

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

October 12, 2018

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

The Honorable Claire M. Grady
Under Secretary for Management
U.S. Department of Homeland Security
3801 Nebraska Ave. NW
Washington, DC 20016

Dear Ms. Grady:

I write regarding a recent Department of Homeland Security (DHS) Office of Inspector General (OIG) audit, which concluded that DHS's support components lack sufficient processes and procedures for addressing employee misconduct.¹

The DHS OIG determined that these deficiencies are due to the fact that no single office within DHS oversees misconduct issues for the Department's 21 support components, which include the Office of the Secretary, Office of Policy, Office of the General Counsel, Office of the Chief Financial Officer, and Office of Intergovernmental Affairs. Human Resources Management and Services (HRMS), within DHS's Office of the Chief Human Capital Officer, advises support component supervisors on conduct-related issues. However, according to the DHS OIG, HRMS has limited oversight of the manner in which support component supervisors investigate complaints and take disciplinary actions, leading to data gaps, inconsistent handling of complaints, and potentially inappropriate application of personnel policies for roughly 4,000 of the Department's more than 240,000 employees. The DHS OIG found a high percentage of misconduct allegations that were not referred to the DHS OIG and, alarmingly, a number of missing case files.²

The recent DHS OIG audit, conducted as part of a department-wide review of conduct and discipline, is further evidence of systemic deficiencies in DHS's ability to properly conduct intake, monitoring, and resolution of employee misconduct allegations. In July 2017, the Government Accountability Office (GAO) concluded that the Federal Emergency Management Agency (FEMA) was not investigating a significant number of misconduct complaints referred

¹ Department of Homeland Security, Office of Inspector General, *DHS Support Components Do Not Have Sufficient Processes and Procedures to Address Misconduct* (OIG-18-81) (Sept. 26, 2018).

² *Id.*

to the agency by the DHS OIG.³ One year later, in July 2018, FEMA reported that its former Chief Component Human Capital Officer, Corey Coleman, had resigned amid allegations of harassment, sexual misconduct, and improper hiring practices.⁴ According to the DHS OIG, Mr. Coleman was referenced in 15 misconduct complaints to the DHS OIG between April 2013 and July 2018.⁵ FEMA's Office of Equal Rights also received seven complaints alleging misconduct by Mr. Coleman dating back to 2011.⁶

A separate GAO report, published in July 2018, concluded that U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and the Transportation Security Administration also have inadequate systems in place for documenting and monitoring misconduct allegations. GAO found multiple examples of serious misconduct investigations that lacked supervisory review, limited evidence of recusals, and inadequate tracking of investigative outcomes in the agencies' case management systems.⁷

In the most recent report regarding DHS support components, the DHS OIG made six recommendations. Chief among them was a recommendation that you assign responsibility for the management and oversight of misconduct allegations across all support components to one office within DHS. The DHS OIG recommended that this office provide written guidance and training on the handling of misconduct allegations, establish a centralized database to manage and track all misconduct allegations, develop policies for conducting misconduct investigations, and implement procedures for receiving and making DHS OIG referrals.⁸

In response to the DHS OIG recommendations, you reportedly have assigned these responsibilities to the Employee Relations and Performance Management branch of HRMS. This office has been tasked with developing comprehensive guidance and training related to the

³ Government Accountability Office, *Federal Emergency Management Agency: Additional Actions Needed to Improve Handling of Employee Misconduct Allegations* (GAO-17-613) (July 2017).

⁴ Federal Emergency Management Agency, Office of Chief Component Human Capital Officer Report of Investigation (July 30, 2018).

⁵ Letter from John V. Kelly, Senior Official Performing the Duties of the Inspector General, Department of Homeland Security, Office of Inspector General, to Ranking Member Claire McCaskill (Sept. 20, 2018).

⁶ Letter from Brock Long, Administrator, Federal Emergency Management Agency, to Ranking Member McCaskill (Oct. 5, 2018).

⁷ Government Accountability Office, *Department of Homeland Security: Components Could Improve Monitoring of the Employee Misconduct Process* (GAO-18-405) (July 2018).

⁸ Department of Homeland Security, Office of Inspector General, *DHS Support Components Do Not Have Sufficient Processes and Procedures to Address Misconduct* (OIG-18-81) (Sept. 26, 2018).

handling of misconduct allegations. Additionally, the Office of the Chief Human Capital Officer plans to deliver an Employee Relations Case Management Tracking System by June 30, 2019.⁹

It is essential that DHS maintain a transparent system for addressing misconduct complaints, so that Congress and the American public can hold the Department accountable. In order to better understand how DHS plans to implement the DHS OIG recommendations and improve its processes and procedures for addressing employee misconduct, please provide a written response to the following questions:

1. Please provide the following data for each of DHS's 21 support components for each of the prior three fiscal years:
 - a. Number of employees;
 - b. Number of misconduct complaints filed;
 - c. Number of complaints resulting in disciplinary action; and
 - d. Average number of days to resolve each complaint.
2. Please provide copies of any written guidance HRMS has developed related to the handling of misconduct allegations, including, but not limited to, the February 2018 draft management inquiry handbook referenced in the DHS OIG audit.
 - a. Will the written guidance be provided to all 21 support components? Will operational components receive updated guidance as well? Please explain.
 - b. Does HRMS anticipate office-specific procedures, and, if so, how will they fit into the comprehensive written guidance?
 - c. Please identify all stakeholders that HRMS is coordinating with to develop the comprehensive guidance. What will be the format, channel, and frequency of the collaboration among these stakeholders?
 - d. What will be the final approval process for the written guidance?
3. Please describe any actions HRMS plans to take to train component supervisors on the proper handling of misconduct allegations.
 - a. What will be the format, channel, and frequency of this training, who will receive it, and when will it begin?

⁹ *Id.*

- b. To what extent will additional full-time staff or contractor support be needed?
4. Who is responsible for standing up the Employee Relations Case Management Tracking System?
 - a. To what extent will additional full-time staff or contractor support be needed?
 - b. Other than the estimated June 30, 2019 delivery date, what internal timelines has the Office of the Chief Human Capital Officer established?
 - c. Will the new case management tracking system capture information related to all misconduct allegations – or just allegations that result in disciplinary action?
 - d. Please list all support and operational components that will be supported by the new case management tracking system.
 - e. Will misconduct cases that occurred prior to June 30, 2019 be entered into the new system?
5. What performance measures will be used to evaluate HRMS's performance going forward?
6. What steps, if any, is DHS taking to locate and retrieve missing disciplinary case files?

I ask that you respond to this letter as soon as possible but in no event later than November 2, 2018. If you have any questions about this request, please contact Joel Walsh with my staff at (202) 224-2627 or Joel_Walsh@hsgac.senate.gov. Please send any official correspondence related to this request to Rina_Patel@hsgac.senate.gov. Thank you in advance for your attention to this matter.

Sincerely,



Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman