely offset by asset forfeiture work performed by employees whose salaries and benefits are not paid out of the AFF. For example, previously, the USMS allegedly used a tracking system for all district administrative USMS employees to bill time to specific project codes. Under that system, every hour an employee worked on asset forfeiture-related matters would be billed to the AFF, while the hours not spent on asset forfeiture-related matters would be billed to a different source.

On January, 9, 2013, then-Acting Assistant Director for AFD Kimberly Beal sent a memorandum to the U.S. Marshals' district offices informing them that USMS had "received authority for Asset Forfeiture (AF) positions to be fully billed to the AFF." Certain employees who previously billed their time to asset forfeiture could continue doing asset forfeiture work "as a collateral duty." And employees fully funded in an "AF position" could also continue to perform non-AF work as long as they "complete[d] all AF responsibilities" and "their other [non-AF] duties have been deemed appropriate by District Management." It is not clear from the memorandum exactly how AFD planned to ensure that the true and accurate amount of AFF money was paid to support the amount of AF work actually performed by the USMS.

The agency's apparent failure to accurately track and measure the use of AFF monies to support AF work significantly impairs oversight and accountability for USMS' use of the fund. This type of lax accounting encourages and perpetuates a culture of impunity for waste and mismanagement.

Please provide all documents responsive to the following requests by June 24, 2015:

1. All records relating to communications regarding the drafting of ECQs on behalf of Eben Morales, Kimberly Beal, and Noelle Douglas, by or with the assistance of any government employee or contractor.

2. All documentation from FY 2010 to the present for the travel expenses of the following individuals, including the documentation of the purpose of and funding source for that travel:
 - a. Prisoner Operations Division Assistant Director Eben Morales;
 - b. Asset Forfeiture Leadership Council Chairman and U.S. Marshal for the District of Arizona David Gonzalez;
3. A list of all USMS employees and contractors, by name and title, that are funded from AFF resources but that are not specifically assigned to AFD or appearing within the AFD organizational chart; and
4. A detailed methodology demonstrating precisely how the AFD ensures that all positions fully funded by the AFF perform work exclusively on asset forfeiture matters, as required by 28 U.S.C. § 524(c).

Should you have any questions, please contact DeLisa Lay of my Committee staff at (202) 224-5225. Thank you.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

cc: The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice

The Honorable Carolyn N. Lerner
Special Counsel
U.S. Office of Special Counsel

Exhibit 8

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

March 19, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Sally Quillian Yates
Acting Deputy Attorney General
United States Department of Justice

Dear Acting Deputy Attorney General Yates:

I write with some concern regarding allegations of inappropriate hiring practices within the United States Marshals Services (USMS) Asset Forfeiture Division (AFD). Whistleblowers with specific knowledge of the process¹ have alleged that the AFD improperly waived qualification requirements in order to hire Donald Lenzie as a Senior Forfeiture Financial Specialist (SFFS), a highly paid contractor position.

Information obtained by the Committee suggests that Director Stacia A. Hylton personally recommended Mr. Lenzie for this position and that Kimberly Beal, then AFD Deputy Assistant Director, influenced subordinates to waive contract qualification requirements in order

¹ As a reminder, denying or interfering with employees' rights to furnish information to Congress is unlawful, 5 U.S.C. § 7211 ("The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied."), and obstructing a Congressional investigation is a crime, 18 U.S.C. § 1505 ("Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede . . . the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress" "[s]hall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both."). Furthermore, federal officials who deny or interfere with employees' rights to furnish information to Congress are not entitled to have their salaries paid by taxpayers' dollars. Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, § 713, 128 Stat. 2130 (2014).

to hire him. It is further alleged that Ms. Beal violated these contracting standards in order to receive favorable consideration from Director Hylton in Ms. Beal's effort to become the AFD Assistant Director, a position she now occupies.

This *quid pro quo* exchange of favors, if true, would raise serious doubts about the operational practices of the USMS AFD under Ms. Beal as well as, frankly, Ms. Hylton's leadership of the USMS.

Accordingly, please provide the Committee with a complete written explanation of the circumstances surrounding the hiring of Mr. Lenzie no later than March 26, 2015. Please also include in your response the following information:

1. The resumes of all individuals who have filled the contractor position of SFFS under the USMS AFD contract with Forfeiture Support Associates (FSA).
2. A copy of the current and all previous versions of the contract qualification requirements used to hire SFFS contractors from 2010 to the present. Please mark each version with the date that it became effective.

Should you have questions, please contact DeLisa Lay of my Committee staff at (202) 224-5225. Thank you.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

Cc: The Honorable Michael E. Horowitz
Inspector General
Office of the Inspector General

Exhibit 9

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

April 7, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Sally Quillian Yates
Acting Deputy Attorney General
United States Department of Justice

Dear Acting Deputy Attorney General Yates:

On March 19, 2015, I sent a letter to your office expressing concern regarding whistleblower allegations of improper contracting practices within the Asset Forfeiture Division (AFD) of the United States Marshals Service (USMS). Specifically, I wrote that according to information obtained by the Committee, “Director Staci A. Hylton personally recommended Donald Lenzie for the contract position of Senior Forfeiture Financial Specialist (SFFS), and . . . Kimberly Beal, then Deputy Assistant Director of the USMS Asset Forfeiture Division (AFD), influenced subordinates to waive contract qualification requirements in order to hire him.”

First, I appreciate the timeliness of the Department’s reply of March 26, 2015, but accuracy is as important as timeliness. Contrary to the conclusory tone of Mr. Kadzik’s letter, USMS officials informed committee staff via telephone on March 30th that the USMS is actually still in the process of conducting a more comprehensive internal review of the issues raised in my letter. This review includes requests for USMS employee email correspondence and other information relating to the hiring of Mr. Lenzie. Accordingly, it is unclear how the Office of Legislative Affairs could conclude that no *quid pro quo* occurred before USMS has gathered all the facts.

Second, the Department’s reply implies that no *quid pro quo* occurred because Mr. Lenzie was ultimately hired as a Forfeiture Financial Specialist (FFS) rather than a Senior Forfeiture Financial Specialist (SFFS) and because Mr. Lenzie’s hiring was subject to the

impartial assessment of a four-person panel of experts. However, documents obtained by the Committee indicate that USMS was not seeking an individual to fill an FFS role in Boston at the time Mr. Lenzie was hired, that Ms. Beal was a member of this hiring panel, and that she travelled to Boston at Government expense in order to interview Mr. Lenzie. USMS officials also informed committee staff on March 30 that USMS employees are not so thoroughly involved in all cases in the recruitment and hiring of USMS contractors, which raises concerns regarding Ms. Beal's substantial efforts during the hiring process.

Third, the Department notes the almost three years that passed between the hiring of Lenzie and Ms. Beal's appointment to the Senior Executive Service to suggest that no exchange of favors took place. But, the Committee is aware of a number of personnel actions that occurred, allegedly at the request of Director Hylton, much closer to the time of Lenzie's hiring and which clearly benefited Ms. Beal's candidacy for the position of Assistant Director of the AFD. For example, the Committee has obtained evidence that Director Hylton made Ms. Beal the Acting Assistant Director of the AFD on January 25, 2012, shortly after Mr. Lenzie was hired. It is also alleged that the Assistant Director position was reclassified from 1811 (Criminal Investigator) to 0301 (Administrator) specifically to accommodate Ms. Beal's lack of qualifications.

To further clarify the circumstances of Mr. Lenzie's recruitment and hiring, please provide written responses to the following questions by Wednesday, April 22, 2015:

1. Please provide the monthly invoices from the contractor in question, Forfeiture Support Associates (FSA), for all FSA positions supporting the USMS from the period two months prior to Mr. Lenzie's hiring through two months following the termination of his employment with FSA.
2. Please provide all USMS employee email correspondence concerning the hiring, onboarding, and resignation of Donald Lenzie as a contract employee with FSA.
3. Did an open position for a Forfeiture Financial Specialist (FFS) exist in or around the Boston area at the time Mr. Lenzie interviewed?
4. How many other FFS candidates did the panel interview for the position Mr. Lenzie eventually occupied?
5. Please provide the names and titles of the individuals who sat on the four-member panel that interviewed Mr. Lenzie.

6. Please provide the USMS policy outlining the role of USMS officials in recruiting, interviewing, and hiring contract positions. Please include the titles and positions of USMS officials involved in those hiring processes, as well as under what circumstances and in what capacities those officials participate in the hiring process for positions that are in fact employed by USMS contractors.

Should you have questions, please contact DeLisa Lay of my Committee staff at (202) 224-5225. Thank you.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

Cc: The Honorable Michael E. Horowitz
Inspector General
Office of the Inspector General

The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary

Exhibit 10

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

April 23, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Sally Quillian Yates
Acting Deputy Attorney General
United States Department of Justice

Dear Acting Deputy Attorney General Yates:

On March 18th and 19th I sent two letters, one to you and one to U.S. Marshals Service Director Hylton regarding whistleblower allegations of (1) quid pro quo hiring practices and (2) waste and misuse of asset forfeiture funds by the U.S. Marshals Service. Although the Department's review of these matters continues, more than a half dozen whistleblowers have contacted the Committee to make additional, troubling allegations since March 18.

First, multiple whistleblowers have now corroborated various aspects of the initial reports. These whistleblowers have confirmed that Assistant Director of the Asset Forfeiture Division Kimberly Beal went to unusual lengths to ensure that Donald Lenzie was hired by AFD contractor Forfeiture Support Associates, allegedly in order to curry favor with Director Hylton, who knew Mr. Lenzie in college. As I wrote in my April 7, 2015, follow-up letter regarding the Lenzie matter, Director Hylton placed Ms. Beal in the position of Acting Assistant Director of the AFD shortly after Mr. Lenzie was hired. The position was allegedly reclassified from 1811 (criminal investigator) to 0301 (administrator) for the purpose of accommodating Ms. Beal's lack of law enforcement training. Ms. Beal also retained her position as Acting Assistant Director for over two years, including while under investigation by the Department of Justice Office of Inspector General for retaliating against a whistleblower. Her acting position granted her access to experience that could later support her application for the permanent position and help exclude other well-qualified candidates.

I appreciate the Department's initial response to my April 7 follow-up letter acknowledging that its earlier explanation was inaccurate and providing evidence that, in the Department's words, "appears to be inconsistent with representations in our March 26, 2015 letter." I agree with the Department's assessment.

In its initial March 26 letter, the Department stated: “Mr. Lenzie’s hiring was not unduly influenced by the Director. After Mr. Lenzie applied for the SFFS position in September 2011, he e-mailed his resume to the Director, which she forwarded to Ms. Beal for her awareness. The Director did not recommend Mr. Lenzie for any position” On April 17, the Department provided the Committee with an e-mail chain indicating that AD Beal, at the time Deputy Assistant Director of AFD, received Mr. Lenzie’s resume from Director Hylton’s personal e-mail address. Ms. Beal then forwarded that resume to then-Assistant Director Eben Morales, stating: “Director called and has forwarded the resume of a Customs agent that she highly recommends for the jump team FFS in Boston.” This evidence directly contradicts the Department’s previous statements and corroborates the whistleblowers’ allegations of a *quid pro quo*.

The Department’s efforts to correct its earlier inaccurate statements to the Committee are commendable. However, allowing the USMS to lead a review of itself in this matter seems unwise. Not only was the Department’s initial response inconsistent with the evidence, but information obtained by the Committee also clearly shows that this matter was reported to the USMS Office of General Counsel (OGC) as early as December 2013. Yet, the OGC apparently failed to take the allegation seriously or take any steps to address it. Moreover, USMS officials informed my staff that they consulted with OGC about the allegations before the Department’s initial response was submitted to my office. These facts raise serious questions about whether and to what extent the USMS OGC reviewed the Department’s initial reply to this Committee without correcting its inaccuracies.

The more than half dozen whistleblowers who have come forward in the last month have provided information suggesting that the Lenzie hiring is not an isolated incident. Rather, those whistleblowers have alleged that improper hiring practices were used in multiple instances to reward or benefit relatives and friends of senior leadership. The allegations present a troubling and longstanding pattern of nepotism and *quid pro quos* in the selection of contractor and USMS staff positions.

For example, multiple whistleblowers allege that Assistant Director of the Judicial Security Division, Noelle Douglas, is currently under investigation by the Department of Justice Office of Inspector General for directing subordinates to offer a lucrative contract position to a certain individual with whom she allegedly had a personal relationship.

Multiple whistleblowers also have disclosed that as far back as 2009-2010, senior leadership in other divisions at USMS agreed to “hire each other’s wives.” As a result of this *quid pro quo* hiring, the wife of now Associate Director of Operations William Snelson was allegedly hired by then-Judiciary Security Division Chief Inspector David Sligh, while Mr. Sligh’s wife was hired by then-Tactical Operations Division Assistant Director Snelson. It is further alleged that USMS may have violated basic internal controls standards by allowing Mr. Snelson’s wife, while working in the Justice Security Division, to nevertheless manage the budget for a TOD program operating under Mr. Snelson at the time. Whistleblowers also allege that, following Mr. Snelson’s promotion to Associate Director, his wife was hired within the

Asset Forfeiture Division, although she allegedly has no experience in asset forfeiture. Information obtained by the Committee confirms that Mrs. Snelson currently works in AFD.

Whistleblowers also allege that improper hiring practices extend to interns and other lower-level positions. For example, Ms. Beal allegedly secured an intern position for a relative and used Department resources to pay for the intern to travel multiple times across the country to attend trainings and conferences intended for criminal investigators.

These examples are the tip of the iceberg. According to one whistleblower, they represent the “day-to-day business” of the U.S. Marshals Service.

Multiple whistleblowers also have alleged widespread and systemic waste, misuse, and abuse of the Assets Forfeiture Fund. These allegations corroborate the lavish spending by individuals in the Asset Forfeiture Division discussed in the Committee’s March 18, 2015, letter and again point to a pattern of cavalier use of asset forfeiture money by USMS.

The Committee is continuing to review the USMS response to the March 18 letter on this topic. However, like the Department’s response to the March 19 letter regarding *quid pro quo* allegations, this response is troubling and appears incomplete. For example, the USMS claims in its response that it cannot provide an exact estimate for the granite installed in the Asset Forfeiture Academy in Houston, Texas, although it does disclose that the granite covers “five small surfaces” totaling 57 square feet. The letter also states that the senior officials who approved the expenditures at issue “retired years ago.” However, information obtained by the committee indicates that expenditures such as the 57 square feet of granite were approved by and upon the insistence of Assistant Director Beal, who has not retired. It is further alleged that this granite was custom cut, “very special,” “top of the line,” and “the most expensive on the market,” and that when the granite company salesperson suggested cheaper alternatives Ms. Beal replied that “cost is not a factor.” It is unclear how the USMS does not know, or cannot otherwise locate, how much it paid for such an expensive and unnecessary luxury.

AD Beal’s alleged insistence on securing the granite for the Asset Forfeiture Academy is consistent with many whistleblower accounts of a longstanding attitude of AFD leadership that the fund exists not to support law enforcement but to buy the “best of the best” for that division. The Committee has received multiple reports, for example, that former AFD AD Eben Morales frequently traveled to Miami using AFF resources ostensibly for official government business but spent his time on personal matters. Senior managers, including AD Beal, reportedly justify lavish spending simply because the Assets Forfeiture Fund is “not appropriated money.”

Unfortunately, like the allegations of improper nepotism and *quid pro quos* in hiring, these allegations of waste and abuse of the fund are but a few examples of reports the Committee has received.

The use of the Assets Forfeiture Fund for purposes Congress certainly did not intend—along with what appears to be a systemic abuse of power to reward favored insiders and friends—is unacceptable. The many whistleblowers who have come forward in the last month

report that they live in fear of retaliation from USMS senior management for upholding their *duty* to report wrongdoing.¹ Multiple whistleblowers have alleged not only that they have experienced reprisal for speaking out, but also that senior leaders submit FOIA requests to seek information on employees who may have made protected disclosures with the purpose of using that information to retaliate against them.

The Committee's investigation into these allegations is ongoing. As an initial matter, please provide the Committee with the following information by Thursday, May 7, 2015:

1. All USMS e-mail communications regarding the hiring of any individual with whom AD Douglas allegedly had a personal relationship for a contract position with the USMS.
2. All USMS e-mail communications regarding the hiring and transfers of the wives of William Snelson and David Sligh. Please also provide:
 - a. The current titles, divisions, locations, and resumes of each;
 - b. A list of all programs in which each has participated or managed in any way since Mr. Sligh's wife was hired within the Tactical Operations Division, and Mr. Snelson's wife was hired within the Judicial Security Division.
3. All USMS e-mail communications regarding the hiring of any relatives of AD Beal as interns, as well as all documentation concerning any government-funded travel or trainings in which those interns participated while employed with the USMS. Please include:
 - a. Any budget or funding requests related to the hiring, travel, and training of those interns, including whether the funds derived from the AFF,
 - b. The dates and locations of the interns' employment, travel, and training,
 - c. The purpose of any travel or training in which the interns participated (for example, was the training offered for career criminal investigators?),
 - d. A list of all other interns who participated in government-funded travel and training from 2010 to the present.
4. A copy of all FOIA requests submitted by Kimberly Beal, or anyone on her behalf, to DOJ or any component thereof from 2011 to the present.

¹ Executive Order 12731 (Oct. 17, 1990) ("Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.").

Should you have any questions, please contact DeLisa Lay of my Committee staff at (202) 224-5225. Thank you.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

Cc: The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary

The Honorable Michael E. Horowitz
Inspector General
Office of the Inspector General

Exhibit 11



U.S. Department of Justice

United States Marshals Service

Office of Congressional and Public Affairs

Washington, DC 20530-0001

April 25, 2018

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter to the former Acting Director of the United States Marshals Service (USMS) dated April 24, 2017, regarding the preparation of the Executive Core Qualifications (ECQ) portions of the Senior Executive Service (SES) applications. We apologize for our delay in responding to your letter. We recognize that you have made a number of inquiries about the USMS and we continue to respond on a rolling basis consistent with priorities discussed with your staff.

From March 2015 to April 2018, other than the allegations regarding Ms. Beal and Ms. Douglas that you have written about previously, the USMS Office of Professional Responsibility (OPR) has documented 11 allegations that USMS employees impermissibly assisted in the preparation of the ECQ portions of the SES applications of other USMS employees.¹

The USMS OPR has reviewed and evaluated the 11 allegations and conducted appropriate factual inquiries, including interviews. Three of the 11 matters remain pending; the others were closed for lack of evidence and/or because the subject of the allegation has retired. Although it would not be appropriate to comment on the three matters currently under review, as a general matter, if any of the pending allegations were to result in any finding of misconduct, the disciplinary authorities within the USMS would generally apply the so-called "Douglas Factors" to determine appropriate discipline:

- (1) The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;

¹ Nine of the 11 allegations were made by one individual after the USMS had taken actions to terminate that individual's USMS employment. The same individual had previously accepted a disciplinary action by the USMS after having admitted to a lack of candor in an unrelated investigation.

- (2) the employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
- (3) the employee's past disciplinary record;
- (4) the employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
- (5) the effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties;
- (6) consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- (7) consistency of the penalty with any applicable agency table of penalties;
- (8) the notoriety of the offense or its impact upon the reputation of the agency;
- (9) the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
- (10) the potential for the employee's rehabilitation;
- (11) mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
- (12) the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

In order to ensure that USMS employees follow relevant regulations and policies, since June 2017 the USMS has included information about ECQ preparation as part of the ethics training that all USMS employees must complete and acknowledge annually.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,



William Delaney
Chief

cc: The Honorable Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary

The Honorable Michael Horowitz
Inspector General

Exhibit 12

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
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DAVID A. PERDUE, GEORGIA
THOM TILLIS, NORTH CAROLINA

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
CHARLES E. SCHUMER, NEW YORK
RICHARD J. DURBIN, ILLINOIS
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AL FRANKEN, MINNESOTA
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RICHARD BLUMENTHAL, CONNECTICUT

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LIKOUS, *Democratic Chief Counsel and Staff Director*

July 15, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Loretta E. Lynch
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington D.C. 20530

Dear Attorney General Lynch:

The Committee continues its inquiry into allegations of misconduct at the U.S. Marshals Service. A particularly egregious example involves a whistleblower who reported to the U.S. Marshals Service Office of Internal Affairs that Deputy U.S. Marshals and task force officers in the Southern District of Indiana used fraudulent subpoenas to acquire telephone records. In December 2007, the Department of Justice Office of the Inspector General (OIG) substantiated the whistleblower's allegations.

The OIG determined that Deputy U.S. Marshals and fugitive task force officers in the Southern District of Indiana "widely used . . . fraudulent subpoenas" over a 10-year period, from 1995 to 2005.¹ The OIG found that the Marshals Service routinely customized an electronic subpoena template and pasted in a digital image of a local judge's signature obtained from legitimate court documents, giving the appearance of official judicial approval. This practice raises significant privacy and Fourth Amendment concerns. It also clearly violated agency codes of conduct and may have violated numerous criminal statutes. According to the OIG, "approximately 800 of the fraudulent subpoenas were served on telecommunications providers in order to obtain telephone records of private citizens connected to fugitive investigations."²

¹ Office of the Inspector General, U.S. Dep't of Justice, Report of Investigation, Case No. 2005-006966-I.

² *Id.*

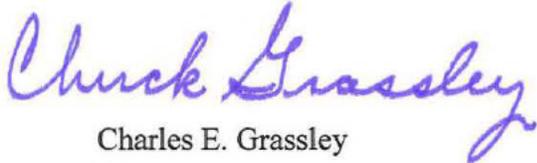
It is unclear to what extent the Department or the Marshals Service held accountable any of the Deputy U.S. Marshals who authored or presented the forged subpoenas to compel phone records. The Justice Department “declined criminal prosecution” in the case, and the Marshals Service issued one letter of reprimand. The deputy who received that letter of reprimand was reportedly later promoted.

As the Committee continues its investigation, please provide written responses to the following questions:

1. Provide an explanation for the U.S. Attorney’s decision to not prosecute the agents and task force officers involved in the fraudulent scheme.
2. Did any other office within the Justice Department, such as the Deputy Attorney General, review the decision to not prosecute? If not, please explain.
3. Was the OIG report forwarded to the Indiana Attorney General or the Marion County Prosecuting Attorney’s Office? If not, please explain.
4. Did the U.S. Marshals Service notify the individuals whose records were obtained through these fraudulent subpoenas? If not, please explain why not.
5. How many times, if any, did U.S. Marshals Service deputies use the fraudulent Marion County Superior Court subpoenas in cases that were not linked to a Marion County court matter?
6. Provide all records relating to any disciplinary administrative action taken by the agency in response to the OIG’s findings. Include the names and positions of the proposing and deciding officials involved, the date of any proposed discipline, and the final disposition, including a description of any punishment imposed. Where no disciplinary proceedings were initiated or no punishment was imposed, please explain.
7. Were any of the individuals implicated in the production or use of fraudulent subpoenas promoted after the OIG Report was released? If so, what justification was given for the promotion in light of the previous misconduct?

Please provide your written reply no later than August 7, 2015. Thank you for your cooperation and attention in this matter. If you have any questions please contact DeLisa Lay with Chairman Grassley’s staff at (202) 224-5225, or Chanda Betourney with Ranking Member Leahy’s staff at (202) 224-7703.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary



Patrick J. Leahy
Ranking Member
Committee on the Judiciary

cc: The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice

Exhibit 13

SUBJECT		CASE NUMBER	
[REDACTED] et al		[REDACTED]	
OFFICE CONDUCTING INVESTIGATION		DOJ COMPONENT	
Chicago Field Office		United States Marshals Service	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office	CFO	<input type="checkbox"/> OPEN	<input type="checkbox"/> OPEN PENDING PROSECUTION
<input checked="" type="checkbox"/> AIGINV	HQ	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
<input checked="" type="checkbox"/> Component	USMS	PREVIOUS REPORT SUBMITTED:	
<input type="checkbox"/> USA		Date of Previous Report:	
<input type="checkbox"/> Other			

SYNOPSIS

This investigation was predicated upon receipt of an allegation that Deputy U.S. Marshals (DUSMs) in [REDACTED] used fraudulent subpoenas to acquire telephone records. According to a source who wished to remain anonymous, copies of the subpoenas had been uploaded into the network computers of the [REDACTED], and all DUSMs in the District had been told to use these subpoenas to obtain records. The source further alleged that [REDACTED] and [REDACTED] knew of the circumstances regarding the lack of authenticity of these subpoenas.

The OIG investigation determined that fraudulent subpoenas were widely used by DUSMs and task force officers assigned to the District's Fugitive Task Force between 1995 and 2005. During that ten year period, approximately 800 of the fraudulent subpoenas were served on telecommunications providers in order to obtain telephone records of private citizens connected to fugitive investigations. The subpoenas contained a pre-printed signature purporting to be from Judge [REDACTED] of the [REDACTED] Superior Court, Criminal Term. Judge [REDACTED] advised the OIG that he never authorized the issuance of the subpoenas and was not even assigned to the Criminal Term of the Superior Court after January 2001.

The OIG investigation was unable to conclusively identify the persons who created the fraudulent subpoenas. Former task force officers [REDACTED] and [REDACTED] claimed to have obtained the paper versions of the subpoenas with the consent of Judge [REDACTED] however, Judge [REDACTED] denied providing [REDACTED] and [REDACTED] with copies of the subpoena. Due to a loss of USMS [REDACTED]

DATE <i>December 13, 2007</i>	SIGNATURE [REDACTED]
PREPARED BY SPECIAL AGENT [REDACTED]	
DATE <i>12/20/07</i>	SIGNATURE <i>[Signature]</i>
APPROVED BY SPECIAL AGENT IN CHARGE Edward M. Dyner	

computer records, the OIG was unable to identify the person who created the digital version of the fraudulent subpoena. The earliest digital files were traced to the computer of [REDACTED]. When interviewed, [REDACTED] denied creating the digital versions and stated he had been unaware of the existence of the digital variants.

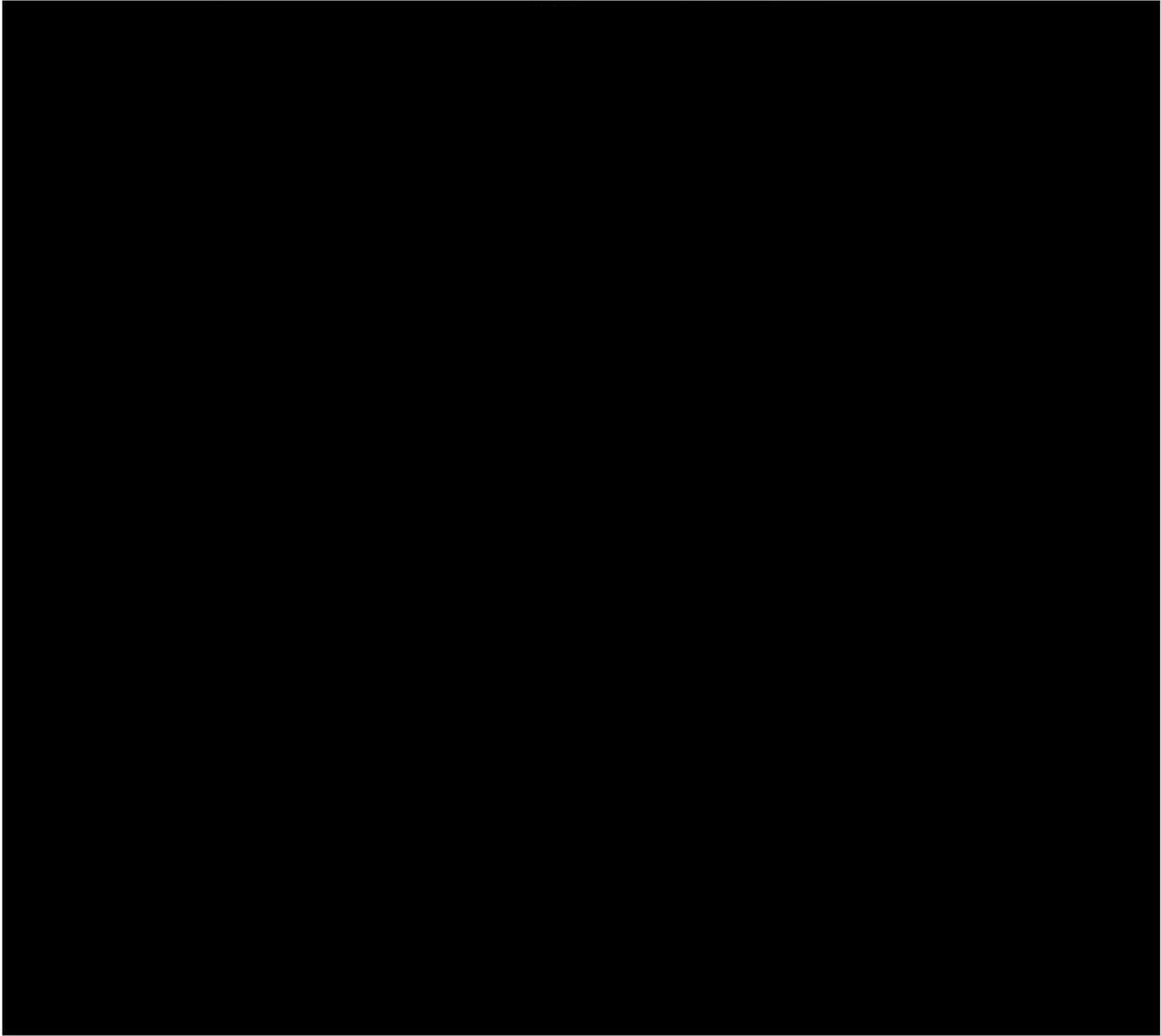
The OIG also found the USMS supervisors for the unit [REDACTED] and [REDACTED] did not adequately review fugitive case files, as required by USMS policy. This lack of review contributed to the failure to detect the extent of the usage of the fraudulent subpoenas.

The use of the subpoenas was inconsistent with USMS training received by each of the DUSMs. Their actions violated Sections E 19 and E 20 of the USMS Code of Professional Responsibility, which prohibit the use of improper investigative techniques by USMS personnel and mandate compliance with all local, state, and federal laws while performing official duties.

Following recusal of the [REDACTED] the details of this investigation were presented to the United States Attorney [REDACTED] for consideration of prosecution. [REDACTED] declined criminal prosecution in favor of administrative action by the USMS.

The OIG has completed its investigation and is providing this report to the USMS for appropriate action.

ADDITIONAL SUBJECTS



DETAILS OF INVESTIGATION

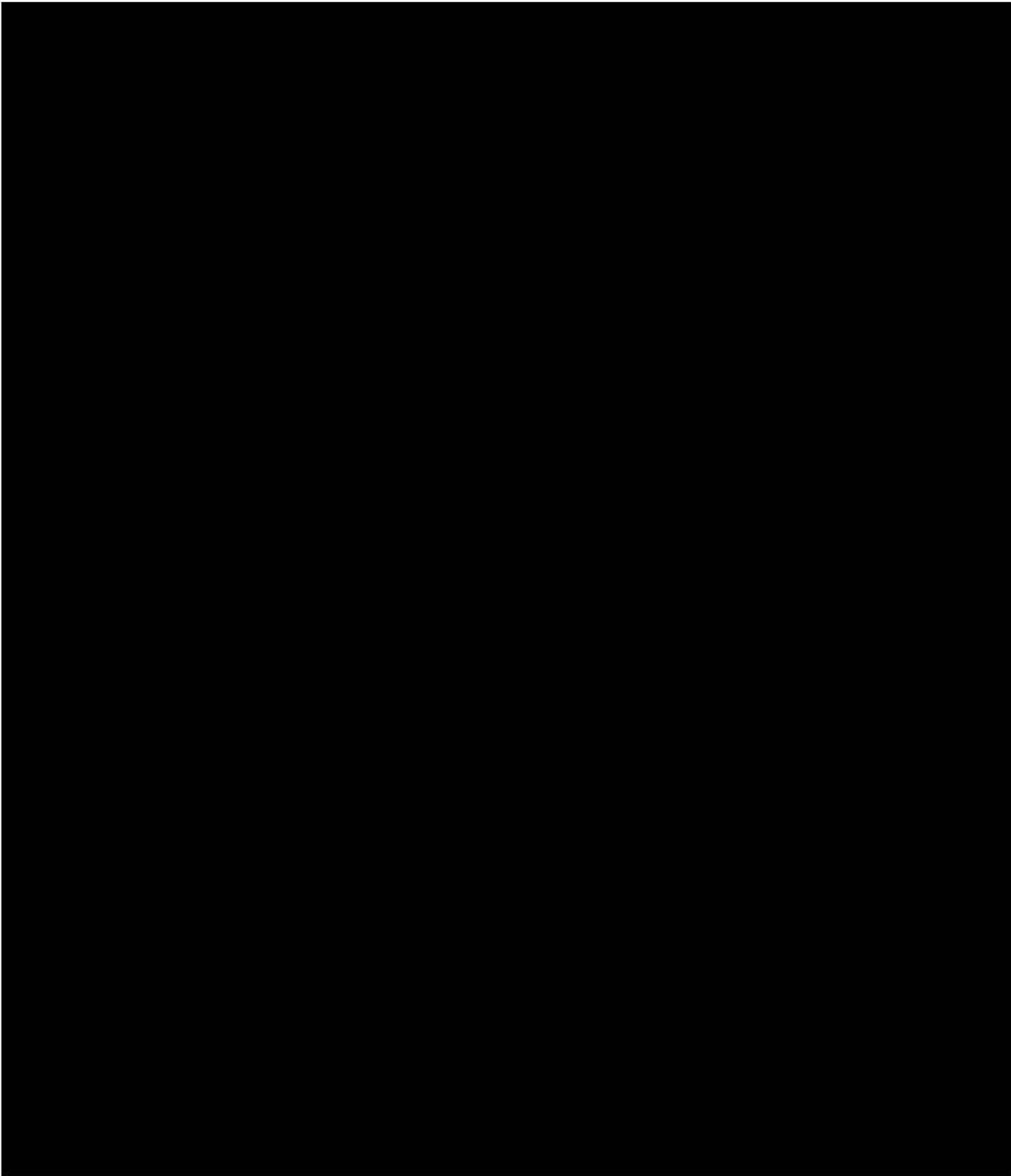
Predication

On August 30, 2005, the United States Marshals Service (USMS) Office of Internal Affairs (OIA) received an anonymous allegation that Deputy U.S. Marshals (DUSM) in [REDACTED] used forged subpoenas to obtain telephone records. These forged subpoenas had been allegedly uploaded into USMS network computers and were in widespread use by DUSMs in the office. The forged subpoenas were alleged to be used by all DUSMs in the [REDACTED] office. In addition, three persons— [REDACTED] and [REDACTED]—were alleged to have knowledge regarding the authenticity of the forged subpoenas and had been authorizing their usage.

