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June 30, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Loretta E. Lynch
Attorney General
United States Department of Justice

Dear Attorney General Lynch:

As I noted in my letter of June 3, 2015, the Committee continues its investigation into reports of widespread misconduct within the U.S. Marshals Service. The Department's June 8, 2015, letter requested that the Committee provide "additional information or evidence regarding the allegations" raised in the Committee's letters to assist the Department's review of materials responsive to the Committee's requests. This letter provides additional information regarding certain whistleblower allegations made to the Committee and requests further information from the Department in light of these facts.

My office has received additional information corroborating whistleblower allegations that Director Hylton influenced Asset Forfeiture Division (AFD) Assistant Director Kimberly Beal to ensure that a Marshals Service contractor hired the Director's college friend, and that in return, Ms. Beal received a promotion. Documents show that Ms. Beal directed subordinates to remain silent about the friend's lack of qualifications and herself admitted that the Director's friend was not qualified.

Information obtained by the Committee also suggests that special efforts were made to allow Ms. Beal to retain her acting position as AFD Assistant Director while twice under investigation for reported misconduct, and then to place her in her current, permanent position. Documents demonstrate that multiple attempts were made to alter and tailor the qualification requirements for the acting Assistant Director detail opportunity and the permanent Assistant Director position in order to strengthen her own candidacy and disqualify all other candidates from competition.

In November 2012, the Department of Justice Office of the Inspector General found that Beal, Eben Morales, and Pam Bass retaliated against a whistleblower.¹ Then, in December 2012, the Marshals Service announced the vacancy for the permanent role of AFD Assistant Director. The agency classified the vacancy announcement as an administrative (ES-0340) position, even though the applicable Position Description (PD) was limited to criminal investigators (ES-1811). Had the USMS published the vacancy announcement according to the applicable PD, Ms. Beal would not have been eligible.² Nevertheless, other applicants for that vacancy allegedly were discouraged by senior leadership from applying, explicitly for the reason that the position was intended for Ms. Beal.

Director Hylton allegedly delayed the announcement of Ms. Beal's permanent appointment, however, upon learning that Ms. Beal was again under investigation—this time for unfair hiring practices. According to documents obtained by the Committee, the agency cancelled the vacancy announcement in June 2013, and Director Hylton later selected Ms. Beal for an additional one-year detail as Acting Assistant Director. Ms. Beal is the only candidate whose name appears on that acting detail certification list.

The agency again listed the permanent position in February 2014, shortly after documents show the Office of Special Counsel informed the U.S. Marshals Service that it had closed an anonymous complaint referred by the OIG involving improper hiring practices allegedly committed by Beal and others. Director Hylton then selected Ms. Beal on July 22, 2014. Ms. Beal's appointment will become final when she completes one year in her permanent role as Assistant Director.³

As you know, Section 702 of the Ethics Standards applicable to all federal Government employees provides:

An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

¹ U.S. Department of Justice, Office of the Inspector General, Report of Investigation, Case No. 2012-002687 (Nov. 21, 2012).

² Documents obtained by the Committee show that OPM did not change the position description for the Assistant Director of the Asset Forfeiture Division until January 2014—approximately a full year after the agency first announced the vacancy for the permanent position.

³ United States Office of Personnel Management, Guide to the Senior Executive Service (Apr. 2014), available at: <http://www.opm.gov/policy-data-oversight/senior-executive-service/reference-materials/guidesesservices.pdf>.

The OIG has taken the position that it is not necessary “that . . . managers explicitly instructed [subordinates] to hire their referrals.”⁴ Rather, “[w]hether their communications . . . were instructions or merely recommendations or suggestions . . . [any] acts taken in an official capacity, satisfy[] the ‘use of office’ element of Section 702.”⁵

In order to understand the nature and propriety of these personnel decisions, please provide, no later than July 14, 2015, all records related to communications regarding:

1. The initial appointment of Kimberly Beal to Acting Assistant Director of the Asset Forfeiture Division;
2. The announcement, recruitment, interview, and selection of one-year detail positions for Acting Assistant Director of the Asset Forfeiture Division from 2012 to the present; and
3. The announcement, recruitment, interview, and selection (or non-selection) of candidates for the permanent position of Assistant Director of the Asset Forfeiture Division from 2012 to the present.

Thank you for your continued assistance in this matter. Should you have any questions, please contact DeLisa Lay of my staff 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

⁴ U.S. Department of Justice, Office of the Inspector General, Investigation of Allegations of Improper Hiring Practices at INTERPOL Washington (Feb. 2015) at 41.

⁵ *Id.* at 41.

The Honorable Carolyn N. Lerner
Special Counsel
U.S. Office of Special Counsel