

Congress of the United States
Washington, DC 20515

July 21, 2023

Troy A. Miller
Senior Official Performing the Duties of the Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Ave., NW
Washington, D.C. 20229

Dear Mr. Miller:

We write with deep concern that U.S. Customs and Border Protection (CBP) officials may have retaliated against a witness in a Congressional investigation. The Committees have received an allegation from a credible whistleblower with extensive experience in and knowledge of CBP personnel practices that—within hours of concluding a voluntary transcribed interview with the Committee on Oversight and Accountability and the Committee on Homeland Security on July 12, 2023—Gregory K. Bovino, Chief Patrol Agent of the El Centro Border Patrol Sector, was relieved of his command over the El Centro Sector and reassigned to a vague, indefinite, and temporary headquarters assignment. The whistleblower indicates that this pattern is consistent with a common CBP practice to get rid of employees perceived as problematic by high-level officials by forcing those employees, out of frustration, to relocate, retire, or resign. Given the suspicious timing of the reassignment coinciding with Chief Bovino's cooperation with a Congressional inquiry, we demand CBP account for the current status of Chief Bovino's employment and assignment within the U.S. Border Patrol, provide documents and communications relevant to any reassignment and the reasons for any related employment action, and brief the Committee on this matter.

On January 19, 2023, Chairman Comer invited Gregory K. Bovino, Chief Patrol Agent of the El Centro Border Patrol sector to testify at a hearing before the full House Committee on Oversight and Accountability along with three additional Chief Patrol Agents.¹ However, Chief Bovino was ultimately not permitted by CBP to testify. The Committees have now received allegations from a whistleblower familiar with this series of events that Chief Bovino may have produced written testimony in preparation for this hearing that was dissatisfactory to CBP officials: so much so that he was verbally reprimanded by headquarters officials.

On February 26, 2023, Chairman Comer requested additional information from Chief Patrol Agents, including Chief Bovino, in the form of transcribed interviews to learn more about

¹ Letter from James Comer, Chairman, H. Comm. on Oversight & Accountability to Gregory Bovino, Chief Patrol Agent, U.S. Border Patrol (Jan. 19, 2023).

the impact of the situation on the southwest border in each of the sectors.² The transcribed interview with Chief Bovino, conducted jointly by the Committee on Oversight & Accountability and the Committee on Homeland Security, ultimately occurred on July 12, 2023.

According to a whistleblower familiar with CBP law enforcement and personnel practices, within hours of that transcribed interview having concluded, a senior U.S. Border Patrol official informed Chief Bovino that he was relieved of command of the El Centro Sector effective immediately and would thereafter report to CBP headquarters in Washington, D.C. for a temporary duty assignment of indefinite nature and time. The whistleblower describes that temporary assignment as one of no certain mission, no articulable purpose, and without any timeline of completion. The whistleblower further alleges that this practice is consistent with the way in which CBP officials have dealt with employees who they wish to leave the agency, by placing maximum pressure on them to relocate, retire, or resign.

The ability of Congress to receive truthful testimony about the activities of the Executive Branch is paramount to performing essential oversight functions necessary to inform the legislative process.³ Any retaliation against witnesses who cooperate with Congressional inquiries will not be tolerated, especially when that retaliation may have been committed by government officials. Additionally, obstruction of Congressional investigations is a crime and will not be tolerated.⁴

To assist the Committees in investigating possible retaliation against a witness in a Congressional investigation, please provide the following documents and information, covering the time period January 1, 2023 to the present unless otherwise indicated, as soon as possible but no later than August 4, 2023:

1. All documents and communications related to any employment action taken with respect to Gregory K. Bovino, including but not limited to any decision to reassign him from his role as Chief Patrol Agent of the El Centro Sector;
2. All documents and communications, including those with DHS or White House officials, related to the appearance of Gregory K. Bovino as a witness for a Congressional hearing to be held the week of February 6, 2023, including but not limited to any written testimony or opening statement; and

² Letter from James Comer, Chairman, H. Comm. on Oversight & Accountability to Troy A. Miller, (Acting) Commissioner, U.S. Customs and Border Protection (Feb. 26, 2023).

³ See e.g. *McGrain v. Daugherty*, 273 U.S. 135 (1927) (Noting that Congress has the power to compel information necessary to enable its legislative functions).

⁴ See e.g. 18 U.S.C. § 1505 (Whoever corruptly... obstructs, or impedes or endeavors to influence, obstruct, or impede... the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress...”).

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3. All documents and communications, including those with DHS or White House officials, related to the appearance of Gregory K. Bovino as a witness for a voluntary transcribed interview.

Additionally, please make arrangements to schedule a briefing with Committee staff on this matter as soon as possible, but no later than July 28, 2023.

To schedule the briefing, arrange for the delivery of responsive documents or ask any related follow-up questions, please contact Committee on Oversight and Accountability Majority Staff at (202) 225-5074, and the Committee on Homeland Security Majority Staff at (202) 226-8417. Attached are instructions for producing the documents and information to the Committees.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Per Rule X of the U.S. House of Representatives, the Committee on Homeland Security is the principal committee of jurisdiction for overall homeland security policy, and has special oversight functions of “all Government activities relating to homeland security, including the interaction of all departments and agencies with the Department of Homeland Security.”

Thank you for your cooperation with this inquiry.

Sincerely,



James Comer
Chairman
Committee on Oversight and Accountability



Mark E. Green, MD
Chairman
Committee on Homeland Security

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability

The Honorable Bennie G. Thompson, Ranking Member
Committee on Homeland Security