

Congress of the United States

Washington, DC 20515

February 11, 2014

The Honorable Jeh Johnson
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Mr. Secretary:

We are writing to you regarding the Department of Homeland Security's protocols for conducting background checks of political appointees. In particular, recent reports and federal court documents raise ethical questions about your newly-appointed Chief of Staff, Christian Marrone.¹ The Department has refused to answer even the most basic questions about the testimony and role of Mr. Marrone, a former aide in the Pennsylvania General Assembly, in connection with corruption charges against State Senator Vince Fumo in 2008.² Yet, a Department spokesman stated that you were "impressed with Mr. Marrone's integrity and management abilities," and that Mr. Marrone "will be a strong addition to the management team at DHS."³

Given the Department's vital mission to keep our Nation secure, it is absolutely essential that appointees to senior positions receive a thorough vetting. In this instance, it appears that the Department was either unaware of or willfully disregarded 2008 testimony revealing ethical questions about Mr. Marrone's prior conduct.⁴ I.C. Smith, a former FBI counterintelligence agent, warned that "from a security standpoint, [Mr. Marrone's previous involvement with former State Senator Fumo] would be a problem for me."⁵ Still, according to White House Press Secretary Jay Carney, "the White House and Secretary Johnson have complete confidence and look forward to [Marrone's] service as chief of staff at the Department of Homeland Security."⁶

As Chief of Staff, Mr. Marrone will play an integral role in overseeing billions of taxpayer dollars and handling sensitive intelligence about terrorist threats. Given the

¹ *New Homeland Security chief of staff played prominent role in Penn political scandal*, ASSOC. PRESS, Feb. 3, 2014, available at <http://www.foxnews.com/us/2014/02/03/new-homeland-security-chief-staff-played-prominent-role-in-penn-political/>; Jim McElhatton & Kelly Riddell, *New Homeland official was key figure in Pennsylvania corruption case*, WASH. TIMES, Feb. 2, 2014, <http://m.washingtontimes.com/news/2014/feb/2/new-homeland-official-was-key-figure-in-pennsylvania/?page=all#pagebreak>.

² Jim McElhatton & Dave Boyer, *House Probes Homeland Security official's role in corruption case*, WASH. TIMES, Feb. 3, 2014, <http://www.washingtontimes.com/news/2014/feb/3/white-house-backs-homeland-aide-tied-pa-scandals/?page=all>.

³ Alicia A. Caldwell, *DHS appointee had role in Penn scandal prosecution*, ASSOC. PRESS, Feb. 3, 2014, available at <http://www.washingtontimes.com/news/2014/feb/3/dhs-appointee-had-role-in-penn-political-scandal/print/>.

⁴ See McElhatton & Riddell, *supra* note 1.

⁵ *Id.*

⁶ The White House, Office of the Press Sec'y, Press Briefing by Press Sec'y Jay Carney (Feb. 3, 2014), <http://www.whitehouse.gov/the-press-office/2014/02/03/press-briefing-press-secretary-jay-carney-2314>.

public reports that call Mr. Marrone's background into question, the public deserves to know whether the Department has been diligent and thorough in its review of his candidacy. Therefore, please provide the following information:

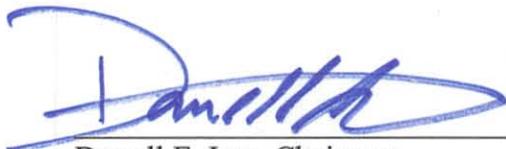
1. All documents and communications relating to any background check performed by the Federal Bureau of Investigation or other investigative agency related to Mr. Christian Marrone.
2. All documents and communications relating to Secretary Johnson's involvement in Mr. Marrone's vetting.
4. All communications, including e-mails, between and among Department employees and employees of any other Executive Branch departments or agencies regarding Mr. Marrone's vetting.
5. All documents and communications relating to concerns about Mr. Christian Marrone's security profile.

Please provide the requested information as soon as possible, but by no later than 5:00 p.m. on February 26, 2014. When producing documents to the Oversight Committee, deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committees prefer to receive all documents in electronic format.

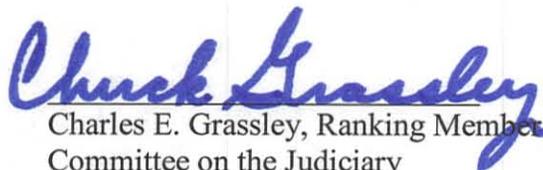
The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. The Senate Committee on the Judiciary considers, among other things, matters relating to government information. An attachment to this letter provides additional information about responding to the Committees' request.

Please call Mitchell Kominsky or Sang Yi of the Oversight Committee staff at (202) 225-5074; or Tristan Leavitt of Ranking Member Grassley's staff at (202) 224-5225 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Darrell E. Issa, Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives

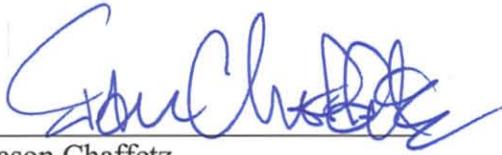


Charles E. Grassley, Ranking Member
Committee on the Judiciary
U.S. Senate

The Honorable Jeh Johnson

February 11, 2014

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Jason Chaffetz

Chairman

Subcommittee on National Security

Committee on Oversight and

Government Reform

U.S. House of Representatives

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform
U.S. House of Representatives

The Honorable Patrick J. Leahy, Chairman
U.S. Senate, Committee on the Judiciary

Honorable John Tierney, Ranking Minority Member
Subcommittee on National Security
Committee on Oversight and Government Reform
U.S. House of Representatives

The Honorable Thomas R. Carper, Chairman
Committee on Homeland Security and Governmental Affairs
U.S. Senate

The Honorable Tom A. Coburn, M.D., Ranking Member
Committee on Homeland Security and Governmental Affairs
U.S. Senate

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

Majority (202) 225-5074
Minority (202) 225-5051

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.