The matter was referred to the OIG for investigation.

Investigative Process

The OIG investigation included the following efforts:



OIG Subpoenas Issued:

- Ameritech (HQ #1347)
- SBC Long Distance (HQ #1348)
- Cingular Wireless (HQ #1349)
- Sprint Spectrum L.P. (HQ #1350)
- Cellco Partnership (doing business as Verizon Wireless) (HQ #1351)
- Verizon Wireless (HQ #1352)

Examination of Documents

- Fugitive Files maintained by the USMS [REDACTED]

Records Checks/Database Queries

- AutoTrack XP/ChoicePoint Online
- USMS Warrant Information Network (WIN)
- USMS Justice Detainee Information System (JDIS)

In addition, the following agencies assisted in this OIG investigation:

- USMS Office of Internal Affairs
- [REDACTED]

Background

The task force was initially created in 1995 with personnel from the [REDACTED]

[REDACTED], and [REDACTED]. When the task force first began, the USMS was not a participant and the task force's primary focus was on the apprehension of county fugitives and probation violators.

Around 2000, the USMS became involved and the task force became known as the U.S. Marshals Service Fugitive Task Force. Several DUSMs were assigned to the initiative and the USMS provided office space for the task force. Additional agencies, including the [REDACTED] National Guard, provided personnel. The task force began working federal fugitive investigations as well as continuing to pursue city, county, and state fugitives. All non-USMS personnel assigned to the task force were sworn-in as Special Deputy U.S. Marshals for the duration of their participation.

The Supervisory Deputy U.S. Marshal in charge of the warrants section was also assigned as the supervisor of the Fugitive Task Force.

No written agreements or Memorandums of Understanding were completed for the [REDACTED] Superior Court to provide subpoenas to the task force.

Fraudulent versus Valid Subpoenas and Court Orders

The fraudulent subpoenas typically shared the following characteristics: (1) they did not require the review or approval of a prosecutor or supervisor; (2) they did not require an accompanying oath or affidavit by the requesting officer; (3) they did not require the review or approval of a judge; (4) they contained a pre-printed signature of a purported judge; (5) they did not have a tracking or logging system; and (6) they did not require a return to the court following service.

To prepare a fraudulent subpoena, the DUSM or TFO would place the name and identifying information of the fugitive into the space provided; list the name of the telecommunications provider being subpoenaed; select the type of records required, specifying a date range, if necessary; print out the document, and serve the document, usually by facsimile, with an accompanying USMS cover sheet.

Valid federal court orders obtained by District personnel typically shared the following characteristics: (1) they required the review and approval of an Assistant U.S. Attorney; (2) they were accompanied by an affidavit outlining the facts justifying issuance of the order; (3) they required the review of a judge, usually a federal magistrate; (4) they required the requesting officer to provide an oath concerning the accuracy of the information in the affidavit; (5) they were signed by a judge after review of the application; (6) they contained a tracking number imprinted on them, unique to the document; (7) they were logged by the issuing court; and (8) they normally required a return to the court following service.

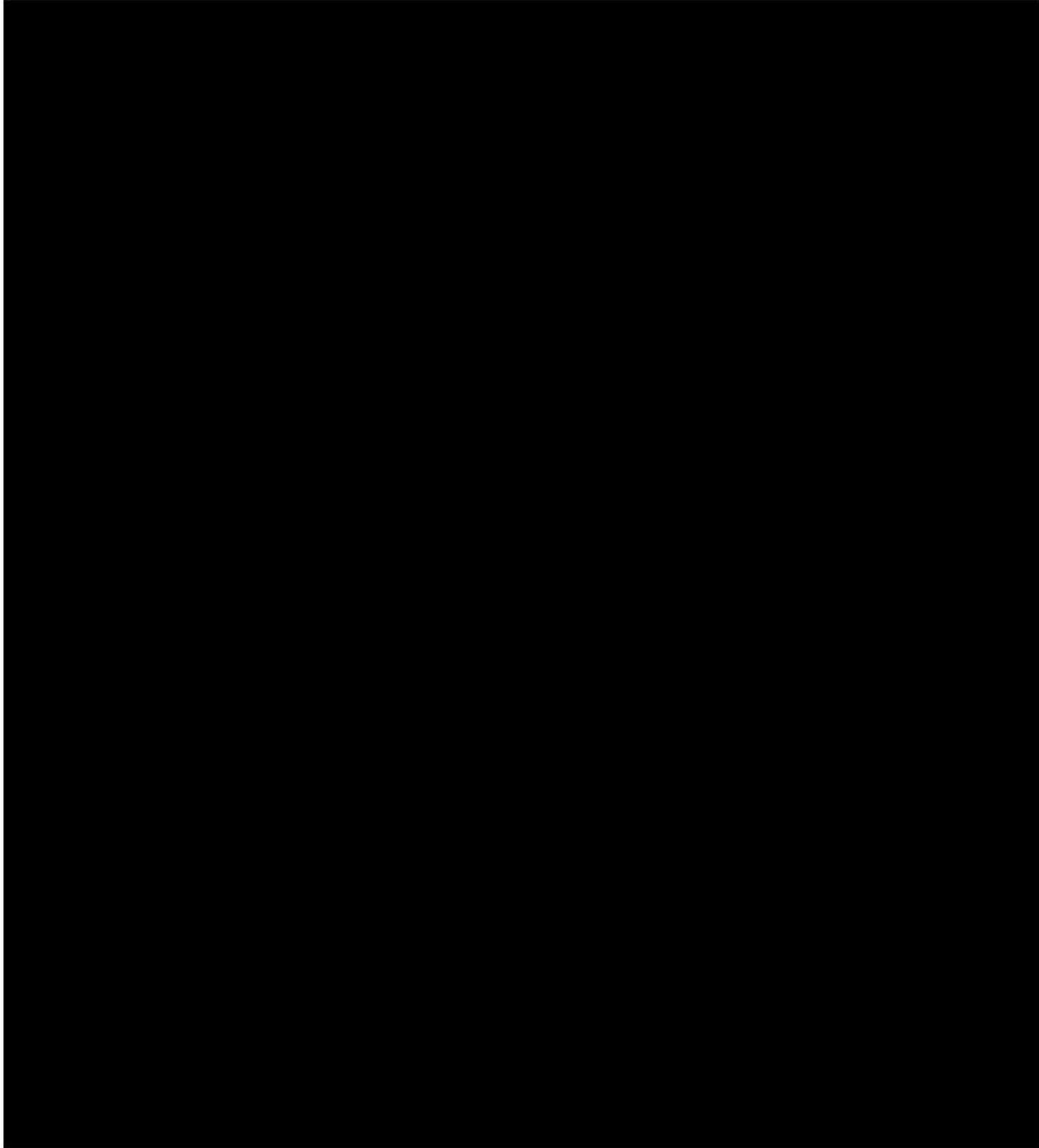
To obtain a valid federal subpoena or court order, the DUSM or TFO first contacted an Assistant U.S. Attorney (AUSA). Then, he/she either appeared before a Grand Jury for issuance of a subpoena, or provided information for an affidavit justifying issuance of the order. At times, the affidavit and the resultant court order were drafted by USMS personnel themselves; other times these documents were prepared by the U.S. Attorney's Office. The DUSM or TFO then appeared with the AUSA before a federal judge, and swore an oath concerning the accuracy of the information contained in the affidavit. The judge considered the legality of the request.

If approved, the judge signed the order; if denied, no signature was given and the DUSM or TFO could revisit the process if additional evidence was obtained. Approved court orders were logged by the Clerk of Court, who retained a copy of the document. A copy was also provided to the requesting DUSM or task force officer, who then served it, frequently by facsimile transmission.

In many cases, the DUSM or TFO was required to provide a return on the subpoena to the court. It was determined, however, that returns were not required in every case.

Samples of Valid Court Orders and Subpoenas

The below are samples of valid court orders obtained by USMS personnel in the [REDACTED]
[REDACTED]



Fraudulent Subpoenas

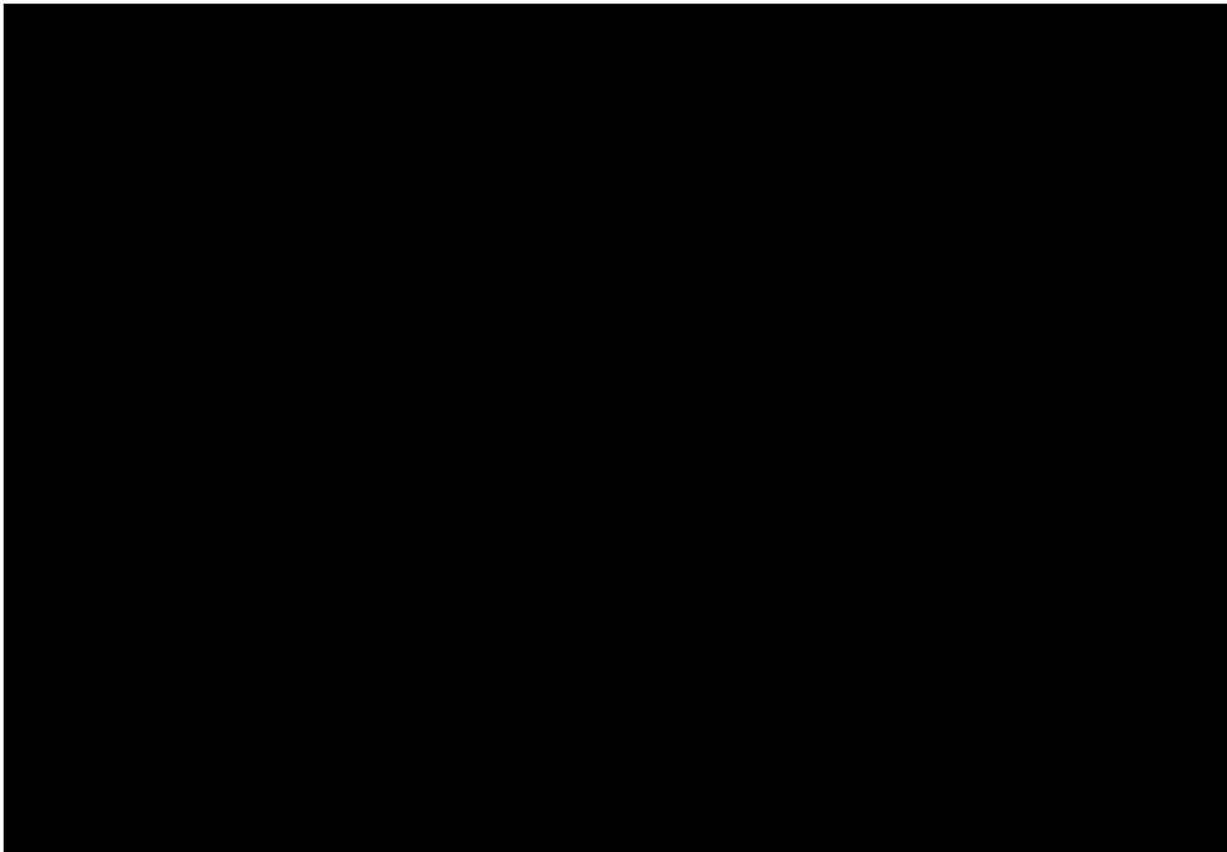
The OIG investigation located 160 copies of the fraudulent subpoenas on USMS computer drives in the [REDACTED]. The OIG also obtained more than 140 copies of the fraudulent subpoenas from telecommunication providers who had been served with the fraudulent subpoenas by District personnel. The OIG noted that District personnel obtained and served numerous valid court orders and subpoenas for telephone records during the same time period, and USMS computer drives contained copies of valid court orders and subpoenas along with the fraudulent ones.

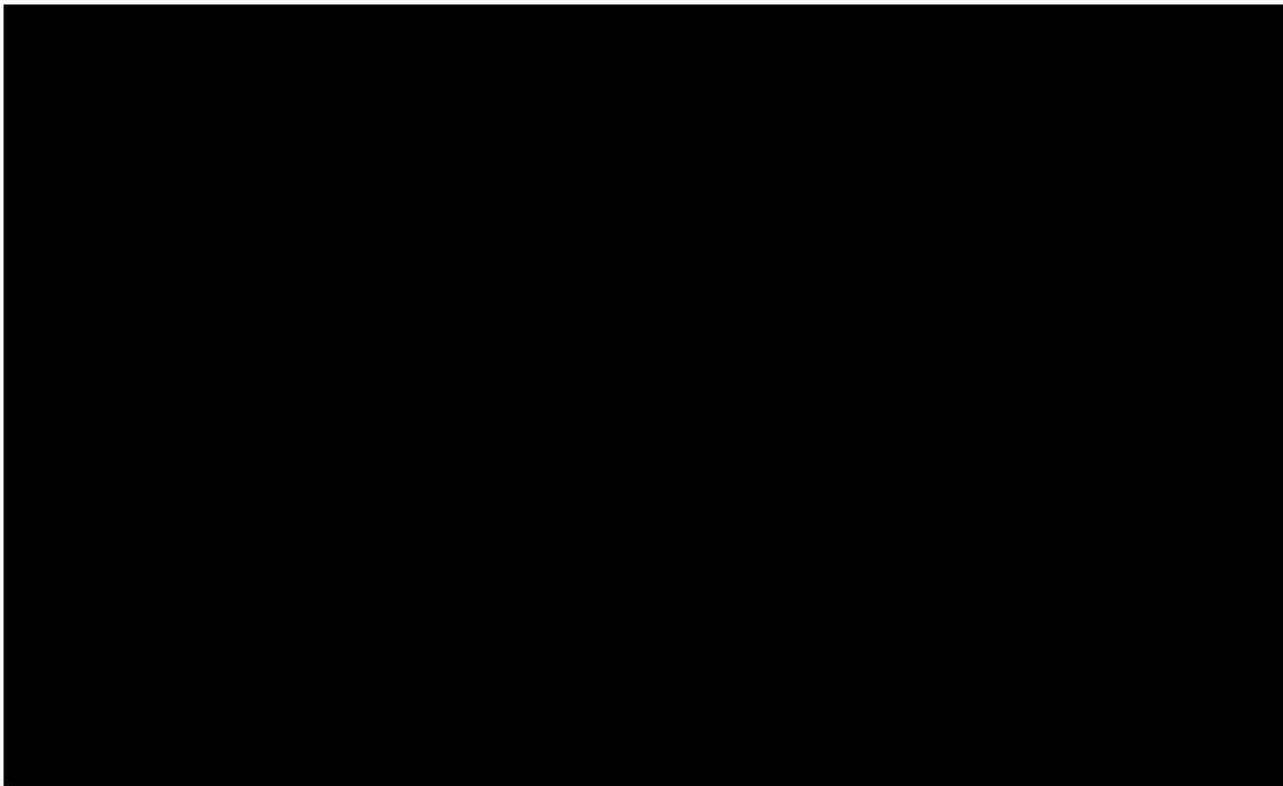
Some variants of the fraudulent subpoena contained a series of blank lines providing space to write in information by hand. This variation was designated by the OIG as the "Paper" or "Fill in the Blanks" variant. Some of these documents directed the production of subscriber information; others directed the production of toll records. Most documents listed multiple options and allowed for the user to select one or more when completing.

Some variants contained type-written information and matched digital documents on the USMS network drives, i.e., data was entered before the document was printed. The signature on most all these variants is the same embedded graphic image. This variation was designated by the OIG as the "Digital" variant.

Samples of Fraudulent Subpoenas – Paper/Fill in the Blanks Variants

The below are samples of fraudulent subpoenas - paper/fill in the blanks variant.





Samples of Fraudulent Subpoenas – Digital Variants

The below are samples of fraudulent subpoenas – digital variants.



Characteristics of Fraudulent Subpoenas

The fraudulent subpoenas served by District personnel usually had the following characteristics:

- No unique tracking number, cause number, or case number was assigned (except for any cause numbers listed as part of the fugitive's identifying information).
- Document length was limited to a single page or the final paragraph rolled over onto a second page.
- Header information contained the phrase "In the [REDACTED] Superior Court" on the top line and "Criminal Term" directly beneath. Some brackets were misaligned.
- The phrase below the signature line "Judge [REDACTED] Superior Court, Criminal Term" appeared to be of a different font than the rest of the document. In those versions containing a different font, the issuing judge's name did not appear anywhere on the document, while other versions contained the phrase [REDACTED] Presiding Judge [REDACTED] Superior Court Criminal Term."
- The signatures on each variant were identical.

USMS Computer Drives

On November 18, 2005 a consent search was conducted on the USMS computers located in the District warrants section. USMS [REDACTED] performed the search, using a Microsoft Windows search utility to find all files that contained the word "subpoena." [REDACTED] provided the results to the OIG.

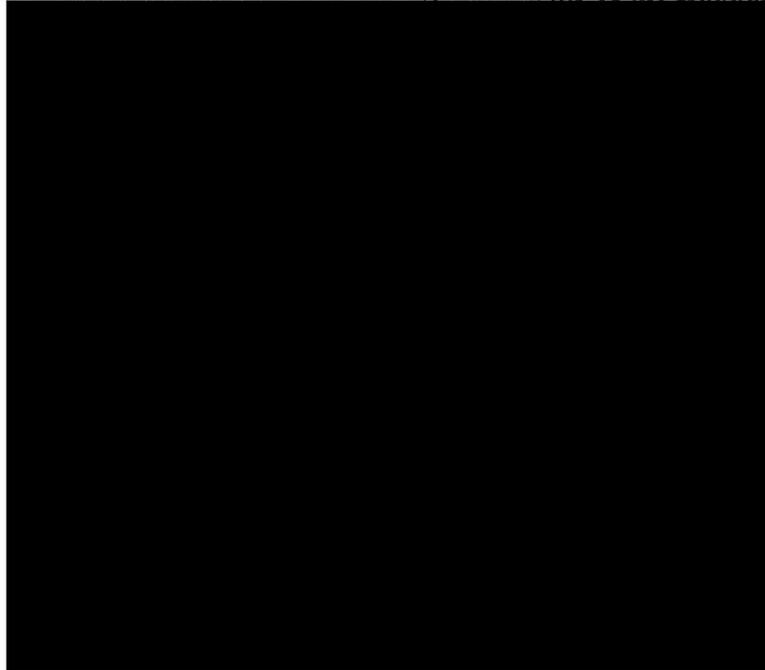
The search revealed 160 data files of fraudulent subpoenas in text (.txt), WordPerfect (.wpd), and Microsoft Word (.doc) formats.

The following USMS and task force officers had files containing the fraudulent subpoena documents on either their assigned hard drives or on network drives in folders under their names:



A review of the files found 16 different telecommunications providers as listed recipients of the fraudulent subpoenas.

Data pertaining to "File Properties" for the 160 digital files provided to the OIG listed the author of the documents as [REDACTED]. Using a hexadecimal viewer/editor program, each of the 160 files was also found to contain embedded data listing [REDACTED] as the creator of the file. Below is a sample of the file properties information from one of the digital variants of the fraudulent subpoena:



The OIG attempted to obtain network login information for the earliest listed file creation dates in an effort to verify the individual who logged into the computer and uploaded the files into the network. However, [REDACTED] advised that the [REDACTED] replaced its computer network in 2002 and network records prior to that date were no longer available.

In July 2007, the OIG further tested the existing USMS computer network in the District. The OIG found the system was programmed to insert the name of the individual logged into the computer at that time as the author of a newly created Microsoft Word document.

Telecommunications Providers Response to OIG Subpoenas

OIG subpoenas were issued to the five telecommunications providers which had the greatest volume of digital variants. The OIG subpoenas requested production of copies of all subpoenas or court orders received by the telecommunication provider which had a response directed to [REDACTED] addressed to either the U.S. Marshals Service, [REDACTED] the Fugitive Apprehension Strike Team; or the U.S. Marshals Service Fugitive Task Force.

The OIG did not issue subpoenas to the other eleven identified telecommunications providers.

OIG subpoenas were issued to AT&T/SBC [formerly Ameritech Telephone]; Sprint Spectrum L.P.; Cingular Wireless; and Verizon Wireless. The OIG received the following responses:

- AT&T/SBC/Ameritech provided 162 records. A review of those documents noted 134 fraudulent subpoenas dated from June 17, 2003 to September 12, 2005. AT&T advised the OIG that any records prior to 2003 had been purged and were no longer available.
- Verizon Wireless provided eight records. A review of these documents noted eight fraudulent subpoenas dated from March 31, 2003 to December 22, 2004.
- Cellco Partnership (doing business as Verizon Wireless) provided two records, but neither record was a fraudulent subpoena. Cellco Partnership advised the OIG that any records older than 2006 were not indexed or digitized, and therefore Cellco would be unable to comply further.
- Nothing was received from Sprint Spectrum L.P.

Cingular Wireless notified the OIG they had located at least 27 possible matching records, but could not release those records without relief from the issuing court.

The OIG determined the response from the above telecommunications providers provided a sufficient sample of subpoenas received by the various telecommunications companies. Further records were not pursued.

Most records had faxed cover sheets accompanying the fraudulent subpoenas, listing the name of the requesting DUSM or task force member. The requesting personnel were identified as:



Review of USMS Fugitive Files

The OIG reviewed a random selection of fugitive case files maintained by the USMS [REDACTED]. The physical review of those files found numerous examples of both fraudulent subpoenas and validly obtained court orders or subpoenas maintained within the same case files.

Interviews of Current USMS [REDACTED] Task Force Personnel

All current DUSMs and TFOs assigned to the [REDACTED] fugitive task force were interviewed by the OIG. They admitted using the fraudulent subpoena documents, but each stated they believed the documents were valid at the time. They stated either that the documents were in existence at the time they were first assigned to the task force, or they had observed others using the documents to obtain records, or they had been told by others that a local judge had granted blanket permission for the documents to be used.

Several employees stated they were given a copy of the fraudulent subpoenas by another DUSM or TFO as an example or "go-by," and assumed the documents to be valid. Most employees stated they could not specifically recall who had shown them the fraudulent subpoenas or who had used the documents in their presence. All employees agreed that use of the fraudulent documents was widespread and that nearly all DUSMs, TFOs, and task force support personnel had used the documents at some time.

All personnel who were interviewed by the OIG acknowledged using the fraudulent subpoenas without first obtaining the approval of a prosecutor, or submitting an accompanying affidavit, or obtaining an original signature of the judge. In fact, many stated that they preferred it to the process for obtaining a federal court order, due to the absence of requirements to involve a prosecutor or judge each time.

None of the current USMS personnel or TFOs stated that they had contacted the [REDACTED] Superior Court to verify the authenticity of the pre-signed subpoenas. Most USMS personnel and TFOs stated they were unaware that the judge listed on the subpoenas, the Honorable [REDACTED] had left the [REDACTED] Superior Court, [REDACTED] and since that time had been assigned to a separate division in civil court.

[REDACTED] stated the task force had a very difficult time trying to get telephone records around 1999. He recalled that former [REDACTED] came in one day with a pre-signed subpoena. [REDACTED] told [REDACTED] that [REDACTED] had gotten a judge's permission to use the document to obtain phone records.

[REDACTED] provided copies of the document to the other task force members, including [REDACTED] [REDACTED] identified the document he received as one of the versions of the "Paper"/ "Fill in the Blanks" variant. [REDACTED] initially made 50 copies of the pre-signed subpoena for his own use then made additional copies from a blank each time he ran out. [REDACTED] estimated he used approximately 500 pre-signed subpoenas total during his tenure on the task force.

[REDACTED] stated he was not told of any requirement to contact [REDACTED] Miller each time he used the pre-signed document. Therefore [REDACTED] did not do so.

██████████ stated he had spoken to ██████████ in late 1998 and ██████████ had told him Judge ██████████ granted permission for the task force to use pre-signed subpoenas to obtain telephone records. ██████████ said he had concerns about the usage of the pre-signed subpoenas and the lack of review, but he did not believe at that time the subpoenas were illegal. Despite his concerns, ██████████ stated he did not address the issue with anyone or research the matter on his own.

Both ██████████ and ██████████ said they did not contact Judge ██████████ or the ██████████ Superior Court to verify the authenticity of the subpoenas or verify the purported continued permission to use pre-signed subpoenas.

Interviews of Former Task Force Personnel

Former TFO ██████████ and former TFO ██████████ were interviewed by the OIG and both took responsibility for bringing versions of the fraudulent subpoena to the task force. Each maintained they had obtained permission to use pre-signed subpoenas from Judge ██████████ and had received one or more blank pre-signed subpoenas from Judge ██████████ and ██████████ provided slightly different versions of the circumstances for the use.

██████████ stated that he spoke with Judge ██████████ around 1995, in the early days of the task force before the involvement of the USMS. ██████████ said he and Judge ██████████ discussed the task force's difficulty in obtaining telephone records via the previous practice, which involved obtaining a subpoena through the District Attorney's Office. ██████████ said Judge ██████████ agreed to give ██████████ pre-signed subpoenas to use to obtain telephone information, and that later that day or the following day, ██████████ provided ██████████ several pre-signed blank subpoenas. ██████████ stated he did not contact Judge ██████████ after using the pre-signed subpoenas; ██████████ simply filled out the document and then served the subpoena with no requirement to contact the court after receiving the telecommunications provider's response.

██████████ admitted using about twenty of these pre-signed subpoenas between August 1995 and September 1996 in fugitive cases involving ██████████ warrants. ██████████ said other task force members were aware of the pre-signed subpoenas after seeing him use them, but ██████████ denied providing copies of the pre-signed subpoenas to any other task force members. ██████████ did allow several pre-signed subpoenas to be used on other task force member's fugitive cases, but he maintained that he always filled out the subpoenas himself, and only did so in cases where ██████████ felt there was a link to a ██████████ court matter or to the ██████████

██████████ stated the unused pre-signed blank subpoenas remained inside his desk upon his departure from the task force in September 1996, following his off-duty arrest for alcohol related misconduct. ██████████ did not know what became of the remaining copies. ██████████ only recalled "paper" variants of the pre-signed subpoenas and was not familiar with any computerized or digitized versions of the document.

[REDACTED]

[REDACTED] stated he saw [REDACTED] using the pre-signed subpoenas in the early years of the task force. After [REDACTED] left the task force, [REDACTED] stated he met with Judge [REDACTED] and had a conversation concerning the need to expediently obtain telephone records in fugitive cases. [REDACTED] said that as a result of this conversation, Judge [REDACTED] granted permission and approval to use pre-signed subpoenas, and then provided [REDACTED] with several blank pre-signed subpoenas.

[REDACTED] admitted using the pre-signed subpoenas on an unrecalled number of occasions to obtain telephone records. [REDACTED], however, maintained that he had contacted Judge [REDACTED] telephonically on each case, discussed the details of the case, and obtained Judge [REDACTED] concurrence in the matter, before completing the pre-signed subpoena and serving it. [REDACTED] stated he contacted Judge [REDACTED] before using each pre-signed subpoena, except for several instances where [REDACTED] used a pre-signed subpoena early in the morning or outside of normal business hours. [REDACTED] said in those instances, he contacted Judge [REDACTED] as soon as possible on the following business day and notified Judge [REDACTED] of the use of the pre-signed subpoena.

[REDACTED] stated he saw other task force members using the document prior to his departure from the task force in 2001. [REDACTED] assumed each of the other members were also contacting Judge [REDACTED] by telephone each time one of the pre-signed subpoenas was used.

[REDACTED] stated that shortly before his departure from the task force, he and [REDACTED] met with Judge [REDACTED] on the subpoena issue. [REDACTED] said he did not remember details of the conversation, but believed Judge [REDACTED] granted [REDACTED] permission at this meeting to continue using the document.

[REDACTED] said he recalled only the "paper" variants of the pre-signed subpoenas and was not familiar with any computerized or digitized version of the document.

Interview of Honorable [REDACTED]

When interviewed by the OIG, Judge [REDACTED] stated the last instance where he was involved in a request for a subpoena or court order concerning a criminal matter was in 2000 prior to his departure from the [REDACTED] Superior Court, Criminal Term.

[REDACTED] denied ever providing permission to use pre-signed subpoenas to [REDACTED] or any other member of the USMS Fugitive Task Force. [REDACTED] denied providing [REDACTED] or any other member of the USMS Fugitive Task Force with pre-signed subpoenas.

[REDACTED] stated he was personally contacted by [REDACTED] sometime in the fall of 2005 on this issue. [REDACTED] told [REDACTED] that he wished to "refresh" [REDACTED] memory concerning the usage of the pre-signed subpoenas. After [REDACTED] told [REDACTED] that he did not remember granting any permission to use pre-signed subpoenas, [REDACTED] did not discuss the matter further with him.

Potential Obstruction

On November 29, 2005, [REDACTED] provided the OIG with a letter [REDACTED] said he found on his desk that morning, and had assumed he was expected to deliver it to the OIG at his interview that day. The letter was addressed "To the Office of Inspector General [sic]" and had been drafted in the name of [REDACTED]. The letter stated that [REDACTED] had gone to Judge [REDACTED] on an unspecified date, explained the task force had a need to obtain telephone records and subscriber information in a timely manner, and had received pre-signed subpoenas from Judge [REDACTED] to obtain telephone records. The pre-signed subpoenas were then copied and given to other members of the task force.

When subsequently interviewed by the OIG, [REDACTED] stated he had contacted [REDACTED] and requested [REDACTED] draft the letter. [REDACTED] stated that in November 2005, after he learned the OIG was conducting an investigation into the use of the pre-signed subpoenas, [REDACTED] contacted [REDACTED] and requested [REDACTED] draft a letter for the OIG which explained the origins of the pre-signed subpoenas. [REDACTED] stated that at the time he believed the subpoenas were valid and intended to give the OIG a letter as proof of this. [REDACTED] admitted he e-mailed [REDACTED] a draft version of the letter which [REDACTED] made changes to, printed out, signed, and returned to [REDACTED]. [REDACTED] admitted he made copies of the letter and left a copy on the desk of each task force member, including [REDACTED].

[REDACTED] further stated he contacted Judge [REDACTED] in person at home concerning the matter, and had requested [REDACTED] draft a similar letter. [REDACTED] had responded that he did not recall providing [REDACTED] with any pre-signed subpoenas, and did not recognize a sample that [REDACTED] had brought with him. Because of [REDACTED] response, [REDACTED] did not pursue the matter further and did not submit a copy of the letter directly to the OIG.

[REDACTED] stated his intent in contacting [REDACTED] and [REDACTED] was not to interfere with or obstruct the OIG investigation or to conceal any material facts. [REDACTED] stated he believed the task force had been using the pre-signed subpoenas with Judge [REDACTED] permission, and had considered it his responsibility as the senior member of the task force to attempt to obtain a speedy resolution in the matter. [REDACTED] admitted he was not authorized to conduct internal investigations as part of his job duties, and stated he did not contemplate how his actions might appear to an outside party.

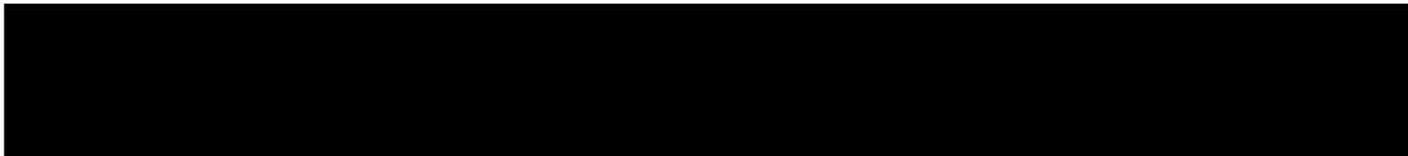
Judicial Process

Following recusal by the [REDACTED] the details of this investigation were presented to the United States Attorney, [REDACTED] for consideration of prosecution. Assistant U.S. Attorney [REDACTED] declined criminal prosecution in favor of administrative action by the USMS. A written declination letter was sent to the OIG on April 19, 2007.

Administrative Violations

The use of the subpoenas was inconsistent with USMS training received by all DUSMs. The actions of USMS task force personnel violated Sections E 19 and E 20 of the USMS Code of Professional Responsibility, which prohibit the use of improper investigative techniques by USMS personnel and mandate compliance with all local, state and federal laws while performing official duties.

Media Interest



SUMMARY OF INVESTIGATION

The OIG investigation determined from interviews and records that from 1995 and 2005, DUSMs and TFOs assigned to the fugitive task force in the [REDACTED] created and served approximately 800 fraudulent subpoenas for telephone records. The fraudulent subpoenas purported to be from the [REDACTED] Superior Court, Criminal Term, and contained the name and purported signature of Judge [REDACTED]. The subpoenas were created and served without the review or approval of an Assistant U.S. Attorney (AUSA) or a judge. The OIG determined that Judge [REDACTED] left the criminal court in [REDACTED] however, task force members continued to use the fraudulent subpoenas until 2005.

DUSMs and TFOs who used the subpoenas stated that they did not know them to be fraudulent at the time. The OIG found, however, that their statements were not consistent with the USMS training received by each of them.

The OIG investigation was unable to conclusively identify the persons who created the fraudulent subpoenas. Former TFOs [REDACTED] and [REDACTED] both took responsibility for bringing paper versions of the subpoenas to the task force and each claimed they received their original copies from Judge [REDACTED]. Judge [REDACTED] denied providing blank pre-signed subpoenas to any current or former task force members. Judge [REDACTED] also denied granting permission or authority for subpoenas to be issued in his name without him first conducting a review of the evidence in the case. All digital versions of the fraudulent subpoena document were found to contain the name of [REDACTED] [REDACTED], however, denied responsibility for creating the digital documents. [REDACTED] told the OIG that a former [REDACTED] was responsible for creating the digital versions of the document. [REDACTED] admitted editing the digital version of the document after it had been computerized.

