

United States Senate

WASHINGTON, DC 20510

May 9, 2025

VIA ELECTRONIC TRANSMISSION

The Honorable Pamela J. Bondi
Attorney General
Department of Justice

Mr. Daniel Driscoll
Acting Director
Bureau of Alcohol, Tobacco, Firearms and Explosives

Ms. Jolene Ann Lauria
Assistant Attorney General for Administration
Justice Management Division
Department of Justice

Dear Attorney General Bondi, Acting Director Driscoll, and Assistant AG for Administration Lauria:

On January 30, 2024, and September 23, 2024, we wrote to the Biden administration's Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and the Department of Justice's (DOJ's) Justice Management Division (JMD) about ATF's illegal scheme to misclassify human resources (HR) and other administrative positions as law enforcement, which was substantiated by the Office of Special Counsel.¹ We raised concerns because as a result of ATF's illegal conduct, ATF staff assigned to these positions performed administrative work but unlawfully received enhanced law enforcement pay and benefits to which they were not entitled, wasting millions of taxpayer dollars.²

In our previous letters, we requested the agencies provide us with the ATF Internal Affairs Division (IAD) report and the Office of Personnel Management (OPM) Human Capital Management Evaluation (HCME) audit report.³ Whistleblowers informed us that these reports extensively detailed ATF leadership's involvement in the illegal misclassification scheme even after being notified about the misconduct and OPM suspended ATF's classification authority after completing their audit. We also asked whether the Biden DOJ held ATF leadership accountable for allowing the illegal misclassification scheme to continue after becoming aware of it and for retaliating against whistleblowers.⁴ Despite the Biden ATF and DOJ stonewalling our efforts by failing to respond, our offices obtained copies of these reports via legally protected whistleblower disclosures.⁵ That is why we are writing to you today to bring this situation to your attention. As this letter will

¹ Letter from Senator Charles E. Grassley and Senator Joni K. Ernst to ATF Director Dettelbach and JMD AAG for Administration Lauria, (Jan. 30, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_and_ernst_to_atf_and_jmd_-_misclassified_positions.pdf; Letter from Senator Charles E. Grassley and Senator Joni K. Ernst to ATF Director Dettelbach and JMD AAG for Administration Lauria, (Sep. 23, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_ernst_to_atf_and_jmd_-_atf_misclassified_positions_follow-up.pdf; Office of Special Counsel, *ATF Unlawfully Paid Agents Millions of Dollars in Wrongful Benefits*, Press Release (May 2, 2023) <https://osc.gov/News/Pages/22-07-ATF-Wrongful-Benefits.aspx>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

explain, we strongly believe the information contained in these reports and the other records we've made public are alarming and necessitate *immediate corrective action*.⁶

The IAD report was completed on January 5, 2024, and it highlights considerable evidence of gross waste, fraud, and abuse; substantial misconduct and mismanagement; abuse of power; and potential criminal misconduct committed by and under the supervision of then-ATF Office of Human Resources and Professional Development (HRPD) Deputy Assistant Director (DAD) Lisa Boykin and HR Division Chief Ralph Bittelari.⁷

For example, the IAD report shows that in February 2020, HR Division Chief Ralph Bittelari fraudulently certified that a position description for the Chief of the ATF's Workforce Wellness and Services Division (WWSD) located at ATF's DC Headquarters was a law enforcement position.⁸ According to the report, the primary duties of the Chief position were focused on developing workforce wellness programs and not law enforcement related.⁹ The report states that the ATF HR specialist assigned to classify the position and their direct manager, Branch Chief supervisor Nina Cox, both determined this position should be classified as non-law enforcement.¹⁰ The IAD report shows the HR classification specialist and Division Chief Bittelari did not merely have a difference of interpretation. The HR classification expert warned HRPD Deputy Division Chief (DDC) Kathryn Greene, Branch Chief Nina Cox, and Division Chief Ralph Bittelari in an email that the classification of the Chief position as law enforcement "is not supportable based on OPM standards and policy."¹¹ The report details how this HR classification expert then recused themselves from the process and was threatened by DDC Greene with insubordination.¹² After the employee's recusal, Division Chief Bittelari proceeded to sign off on the position description as law enforcement, fraudulently certifying it was properly classified.¹³ The relevant excerpt from the IAD report is below:

On February 25, 2020, DDC GREENE sent an e-mail to BC Cox instructing her to, "Have [REDACTED] finalize PD for Nilda and put Ralph as the Classifier and AD Gerido as the 2nd level supervisor." (Exhibit 80)

