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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

November 4, 2014

VIA ELECTRONIC TRANSMISSION

The Honorable Charles E. Samuels, Jr.
Director
Federal Bureau of Prisons
320 First Street, NW
Washington, DC 20534

Dear Director Samuels:

In November 2010, a report by the U.S. Equal Employment Opportunity Commission on the Bureau of Prisons (BOP) found “widespread fear of retaliation among BOP employees.”¹ Unfortunately, four years after this report was released it appears that the culture of retaliation may still be present.

Specifically, there appears to be documentary evidence of retaliation against BOP Privatization Field Administrator Linda Thomas. Ms. Thomas disclosed information to the Department of Justice (DOJ) Office of Inspector General (OIG) regarding management abuses and waste of taxpayer money, and was subsequently assigned to work in a converted jail cell.

According to Ms. Thomas, from July 2013 to June 2014, she reported to the proper BOP chain of command that Janet Perdue, Residential Reentry Manager, was initiating an office move outside the city of Chicago so that she could be closer to her home in Downers Grove, Illinois. Ms. Perdue allegedly declined all of the office spaces suggested by the General Service Administration (GSA) within the city of Chicago and directed GSA to only search neighboring office spaces near her residence. In May 2014, Ms. Perdue’s supervisor also allegedly admitted to others that the office move was for a personal reason, stating that “if she [Ms. Perdue] was going to take this action, she should not have talked about it publicly.”

Furthermore, Ms. Thomas contends that since 2010, BOP has been allowing Ms. Perdue to fraudulently receive a higher rate of pay while doing work commensurate with a lower rate of pay. Specifically, Ms. Perdue’s pay rate is set at a GS-14 step 10, while her position—Residential Reentry Manager—is GS-12. This allegedly occurred because Ms.

¹ U.S. Equal Employment Opportunity Commission, *Final Program Evaluation Report: Federal Bureau of Prisons*, Washington DC. November 24, 2010. Accessed October 31, 2014 at <http://www.forbes.com/sites/walterpavlo/2011/12/06/retaliation-in-the-work-place-allegations-within-the-bureau-of-prisons>.

Perdue, formerly an Associate Warden, voluntarily demoted herself to take the Residential Reentry Manager position with agreement from BOP managers that she would retain her Associate Warden pay of GS-14 step 10. Any such agreement would be an apparent violation of the Office of Personnel Management's grade retention policy, which states that employees may not retain their grade if they voluntarily request a lower graded position.² Thus, if this allegation were true, over a four year period Ms. Perdue would have improperly received over \$150,000 dollars in taxpayer money from BOP.

Ms. Thomas made protected disclosures of these waste and abuse allegations to the DOJ OIG on June 16, 2014. On July 10, 2014, Ms. Thomas was informed that instead of investigating her claims themselves, the OIG referred her case to BOP's Office of Internal Affairs (OIA). In doing so, OIG failed to protect her identity and exposed Ms. Thomas to retaliation by the very agency against which she made protected disclosures.

Since making the protected disclosures to the OIG in June of 2014, Ms. Thomas's BOP superiors have allegedly taken retaliatory actions against her, including relocating her to work in a converted jail cell. On August 29, 2014, Angela Dunbar, Senior Deputy Assistant Director of Correctional Programs Division, contacted Ms. Thomas about relocation to an administrative space inside of a prison. On September 9, 2014, Ms. Thomas's supervisor, Donna Mellendick, instructed her to report to the prison and inspect her new work space. Upon inspecting it, Ms. Thomas discovered that the work space inside the prison was not an administrative space, but rather, a converted prison cell.

The cell currently does not have a desk, computer, phone line, scanner, or any of the other office items Ms. Thomas needs in order to perform her job duties. Ms. Thomas also learned that her government-issued BlackBerry, which is also critical to performing her job duties, would not be permitted inside the prison. On September 10, 2014, Ms. Thomas called Ms. Mellendick to inform her that her work space inside the prison was not an administrative space, but rather a prison cell. Ms. Mellendick allegedly told Ms. Thomas that she could either choose the prison cell or "move to the suburbs with Janet Perdue." Ms. Thomas has since filed a retaliation claim with the U.S. Office of Special Counsel.

² An employee under a covered pay system who is placed in a lower-graded position under the same or different covered pay system (*e.g.*, as a result of a reduction in force or when his or her position is reduced in grade as a result of a reclassification) is entitled to retain the grade held immediately before the reduction for a period of 2 years. An agency may not provide grade retention to an employee who: (1) Is reduced in grade for personal cause or at the employee's request; (2) Was employed on a temporary or term basis immediately before the action causing the reduction in grade; or (3) Moves between positions not under a covered pay system, from a position under a covered pay system to a position not under a covered pay system, or from a position not under a covered pay system to a position under a covered pay system. Office of Personnel Management Grade and Pay Retention Policy, 5 C.F.R. § 536.102.

In light of these allegations and to understand the circumstance surrounding these issues please provide answers to the following by November 18, 2014:

1. Please provide BOP's policy on office relocations.
2. Please provide any documentation provided by GSA regarding the proposed relocation of the Residential Reentry Field office.
3. How far is the proposed office location in Lisle from Ms. Perdue's residence?
4. Is it true that BOP has paid Ms. Perdue a GS-14 step 10 salary while Ms. Perdue did the work of a GS-12? If so, by what authority? How does this comply with OPM's grade retention policy?
5. Please provide a status update on OIA's investigation of Ms. Thomas's claims.
6. How has BOP addressed the "culture of retaliation" described by the Equal Employment Opportunity Commission and Ms. Thomas?

Thank you for your prompt attention to this matter. Should you have any questions, please do not hesitate to contact Tristan Leavitt of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member

cc: The Honorable Patrick J. Leahy, Chairman
Senate Committee on the Judiciary

The Honorable Michael E. Horowitz, Inspector General
U.S. Department of Justice

The Honorable Carolyn Lerner, Special Counsel
U.S. Office of Special Counsel