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June 10, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Sally Quillian Yates
Deputy Attorney General
United States Department of Justice

Dear Deputy Attorney General Yates:

This letter follows a series of inquiries made by the Committee regarding allegations received by dozens of whistleblowers regarding misconduct at the U.S. Marshals Service.

The Committee appreciates the Department's intent to cooperate with the Committee's continuing inquiry. The Committee is also coordinating its inquiry in parallel with the Office of Inspector General and expects timely, good faith responses to document and witness interview requests, as has already been discussed with Department staff.

Beyond the many allegations that appear to outline a pattern of improper hiring practices throughout the Marshals Service,¹ this letter requests information regarding additional allegations of mismanagement and misuse of government resources, including the Assets Forfeiture Fund (AFF).

Misuse of Government Funds for Private Gain

The Committee has received allegations from multiple whistleblowers with direct knowledge that senior executives misused government resources for their personal benefit.

¹ See Letter from Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary to Sally Quillian Yates, Acting Deputy Attorney General (Apr. 23, 2015); 5 U.S.C. § 1214(a)(5).

According to whistleblowers, while in the process of applying for the position of Assistant Director (AD) of the Asset Forfeiture Division, then-Acting AD Eben Morales directed a government contractor to draft a portion of Morales' application for the permanent AD position. Each application for a Senior Executive Service (SES) position—of which the AD position is one—requires applicants to submit Executive Core Qualification (ECQ) statements. The USMS contractor allegedly billed time spent drafting Morales' ECQs to the government. Mr. Morales then allegedly directed a different government contractor to make corrections to those ECQs. That contractor allegedly also billed the time to the USMS under that contract.

Additionally, multiple whistleblowers allege that current AD of AFD Kimberly Beal directed Jennifer Crane and Pam Bass, her government employee subordinates, to draft Ms. Beal's ECQs so that Beal could apply for the permanent SES position that she currently occupies.

The AD of the Judicial Security Division, Noelle Douglas, also allegedly directed a government employee subordinate to draft her ECQs for her current permanent SES position.

According to at least one publicly available website, federal government employees may pay several thousand dollars of their own funds for private contractors to spend up to two weeks drafting ECQs and other materials for Senior Executive Service (SES) application packages. These allegations, if true, may amount to serious ethics violations² and thousands of dollars in contract fraud.

Assets Forfeiture Fund and Travel

The Committee also has received allegations from multiple whistleblowers that the USMS AFD uses AFF money to pay for extensive and often unnecessary travel expenses. For example, as I wrote in my April 23, 2015, letter to the Department, multiple whistleblowers have alleged that former AD for AFD Eben Morales, now AD of the Prisoner Operations Division, frequently traveled to Miami on business but spent much of his time on personal matters.

The AFF also allegedly pays for the travel of certain USMS employees to AFD headquarters in Arlington, VA to participate in an "Asset Forfeiture Leadership Council," according to multiple whistleblowers. Those council meetings allegedly are "a waste of time" that produce not "one positive benefit" and "never accomplish anything." Nevertheless, AFF monies pay for these employees to fly across the country twice a year.

² 5 C.F.R. § 2635.705(b) ("An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation."); *see also id.* §§ 2635.702, 2635.302.

Assets Forfeiture Fund Salaries for Non-Asset Forfeiture Work

Information obtained by the Committee also strongly suggests that the USMS is using AFF money not only to pay for luxurious decor, but also to fund regular Marshals Service activities that have *nothing to do* with asset forfeiture.

Specifically, information obtained by the Committee demonstrates that the AFD uses the AFF to fully fund the salaries and benefits of several non-AFD personnel, including within the USMS Office of General Counsel. However, it is alleged that at least some of those personnel are *not* fully engaged in work related to asset forfeiture.

It is not clear that the USMS can demonstrate with any degree of accuracy that non-asset forfeiture work is precisely offset by asset forfeiture work performed by employees whose salaries and benefits are not paid out of the AFF. For example, previously, the USMS allegedly used a tracking system for all district administrative USMS employees to bill time to specific project codes. Under that system, every hour an employee worked on asset forfeiture-related matters would be billed to the AFF, while the hours not spent on asset forfeiture-related matters would be billed to a different source.

On January, 9, 2013, then-Acting Assistant Director for AFD Kimberly Beal sent a memorandum to the U.S. Marshals' district offices informing them that USMS had "received authority for Asset Forfeiture (AF) positions to be fully billed to the AFF." Certain employees who previously billed their time to asset forfeiture could continue doing asset forfeiture work "as a collateral duty." And employees fully funded in an "AF position" could also continue to perform non-AF work as long as they "complete[d] all AF responsibilities" and "their other [non-AF] duties have been deemed appropriate by District Management." It is not clear from the memorandum exactly how AFD planned to ensure that the true and accurate amount of AFF money was paid to support the amount of AF work actually performed by the USMS.

The agency's apparent failure to accurately track and measure the use of AFF monies to support AF work significantly impairs oversight and accountability for USMS' use of the fund. This type of lax accounting encourages and perpetuates a culture of impunity for waste and mismanagement.

Please provide all documents responsive to the following requests by June 24, 2015:

1. All records relating to communications regarding the drafting of ECQs on behalf of Eben Morales, Kimberly Beal, and Noelle Douglas, by or with the assistance of any government employee or contractor.

2. All documentation from FY 2010 to the present for the travel expenses of the following individuals, including the documentation of the purpose of and funding source for that travel:
 - a. Prisoner Operations Division Assistant Director Eben Morales;
 - b. Asset Forfeiture Leadership Council Chairman and U.S. Marshal for the District of Arizona David Gonzalez;
3. A list of all USMS employees and contractors, by name and title, that are funded from AFF resources but that are not specifically assigned to AFD or appearing within the AFD organizational chart; and
4. A detailed methodology demonstrating precisely how the AFD ensures that all positions fully funded by the AFF perform work exclusively on asset forfeiture matters, as required by 28 U.S.C. § 524(c).

Should you have any questions, please contact DeLisa Lay of my Committee staff at (202) 224-5225. Thank you.

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