On February 25, 2020, Mr. [REDACTED] sent an e-mail to his chain of command (BC Cox, DDC GREENE, and DC BITTELARI) stating that he recused himself from further involvement with the WWSD Chief PD, stating, "I have already reviewed and provided my classification recommendation based on OPM standards and policy for the proposed Chief, Wellness Division position and believe this outcome is not supportable based on OPM standards and policy." In a response e-mail, DC BITTELARI acknowledged Mr. [REDACTED] recusal.³ (Exhibit 80)

On February 26, 2020, DC BITTELARI signed the OF-8 for that PD as did AD Gerido. (Exhibit 64)

The IAD report also details what appears to be the Deputy Assistant Director Lisa Boykin's troubling lack of candor regarding the installation of the Chief of WWSD. Specifically, the report reads that in April 2022, "DAD BOYKIN stated to IAD that she did not know whether [the individual who filled the role] was selected before the position description (PD) was approved. However, e-mails showed that she and [the individual] created the draft PD together in January 2020."¹⁴ Further, the individual created a timeline "showing that she and DAD BOYKIN attended meetings and functions together regarding the WWSD. Beginning in December of 2019, [her] participation in those events was as the WWSD Chief. Those events were prior to the approval of the PD."¹⁵ Incredibly, "DAD BOYKIN and [the individual] attended the International Association of Chiefs of

⁶ Attached Enclosures.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

Police (IACP) Wellness and Safety Symposium in Miami, Florida, from February 27 to February 29, 2020. The WWSD Chief PD was signed on February 26, 2020.”¹⁶

The IAD report says that after OPM completed its audit and suspended the ATF’s classification authority, Deputy Assistant Director Boykin and Division Chief Bittelari disregarded OPM’s directives and relocated an ATF law enforcement officer from the Phoenix field office to an administrative position at ATF HQ that OPM identified as misclassified, further wasting taxpayer dollars.¹⁷ The report says HRPD staff told Division Chief Bittelari that the ATF should rescind the job offer due to OPM’s audit and directives.¹⁸ Bittelari initially agreed as the below excerpt shows.¹⁹

change of station was problematic due to OPM’s advisement to ATF to cease the use of that PD. Chief Clark recommended that ATF rescind the job offer. In a response e-mail, DC Bittelari agreed. **(Exhibit 90)**

November 2, 2020, e-mails show that DC BITTELARI agreed with those concerns and forwarded the information to DAD BOYKIN. DC BITTELARI stated to DAD BOYKIN, “we will need to pull this offer back. Would Gerido want to speak with AD PGA before we do?” DAD BOYKIN responded, “Detailing is an option. Let’s discuss so that I can present all of our options.” **(Exhibit 90)**

However, the IAD report notes that Bittelari had a subsequent conversation with Boykin and decided to move forward with the unlawful relocation anyway.²⁰ The report says Branch Chief Cox called Bittelari and asked him if ATF executive leadership understood that following through on this unlawful assignment could have serious consequences for the ATF.²¹ The report says Bittelari answered “yes” and “made it clear that everyone was fully aware of the potential consequences.”²² As the following excerpt from the IAD report shows, Bittelari attempted to hide his unlawful assignment by submitting the promotion directly to payroll for processing to prevent the HRPD staff from identifying and potentially stopping the illegal assignment.²³

BC Cox told IAD that she and DC BITTELARI had a phone call on or about January 26, 2021, regarding that matter prior to DC BITTELARI approving the action. **(Exhibit 84)** In February 2021, DC BITTELARI discussed the original promotion action with DAD BOYKIN and approved it. **(Exhibits 85 and 87)**

On February 1, 2021, due to her concern regarding the improper action, BC Cox alerted an HR Specialist by e-mail to be on the lookout for a promotion action for SA Cunningham. That HR Specialist replied, “*Ralph put the action as HRI for 1/17/21 and sent it directly to payroll for processing. I did not see it.*” Later she responded, “*He [Ralph] entered A93024, GS-1811-14 (Program Manager), in PGA. It is on the OPM Audit list.*” **(Exhibit 86)**

The IAD investigation further found that after the OPM audit, ATF HRPD lied to OPM and IAD that they took corrective action to reassign an agent from a misclassified administrative position to a law enforcement position.²⁴ The report states that ATF HRPD told OPM and IAD that they reassigned a Resident Agent in Charge (RAC) of the ATF’s Richmond Field Division from a misclassified Chief position in ATF’s

¹⁶ *Id.*

¹⁷ *Id.* According to the OPM Audit report, the ATF would also pay for the relocation expenses of special agents moved from their field office to the HR position in ATF HQ in DC, wasting even more taxpayer dollars.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

Resource Management Division (RMD) at ATF HQ in Washington, D.C. to a law enforcement position in the ATF's Washington Field Division.²⁵ The report says when the IAD interviewed the RAC, he told IAD that he continued to perform his administrative duties as Chief of RMD, maintained his same office in ATF HQ, and never performed the law enforcement duties ATF HRPD said he was reassigned to do.²⁶ The IAD report further states, as shown in the excerpt below, that the RAC was also paid a \$5,000 bonus for the work he performed as Chief of RMD even though ATF HRPD told IAD and OPM the agent was no longer in that position.²⁷

HRPD notified IAD and OPM (in response to post-audit reporting requirements) that SA Kaye was reassigned from RMB to Group Supervisor (GS) of the Martinsburg Field Office, Washington Field Division, on February 27, 2022. An SF-50 documents that reassignment action. **(Exhibits 107 and 129)**

During an IAD interview on October 3, 2022, SA Kaye stated that from February 27, 2022, to that day, he was still performing the duties of RMB Chief and had maintained the same office in HQ. He further stated that he never performed GS duties in the Martinsburg Field Office, nor the duties of the DOO in the Washington Field Division. **(Exhibit 51)**

The explanation for SA Kaye's \$5,000.00 cash award on July 31, 2022, included information about SA Kaye's work on the realignment of RMB to Field Operations due to the OPM audit. It also stated that Ryan "continues" to perform RMB duties. **(Exhibit 139)**

A review of SF-50s shows that SA Kaye was no longer assigned as the Chief of RMB as of February 27, 2022. **(Exhibit 129)**

The OPM audit report also highlighted that the ATF's illegal misclassification scheme hampered the agency's ability to carry out its law enforcement mission.²⁸ According to the OPM report, ATF is the smallest law enforcement component within DOJ.²⁹ Yet, the OPM audit found that roughly one third of all employees assigned to ATF HRPD, about a 100, were ATF law enforcement officers.³⁰ Meaning, the ATF relocated a hundred of its law enforcement officers from protecting our communities from "violent criminals, criminal organizations, the illegal use and trafficking of firearms, the illegal use and storage of explosives, acts of arson and bombings, acts of terrorism, and the illegal diversion of alcohol and tobacco products," to administrative positions in ATF HQ, all while unlawfully paying them enhanced law enforcement benefits at the expense of taxpayers.³¹ Further, the OPM audit report found that experienced, rank and file ATF HR employees were passed over for career advancements and promotions because ATF assigned unqualified, inexperienced special agents to these leadership roles within ATF HRPD and paid them more for doing similar work.³² In this regard, OPM found that "ATF's actions are particularly egregious because numerous ATF HR officials attempted to advise and inform ATF leadership" of these issues, yet "those attempts were rejected and resulted in employees being admonished for their efforts."³³

In addition to undermining ATF's mission, this HR scheme was also costly. OPM estimated that ATF's illegal scheme cost taxpayers around \$20 million during the five-year period they reviewed, a number the whistleblowers say is substantially understated. They assert that OPM failed to fully account for the millions of taxpayer dollars ATF wasted on relocation costs and expenses of moving favored law enforcement officers from their field offices to and from misclassified positions located at ATF HQ in Washington, D.C. Further, whistleblowers alleged that potentially hundreds of ATF law enforcement officers in ATF field offices across the

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

nation continue to occupy administrative positions and unlawfully receive enhanced law enforcement benefits, putting the actual cost to taxpayers potentially in the hundreds of millions of dollars. Accordingly, we request you also conduct a comprehensive review of ATF Field Offices to ensure that taxpayer dollars are not wasted on unlawfully paying enhanced law enforcement benefits to ATF employees performing administrative duties.