The OIG investigation found that USMS supervisors for the unit [REDACTED] [REDACTED] and [REDACTED] did not adequately review fugitive case files, as required by USMS policy. This lack of review contributed to the non-detection of the extent to which the fraudulent subpoenas were used.

The OIG investigation found evidence that upon learning of the OIG investigation, [REDACTED] contacted Judge [REDACTED] and former TFO [REDACTED] to request they submit letters stating the task force had the judge's permission to use the pre-signed subpoenas. [REDACTED] received such a letter from [REDACTED] made copies of it and provided the copies to other task force members. [REDACTED] denied trying to obstruct the OIG investigation or conceal any facts. [REDACTED] stated he had believed the subpoenas were valid and had attempted to bring about a swift resolution to the OIG investigation. [REDACTED] admitted ceasing his actions after Judge [REDACTED] denied providing permission to use the pre-signed subpoenas.

The use of the subpoenas was inconsistent with USMS training received by all DUSMs. The actions of the USMS task force personnel violated Sections E 19 and E 20 of the USMS Code of Professional Responsibility, which prohibit the use of improper investigative techniques by USMS personnel and mandate compliance with all local, state and federal laws while performing official duties.

Following recusal by the [REDACTED] the details of this investigation were presented to the United States Attorney, [REDACTED] for consideration of prosecution. Assistant United States Attorney [REDACTED] declined criminal prosecution in favor of administrative action by the USMS.

The OIG has completed its investigation and is providing this report to the USMS for appropriate action.

Exhibit 14



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

November 3, 2015

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman and Senator Leahy:

This responds to your letter to the Attorney General dated July 15, 2015, concerning the alleged use of fraudulent subpoenas by certain Deputy U.S. Marshals and Task Force Officers in the Southern District of Indiana from 1995 to 2005. We apologize for our delay in responding to your letter.

As you know, the investigation into the alleged use of fraudulent subpoenas was investigated by the Department of Justice Office of the Inspector General (OIG). The Report of Investigation (IG Report), Case Number 2005-006966-I, was issued in December 2007, and it focused on Supervisory Deputy U.S. Marshal (SDUSM) [REDACTED], Chief Deputy U.S. Marshal (CDUSM) [REDACTED], Senior Inspector (SI) [REDACTED], and Deputy U.S. Marshals (DUSMs) [REDACTED] and [REDACTED]. Since then, all five employees have retired from the United States Marshals Service (USMS).

At the time of this matter, the USMS had a slightly different discipline process than today's full-time Proposing Officials, who individually review cases and make disciplinary proposals to the USMS's full-time Deciding Official. At that time, when the USMS received an OIG report that detailed misconduct that may be subject to discipline, the USMS Office of Professional Responsibility (OPR) determined whether any additional investigative steps were necessary before forwarding the OIG report to the Discipline Panel. The Discipline Panel was responsible for proposing any discipline based on the information it received from OPR, consistent with statutory due process requirements. Finally, the Deciding Official would determine the appropriate discipline to impose based on a number of factors, including the underlying OIG report, the recommendation from the Discipline Panel/Proposing Officials, and information provided directly from the subject employee.¹

¹ Although the disciplinary process has changed, the standard of review by the Deciding Official has not.

The Honorable Charles E. Grassley
The Honorable Patrick J. Leahy
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In this matter, OPR forwarded the IG Report to the Discipline Panel without further investigation. On December 8, 2008, the Discipline Panel proposed a Letter of Reprimand for SDUSM [REDACTED], and the Deciding Official issued the Letter of Reprimand on January 27, 2009. Allegations against DUSMs [REDACTED] and [REDACTED] were not substantiated by the Discipline Panel and, therefore, no discipline was imposed. CDUSM [REDACTED] and SI [REDACTED] retired from the USMS on May 3, 2008, and February 29, 2008, respectively, prior to any potential disciplinary action.

In response to your request for the promotion history of the five USMS employees listed above, the USMS has provided the following information. SDUSM [REDACTED] applied for a position through the USMS promotion process and was selected for a promotion to a GS-14 Supervisory Criminal Investigator in July 2012; he was not promoted between 2007 and 2011. SDUSM [REDACTED] retired from the USMS on June 27, 2015. DUSM [REDACTED] applied for a position through the USMS promotion process and was selected for a promotion to a GS-13 Criminal Investigator in October 2011; he was not promoted between 2007 and 2010. DUSM [REDACTED] retired from the USMS on January 10, 2015. As noted above, CDUSM [REDACTED] and SI [REDACTED] retired from the USMS on May 3, 2008, and February 29, 2008, respectively, and they did not receive promotions between issuance of the IG Report and their retirements from the USMS. DUSM [REDACTED] did not receive a promotion between 2007 and March 31, 2011, when he retired.

In response to your additional questions, we understand from the USMS that it did not notify the individuals named in the subpoenas and is unaware of whether OIG informed any affected individuals. We are similarly unaware of whether OIG forwarded its report to the Indiana Attorney General or the Marion County Prosecutor's Office, or the number of fraudulent subpoenas that may have been used in cases not linked to a Marion County court matter. We respectfully refer you to OIG regarding these queries and for other specific details about its investigation.

Finally, the United States Attorneys' Offices (USAOs) carefully review potential cases in light of the guidelines set forth in the *Principles for Federal Prosecution*. USAOs review all relevant information and, as necessary, confer with other parts of the Department of Justice, including the Office of the Deputy Attorney General, on a case by case basis. As a general matter, federal prosecutions may be declined for a variety of reasons including, but not limited to, situations in which a person is subject to prosecution in another jurisdiction or another alternative to prosecution is available. Regarding this matter, as the OIG Report notes, following recusal of the [REDACTED], the details of this investigation were presented to the U.S. Attorney, [REDACTED], for consideration of prosecution. The [REDACTED] USAO declined criminal prosecution in favor of administrative action by the USMS. Consistent with longstanding Department policy, we cannot discuss the specific reasons for particular declinations.

The Honorable Charles E. Grassley
The Honorable Patrick J. Leahy
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We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,



Peter J. Kadzik
Assistant Attorney General

cc: The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice

Exhibit 15



U.S. Department of Justice

Office of the Inspector General

May 16, 2017

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

I am writing in response to your letter dated March 17, 2017, in which you requested, on behalf of the Committee, Department of Justice Office of the Inspector General (OIG) reports of investigation regarding allegations of misconduct by U.S. Marshals Service personnel in Mexico. Enclosed is an OIG report responsive to your request.

Please note that the report contains personnel information, and therefore we request that it be handled with appropriate sensitivity. The enclosed copy of the OIG's report includes redactions to maintain confidentiality of complainants and witnesses, and of allegations that are not responsive to your request. With regard to information pertaining to any disciplinary actions taken in response to an OIG investigation, such actions are determined and handled by the Department or its component and therefore a request for that information should be directed to the Department.

We hope that this information is helpful for the Committee's purposes. If you have further questions, please feel free to contact me, or Greg Sabina, Advisor for Legislative Affairs, at [REDACTED].

Sincerely,

A handwritten signature in blue ink that reads "Michael E. Horowitz".

Michael E. Horowitz
Inspector General

Enclosure

cc: The Honorable Dianne Feinstein
Ranking Member, Committee on the Judiciary
United States Senate

ABBREVIATED REPORT OF INVESTIGATION

SUBJECT [REDACTED]		CASE NUMBER [REDACTED]	
OFFICE CONDUCTING INVESTIGATION Atlanta Area Office		DOJ COMPONENT United States Marshals Service	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office	MFO	<input type="checkbox"/> OPEN	<input type="checkbox"/> OPEN PENDING PROSECUTION
<input checked="" type="checkbox"/> AIGINV		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> CLOSED
<input checked="" type="checkbox"/> Component	USMS	PREVIOUS REPORT SUBMITTED:	
<input type="checkbox"/> USA		Date of Previous Report:	
<input type="checkbox"/> Other			

SYNOPSIS

The Office of the Inspector General (OIG) initiated this investigation upon the receipt of an anonymous letter in which it was alleged that [REDACTED] and [REDACTED], United States Marshals Service (USMS), engaged in sexual misconduct while detailed to [REDACTED], by taking prostitutes to a vetted USMS apartment occupied by [REDACTED].

The preponderance of evidence supports a finding by the OIG that [REDACTED] and [REDACTED] solicited prostitutes in [REDACTED]. Specifically, their conduct and relevant witness testimony is consistent with and supports the allegations that they did. [REDACTED]

[REDACTED] told the OIG that in [REDACTED], while detailed to [REDACTED], he allowed [REDACTED] to bring an unidentified female to an apartment that he shared with [REDACTED]. [REDACTED] said he recalled receiving a telephone call from USMS [REDACTED] at approximately 3:00 a.m. asking if [REDACTED] could bring the female to his apartment, and he agreed to the arrangement. [REDACTED] stated that he did not know if the female was a prostitute, if [REDACTED] engaged in sex with the female, or how long they stayed at his apartment, because he returned to his bedroom after they entered his apartment. [REDACTED] and [REDACTED]

DATE	February 23, 2016	SIGNATURE	[REDACTED]
PREPARED BY SPECIAL AGENT			
DATE	February 23, 2016	SIGNATURE	<i>Robert A. Bourbon</i>
APPROVED BY SPECIAL AGENT IN CHARGE			
		Robert A. Bourbon	

corroborated statement to the OIG regarding accompanying a female to apartment. However, denied that the female was a prostitute or that they engaged in sex, which conflicted with statement to the OIG in which he said the female was a prostitute. denied to the OIG that he brought a prostitute to apartment and confirmed statement. told the OIG that he did not personally know or and that he had no knowledge of them bringing prostitutes to the apartment he shared with

also told the OIG that on the same night that went to apartment with the alleged prostitute, he saw leave the bar with a prostitute. Furthermore, said he recalled a second occasion in when he propositioned a prostitute in the Spanish language for. said the woman agreed to a date with and she followed him, and back to their hotel. said that on the following day, gave him his hotel key and requested escort the woman from room and pay her. said reimbursed him for the he gave to the prostitute. Conversely, account of events conflicted with statements to the OIG when denied that he had proposition a prostitute on his behalf or that he reimbursed for providing to the prostitute. admitted to the OIG that in he allowed an intoxicated woman to spend the night in his room at the hotel and that removed the female from his room the following morning at his request. However, denied the woman was a prostitute or that they engaged in sex. told the OIG that he had no knowledge of soliciting prostitutes. , , and all refused to submit to a voluntary OIG-administered polygraph examination regarding their assertions to the OIG.

As reported above, the preponderance of evidence supports a finding by the OIG that and solicited prostitutes in Their conduct and relevant witness testimony is consistent with and supports the allegations that they did. The OIG based this conclusion on the following:

- told the OIG that on the date in question, he arranged sometime around 3 a.m. for to take a prostitute to the apartment;

- [REDACTED] admitted taking an unknown woman to the [REDACTED] apartment sometime after midnight. Although [REDACTED] denied to the OIG that the woman was a prostitute, his testimony is contradicted by [REDACTED];
- [REDACTED] told the OIG that on a prior occasion, he had assisted [REDACTED] in procuring and paying for a prostitute;
- [REDACTED] told the OIG that on the same night he arranged for [REDACTED] to take a prostitute to the apartment shared by [REDACTED] and [REDACTED], he witnessed [REDACTED] leaving a bar with another prostitute;
- The OIG found that [REDACTED] testimony to the OIG was more credible than that provided by [REDACTED] and [REDACTED] because [REDACTED] acknowledged his own role in assisting his colleagues engage in the improper conduct, and the OIG found no evidence of ill will, animosity, or bias by [REDACTED] toward either [REDACTED] or [REDACTED] to explain his providing inculpatory evidence against them. Although the OIG does not condone [REDACTED] conduct in facilitating the association by [REDACTED] and [REDACTED] with prostitutes, he was forthcoming and acknowledged his actions in exposing the wrongdoing of his colleagues. [REDACTED] candor mitigates his own potential misconduct.

The OIG concluded that [REDACTED] and [REDACTED] solicitation of prostitutes in [REDACTED] likely violated USMS Policy Directive 1.2, Code of Professional Responsibility, Section E, paragraph 28 – Conduct, which states that: *Avoid any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, including use of intoxicants and illicit drugs.*

[REDACTED]

The OIG has completed its investigation and is providing this report to the USMS for appropriate action.

ADDITIONAL SUBJECTS



Exhibit 16



U.S. Department of Justice

United States Marshals Service

Office of Congressional and Public Affairs

Washington, DC 20530-0001

October 3, 2017

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter to the United States Marshals Service (USMS) dated May 31, 2017, regarding actions taken by the USMS following issuance of the U.S. Department of Justice Office of Inspector General (OIG) Report, Case No. 2015-007158.

Please be assured that the USMS shares your concerns about the alleged misconduct detailed in the OIG report. As you know, the misconduct occurred in 2010 and was referred to the USMS by the OIG in 2016. All three employees involved in this case were disciplined, with punishments ranging from three to seven days suspension. The term of suspension was different for each employee based on the facts and circumstances of his individual conduct.

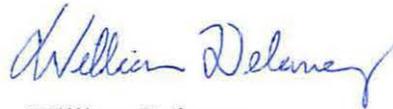
The OIG findings were forwarded to the USMS Office of Security Programs (OSP), and the facts of each individual case were reviewed. It was determined that all three employees involved in this incident should receive security clearance warning letters. While checking their documentation to assist in preparation of this response, OSP confirmed that two employees had received and acknowledged their warning letters but discovered that no warning letter had yet been issued for one of the employees, an error that has been rectified.

Sexual misconduct is incompatible with the values we expect of those who are privileged to carry the USMS badge. In recent years, the Department of Justice (the Department), including the USMS, has taken a number of steps to ensure that this conduct does not recur. In 2015, the Attorney General delivered a memorandum to all Department personnel that made clear that solicitation of prostitution is prohibited and that Department employees who violate the prohibition will be subject to suspension or termination. Last year, Acting Director Harlow promulgated USMS Policy Directive 14.21 "Conduct in Foreign Countries" in order to ensure that USMS personnel who serve overseas clearly understand that prohibited activities such as

patronizing prostitutes are contrary to USMS policy and will subject an employee to discipline, including removal and/or the loss of the employee's security clearance. Copies of both documents are enclosed for your awareness. The USMS also now conducts pre-deployment training to all employees assigned outside the United States in order to ensure that the directive is communicated regularly and consistently.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in blue ink that reads "William Delaney". The signature is written in a cursive style with a large, stylized initial "W".

William Delaney
Chief

Enclosures



Office of the Attorney General
Washington, D. C. 20530

April 10, 2015

MEMORANDUM FOR ALL DEPARTMENT PERSONNEL

FROM:

A handwritten signature in black ink, appearing to be "E.H.", written over the printed name.

Eric H. Holder, Jr.
Attorney General

SUBJECT:

Prohibition on the Solicitation of Prostitution

The Department of Justice is measured by the conduct of those who work on its behalf. The solicitation of prostitution threatens the core mission of the Department, not simply because it invites extortion, blackmail, and leaks of sensitive or classified information, but also because it undermines the Department's efforts to eradicate the scourge of human trafficking. Regardless of whether prostitution is legal or tolerated in a particular jurisdiction, soliciting prostitutes creates a greater demand for human trafficking victims and a consequent increase in the number of minor and adult persons trafficked into commercial sex slavery.

For these reasons, I want to reiterate to all Department personnel, including attorneys and law enforcement officers, that they are prohibited from soliciting, procuring, or accepting commercial sex. This rule applies at all times during an individual's employment, including while off duty or on personal leave, and applies regardless of whether the activity is legal or tolerated in a particular jurisdiction, foreign or domestic.

Department employees who violate these prohibitions will be subject to suspension or termination. Supervisors and managers are subject to discipline for failing to report suspected violations. Suspected violations by Department employees must be immediately reported to the internal affairs personnel of the relevant component's headquarters (or, for those without an internal affairs department, an equivalent entity). Allegations determined to be non-frivolous also must be reported to the component's security personnel. The Department also expects adherence to these standards by its contractors and sub-contractors, grant recipients and sub-grant recipients, and cooperative agreement holders, who are subject to all remedies available by statute and regulation when such standards are not met.



United States Marshals Service POLICY DIRECTIVES

TRAINING

14.21 CONDUCT IN FOREIGN COUNTRIES

- A. **Proponent:** Training Division (TD).
- B. **Purpose:** Duties, missions, official and personal travel frequently place United States Marshals Service (USMS) personnel within foreign countries. Some countries have local laws and customs that permit or allow various activities that are prohibited or restricted by the laws of the United States and policies of the Department of Justice (DOJ). Maintaining high standards of conduct, ensuring a strong and disciplined team, maintaining personal health and safety, and adhering to the core values expected of the USMS are essential to preserve positive relations with our host nations and ensure the success of missions. Activities prohibited by this policy create significant risk to operational and information security and could subject an employee to discipline, including removal and/or the loss of the employee's security clearance. Furthermore, these incidents have the potential to adversely affect United States foreign policy and the USMS Director's goals and objectives.
- C. **Authority:** The Director's authority to issue written directives is set forth in [28 U.S.C. § 566](#). DOJ Assistant Attorney General for Administration and Designated Agency Ethics Official Memorandum dated January 29, 2016, [Off-Duty Conduct](#), requires the USMS implementation of the Office of Inspector General's (OIG) recommendations regarding policies and training governing off-duty conduct in other countries.
- D. **Policy:** It is the responsibility of USMS management to ensure employees are familiar with this policy prior to any foreign travel. For official travel, USMS management must coordinate with the Regional Security Officer (RSO) in order to follow country clearance procedures and the procedures described in this policy. Employees must ensure that they are familiar with the list of prohibited activities as it applies to both official and personal travel in foreign countries. Should there be an allegation of any prohibited activity, it is critical that the responsible USMS supervisor completes all applicable steps listed in the reporting process. In the event that a USMS supervisor is not available in the foreign country, the USMS employee must report the prohibited activity as soon as possible to their district, division, and/or staff office. While the below activities could subject an employee to discipline regardless of where the activity occurred, the risks posed to the USMS and USMS employees are greater if these prohibited activities occur in a foreign country. As such, it is possible that an employee could face removal from employment and/or the loss of the employee's security clearance for even a first offense. While it is not an all-inclusive listing, the following prohibited activities are emphasized by this policy.
1. **Prohibited Activities:**
 - a. It is prohibited to engage in any conduct that is illegal in the United States even if it is legal in the foreign country.
 - b. It is prohibited to introduce, purchase, possess, use, sell, transfer, manufacture, or consume any controlled substances without a valid prescription, unless specifically authorized for an official purpose (such as the authorized transport of

military medical supplies). Prescription drugs must be accompanied by the original prescription label which identifies the prescribing medical facility or authority.

- c. It is prohibited to knowingly enter into contact with a prostitute or a person who provides commercial sex services. If a person subject to this policy unknowingly enters into contact with a prostitute or a person who provides commercial sex services, other than a passing, unwanted solicitation by the other person, the person is required to immediately cease the contact and report the incident to their supervisor.
- d. It is prohibited to patronize a prostitute or receive commercial sex services.
- e. It is prohibited to directly or indirectly arrange for a prostitute or commercial sex service provider to come to an employee's hotel room or other quarters, or to the hotel room or other quarters occupied by any other person.
- f. It is prohibited to use commercial escort services.
- g. It is prohibited to enter an establishment that has been designated by the Chief of Mission as off-limits or where it is known by the person subject to this policy that any of the following are present or habitually present: prostitution, commercial sex services, or illicit drug use. If a person subject to this policy unknowingly enters any establishment that is off-limits or where prostitution, commercial sex services, or drug use are present or habitually present, that person is required to immediately leave the establishment and report the incident to their supervisor.
- h. It is prohibited to participate in any sexual activity that would subject the employee to coercion, exploitation, or duress. Sexual behavior of a public nature or that reflects a lack of discretion or judgment is also prohibited.
- i. It is prohibited to remove, possess, sell, deface, or destroy archeological artifacts or national treasures.
- j. It is prohibited to sell, barter, or exchange any currency other than at the official host-nation exchange rate or commercial rate commonly available at hotels or banks.
- k. It is prohibited to pay a bribe to any official of a foreign country.
- l. It is prohibited to contact any foreign intelligence service. Any inadvertent or suspected contact must be reported to the Office of Security Programs (OSP), Tactical Operations Division (TOD).
- m. It is prohibited to apply for, receive, request, or in any other way attempt to gain foreign citizenship, a foreign passport, or otherwise declare allegiance to a foreign country.
- n. It is prohibited to reveal national security information. Any suspected or inadvertent disclosures or attempts to attain national security information by a foreign national or government must be reported to OSP, TOD.
- o. It is prohibited to reveal any sensitive information that appears on the critical information list, excluding information which is required to complete the mission.

2. **While Participating in Training Missions, or Specified Operations During Duty Hours:**

- a. It is prohibited to introduce, purchase, consume, sell, or transfer alcohol during duty hours.
- b. If closed containers of alcohol are acquired before or after on-duty hours or as an unsolicited gift from a partner nation representative, they should not interfere with official business and must be consumed during off-duty hours.
- c. It is prohibited to introduce, purchase, possess, use, or sell privately owned firearms, ammunition, or explosives, unless authorized for official duty.
- d. It is prohibited to knowingly violate the Chief of Mission's guidance on off-limit establishments or areas.
- e. It is prohibited to knowingly violate the Chief of Mission's guidance that seeks to avoid the embarrassment of the United States or the host foreign government.

E. Responsibilities:

1. **TD:**

- a. **Training Development:** TD is responsible for providing the oversight and guidance to develop, maintain, and deliver courses (operational and administrative). Specialized training provided to personnel regarding foreign off-duty conduct includes the following:
 - 1) Provide USMS conduct briefing materials to participants upon initial enrollment in foreign off-duty conduct briefing program;
 - 2) Ensure performance standards are addressed and emphasized;
 - 3) Ensure USMS policies, procedures, and regulations are thoroughly covered during instruction;
 - 4) Management, administration, supervision, personnel policies, and support services relative to the function.

2. **United States Marshals/Associate Directors/Assistant Directors:**

- a. Ensure that supervisors and managers are aware of this policy by periodically discussing with all supervisors and managers the standards of conduct and the [USMS Table of Penalties](#).
- b. Ensure that employees are made available for training related to this policy prior to travel to a foreign country.
- c. Must report any alleged prohibited activity to Office of Professional Responsibility – Internal Affairs (OPR-IA).

3. **Immediate Supervisor (or Designee):**
 - a. Notify the appropriate offices of any allegations of prohibited activity violations of this policy, including the OPR-IA.
 - b. Complete all required forms or documentation.
 - c. Determine whether the local party is responsible for comprehensive knowledge of Foreign Off-Duty policy.
 - d. Periodically discuss standards of conduct and share with all employees the [USMS Table of Penalties](#).
 - e. In the absence of a USMS Attaché, coordinate any investigative activity with OPR-IA.
4. **Country/Regional Attaché:** The Country Attaché or Regional Attaché serves as the principal USMS representative assigned to a foreign post, and is responsible for supervising and directing the activities of USMS foreign field offices or other USMS activities in a foreign country.
 - a. Manage and oversee the reporting and documentation of any incidents.
 - b. Coordinate the investigation of any allegation of prohibited activity with the Chief, OPR-IA.
 - c. Form a recommendation based upon available facts and circumstances of whether or not an employee alleged to have engaged in a prohibited activity should leave the foreign country. The Attaché should coordinate with the RSO and Chief of Mission as appropriate to protect the safety of the employee and to limit further embarrassment.
 - d. Notify the Human Resources Division (HRD) of any employee removed from the foreign country pursuant to this policy.
5. **HRD:** Will determine whether or not an employee removed from a foreign country pursuant to this policy is entitled to continue receiving any cost of living allowance or special pay.
6. **OPR:**
 - a. Process allegations of prohibited activities as described in this policy in accordance with USMS Policy Directive 2.2, [Misconduct Investigations](#).
 - b. Notify the Chief, Office of Personnel Security (OPS), TOD, of any allegation of prohibited activity.
7. **OSP, TOD:**
 - a. Determine whether an employee's security clearance should be suspended pending the conclusion of an investigation into a prohibited activity.

- b. Evaluate the status of an employee's clearance after the conclusion of an investigation by OPR-IA, and/or adjudication of discipline by OPR-Discipline Management.

8. **USMS Employees:**

- a. Comply with this policy directive on official and personal travel in foreign countries.
- b. Have a duty to report allegations of prohibited activities to responsible management officials and OPR-IA in a timely manner.

F. **Procedures:**

1. **Guidance:**

- a. All employees must comply with this policy, the Standards of Conduct for Federal Employees ([5 C.F.R. Part 2635](#)), and the USMS Code of Professional Responsibility while in a foreign country on official or personal travel.
- b. When traveling abroad for training or operations, supervisors must coordinate with the RSO to ensure compliance with the country clearance process and with the specific country restrictions on firearms and other items.
- c. Violations of this policy must be immediately reported by USMS employees to a USMS management official in the foreign country; if one is not available, the incident should be reported to the employee's district, division, and/or staff office.

2. **Reporting Procedures:**

- a. Immediately upon discovery of a prohibited activity, the district, division, and/or staff office responsible for the individual involved with the prohibited activity will immediately report it to:
 - 1) The USMS Communications Center, as designated in Policy Directive 17.17, [Significant Incident Reporting](#). The Communications Center will notify the Chief of Staff, Office of the Director; Chief of OPR-IA; Chief of International Investigations Branch, Investigative Operations Division; the Chief of International Training, TD. The district, division, and/or staff office of the responsible party must prepare a [Report of Significant Incident](#) within 24 hours of this notification.
 - 2) The USMS Attaché.
- b. Formal reporting of the incident including all facts and allegations should be reported immediately to OPR-IA in accordance with Policy Directive 2.2, [Misconduct Investigations](#). The report should include at a minimum:
 - 1) Statement of the allegation and any ascertainable facts;
 - 2) Any available documents, including police reports and press reporting; and
 - 3) Contact information for the USMS Attaché and/or the RSO.

Exhibit 17

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
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CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Staff Director*

May 31, 2017

VIA ELECTRONIC TRANSMISSION

David Harlow
Acting Director
U.S. Marshals Service
Washington, D.C. 20530-00001

Dear Acting Director Harlow:

On February 23, 2016, the Department of Justice Office of Inspector General concluded that in 2010, two U.S. Marshals Service Chief Inspectors solicited prostitutes while on detail in Mexico and engaged in sexual relations with them in a taxpayer-funded apartment.¹ The OIG concluded that the chief inspectors violated Marshals Service policy prohibiting “criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct.”² The OIG has previously noted that Department of Justice employees who engage in prostitution, even in jurisdictions where it is legal, undermine the Department’s ability to effectively combat human trafficking, “a crime that DOJ seeks to eradicate.”³ Further, such conduct can pose significant security risks. “DOJ employees who participate in [] prostitution can be compromised and made vulnerable to exploitation, manipulation, or duress.”⁴ OIG has also found that USMS in the past has failed to report solicitation of a prostitute by an employee oversees to security personnel, even though security personnel believed the behavior was potentially disqualifying for the holder of a security clearance.⁵

The OIG’s report was provided to this Committee in the midst of numerous allegations of a significant accountability gap within the USMS. Whistleblowers from multiple districts and divisions across the agency have alleged that the USMS does not hold its senior leaders and their friends accountable to the same standard as lower level

¹ U.S. Dep’t of Justice Office of Inspector General, Case No. 2015-007158 (Feb. 23, 2016) (see Attachment 1).

² See also 5 C.F.R. § 735.203, defining “notoriously disgraceful conduct” as “conduct which, were it to become widely known, would embarrass, discredit, or subject to opprobrium the perpetrator, the Foreign Service, and the United States.”

³ U.S. Dep’t of Justice Office of the Inspector General, *Review of Policies and Training Governing Off-Duty Conduct by Department Employees Working in Foreign Countries* (Jan. 2015), available at: <https://oig.justice.gov/reports/2015/e152.pdf>.

⁴ *Id.*

⁵ U.S. Dep’t of Justice Office of the Inspector General, *The Handling of Sexual Harassment and Misconduct Allegations by the Department’s Law Enforcement Components* at 32 (Mar. 2015), available at: <https://oig.justice.gov/reports/2015/e1504.pdf>.

employees, those not in favor with leadership, and particularly those who have raised issues of waste, fraud, abuse, and other misconduct. It is alleged that at least one of these chief inspectors continues to travel on TDY to Mexico and continues to hold a security clearance with no requirement to mitigate the potential risks.⁶ Further, whistleblowers allege that the chief inspectors received only a short suspension for this behavior. This was reportedly the same level of discipline as that imposed on another employee under their supervision and authority who was asked to assist in soliciting and paying one of these prostitutes and who the OIG found to be forthcoming—unlike the chief inspectors, who the OIG found less credible. If the reports of USMS handling of these allegations are true, they are troubling and send the message to other employees that the agency does not take these matters seriously.

In order to better understand the agency's practices of holding employees accountable for misconduct and ensuring those employees do not pose unnecessary security risks to law enforcement operations overseas, please respond to the following questions by June 14, 2017. Please number your answers according to their corresponding questions.

1. What disciplinary actions has the USMS taken against the chief inspectors in this case, or against any other individual for conduct related to this case?
2. Did the USMS report these findings to its security personnel?
3. If not, why not? If so, what steps if any has the USMS taken to mitigate security risks associated with this behavior and to ensure it does not recur?

Thank you for your cooperation in this matter. If you have any questions, please contact DeLisa Lay of my committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman

cc: The Honorable Dianne Feinstein
Ranking Member

⁶ See *id.* at 32 (In a prior incident, a USMS employee solicited a prostitute in Thailand. USMS security personnel, after they were finally notified of this conduct, “required the DUSM to admit the conduct to the DUSM’s spouse in order to mitigate potential security risks, such as potential exposure to coercion, extortion, and blackmail.”).

**The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice**

**The Honorable Michael Horowitz
Inspector General
U.S. Department of Justice**

ABBREVIATED REPORT OF INVESTIGATION

SUBJECT [REDACTED]		CASE NUMBER [REDACTED]	
OFFICE CONDUCTING INVESTIGATION Atlanta Area Office		DOJ COMPONENT United States Marshals Service	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office	<input type="checkbox"/> NFO	<input type="checkbox"/> OPEN	<input type="checkbox"/> OPEN PENDING PROSECUTION
<input checked="" type="checkbox"/> AIGINV		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
<input checked="" type="checkbox"/> Component	<input type="checkbox"/> USMS	PREVIOUS REPORT SUBMITTED:	
<input type="checkbox"/> USA		Date of Previous Report:	
<input type="checkbox"/> Other			

SYNOPSIS

The Office of the Inspector General (OIG) initiated this investigation upon the receipt of an anonymous letter in which it was alleged that [REDACTED] and [REDACTED], United States Marshals Service (USMS), engaged in sexual misconduct while detailed to [REDACTED], by taking prostitutes to a vetted USMS apartment occupied by [REDACTED].

The preponderance of evidence supports a finding by the OIG that [REDACTED] and [REDACTED] solicited prostitutes in [REDACTED]. Specifically, their conduct and relevant witness testimony is consistent with and supports the allegations that they did. [REDACTED]

[REDACTED] told the OIG that in April 2010, while detailed to [REDACTED], he allowed [REDACTED] to bring an unidentified female to an apartment that he shared with [REDACTED]. [REDACTED] said he recalled receiving a telephone call from USMS [REDACTED] at approximately 3:00 a.m. asking if [REDACTED] could bring the female to his apartment, and he agreed to the arrangement. [REDACTED] stated that he did not know if the female was a prostitute, if [REDACTED] engaged in sex with the female, or how long they stayed at his apartment, because he returned to his bedroom after they entered his apartment. [REDACTED] and [REDACTED]

DATE	February 23, 2016	SIGNATURE	[REDACTED]
PREPARED BY SPECIAL AGENT			
DATE	February 23, 2016	SIGNATURE	<i>Robert A. Bourbon</i>
APPROVED BY SPECIAL AGENT IN CHARGE			
		Robert A. Bourbon	

██████████ corroborated ██████████ statement to the OIG regarding ██████████ accompanying a female to ██████████ apartment. However, ██████████ denied that the female was a prostitute or that they engaged in sex, which conflicted with ██████████ statement to the OIG in which he said the female was a prostitute. ██████████ denied to the OIG that he brought a prostitute to ██████████ apartment and ██████████ confirmed ██████████ statement. ██████████ told the OIG that he did not personally know ██████████ or ██████████ and that he had no knowledge of them bringing prostitutes to the apartment he shared with ██████████

██████████ also told the OIG that on the same night that ██████████ went to ██████████ apartment with the alleged prostitute, he saw ██████████ leave the bar with a prostitute. Furthermore, ██████████ said he recalled a second occasion in 2009 or 2010 when he propositioned a prostitute in the Spanish language for ██████████. ██████████ said the woman agreed to a date with ██████████ and she followed him, ██████████, and ██████████ back to their Marriott hotel. ██████████ said that on the following day, ██████████ gave him his hotel key and requested ██████████ escort the woman from ██████████ room and pay her ██████████. ██████████ said ██████████ reimbursed him for the ██████████ he gave to the prostitute. Conversely, ██████████ account of events conflicted with ██████████ statements to the OIG when ██████████ denied that he had ██████████ proposition a prostitute on his behalf or that he reimbursed ██████████ for providing ██████████ to the prostitute. ██████████ admitted to the OIG that in 2009, he allowed an intoxicated woman to spend the night in his room at the Marriott hotel and that ██████████ removed the female from his room the following morning at his request. However, ██████████ denied the woman was a prostitute or that they engaged in sex. ██████████ told the OIG that he had no knowledge of ██████████ soliciting prostitutes. ██████████, ██████████, and ██████████ all refused to submit to a voluntary OIG-administered polygraph examination regarding their assertions to the OIG.

