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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KELAN L. DAVIS, Chief Counsel and Staff Director
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June 5, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Sally Quillian Yates
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Deputy Attorney General Yates:

Recently, whistleblowers from the U.S. Marshals Service (USMS) have contacted our offices alleging that their supervisors in the Western District of Oklahoma office have retaliated against them for communicating with the Department of Justice (DOJ) Office of the Inspector General (OIG) related to an ongoing investigation. As you may be aware, obstructing an OIG investigation is a crime,¹ and taking any personnel action against an employee for speaking to the OIG is unacceptable and contrary to law.²

Recently, we have conducted broader inquiries into allegations of misuse of government funds, misconduct, wrongful promotional practices and whistleblower retaliation at the USMS. We consider these whistleblower communications with our offices part and parcel of this broader investigation and furthermore consider their communications to us to be protected disclosures. Denying or interfering with employees' rights to furnish information to Congress is also against the law.³ Federal officials who deny or interfere with employees' rights to furnish information to Congress are not entitled to have their salaries paid by taxpayer dollars.⁴ Furthermore, USMS personnel have Constitutional rights to express their concerns to Congress under the First Amendment.

¹ 18 U.S.C. § 1505.

² The Whistleblower Protection Act of 1989, 5 USC § 2302(b)(9) states: "An employee shall not take any personnel action against any employee for cooperating with or disclosing information to the Inspector General of an agency."

³ 5 U.S.C. § 7211 states: "The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied."

⁴ P.L. 113-6, § 713 states:

No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who . . . prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress . . . or . . . disciplines . . . any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions . . . by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress[.]

Whistleblowers are some of the most patriotic people we know—men and women who labor, often anonymously, to let Congress and the American people know when the Government isn't working so we can fix it. As such, it would be prudent for you to remind USMS management about the value of protected disclosures to Congress and Inspectors General in accordance with whistleblower protection laws. Absent such a clear communication from you, USMS management might be able to intimidate whistleblowers to prevent them from providing information to Congress and to independent investigators.

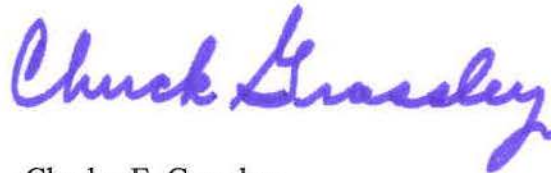
USMS employees have the right to talk to Congress and to the Inspector General, and to provide Congress and Inspectors General with information free and clear of agency interference. Further, these employees have the right to be free from fear of retaliation or reprisal for doing so. Please provide a list of steps you plan to take to ensure that USMS employees in the Western District of Oklahoma are aware of their rights and whistleblower protections and that USMS managers are accountable for respecting all protected disclosures. Please provide your written response to these questions by June 19, 2015.

Thank you for your cooperation and attention in this matter. If you have any questions please contact Sarah Seitz of Senator Lankford's staff at (202) 224-5754 or DeLisa Lay of Senator Grassley's staff at (202) 224-5225.

Sincerely,



James Lankford
U.S. Senator



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