

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*

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.<sup>1</sup> 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."<sup>2</sup>

---

<sup>1</sup> Office of the Inspector General, U.S. Dep't of Justice, Report of Investigation, Case No. 2005-006966-I.

<sup>2</sup> *Id.*

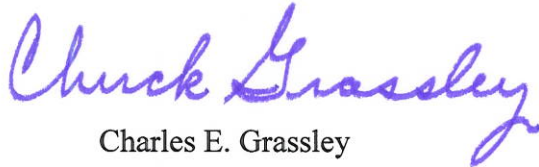
It is unclear to what extent the Department or the Marshals Service held accountable any of the Deputy U.S. Marshals who authored or presented the forged subpoenas to compel phone records. The Justice Department "declined criminal prosecution" in the case, and the Marshals Service issued one letter of 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