██████████
██████████

As reported above, the preponderance of evidence supports a finding by the OIG that ██████████ and ██████████ solicited prostitutes in ██████████. Their conduct and relevant witness testimony is consistent with and supports the allegations that they did. The OIG based this conclusion on the following:

- ██████████ told the OIG that on the date in question, he arranged sometime around 3 a.m. for ██████████ to take a prostitute to the ██████████ apartment;

- [REDACTED] admitted taking an unknown woman to the [REDACTED] apartment sometime after midnight. Although [REDACTED] denied to the OIG that the woman was a prostitute, his testimony is contradicted by [REDACTED];
- [REDACTED] told the OIG that on a prior occasion, he had assisted [REDACTED] in procuring and paying for a prostitute;
- [REDACTED] told the OIG that on the same night he arranged for [REDACTED] to take a prostitute to the apartment shared by [REDACTED] and [REDACTED], he witnessed [REDACTED] leaving a bar with another prostitute;
- The OIG found that [REDACTED] testimony to the OIG was more credible than that provided by [REDACTED] and [REDACTED] because [REDACTED] acknowledged his own role in assisting his colleagues engage in the improper conduct, and the OIG found no evidence of ill will, animosity, or bias by [REDACTED] toward either [REDACTED] or [REDACTED] to explain his providing inculpatory evidence against them. Although the OIG does not condone [REDACTED] conduct in facilitating the association by [REDACTED] and [REDACTED] with prostitutes, he was forthcoming and acknowledged his actions in exposing the wrongdoing of his colleagues. [REDACTED] candor mitigates his own potential misconduct.

The OIG concluded that [REDACTED] and [REDACTED] solicitation of prostitutes in [REDACTED] likely violated USMS Policy Directive 1.2, Code of Professional Responsibility, Section E, paragraph 28 – Conduct, which states that: *Avoid any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, including use of intoxicants and illicit drugs.*

[REDACTED]

The OIG has completed its investigation and is providing this report to the USMS for appropriate action.

ADDITIONAL SUBJECTS



Exhibit 18

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JEFF FLAKE, ARIZONA
MIKE CRAPO, IDAHO
THOM TILLIS, NORTH CAROLINA
JOHN KENNEDY, LOUISIANA

DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
AL FRANKEN, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE K. HIRONO, HAWAII

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, Chief Counsel and Staff Director
JENNIFER DUCK, Democratic Staff Director

July 5, 2017

VIA ELECTRONIC TRANSMISSION

David Harlow
Acting Director
United States Marshals Service
United States Department of Justice
Washington, D.C. 20530

Dear Acting Director Harlow:

On April 26, 2017, you testified before the House Committee on the Judiciary's Subcommittee on Crime, Terrorism, Homeland Security, and Investigations. In your written testimony, you stated that "in 2014 we researched and developed a program for the cyclical replacement of body armor, which ensures that all body armor is replaced on a 5-year cycle to take advantage of advances in protective technologies."¹ The U.S. Marshals Service (USMS) awarded a 5-year, \$12.49 million contract in February 2016 for this purpose.

The USMS supplies operational employees with body armor kits. The kits include multiple items, such as carriers (vests), concealable vests (worn under the clothes), ballistic inserts (soft body armor, designed to withstand pistol-caliber ammunition), and ceramic rifle plates (designed to withstand rifle rounds). The armor expires every five years. An April 16, 2014, "Body Armor Committee Meeting" memorandum to then-Assistant Director of the Training Division William Fallon memorializes the USMS "replacement plan for body armor, ballistic shields, and TASERS®," designed "to normalize the budget process to ensure the ability to replace this critical equipment on a regular basis."² According to that memorandum, most operational employees received their current equipment in Fiscal Years 2011 and 2012, and that equipment, such as ballistic panels and plates, "would need to be replaced by 2017."³

¹ See also Memorandum from David Anderson, Deputy Assistant Director, Training Division, U.S. Marshals Service to William T. Fallon, Assistant Director, Training Division, U.S. Marshals Service, *Body Armor Committee Meeting Memo* (Apr. 16, 2014).

² *Id.*

³ *Id.* at 2-3.

Despite this 5-year cycle replacement plan, according to documents obtained by the Committee, the USMS began replacing only two items from the operational employees' armor kits—ballistic inserts (soft armor) and concealable vests—in November 2014. The USMS largely has not replaced other equipment in those kits, such as the rifle plates. According to documents obtained by the Committee, as of February 2017, the USMS had replaced only 1,761 ballistic inserts and vests. The USMS has more than 3,900 operational employees, most with armor expiration dates in 2016 and 2017.

Accordingly, more than 1,400 operational U.S. Marshals Service employees reportedly were wearing expired soft body armor at the end of June. At the time of the April hearing, more than 2,000 were scheduled to be wearing expired armor by the end of 2017. According to the USMS Congressional Budget Justification for FY 2017, tests of the expired soft body armor “resulted in 11 penetrations out of 84 shots taken, and sufficient back-face deformation,” which “would create significant blunt force trauma to the person wearing the armor.”⁴

Information about the amount of expired body armor worn by operational employees was compiled at the request of the Assistant Director for the Training Division for the express purpose of raising body armor as a “mission challenge” in a call with you in February 2017. But when a member of the House Subcommittee asked you about expired equipment on April 26, you stated you were not aware of it.⁵

Your written testimony to the House Judiciary Committee also states that the USMS “ensure[s] that all personnel receive officer safety training on a continuous basis” and remarked on several training courses including “Deputy Trauma Medicine.” These remarks echo those of Associate Director for Operations William Snelson at the USMS headquarters opening on December 15, 2016, an event attended by the Deputy Attorney General. ADO Snelson stated at that time that *all* operational staff have attended the Deputy Trauma Course. He also said “every deputy” has been issued a “trauma kit” for medical emergencies, along with “countless” task force officers.

However according to documents obtained by the Committee and contrary to the public statements, numerous operational and task force employees have not attended this course and have not received trauma kits. Moreover, two critical elements in those kits expired at least two years ago. These failures to fully support USMS personnel have allegedly been raised—repeatedly—to agency leadership to no avail.

During the hearing, you mentioned the need to “refocus” the agency’s budget and “reprogram priorities.” The agency’s budget justifications for FY 2017 and FY 2018 asked for approximately \$1.3 million for body armor replacement. However, leadership was reportedly told that \$1.3 million per year would be insufficient to carry out the agency’s 5-year cycle

⁴ United States Marshals Service, FY 2017 Performance Budget, President’s Budget, Salaries & Expenses and Construction Appropriations at 72 (Feb. 2016), available at: <https://www.justice.gov/jmd/file/821041/download>; see also Body Armor Committee Meeting Memorandum at 2.

⁵ *Oversight of the Federal Bureau of Prisons and the U.S. Marshals Service: Hearing of the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations of the House Committee on the Judiciary* (Apr. 26, 2017) (statement of David Harlow, Acting Director, U.S. Marshals Service).

replacement plan. This amount is also about half the annualized amount allocated under the February 2016 contract for body armor. The plan reportedly would actually have required approximately \$10 million to replace all the equipment purchased in 2011-2012. This suggests the agency knowingly underfunded the plan, resulting in expired armor that the agency knew had a significant failure rate.

These funds also fall under the agency's lump sum appropriations for salaries and expenses, and it appears the agency has had discretion to reallocate funds in that account to pay for the body armor replacement. Apparently, the agency chose not to do so. And only recently, after being informed that an employee communicated these concerns to the Committee, and after they were raised in the House hearing, has the agency made efforts to provide additional funds.⁶

The USMS is also, however, set to "establish[] a new [Regional Fugitive Task Force] structure."⁷ According to the Federal Managers Association, that new "structure" was originally planned as an across-the-board promotion for potentially more than 60 operational employees, doing essentially the same job as numerous deputy marshals around the country. After the FMA raised concerns about the method of elevating these roles, the USMS decided to advertise them through the traditional hiring process consistent with merit system principles.

It is troubling that the agency was ready to expend the funds to promote 60 people with no competition, while ignoring pleas to replace body armor with a 13% failure rate currently worn by thousands of operational employees across the agency whose daily job it is to apprehend violent fugitives.

In addition to the records requested in my letter of March 27, 2017, please also provide by July 19, 2017, all Marshals Service records relating to expired officer safety equipment or to the future expiration of officer safety equipment, including body armor, trauma kits, helmets, shields, tasers, and any other equipment, from 2016 to the present. Please do not wait to produce the information requested on March 27 until you have gathered the information requested in this letter. Please also answer the following questions, numbering your responses in accordance with the corresponding questions.

1. When you testified before the House Judiciary Committee:
 - a. Were you aware that USMS employees were wearing and/or carrying expired equipment? In your answer, please explain when you first learned of it.
 - b. Were you aware that many more were set to be wearing and/or carrying expired equipment in the coming months and year? In your answer, please explain when you first learned of it.

⁶ Letter from Charles E. Grassley, Chairman, U.S. Sen. Comm. on the Judiciary to Jeff Sessions, Attorney General, U.S. Dep't of Justice and David Harlow, Acting Director, U.S. Marshals Service (Mar. 27, 2017); <https://www.justice.gov/file/968196/download>.

⁷ Letter from David Harlow, Acting Director, U.S. Marshals Service to David Barnes, Chapter President, Federal Managers Association (May 4, 2017).

- c. Did you have a call or meeting in February 2017, or at any other time, with senior staff where the Assistant Director for the Training Division raised funding issues for body armor replacement?
2. Please provide all slides and other records prepared for Quarterly Performance Reviews from January 2014 to the present that mention body armor or other officer safety equipment.
3. Who else among senior leadership in the Marshals Service knew that concerns had been raised regarding expired equipment? When were they first made aware of these issues? What was the response to those concerns?
4. Why has the Marshals Service for so long failed to fund its body armor replacement reprogram?
5. Has the agency informed its employees that they are carrying expired equipment and disclosed to them its demonstrated failure rate? When? If not, why not?
6. Why did the Marshals Service request only \$1.3 million for body armor replacement in FY 2017 and FY 2018?
7. When did the Department of Justice determine to request an additional \$12 million for body armor and for SOG training? How much will actually be allocated toward replacing body armor? Trauma kits?

Thank you for your cooperation in this important request. Please contact DeLisa Lay of my Committee staff with any questions at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman

cc: The Honorable Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary

The Honorable Trey Gowdy
Chairman
Subcommittee on Crime, Terrorism, Homeland Security and Investigations
House Committee on the Judiciary

The Honorable Sheila Jackson Lee
Ranking Member
Subcommittee on Crime, Terrorism, Homeland Security and Investigations
House Committee on the Judiciary

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice

Adam Miles
Acting Special Counsel
Office of Special Counsel

Exhibit 19



U.S. Department of Justice

United States Marshals Service

Office of Congressional and Public Affairs

Washington, DC 20530-0001

March 8, 2018

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter to the then Acting Director of the United States Marshals Service (USMS) dated July 5, 2017, regarding the replacement of body armor. We apologize for our delay in responding to your letter. We recognize that you have made a number of inquiries regarding the USMS and we are responding on a rolling basis consistent with the priorities the Department of Justice (the Department) has discussed with your staff.

We appreciate your continuing interest in the safety of the men and women of the USMS. In your letter, you expressed concern that USMS operational employees were using “expired” armor. There are no definitive data on how long an armor vest will last before it needs to be replaced.¹ Although many manufacturers offer a five-year warranty, this is not indicative of the useful lifespan of an armor vest.² Because other factors, such as the level of care and maintenance for the equipment, as well as the fit, have a greater impact than age on the effectiveness of the body armor,³ the USMS issues guidance on the proper care and maintenance of body armor to all operational employees and instructs district and division leadership on how to conduct consistent inspection of body armor.

Documents marked Bates # SJC-BA-00001-02112 are being transmitted to you with this letter. These documents were gathered by the USMS by requesting voluntary production from the individuals likely to have responsive information and may not include all responsive documents in the custody of every USMS employee. The Department has reviewed documents provided by the USMS. Material that is hereby produced in redacted form, or that has not been included in this production, includes information that the Department has identified as non-responsive, or containing sensitive procurement information, or internal pre-decisional

¹ See Congressional Research Service, “*Body Armor for Law Enforcement Officers: In Brief*” (2016), at 5.

² *Id.*

³ *Id.*

deliberative materials, the disclosure of which would chill the candid analysis essential to sound decision-making in law enforcement matters. Additional documents related to your request for “Quarterly Performance Review” slides are available for an *in camera* review at your convenience. Please contact the Department’s Office of Legislative Affairs to make arrangements for that review.

Following the last large purchase of body armor in 2012, the USMS developed a plan for the cyclical replacement of body armor on a continuing basis. The USMS began the cyclical replacement of some of the 2012 body armor in 2015. In Fiscal Year (FY) 2016, the USMS awarded a new body armor contract, allowing introduction of new technologies that reduce the weight of the vests by 33 percent, dramatically increasing flexibility and wearability, and specifically targeting likely ballistic threats to USMS personnel. When the USMS received its FY17 appropriations funding in June 2017, \$6 million was designated to fully fund completion of the armor replacement plan. Promptly thereafter, the USMS completed a contract modification and placed an order for over 2,000 body armor replacements.⁴ Much of the new armor has been delivered and, under the terms of the contract, final deliveries are due in April 2018. Upon fulfillment of this order, we expect that the body armor of every operational Deputy U.S. Marshal will be under active warranty.

We hope this information is helpful. Please do not hesitate to contact this office if we can be of additional assistance regarding this or any other matter.

Sincerely,



William Delaney
Chief

⁴ Please be assured that, prior to this time, the USMS had not “ignor[ed] pleas to replace body armor with a 13% failure rate currently worn by thousands of operations employees across the agency whose daily job is to apprehend violent fugitives.” The 13% figure that you referenced relates to testing done on an earlier generation of USMS body armor, not the armor purchased in 2012. See [https://www.justice.gov/jmd/file/821041/download at 72](https://www.justice.gov/jmd/file/821041/download) (2013 testing was performed on armor which was already “over 5 years old”). In 2008, the National Institute of Justice (NIJ) updated, and made more stringent, body armor standards. This more stringent NIJ protective standard was used when the USMS purchased the 2012 body armor that is referred to in your letter as “expired.”

Exhibit 20



U.S. Department of Justice
United States Marshals Service
Training Division

Glynco, GA 31524

03 May 2017

MEMORANDUM TO: David Anderson
Assistant Director – U.S. Marshals Service, Training Division

FROM: [REDACTED]
Armor and Protective Equipment Program Manager

SUBJECT: Body Armor Data Call

The United States Marshals Service (USMS), Body Armor Program is now in its third year of the cyclical replacement plan to normalize the budgetary process and ensure the ability to replace this critical equipment on a regular basis. This five (5) year plan offers the capability to purchase components of an entire body armor kit instead of replacing an entire kit for each deputy all at one time. The most important of these components are the ballistic panels of which have a manufacturer's suggested expiration date of 5 years.

The last body armor issuance to the agency began in late 2011 and the majority of the agency kits were distributed in 2012, and finalized in 2013, as annotated below:

- 2011 – 756
 - 2012 – 3565
 - 2013 – 74
- Total of – 4395**

With this in mind, the USMS currently has approximately **3925** operational employees (including DEOs, AEOs and USMs). This current replacement began in November of 2014 and is only accounts for the ballistic inserts for the tactical carrier and the concealable vest. To date we have replaced the ballistic panels and concealable vest for the numbers listed below:

- FY15 – 894 (18 Districts/2 BDUSM)
 - FY16 – 825 (26 Districts/2 BDUSM)
 - FY17 – 52 (2 AEOs/2 BDUSM)
- Total of – 1771**

To date we have approximately **2,154** (55%) of the agency's operational force that will have expired ballistic panels in their tactical vest and in their concealable vest by the end of FY17.

- **52 of the 96** districts have not been actioned for replacement.
- **No Divisions** have been actioned for replacement.

- A multi-year contract was awarded in **February 2016** for new body armor for the USMS; the total awarded under this **5-year contract is \$12,493,994.92**
- Over that contract period the program would require \$ [REDACTED] M annually to execute the contract to its fullest.
 - FY15 - **\$1.2M** was received (difference of \$ [REDACTED])
 - FY16 - **\$1.7M** was received (difference of \$ [REDACTED])
 - FY17 [REDACTED])
 - FY18 [REDACTED]
 - FY19 - [REDACTED]

If you have any additional questions or concerns, please contact Armor and Protective Equipment Program Manager, [REDACTED] [REDACTED]

Exhibit 21

[REDACTED] [REDACTED]

From: [REDACTED] (USMS)
Sent: Wednesday, April 26, 2017 1:30 PM
To: [REDACTED] (USMS)
Subject: FW: Agency Ballistic Panel Replacement

Importance: High

Chief,

Below you will find the email chain about the armor to each of my past three managers (2 where acting) dating back to November of 2016.

VR

[REDACTED]
Armor and Protective Equipment Program Manager
[REDACTED] (Mobile)

From: [REDACTED] (USMS)
Sent: Friday, March 24, 2017 10:49 AM
To: [REDACTED] (USMS)
Subject: RE: Agency Ballistic Panel Replacement
Importance: High

(A) Chief [REDACTED],

I've just completed an in-depth analysis of body armor and the operational force, and these are the latest findings (including BDUSM 702 if all 17 complete the program).

- **We have 1783 deputies that have received updated armor:**
 - **ADS Inc. Contract** for body armor – awarded 9MAY2013
 - 51 Deputies
 - 94 BDUSMs
 - **Armor Express Contract** for body armor – JSD contract modified 5SEPT2014
 - 760 Deputies
 - 134 BDUSMs
 - **ADS Inc. Contract** for body armor – awarded 24FEB2016
 - To date, 677 Deputies
 - 77 BDUSMs
- **We have 2185 deputies that have expired armor in the field:**
 - 640 Division Operational Deputies
 - 1545 District Deputies

I have received numerous emails and phone calls from district and division management in reference to expired body armor and the need to keep our operational force safe and ready to face the missions of which they are assigned. If possible, can you ask for an update on funding for the program from TD management and a tentative timeframe as to when and if it will be received? Thanks in advance.

VR

██████████
Armor and Protective Equipment Program Manager
██████████ (Mobile)

From: ██████████ (USMS)
Sent: November 30, 2016 5:17 PM
To: ██████████ (USMS)
Subject: Agency Ballistic Panel Replacement
Importance: High

(A) Chief ██████████,

Below you will find an email I sent to (A) DAD ██████████ about 2 weeks ago. I have yet to receive any funding for my program at this point. I usually have a small allocation of funds by now and the longer I wait, the further I will be behind on the replacement. Also, the funding itself is minuet compared to what I really need to achieve the replacement.

One of my worst fears is not being about to save a life due to not voicing my concerns in every forum I'm able to have a voice. Thanks again for your support.

VR

██████████
Armor and Protective Equipment Program Manager
██████████ (Mobile)

From: ██████████ (USMS)
Sent: November 14, 2016 11:32 AM
To: ██████████ (USMS)
Subject: Agency Ballistic Panel Replacement

Chief,

Listed below are the most accurate *estimated* numbers for ballistic panel distributed, to date:

- 1730 District ballistic panels have been replaced thus far (\$3.1M)
- 398 District sizing sheets will be available for the manufacturer Friday, 18NOV2016 (\$719K)
- 1074 District operational employees that have not been measured and outfitted (\$1.9M)
- 694 Division operational employees that have not been measured and outfitted (1.3M)

○ *These numbers are based on an estimated 3896 Operational USMS employees, per HRD (AUG2016)*

With the entire agency's ballistic panels expiring between FEB2016-MAY2017, I foresee a time period next year at which there will be numerous operational District and Division employees that will have expired ballistic panels unless a substantial increase in funding is achieved. An estimate of at least \$██████████ will finish outfitting our operational force with ballistic panels by the end of FY 17. This funding will need to be outside of any additional funding for BDUSM classes.

V/R,

██████████
Armor and Protective Equipment Program Manager
U.S. Marshals Service, Training Division

Office [REDACTED] | Mobile [REDACTED]

Visit the **NEW** USMS Body Armor Intranet Page:
<http://intranet.usms.doj.gov/sites/hqs/TD/Pages/BodyArmor.aspx>



Exhibit 22

[REDACTED] [REDACTED] [REDACTED]

From: [REDACTED] (USMS)
Sent: Tuesday, June 6, 2017 10:07 AM
To: Creasy, Stephanie (USMS)
Cc: [REDACTED] (USMS)
Subject: Expired Body Armor
Attachments: RFTF Body Armor Expiration 05.01.2017.docx

Importance: High

DAD Creasy,

I am sending this to you for awareness and to request your help (if possible). Prior to your promotion I had conversations with Training Division (TD) staff regarding RFTF personnel having expired (or close to expired) body armor and requested support from the TD to ensure those folks body armor would be replaced in a timely manner. Understanding that monitoring and replacing body armor for the entire agency is a monumental task, I asked Domestic Chief [REDACTED] to compile a list of RFTF personnel with expired body armor. That list is attached. As you will see it is far more extensive than I believed with many of the body armor expiring in April of 2016 and some as old as April of 2011.

The RFTF personnel are on the street everyday arresting the most violent fugitives so it is critical for risk mitigation and agency liability that the body armor they are wearing NOT be expired. I believe the TD was in the process of issuing body armor from west coast to east coast and that the RFTFs were to be included in that process. However, as you can see in the attached chart there are 12 members of the PSWRFTF that are currently expired.

I am requesting your help to outfit the RFTF personnel with body armor that is up to date. Please let me know what you need from me or IOD to facilitate this process.

Thanks in advance for your assistance with this critical matter.

Regards

[REDACTED]

[REDACTED]

Investigative Operations Division
U.S. Marshals Service
[REDACTED] Office
[REDACTED] Cell



Domestic Investigations

United States Marshals Service
Investigative Operations Division

"Targeting Violent Crime"

DOMESTIC INVESTIGATIONS BRANCH Body Armor Expiration Dates

Capital Area Regional Fugitive Task Force

Name	Position	Office	Expiration Date
[REDACTED]	Commander	Washington, DC	Dec-2016
	Asst. Commander	Springfield, VA	Apr-2016
	Supervisory Inspector	Washington, DC	Jul-2016
	Inspector	Washington, DC	Jul-2011
	Supervisory Inspector	Baltimore, MD	Apr-2016
	Inspector	Baltimore, MD	Apr-2011
	Supervisory Inspector	Salisbury, MD	Oct-2011
	Inspector	Salisbury, MD	Apr-2016
	Supervisory Inspector	Springfield, VA	Dec-2016
	Inspector	Springfield, VA	Apr-2016
	Inspector	Springfield, VA	Apr-2011
	Supervisory Inspector	Richmond, VA	Apr-2016
	Inspector	Ft. Lee, VA	Apr-2016
	Supervisory Inspector	Norfolk, VA	Apr-2016
Inspector	Greenbelt, MD	Dec-2016	
*Expired			

Florida/Caribbean Regional Fugitive Task Force

Name	Position	Office	Expiration Date
[REDACTED]	Commander	Orlando, FL	Dec-2016
	Assistant Commander	Ft. Lauderdale, FL	Feb-2017
	Inspector	Pensacola, FL	Feb-2017
	Deputy Commander	Tallahassee, FL	Feb-2017
	Supervisory Inspector	Jacksonville, FL	Apr-2016
	Deputy Commander	Orlando, FL	Feb-2017
	Inspector	Gainesville, FL	Feb-2017
	Supervisory Inspector	Orlando, FL	Feb-2017

[Redacted]	Supervisory Inspector	Orlando, FL	Apr-2016
	Inspector	Orlando, FL	Feb-2017
	Supervisory Inspector	Tampa, FL	Feb-2017
	Inspector	Ft. Myers, FL	Feb-2017
	Inspector	Ft. Pierce, FL	Feb-2017
	Supervisory Inspector	West Palm Beach, FL	Feb-2017
	Supervisory Inspector	Ft. Lauderdale, FL	Jan-2017
	Supervisory Inspector	Miami, FL	Feb-2017
*Expired			

Gulf Coast Regional Fugitive Task Force

Name	Position	Office	Expiration Date
[Redacted]	Commander	Birmingham, AL	Jan-2017
	Supervisory Inspector	Birmingham, AL	Jun-2021
	Supervisory Inspector	Birmingham, AL	Oct-2016
	Supervisory Inspector	Birmingham, AL	Jun-2016
	Inspector	Birmingham, AL	Jul-2016
	Inspector	Birmingham, AL	Jul-2016
	Inspector	Birmingham, AL	May-2016
	Supervisory Inspector	Oxford, MS	Oct-2016
	Inspector	Oxford, MS	Jul-2016
	Inspector	Oxford, MS	Jul-2016
	Inspector	Oxford, MS	Sept-2021
	Deputy Commander	Jackson, MS	Jun-2016
	Inspector	Jackson, MS	Oct-2016
	Supervisory Inspector	Jackson, MS	Apr-2016
	Inspector	Jackson, MS	Aug-2021
	Supervisory Inspector	Gulfport, MS	Apr-2016
	Inspector	Gulfport, MS	Jun-2016
	Supervisory Inspector	Huntsville, AL	Oct-2016
	Inspector	Huntsville, AL	Oct-2016
	Supervisory Inspector	Montgomery, AL	Oct-2016
	Inspector	Montgomery, AL	Oct-2016
	Inspector	Montgomery, AL	Oct-2016
	Supervisory Inspector	Mobile, AL	Feb-2017
Inspector	Mobile, AL	Oct-2016	
Inspector	Mobile, AL	Oct-2016	
*Expired			

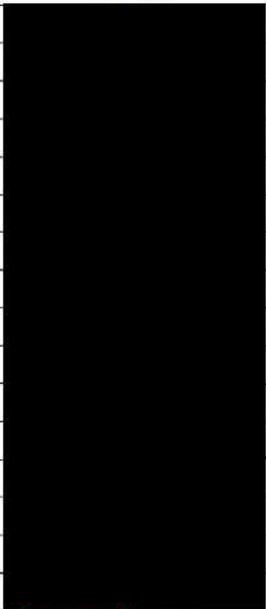
Great Lakes Regional Fugitive Task Force

Name	Position	Office	Expiration Date
[REDACTED]	Assistant Commander	Chicago, IL	Jan-2017
	Deputy Commander	Chicago, IL	Dec-2016
	Supervisory Inspector	Chicago, IL	Dec-2016
	Supervisory Inspector	Chicago, IL	Dec-2016
	Supervisory Inspector	Hammond, IN	Dec-2016
	Supervisory Inspector	Indianapolis, IN	Dec-2016
	Inspector	Chicago, IL	Dec-2016
	Inspector	Hammond, IN	Dec-2016
	Inspector	Chicago, IL	Jan-2017
	Inspector	Chicago, IL	Oct-2016
	Inspector	Chicago, IL	Dec-2016
	Inspector	Chicago, IL	Oct-2016
	Inspector	Chicago, IL	Feb-2020
	Inspector	Chicago, IL	Apr-2016
*Expired			

New York/New Jersey Regional Fugitive Task Force

Name	Position	Office	Expiration Date
[REDACTED]	Commander	Camden, NJ	Oct-2016
	Assistant Commander	New York, NY	Oct-2016
	Supervisory Inspector	Camden, NJ	Oct-2016
	Inspector	Camden, NJ	Oct-2016
	Supervisory Inspector	Newark, NJ	Oct-2016
	Inspector	Newark, NJ	Oct-2016
	Deputy Commander	Trenton, NJ	Nov-2016
	Inspector	Trenton, NJ	Oct-2016
	Inspector	Atlantic City, NJ	Jul-2016
	Supervisory Inspector	New York, NY	Oct-2016
	Supervisory Inspector	New York, NY	Dec-2016
	Inspector	New York, NY	Dec-2016
	Inspector	New York, NY	Dec-2016
	Supervisory Inspector	Central Islip, NY	Dec-2016
	Inspector	Central Islip, NY	Dec-2016
	Inspector	Central Islip, NY	Dec-2016
*Expired			

Pacific Southwest Regional Fugitive Task Force

Name	Position	Office	Expiration Date
	Commander	Los Angeles, CA	April-2016
	Assistant Commander	Los Angeles, CA	Jan-2018
	Supervisory Inspector	Los Angeles, CA	April-2016
	Deputy Commander	Los Angeles, CA	Oct-2015
	Supervisory Inspector	Los Angeles, CA	Jan-2020
	Inspector	Los Angeles, CA	April-2016
	Inspector	Los Angeles, CA	Jan-2017
	Inspector	Los Angeles, CA	Jan-2017
	Inspector	Los Angeles, CA	Oct-2016
	Inspector	Los Angeles, CA	Feb-2020
	Inspector	Los Angeles, CA	Jan-2017
	Supervisory Inspector	Riverside, CA	Oct-2016
	Inspector	Riverside, CA	Oct-2016
	Inspector	Riverside, CA	Feb-2017
	Inspector	Santa Ana, CA	July-2017
Inspector	Santa Ana, CA	June-2016	
* Expired			

Southeast Regional Fugitive Task Force

Name	Position	Office	Expiration Date
	Commander	Atlanta, GA	Nov-2016
	Assistant Commander	Atlanta, GA	Nov-2016
	Supervisory Inspector	Atlanta, GA	Oct-2016
	Deputy Commander	Macon, GA	Jul-2016
	Supervisory Inspector	Macon, GA	Oct-2016
	Supervisory Inspector	Savannah, GA	Oct-2016
	Inspector	Atlanta, GA	Nov-2016
	Inspector	Atlanta, GA	Jun-2016
	Inspector	Atlanta, GA	Nov-2021
	Inspector	Atlanta, GA	Nov-2016
	Inspector	Atlanta, GA	Nov-2016
	Inspector	Macon, GA	Oct-2016
* Expired			

Exhibit 23

[REDACTED]

From: Director Sends (USMS)
Sent: Friday, July 7, 2017 3:52 PM
To: USMS-ALL
Subject: Message from Acting Director Harlow Re: Officer Safety Equipment and Training

This week, I received two letters from the Chairman of the Senate Judiciary Committee inquiring about our officer safety training program and equipment provided to our operational employees. Today the *Washington Post* published an article on the same topics.

As I have stated several times and in my message to the Agency this past January, my top priority remains my commitment to officer safety. Every day we are all reminded that our job is extremely dangerous. I take these inquiries very seriously and look forward to responding to the Chairman's questions.

We are aware of the concern regarding the replacement of body armor. To ensure that our operational employees had the necessary equipment to safely execute the mission, in fiscal years (FY) 2011 and 2012 we supplied body armor to approximately 3,900 Deputy United States Marshals. That body armor had a 5-year manufacturer's warranty; therefore, the Training Division developed a cyclical replacement plan. In 2014, we were able to initiate replacing body armor with a \$1.2 million purchase. Our FY 2017 President's budget request included cyclical replacement of body armor; however, we were constrained by three continuing resolutions which limited our spending by time and amount. On May 5th of this year, the President approved the FY 2017 appropriation and last month the Agency was able to provide \$6 million in funding for body armor replacement. The Training Division started to process this large order immediately thereafter.

Once we receive final approval of our FY 2017 spend plan by the Office of Management and Budget and Congress, the Training Division will have a base amount of annual funding for cyclical replacement of safety equipment. While we continue to have funding challenges, we always appreciate the Administration and Congress' support for our mission requirements.

While some body armor is exceeding its warranty period, this is not the actual lifespan of the armor. As detailed in the May 30, 2012, memorandum from former Assistant Director William Fallon of the Training Division, research overwhelmingly indicates that the 5-year mark is merely the end of the manufacturers' liability on the product, not the actual lifespan of the armor. Further, if the armor is in good condition and has been properly cared for, the Training Division believes it retains its full ballistic capabilities as you await your replacement armor even though the manufacturer period has expired. If the armor shows signs of excessive creasing, wear and tear, or exposure to corrosives, discontinue its use and contact [REDACTED] for a remedy.

Regarding training, we have invested a lot of time and resources developing the High Risk Fugitive Apprehension (HRFA) training program. I truly believe that we are providing the best training available. I have heard from many United States Marshals, Chief Deputy

United States Marshals, Deputy United States Marshals, and our state and local partners that HRFA was the best training they have received in their careers. And as you know, students are required to submit critiques after each HRFA class. The HRFA Program critiques indicate an overwhelmingly positive consensus regarding the quality of training and instruction. Many of the Task Force Officers have stated how thankful they are to be given this training because their own agency offers no such course. Our goal to have all operational personnel in the USMS receive 40 hours of officer safety training annually through our Tactical Training Officer program remains, and we continue to make progress in meeting that goal.

Maintaining the highest level of training is an ongoing process. There are many in our Agency who have expertise and valuable experience in fugitive apprehensions and I welcome constructive observations on how we can continually improve our training. We do best when considering all points of view in how to improve our training programs. We have been made aware of concerns raised regarding the training and continue the process of reviewing the HRFA training program.

I would like to thank the Training Division staff for the work they have done and continue to do to enhance the safety of our personnel.

Thank you for what you do and for taking on the dangerous mission of keeping our communities safe. Please remain vigilant as you go about your daily work.

Stay safe.

David L. Harlow
Acting Director



U.S. Department of Justice

United States Marshals Service

Training Division

Alexandria, VA 22301

May 30, 2012

MEMORANDUM TO: United States Marshals
Chief Deputy United States Marshals
Assistant Directors
Staff Offices
Administrative Officers

FROM: William T. Fallon 
Assistant Director

SUBJECT: Body Armor Replacement

The Training Division (TD) is pleased to announce that more than fifty percent of the body armor replacement to the field is now complete. To date, approximately 1,927 armor kits have been received by 57 Districts and 8 Divisional components with approximately 1,652 remaining kits to be delivered by UNICOR by June 2012.

The majority of the armor previously issued by the USMS (RBR) was manufactured in 2007 and is being replaced very close to the 5-year manufacturer's warranty end. Extensive research has been compiled by the TD into the lifecycle and proper replacement protocols for body armor. This research has involved DOJ's National Institute of Justice, the Department of Defense Aberdeen Test Center, U.S. Army Natick Soldier Research, Development and Engineering Center (NSRDEC), as well as several of the major federal, state and local law enforcement agencies.

This research overwhelmingly indicates that the 5-year mark is merely the end of the manufacturer's liability on the product, not the actual lifespan of the armor. In fact, many manufacturers start the 5-year warranty at the time of purchase, with no regard for the many months the armor may have remained unsold by the manufacturer. Guidance given by NSRDEC includes the statement:

"If the armor is properly cared for, shows no visible flaws or defects, still properly fits the officer, and still provides an adequate level of protection based upon a current assessment of the threats encountered, then it should be reasonable to presume that unit of armor is still serviceable."

A poll of several major law enforcement agencies by the TD shows that the overwhelming majority of agencies believe the 5-year mark to be a benchmark rather than a "hard and fast" indicator of the end of a vest's effective lifecycle. The research and testing facilities, as well as

the agencies polled by the TD, all indicated that the care and maintenance and wear and tear on a particular piece of armor were far more indicative of its true service life.

