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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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March 26, 2015

**VIA ELECTRONIC TRANSMISSION**

The Honorable Sally Quillian Yates  
Acting Deputy Attorney General  
U.S. Department of Justice

Dear Acting Deputy Attorney General Yates:

Today, the Justice Department's Office of Inspector General (OIG) released a report which found that Drug Enforcement Agents (DEA) engaged in "sex parties" with prostitutes hired by drug cartels in Colombia.<sup>1</sup> According to the report, seven DEA agents admitted to attending these parties, but none of them were dismissed.<sup>2</sup> I am writing to express concerns that the Department of Justice (DOJ) may not be taking adequate steps to prevent its own employees from buying sex and thereby contributing to the demand for the human sex trade.

In today's report, the OIG noted that DOJ components do not have policies that "adequately address the solicitation of prostitution in jurisdictions where the conduct is legal or tolerated."<sup>3</sup> One DEA official told the OIG that "prostitution is part of the local culture and tolerated in certain areas called 'tolerance zones.'"<sup>4</sup> Last month, 180 human trafficking victim advocacy groups emphasized to this Committee that "[t]he elimination of sex trafficking is fundamentally linked to targeting the demand for commercial sex. Any effort to prevent sex trafficking must . . . target the culture of impunity for those who seek to purchase sex . . ."<sup>5</sup>

During consideration of Ms. Loretta Lynch's nomination to be the next Attorney General, I asked Ms. Lynch if she would commit to implementing a zero-tolerance policy that requires the dismissal of DOJ employees who are found to have engaged in solicitation of prostitution.<sup>6</sup> I did so in response to a January 2015 OIG report disclosing problems in the DOJ's policies

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<sup>1</sup> U.S. Department of Justice, Office of Inspector General, *The Handling of Sexual Harassment and Misconduct Allegations by the Department's Law Enforcement Components* (March 2015), at 27-28.

<sup>2</sup> *Id.* at 28 (The discipline imposed ranged from suspensions of two to ten days).

<sup>3</sup> *Id.* at iv.

<sup>4</sup> *Id.* at 28.

<sup>5</sup> Letter to Sen. Charles E. Grassley, Chairman, and Sen. Patrick J. Leahy, Ranking Member, Sen. Comm. on the Judiciary (Feb. 23, 2015), <http://sharedhope.org/wp-content/uploads/2015/02/JVTA-support-letter-2015.pdf> (184 organizations are listed in the signature line of this letter, but four appear to be listed twice as duplicates).

<sup>6</sup> Nomination of Loretta E. Lynch to be Attorney General of the United States, Questions for the Record, Submitted February 9, 2015, <http://www.judiciary.senate.gov/imo/media/doc/Lynch%20QFR%202-9-15.pdf>, at 43-44.

governing the off-duty conduct of its employees,<sup>7</sup> including the lack of a Department-wide policy concerning solicitation of prostitution, much less a zero tolerance policy. This review followed a 2012 OIG finding that three DEA officials paid for sexual services while in Cartagena, Colombia.<sup>8</sup>

In her February 9<sup>th</sup> response to my question on this subject, Ms. Lynch failed to commit to a zero-tolerance policy, saying only that she will review policies to ensure that those who violate the “highest standards” of conduct are held accountable.<sup>9</sup> I hope this includes a zero tolerance policy, but I simply do not know based on the nominee’s response. Also, the nominee’s answer indicates a failure to appreciate the deterrence value of a zero tolerance policy.

As the OIG noted in a January 2015 report, prostitution – even where it is legal – is often an abusive activity that involves coercive relations, and can contribute to human trafficking, a crime that DOJ seeks to eradicate.<sup>10</sup> Further, according to the State Department:

[A] victim of sex trafficking may not appear to be under duress, given that coercion and threats of violence are often used to hold people in servitude . . . assumptions based on appearances as to whether or not an individual is 18 years old are frequently erroneous, as many brothel managers and pimps dress minors to look older.<sup>11</sup>

Given the gravity of these concerns, a bright line rule is needed to warn all DOJ employees to *steer well clear* of contributing to the demand for human trafficking, and your commitment to a zero tolerance policy would achieve that *before* employees act in such a manner that violates the “highest standards” of conduct. That is why I – along with 17 of my colleagues in Congress – recently asked the Secretary of State to adopt such a policy with respect to State Department employees.<sup>12</sup> Similarly for DOJ leadership, it is not enough to set anti-human trafficking as a prosecutorial priority; it must also be a managerial and personnel priority.

