

Senator Charles E. Grassley
Senator Patrick J. Leahy
United States Senate
Committee on the Judiciary
Washington, D.C. 20510-6275

Dear Senators Grassley and Leahy:

I have received a copy of your September 24, 2003, letter to the Honorable John Ashcroft which sets forth the agreement under which the committee will interview Frank Perry, Patrick Kiernan, Bassem Youssef and myself. In hopes that I may assist you, I have prepared this letter setting forth matters which I find troubling. A matter of equal importance and most troubling for me, personally, is that despite any statements previously made by Director Robert S. Mueller, III and/or officials of the Department of Justice (DOJ) that there will be no retaliation, reprisals or hostile personnel action against those of us who would dare to bring to light serious misconduct in the Federal Bureau of Investigation (FBI), such actions have, in fact, impacted the lives of my family. I will explain further details in this letter, but you should know that the actions of former Assistant Director (AD) Robert J. Jordan and current Deputy Assistant Director (DAD) J. P. Weis, Office of Professional Responsibility (OPR), as they relate to my wife, Brenda M. Roberts, were so intolerable that she physically cannot return to work. As a result, the FBI and the Justice Management Division (JMD), DOJ, has chosen to place my wife in Leave Without Pay (LWOP) status, an action that reduced our family's income by one third and resulted in the loss of our home because we could not afford to pay the mortgage. I do not believe my wife will ever get over the loss of her home for what would appear to be my efforts to expose serious internal problems at the FBI.

On December 1, 2003, a Human Resource Assistant assigned to the Office of Professional Responsibility came to me and asked if I wanted to pack all of Mrs. Roberts' belongings located at her desk or if I wanted to pack them. I told her that I did not understand what she was asking. She looked horrified and said that she had received a call from the front office of OPR telling her that Mrs. Roberts' position had been posted and closed on Friday, November 28, 2003, and that she wanted Mrs. Roberts' belongings moved. The HRA later came back and said that it was [REDACTED] DAD Weis' secretary that had requested this action. I told the Human Resource Assistant that I had no idea the position had been posted or that Mrs. Roberts' belongings were to be moved. I asked her, if she did not object, to take care of moving the belongings.

On July 13, 2001, when I appeared before the Senate Committee on the Judiciary I believed I was performing a valuable service to the United States and to the FBI because of what had occurred during and after the events of Ruby Ridge and the Potts Retirement Party. I have experienced an agonizing reality check by what has happened to my wife at the hands of former

Fred
his wife
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who being
told
Fred said
from
secret

... on July 2, 2003, at her worst moment in the FBI, met Director Mueller in the stairwell on the eighth floor of FBI Headquarters and told Director Mueller of her love for the FBI and that all she ever wanted to be was a good secretary. Since that time we have been forced to sell our house because the FBI discontinued her salary and we could no longer afford to live in our home. It is my understanding that the JMD, DOJ would not authorize her continued salary. So after being forced to use all of her annual and sick leave, Brenda's salary was stopped. I find it interesting that the JMD, the component of the DOJ that I criticized in my testimony before the Committee on July 18, 2001, for their handling of the Ruby Ridge incident, is the component that decided my family's fate as to whether we would be able to live in or have to sell our home. I know that many will ask why our home had to be sold. The answer is simple. I, as well as Brenda, hold security clearances in the FBI. Financial solvency is a major factor in determining if one will hold a security clearance. When it was obvious that Brenda would stop receiving her salary, we knew we would not be able to afford the mortgage and could not afford to be delinquent in meeting any of our financial responsibilities. Therefore, there was no alternative but to sell our home.

I recall that in a letter to the Honorable John Ashcroft, Attorney General and Thomas Pickard, Deputy Director, FBI, Senator Grassley wrote that he has too often in the past seen whistleblowers subjected to retaliation. On July 18, 2001, when I appeared before the Senate Committee on the Judiciary, I believed I was performing my duty, not only as an FBI employee, but as a citizen of this country who was aware of serious misconduct which needed to be addressed. It was obvious to me that the DOJ and the FBI did not address these issues and the Committee was not even aware that there had been a final report on the Ruby Ridge incident. I can tell you that my wife and I have paid a high price for having come forward with that information and I am not so sure that others will want to subject themselves to the retaliation my wife and I have had to endure.