As we continue to work with UNICOR to get the remaining armor to the field, please inspect any armor approaching (or beyond) the 5-year warranty end point for signs of excessive wear and tear of the actual ballistic panels. Experts have relayed that excessive creasing and folding of the armor is of particular detriment to the ballistic capabilities of soft body armor. If the armor is in good condition and has been properly cared for, the TD believes it retains its full ballistic capabilities as you await your replacement armor from UNICOR by June 2012. If the armor shows signs of excessive creasing, wear and tear, or exposure to corrosives, please discontinue its use and contact [REDACTED] for a remedy.

The USMS is currently soliciting vests that are 5 years and older from various regions of the country for a scientific study to be performed by HP White Laboratories. These vests will be tested/shot to the exact specifications that the vests were designed to withstand at purchase. If you wish to participate by donating a vest in the 6-8 year old range, please contact [REDACTED] for further information. This scientific study will serve to further the confidence in armor over 5 years old, and bolster information anecdotally gained from informal range testing throughout the USMS, wherein such vests have retained their full ballistic capabilities.

Visit the TD Body Armor webpage at [REDACTED] for further information on body armor, the delivery process, inspection protocols, and most importantly, care and maintenance of your armor. Thank you for your continued support and patience with this armor replacement initiative.

Exhibit 24

Chiefs and Deputy Assistant Directors,

I have attached a copy of the *Body Armor Point of Contact* (POC) list. Please review the list and verify that the POC listed is the correct POC for your district or division. If the POC listed is not correct please provide the correct POC and phone number to [REDACTED] by **Friday, July 14, 2017**.

The Training Division (TD) began sending e-mails about body armor replacement to some of those needing new body armor. Many deputies who have already received an e-mail and completed the old form will receive a new Body Armor measurement form created by MSD and ITD that will allow all of the data they enter to load into a spreadsheet that can be submitted directly to the provider for faster and more efficient ordering. The Body Armor Program Manager, [REDACTED], will e-mail a notification and the link to the new form to all deputies needing new body armor. The TD has a list of deputies needing new body armor and expects the link to be sent to them tomorrow, but no later than Friday, July 14, 2017. If a deputy doesn't receive a notification by Friday evening please have them contact [REDACTED]. **Please note even those that have already submitted an old form within the past two weeks will need to complete the new form. They will not have to measure again. The information is the same.**

As a reminder each deputy should be inspecting their body armor on a routine basis. Information on body armor inspection is attached, but can be found on the *Body Armor Program* intranet site at [REDACTED]

Body Armor POC responsibilities:

"District and Division POCs are responsible for keeping the Body Armor Program Manager, TD, aware of any changes in personnel, retirements, transfers in or out of the district or division, and/or change in POCs. POCs are also responsible for issuance, tracking by serial number, replacement, and disposal of USMS issued body armor." USMS Directive 14.8 Body Armor, Section E.3

Please let Body Armor Program Manager, [REDACTED], or me know if you need additional information.

Thank you,
Stephanie

Stephanie Creasy

Deputy Assistant Director
Training Division
Cell [REDACTED]
Office [REDACTED]

BODY ARMOR CARE, INSPECTION, CLEANING AND STORAGE

Frequent inspections and proper care, cleaning and storage of body armor help maintain the integrity of ballistic panels and the carrier.

Note: The covers of the armor panels should not be opened for any reason.

Care

Ensure armor panels fit properly into carriers with the strike face and wear face correctly oriented. Confirm the correct orientation by referring to the panel label, which will indicate the strike face or wear face.

You should not needlessly flex, bend, compress or crease flexible armor panels when handling, as this may contribute to degradation of the ballistic materials over time.

Handle rigid body armor panels, particularly those incorporating ceramic materials, carefully as they are fragile. Ceramic materials are extremely brittle and such armor should not be dropped upon hard surfaces, as this may cause cracks or breaks, which can have an adverse effect on performance.

Inspection

You should routinely, visually inspect the flexible armor panel covers for cuts, tears, stitching separation, sealing problems and excessive wear, all of which could expose the ballistic materials to moisture and other potential degrading factors. Additional guidelines are provided below:

- Never attempt to repair armor panels under any circumstances; rather, report your findings to your District or Division Body Armor Point of Contact (BA POC).
- Carriers which rub the panel covers as a result of normal flexing can wear through the cover and expose the armor to moisture penetration.
- Visually inspect rigid armor panels before each use to ensure that no surface cracks or other signs of damage are present which could degrade ballistic performance.
- Report any such signs of damage to the BA POC immediately.
- Periodically inspect the condition of the label on the armor panel. Once the label becomes illegible or shows signs of excessive wear, notify BA POC immediately. It is important to identify the model and protection level of armor in the event of a safety recall.

Cleaning

Improper cleaning can damage the ballistic panels or carrier, causing the body armor to fail. Each model of body armor which complies with NIJ Standard-0101.06 is required to have supplier-recommended care instructions label. Armor panels are not to be dry cleaned, machine washed or machine dried, either in the home or commercially. Detergents, dry-cleaning solvents and laundry equipment can cause damage or degrade panels.

The general industry procedure for cleaning armor panels:

- Remove the panels from the carrier.
- Wipe the outer panel cover using a damp sponge or soft cloth and cold water.
- Air-dry the panels flat, avoiding folding or creasing the armor while it dries.
- Insert the dry panels back into the carrier with each panel strike or wear face correctly oriented.
- No chemicals, other than those specified by the manufacturer, should be used when cleaning the panels. Bleach or starch, even when highly diluted, may reduce the protection level.
- Refrain from rinsing, soaking, submerging or spraying the ballistic panels. Any superficial smudges, marks or soiling remaining on the outer covering should not harm the ballistic panel integrity.
- Never dry flexible armor panels outside, even in the shade, as exposure to ultraviolet light is known to cause degradation of certain types of ballistic materials.
- Remove detachable straps and fasteners from the carrier. If straps and fasteners are not detachable, place them in their secured position.
- Hand-wash the carrier with cold water using a mild detergent for delicate fabrics.
- Rinse the carrier thoroughly and hang up indoors to air dry.
- Air drying will have less impact on the integrity of the carrier.

Storage

Body armor should be stored as recommended by the supplier and consistent with Agency Standards.

Additional guidelines are provided below:

- Armor should be stored flat at room temperature in a dry, shaded place that minimizes exposure to direct light.
- You may hang armor from a specially designed robust hanger made for body armor. Wire or some wooden hangers will break or buckle under the weight of the armor. You should not hang armor by the carrier straps, as this may cause the straps to stretch and lose their original shape and fit.
- Turn the body armor inside out or open and lay flat to allow moisture to evaporate.
- Air dry damp armor prior to storage.
- Armor should not be stored for extended periods of time in a low air flow environment, such as the bottom of a locker, nor in a potentially extreme hot/cold environment, such as the trunk of a vehicle.

Exhibit 25

[REDACTED] (USMS)

From: Director Sends (USMS)
Sent: Friday, July 7, 2017 3:52 PM
To: USMS-ALL
Subject: Message from Acting Director Harlow -- Re: Officer Safety Equipment and Training

This week, I received two letters from the Chairman of the Senate Judiciary Committee inquiring about our officer safety training program and equipment provided to our operational employees. Today the *Washington Post* published an article on the same topics.

As I have stated several times and in my message to the Agency this past January, my top priority remains my commitment to officer safety. Every day we are all reminded that our job is extremely dangerous. I take these inquiries very seriously and look forward to responding to the Chairman's questions.

We are aware of the concern regarding the replacement of body armor. To ensure that our operational employees had the necessary equipment to safely execute the mission, in fiscal years (FY) 2011 and 2012 we supplied body armor to approximately 3,900 Deputy United States Marshals. That body armor had a 5-year manufacturer's warranty; therefore, the Training Division developed a cyclical replacement plan. In 2014, we were able to initiate replacing body armor with a \$1.2 million purchase. Our FY 2017 President's budget request included cyclical replacement of body armor; however, we were constrained by three continuing resolutions which limited our spending by time and amount. On May 5th of this year, the President approved the FY 2017 appropriation and last month the Agency was able to provide \$6 million in funding for body armor replacement. The Training Division started to process this large order immediately thereafter.

Once we receive final approval of our FY 2017 spend plan by the Office of Management and Budget and Congress, the Training Division will have a base amount of annual funding for cyclical replacement of safety equipment. While we continue to have funding challenges, we always appreciate the Administration and Congress' support for our mission requirements.

While some body armor is exceeding its warranty period, this is not the actual lifespan of the armor. As detailed in the [May 30, 2012, memorandum](#) from former Assistant Director William Fallon of the Training Division, research overwhelmingly indicates that the 5-year mark is merely the end of the manufacturers' liability on the product, not the actual lifespan of the armor. Further, if the armor is in good condition and has been properly cared for, the Training Division believes it retains its full ballistic capabilities as you await your replacement armor even though the manufacturer period has expired. If the armor shows wear and tear, or exposure to corrosives, discontinue its use and contact [REDACTED] for a remedy.

Regarding training, we have invested a lot of time and resources developing the High Risk Fugitive Apprehension (HRFA) training program. I truly believe that we are providing the best training available. I have heard from many United States Marshals, Chief Deputy United States Marshals, Deputy United States Marshals, and our state and local partners that HRFA was the best training they have received in their careers. And as you know, students are required to submit critiques after each HRFA class. The HRFA Program critiques indicate an overwhelmingly positive consensus regarding the quality of training and instruction. Many of the Task Force Officers have stated how thankful they are to be given this training because their own agency offers no such course. Our goal to have all operational personnel

in the USMS receive 40 hours of officer safety training annually through our Tactical Training Officer program remains, and we continue to make progress in meeting that goal.

Maintaining the highest level of training is an ongoing process. There are many in our Agency who have expertise and valuable experience in fugitive apprehensions and I welcome constructive observations on how we can continually improve our training. We do best when considering all points of view in how to improve our training programs. We have been made aware of concerns raised regarding the training and continue the process of reviewing the HRFA training program.

I would like to thank the Training Division staff for the work they have done and continue to do to enhance the safety of our personnel.

Thank you for what you do and for taking on the dangerous mission of keeping our communities safe. Please remain vigilant as you go about your daily work.

Stay safe.

David L. Harlow
Acting Director

Exhibit 26



U.S. Department of Justice

United States Marshals Service

Office of Congressional and Public Affairs

Washington, DC 20530-0001

June 15, 2018

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter to the former Acting Director of the United States Marshals Service (USMS) dated July 5, 2017, regarding the High Risk Fugitive Apprehension (HRFA) program. We apologize for our delay in responding to your letter.

The USMS apprehends nearly 90,000 fugitives a year, many of whom are violent career criminals whose apprehension makes our communities immediately safer. As noted in your letter, the USMS suffered a series of tragic deaths in 2011, when two deputy U.S. Marshals and seven USMS task force officers lost their lives bringing violent fugitives to justice. In response, a group of the most experienced fugitive-hunting experts in the USMS, supplemented by distinguished psychologists and social scientists, developed standardized, enhanced procedures for arresting the “worst of the worst” fugitives while mitigating risks to law enforcement personnel. The end result of this initiative was the HRFA program, which was rapidly disseminated throughout the USMS operational community in 2012 and 2013, and has evolved into a model program.

At the inception of HRFA, the tactical training officers (TTOs), the experts who would be teaching the program in the field, were to be chosen based on a combination of their field experience and training skills. USMS leadership at the time took into account that some smaller judicial districts did not have personnel with specific qualifications such as five consecutive years of fugitive apprehension experience. Because other factors, such as the amount of tactical training and a demonstrated ability to teach and train others, were also essential to the success of the TTO model, the USMS implemented the TTO program based on existing levels of experience and training. We have enclosed the TTO application (Enclosure 1) and USMS Policy Directive 14.13 Law Enforcement Safety Program – Tactical Training Officer (Enclosure 2) to assist your understanding of how TTOs are currently selected.

The USMS Special Operations Group (SOG) is a competitively selected group of approximately 100 deputies who have additional tactical training and who conduct specialty operations spanning the range of federal law enforcement missions. These deputies can assemble on short notice for tactical operations, and they are located in districts nationwide so that they can disseminate their tactical expertise to their district colleagues. In response to your specific question, current USMS leadership has not considered disbanding SOG, and we are not aware of any proposals by senior leaders in the recent past to do so.

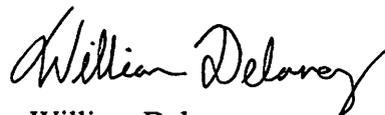
When the USMS began implementing HRFA in 2012, SOG deputies were called upon to help roll out HRFA training because they had already completed a highly competitive selection process with hundreds of hours of additional arduous tactical training. SOG experts vetted and chose approximately 50 deputies to become TTOs to support the initial HRFA training program. Since the program was created, there have been a total of 208 TTOs certified, of which 69 are current or former SOG deputies.

You inquired about a request to extend the mandatory retirement of an experienced inspector who worked on HRFA training. In response to emergent operational needs, that inspector's retirement was extended on March 29, 2013, so that he could become Acting U.S. Marshal of the Northern District of Illinois. His previous position in the Investigative Operations Division was not immediately filled due to budget sequestration and a hiring freeze. By June 2014, as the HRFA program matured, HRFA activities previously handled by this inspector were consolidated within the Training Division under the Chief of Law Enforcement Safety.

You inquired about the release of information related to the loss of life which sometimes occurs during fugitive apprehensions. When considering whether to release information in these sensitive situations, there are several factors that we consider. There are often legal proceedings such as criminal investigations that inhibit broad release of specific shooting information. Moreover, we want to be respectful to those who have lost loved ones. Appropriate individuals in leadership are made aware of the findings. Any lessons learned are typically disseminated to operational personnel during HRFA through renewed emphasis on training on the relevant issues. In most cases, issues that are identified in a critical incident such as a shooting are already covered in HRFA training. The USMS Training Division is currently working on a project to evaluate the best way to use after action information to enhance officer safety.

We hope this information is helpful. Please do not hesitate to contact this office if we can be of additional assistance regarding this or any other matter.

Sincerely,



William Delaney
Chief

The Honorable Charles E. Grassley
Page 3

Enclosures

cc: The Honorable Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary

The Honorable Michel E. Horowitz
Inspector General
U.S. Department of Justice

Exhibit 27



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

March 26, 2015

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter to Acting Deputy Attorney General Sally Quillian Yates, dated March 19, 2015, regarding allegations of inappropriate hiring practices at the U.S. Marshals Service (USMS). We appreciate the opportunity to address your concerns.

Upon receipt of your letter, the Director of the USMS (the Director) instructed the Associate Director for Administration to work with the USMS Office of General Counsel to review the allegations in your letter. We appreciate the opportunity to clarify the circumstances surrounding Mr. Lenzie's hiring. Mr. Lenzie applied in September 2011 for a Senior Forfeiture Financial Specialist (SFFS) position with Forfeiture Support Associates (FSA), a contractor that supports the Department. He was not hired for that position, however, because he did not possess the requisite qualifications. A four-member interview panel consisting of personnel from the USMS, the U.S. Attorney's Office for the District of Boston, and FSA unanimously recommended another individual for the SFFS position, and that individual accepted the position.

Mr. Lenzie was highly qualified for a different position, however, and the same four-member panel unanimously recommended him for a Forfeiture Financial Specialist (FFS) position. Following the interview process, FSA offered Mr. Lenzie the FFS position, which he accepted. USMS did not waive any contract qualification requirements in making this hiring decision and proceeded in the usual course in hiring Mr. Lenzie.

Mr. Lenzie's hiring was not unduly influenced by the Director. After Mr. Lenzie applied for the SFFS position in September 2011, he emailed his resume to the Director, which she forwarded to Ms. Beal for her awareness. The Director did not recommend Mr. Lenzie for any position, nor did she instruct Ms. Beal, or anyone else at the USMS or within the Department, to take any action, officially or otherwise, on behalf of Mr. Lenzie. Mr. Lenzie was an experienced federal employee with ample qualifications. Furthermore, these noted events had no bearing on the unanimous recommendation by a three-member senior executive interview panel for Ms. Beal's selection as Assistant Director of the Asset Forfeiture Division in August 2014, nearly three years later.

The Honorable Charles E. Grassley
Page Two

As to the materials requested in your letter, we have enclosed the labor category qualification requirements used to hire SFFS and FFS contractors from 2010 to the present. We have also enclosed the resumes of all individuals who have filled the SFFS and FFS contractor positions for FSA from 2010 to the present. In order to protect their privacy, we have redacted the names, phone numbers, email addresses, and home addresses of these employees.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,



Peter J. Kadzik
Assistant Attorney General

Enclosures

cc: The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary

The Honorable Michael E. Horowitz
Inspector General
Department of Justice
Office of the Inspector General

Exhibit 28

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

June 3, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Sally Quillian Yates
Deputy Attorney General
United States Department of Justice

Dear Deputy Attorney General Yates:

To date, I have sent five letters to you and to the U.S. Marshals Service inquiring about improper hiring practices and questionable spending of the Assets Forfeiture Fund (AFF). In response, I have received four letters—three from your office, and one from the Marshals Service. Half of these letters reported incorrect and misleading information to Congress.¹

The Marshals Service's poor track record in providing accurate information to the Department and to this Committee raises significant concerns about that agency's ability to investigate itself. So, it is a good sign that the Department now supports an independent investigation from within the Executive Branch. However, given the separate Legislative Branch interests implicated, this Committee must continue its own parallel inquiry.

Documents obtained by the Committee show that as early as December 2013, an employee reported the *quid pro quo* hiring allegation involving Director Stacia Hylton and Assistant Director of the Asset Forfeiture Division (AFD) Kimberly Beal to the USMS Office of General Counsel. It is also clear that the General Counsel's Office was consulted about the reply to the Committee's inquiry *before* the Department sent its letter denying any wrongdoing. Marshals Service officials admitted that the Office of

¹ Letter from Peter J. Kadzik, Assistant Attorney General to Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (Mar. 26, 2015); Letter from William Delaney, Chief of Congressional and Public Affairs, U.S. Marshals Service to Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary (Apr. 3, 2015).

General Counsel had “e-mail traffic” that was “tied to a grievance” related to the Committee’s inquiry. Thus it appears that the General Counsel’s office failed to ensure that the Department’s reply was accurate and complete, despite possessing the information necessary to do so.

I appreciate that your staff has acknowledged the Committee’s interest in understanding more specifically why the Department initially provided inaccurate information and is working with my staff to schedule interviews of Office of General Counsel attorneys Lisa Dickinson and Harvey Smith. Documents obtained by the Committee show that Mr. Smith received the December 2013 employee allegations and supporting documentation of a *quid pro quo* between Director Hylton and Assistant Director Beal. Ms. Dickinson is the Principal Deputy General Counsel for the Marshals Service, the second most senior position within the Office of General Counsel, responsible for “overseeing operations” of that office and “respond[ing] to inquiries from other federal agencies and members of the public.”² Documents obtained by the Committee show that Ms. Dickinson also had previously received information that appears to corroborate whistleblower allegations of the *quid pro quo*. Please ensure that these interviews are scheduled as soon as possible.

It is also critical that the Committee receive documents responsive to its requests related to these interviews prior to the interviews occurring. Your good faith cooperation with the Committee’s inquiry will be essential to a timely and orderly review of the underlying allegations as well as our review of the circumstances that led to the initial inaccurate reply. Your staff has indicated that document production will begin on a rolling basis in parallel to the Inspector General’s inquiry and in consultation with my staff about priorities, custodians, and search terms. I would appreciate your assistance in ensuring that the document productions are timely, thorough, and complete.

Unfortunately, the Marshals Service’s reaction to previous incidents of serious misconduct suggests it is unwilling to hold officials accountable even when presented with findings from the Department of Justice Office of the Inspector General (OIG).

For example, in July 2012, the OIG found that individuals within the Justice Management Division (JMD), including former JMD FASS Deputy Director Michael Clay, violated ethics standards by engaging in improper hiring practices and nepotism.³ The OIG found that Clay had induced another Justice Department employee to hire his

² Main Justice, 62nd Annual Attorney General’s Awards (Oct. 16, 2014), available at: <http://www.mainjustice.com/2014/10/16/62nd-annual-attorney-generals-awards-complete-list-of-winners/>.

³ U.S. Department of Justice, Office of the Inspector General, Report Regarding Investigation of Improper Hiring Practices in the Justice Management Division (July 2012) [Hereinafter Justice Management Division OIG Report].

daughter, and in return “instructed a subordinate to attempt to find a job” for that individual’s brother.⁴ The OIG referred the Deputy Director to JMD for disciplinary action. He is now the Deputy Assistant Director for the Management Support Division at the U.S. Marshals Service.

In February 2015, the OIG found⁵ that several individuals, including Blair Deem (at the time a Marshals Service detailee working as the Chief of Staff for INTERPOL Washington), violated Section 702 of the Standards of Ethical Conduct⁶ by using their positions of authority “to benefit their acquaintances by placing them . . . in unpaid intern positions at INTERPOL Washington.” The OIG referred the Marshals Service detailee and another individual to the Office of the Deputy Attorney General for review and disciplinary action.

Ironically, according to documents obtained by the Committee, as of April 16, 2015, Deem was listed as the Deputy Assistant Director for the U.S. Marshals Service *Office of Professional Responsibility*, the very office charged with ensuring the integrity of the agency. Multiple whistleblowers have asserted that the USMS OPR is not an appropriate position for an individual found to have violated ethics rules.

The Committee also previously noted that multiple whistleblowers reported that the OIG currently is investigating Judicial Security Division Assistant Director Noelle Douglas for her efforts to ensure a USMS contractor hired an individual with whom she allegedly has a personal relationship. Whistleblowers now assert that the U.S. Marshals Service intends to simply relocate Ms. Douglas to the Justice Department’s Asset Forfeiture Management Staff, where she will retain her current grade as a Senior Executive Service employee. It is hardly a deterrent to engage in waste, fraud, and abuse if the only discipline meted out for such behavior is a game of agency musical chairs.

Moreover, it is unacceptable that the U.S. Marshals Service reportedly continues to try to track down the whistleblowers who have made protected disclosures to Congress. In the last two months, multiple whistleblowers have alleged that USMS managers 1) use Freedom of Information Act requests to identify employees who have made protected disclosures and to use that information to retaliate against them; 2) maintain lists of employees suspected of being whistleblowers and assess who is most likely responsible for the various allegations; and 3) openly threaten employees with

⁴ *Id.* at 6.

⁵ U.S. Department of Justice, Office of the Inspector General, Investigation of Allegations of Improper Hiring Practices at INTERPOL Washington (Feb. 2015) [Hereinafter “INTERPOL Washington OIG Report”].

⁶ See 5 C.F.R. § 2635.702 (“An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity”)

retaliation for speaking to independent investigators. These actions, if true, would clearly chill further protected disclosures and obstruct the Committee's investigation.

As the Committee continues its investigation, please provide written responses to the following questions:

1. For each instance of OIG findings of ethics violations in hiring discussed above, please describe all efforts taken by the Department and the U.S. Marshals Service to discipline employees and the outcome of those efforts.
2. Please list the names of the proposing and deciding officials in each case, the date of any proposed discipline, and the final disposition, including a description of any punishment imposed.

For any case where no disciplinary proceedings were initiated or no punishment was imposed, please explain why not.

Please provide your written reply no later than June 17, 2015. If you have any questions about this request, please have your staff call DeLisa Lay at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

cc: The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice

The Honorable Carolyn N. Lerner
Special Counsel
U.S. Office of Special Counsel

Exhibit 29

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

October 14, 2016

VIA ELECTRONIC TRANSMISSION

The Honorable Michael E. Horowitz
Inspector General
United States Department of Justice
Washington, DC. 20530

Dear Inspector General Horowitz:

As you know, over the last two years, my office has received numerous whistleblower allegations regarding the U.S. Marshals Service. Of those reports, a significant number allege they have experienced reprisal in return for engaging in protected activity, including for making protected disclosures of waste, fraud, and abuse. The alleged reprisal takes many forms, including retaliatory and pre-textual internal affairs investigations and discipline.

Suspensions and removals reportedly have been proposed and imposed following internal investigations against employees who have disclosed public safety concerns, questioned the treatment of prisoners within Marshals Service custody, disclosed wrongdoing to or participated in government investigations conducted by the Inspector General, the Department of Justice (including the FBI), the Office of Special Counsel, or even the Marshals Service's own OPR,¹ and simply testified on behalf of their colleagues in any forum—be it during Equal Employment Opportunity (EEO) investigations or in federal court.²

These employees have informed my office that in return for their efforts to disclose wrongdoing and protect themselves, they have been subjected to, among other things, explicit and implicit threats, hostile and unsafe working environments, warnings to disengage from protected activities, and frivolous or vindictive misconduct investigations for actions that never took place, occurred a year or more in the past, are not subject to the same level of scrutiny for other employees, or were already counseled.

¹ Policy *requires* USMS managers and supervisors to “immediately report all misconduct complaints to IA.” USMS Operations Policy, Misconduct Investigations 2.2(F)(1)(f).

² Retaliation for making protected disclosures or otherwise engaging in protected activity is unlawful. 5 U.S.C. §§ 2302(b)(8),(9).

More than 20 percent of individuals who have made a protected disclosure to this Committee since this inquiry began in March 2015 have reported instances like these.

In at least one case, the USMS Office of Professional Responsibility (USMS OPR) seized private, non-government property with no effort to demonstrate its behavior would not pierce employees' privileged and protected communications with counsel and with Congress.³ In another case, a Deputy U.S. Marshal in California has been proposed for removal following *years* of engaging in protected activity, including testifying in fellow employees' EEO cases, reporting threats to public safety created by his superiors and others in the transportation of dangerous fugitives, reporting a hostile work environment, including fear for his own safety, filing his own EEO complaints, sharing concerns with management in management meetings, and disclosing concerns about public safety, abuse of authority, and reprisal to my office.

The Deputy U.S. Marshal says, among other things, he was specifically threatened by his management to avoid associating with other employees who had raised concerns; treated as a criminal suspect by his management in meetings; ordered to sign resignation forms; inappropriately questioned by management about his family life; questioned by a supervisor during an internal investigation about the substance of an EEO complaint; charged with AWOL while on sick leave to care for an ill child and despite providing proper documentation; harassed and threatened with discipline after requesting FMLA to care for his terminally ill mother; and physically threatened for sending an e-mail to a superior stating he felt he was experiencing retaliation.

The Deputy U.S. Marshal attempted to report ongoing reprisal and other misconduct by management to the OIG on June 7, 2016, and the OIG declined to investigate, asserting that it did not have jurisdiction. The OIG, however, does have jurisdiction in retaliation cases, even if the OSC more routinely handles them. Further, OIG has the right of first refusal for law enforcement misconduct allegations, and likely received the myriad of prior internal, allegedly retaliatory allegations against the deputy, before it received his own complaint. It is unclear whether the OIG had the ability to cross reference the deputy's complaint against its own records of USMS misconduct notices. With that more complete picture, the OIG could have more thoroughly evaluated the deputy's allegations of a history of retaliatory investigations, which, if true, could point to a larger problem within the USMS regarding the use of internal affairs investigations in cases where employees have engaged in protected activity.

To assist the Committee in better understanding the role of the OIG in reports of retaliatory investigations, please respond to the follow questions by October 28, 2016.

1. Did the OIG receive notice and opportunity to exercise its right of first refusal from the U.S. Marshals Service OPR regarding allegations against Deputy U.S.

³ Letter from Charles E. Grassley and Patrick J. Leahy, Chairman and Ranking Member, U.S. Sen. Comm. on the Judiciary to Loretta Lynch, Attorney General, U.S. Dep't of Justice (July 31, 2015); Office of Management and Budget, Memorandum for Chief Information Officers and General Counsels, "Office of Special Counsel Memorandum on Agency Monitoring Policies and Confidential Whistleblower Disclosures" (June 20, 2012).

Marshal [REDACTED]? If so, when? Please describe each allegation and when it was received.

2. Upon receipt of DUSM [REDACTED] June 7, 2016 complaint of reprisal and misconduct by USMS officials, did the OIG seek to verify his claims of prior internal affairs investigations?
3. Please describe any and all limitations which prevent or hinder OIG from determining whether misconduct cases received from Department of Justice components may be retaliatory in nature.
4. Does the OIG have any available tools to monitor how components handle internal misconduct complaints that follow protected activity, to ensure those complaints do not have a retaliatory effect?
5. In your view, does the OIG have jurisdiction over claims such as those filed by DUSM [REDACTED]? Why or why not?

Please contact DeLisa Lay of my committee staff at (202) 224-5225 with any questions.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

cc: Patrick J. Leahy
Ranking Member
Committee on the Judiciary

The Honorable Sally Quillian Yates
Deputy Attorney General
U.S. Department of Justice

David Harlow
Deputy Director
U.S. Marshals Service

Exhibit 30

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Staff Director*

July 31, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable Gene L. Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street, N.W., Room 7100
Washington, D.C. 20548

Dear Comptroller General Dodaro:

In recent years, my office has received multiple allegations from whistleblowers in both the United States Marshals Service (USMS) and Alcohol, Tobacco, Firearms and Explosives (ATF) that the misconduct process in their respective agencies has been subverted for improper purposes—to harass, intimidate, and threaten employees who come forward to report wrongdoing, retaliation, and discrimination.

Whistleblowers have alleged that one of the primary tools of retaliation is the use of internal affairs investigations and disciplinary action by managers to punish employees who report wrongdoing. To the extent this is occurring, the situation can be exacerbated if agency policies allow conflicts of interest to go unchecked. For example, misconduct offenses can be investigated by the same local management against whom wrongdoing has been reported. In addition, employees at USMS reported that participation in the Equal Employment Opportunity (EEO) process has led to misconduct allegations being levied against participants, which USMS management then proposed to settle in return for dismissing the EEO complaint. Similarly, employees at ATF reported that compliance with the Internal Affairs process has resulted in threats of discipline such as being placed on administrative leave. If true, this type of management behavior is disturbing, as it unjustly punishes employees who come forward to

report bad behavior or comply with internal investigations, chills additional reporting, and fundamentally undermines the core missions of these critical agencies.

In order to understand the operations and controls these agencies have in place to ensure that such retaliatory investigations and disciplinary actions are not occurring, I request that the Government Accountability Office assess:

1. What are ATF and USMS policies and processes for filing complaints of misconduct and for investigating and adjudicating misconduct cases?
2. To what extent, do ATF and USMS follow its policies and processes for reviewing complaints of misconduct and for investigating and adjudicating misconduct allegations? Do the agencies have sufficient policies and processes?
3. What internal controls do ATF and USMS have in place to ensure that
 - a. District and division management comply with policies and processes for filing complaints of misconduct, and
 - b. Officials responsible for investigating and adjudicating misconduct allegations remain independent and avoid conflicts of interest, and
 - c. The Department of Justice Office of the Inspector General is given the right of first refusal on all internal affairs investigations?
4. To what extent do ATF and USMS ensure the integrity of its process for filing, investigating, and adjudicating misconduct cases when employees under investigation are involved in other proceedings, such EEO proceedings?

Thank you for your help in addressing these issues. In addition, I would appreciate ongoing briefings for my staff as you conduct your work. If you have any questions concerning this request, please contact DeLisa Lay and Katherine Nikas of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley

Chairman

Committee on the Judiciary

Exhibit 31



U.S. Department of Justice

Office of the Inspector General

October 23, 2018

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

I am writing in response to your letter dated October 18, 2018, which we recognize to be a request, on behalf of the Committee, for the Department of Justice (Department) Office of the Inspector General (OIG) report of investigation associated with a recent investigative summary posted on our web site titled, "Findings of Misconduct by U.S. Marshals Service Management for Committing Gross Mismanagement Resulting in a Gross Waste of Taxpayer Funds in its Handling of Serious Misconduct Allegations Against a Chief Deputy U.S. Marshal."

The attached redacted version of the OIG's report is responsive to your request. Please note that the report contains personnel information, and therefore we request that it be handled with appropriate sensitivity. The enclosed copy of the OIG's report includes redactions to maintain the confidentiality of the investigating agent and line level and civilian attorneys. Additionally, private medical information has also been redacted.

We hope that this information is helpful for the Committee's purposes. If you have further questions, please feel free to contact me, or Adam Miles, Counselor to the Inspector General, at [REDACTED]

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael E. Horowitz", is written over the typed name.

Michael E. Horowitz
Inspector General

Enclosure

cc: The Honorable Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary

SUBJECT		CASE NUMBER	
Unidentified, United States Marshals Service Headquarters Arlington, Virginia		[REDACTED]	
OFFICE CONDUCTING INVESTIGATION		DOJ COMPONENT	
Washington Field Office		United States Marshals Service	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office <input checked="" type="checkbox"/> AIG/IN <input checked="" type="checkbox"/> Component USMS <input type="checkbox"/> USA <input type="checkbox"/> Other		<input type="checkbox"/> OPEN <input type="checkbox"/> OPEN PENDING PROSECUTION <input checked="" type="checkbox"/> CLOSED PREVIOUS REPORT SUBMITTED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Date of Previous Report:	

SYNOPSIS

The Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the United States Office of Special Counsel (OSC) on March 24, 2017. The OSC alleged that the United States Marshals Service (USMS) violated three policies in deciding to rescind a proposed removal of [REDACTED] and allow him to retire under a settlement agreement.

[REDACTED] had been serving [REDACTED] when, [REDACTED] he was accused of serious misconduct, resulting in OIG investigation [REDACTED]. During the course of that misconduct investigation, the OIG and the OSC separately initiated concurrent investigations [REDACTED] into allegations of retaliation by [REDACTED] and others against USMS employees in the [REDACTED] who were cooperating with the OIG in the original misconduct investigation.