The findings in the IAD report presents clear evidence that corrective action must be taken for, at minimum, Ms. Boykin's and Mr. Bittelari's gross misconduct. Yet, the Biden ATF and DOJ leadership not only failed to hold Boykin or Bittelari accountable for their gross misconduct, but legally protected whistleblower disclosures provided to our offices show these career DOJ bureaucrats were ***promoted*** after the conclusion of the IAD investigation that harshly criticized their actions.³⁴ Public reports show Ms. Boykin was promoted to Chief Diversity Officer and then—in January 2025—her title and position were changed to “Senior Executive” within the Office of the ATF Director.³⁵ According to legally protected whistleblower disclosures, Mr. Bittelari was promoted to Senior Advisor at JMD and then to Acting Deputy Director of HR within JMD.³⁶ The whistleblowers told our offices that Mr. Bittelari was promoted to serve under Michael Sena, who is now the JMD Director of HR.³⁷ Notably, our January 30, 2024, letter identified Director Sena as the same JMD official who ignored the whistleblowers who brought the ATF's illegal misclassification scheme to his attention in 2019 after refusals from ATF bureaucrats, like Boykin and Bittelari, to correct the misconduct.³⁸

In closing, the findings in the IAD and OPM audit reports further substantiate the claims whistleblowers made to our offices that senior ATF bureaucrats, Ms. Boykin and Mr. Bittelari, engaged in gross and substantial waste, fraud, abuse, and misconduct at the expense of taxpayers in furtherance of ATF's illegal misclassification scheme, retaliated against whistleblowers for exposing it, and then were promoted for it. The IAD report also evidences that Ms. Boykin and Mr. Bittelari engaged in what can be described as potential criminal misconduct by knowingly falsifying and fraudulently certifying government records, defrauding taxpayers, and attempting to conceal their illegal activity by retaliating and attempting to silence whistleblowers.³⁹ Their complete disregard for the law despite being “fully aware of the potential consequences” show Boykin and Bittelari should not have leadership positions at the Justice Department or its components.

Further, the brave whistleblowers who came forward have informed our offices that they have continued to be subjected to retaliation by being demoted, not returned to their prior position and have faced repeated attempts by ATF and JMD management to discredit their reputations and ruin their careers. This must also be addressed immediately. Holding Ms. Boykin and Mr. Bittelari accountable for their gross misconduct will send a strong, clear message that the misconduct and whistleblower retaliation that was pervasive at the Biden DOJ will no longer be tolerated under this new administration. It will also encourage ATF employees to come forward and report allegations of waste, fraud, and abuse because they will have confidence that

³⁴ Bureau of Alcohol, Tobacco, Firearms and Explosives, *About ATF: Leadership*, <https://www.atf.gov/about/leadership>.

³⁵ Bureau of Alcohol, Tobacco, Firearms and Explosives, *About ATF: Leadership*, <https://www.atf.gov/about/leadership>.

³⁶ Bittelari's LinkedIn account confirmed this.

³⁷ See Department of Justice, Justice Management Division, *Staff Profile: Director, Human Resources Staff F. Michael Sena*, (last updated Feb. 4, 2025) <https://www.justice.gov/jmd/staff-profile/hr-leadership>.

³⁸ See Letter from Senators Grassley and Ernst *supra* note 1.

³⁹ See 18 U.S.C. § 1001 and 43 CFR § 20.510 (“An employees[sic] shall not, in any matter within the jurisdiction of any department or agency of the United States, knowingly or willfully falsify, conceal or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry (18 U.S.C. 1001). Special attention is required in the certification of time and attendance reports, applications for employment, request for travel reimbursement, and purchase orders and receiving forms”).

misconduct and retaliation will be punished, not rewarded. You have the power to bring accountability, and without accountability, nothing will change.⁴⁰ Accordingly, will you do so?


Therefore, no later than May 23, 2025, please provide a response to include the strategy the Justice Department will take in addressing the issues raised in this letter, as well as answers to our January 30, 2024 and September 23, 2024 letters. In addition, we urge you to put an end to the retaliation and ensure the whistleblowers are provided justice for the years of reprisal they've endured at the hands of the Biden administration.

Thank you for your prompt review and responses. If you have any questions, please contact Brian Randolph of Chairman Grassley's committee staff at (202) 224-5225 and Aaron Gottesman of Senator Ernst's staff at (202) 224-3254.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary



Joni K. Ernst
United States Senator

⁴⁰ See Senator Charles E. Grassley, *Grassley on ATF's Wasteful Misconduct: If Heads Don't Roll, Nothing Changes*, Floor Statement (May 8, 2024) <https://www.grassley.senate.gov/news/remarks/grassley-on-atfs-wasteful-misconduct-if-heads-dont-roll-nothing-changes>.