

United States Senate

WASHINGTON, DC 20510

May 26, 2021

The Honorable Donald W. Washington
Director
U.S. Marshals Service
1215 S. Clark Street
Arlington, VA 22202

Dear Director Washington:

The minority staff of the Commerce, Science, and Transportation Committee is conducting an oversight investigation of the Investigations and Threat Management Service (ITMS) at the Department of Commerce.¹ A variety of allegations have been raised by whistleblowers, citing activities that occurred as early as 2005, including chronic abuse of the Special Deputation program administered by the U.S. Marshals Service (USMS).

The ongoing investigation suggests that the ITMS has relied on the Special Deputation program to provide its agents with law enforcement authority for more than a decade. We understand that this program is appropriate for the mission of providing protection for the Secretary of Commerce and physical security of the Department's "critical assets." Evidence suggests, however, that agents repeatedly used the authority delegated by your agency to conduct a broad variety of criminal investigations and gather information using counterintelligence tactics.

The Inspector General at the Commerce Department (DOC-OIG) has reviewed similar allegations in recent years, but no action has been taken to address what appears to be clear abuses of authority. Until the Department issued an order temporarily pausing activities earlier this month, the ITMS continued to demonstrate egregious behavior. The unit's alleged misconduct spans from monitoring the communications of Department employees to conducting warrantless searches of locked office space using identity concealing tactics, with a disproportionate impact on employees of Chinese ancestry. These rogue activities have been unmonitored for too long.

Evidence obtained during this investigation indicates that the USMS provided guidance on this issue in a conversation with ITMS officials in late 2020, which included the Chief Inspector of the Special Deputations Unit. Unfortunately, informal engagement by minority staff of the Commerce, Science, and Transportation Committee to clarify the details of this discussion has fallen short.

¹ S. Comm. on Commerce, Sci., and Transp., 117th Cong., *Fact Sheet: Misconduct at the Commerce Department's Investigations and Threat Management Service*, <https://www.commerce.senate.gov/services/files/1DEDFOBE-B800-4A47-A625-816CD85BC05A>.

As the ongoing investigation into the ITMS continues to unfold, new issues have arisen that broadens the scope of oversight required by Congress. As a result, we request a formal response to the following questions:

1. What is the purpose of the Special Deputations program for employees at the Department of Commerce?
2. What offices or missions at the Department of Commerce are part of the Special Deputations program?
3. Does your agency maintain a definition of "critical assets"? If so, please explain.
4. Are Special Deputations to the Department of Commerce granted under the "*Security Guards and Personal Protection Employees*" section of USMS policy?
5. Is the ITMS a Department of Justice-approved unit eligible for the Special Deputations program, despite having no foundational law enforcement authority?
6. Does the Special Deputation program provide agents with authority to carry firearms for any reason outside the mission of providing physical security for the Secretary of Commerce?
7. Does the Special Deputation program provide the ITMS with authority to initiate and conduct criminal investigations?
8. Does the Special Deputation program provide the ITMS with authority to initiate and conduct counterintelligence operations?
9. Has the USMS provided the Department of Commerce or DOC-OIG with guidance about the scope of Special Deputations other than the cited instance in late 2020?
10. Were any USMS personnel, whether at headquarters or in the districts, actively supervising the daily activities of Special Deputized U.S. Marshals within ITMS?
 - a. Does the USMS assign any personnel to supervise the activities of Special Deputized Marshals?
11. How many other similar units to ITMS participate in the Special Deputation program within the federal government?
12. How many employees within the USMS oversee administrative processes related to the Special Deputation program?
13. How many applications for Special Deputations did USMS receive each year between FY 2010 and FY 2020? How many applications were approved? How many were denied?

14. Please describe what changes, if any, have been implemented in the management of the Special Deputation program in recent decades?

Please respond to this request by contacting Robert Turner on Ranking Member Wicker's staff at Robert_Turner@commerce.senate.gov, and Dario Camacho on Ranking Member Grassley's staff at Dario_Camacho@judiciary.senate.gov, no later than June 9, 2021. We appreciate your prompt and urgent attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger F. Wicker", written in a cursive style.

Roger F. Wicker
Ranking Member
Committee on Commerce, Science, and Transportation

A handwritten signature in blue ink, appearing to read "Chuck Grassley", written in a cursive style.

Charles E. Grassley
Ranking Member
Committee on the Judiciary