[REDACTED], while the retaliation investigations by the OIG and OSC were still ongoing, the OIG completed its first investigation and issued a report to the USMS finding serious misconduct by [REDACTED] including that he engaged in sexual harassment of a subordinate contract employee, misused his USMS cell phone, misused his USMS GOV, gave out inappropriate and offensive awards of a sexual nature at a USMS retreat, and that he lacked candor during an OIG interview. Six months later, [REDACTED] based on these OIG misconduct findings, the USMS proposed that [REDACTED] be removed from federal service within 30 days and placed him on paid administrative leave. However, rather than being removed within 30 days, the USMS allowed [REDACTED] to remain in paid administrative leave status for about 6 months. Then, [REDACTED] the USMS entered into a settlement agreement with [REDACTED] that rescinded the

DATE	September 4, 2018	SIGNATURE	[REDACTED]
PREPARED BY SENIOR SPECIAL AGENT [REDACTED]			

DATE	September 4, 2018	SIGNATURE	Digitally signed by MICHAEL TOMPKINS
APPROVED BY SPECIAL AGENT IN CHARGE		<i>Michael P. Tompkins</i>	Date: 2018.09.04 14:43:58 -04'00'
Michael P. Tompkins			

proposed removal penalty, imposed no discipline whatsoever on [REDACTED] for the serious misconduct that both the OIG and USMS had found, and allowed [REDACTED] to use a combination of sick leave, annual leave, and unpaid leave for a period of an additional 9 months until [REDACTED] when he became eligible to retire with a full pension.

In [REDACTED] while [REDACTED] was still employed by the USMS pursuant to the settlement agreement and four months before [REDACTED] retirement date, the OIG issued its investigative report to the USMS regarding the retaliation allegations against [REDACTED]. In this report, the OIG found that [REDACTED] had retaliated against USMS employees who cooperated with the OIG in the OIG's first misconduct investigation. Three months later, [REDACTED] the USMS again proposed that [REDACTED] be removed, this time for his retaliatory conduct against USMS employees. However, the USMS failed to take any action to impose the removal penalty against [REDACTED] and instead allowed [REDACTED] to retire in [REDACTED] with his full pension pursuant to the earlier settlement agreement.

The complaint filed by the OSC with the OIG on March 24, 2017, included the following three allegations:

1. That the USMS violated Government Accountability Office (GAO) and Merit Systems Protection Board (MSPB) precedents by allowing [REDACTED] to be on paid administrative leave from [REDACTED] following his proposed removal.
2. That the USMS violated 5 C.F.R. § 630.401 (Granting Sick Leave) by allowing [REDACTED] to use his accrued sick leave, pending his retirement.
3. That the USMS violated 5 U.S.C. § 1214(f) (Investigation of Prohibited Personnel Practices) by failing to notify OSC or seek OSC's approval of its decision in [REDACTED] to rescind [REDACTED] proposed removal and allow [REDACTED] to retire with no disciplinary record.

The OIG investigation did not substantiate these three allegations. However, the OIG found that USMS management committed gross mismanagement that resulted in a gross waste of taxpayer funds by: (a) failing to hold [REDACTED] accountable for the sexual harassment, lack of candor, and other serious misconduct as outlined in the OIG's October 2015 misconduct report; (b) failing to hold [REDACTED] accountable for his retaliation against USMS employees for cooperating with the OIG investigation as outlined in the OIG's February 2017 misconduct report; and (c) entering into a settlement agreement with [REDACTED] that allowed [REDACTED] to avoid any discipline whatsoever for his established serious misconduct, and permitted use of various leave mechanisms that enabled him to reach his full retirement date. Specifically, the USMS:

- took roughly 6 months to determine the appropriate discipline for [REDACTED] for his serious misconduct in connection with the first OIG investigation;
- placed [REDACTED] on paid administrative leave for about six months for the purpose of completing the administrative discipline process in connection with the first OIG investigation;
- failed to timely carry out its proposed removal decision in connection with the first OIG investigation;
- entered into a settlement agreement with [REDACTED] in connection with the first OIG investigation imposing no discipline whatsoever and allowing [REDACTED] to remain in a leave status for 9 months so that he could reach his eligible retirement date [REDACTED];
- took almost 3 months to determine the appropriate discipline for [REDACTED] for retaliating against a USMS employee who cooperated with the first OIG investigation; and

- did not properly serve [REDACTED] with its proposed removal decision for his retaliatory conduct, resulting in [REDACTED] being allowed to retire with no discipline.

Timeline of Events

To assist the reader in following the sequence of significant dates and events, the following timeline was established using actual and approximated dates:

- [REDACTED] The OIG received a misconduct allegation against [REDACTED] and initiated investigation [REDACTED] The OIG notified USMS of the investigation.
- [REDACTED] A Deputy U.S. Marshal (DUSM) filed complaint with OSC.
- [REDACTED] The OIG received a retaliation allegation against [REDACTED] and initiated a second investigation of [REDACTED] relating to the alleged retaliation [REDACTED] The OIG notified USMS of the investigation.
- [REDACTED] OSC first informed the USMS [REDACTED] via e-mail that OSC was initiating an "investigation of two complaints from employees in [REDACTED] regarding several DUSMs and supervisory personnel and requested a POC at USMS.
- [REDACTED] OSC provided an official notice to USMS regarding "an official law enforcement investigation into allegations that the United States Marshals Service (USMS) engaged in one or more prohibited personnel practices." The notice did not specifically name the subjects of the investigation.
- [REDACTED] The OIG issued a Report of Investigation to the USMS in the first misconduct investigation [REDACTED] that substantiated serious misconduct by [REDACTED] including misuse of a government vehicle, conduct unbecoming a CDUSM, failure to properly supervise, interfering with an investigation, misuse of government property, and lack of candor.
- [REDACTED] USMS notified [REDACTED] of his proposed removal within 30 days pursuant to the findings in the OIG investigation [REDACTED] USMS puts [REDACTED] on paid administrative leave. [REDACTED] seeks to appeal the proposed removal to the USMS Deciding Official.
- [REDACTED] USMS informs OSC of [REDACTED] proposed removal as a result of OIG investigation
- [REDACTED] USMS Requests the use of Administrative Leave from JMD.
- [REDACTED] DOJ AAG Mari Barr Santangelo Barr issued the first of three memos granting authorization and subsequent extensions to the USMS to allow USMS to keep [REDACTED] on paid Administrative Leave.
- [REDACTED] Letter #1 from [REDACTED] to [REDACTED] (USMS Deciding Official) in response to [REDACTED] proposed removal. The letter alleges "undue influence" in the disciplinary process by referencing statements or actions by Senator Lankford, Senator Grassley, and U.S. District Court Judge DeGiusti.
- [REDACTED] Oral response from [REDACTED] to proposed removal, and subsequent e-mail from USMS Office of General Counsel (OGC) [REDACTED] to USMS General Counsel Auerbach, OGC Deputy General Counsel Dickenson, and USMS Acting Director Harlow, which appeared to be first proposal to settle the matter. [REDACTED] wrote to Auerbach that USMS Deciding Official [REDACTED] said "there are significant gaps in the OIG report" and she "will ask OPR to perform a supplemental investigation." [REDACTED] noted that [REDACTED] counsel cited possible OIG deficiencies in the OIG's investigation and that time would be needed for supplemental investigation. [REDACTED] also noted timeliness considerations and that [REDACTED] was on Administrative Leave)
- [REDACTED] USMS Requests the extension of Administrative Leave from JMD.
- [REDACTED] DOJ AAG Mari Barr Santangelo Barr issued the first of two memos granting extensions to the USMS for [REDACTED] use of Administrative Leave.

- [REDACTED] Letter #2 from [REDACTED] counsel, [REDACTED] to [REDACTED] (USMS Deciding Official) in response to [REDACTED] proposed removal. The letter alleged deficiencies in the OIG's investigation.
- [REDACTED] USMS Requests the extension of Administrative Leave from JMD.
- [REDACTED] DOJ AAG Mari Barr Santangelo Barr issued the second of two memos granting extensions to the USMS for [REDACTED] use of Administrative Leave.
- [REDACTED] USMS Deciding Official sustained the removal penalty against [REDACTED] to be effective [REDACTED]
- [REDACTED] sent an e-mail to [REDACTED] the day before [REDACTED] removal date, proposing a settlement to avoid [REDACTED] initiating MSPB litigation. [REDACTED] proposed that [REDACTED] use leave without pay (LWOP).
- [REDACTED] is removed (SF52 dated [REDACTED])
- [REDACTED]
- [REDACTED] E-mail from Dickenson to Auerbach and [REDACTED] noting Acting Director Harlow approved [REDACTED] use of annual leave, but will only approve use of sick leave with proper documentation.
- [REDACTED] Memorandum on letterhead of [REDACTED]
- [REDACTED]
- [REDACTED] USMS receives a draft settlement agreement from [REDACTED]
- [REDACTED] The USMS and [REDACTED] enter into a Settlement Agreement wherein the removal penalty was rescinded, no discipline was to be imposed on [REDACTED] and [REDACTED] was to begin using annual leave, sick leave, and leave without pay until he was eligible to retire in [REDACTED]
- [REDACTED] is reinstated, effective [REDACTED] (SF52 dated [REDACTED])
- [REDACTED] The OIG issued a Report of Investigation to the USMS in the retaliation investigation [REDACTED] substantiating the retaliation allegations against [REDACTED]
- [REDACTED] USMS notified OSC that the retaliation case had been referred to the proposing official.
- [REDACTED] USMS advised OSC that proposed discipline against [REDACTED] was forthcoming and that [REDACTED] had submitted his retirement application, effective [REDACTED] USMS failed to disclose its settlement agreement with [REDACTED] to OSC.
- [REDACTED] OSC advised USMS via e-mail that OSC had "no objection to proposed removal" of [REDACTED] for substantiated retaliation in OIG investigation [REDACTED]
- [REDACTED] USMS Discipline Management Staff transmitted a proposal to [REDACTED] manager that [REDACTED] be removed from the USMS for retaliating against USMS employees in connection with the prior OIG investigation. However [REDACTED] was on leave and was not served.
- [REDACTED] The USMS issued [REDACTED] an incomplete proposed removal. Supporting documents were not provided to [REDACTED]
- [REDACTED] USMS sent [REDACTED] complete removal proposal, which was delivered on [REDACTED]
- [REDACTED] [REDACTED] retired from federal service without any discipline having been imposed.

USMS Settlement Agreement With [REDACTED] and OSC's Three Allegations

Settlement Agreement with [REDACTED] Following the First OIG Investigation

On [REDACTED] based on the facts outlined in OIG investigation [REDACTED] the USMS substantiated findings of serious misconduct against [REDACTED] for:

- Misuse of a Government Vehicle, (2) specifications.
- Conduct Unbecoming of a CDUSM, (1) specification
- Failure to Properly Supervise, (1) specification
- Misuse of Government Property (IT System), (2) specifications
- Lack of Candor, (4) specifications

The USMS proposed [REDACTED] for removal from the USMS within 30 days. [REDACTED] appealed the decision and, on [REDACTED], the USMS Deciding Official sustained the removal penalty to be effective [REDACTED]

In response to the removal decision [REDACTED] attorney, [REDACTED] raised several arguments and told the USMS he would appeal the removal at the MSPB. Per USMS General Counsel, Gerry Auerbach, those arguments included [REDACTED] claim of "political interference" from Senator James Lankford's staff, and input from the Chief Judge in the district. The USMS believed that [REDACTED] would attempt to take depositions from Senator Lankford and the Chief Judge, who is allegedly friends with Senator Lankford, and is the father of one of the DUSM's whom the OIG found that [REDACTED] retaliated against during the first OIG investigation. The USMS expressed concern that firing [REDACTED] could have been construed as an appeasement to Senator Lankford.

In explaining their rationale for entering into the settlement agreement instead of continuing with removal proceedings, including the above terms, witnesses for the USMS described potential negative outcomes and MSPB appeal litigation obstacles the USMS may have faced had they not entered into the settlement agreement with [REDACTED]. The USMS also believed the MSPB judge would be critical of them for not agreeing to a settlement. The USMS told the OIG they were most concerned that the MSPB could reverse the termination, which would have required the USMS to return [REDACTED] back to federal service with the USMS, possibly to his original position, and would have extended [REDACTED] mandatory retirement date to account for any federal service time he had lost. We were told by USMS officials that this would have been completely unacceptable to the USMS and that this was the motivating factor that led them to enter into the settlement agreement.

OIG and OSC Investigations of Retaliation by [REDACTED]

On [REDACTED] prior to the OIG's completion of its first investigation [REDACTED] the OIG opened a second investigation [REDACTED] in response to allegations that [REDACTED] retaliated against USMS witnesses in the first OIG investigation. On [REDACTED] the OIG notified the USMS via email of the OIG's retaliation investigation [REDACTED], identifying [REDACTED] and two other DUSMs as subjects for alleged retaliation and other misconduct related to OIG's first investigation.

[REDACTED]

On [REDACTED] the USMS notified OSC of [REDACTED] proposed removal in connection with the findings of the OIG's first, non-retaliation investigation [REDACTED]. The USMS provided this notice in [REDACTED]

response to an OSC document request dated [REDACTED] asking the USMS to identify all cases regarding any USMS [REDACTED] employees disciplined for “providing misleading information” and/or “failure to follow supervisory instructions” from January 1, 2012, to the present. The USMS did not subsequently notify OSC that it entered into a settlement agreement with [REDACTED] withdrawing the proposed removal, and OSC learned of the settlement agreement on [REDACTED] after requesting an update on [REDACTED] proposed removal.

[REDACTED] the USMS proposed removal of [REDACTED] related to the second OIG investigation [REDACTED] finding retaliation by [REDACTED] and others. USMS notified OSC of this proposal and OSC informed the USMS that it “consented” to the proposed removal. On [REDACTED] [REDACTED] received a complete removal notification packet from the USMS. However, [REDACTED] retired from federal service on [REDACTED] pursuant to the earlier settlement agreement.

OSC’s Three Allegations Regarding USMS Handling of [REDACTED] Case

In its first allegation, the OSC alleged that the USMS violated Government Accountability Office (GAO) and MSPB precedent by allowing [REDACTED] to be on paid administrative leave from [REDACTED] until [REDACTED] following his proposed removal in connection to the OIG’s first misconduct investigation, [REDACTED]. The OIG determined that, consistent with Department procedures, the USMS requested and was twice granted permission by Deputy Assistant Attorney General (DAAG) for Human Resources Administration Mari Barr Santangelo to extend [REDACTED] paid administrative leave during the resolution of his personnel action. In making this request, the USMS cited to [REDACTED] senior and prominent position in the USMS and a lack of alternative work assignments within the USMS to which they could assign [REDACTED]. The USMS stated further that returning [REDACTED] to USMS service would be unduly disruptive, and not in the interests of the USMS and the DOJ. The USMS request contained relevant facts about the misconduct finding against [REDACTED] detailed in the OIG’s completed investigation, including sexual harassment and misuse of his government vehicle for personal business. The OIG did not find that the USMS requests or the Department’s approvals violated GAO or MSPB precedent, or Department policies and procedures.

In its second allegation, the OSC alleged that the USMS violated 5 C.F.R. § 630.401 (Granting Sick Leave) by allowing [REDACTED] to use his accrued sick leave, pending his retirement. The USMS provided the OIG with a letterhead memorandum statement from [REDACTED] [REDACTED] requested to take sick leave to assist in that care, which is a permissible use of sick leave under federal law and regulations. The OIG therefore determined that [REDACTED] use of sick leave was consistent with the rules set forth in 5 C.F.R. § 630.401(a)(3), which states that an agency must grant sick leave to an employee who provides care for a family member.

In its third allegation, the OSC alleged that the USMS violated 5 U.S.C. § 1214(f) (Investigation of Prohibited Personnel Practices) by failing to notify OSC or seek OSC’s approval of the USMS’s decision to rescind the USMS’s proposed removal of [REDACTED] in connection to the OIG’s initial misconduct investigation, [REDACTED] and allow him to retire with no disciplinary record. However, 5 U.S.C. § 1214(f) applies to investigations of prohibited personnel practices and provides that “During any investigation initiated under this subchapter, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.” As noted above, the USMS settlement agreement with [REDACTED] pertained to the serious misconduct substantiated in OIG investigation [REDACTED] that resulted in [REDACTED] proposed

removal. The settlement agreement did not concern the retaliation allegations against [REDACTED] which the
OIG substantiated as the result of a separate investigation and in an OIG report issued in February 2017,
or the allegations of prohibited personnel practices then under OSC investigation. [REDACTED]

The USMS Settlement Agreement with [REDACTED] was Gross Mismanagement and Resulted in a Gross Waste of Taxpayer Funds

USMS management failed to timely adjudicate the OIG's findings of serious misconduct by [REDACTED] and failed in its responsibility to hold [REDACTED] accountable for his serious misconduct by entering into a settlement agreement that allowed him to retire without any discipline whatsoever. In doing so, we found that the USMS committed gross mismanagement that resulted in a gross waste of taxpayer funds. While we recognize that DOJ leaders, managers, and lawyers need to assess litigation risks in determining whether and how to settle potential litigation matters, including personnel matters, in doing so they need to act responsibly and consistent with their management responsibility. For the reasons discussed below, we believe the actions of the USMS and the terms of the [REDACTED] settlement agreement were so clearly not reasonable that they amounted to gross mismanagement.

First, the USMS took approximately one year from the date of the first OIG report finding serious misconduct by [REDACTED] to propose that [REDACTED] be removed from federal service and to decide that [REDACTED] appeal should be rejected and that [REDACTED] should be removed from federal service. However, rather than implement the removal penalty, the USMS then took another month before entering into a settlement agreement with [REDACTED] that withdrew the removal penalty and imposed no discipline whatsoever on [REDACTED] for his serious misconduct.

On October 27, 2015, the OIG issued a Report of Investigation to the USMS in the first misconduct investigation [REDACTED] that substantiated serious misconduct by [REDACTED] including misuse of a government vehicle, conduct unbecoming a CDUSM, failure to properly supervise, interfering with an investigation, misuse of government property, and lack of candor. It was not until nearly six months later, on [REDACTED] that the USMS notified [REDACTED] of his proposed removal within 30 days pursuant to the findings in the OIG investigation. At that time, the USMS put [REDACTED] on paid administrative leave and [REDACTED] sought to appeal the proposed removal to the USMS Deciding Official. [REDACTED] remained on paid administrative leave for about the next six months, from [REDACTED] until his proposed removal date of [REDACTED] for the purpose of completing the administrative discipline process. During that timeframe, the USMS made one initial, and two subsequent extension requests for administrative leave from the Justice Management Division (JMD). Administrative leave was granted on [REDACTED]. [REDACTED] The OIG does not believe it was reasonable for the USMS to take approximately 6 months to propose discipline of an employee for sustained serious misconduct and then take another 6 months to consider and reject the employee's appeal of the discipline penalty while the employee is on paid administrative leave. We found the USMS failed to carry out its proposed removal decision in connection with the first OIG investigation in a timely manner resulting in a gross waste of taxpayer funds. We are separately issuing a Procedural Reform Recommendation to the USMS to address this concern.

Second, on [REDACTED] the USMS entered into a settlement agreement with [REDACTED] in connection with the first OIG investigation which imposed no discipline whatsoever on [REDACTED]. The settlement

agreement allowed [REDACTED] to use AL, SL, and LWOP for 9 additional months so that he could reach his eligible law enforcement retirement date in [REDACTED]. [REDACTED] avoided any punishment for his serious misconduct and in some ways fared better than if he had been proposed for a lesser punishment, such as a period of suspension without pay. While [REDACTED] was required to retire as part of the settlement agreement, perhaps earlier than he had originally intended, [REDACTED] was paid his full salary and accrued benefits, including annual leave and sick leave, during an approximately 14 month period, from [REDACTED] [REDACTED] without doing any work. Indeed, from the time the OIG provided the USMS with its first report of serious misconduct by [REDACTED] in October 2015, until the date [REDACTED] retired in [REDACTED]. We concluded that this was gross mismanagement by the USMS that resulted in a gross waste of taxpayer funds.

Third, in response to the OIG retaliation investigation, it took the USMS almost 3 months to determine the appropriate discipline for [REDACTED] for retaliating against a USMS employee who cooperated with the first OIG investigation. On February 13, 2017, the OIG Dallas Field Office issued a Report of Investigation to the USMS in the retaliation investigation [REDACTED] substantiating the retaliation allegations against [REDACTED]. It was not until [REDACTED] that the USMS Discipline Management Staff transmitted a removal proposal to [REDACTED] manager. However, [REDACTED] was on leave and was not served. On [REDACTED] the USMS issued [REDACTED] an incomplete proposed removal. The USMS failed to provide [REDACTED] with the proper supporting documents at that time. [REDACTED] did not receive a complete removal proposal until [REDACTED]. Eight days later, on [REDACTED] [REDACTED] retired with an immediate and full law enforcement retirement under the terms of the previous settlement. The failure of the USMS to timely and properly handle the disciplinary proceedings for the retaliation finding against [REDACTED] was particularly egregious in light of the nature and seriousness of the misconduct and the USMS's awareness of [REDACTED] prior serious misconduct. We found the USMS's actions to be amount to gross mismanagement.

[REDACTED] walked away from federal service unscathed after two separate investigations determined that [REDACTED] engaged in serious misconduct that warranted his removal from federal service, including:

- Conduct Unbecoming of a CDUSM
- Failure to Properly Supervise
- Misuse of a Government Vehicle
- Misuse of Government Property (IT System)
- Lack of Candor, and
- Retaliation against USMS employees for reporting serious violations

Given the serious nature of the sustained allegations against [REDACTED] and the lack of any suspension or other discipline whatsoever, the OIG determined that the USMS failed to properly hold [REDACTED] accountable for his serious misconduct. Not only did [REDACTED] retire with a full law enforcement pension and no discipline, these management failures and the settlement potentially send a message to USMS employees that senior USMS officials will not be held to account for their serious misconduct, thereby possibly dissuading USMS employees from coming forward to report misconduct by USMS officials. We find this to be wholly unacceptable and antithetical to the interests of accountability for USMS employees.

The OIG has completed its investigation and provided its report to the USMS for its review and to consider whether disciplinary or performance action against the USMS personnel involved in the management failures is appropriate.

Exhibit 32



U.S. Department of Justice

Office of the Inspector General

February 23, 2017

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

I am writing to follow up my previous letters dated February 26, 2016, and August 11, 2015, regarding your request on behalf of the Committee for the Department of Justice Office of the Inspector General (OIG) report of investigation regarding allegations of retaliation against employees of the United States Marshals Service in the Western District of Oklahoma who cooperated with a prior OIG investigation. Enclosed is the OIG report responsive to your request.

Please note that the report contains personnel information, and information relevant to an ongoing investigation being conducted by the U.S. Office of Special Counsel. We request that it be handled with appropriate sensitivity. The enclosed copy of the OIG's report includes redactions to maintain confidentiality of complainants and witnesses.

We hope that this information is helpful for the Committee's purposes. If you have further questions, please feel free to contact me, or Greg Sabina, Advisor to the Inspector General for Legislative Affairs, at [REDACTED].

Sincerely,

A handwritten signature in black ink that reads "Michael E. Horowitz" followed by a stylized flourish.

Michael E. Horowitz
Inspector General

Enclosure

cc: The Honorable Dianne Feinstein
Ranking Member, Committee on the Judiciary
United States Senate

The Honorable James Lankford
United States Senate

SUBJECT		CASE NUMBER	
[REDACTED] Chief Deputy U.S. Marshal [REDACTED]		[REDACTED]	
OFFICE CONDUCTING INVESTIGATION		DOJ COMPONENT	
[REDACTED]		United States Marshals Service	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office	DFO	<input type="checkbox"/> OPEN	<input type="checkbox"/> OPEN PENDING PROSECUTION
<input checked="" type="checkbox"/> AIGINV		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
<input checked="" type="checkbox"/> Component	USMS	Date of Previous Report:	
<input type="checkbox"/> USA			
<input checked="" type="checkbox"/> ODAG			

SYNOPSIS

The Office of the Inspector General (OIG) initiated this investigation upon the receipt of a complaint from [REDACTED] alleging that [REDACTED] Chief Deputy U.S. Marshal [REDACTED] and retired Senior Inspector and current Task Force Officer [REDACTED] retaliated in numerous ways against various employees in the [REDACTED] due to management's perception that the employees had cooperated with an OIG investigation. [REDACTED] alleged that while OIG agents were conducting interviews pursuant to OIG case [REDACTED] in October 2014, [REDACTED] and [REDACTED] held staff meetings and made retaliatory comments and assignment decisions in an effort to interfere with the OIG's investigation. The OIG substantiated that, [REDACTED], [REDACTED], and Supervisory Deputy U.S. Marshal [REDACTED] retaliated against employees in connection with an OIG investigation, in that, (1) [REDACTED] pressured a subordinate employee by suggesting that she should disclose to [REDACTED] her level of involvement with an OIG investigation, in violation of the USMS Code of Professional Policy (CPR), Department of Justice (DOJ) regulations, and Section 7(c) of the Inspector General Act of 1978; (2) [REDACTED] directed a subordinate employee to restrict [REDACTED] work assignments, in violation of Section 7(c) of the Inspector General Act of 1978 and 5 USC 2302(b)(8); (3) [REDACTED] made threatening statements directed towards employees perceived to have cooperated with the OIG, in violation of the USMS CPR, DOJ regulations, and Section 7(c) of the Inspector General Act of 1978; and (4) [REDACTED] made retaliatory statements attempting to dissuade employees from cooperating with the OIG investigation, in violation of the USMS CPR, DOJ regulations, and Section 7(c) of the Inspector General Act of 1978. The OIG also concluded that [REDACTED] and [REDACTED] lacked candor during their

DATE	February 13, 2017	SIGNATURE	[REDACTED]
PREPARED BY SPECIAL AGENT [REDACTED]			
DATE	February 13, 2017	SIGNATURE	Digitally signed by MONTE CASON DN: c=US, o=U.S. Government, ou=Dept of Justice, ou=OIG, cn=MONTE CASON 0.9.2342.19200300.100.1.1=150010010524 83 Date: 2017.02.13 14:27:35 -0600'
APPROVED BY SPECIAL AGENT IN CHARGE		Monte A. Cason	<i>Monte A. Cason</i>

respective OIG interviews by denying statements they had made in the presence of employees, in violation of USMS CPR and DOJ regulations.

During the OIG investigation, [REDACTED] retaliated against him by denying him an opportunity to participate in training with district personnel, [REDACTED]. The OIG substantiated the allegation that [REDACTED] retaliated against [REDACTED] by restricting him from participating in training with the rest of the district. [REDACTED]. The OIG did find, however, that in connection with [REDACTED] reassignment to the [REDACTED] sub-office, [REDACTED] improperly directed [REDACTED] to claim work hours during his daily commute in violation of USMS travel policy and Code of Federal Regulations.

[REDACTED]

The OIG has completed its investigation and is providing this report to the USMS and to the Office of the Deputy Attorney General for appropriate action. The OIG is referring its retaliation findings to the U.S. Office of Special Counsel.

ADDITIONAL SUBJECTS

[REDACTED]

[REDACTED]

[REDACTED]

DETAILS OF INVESTIGATION

Predication

The Office of the Inspector General (OIG) initiated this investigation upon the receipt of a complaint from [REDACTED] alleging that [REDACTED], Chief Deputy U.S. Marshal (CDUSM) [REDACTED], and retired Senior Inspector and current Task Force Officer [REDACTED] retaliated in numerous ways against various employees in the [REDACTED] due to management's perception that the employees had cooperated with an OIG investigation. [REDACTED] alleged that while OIG agents were conducting interviews pursuant to OIG case [REDACTED] in October 2014, [REDACTED] and [REDACTED] held staff meetings and made retaliatory comments and assignment decisions in an effort to interfere with the OIG's investigation.

Investigative Process

The OIG's investigative efforts consisted of reviewing official e-mails, text messages, and USMS policies and directives. The OIG conducted interviews of the following USMS personnel:

[REDACTED], U.S. Marshal

[REDACTED], Chief Deputy U.S. Marshal

[REDACTED] Senior Inspector (retired), Task Force Officer (current)

[REDACTED] Deputy U.S. Marshal

Standard Applied in Reaching OIG Conclusions Regarding Retaliation

Under the Whistleblower Protection Act, 5 U.S.C. § 2302(b)(8)(B), to establish a retaliation claim, an employee bears the initial burden of showing that the protected disclosure was a contributing factor in the agency's decision to take the adverse personnel action against the employee. To make this showing, an employee must only show that the deciding official knew of the protected disclosure and that the action was initiated within a reasonable time after the disclosure. Once an employee makes this showing, the burden shifts to the agency to prove by clear and convincing evidence that it would have taken the personnel action even in the absence of the protected disclosure. Evidence such as responsiveness to the suggestions in a protected disclosure or lack of animus against the employee may support an agency's rebuttal position. *See Kewley v. Dep't of Health and Human Services*, 153 F.3d 1357, 1363 (Fed. Cir. 1998). The OIG applied this legal standard in analyzing each of the retaliation claims addressed in this investigation.

██████████ and ██████████ Made Threatening Statements; ██████████ Lack of Candor

██████████ alleged that on October 16, 2014, the day the OIG came to the district to interview senior management in the ██████████ (in connection with OIG case number ██████████), and several days before an office meeting held by ██████████ about the OIG's investigation, Supervisory Deputy U.S. Marshal ██████████ held a squad room meeting and told employees that ██████████ and ██████████ had the right to face their accusers through FOIA requests. Additionally, during this same meeting, Senior Inspector ██████████ was alleged to have made a statement to the effect that those who cooperated with the OIG, "would regret the day we ever came to the Western District of Oklahoma." ██████████

The OIG interviewed ██████████, ██████████, ██████████, and ██████████ all of whom had knowledge concerning the alleged statements made by ██████████. Their testimony on these topics is summarized below:

- ██████████ heard ██████████ state in the meeting that he knew who the alleged whistleblowers were and would never trust them again. However, he did not recall ██████████ making any statement to the effect that those who cooperated with the OIG would regret coming to the ██████████
- ██████████ recalled that during this meeting, ██████████ stated that ██████████ had the ability to determine employee testimony to the OIG, but she did not perceive his statement as a threat. ██████████ denied hearing ██████████ make a statement to the effect that the alleged whistleblowers would regret coming to the ██████████
- ██████████ heard ██████████ make a statement that ██████████ had the ability through the Freedom of Information Act (FOIA) to find out who was involved in the OIG investigation; however, he did not perceive ██████████ statement as a threat. ██████████

- [REDACTED] recalled that FOIA was mentioned in the meeting, but he could not recall if [REDACTED] or [REDACTED] made reference to FOIA in connection with a statement about [REDACTED] being able to identify those cooperating with the OIG, and in any event, he did not perceive the statements about FOIA as a threat.
- [REDACTED] said [REDACTED]. However, he did recall [REDACTED] naming [REDACTED] and [REDACTED] as the alleged whistleblowers, and [REDACTED] saying that if the alleged whistleblowers “survive” the OIG investigation, they should, “start looking for a new home” adding that they would regret coming to the [REDACTED].
- [REDACTED] said that [REDACTED] told employees that they needed to be truthful in any potential OIG interview, a statement that [REDACTED] did not perceive as a threat. [REDACTED]
- [REDACTED] recalled [REDACTED] describing the [REDACTED] as a family and any issues the office was going through should be discussed openly, with a caveat that [REDACTED] and [REDACTED] would have the ability to review any witness testimony through FOIA.
- [REDACTED] recalled [REDACTED] making a statement that those who went to the OIG “pissed him off” and he hoped those involved in the investigation would regret coming to the [REDACTED]. [REDACTED] [REDACTED] said he believed that [REDACTED] was a messenger for upper management and his statements were retaliatory in nature.

E-mail and Text Review

The OIG conducted a comprehensive review of [REDACTED] and [REDACTED] official e-mails and text messages which did not provide evidence that [REDACTED] or [REDACTED] personally made or were aware of other employees making the above statements, or any other statements directed towards those perceived to have cooperated with the OIG investigation.

[REDACTED] Response

When interviewed by the OIG, [REDACTED] [REDACTED] said that he learned of the allegation through the OIG investigation and was unsure of its origins. [REDACTED] further told the OIG he never was made aware that [REDACTED] made any statements directed towards employees indicating that he and [REDACTED] had the ability to review witness testimony related to the OIG investigation through FOIA. .

[REDACTED] Response

[REDACTED] denied hearing any allegation that [REDACTED] made threatening statements directed toward employees; [REDACTED] [REDACTED] told the OIG that he recalled discussing reviewing witness testimony through FOIA with [REDACTED] as a matter of “speculation

about, you know, who inside in the outfit, or who outside the outfit, or who, you know, what's this all about"; however, he denied ever making any threats directed toward employees regarding FOIA matters.

Response

When interviewed by the OIG, [REDACTED] denied making the statement to the effect that those employees who cooperated with the OIG would regret coming to the [REDACTED]. [REDACTED] further denied that he or [REDACTED] made statements that [REDACTED] had the ability through FOIA to discover employee testimony to the OIG.

Response

[REDACTED] told the OIG that during the squad meeting [REDACTED] denigrated the OIG investigation and said that those employees who cooperated with the OIG would regret coming to the [REDACTED]. [REDACTED] confirmed telling employees that [REDACTED] and [REDACTED] had the right to face their accusers through FOIA requests, but said his statements were not intended to be retaliatory. He explained that he was simply advising employees to tell the truth if questioned by the OIG. [REDACTED] further stated that he was not directed by [REDACTED] or [REDACTED] to make the statements to employees to influence their testimony to the OIG.

OIG's Conclusion

[REDACTED] the OIG did find evidence to substantiate that [REDACTED] and [REDACTED] both made other highly inappropriate statements to employees at the squad room meeting on the same day that the OIG was undertaking interviews in the office. The OIG found those statements could reasonably be viewed as discouraging cooperation with the OIG investigation and threatening retaliation against those prospective witnesses who did cooperate with the OIG, contrary to employees' obligation under DOJ regulation and order.

At least five witnesses, including [REDACTED] heard [REDACTED] make a statement to the effect that those who cooperated with the OIG would regret coming to the [REDACTED] and a fifth witness referenced a separate derogatory statement made by [REDACTED] towards whistleblowers. The OIG also found that [REDACTED] lacked candor during his interview when he denied making such statements, a violation of 28 Code of Federal Regulations (CFR) 45.13, addressing duty to cooperate in an official investigation and USMS Code of Professional Responsibility (CPR), Section E Paragraphs 23, 26, 28, and 29 addressing statement of fact, personal activities, conduct, and high standards.

