



U.S. Department of Justice

Federal Bureau of Investigation

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Washington, D.C. 20535

September 25, 2014

The Honorable Charles E. Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Senator Grassley:

This responds to your letter to Director Comey, dated July 17, 2014 and amended by a communication from your staff on August 27, 2014, requesting information concerning the use of loss of effectiveness (LOE) transfers within the FBI.

To meet the challenges of today, the FBI needs excellent leaders at all levels and in all disciplines. The FBI must identify and cultivate leadership potential early on in our employees' careers, and then train, assess, and sort out our leaders as they progress in the Bureau. Not everyone should be a leader, but that does not mean that someone is a bad employee just because they may not be right for a particular leadership role. As every employee has strengths and weaknesses, the FBI must do its best to nurture strengths and improve weaknesses in all our leaders. For these reasons, Director Comey is committed to developing and promoting leadership in all aspects of the FBI's mission.

All FBI employees are subject to being moved from a particular assignment for the betterment of the organization and to promote the leadership qualities needed for the FBI to be effective. LOE transfers are one of many avenues available to FBI management to maximize the efficiency and effectiveness of our workforce. A LOE transfer may be initiated upon executive management referral, inspection results, misconduct, and/or performance failure. To initiate the process, a written justification is provided to the Human Resources Division (HRD). The request is reviewed to ensure the LOE transfer is factually supported. HRD will review an employee's skill profile, previous work history, and any other relevant information, and develop options for placement of the employee. The Deputy Director and/or the Associate Deputy Director may also review the proposal prior to finalizing an LOE transfer.

The FBI intends the process to be fair and to improve the efficiency of the workforce. A LOE transfer does not result in a loss in pay or a demotion in rank. As a matter of practice, upon effecting an LOE transfer, HRD will follow up with an employee at regular intervals and work with an employee's new executive management to identify any needed development to support an employee's success in the new assignment. The aim is to improve the employee's performance to the fullest extent possible.

In response to your amended request, we queried Inspection Division data to determine the number of LOE transfers since January 1, 2009. We identified one LOE transfer in 2011, eleven LOE transfers in 2013 and six LOE transfers to date in 2014. The data did not reflect any LOE transfers in 2009, 2010 or 2012. Of the eighteen total LOE transfers since January 1, 2009, ten were male employees and eight were female employees.

It is the FBI's view that the law requires that personnel decisions be made without considering an employee's protected activity. Any information regarding protected activity (such as EEO or whistleblower status) would be removed from relevant documents prior to consideration by FBI officials of a recommendation to implement a LOE transfer, and we do not maintain statistics concerning protected status in connection with LOE transfers.

Finally, given that some of the issues raised by employees in your letter are currently the subject of pending litigation, the Director will be unable to meet with them at this time.

As always, we appreciate your continued support of the FBI.

Sincerely,



Stephen D. Kelly  
Assistant Director

① The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510