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November 5, 2010

Transmitted Electronically

The Honorable Robert M. Gates
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington D.C., 20301

Dear Secretary Gates:

I write today regarding recent media reports suggesting the Department of Defense (DoD) failed to address allegations that DoD employees purchased child pornography—including some purchases made from DoD computers. I am concerned that the potential sexual exploitation of children was not only inadequately investigated but potentially ignored by investigators at DoD. The sexual exploitation of any child is a tragedy but these allegations are even more serious given the fact that many of the individuals in question hold some of the most sensitive security clearances afforded by our Government. For example, one of the suspects, who was a contractor at the National Security Agency and held a top secret security clearance, has reportedly fled to Libya. Given the serious national security implications these allegations raise, I request your immediate attention to this matter.

On October 29, 2010, members of my staff hosted a briefing conducted by agents from the Defense Criminal Investigative Service (DCIS). The intent of the briefing was to clarify why so many DoD employees, to include active military members, civilian employees and contractors, were not properly investigated either criminally or administratively after these allegations arose. Unfortunately, the briefing only exacerbated my understanding of the situation.

Numerous media outlets have reported that hundreds of DoD employees were identified, pursuant to Freedom of Information Act (FOIA) requests, as subscribing to child pornography websites and/or purchasing child pornography. It is also alleged that these employees may have used DoD computers to make these illegal purchases. However, after my staff interviewed DCIS employees, I now understand that the numbers reported in the media are grossly inaccurate and under-inconclusive. According to the briefing it appears that thousands of DoD employees have been implicated in allegedly purchasing child pornography and that the true number is closer to 5,200 DoD employees and contractors.

Agents from Immigration and Customs Enforcement (ICE) initiated an investigation into the purchase of child pornography in 2006 and titled their investigation as "Operation Flicker". Agents of DCIS briefed my staff that their agency received the aforementioned allegations of misconduct in April of 2007. It is incredible to me that by December of 2007, supervisory personnel within DCIS would close the DCIS portion of the investigation, citing issues such as "a very limited pool of resources" or a "realignment of DCIS' investigative priorities."¹ I am confident, Secretary Gates, you will agree the response by DCIS to these allegations is unacceptable.

¹ Briefing material originally provided to Chairman Ike Skelton (D-MO), House Committee on Armed Services.

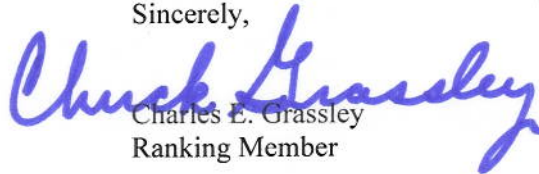
Based on these allegations and the failure of DCIS to properly perform their investigative mission, I believe a thorough and independent investigation of this matter, to include a peer review of the DCIS by an unbiased Inspector General, should be conducted. I submit this request in order to ensure that accountability within DCIS is established, potential national security issues are addressed and resolved and transparency of our government is achieved.

I would also like to know more about the following issues discussed at the DCIS briefing referenced above, so that I may better understand the decisions made by DCIS management:

1. DCIS personnel indicate that they received approximately 5,200 DoD names of individuals alleged to have purchased child pornography; however, of those 5,200 names, only 3,500 were name checked through DoD databases. How did DCIS select the 3,500 names for potential investigation out of the approximate 5,200?
2. Why did DCIS choose not to take action on the other approximate 1,700 names?
3. Will DCIS provide an explanation of why the remaining 1,700 DoD employees, to include military members, civilian employees and/or contractors, were not investigated either criminally or administratively?
4. Various media outlets have reported that only 52 of the possible 5,200 DoD employees identified were actually criminally investigated. Exactly how many cases were investigated? How many final ROIs were issued?
5. It now appears that DCIS also failed to inform the supervisors of these employees so that administrative action could be pursued. Will DCIS verify that the supervisors of the employees will now be notified? If so, when will they make notification, and who will be held responsible for making those notifications? Will DCIS follow-up to check if administrative action was taken?
6. If DCIS determines that it does not have the resources to pursue these cases, will they be referred to other law enforcement agencies for enforcement? If so, which agencies? Is there a written protocol for investigators to follow in coordinating this review? If so, please provide a copy. If not, why not?
7. Will DCIS utilize U.S. Army CID, Air Force OSI, Navy NCIS or civilian law enforcement agencies such as ICE and the Federal Bureau of Investigation (FBI) to assist with this investigative mission? If not, please provide an explanation as to why not?
8. Will DCIS please provide me with an analysis of what agencies and services the reported 5,200 DoD military service members, civilian employees and contractors are/were assigned to, and please specify how many of those have or had SCI clearances or Top Secret clearances?
9. Did DCIS pursue a revocation of security clearances for any of the 5,200 DoD military service members, civilian employees and contractors identified as purchasing child pornography? If not, why not, and does DCIS plan to pursue revocation of security clearances? Has anyone involved lost a security clearance? If so, how many have lost clearances?
10. Will DCIS definitively identify the managers within the agency who erroneously closed this investigation in December 2007 and seek administrative corrective action against those still employed by DCIS?
11. Who in DCIS management made the decision in December 2007 to terminate this investigation? What was the reason behind this decision?
12. What additional "resources" or authority can Congress provide to DCIS to assist DCIS when it receives similar complaints of alleged criminal activity?

I am concerned that the allegations reported to me regarding the conduct by DCIS may not be isolated. Criminal allegations such as these require aggressive action by DCIS. However, the record appears to suggest that DCIS turned a blind eye to this problem. I fear this could be just the tip of the iceberg. I reiterate my request that an independent Inspector General conduct a full peer review of DCIS so that we can make certain the national security interests of the United States are never compromised. Executive Order 12993, dated March 21, 1996, provides authority for independent investigations of the Offices of Inspectors General such as the one I now seek. I look forward to your prompt attention to my request. Please do not hesitate to contact our offices should you have specific questions regarding this issue.

Sincerely,


Charles E. Grassley
Ranking Member

cc: Mr. Gordon Heddell
Inspector General
Department of Defense
400 Army Navy Drive
Arlington, VA 22202