By his own admission to the OIG, [REDACTED] told employees that [REDACTED] and [REDACTED] had the right to face their accusers and learn the identity of the whistleblowers through FOIA requests. This was confirmed by several witnesses, who said that [REDACTED] made clear at the squad meeting that [REDACTED] had the ability to determine what employees said to the OIG during the investigation. Similar to [REDACTED] the OIG concluded that [REDACTED] made highly inappropriate statements to employees, which could reasonably be viewed as discouraging them from cooperating with the OIG or from making any derogatory comments about [REDACTED] to the OIG, contrary to

employees' obligation under DOJ regulation and order. Moreover, [REDACTED] took no action at the squad meeting, or afterwards, to address [REDACTED] highly inappropriate and arguably even more threatening comments, despite the fact that he was [REDACTED] supervisor. As such, [REDACTED] was responsible for [REDACTED] comments and his inaction could only have sent the unmistakable message to attendees that he was supportive of [REDACTED] statements. In contrast to [REDACTED] however, [REDACTED] was candid during his OIG interview about his own conduct and that of [REDACTED] which may serve to mitigate the consequences for his actions. The OIG determined [REDACTED] misconduct violated USMS Code of Professional Responsibility (CPR), Section E Paragraphs 26, 28, and 29 addressing personal activities, conduct, and high standards. The OIG further concluded that both [REDACTED] and [REDACTED] misconduct violated the Inspector General Act of 1978, Section 7(c), which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action, from taking or threatening to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, and 5 USC § 2302 (b) (8) (B) which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action, from taking or threatening to take any action against any employee as a reprisal for disclosing information to the Special Counsel or Inspector General

[REDACTED]

[REDACTED] in [REDACTED] Presence, Intimidated [REDACTED]; [REDACTED] Lack of Candor

[REDACTED] reported that [REDACTED] confided in him about an “uncomfortable” meeting she had with [REDACTED] witnessed by [REDACTED] during which [REDACTED] questioned her regarding her involvement in the OIG investigation. [REDACTED] stated that, following her meeting with [REDACTED] [REDACTED] was one of the few deputies that [REDACTED] and [REDACTED] allowed to support special assignment details.

[REDACTED] told the OIG that, in March 2015, she had a conversation with [REDACTED] who told her that [REDACTED] confided in him about a meeting [REDACTED] had with [REDACTED]. According to [REDACTED] expressed to [REDACTED] that she was summoned to the basement area of the office by [REDACTED] and [REDACTED] where they both began to ask [REDACTED] about her level of involvement, if any, in the OIG investigation. [REDACTED] went on to say [REDACTED] also told [REDACTED] that both [REDACTED] and [REDACTED] told her that she needed to approach [REDACTED] and give him her support if she wished to be assigned to any future special details.

[REDACTED] told the OIG that [REDACTED] confided in him about the meeting she had with [REDACTED] and [REDACTED] in which they both asked [REDACTED] where her loyalties lie and whose side she was on regarding the OIG investigation. [REDACTED] said [REDACTED] told him that [REDACTED] suggested [REDACTED] tell [REDACTED] that she was on his side and that she was a good deputy. [REDACTED] said that he could not recall if [REDACTED] told him who initiated the meeting.

[REDACTED] told the OIG that sometime in February 2015, she felt increasingly frustrated because [REDACTED] denied several requests to support her counter surveillance collateral duty assignments, while other deputies in the district were given the opportunities to support their collateral duties, [REDACTED]. [REDACTED] said that on one occasion, she spoke to [REDACTED] about her concerns and [REDACTED] said that [REDACTED] made the decision not to send employees out on special assignments; however, he would talk to [REDACTED] about her request. [REDACTED] said later that day [REDACTED] came to her and said, “Let’s take a walk.” [REDACTED] said that she and [REDACTED] walked to a vacant café down in the basement of the building where [REDACTED] met them. [REDACTED] allegedly told [REDACTED] that [REDACTED] was present as a witness because he did not know who he could trust in the district, a statement which she assumed was related to the OIG investigation.

[REDACTED] told [REDACTED] that the ensuing conversation was not to leave the room, adding that her name was continuously coming up in the OIG investigation as a person who might be involved. [REDACTED] expressed to [REDACTED] that she was not involved in the OIG investigation, to which [REDACTED] replied that he believed there were employees who were

involved and other employees who are “sitting on the sidelines watching the show getting a kick out of it.” Regarding supporting special assignments, █████ said that █████ asked her why he should reward employees who are involved with the OIG investigation with special assignment details, to which █████ responded that her collateral duties were her job and not a special favor. █████ said that █████ told her that he needed to know where her loyalties lie regarding the OIG investigation, adding that █████ needed to hear her say something to that effect. █████ said that she told █████ that she was loyal to the district, had a good work experience in the office, and if asked by the OIG, she would state she never witnessed any sexual harassment, misuse of any government vehicles, or time and attendance fraud, which █████ expressed to the OIG was the truth. █████ said that █████ told her that she needed to let █████ know that she was a “team player” and thank him for letting her go out on her special assignment. █████ told the OIG that shortly after her meeting with █████ and █████ she was allowed to support a special mission. █████ also sent an e-mail to █████ dated February 16, 2015, thanking █████ for allowing her to support her special assignment and expressing her support for the district.

When asked if she felt threatened during this meeting with █████ and █████ █████ responded, “A little bit, yes.” █████ further elaborated as to why she felt threatened by saying “Well, it was definitely clear that my work, quality of work life was going to be based on how I reacted to that conversation.” █████ said she felt that if she told █████ she sided with the OIG investigation, she would not be allowed to support her counter surveillance collateral duty special assignment, thus exacerbating her feeling that she would be rewarded or punished depending on who she sided with. █████ said that the only other two employees she confided in concerning the aforementioned meeting was █████ and █████

When interviewed by the OIG, █████ recalled being present at the meeting with █████ and █████ █████ said the meeting was related to █████ ability to support an upcoming counter surveillance collateral duty assignment, and that prior to the meeting, █████ pulled him aside and told him that he needed to talk to █████ Once they found █████ █████ described that he and █████ brought her into the “snack bar.” █████ said that since █████ was being investigated for an inappropriate sexual relationship with a subordinate female employee, he interpreted his presence at the meeting as that of a witness, because █████ did not want to be alone with another female employee. █████ stated that during this meeting, █████ told █████ that her name kept being brought up in the OIG investigation. █████ also confirmed that █████ told █████ that some employees were on the sidelines watching the “show,” referencing the OIG investigation. █████ could not recall if █████ ever asked █████ which “side” she was on in relation to the OIG investigation; however, he did recall █████ telling █████ that she had not spoken to or cooperated with the OIG. █████ recalled █████ telling █████ that she wanted to do her job, which included her counter surveillance collateral duties; however, █████ could not recall if █████ ever posed the question to █████ of why he should “reward” employees that assisted the OIG with special assignment details. █████ said █████ asked █████ where her loyalties lie regarding the OIG investigation, and █████ also told █████ that she needed to tell █████ that she was a team player. █████ said that shortly after this meeting, █████ was allowed to go on a counter surveillance collateral duty assignment. █████ recalled feeling a little “weird” being present at the meeting and that he was only listening to about half of the conversation between █████ and █████ Toward the conclusion of his OIG interview, █████ said that he does not believe █████ is lying about her testimony to the OIG, adding, “is Deputy █████ a liar, absolutely not. Is that Deputy █████ statement, is it 100% true, if she said it, I would venture to say yes it’s probably correct, but do I recall it, no I don’t [sic].” █████ did not know if █████ ever went to █████ to express her loyalty as █████ suggested she should.

Response

During his OIG interview, [REDACTED] said that he recalled the meeting between him and [REDACTED] with [REDACTED] as a witness, but denied that the meeting was a “loyalty test,” or that he tried to ascertain [REDACTED] level of cooperation with the OIG investigation. [REDACTED] said that [REDACTED] initiated the meeting in an effort to speak with him about participating in an upcoming special assignment, adding that during this conversation, it was [REDACTED] not he, who brought up the OIG investigation. [REDACTED] maintained that [REDACTED] volunteered to him that she had nothing to do with the OIG coming into the district; however, [REDACTED] did acknowledge that, “I may have mentioned that her name had been rumored, or had come up. But not kept coming up.” [REDACTED] said that he told [REDACTED] that he appreciated her comments and added that [REDACTED] would appreciate her support as well. [REDACTED] denied ever directing [REDACTED] to go to [REDACTED] in a show of her support with respect to the OIG investigation. [REDACTED] further told the OIG that he never questioned [REDACTED] about her level of participation in the OIG investigation nor did he instruct her to go to [REDACTED] and tell him that she was a “team player.” [REDACTED] denied questioning [REDACTED] about which side she was on in the OIG investigation. [REDACTED] claimed that he never posed any question to [REDACTED] concerning rewarding employees with special assignments versus cooperating with the OIG.

Response

[REDACTED] told the OIG that he only became aware of the meeting between [REDACTED] and [REDACTED] through the OIG investigation. [REDACTED] denied that [REDACTED] came to him to express that she was “loyal to the District” or a “team player.”

OIG's Conclusion

The OIG determined that [REDACTED] intimidated [REDACTED] by questioning her about her level of participation in the OIG investigation, by bringing another supervisory DUSM with him when he did so, and by suggesting that future special assignments depended on whether she sided with management or the OIG. The OIG determined [REDACTED] could reasonably have construed these circumstances and [REDACTED] highly inappropriate comments as chilling her from cooperating with the OIG investigation, and as threatening retaliation if she did not side with management in the OIG investigation. The OIG's conclusion is supported by the greater credibility of [REDACTED] account to the OIG, which was largely corroborated by [REDACTED] testimony, and in part, by [REDACTED] testimony about the encounter. To the extent that [REDACTED] account is inconsistent with [REDACTED] and [REDACTED] the OIG considered the differences to be self-serving and not credible. The OIG also considered the location and the circumstances under which the discussion occurred, which supported an inference that [REDACTED] knew that topics discussed were inappropriate and that his conduct was not proper. In addition, [REDACTED] supported the credibility of [REDACTED] and the OIG did not learn of any witnesses reporting derogatory information about [REDACTED]. Furthermore, [REDACTED] told the OIG that, “I like [REDACTED]. [REDACTED] has all of the tools and skills to be a star. I think [REDACTED] has grown a lot in the last three or four years since she's been there.”

Moreover, the OIG concluded that [REDACTED] lacked candor in his statements to the OIG by denying he questioned or pressured [REDACTED] regarding her level of involvement in the OIG investigation, a violation of, 28 Code of Federal Regulations (CFR), addressing duty to cooperate in an official investigation, and USMS Code of Professional Responsibility (CPR), Section E Paragraphs 23, 26, 28, and 29 addressing statement of fact, personal activities, conduct, and high standards. The OIG further determined that [REDACTED] misconduct against [REDACTED] violated Section

7(c) of the Inspector General Act of 1978, which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action from taking or threatening to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, and 5 USC § 2302 (b) (8) (B) which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action, from taking or threatening to take any action against any employee as a reprisal for disclosing information to the Special Counsel or Inspector General

For his part, [REDACTED] as a supervisory DUSM who observed [REDACTED] misconduct, had an obligation to report [REDACTED] actions pursuant to USMS CPR, Section E Paragraph 36, addressing failure to report violations of prescribed regulations, statutes or laws to appropriate management officials. He failed to do so. [REDACTED] shortcomings under these circumstances are mitigated by his candor during his OIG interview about this incident.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Retaliated Against [REDACTED] by Not Allowing Him to Work Arrest Warrants

[REDACTED] further alleged that [REDACTED] directed [REDACTED] supervisor, [REDACTED] to confine [REDACTED] to working only his assigned Class 1 warrants, thus denying him the opportunity to assist the task force with their warrants. Additionally, [REDACTED] asserted that on April 20, 2015, [REDACTED] was reprimanded by [REDACTED] for allowing [REDACTED] and another deputy to assist the task force. [REDACTED] explained to the OIG that Class 1 warrants were usually federal warrants for probation violations and task force warrants mainly consisted of a variety of state warrants, i.e., murder, sexual assaults, robbery, etc.

The OIG interviewed [REDACTED], [REDACTED], [REDACTED] and [REDACTED] concerning the arrest warrant rotation and the ability to work arrest warrants outside of their assigned Class 1 warrants. Their testimony on this topic is summarized below:

- [REDACTED] said that as the task force coordinator, he routinely sends out e-mails to all deputies assigned to the [REDACTED] requesting assistance with task force warrants. However, of the approximately five deputies assigned to the general operations squad, he estimated only one or two deputies, not including [REDACTED] routinely show up to assist. [REDACTED] explained to the OIG that deputies in the general operations squad who were assigned Class 1 warrants were expected to work on their assigned caseload first before assisting the task force. [REDACTED] stated that no one has ever directed him to tell [REDACTED] that he could only work Class 1 warrants and not assist the task force.
- [REDACTED], [REDACTED], and [REDACTED] stated that they were never restricted from working warrants beyond their assigned Class 1 warrants.
- [REDACTED] did not have any knowledge that [REDACTED] was reprimanded by [REDACTED] for allowing him and [REDACTED] to assist the task force during working hours on April 20, 2015.
- [REDACTED] told the OIG that it was an understanding with the deputies assigned to the general operation squad, including [REDACTED] that if deputies were finished early with their court duties during working hours, the priority was to work on their assigned Class 1 warrants before assisting the task force. [REDACTED] stated that task force coordinator [REDACTED] would routinely send out e-mails requesting assistance with task force warrant operations, most of which were after hours. [REDACTED] stated that he was never denied a request to participate in assisting or working task force warrants after hours.
- [REDACTED] recalled that he was told by his supervisor, [REDACTED] that during regular hours he was to work on his own Class 1 warrants and if his schedule permitted, he could participate with the task force after hours. [REDACTED] further stated that he did not have any knowledge of [REDACTED] being reprimanded for allowing him and [REDACTED] to assist the task force with a warrant during work hours.
- [REDACTED] said that as the acting warrants supervisor, no deputy has ever expressed to him displeasure concerning the warrant rotation.

- [REDACTED] and [REDACTED] told the OIG that in response to the task force experiencing a backlog of warrants, a decision was made that deputies assigned to the general operations squad would carry a case load of Class 1 warrants. [REDACTED] agreed that when deputies assigned to general operations were finished with court early they could work their Class 1 warrants and were welcome to support the task force after hours. Neither [REDACTED] nor [REDACTED] was directed by management to single out [REDACTED] and restrict him to work only Class 1 warrants, and [REDACTED] was free to assist the task force after hours. [REDACTED] described an incident where [REDACTED] questioned his decision to allow [REDACTED] and [REDACTED] to assist the task force on a warrant during working hours. [REDACTED] explained to [REDACTED] that [REDACTED] and [REDACTED] were the only two deputies who were available to support the request that day. [REDACTED] said that [REDACTED] “asked me why is [REDACTED] out with the warrants, and I was like, there were only two guys in the office; I sent who I had. They needed help.” When asked why he would be reprimanded by [REDACTED] for letting [REDACTED] help [REDACTED] on this case, [REDACTED] responded, “That would be an interesting question. That would be a deputy -- or a Chief [REDACTED] question.” [REDACTED] told the OIG that his interpretation of [REDACTED] line of questioning was, if given the same scenario in the future, [REDACTED] should send another available deputy instead of [REDACTED] thus giving the appearance that [REDACTED] was singling out [REDACTED] for reasons unknown to [REDACTED]. [REDACTED] admitted that he told [REDACTED] that he was reprimanded by [REDACTED] for allowing him to assist the task force.

E-mail and Text Review

The OIG conducted a comprehensive review of [REDACTED] and [REDACTED] official e-mails and text messages, which did not result in evidence showing that [REDACTED] or any other employee retaliated against [REDACTED] by restricting him to only work his assigned Class 1 warrants. The OIG did discover numerous e-mails sent by [REDACTED] to all [REDACTED] deputies, including [REDACTED] requesting their availability to assist the task force after hours.

Response

When interviewed by the OIG, [REDACTED] denied directing any supervisor to exclude [REDACTED] from working with the task force as a form of retaliation. [REDACTED] explained that all deputies assigned to the general operations squad, including [REDACTED] are assigned Class 1 warrants and are expected to work their caseload before participating with the task force. [REDACTED] said that all deputies are allowed to assist the task force after hours; however, it is his understanding that [REDACTED] does not routinely participate with the task force after hours. [REDACTED] could not recall any conversation where he reprimanded [REDACTED] for allowing [REDACTED] and [REDACTED] to assist the task force during working hours.

Response

During his OIG interview, [REDACTED] said the only time he inquired about the warrant rotation was to ensure all employees were available for any potential OIG interviews.

OIG's Conclusion

The OIG investigation found that there was sufficient evidence to substantiate the allegation that [REDACTED] retaliated against [REDACTED] by directing a subordinate employee to restrict [REDACTED] to work only his assigned Class 1

warrants, further denying him the opportunity to participate with the task force. The OIG's conclusion is supported by [REDACTED] lack of candor with the OIG during this investigation (as described previously) and the greater credibility of [REDACTED] account, where [REDACTED] acknowledged that it appeared [REDACTED] had singled out [REDACTED] when he instructed [REDACTED] to send another deputy to assist with task force warrants in the future. Furthermore, [REDACTED] corroborated [REDACTED] assertion that [REDACTED] told [REDACTED] that he ([REDACTED] was reprimanded by [REDACTED] for allowing him to work with the task force during his duty hours. Based on this corroboration of the contemporary account by [REDACTED] the OIG also found that [REDACTED] lacked candor during his interview when he denied making such statements to [REDACTED] a violation of 28 Code of Federal Regulations (CFR) 45.13, addressing duty to cooperate in an official investigation and USMS Code of Professional Responsibility (CPR), Section E Paragraphs 23, 26, 28, and 29 addressing statement of fact, personal activities, conduct, and high standards. Additionally, the OIG concluded that [REDACTED] misconduct violated the Inspector General Act of 1978, Section 7(c), which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action, from taking or threatening to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, and 5 USC § 2302 (b) (8) (B) which prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action, from taking or threatening to take any action against any employee as a reprisal for disclosing information to the Special Counsel or Inspector General.

[REDACTED]

During his OIG interview, [REDACTED] stated that [REDACTED]

[REDACTED] Additionally, [REDACTED] directed [REDACTED] to utilize his GOV and commute to and from his residence [REDACTED] to the [REDACTED] sub-office, [REDACTED] [REDACTED] further provided the OIG with an e-mail exchange between him and [REDACTED] dated November 4, 2014, where [REDACTED] advised [REDACTED] not to leave his residence before 7:30 a.m. and ensure he is back at this residence no later than 5:30 p.m., thus incorporating a segment of [REDACTED] commute into his hours of work.

It is a violation of U.S. Marshals Service Travel Policy Manual, Chapter 301-Temporary Duty (TDY) Travel Allowances, 301-2.5.3, Authorizing Officials' Responsibilities, if an authorizing official does not limit an authorization which may constitute an inefficient management of travel and a waste of USMS resources, and a violation of 5 Code of Federal Regulations (CFR) 550.112(j) (2), Computation of Overtime Work, FLSA-exempt employees, normal commuting time from home to work and work to home cannot count as hours of work.

[REDACTED]

E-mail and Text Review

The OIG conducted a comprehensive review of [REDACTED] and [REDACTED] official e-mails and text messages [REDACTED]

[REDACTED] In an e-mail, dated November 4, 2014, in reference to [REDACTED] commute from his residence to the [REDACTED] sub-office, [REDACTED] instructs [REDACTED] to, "Make sure you leave so you're home no later than 1730. Conversely I don't expect you to leave your house before 0730." Additionally, the OIG did discover e-mail exchanges between [REDACTED] and [REDACTED], between November 2014 and April 2015, and subsequent to [REDACTED] reassignment to the [REDACTED] sub-office, where the two specifically comment on [REDACTED] timeliness to work. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] admitted that he addressed [REDACTED] commute time via e-mail instructing him to leave his residence no later than 7:30 a.m. and to ensure he is back at this residence at 5:30 p.m., thus allowing [REDACTED] to include his commute time into his work schedule. Additionally, regarding [REDACTED] commute, [REDACTED] told the OIG, "You know, I said make sure, make sure you're home by 5:30, and, and, you know, so I don't expect you to leave before 7:30. Yeah, it was all, it was all based on, I think, knowing how far I thought that it would be, so." The OIG read [REDACTED] USMS policy Directive 7.2(D) (2)(d), which specifically states that mileage for home to work travel must be no greater than the mileage of the commute as indicated on the employee's USM Form-90 (home to work transportation authorization). In addition, these certifications have to be completed every year for each employee or if there is a change in address. [REDACTED] acknowledged that he was aware of the aforementioned and when asked why [REDACTED] USM Form-90 was not updated to reflect his new commute to the [REDACTED] sub-office, [REDACTED] did not provide any explanation, stating that [REDACTED] USM Form-90 also may have other "inaccuracies."

OIG's Conclusion

[REDACTED] the OIG determined that [REDACTED] violated U.S. Marshals Service Travel Policy Manual, Chapter 301-Temporary Duty (TDY) Travel Allowances, 301-2.5.3, Authorizing Officials' Responsibilities, by unilaterally authorizing [REDACTED] to commute in his GOV in excess of 200 miles each day from his residence to his place of duty, which constitutes an inefficient management of travel and a waste of USMS resources, and 5 CFR 550.112(j) (2), Computation of Overtime Work, by allowing [REDACTED] to include a segment of his commute as hours of work.

[REDACTED] Retaliated Against [REDACTED] by Denying [REDACTED] Participation in Training

This allegation was developed during the OIG investigation when [REDACTED] was interviewed.

During his OIG interview, [REDACTED] stated that on April 3, 2015, he inquired with [REDACTED] about upcoming firearms training and [REDACTED] denied [REDACTED] the opportunity to participate in the training located approximately 20 minutes from his residence. [REDACTED] stated that [REDACTED] said he was to receive the training alone at the [REDACTED] sub-office. [REDACTED] further believed [REDACTED] refused to allow him to participate in the aforementioned training out of retaliation for his perceived cooperation with the OIG investigation.

The OIG interviewed [REDACTED] [REDACTED] and [REDACTED] regarding [REDACTED] participation in the training.

- [REDACTED] said that shortly after he sent his district wide e-mail on April 3, 2015, related to firearms training, he contacted [REDACTED] regarding whether [REDACTED] should also participate in the training in light of his reassignment to [REDACTED]. [REDACTED] said that, "the only thing that I remember the Chief saying more consistently is that we have to, like, we have to isolate [REDACTED] from the district in light of everything that's going on [in reference to the OIG investigation]." [REDACTED] went on to say that, "He [REDACTED] definitely is, since, in the wake of the investigation, he has definitely said we're, he's isolating [REDACTED]. He's handling his training and everything independently of everyone else." [REDACTED] could not definitively recall if his conversation with [REDACTED] regarding the aforementioned was in person or via phone. [REDACTED] then told [REDACTED] that [REDACTED] at a later date, would travel to [REDACTED] and qualify [REDACTED]. According to [REDACTED] it was not out of the ordinary for employees assigned to the [REDACTED] sub-office to be trained separately. When asked if he believed [REDACTED] comment regarding [REDACTED] being "isolated" from the training as a result of the OIG investigation, [REDACTED] said, "More or less, yes." Additionally, [REDACTED] corroborated [REDACTED] testimony to the OIG by acknowledging he had told [REDACTED] that he would be trained separate from the district at the [REDACTED] sub-office. A review of [REDACTED] e-mail, dated April 3, 2015 to "[REDACTED]", subject "Training," indicated that the training would have occurred during normal duty hours, with the exception of low-light training, which was to commence at 6:00 a.m.
- Sometime in March or April 2015, [REDACTED] recalled [REDACTED] instructing him that in addition to conducting an inspection in the [REDACTED] sub-office, he would also have to qualify [REDACTED]

E-mail and Text Review

The OIG conducted a comprehensive review of [REDACTED] and [REDACTED] official e-mails and text messages and found no evidence to support the allegation that [REDACTED] denial of a training opportunity was a retaliatory measure in response to his perceived cooperation with the OIG investigation.

Response

When interviewed by the OIG, [REDACTED] said that historically the employees assigned to the [REDACTED] sub-office were trained in [REDACTED]. [REDACTED] explained that, "I know [REDACTED] and [REDACTED] are the two guys that basically run all the training. So, they would've any time there's going to be a training they're going to be sending those e-mails out." When asked if he advocated [REDACTED] to be trained alone, [REDACTED] said, "He wouldn't have been told to train alone. It's just that we always train the [REDACTED] guys in [REDACTED]. And so that would've been the only reason." [REDACTED] went on to say he was unaware of any proximity issues between this specific training and [REDACTED] residence. When asked if he had any conversation with [REDACTED] regarding [REDACTED] training request, where he told [REDACTED] that [REDACTED] was to be isolated and trained alone, [REDACTED] responded, "No.no," adding that, "I would never have told him [REDACTED] that." [REDACTED] also stated that having [REDACTED] trained independently was not retaliation in response to the OIG investigation.

OIG's Conclusion

The OIG investigation found that there was sufficient evidence to substantiate the allegation that [REDACTED] retaliated against [REDACTED] by directing a subordinate employee to restrict [REDACTED] from participating in training, further denying him the opportunity to participate in training with the rest of the district. The OIG's conclusion is supported by [REDACTED] previous lack of candor to the OIG and the greater credibility of [REDACTED] account, where

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The OIG has completed its investigation and is providing this report to the USMS and to the Office of the Deputy Attorney General for appropriate action. The OIG is referring its retaliation findings to the U.S. Office of Special Counsel.

Exhibit 33



December 8, 2017

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

I am writing in response to your letter dated August 24, 2017, in which you requested, on behalf of the Committee, the dispositions of allegations of reprisal by whistleblowers in the U.S. Marshals Service (USMS) office in the Western District of Oklahoma (WDOK) and allegations against these whistleblowers. Your staff has provided the OIG signed consent forms from Deputy U.S. Marshals (DUSM) [REDACTED], [REDACTED], and [REDACTED] in which they authorize the Office of the Inspector General (OIG) to share their personally identifiable information with your staff.

In September 2014, the OIG initiated an investigation into allegations of fraud, misuse of a government vehicle, and inappropriate behavior against high ranking USMS officials. During this investigation, which the OIG closed in October 2015, we interviewed several personnel from the WDOK office as witnesses, including DUSMs [REDACTED], [REDACTED], and [REDACTED]. The OIG's findings are described in the partially redacted report that we provided to your office in our letter dated February 26, 2016.

With respect to DUSM [REDACTED], in June 2015, the OIG initiated an investigation upon the receipt of a complaint from [REDACTED] alleging that the U.S. Marshal, Chief Deputy U.S. Marshal (CDUSM), and a Task Force Officer in the WDOK retaliated in numerous ways against various employees in the WDOK due to management's perception that the employees had cooperated with the above described OIG investigation. The OIG closed the retaliation investigation in February 2017 and provided a partially redacted report detailing our findings to your office in our letter dated February 23, 2017.

In September 2015, upon referral from the USMS, the OIG initiated an investigation into allegations made by the CDUSM that [REDACTED] made an obscene sexual gesture with a baseball bat behind the CDUSM's back in the presence of other employees. The OIG did not substantiate this allegation and

closed the investigation in February 2017. We are enclosing a partially redacted report of investigation (ROI) detailing our findings in this matter.¹

In April 2016, the USMS forwarded to the OIG additional allegations by DUSM ██████ that he was being subjected to retaliation by USMS officials in WDOK. The OIG referred allegations that were not already part of our then-ongoing retaliation investigation to the USMS for handling as it deemed appropriate.

In late 2016, the USMS referred allegations of sexual harassment and credit card misuse against ██████ to the OIG. In March 2017, the OIG returned these allegations to USMS for its handling and required USMS to provide the OIG with a copy of its investigative report upon completion. We have not yet received the USMS's investigative report.

With respect to DUSM ██████, the OIG investigated allegations of retaliation by WDOK officials against ██████ in the investigation described above that was initiated in June 2015. The OIG reported our findings in an ROI issued in February 2017; a partially redacted report detailing our findings was provided to your office in our letter dated February 23, 2017. In January 2017, ██████ submitted additional allegations of reprisal by WDOK officials to the OIG. In a letter to ██████ dated March 2, 2017, we informed him that the OIG was not opening an investigation into his allegations, because he indicated that he had already presented his allegations to the Office of Special Counsel.

In April 2016, the USMS forwarded to the OIG allegations from DUSM ██████. The OIG referred allegations not already part of our then-ongoing retaliation investigation, which as noted above was closed in February 2017, to the USMS for handling as it deemed appropriate.

In March 2017, the USMS referred to the OIG a complaint alleging that DUSM ██████ improperly distributed copies of a publicly available OIG summary of investigative findings whose subject was another WDOK official and made a social media posting about the OIG's findings. In July 2017, the OIG sent a memorandum to Acting Director David Harlow regarding the complaint against ██████. I have enclosed a copy of this memorandum.

¹ This ROI relates to an unsubstantiated allegation and contains personnel information. Therefore we request that it be handled with appropriate sensitivity. Information was redacted from the report to maintain the confidentiality of complainants and witnesses.

We hope that this information is helpful for the Committee's purposes. If you have further questions, please feel free to contact me, or Greg Sabina, Advisor for Legislative Affairs, at [REDACTED].

Sincerely,



Michael E. Horowitz
Inspector General

Enclosures:

- Report of Investigation for OIG Case [REDACTED]
- Memorandum dated July 11, 2017, from Inspector General Horowitz to U.S. Marshals Service Acting Director Harlow

cc: The Honorable Dianne Feinstein
Ranking Member, Committee on the Judiciary
United States Senate

ABBREVIATED REPORT OF INVESTIGATION

SUBJECT		CASE NUMBER	
[REDACTED]		[REDACTED]	
OFFICE CONDUCTING INVESTIGATION		DOJ COMPONENT	
Dallas Field Office		United States Marshals Service	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office	DFO	<input type="checkbox"/> OPEN	<input type="checkbox"/> OPEN PENDING PROSECUTION
<input checked="" type="checkbox"/> AIGINV		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
<input checked="" type="checkbox"/> Component	USMS	Date of Previous Report:	
<input type="checkbox"/> USA			
<input type="checkbox"/> Other			

SYNOPSIS

The Office of the Inspector General (OIG) initiated this investigation upon the receipt of a complaint from [REDACTED] alleging that [REDACTED] made an obscene sexual gesture with a baseball bat behind [REDACTED] back in the presence of other employees. [REDACTED] alleged that [REDACTED] simulated performing oral sex on the bat in the general operations area in public view and in the presence of other employees while [REDACTED] was conversing with [REDACTED].

The OIG interviewed [REDACTED] regarding the alleged incident.

- [REDACTED] said it was brought to his attention that on [REDACTED], while he was in conversation with [REDACTED] in the general operations area, [REDACTED] made an obscene sexual gesture by simulating oral sex with a baseball bat directed toward [REDACTED]. Although [REDACTED] did not witness [REDACTED] make the gesture, as his back was toward [REDACTED] at the time, he recalled learning of the incident from either [REDACTED] or [REDACTED].
- [REDACTED] recalled [REDACTED] and [REDACTED] conversing in the general operations area, but did not witness make any obscene sexual gestures with a baseball bat. [REDACTED] witnessed [REDACTED] speaking with [REDACTED] after their conversation. [REDACTED] then approached [REDACTED] and asked if he had witnessed [REDACTED] using a

DATE	February 13, 2017	SIGNATURE	[REDACTED]
PREPARED BY SPECIAL AGENT [REDACTED]			
DATE	February 13, 2017	SIGNATURE	Monte A. Cason
APPROVED BY SPECIAL AGENT IN CHARGE		Monte A. Cason	

Digitally signed by MONTE CASON
DN: c=US, o=U.S. Government, ou=Dept of Justice, ou=DIG, cn=MONTE CASON,
0.9.2342.19200300.100.1.1=15001001052483
Date: 2017.02.13 14:25:06 -06'00'

baseball bat to simulate performing oral sex behind the back of [REDACTED], to which [REDACTED] responded that he had not.

- [REDACTED] observed [REDACTED] and [REDACTED] conversing in the general operations area with [REDACTED] back to where [REDACTED] was sitting. [REDACTED] said that at one point she looked up and observed [REDACTED] simulating oral sex using a baseball bat toward the direction of [REDACTED] and [REDACTED]. [REDACTED] further recalled that directly after the meeting, [REDACTED] approached [REDACTED] and questioned his actions; however, she did not recall if [REDACTED] admitted making a sexual gesture with the baseball bat.
- [REDACTED] said that while he was conversing with [REDACTED] in the general operations area, he observed [REDACTED] use his baseball bat to simulate oral sex. [REDACTED] interpreted [REDACTED] simulated sexual gestures as suggesting that [REDACTED] was currying favor with [REDACTED], about which [REDACTED] stated, "just because I'm talking to the [REDACTED] doesn't mean I'm kissing his butt." Immediately following his meeting with [REDACTED], [REDACTED] addressed the situation with [REDACTED] to which [REDACTED] responded, "I don't give a fuck; I don't give a fuck;" and continued laughing.
- [REDACTED] said that although he did not witness the incident, he was made aware of the allegation from [REDACTED] and [REDACTED]. [REDACTED] said that after he spoke with [REDACTED] about the incident, [REDACTED] made him aware of the systemic computer problems he was experiencing. [REDACTED] explained to [REDACTED] that he was simulating racking a shotgun to his head using a baseball bat due to frustrations with his computer, and denied using the baseball bat in any sexual manner.
- [REDACTED] said [REDACTED] directed him to investigate the bat incident involving [REDACTED]. During [REDACTED] review, [REDACTED] explained that due to systemic computer issues, he simulated using his baseball bat as a shotgun to, out of frustration with his computer, "blow his head off" not to simulate oral sex. [REDACTED] said that [REDACTED] submitted a USM-210 regarding his claim as well as confirmation from [REDACTED] supervisor, [REDACTED] that at the time of the incident he was experiencing systemic computer issues.

When interviewed by the OIG, [REDACTED] denied making any obscene sexual gestures with his baseball bat by simulating oral sex and maintained that he used the bat to simulate racking a shotgun and shooting himself in the mouth in a show of frustration over systemic computer issues. [REDACTED] said at the time [REDACTED] was meeting with [REDACTED], he had his baseball bat in his hands and "cocked it like it was a shotgun." [REDACTED] description to the OIG of how he used the baseball bat was similar to that of the witness accounts. In support of his claim that his shotgun simulation was out of frustration over computer related trouble, [REDACTED] provided the OIG with e-mail documentation reflecting his communication with USMS information technology staff regarding computer problems he was having at the time of the incident.