In my continuing effort to ensure misconduct matters are appropriately addressed, I believe the following may be of interest and directly relate to the standards utilized by the FBI initiating misconduct investigations:

- 1) On the morning of June 6, 2003, the day after SA Robert G. Wright, Jr. appeared on television, my wife witnessed AD Jordan and DAD Weis appearing happy and excited that SA Wright appeared on television. They discussed that this appearance on television will enable them to, in their words, "take him out". AD Jordan and DAD Weis had not yet seen the segment on SA Wright so they took [REDACTED] with obtaining a copy of the segment. AD Jordan then went to meet with [REDACTED] Office of the General Counsel. Upon AD Jordan's return to the OPR front office, AD Jordan told DAD Weis "this isn't as good as it could be, but it will still work." My wife was appalled at what was happening in this matter and took contemporary notes of what was occurring in the SA Wright matter. She had been assigned to the front office of OPR since 1995 and had never witnessed such unprofessional conduct towards an FBI employee in her 9 years in OPR.
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Office of Provisional Responsibility (OPR), FBI, to deliver to him a business card and a set of cufflinks provided by the United States Customs Service. Sitting in his office at that time was Supervisory Special Agent (SSA) [REDACTED] for the recently created Initial Processing Office (IPO), OPR.

June 6th I dropped off the business card and cufflinks and as I was leaving DAD Weis called me back saying he wanted to discuss something with me. I was handed a three page document by SSA [REDACTED]. The first page was an original OPR Intake Routing Slip and the second and third pages were pages from an ABC News.com media story titled "Hiding in Plain Sight, College Instructor on Federal List of Suspected Terrorists." The OPR Intake Routing Slip was signed by DAD Weis and identified Insubordination as the allegation of misconduct with the subject of that misconduct being [REDACTED] *Weis*

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b7A [REDACTED] an element of that conversation I did not understand. I left this brief meeting with the clear understanding that I was to prepare the opening documents for this new case and write the allegation in such a manner to deceive, misrepresent and hide from the OIG/DOJ the facts of this matter as known to the FBI on June 6, 2003. *

I returned to my office and read closely the three page document given to me by SSA [REDACTED]. A close review clearly showed there was no predicate, based on this document, to even open a case. I called DAD Weis and told him there was no predication to open a case. He then told me the [REDACTED] to not appear for any media interviews without FBI authority. I informed him that based on the available information, at best, this violation was a Delegated Investigation and Adjudication (DIA) case, which meant the field division, in this case the Chicago Division, by policy, would investigate and adjudicate this matter. Further, according to OPR's Schedule Of Delegated Disciplinary Actions, warrants only a letter of censure. He told me there are more serious allegations in this matter. *

I then went to SSA [REDACTED] office and told her the same information in an attempt to see if she had the letter instructing SSA Wright not to appear for any media interviews. She had no additional documents and I told her this, based on all available information, was a DIA case. *

DAD Weis appeared in my office and sat down. He said in a questioning manner, that by OPR reporting to the OIG/DOJ that this matter was an insubordination violation was not inaccurate. I replied by saying again that an insubordination violation is a DIA case and only warrants a letter of censure. I went on to say that he and AD Jordan are planning on dismissing SA Wright from the FBI for an insubordination violation, something I have not witnessed in my time associated with OPR. I also asked him what ever happened to conducting an investigation of an allegation and interviewing the subject employee before we fire someone. I told DAD Weis that every time the FBI departs from established procedures and policy, we get our head handed to us. He did not change his mind and I knew this was going to be a hot item on Monday, June 9, 2003, because I had already been told that AD Jordan was going to place [REDACTED]

[REDACTED] I was scheduled for firearms at Quantico, Virginia, on June 9, 2003, so I prepared the necessary case opening forms after speaking to Acting Assistant Special Agent in Charge (A-ASAC) William Monroe, Chicago Division, and receiving copies, via facsimile, of three letters (March 6, 2003 letter to Mr. Robert G. Wright, Jr.; May 20, 2003 letter to Mr. Thomas J. Kneir and May 22, 2003 letter to Mr. [REDACTED]). These letters furnished adequate predication for the initiation of an investigation of SA Wright for insubordination.

I was very concerned as to how OPR was proceeding with this investigation. My concern at that time was not for what level of discipline may be given to SA Wright, for if he was insubordinate I had no issue with discipline. My real concern was with the instructions given to me to deceive, misrepresent or hide information from the OIG/DOJ, information that was necessary for that office to make an informed decision on how to proceed with an FBI internal investigation. I thought to myself that if this is happening in this case, in how many other cases are we doing the same.

When I left the office it was too late to contact ASAC Jeff Vasey, OIG/DOJ, and inform him of this matter. The next day, Saturday, June 7, 2003, I placed a call to ASAC Vasey's business telephone and left a voice mail message for him to call me at home.

On Monday, June 9, 2003, I contacted ASAC Vasey and told him what occurred on Friday regarding the alleged misconduct by SA Wright. I let him know there were more serious allegations that I did not know about, but his office would be informed of those additional allegations when I learned of them.