The Department currently employs more than 1,200 in positions abroad, and employees take about 6,000 trips a year to more than 140 countries.<sup>13</sup> Because DOJ employees represent

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<sup>7</sup> U.S. Department of Justice, Office of Inspector General, *Review of Policies and Training Governing Off-Duty Conduct by Department Employees Working in Foreign Countries* (Jan. 2015), <http://www.justice.gov/oig/reports/2015/e152.pdf>, at ii, 7, 40, 48-50.

<sup>8</sup> Letter from U.S. Department of Justice, Office of Inspector General to Sen. Joseph Lieberman, Chairman, and Sen. Susan Collins, Ranking Member, Sen. Comm. on Homeland Security and Governmental Affairs (Dec. 20, 2012), [http://msnbcmedia.msn.com/i/msnbc/sections/news/130110\\_Justice\\_IG\\_Letter.pdf](http://msnbcmedia.msn.com/i/msnbc/sections/news/130110_Justice_IG_Letter.pdf)

<sup>9</sup> Nomination of Loretta E. Lynch to be Attorney General of the United States, Questions for the Record, Submitted February 9, 2015, <http://www.judiciary.senate.gov/imo/media/doc/Lynch%20QFR%202-9-15.pdf>, at 43-44.

<sup>10</sup> See note 7, *supra*, at 7.

<sup>11</sup> See note 7, *supra*, at 40.

<sup>12</sup> Letter from Sens. Charles E. Grassley, John Thune, Roy Blunt, Deb Fischer, Mark Kirk, John Barrasso, John Boozman, Thom Tillis, Marco Rubio, Joni Ernst, Orrin Hatch, Ron Johnson, Kelly Ayotte, Rob Portman, and John Cornyn, and Reps. Ann Wagner, Jason Chaffetz, and Ed Royce, to The Hon. John F. Kerry, Secretary of State, and The Hon. Steve Linick, Inspector General, U.S. Department of State (Mar. 18, 2015), <http://www.grassley.senate.gov/news/news-releases/18-lawmakers-secretary-kerry-zero-tolerance-policy-needed-employees-who-purchase>.

<sup>13</sup> See note 7, *supra*, at i-ii.

the United States both at home and abroad, they must uphold the values and ideals in which we strongly believe. Indeed, their judgment and actions reflect upon our nation.

Accordingly, please provide a response to the following by April 10, 2015:

1. Have you considered adopting a zero-tolerance policy that requires the dismissal of any DOJ employee who is determined to have engaged in the solicitation of prostitution, without exception?
2. What legal barriers and restrictions, if any, are currently in place that would prevent the Department from adopting an effective zero tolerance policy?
3. What additional authority, if any, do you need from Congress to ensure that DOJ employees are terminated for engaging in the solicitation of prostitution?
4. How does DOJ ensure that its contractors and their employees steer well clear of engaging in the solicitation of prostitution?<sup>14</sup>
5. According to today's OIG report, the OIG "cannot be completely confident that the FBI and DEA provided the OIG with all information relevant to its review."<sup>15</sup> DEA apparently withheld records and DEA employees were under an impression that they were not to discuss an open case of misconduct with the OIG.<sup>16</sup> Will you instruct all DOJ components, particularly DEA and FBI, to fully cooperate with the OIG in its reviews, including providing timely access to all documents requested by the OIG?

Please contact Jay Lim of my Committee staff at (202) 224-5225 should you have any questions. Thank you for your cooperation in this important matter.

Sincerely,



Charles E. Grassley  
Chairman

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

The Honorable Valerie B. Jarrett  
Chair  
President's Interagency Task Force Monitor and Combat Trafficking in Persons

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<sup>14</sup> <https://www.federalregister.gov/articles/2015/01/29/2015-01524/federal-acquisition-regulation-ending-trafficking-in-persons>.

<sup>15</sup> See note 1, *supra*, at ii.

<sup>16</sup> *Id.*