The OIG did not substantiate the allegation that [REDACTED] made an obscene sexual gesture towards [REDACTED] with a baseball bat in public view and in the presence of other employees. The OIG investigated and reported under case number [REDACTED] allegations that [REDACTED] retaliated against [REDACTED] because of his cooperation with the OIG. In that report the OIG discussed whether [REDACTED] engaged in retaliatory discipline against [REDACTED] arising from this alleged incident.

The OIG has completed its investigation and is providing this report to the USMS for information.



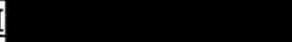
U.S. Department of Justice

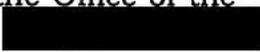
Office of the Inspector General

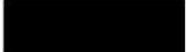
July 11, 2017

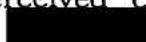
MEMORANDUM FOR: David Harlow
Acting Director
United States Marshals Service

FROM: 
Michael E. Horowitz
Inspector General

SUBJECT: USMS Referral of USM  Complaint
Regarding DUSM 

I am writing to memorialize prior communications between our offices regarding the referral by the U.S. Marshals Service (USMS) to the Office of the Inspector General (OIG) of a complaint by United States Marshal  about Deputy United States Marshal (DUSM)  Marshal  complained that DUSM  distributed copies of an OIG summary of investigative findings, which was publicly available on the OIG's web site, and that DUSM  made a social media posting about the same public OIG summary of investigation. As described in the OIG's report of investigation issued to the USMS on February 13, 2017, DUSM  was interviewed by the OIG during the investigation of alleged misconduct by Marshal  former Chief DUSM , and others.

The OIG reviewed the referral, and we determined that DUSM  actions did not violate any law, rule, regulation, or policy. Moreover, his actions may be construed as protected speech. For these reasons, it is our view that DUSM  conduct should not be subject to any investigation, and that it should not be subject to any administrative action. We believe that any investigation of, or any personnel action taken against, DUSM  as a result of the actions about which Marshal  complained could reasonably be viewed as reprisal for his cooperation with the OIG, and would be contrary to the protections afforded to whistleblowers under federal law.

The summary of investigative findings and social media posting about which Marshal  complained related to the OIG's conclusion, among other findings, that former Chief DUSM  a Supervisory Deputy United States Marshal, and a Senior Inspector each retaliated against subordinate employees as a result of the employees' perceived cooperation with the prior OIG investigation. Significantly, DUSM  was among the witnesses who

provided information to the OIG during its investigation of these allegations. The Whistleblower Protection Enhancement Act prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action, from taking or threatening to take any action against any employee in reprisal for disclosing information to the Inspector General.

I understand that you agree with the OIG's conclusion that neither the OIG nor the USMS should take any action against DUSM [REDACTED] in response to Marshal [REDACTED] complaint, and that further education of Marshal [REDACTED] about whistleblower protections would be appropriate. Please contact me if you have any questions about this memorandum, or our handling of this referral.

Exhibit 34



U.S. Department of Justice

Office of the Inspector General

October 26, 2016

The Honorable Charles Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

I am writing in response to your letter dated September 9, 2016, requesting on behalf of the Committee information pertaining to an Office of the Inspector General (OIG) investigation into alleged unauthorized disclosures to the media by U.S. Marshals Service (USMS) personnel.

In response to the Committee's request and in consultation with your staff, we have enclosed the following materials regarding the OIG's involvement in the matter that we understand is of interest to the Committee.

- OIG Abbreviated Report of Investigation, [REDACTED];
- Memorandum from OIG General Counsel to USMS Chief Inspector, dated January 25, 2016;
- Memorandum from OIG General Counsel to USMS Chief Inspector, dated February 8, 2016; and
- Memorandum from OIG General Counsel to USMS Acting Assistant Director, Office of Professional Responsibility, dated March 28, 2016.

OIG documents relating to investigations or potential investigations contain protected information and should be handled with appropriate sensitivity. For that reason, we are providing these documents with minimal redactions.

We hope that this information is helpful for the Committee's purposes. If you have further questions, please feel free to contact me, or my Chief of Staff, Jay Lerner, at [REDACTED].

Sincerely,

A handwritten signature in blue ink that reads "Michael E. Horowitz". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Horowitz".

Michael E. Horowitz
Inspector General

Enclosures

cc: The Honorable Patrick Leahy
Ranking Member
Committee on the Judiciary
United States Senate

ABBREVIATED REPORT OF INVESTIGATION

SUBJECTS		CASE NUMBER	
Unknown		[REDACTED]	
OFFICE CONDUCTING INVESTIGATION		DOJ COMPONENT	
Washington Field Office		United States Marshals Service	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office	WFO	<input type="checkbox"/> OPEN	<input type="checkbox"/> OPEN PENDING PROSECUTION
<input checked="" type="checkbox"/> AIGINV		<input type="checkbox"/> YES	<input checked="" type="checkbox"/> CLOSED
<input checked="" type="checkbox"/> Component	USMS	PREVIOUS REPORT SUBMITTED:	
<input type="checkbox"/> Other		Date of Previous Report:	
<input type="checkbox"/> Other			

SYNOPSIS

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the United States Marshals Service (USMS) Office of Professional Responsibility that an unknown individual or individuals had disclosed information to Wall Street Journal reporter Devlin Barrett without authorization concerning the USMS use of planes and cell signals to track criminal suspects. This disclosure resulted in Wall Street Journal articles dated November 13, 2014 and November 14, 2014, discussing the technical program.

The OIG determined that the disclosure to the Wall Street Journal constituted a protected disclosure under the Whistleblower Protection Act and the Whistleblower Protection Enhancement Act. As such, the OIG also determined that any personnel action resulting from an investigation would likely be construed as reprisal for making a protected disclosure and therefore directed this investigation be closed.

The OIG has completed its investigation and is providing this report to the USMS for its review.

DATE <i>March 28, 2016</i>	SIGNATURE [REDACTED]
PREPARED BY SPECIAL AGENT	
DATE <i>March 28, 2016</i>	SIGNATURE <i>Michael P. Tompkins</i>
APPROVED BY SPECIAL AGENT IN CHARGE Michael P. Tompkins	



U.S. Department of Justice

Office of the Inspector General

January 25, 2016

MEMORANDUM

TO: Stan Griscavage
Chief Inspector
Office of Inspections
United States Marshals Service

FROM: William M. Blier
General Counsel
Office of the Inspector General

SUBJECT: Disclosure of Information to the Wall Street Journal

I am writing to inform you that the OIG has concluded that it will not pursue an investigation into the source of the disclosure to the Wall Street Journal (WSJ) concerning the U.S. Marshal Service's (USMS) use of planes and cell signals to track criminal suspects. We have determined that the disclosure to the WSJ constituted a protected disclosure under the Whistleblower Protection Act (WPA) and the Whistleblower Protection Enhancement Act (WPEA). A protected disclosure is one that involves an alleged violation of law, rule, or regulation; or a report of gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 5 U.S.C. 2302(b)(8). Because, as the USMS has confirmed, the information provided to the WSJ was not prohibited by any statute from being provided to the media (or otherwise disclosed), the individual who made the disclosure is protected under the WPA and WPEA from any personnel action being taken as a result of the disclosure. Any such personnel action would likely be construed as having been taken in reprisal for making a protected disclosure. Under U.S. Supreme Court authority interpreting the WPA and WPEA, internal agency policies prohibiting disclosure of information do not constitute "laws" that prohibit otherwise protected disclosures under Title 5, United States Code, Section 2302(b)(8)A). *See DHS v. MacLean*, 135 S.Ct. 913 (2015).

It is our further view that for the same reason, the USMS should not investigate or otherwise further seek to identify the source of the disclosure to the WSJ. Any such investigation or inquiry, whether by the OIG or by the USMS, would not constitute an efficient use of resources and would have limited or no utility because even if the investigation or inquiry identified the source of the disclosure, no disciplinary or other action could be taken.

In addition, the OIG is in custody of several personal portable electronic storage devices seized by the USMS and provided to the OIG, and a USMS laptop computer provided by the USMS to the OIG. The OIG did not search the personal devices or the USMS laptop computer, and will not do so. The OIG will return the USMS laptop computer to the USMS. The personal devices were seized in connection with the investigation discussed above and, therefore, any personnel action based on findings relating to the personal devices could also reasonably be construed as having been taken in reprisal for making a protected disclosure. The OIG intends to return the personal devices to their owner upon obtaining the owner's consent that all data be erased from the personal devices. It is our view that, for the reasons stated herein, the USMS should not investigate or take any action relating to use of the personal devices.

Our conclusion not to investigate this matter, and our recommendation that the USMS should not investigate or pursue it further, does not necessarily preclude future investigations of disclosures by USMS personnel of information. Under the law, disclosures are protected only to the extent they involve information that is not classified, and information that a statute does not prohibit from being disclosed. Examples of information that a statute prohibits from being disclosed are Title III materials and Privacy Act protected data. Moreover, the disclosure must involve an alleged violation of law, rule, or regulation; gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger threat to public health or safety.

Please contact me if you have any questions about our disposition of this matter.

cc: Gerald Auerbach
General Counsel, USMS

Gene Morrison
Special Agent in Charge, OIG Investigations Division

Mike Tompkins
Special Agent in Charge, OIG Washington Field Office



U.S. Department of Justice

Office of the Inspector General

February 8, 2016

MEMORANDUM

TO: Stan Griscavage
Chief Inspector
Office of Inspections
United States Marshals Service

FROM: William M. Blier
General Counsel
Office of the Inspector General

SUBJECT: Disclosure of Information to the Wall Street Journal regarding USMS unauthorized operations in Mexico

I am writing to inform you that the Office of the Inspector General (OIG) has reviewed the U.S. Marshal Service's (USMS) referral of a complaint about a disclosure to the Wall Street Journal (WSJ) of unauthorized USMS operations in Mexico. Based on confirmation by the USMS that the information contained in the WSJ was not prohibited by law from being disclosed, the OIG has concluded that it will not pursue an investigation into the source of the disclosure concerning USMS operation in Mexico. The reasons set forth in my memorandum to you dated January 25, 2016, attached for your reference, regarding our decision not to investigate a separate disclosure to the WSJ about the USMS use of cell site simulators are equally applicable to this disclosure about the unauthorized activities in Mexico. It is our further view that for the same reasons, the USMS should not investigate or otherwise further seek to identify the source of this disclosure to the WSJ.

In addition, the USMS's referral to the OIG related only to the disclosure of information to the WSJ, not the underlying conduct of the USMS personnel who may have engaged in such unauthorized operations in Mexico. Please inform the OIG whether the USMS has investigated or otherwise addressed this allegation, and if not, whether you intend to refer the matter for OIG investigation.

Please contact me if you have any questions about our disposition of this matter.

Attachment

cc: Gerald Auerbach
General Counsel, USMS

Gene Morrison
Special Agent in Charge, OIG Investigations Division

Mike Tompkins
Special Agent in Charge, OIG Washington Field Office



U.S. Department of Justice

Office of the Inspector General

March 28, 2016

MEMORANDUM FOR: Blair Deem
Acting Assistant Director
Office of Professional Responsibility
United States Marshals Service

FROM: William M. Blier 
General Counsel

SUBJECT: Disclosures of Information to the Wall Street Journal

I am writing in response to your February 23, 2016, memorandum regarding disclosures of United States Marshals Service (USMS) information to the Wall Street Journal (WSJ). Your memorandum was sent in response to my January 25, 2016, and February 8, 2016, memoranda in which the Office of the Inspector General (OIG) informed the USMS that the OIG would not pursue any investigation into the source(s) of these disclosures because the OIG had determined that the information provided to the WSJ constituted protected disclosures under the Whistleblower Protection Act and the Whistleblower Protection Enhancement Act. The OIG recommended that the USMS likewise should not investigate or otherwise further seek to identify the source of the disclosures because any subsequent personnel action arising from identification of the whistleblower(s) and any connection with the protected activity could reasonably be viewed as retaliation for whistleblowing.

In your memorandum, you stated that the USMS would defer to the OIG's recommendation and close its investigation. However, you listed several matters that still needed to be resolved, and requested the OIG's cooperation. Specifically, you asked that: (1) the personal digital devices in the custody of the OIG not be returned to the "source of the disclosures" until all personally identifiable information (PII) and sensitive law enforcement sensitive information was deleted from the devices; (2) the "source of the disclosures" must certify that he does not possess any other personal digital devices containing PII or sensitive law enforcement information; (3) the "source of the

disclosures” acknowledge that he is prohibited from connecting personal digital equipment to USMS computers; and (4) the “source of the disclosures” must acknowledge that computer applications cannot be installed on government computers without authorization.

I note that throughout your memorandum, instead of referring to [REDACTED] by name, you describe him as the “source of the disclosures” to the WSJ when asking for the OIG’s assistance with the owner of the personal digital devices and the USMS laptop computer seized by the USMS before these matters were referred to the OIG. The OIG has not conducted any investigation that would enable the conclusion that [REDACTED] was the source of the information contained in either WSJ article, and it is our understanding from your memorandum that the USMS has not conducted any investigation to support such a conclusion. We are not aware that [REDACTED] or anyone else, has identified himself as the source of such disclosures. The OIG therefore urges the USMS to refrain from referring to [REDACTED] as the source of the disclosures and taking any action toward him based on the belief that he was the source of information for one or both of the WSJ articles. The references may not, in fact, be accurate, and in context, the language of your memorandum conveys an implication that the person who made the disclosures engaged in misconduct. As described in my prior memoranda, the disclosures to the WSJ constituted protected disclosures under federal law.

Turning now to the issues you raise: First, the OIG did not search any of the personal digital storage devices that the USMS had seized from [REDACTED] before the OIG became involved in this investigation. Accordingly, the OIG has no information about whether the devices contained PII or law enforcement sensitive information. However, the OIG informed [REDACTED] through his counsel, that because the devices had been connected to a USMS laptop computer, return of the personal devices would be conditioned upon [REDACTED] consenting to the OIG erasing any data stored on the devices. On February 11, 2016, the OIG obtained [REDACTED] consent and erased any and all data from the devices without determining whether the devices contained data. On February 18, 2016, the OIG returned the personal devices to [REDACTED]

Regarding your second and third issues, it is the OIG’s view that the USMS should not single out [REDACTED] either to make a certification that he does not possess any other personal digital devices containing PII or sensitive law enforcement information, or to acknowledge that he is prohibited

from connecting personal digital equipment to USMS computers. Among other things, doing so would presume without evidentiary support that the devices seized by the USMS contained PII or law enforcement sensitive information. Although the OIG determined that the personal devices were connected to [REDACTED] USMS laptop, in our view, the USMS's authority for seizing the devices from [REDACTED] was questionable, and in any event, the seizures occurred in connection with an effort to identify the source of protected whistleblowing activity. As the OIG cautioned in its previous memoranda, because the personal devices were seized by the USMS in connection with the USMS investigation into one of the disclosures made to the WSJ, any personnel action against [REDACTED] related to the personal devices could reasonably be construed as an action by the USMS taken in reprisal for the USMS belief that he made a protected disclosure. The OIG recommends that the USMS rely instead on annual USMS computer-use certifications required of all USMS employees to ensure that all employees are aware and are reminded that they are prohibited from connecting personal devices to USMS computers.

Lastly, you asked that the OIG assist by obtaining from [REDACTED] an acknowledgement that installation of computer applications on government computers is prohibited absent authorization. As with the personal devices seized from [REDACTED] the determination that [REDACTED] laptop computer contained unauthorized software was made as a result of USMS efforts to identify the source of the protected disclosures. The OIG again cautions the USMS that singling out [REDACTED] to make an acknowledgement could reasonably be construed as an action by the USMS taken in reprisal for the USMS belief that [REDACTED] made a protected disclosure. Similar to our recommendation, above, the OIG suggests that the USMS rely on computer-use acknowledgements required of all USMS employees to ensure that all employees know they are prohibited from installing unauthorized applications and software on government computers.

Please contact me if you have any further questions about this matter.

cc: Gerald Auerbach
General Counsel, USMS

Stanley E. Griscavage, Jr.
Acting Deputy Assistant Director, USMS

Sharon L. Duncan
Acting Chief Inspector, Internal Affairs, USMS

Gene Morrison
Special Agent in Charge, OIG

Exhibit 35

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Staff Director*

March 27, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

David Harlow
Acting Director
U.S. Marshals Service
U.S. Department of Justice
Washington, D.C. 20530-0001

Dear Attorney General Sessions and Acting Director Harlow:

On Friday afternoon, March 10, 2017, a GS-15 Acting Deputy Assistant Director met with my staff for the purpose of disclosing agency misconduct and threats to public health and safety.

The afternoon prior to this meeting, the individual notified his Assistant Director (AD) of his intent to meet with Committee staff, and the Assistant Director in turn immediately notified senior agency leadership. The Tuesday after the meeting with my staff, the individual was removed from his acting position, stripped of training responsibilities, and forced to move out of his office to sit within direct supervision of the AD.¹

¹ Additionally, according to documents, after the leadership was informed of his intent to meet with my staff, and before the meeting occurred, the Associate Director of Operations (ADO) sent the individual an e-mail accusing him of lack of candor for personal gain. The e-mail was a response to another e-mail the individual had sent two days prior, on Wednesday (before the notification) in which he disclosed to leadership, not for the first time, the ADO's prior threats to his career. According to the individual, those threats were made after the individual challenged the ADO's decision to continue the use in USMS special operations of unsafe ammunition that had failed FBI ballistics tests. Such an e-mail as sent by the ADO, after the ADO apparently had knowledge of the individual's intent to speak with my staff, could reasonably be perceived as intimidation. See 18 U.S.C. § 1505 ("Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress" "[s]hall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.").

This type of behavior is retaliation 101, and it interferes with congressional oversight activities. As you are well aware, the individual's disclosures to the Committee are protected by law.² Obstructing a congressional investigation is a crime, and any official or other employee who interferes, or attempts to interfere with a federal employee's right to communicate with Congress is not entitled to compensation.³

The actions of senior leadership here are totally unacceptable. They send exactly the wrong message. These actions serve only to chill other employees from reporting wrongdoing, and demonstrate a complete and utter failure by agency leaders to grasp the letter and intent of the whistleblower protection laws.

I am referring this matter to the Office of Special Counsel and the Office of the Inspector General, copied here, to review any facts demonstrating reprisal and any underlying disclosure of wrongdoing made by this individual.

The Committee will also continue its own independent investigation. Accordingly, by April 10, 2017, please provide all records relating to communications from March 1, 2017 to the present between or among the Acting Director, the Associate Director for Operations, the Associate Director for Administration, and the Assistant Director for Training relating to the individual who contacted the Committee or to the individual's disclosures.

Thank you for your attention to this matter. Please contact DeLisa Lay of my staff with any questions at 202-224-5225.

Sincerely,



cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

² See generally, 5 U.S.C. § 2302; 5 U.S.C. § 7211 (2012) ("The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.").

³ 18 U.S.C. § 1505; Consolidated Appropriations Act of 2016, Pub. L. No. 114-113, div. E, title VII, 129 Stat. 2475-46, § 713 (2015); Letter from Susan A. Poling, Gen. Counsel, U.S. Gov't Accountability Office to Charles E. Grassley, Chairman, S. Comm. on the Judiciary, Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform, and Bob Goodlatte, H. Comm. on the Judiciary re: GAO Op. B-325124 (Apr. 5, 2016) (available at <http://www.gao.gov/assets/680/676341.pdf>).

The Honorable Carolyn Lerner
Special Counsel
Office of Special Counsel

The Honorable Michael Horowitz
Inspector General
U.S. Department of Justice

Exhibit 36

[REDACTED]

From: Anderson, David (USMS) <[REDACTED]>
Sent: Wednesday, March 15, 2017 6:08 PM
To: FLETC-ALL (USMS)
Subject: TD Personnel Changes / Organization Update
Attachments: Draft Org Chart - 10.9.16 (3).pdf

All

Good afternoon. Below is an update on personnel changes within the division, please let me know if you have questions.

First, I am pleased to announce that the TD's request to reorganize was approved by the Director. The purpose of the request was to assist the division to be more effective in addition to addressing scope of responsibilities issues with the previous organizational structure. The request for the reorganization included several staffing requests that are listed below:

- Approval to fill the vice [REDACTED] position as a Financial Analyst – GS-0501 – 9/11
- Approval to upgrade and fill the vice [REDACTED] Training Administrator / Accreditation Manager – GS – 1712-13/14
- Approval to upgrade and fill vice [REDACTED] as LMS Training Specialist – GS-1712 – 12/13
- Approval for a second Chief of Training, GS 1811-15, responsible for leading Professional Development, Distance Learning and Training Management
- Approval for two additional GS 1811-13 instructor positions based on the positions we are required to detail to FLETC – these will be filled on the April Career board and assigned to LESTP

I have attached the a copy of the functional organizational chart for your review.

In addition to the above, the April Career Board will also include the vacant DAD position, the vacant instructor positions vice [REDACTED], vice [REDACTED], a new position from JSD as a GS-1811- 13 instructor to oversee / manage judicial security training, and vice [REDACTED] who has indicated his intention to retire at the end of April.

Second, I would like to take this opportunity to thank [REDACTED] and [REDACTED] for their leadership and contribution to the division as acting Chiefs for Professional Development and Law Enforcement Safety. They both worked tirelessly to ensure the requirements of the division were met. Effective immediately, [REDACTED] has assumed the position as Chief Inspector, Professional Development and effective next pay period, March 26, [REDACTED] will assume the position of Acting Chief Law Enforcement Safety.

Third, I would like to advise of a change in the Acting Deputy Assistant Director position. As noted above, this position will be on the April Career Board. Effective immediately, and until a selection is made, Stephanie Creasy will be assuming the duties of Acting Deputy Assistant Director in my absence. Stephanie will continue to act as the Chief of Learning Management and Employee Development so I am limiting the responsibilities of the Acting DAD to covering for me when I am out of the office / not available. Additionally, effective immediately [REDACTED] will be assigned to assist me with focusing on some strategic projects and will temporarily work out of the vacant Deputy Assistant Director office in building 20. I would like to thank [REDACTED] for his work as the Acting Deputy Assistant Director. [REDACTED] will continue with his role as the Chief of Training, responsible for management of Core, LESTP and International Training, during this period.

I am excited about the changes and new positions – this is the result of our work to redesign the TD as a Training Center of Excellence. I know we still have work to do to get there but I am confident we are making great progress and on our way. This is all attributed to what each and every one of you do every day!

Thank you and please let me know if you have questions or need additional information.

David

Exhibit 37

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Staff Director*

August 11, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Sessions:

This letter follows multiple inquiries I have sent to the Department and the U.S. Marshals Service (USMS) in the last few months regarding wasteful spending, dangers to officer safety, and reprisal within the USMS. I have yet to receive any response to any of my letters, the first of which I sent in March. That letter expressed deep concern regarding the actions of USMS leadership in retaliating against an employee who made protected disclosures to my office almost immediately after he did so, and to interfere with the Committee's oversight.¹

Instead of responding to my inquiries, the agency has apparently expended significant time and resources to craft misleading statements dismissing and smearing the efforts of its employees to assist with the Committee's oversight and legislative efforts.

Most recently, my office and others requested the views of the Federal Managers Association (FMA) regarding legislation we are currently considering related to hiring at the USMS. Over the last two and a half years, my office has received calls and e-mails from more than 100 current and former USMS employees, a significant portion of which relate to hiring and promotion practices within the agency. Pursuant to our constitutional responsibilities and particularly in light of these concerns, we have a clear

¹ 18 U.S.C. § 1505 (Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress" "[s]hall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.").

obligation to carefully consider this issue and the best ways to address it. We are appreciative of FMA's willingness to share the views and concerns of its members.

Thus, it was with great disappointment that I received the attached letter yesterday from the President of the FMA, and learned that Members' efforts to ensure we are fully informed on an important legislative matter appear to have resulted in the agency's complaints against the individuals who agreed to assist. As the attached letter and exhibits indicate, the FMA believes these complaints are an effort to intimidate that organization and its members and discourage communication with Congress.

As you know, such communication is protected by law.² Moreover, it is not the province of the Acting Director of the USMS to dictate or control what information Members of Congress may receive and consider in determining how best to exercise their constitutional power to legislate.³ Any action, such as that taken here, seeking to impede or interfere in these matters is unacceptable. I trust that this behavior will no longer continue under your leadership.

Please provide a written reply letting me know what steps you are taking to correct this problem and ensure that Justice Department components do not attempt to interfere with communications with the Committee.

Sincerely,



cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

The Honorable Orrin Hatch
Committee on the Judiciary

The Honorable Christopher Coons
Committee on the Judiciary

² U.S. Const. amend. I; 5 U.S.C. § 2302; 5 U.S.C. § 7211 (2012) ("The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied."); Consolidated Appropriations Act of 2016, Pub. L. No. 114-113, div. E, title VII, 129 Stat. 2475, § 713, (2015); Letter from Susan A. Poling, Gen. Counsel, U.S. Gov't Accountability Office to Charles E. Grassley, Chairman, S. Comm. on the Judiciary, Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform, and Bob Goodlatte, H. Comm. on the Judiciary re: GAO Op. B-325124 (Apr. 5, 2016) (*available at* <http://www.gao.gov/assets/680/676341.pdf>).

³ U.S. Const. art. I, § 1.



United States Marshals Service

Chapter 373

fma.usmarshals@gmail.com

August 10, 2017

The Honorable Charles E. Grassley, Chairman
United States Senate
Committee on the Judiciary
135 Hart Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

For the better part of the past 2 ½ years, your Committee has increased its important oversight function of the U.S. Marshals Service (USMS). We understand more than 100 employees have contacted your office to share individual experiences of questionable management practices, some that have prompted additional inquiry in the form of letters, floor speeches, and press releases by the Committee. One recent example was a manager who initially made legitimate and repeated attempts, working within his USMS chain-of-command, to raise serious concerns involving officer safety. His appeals were apparently ignored until the Committee issued a letter to the USMS Acting Director, prompting immediate action on the replacement of some 1,800 units of expired or expiring body armor. The USMS manager's calls for action and your subsequent intervention will save the lives of Deputy U.S. Marshals.

The latest method by USMS agency leadership to silence agency managers who communicate with Congress is outlined in a letter dated August 3 from the Acting Director to the national office of the Federal Manager's Association (FMA). We believe the letter was designed to undermine and have a chilling effect on the viewpoints of our officers and membership, all federal employees organized to improve government operations and save taxpayer dollars. Regrettably, the Acting Director did not first discuss his concerns with me or our officers before his staff presumably penned this letter. I have enclosed it for your review.

The USMS FMA has enjoyed a nearly 20-year relationship between our chapter and the USMS, reinforced with a signed, favorably written, long-term "Consultative Agreement" with agency leadership. The objectives of the Agreement are "...improvement of managerial effectiveness and resolution of problems affecting agency operations and employees, including supervisors and managers..." More specifically, the purpose of consultation and communication is for improving:

- a. Agency operations;

- b. Personnel management;
- c. Employee effectiveness;
- d. Exchange of information; and,
- e. Establishment of policies, rules, and regulations.

Managers across the USMS regularly speak with our chapter officers. Views are consolidated and, when appropriate, trends are shared with agency leadership. Some topics in the past have given the Acting Director reason to pause and chart a different course. One example included the surge of protests earlier this year with non-competitively promoting more than 60 operational employees through an accretion of duties exercise. After our chapter sent letters voicing a variety of manager's concerns the agency changed its initial position to use the more transparent competitive process, although more recently may have abandoned the initiative altogether based on a reference to our chapter in one of the Committee's two recent letters on officer safety.

Just last week our chapter shared with our membership the Committee's letter to the GAO requesting an assessment of any relationship in the USMS between the use of internal affairs investigations and disciplinary action, and punishment for reporting wrongdoing. Our chapter previously requested that the USMS Acting Director undertake a similar review in April 2016 that seemingly has seen no meaningful progress.

In his recent letter, the Acting Director refers to "a cordial consultative relationship [between the USMS and FMA]...viewed as mutually beneficial and collaborative, working for the benefit of the Agency and its employees and managers." Conversely, he also suggests our officers are "undermin[ing] significant Agency initiatives." Regrettably, no specific example(s) were provided and I am not aware of any instances in the nearly past two decades of efforts to do so by our officers or members.

It raises questions if the Acting Director is attempting to diminish, control, and intimidate USMS managers who have communicated with Congress and/or provided constructive feedback to agency leadership. I believe our chapter managers may very well be protected as federal employees of the Department of Justice under the Whistleblower Protection Enhancement Act. Surely our right to communicate with Congress is safeguarded?

We raise these points because we speculate your Committee's invitation to provide context and perspective regarding S. 1124 may have been one triggering event prompting the Acting Director's letter. Our Vice-President for Law Enforcement Operations met with Committee staff last month to communicate concerns with the proposed legislation and/or views designed to improve it. The information shared was not meant to "further the personal agenda of certain FMA local officer or officers," as the Acting Director surreptitiously asserts, but rather is the opinions of a larger segment of our managerial workforce. In response, he recently suggested "a small group" opposes the legislation. His assessment, however, is not based in fact.

Regular meetings with agency leadership have improved communication on a variety of viewpoints, designed to strengthen agency operations and save taxpayer dollars. We have consistently conducted ourselves in a manner that supports our mission to provide excellence in public service. Interaction between agency leadership and our officers ceased, however, following our engagement with Congress regarding a topic(s) the Acting Director views as a “significant agency initiative” (excepted service hiring authority). Accordingly, the recent letter to the FMA national office threatening a more formal disassociation with our chapter, its officers, and membership, is perceived to be a form of reprisal and appears to be an effort to interfere with our communication with Congress as federal employees.

We have extended multiple offers to meet with the Acting Director. These efforts, “specifically since May 2017,” have gone ignored. His recent comments to agency managers are troubling and appear to be aimed at having a chilling effect on employees who now risk being publicly scorned for having diverse viewpoints to improve government programs and operations, to include saving taxpayer dollars.

Again, the positions we have taken have been professional with a goal of improving governance at the USMS. Neither our chapter officers, nor any other individual agency manager, who provides information to Congress or any other investigatory agency (*e.g.*, OIG, OSC, GAO, etc.) should be subjected to even the appearance of retaliation, intimidation, or veiled threats—verbal or written, more particularly in a letter threatening to end the agency’s relationship with the FMA. The 2 ½ year written record of Committee oversight involving agency leadership misconduct and retaliatory behavior is alarming. It may explain a recent request to GAO to study conflicts within the USMS disciplinary process.

We denounce any attempt to retaliate against an employee for communicating with Congress and/or reporting wrongdoing. We appreciate your Committee’s invitation to hear from us and we look forward to ongoing and meaningful dialogue regarding opportunities to improve government operations and programs, and save taxpayer dollars.

The Acting Director has shared with agency managers that the Administration does not intend to nominate him, but another candidate in the near term, to fill the vacant USMS Director’s position. He also clarified on a recent national management conference call that his mandatory retirement date of September 2017 will be extended for a brief period of time pending the arrival of new agency leadership.

We also look forward to working closely with the soon-to-be-named Director that we believe will enjoy a supportive, ongoing, and meaningful relationship with agency managers and our chapter. Of the three documents I have enclosed with this letter, one recently shared with our Vice-President for Law Enforcement Operations, demonstrates the apparent retaliatory behavior by agency leadership when a manager communicates with the Committee. Most troubling, the Acting Director appears to have followed suit towards “certain FMS local officer or officers” who accepted an invitation to share the views—opposing or otherwise—of agency managers on a matter he considers to be a “significant agency initiative.”

We would appreciate you sharing this letter, as well as the enclosures, with the full Committee membership. We believe it offers context and perspective regarding the important, rigorous, and ongoing oversight work of the USMS that has been underway for the past 2 ½ years.

Sincerely,

Dave Barnes

Dave Barnes
President

Enclosure – Letter dated August 3, 2017, from David L. Harlow, Acting Director, U.S. Marshals Service, to Renee M. Johnson, President, Federal Manager’s Association

Letter dated March 27, 2017, from Charles E. Grassley, Chairman, Senate Judiciary Committee, to Jeff Sessions, Attorney General, Department of Justice, and David Harlow, Acting Director, U.S. Marshals Service

Chronological listing of Committee letters, floor speeches, and press releases

cc: Renee M. Johnson, President
Federal Manager’s Association

Bob Goodlatte, Chairman
House Committee on the Judiciary

Gene L. Dodaro, Comptroller General
U.S. Government Accountability Office



U.S. Department of Justice

United States Marshals Service

Office of the Director

Washington, DC 20530-0001

August 3, 2017

Ms. Renee M. Johnson
President
Federal Managers Association
1641 Prince Street
Alexandria, Virginia 22314

Re: Federal Managers Association Chapter 373 – United States Marshals Service

Dear Ms. Johnson:

I reach out to you as the head of the national Federal Managers Association (FMA) to assist the United States Marshals Service (USMS) in its recent interactions with Local FMA Chapter 373, associated with the USMS.

Local Chapter 373 has been in existence for more than 10 years, and until recently, USMS leadership has had a cordial consultative relationship with the FMA chapter, to include periodic meetings to discuss issues of interest or concern to its members. We have viewed that relationship as mutually beneficial and collaborative, working for the benefit of the Agency and its employees and managers. However, recent events have prompted me to question whether continued interaction with the FMA will be worthwhile. Specifically, since May 2017, there have been several widely disseminated emails sent, and outside meetings held, under the auspices of the FMA Local Chapter which appear to be designed to undermine significant Agency initiatives and to further the personal agenda of certain FMA local officer or officers. We view these efforts to be contrary to the purpose of any positive consultative relationship or the mutual benefit of the USMS and those employees who are members of the FMA Local Chapter. As such, we question whether any continuing relationship with FMA is viable.

Accordingly, I request a meeting with you and the Chapter President of Local Chapter 373, Mr. David Barnes, to discuss this unfortunate turn of events and to see if there is some way to remedy the current situation and move forward. Should you be amenable to such a meeting, please feel free to contact me at [REDACTED].

Sincerely,

David L. Harlow
Acting Director

cc: Mr. David Barnes
Chapter President, Local Chapter 373
Federal Managers Association