On Monday, June 9, 2003, I informed SSA [REDACTED] the [REDACTED] for my unit, of those matters that I thought may become important while she was supervising the unit in my absence. I told her of the SA Wright matter, that it would be assigned to SSA [REDACTED] and that I thought it would be a hot topic for the day. She later called me and said the SA Wright matter was a hot topic, that she had met with the front office and said that OPR could conduct the investigation. She asked if she and SSA [REDACTED] should conduct the investigation. I told her that it appeared to me that the Chicago division was probably too close to the matter and that she and SSA [REDACTED] should go to Chicago and handle the matter so that there would not be

On June 11, 2003, I learned from SSA [redacted] that there may have been a conversation between A-ASAC Monroe and DAD Weis wherein there had been some discussion of permitting the United States Attorney (USA) and an Assistant United States Attorney (AUSA), two interviewees, to review a draft copy of the FD-302 used to record their interview. I sent an e-mail to DAD Weis telling him that this is not done and asking him why we are making an exception for the USA and the AUSA. He replied saying he did not know what I was talking about, so I called him and told him what SSA [redacted] and [redacted] had learned during their interview of the USA and the AUSA. He said he saw no problem with permitting the USA and AUSA to review the draft of the FD-302. I told him we do not permit that and to make an exception would create a very bad precedent. He said to check with OPR/DOJ and see if they, during interviews, permit the interview to review drafts of interviews.

On June 11, 2003, I spoke to [redacted] OPR/DOJ, and explained the issue. She checked with some of her colleagues and called me back saying that other than sworn statements and interviews in which transcripts by court reporters are made, OPR/DOJ does not provide notes or drafts to interviewees for comment and change. She said that it was up to the FBI though, to decide in this matter. I spoke to DAD Weis again and he agreed that we should not provide the draft FD-302 to the USA and the AUSA for review.

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On June 12, 2003, I contacted SSAs [redacted] and [redacted] telling them that OPR will not furnish a draft of the FD-302 to the USA and AUSA. Later on June 12, 2003, I received a call from SSA [redacted] who told me the USA was not happy with OPR's decision in not providing the USA and AUSA with a draft of the FD-302. She further said the SAC and A-ASAC for the Chicago Division were going to call DAD Weis, AD Jordan and the Director if necessary, in order to have a draft of the FD-302 given to the USA and the AUSA. I immediately sent DAD Weis an e-mail advising him of this latest development. Shortly after sending my e-mail DAD Weis called and said he had changed his mind and that the USA and AUSA can review the FD-302. He referred to the USA as [redacted] and AUSA as another name, possibly by the AUSA's first name. I notified SSAs [redacted] and [redacted] and told SSA [redacted] that the draft would only be delivered personally to the AUSA and to keep all generations of the FD-302.

On June 17, 2003, ASAC John G. Raucci, Chicago Division, called for DAD Weis and spoke to Brenda M. Roberts, AD Jordan's secretary. DAD Weis was out, so ASAC Raucci left the a message with Mrs. Roberts. The message was left at 7:30 a.m. and the message from Mrs. Roberts is as follows: [redacted]

On June 17, 2003, [redacted] sent an e-mail to DAD Weis with the stated subject as [redacted]. The text of this e-mail reads:

June 17th
morning
med
summary

- 2) OPR Intake R/S Dated June 6, 2003
- 3) DAD Weis approval (no date)
- 4) UC Roberts Rec'd June 6, 2003
- 5) Goes to Admin Unit for assignment - June 9, 2003
- 6) Assigned and opened to [REDACTED] - June 9, 2003
Assigned DIO

No notation the the IG's Office has seen this...."

DAD Weis responds with his e-mail of June 17, 2003 saying "If we did the investigation; why is this a DIO? Check with John if that was his doing."

On June 17, 2003, at 3:06 p.m., the afternoon of the same day that Mrs. Roberts took the message from ASAC Raucci and delivered it to DAD Weis (7:30 a.m.) I responded to DAD Weis with the following:

12 [REDACTED]

15
57A [REDACTED]

At 3:32 p.m. on June 17, 2003, DAD Weis responded with the following e-mail:

[REDACTED]

I responded, OK. I hope they can take what we developed and proceed."

... ~~from this matter~~ rise to the level of serious misconduct. That is, their actions constitute "the illegal or improper exercise of influence, coercive or otherwise, by an individual or group on an employee which could reasonably be expected to seriously affect or inhibit the employee in the impartial and effective performance of the employee's duty." Such an allegation of serious misconduct in the FBI, if denied by the subjects, has triggered the Substantial Objective Polygraph (SOB). The SOB polygraph is a compelled polygraph and if refused, the FBI may draw an adverse inference from the employee's refusal to submit to such a polygraph examination, provided that such refusal alone shall not be the sole basis for disciplinary action against the employee.

