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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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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