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February 2, 2010

The Honorable Janet Napolitano
Secretary
Department of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Napolitano:

The Committee on Oversight and Government Reform has received information from Federal Air Marshals (FAMs) raising disturbing allegations of widespread discrimination, retaliation, and other inappropriate conduct at the Cincinnati and Orlando Federal Air Marshal Service (FAMS) field offices.

Specifically, we have been informed of discrimination complaints filed by seven employees in the Cincinnati office, and by some accounts, the number of recent Equal Employment Opportunity (EEO) complaints in that office is as high as 15. This total represents a startlingly high percentage of the Cincinnati FAMS workforce.

We have also received allegations of systemic retaliation against potential witnesses. In one case, six individual FAMs filed affidavits alleging retaliatory conduct by Cincinnati supervisors after they were asked to provide statements in support of the complainant. Moreover, at least three employees in that office have allegedly been threatened with security clearance removal after filing an EEO complaint or testifying in support of a complainant.¹ We have also been informed of an allegation that the spouse of a FAM witness was placed under surveillance and subjected to a background check by Cincinnati field office supervisors. Another

¹ In two of these cases, the service has initiated formal actions to remove the clearances, while in the third case, the employee retired from Federal service prior to the initiation of formal action. Removal of a clearance is an extreme measure that, if upheld, in all likelihood will result in the termination of these employees. Moreover, in an EEO or retaliation case involving a clearance removal, it is extremely difficult for the employee to receive an independent review of the agency's actions because a proceeding involving a clearance decision effectively shuts the door on court or Merit Systems Protection Board review of the agency's conduct. Given the nexus to EEO activity in all three of these cases, I am deeply concerned by the appearance that the FAMS is abusing the security clearance process in an effort to undermine independent review of legitimate EEO complaints.

Secretary Janet Napolitano

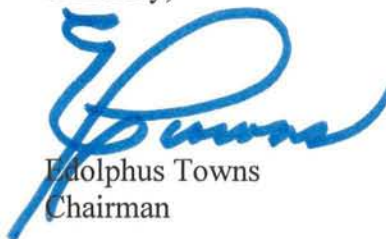
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employee alleges that investigators threatened to approach his family with accusations of an affair if he failed to change his testimony in support of an EEO complainant. If true, this conduct is entirely inappropriate, constitutes a clear abuse of authority by all those involved, and undermines Federal civil rights policies that promote equal employment opportunity.

The Committee has also received a picture of a whiteboard that reportedly was on display in the Orlando field office, and which was littered with exceptionally offensive material and used by Orlando office managers to harass minority employees. One FAM has alleged that Orlando management "made a game of targeting African Americans, Hispanics, females, veterans, and men and women of alleged homosexual sexual orientation." The Transportation Security Administration has confirmed the existence of this "game board."

Taken together, these allegations paint a troubling picture of a Service that is failing to respect important Federal merit system principles, including the requirement that all employees be treated fairly and equitably, and without regard to their race, sex, or national origin. I ask that you initiate a review of the employment practices within the FAMS to determine the extent of these problems, whether they are limited to the Cincinnati and Orlando field offices, and whether additional steps should be taken to ensure that the Federal Air Marshal Service is fully complying with all Federal anti-discrimination laws, including by taking proper disciplinary actions. In addition, I have written separately to the Inspector General for the Department of Homeland Security, asking that the IG conduct an inquiry into the allegations concerning the "game board" at the Orlando Office. I thank you for your attention to these matters, and look forward to your response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edolphus Towns".

Edolphus Towns
Chairman

cc: The Honorable Darrell Issa
Ranking Minority Member
Committee on Oversight and Government Reform