Congress of the United States

Washington, DC 20510

August 22, 2012

The Honorable Robert S. Mueller, III
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Director Mueller,

At the Senate Judiciary Committee's hearing on oversight of the Federal Bureau of Investigation (FBI) on May 16th, 2012, Senator Grassley asked you questions related to Attorney General Holder's travel on FBI aircraft. You postponed your answers in order to respond at a later date. We are writing to follow up on that exchange.

As members of the House and Senate Judiciary Committees and the Subcommittees for Commerce, Justice, Science and Related Agencies of the House and Senate Appropriations Committees, we believe it is important to determine whether use of the FBI's aircraft by Attorney General Holder and other senior Department of Justice (DOJ) officials adheres to relevant statutes and policies, is cost effective, and does not hinder the operational readiness of the FBI. You agreed with this sentiment when you stated to Ranking Member Grassley at the hearing that FBI aircraft "are used for counterterrorism and that any travel for principals is secondary to the use of the plane for the investigative work of the FBI."

We are aware that the Attorney General is required to travel by government aircraft for security purposes. However, based upon information provided to us, it is our understanding that the FBI pays for the Attorney General's travel despite the fact that he has his own travel budget. We also understand that travel is an inherent and expected part of the job for any Attorney General. Despite your assurances that investigative operations receive priority, we are concerned that FBI aircraft are used for extraneous business and personal travel by senior DOJ officials, including the Attorney General. If true, this travel would place unnecessary budgetary pressure on the FBI and may adversely impact the operational readiness of the FBI's air operations. Although senior officials may reimburse the government for non-official travel on government aircraft, the reimbursement rate does not necessarily make the taxpayer whole for the actual costs incurred by using government aircraft.

To assist in our evaluation of the appropriateness of the use of FBI aircraft for business and personal travel by the Attorney General and other senior DOJ officials, we request your responses to the questions.

1. It is our understanding that the FBI aviation section has multiple uses for its aircraft. Provide the percentage of aircraft use for executive transportation, investigative operations, and pilot training/maintenance for fiscal years 2008, 2009, 2010, 2011, and 2012.

2. In order to have aviation support for FBI operations, aircraft and pilots must be readily available. We have learned that in certain instances one of the FBI aircraft was reserved for use by DOJ, but the DOJ alternatively reserved another agency's aircraft as well. It is our understanding that despite the use of the other agency's aircraft, the FBI still paid for the DOJ executives' travel while on that aircraft and the reserved FBI aircraft sat idle as a result.

    a. How many times has a request for FBI aviation support been unfulfilled because personnel and/or equipment were not available?
    b. How many investigative operations had unfulfilled aviation requests regardless of reason?
    c. For each of the aforementioned instances, what was the reason the aviation mission was not completed? Provide dates and locations for any such unfulfilled missions.
    d. For the aforementioned dates and locations that the FBI planes were not able to fulfill FBI missions, provide us with the aircraft manifests on those respective days along with a ledger of the executives utilizing the aircraft.

3. Earlier this year, we heard troubling allegations that the Attorney General is among those who have reserved and used FBI planes for his own travel when aircraft were needed for FBI missions, then upgraded to a larger aircraft owned by a different agency and left the FBI plane sitting idle because he failed to notify the FBI in a timely manner. These allegations were particularly troubling because they suggested the FBI had to lease another plane to ensure the availability of aircraft for FBI operations. If these allegations are true, describe in detail each such instance where the FBI had to lease an additional plane due to Justice Department executive travel.

4. The FBI maintains a fleet of aircraft and employs aircrews to support its counterterrorism, counterintelligence, and criminal investigative missions. Where does executive transportation rank on the FBI's priority list for aviation operations? Although you testified that executive travel by principals is "secondary" to investigative priorities, how can Congress be assured that actual practice is consistent with that policy absent transparency about executive use of the aircraft?

5. The Wall Street Journal reported that Secretary of Defense Leon Panetta incurred approximately $870,000 in personal travel to and from his home in California using Department of Defense airplanes. The report brought public criticism to the high cost of travel by our executive leadership – criticism to which the Secretary, to his credit, responded. It is our understanding that the Justice Department does not reimburse the FBI, or other components, for its executive travel expenses even though the Justice Department maintains its own travel budget. Instead, we have learned that the FBI and

other Justice Department components are billed for executive travel expenses, even when non-FBI planes are used.

a. Why does the FBI pay for the attorney general's travel when he uses non-FBI planes such as Department of Defense and Federal Aviation Administration planes?
b. Does the FBI document the Attorney General's official and personal travel? If so, please provide the documentation. Does the FBI differentiate between the two types of travel?
c. Does the Attorney General reimburse the taxpayer for personal travel expenses when he uses FBI aircraft, like Secretary Panetta does with the DOD? If so, at what rate does he reimburse the taxpayer and how does that rate compare with the actual costs of using the aircraft? How much was reimbursed total in each fiscal year: 2008, 2009, 2010, 2011, and 2012?
d. In each of the past five years, how much has DOJ billed the FBI for executive travel?
e. Provide a list of all the flights billed to the FBI by DOJ and distinguish between official business travel for investigative, operational purposes, official business travel for senior executives and non-official personal travel for senior executives. Include information for each flight regarding: total cost; cost to DOJ (including per diem); cost to FBI (actual travel); mode of travel (FBI, FAA, Drug Enforcement Administration, DOD, commercial); and the destination, purpose, and designation as business or personal.
f. If a federal government aircraft was used for any particular flight, include all legs from the plane's base to where it picked up passengers, destination of the flight, and return legs. Also include a list of all passengers, designated as DOJ employees, other government, or personal travel passengers. For other than DOJ employees, provide the agency name, amount owed to DOJ and FBI, actual amount reimbursed to DOJ and FBI.

6. In May 2012, the Office of Management and Budget (OMB) ordered agencies to cut travel costs by thirty percent. It is our understanding that agencies can get exemption waivers if certain travel is deemed related to national security. Further, an Executive Order requires that you and other security and defense-related agency heads, such as the Attorney General, travel for work and personal reasons via government planes.

a. Can you explain how the FBI will comply with OMB's order when it is paying additional travel expenses for the Attorney General?
b. Who decides whether a particular trip is designated for national security and should be covered by an exemption waiver?
c. Would the need for designation and review of a trip hinder the FBI's ability to function if a waiver were needed in a short period of time?
d. How does the FBI currently differentiate its own travel from the Attorney General's travel when following Congressional reporting requirements?

Thank you for your immediate attention to this important matter. Given the current budget climate and the seriousness of our concerns, we ask that you provide full and complete responses to these questions no later than September 7, 2012.

Sincerely,

Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate

Lamar Smith
Chairman
Committee on the Judiciary
U.S. House of Representatives

Frank R. Wolf
Chairman
Committee on Appropriations
Subcommittee on Commerce, Justice,
Science, and Related Agencies
U.S. House of Representatives

Kay Bailey Hutchison
Ranking Member
Committee on Appropriations
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United States Senate