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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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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