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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

December 6, 2017

**VIA ELECTRONIC TRANSMISSION**

The Honorable James C. Duff  
Director  
Administrative Office of the U.S. Courts  
Thurgood Marshall Federal Judiciary Building  
One Columbus Circle N.E.  
Washington, D.C. 20002

Dear Director Duff:

Recently, whistleblowers have alleged that the Administrative Office of the United States Courts (AOUSC) lacks a robust internal reporting mechanism for AOUSC employees seeking to report waste, fraud, abuse, and prohibited personnel practices. These whistleblowers claim that existing avenues for reporting wrongdoing are inefficient, and lack a meaningful external review process to account for possible conflicts.

According to the AOUSC website, judiciary employees or members of the public who suspect fraud, waste, or abuse in judiciary operations “have a number of options to report an allegation,” which include reporting to a local executive, or to the AOUSC.<sup>1</sup> However, there is no explanation of the process for reporting, or how claims are investigated, leaving some whistleblowers confused about the manner and scope of a potential review.<sup>2</sup> The AOUSC does seem to have a reporting mechanism in place for employment based claims, such as the Fair Employment Practices Complaint Process (PEP-CP) or through the Human Resources Department. However, whistleblowers allege the process lacks transparency and accountability because it fails to provide claimants with notice of how to report or how to proceed once a claim is filed. This increases the potential for investigators to close a case without conducting a

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<sup>1</sup> *Administrative Oversight and Accountability*, U.S. CTS., <http://www.uscourts.gov/about-federal-courts/judicial-administration/administrative-oversight-and-accountability> (last visited Nov. 13, 2017).

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

thorough review. Further, certain employees, deemed “Post-Act” employees are not afforded any opportunity to appeal final employment decisions to the Equal Employment Opportunity Commission or a federal court.<sup>3</sup> Finally, there seems to be no independent third party to review claims outside of the AOUSC, should a conflict necessitate a transfer.

The whistleblowers have provided several examples to the Committee that they believe are not being adequately reviewed or investigated. First, they allege a lack of coordination between the AOUSC headquarters and local courts often results in redundant efforts to develop case management and calendaring systems, leading to wasteful spending of taxpayer dollars. Second, they allege the AOUSC will hire contractors at a higher cost instead of using existing trained court staff to engage in similar tasks. Without a robust oversight or reporting process, there may be valid claims that are never properly investigated and remedied.

In light of these allegations, and given the Committee’s oversight responsibilities, it is important to better understand the current reporting process within the AOUSC. Therefore, please respond to the following questions no later than December 19, 2017:

1. Please provide a description of the current process for contractors and Pre-Act and Post-Act employees seeking to report waste, fraud, abuse, and prohibited personnel practices, including a description of current protections for employees who report; and copies of all policies, procedures, internal manuals or memoranda, and training guidance related to this process and protections. Please explain how conflicts of interest are accounted for.
2. What internal safeguards exist at the local, regional, and national levels to deter waste, fraud, and abuse of judicial resources? Please explain and provide all relevant policies or procedures governing the administration of these safeguards.<sup>4</sup>
3. Please provide a description of the financial audit processes – internal and external – for individual courts and the AOUSC, including frequency of audits and details of the processes utilized.
4. Please provide all financial audits, program reviews, and special investigations reported by the AOUSC to the Judicial Conference Committee on Audits and Administrative Office Accountability from FY 2013 to FY 2017.<sup>5</sup>
5. Please provide a description of all in-person or web-based training for chief judges and unit executives offered by the Federal Judicial Center (FJC) and the AOUSC on their management and oversight responsibilities.

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<sup>3</sup> 28 U.S.C § 602 (2012) (clarifying “Post Act” refers to employees who were hired after the AO Personnel Act of 1990).

<sup>4</sup> *Administrative Oversight and Accountability*, *supra* note 1.

<sup>5</sup> *Id.*

Thank you for your attention to this matter. Should you have any questions, please contact Katherine Nikas of my Committee staff at 202-224-5225.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is fluid and cursive, with the first name "Chuck" and last name "Grassley" clearly legible.

Charles E. Grassley  
Chairman  
Senate Committee on the Judiciary

cc:

The Honorable Dianne Feinstein  
Ranking Member  
Committee on the Judiciary

The Honorable John Roberts  
Chief Justice  
U.S. Supreme Court