The following are the relevant documents and are attached hereto: Telephone message to DAD Weis from ASAC John Raucci, dated June 17, 2003, regarding the SA Robert G. Wright, Jr. matter;

OPR Intake Routing Slip with two page attachment, dated June 6, 2003, regarding the SA Robert G. Wright, Jr. matter;

Cassandra M. Chandler, Assistant Director, letter to Mr. Robert G. Wright, Jr., dated March 6, 2003;

57C Robert J. Garrity, Jr., Acting Assistant Director, to Mr. [REDACTED] dated May 22, 2003;

[REDACTED] letter to Thomas J. Kneir, Special Agent in Charge, dated May 20, 2003;

E-mail from DAD J. Weis to [REDACTED] dated June 17, 2003, regarding SA Robert G. Wright, Jr.;

John E. Roberts E-mail to J. Weis, dated June 17, 2003; and

Manual of Investigative Operations and Guidelines, Part II, 13-22.13.1.

Retaliation by Mrs. Roberts

In a recent Office of Inspector General, Department of Justice (OIG/DOJ) report, dated October 2003, titled An Investigation of Allegations Of Retaliation Against Brenda Roberts, regarding allegations of misconduct against AD Jordan and DAD Weis, the FBI, according to that report, told the OIG/DOJ that the FBI was unable to locate the message taken and documented by Mrs. Roberts. Additionally, the OIG/DOJ report stated that Mrs. Roberts deleted the message. Mrs. Roberts did not delete the message and a copy of that message is attached hereto. The FBI has the ability to locate that message and to report that it does not exist is false and misleading. I believe, after having the opportunity to review the October 2003 OIG/DOJ report regarding Mrs. Roberts, that the OIG/DOJ failed to consider much relevant information. For example, the OIG/DOJ does not mention the June 6, 2003 incident involving DAD Weis and me regarding SA Wright and the manner in which OPR was trying to deal with SA Wright. I called the OIG/DOJ on June 7, 2003 and personally provided this information. OIG/DOJ on June 9, 2003.

to consider the impact the interview of AD Jordan on June 23, 2003 had on Mrs. Roberts. This interview was actually conducted by personnel of the OIG/DOJ, and although we do not know the purpose of the interview, it may have been regarding the recent OIG/DOJ report concerning discipline in the FBI. Having read that report and noting certain discipline for former DAD Leslie Kacibian, in which AD Jordan was involved, it would not be unreasonable to assume AD Jordan was unhappy. Since that OIG/DOJ report resulted from my reporting irregularities in the FBI's disciplinary program, and Mrs. Roberts is my wife, I do not think it is unreasonable to believe AD Jordan was angry at me and Mrs. Roberts. Frankly, if AD Jordan was going to "take out" SSA Wright, he would not hesitate to take me out and my wife with me. The OIG/DOJ also did not consider the impact that the June 17, 2003 interview of AD Jordan by the Bell Commission. Upon AD Jordan's return to the OPR front office after that interview he was visibly unhappy. Then, on June 24, 2003, AD Jordan and DAD Weis told Mrs. Roberts that she was no longer allowed to open the mail and no longer allowed to log telephone calls. Had the OIG/DOJ conducted additional interviews in that investigation their office would have learned this information. What was at issue was a June 17, 2003 telephone message taken by Mrs. Roberts for DAD Weis concerning the SSA Wright matter. That message as previously discussed read:

What I believe angered both AD Jordan and DAD Weis was Mrs. Roberts' copious note taking and the impact that could have on the FBI in general and the OPR specifically. That is, it documents the kind of egregious behavior in OPR.

2) This matter concerns a cheating scandal at the Federal Bureau of Investigation (FBI), Training Division and involves the National Academy students. The resulting misconduct by an FBI employee occurred when the Assistant Director, Training Division was derelict in his duties when he failed to take appropriate action regarding students cheating on a legal exam.

On September 3, 2003, I received an e-mail from SSA [redacted] which was also addressed to DAD Weis and SSA [redacted]. The subject matter was "Information Concerning Cheating Incident at the FBI Academy, National Academy Class [redacted]". The text is as follows:

[redacted] John, and [redacted]

This matter was brought to my attention the other day down here at the Academy. I made some discreet inquiries with knowledgeable personnel. Although I have no personal knowledge of the incident, I believe the below information accurately reflects what has occurred:

Two National Academy (NA) students were taking their mid-term legal exam several weeks ago given by SSA [redacted] Office of General Counsel. The exam was 25 multiple choice questions, which were computer graded. The exam was open book, but not open consultation. SSA [redacted] had to temporarily leave the room for approximately 15 minutes. During this time, two students were observed to be discussing a question and the appropriate answer. A fellow NA student reported this information. When the two student's exams and