

ORRIN G. HATCH, UTAH, CHAIRMAN

CHARLES E. GRASSLEY, IOWA
ARLEN SPECTER, PENNSYLVANIA
JON KYL, ARIZONA
MIKE DEWINE, OHIO
JEFF SESSIONS, ALABAMA
LINDSEY O. GRAHAM, SOUTH CAROLINA
LARRY CRAIG, IDAHO
SAXBY CHAMBLISS, GEORGIA
JOHN CORNYN, TEXAS

PATRICK J. LEAHY, VERMONT
EDWARD M. KENNEDY, MASSACHUSETTS
JOSEPH R. BIDEN, JR., DELAWARE
HERBERT KOHL, WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
RUSSELL D. FEINGOLD, WISCONSIN
CHARLES E. SCHUMER, NEW YORK
RICHARD J. DURBIN, ILLINOIS
JOHN EDWARDS, NORTH CAROLINA

MAKAN DELRAHM, CHIEF COUNSEL AND STAFF DIRECTOR
BRUCE A. COHEN, DEMOCRATIC CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

July 14, 2004

The Honorable John Ashcroft
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Robert S. Mueller
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Via mail and telefax (202) 514-4482 & (202) 324-6490

Dear Attorney General Ashcroft and Director Mueller:

- #1 We are writing to inquire and express concern about the Federal Bureau of Investigation's (FBI) continued targeting of Special Agent Robert Wright, a situation we had hoped and believed had been resolved after we raised the issue last year. Unfortunately, we have learned that the Justice Department (DOJ) has now inserted itself into the matter. Specifically, counsel for Agent Wright has informed us that the DOJ Office of Professional Responsibility (DOJ OPR) intends to interview Agent Wright this month regarding unspecified allegations.
- #2 As Director Mueller will recall, we wrote with concerns about Agent Wright's predicament on June 12, 2003, after learning that the FBI had opened its fourth internal investigation against Agent Wright. Agent Wright was cleared of allegations investigated by the FBI's Office of Professional Responsibility (FBI OPR) in the three previous investigations. Our concern was that the latest investigation was a sign of the FBI's apparent haste to launch an OPR probe every time an agent speaks publicly about problems within the FBI.
- #3 Recent internal documents of the FBI provided to the Senate Judiciary Committee escalate our concerns about retaliation against Agent Wright.
- #4 According to the documents, after Agent Wright completed his June 2, 2003 press conference, the top two FBI OPR officials at the time discussed their plan to "take him out," for his public appearance and comments on a network television news program.
- #5 The materials provided to us include a summary of observations by former Special Agent John Roberts, who served as a Unit Chief in FBI OPR, and his wife Brenda, who served as a secretary in FBI OPR. FBI OPR officials sought to involve Mr. Roberts in the

investigation against Agent Wright, but Mr. Roberts raised objections and concerns about the manner in which OPR officials were conducting themselves and the investigation.

- # 1 The documents reflect that Mr. Weis instructed Mr. Roberts to open the case against Agent Wright in such a way that the Justice Department Office of Inspector General (DOJ OIG), which has the right of first refusal on all FBI allegations, would not initiate its own investigation, thus leaving the matter within the FBI. Mr. Weis also said that Mr. Jordan had already decided "to propose SA Wright for dismissal," based on their belief that Agent Wright committed insubordination, without even conducting an investigation.

According to the documents, when Mr. Roberts reviewed the allegation and information, he determined "there was no predication to open a case" in FBI OPR at headquarters. At most, the documents stated, the matter called for an investigation by the Chicago Field Office, where Agent Wright worked.

- #3 There are other irregularities raised by the documents. For example, FBI OPR officials allowed two persons interviewed in the investigation to review the FBI written summary (FD-302s) of their interview, even though FBI practice does not permit this.

Mr. Roberts' documents also reflect that an Assistant Special Agent-in-Charge (ASAC) of the Chicago field Office called Mr. Weis in an apparent attempt to smear Agent Wright in the media. The message, taken by Mrs. Roberts in her capacity as secretary, stated that several FBI agents "WANT PERMISSION TO SPEAK WITH A REPORTER FROM CHICAGO (PORTER?) IN ORDER TO DISCREDIT WRIGHT."

- #5 In addition to raising concerns about the handling of Agent Wright's situation, the documents provided contain other alarming information about questionable practices and incidents within FBI OPR. One such incident was a cheating scandal at the FBI Academy in Quantico, Virginia. FBI OPR received information that two students violated rules and the FBI Academy Honor Code on at least two tests. The information stated that, "After conducting an investigation, it was clear to those involved that the two students had been cheating." One of the students even admitted to cheating. Nevertheless, the Special Agent-in-Charge (SAC) of the FBI Academy disregarded the recommendations for discipline and merely "chose to verbally admonish" the students. The agents apparently were allowed to graduate on September 5, 2003. Whitewashing the cheating incident not only called into question the SAC's performance and judgment, but may have constituted misconduct.

The continuing investigation of Agent Wright, and a FBI Academy cheating scandal swept under the rug show problems still fester at FBI OPR. This information is especially disappointing because Director Mueller has made efforts to improve and reform FBI OPR.

Given our shared concerns about FBI reform and the treatment of FBI whistleblowers, we must get to the bottom of this situation quickly. We would appreciate answers to the following questions by Thursday, August 5, 2004:

#1 1) Do you consider the actions of Mr. Jordan and Mr. Weis regarding Agent Wright to be appropriate and in accordance with FBI standards of conduct? What action, if any, is being taken regarding the way they conducted the investigation?

#2 2) When and why was the investigation against Agent Wright moved to DOJ OPR?

#3 3) Why did Mr. Weis allow two interviewees in the investigation of Agent Wright to review FBI documents of their interview summaries with FBI OPR? Did either of them request changes to the interview summaries, and did the FBI comply? Please provide the initial draft of their FD-302s, and the final copy after they reviewed them. Is it standard practice and/or procedure at the FBI to allow witnesses or interviewees in OPR cases to review their FD-302s? Please list any other incidents of this occurring in the past five years.

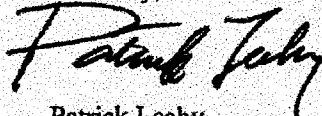
#4 4) Did any FBI official grant permission for agents in the Chicago Field Division to speak to one or more reporters about Agent Wright, as the Chicago ASAC requested on June 17, 2003? If so, please identify the FBI official(s) who granted permission, and identify the agents in Chicago who spoke to reporters about Agent Wright.

#5 5) Do you believe the FBI Academy SAC made an appropriate decision by verbally admonishing the two students who were alleged to have cheated, as opposed to taking more severe disciplinary action against them, such as expulsion? Was the SAC's decision consistent with the FBI's zero-tolerance for lying, cheating and stealing, and the FBI's motto of "Fidelity, Bravery, Integrity"?

6) Also, the end of Mr. Roberts' letter mentions documents that are interview summaries (FD 302s) of Jeffrey Howard, former Principal Assistant Deputy Attorney General and Chief of Staff for the Deputy Attorney General at DOJ (Sept. 22, 1995), and of Director Mueller, formerly an AUSA (Sept. 21, 1995). Please provide these documents as well.

We thank you in advance for your cooperation.

Sincerely,



Patrick Leahy
RANKING MEMBER



Charles E. Grassley
MEMBER

cc:
Senator Orrin Hatch
Chairman
Senate Judiciary Committee