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Via Fax No. 202-324-5366

URGENT MATTER

Robert S. Mueller, III
Director
Federal Bureau of Investigation
935 Pennsylvania Ave., N.W.
Washington, D.C. 20535

Re: FBI WHISTLEBLOWER DISCLOSURE: CRIMES AGAINST CHILDREN
FINAL VERSION

Dear Director Mueller:

This is to inform you that my firm represents Jane Turner, a special agent employed in the Minneapolis Division of the Federal Bureau of Investigation ("FBI"). Through this letter SA Turner hereby files a formal allegation regarding misconduct within the Minneapolis Division of the FBI. This misconduct directly relates to the failure of the FBI to properly investigate crimes against children in violation of federal law and relates to FBI management's improper interference with the investigation into said crimes.¹

STATEMENT OF THE FACTS

On July 10 and 11, 2002 counsel for SA Turner deposed two current Assistant United States Attorneys ("AUSA") employed in the North Dakota U.S. Attorneys office. The deposition of these two AUSAs are hereby incorporated into this disclosure in their entirety. *See* Deposition of Janice Morley (July 10, 2002) and Deposition of Clare Hochhalter (July 11, 2002). In addition, the complete case file of [REDACTED] (Victim #1) is incorporated into this allegation in its entirety. These documents are readily available to the FBI and/or are in the control and possession of the FBI.

¹ As you are aware, on September 11, 2002 SA Turner reported potential criminal activity within the Minneapolis Division to appropriate law enforcement agencies. *See* Letter to Robert S. Mueller from Senators Patrick Leahy and Charles Grassley (September 25, 2002). In addition, SA Turner made a follow-up report on potential misconduct in that division. *See* Kohn to Mueller (October 8, 2002). This letter constitutes the filing of a third report of improper conduct within the Minneapolis Division.

The facts contained in these depositions, along with facts which are readily available from many other witnesses, demonstrate the following:

1. SA Turner worked as a field agent in Indian Country during the 1990's. During that time period, she established herself as an expert in child crimes and had an extremely productive and accomplished record working with the North Dakota U.S. Attorneys office. SA Turner was considered one of the best FBI agents working Indian Country. *See* Deposition of Hochhalter, Tr. 20. SA Turner's exceptional performance on child-crime cases was noted by the two AUSAs and by the former US Attorney for North Dakota. *See* Deposition of Morley, Tr. 30, 31 and 47.

2. On or about July 2, 1999, a 3 year old male child, [REDACTED] (Victim #1), was treated at the Indian Health Service ("IHS") at the Turtle Mountain Indian Reservation in North Dakota for injuries in his rectum. He was then transferred to a Minot N.D. hospital for further treatment of his perirectal tearing. These injuries were consistent with the child having been raped. The child resided within the exterior boundaries of the Turtle Mountain reservation and consequently, the FBI had jurisdiction to investigate this potential heinous example of sexual abuse.

3. The father of the child reported to the hospital officials that the child had been injured in an automobile accident. The local tribal investigator and the FBI field agent who had primary responsibility over the Turtle Mountain reservation accepted the story that the injuries were caused by an automobile accident. The child was returned to his parents and no steps were initiated to protect the child from additional abuse and/or to monitor the treatment of the three year old child.

4. Later in July, 1999 SA Turner visited the Minot hospital on an unrelated sexual abuse matter. A doctor working at the hospital (who had treated [REDACTED] (Victim #1) and another unrelated victim whose case had been properly investigated and successfully prosecuted by SA Turner) asked SA Turner why nothing was being done on the [REDACTED] (Victim #1) case, given that the other sexual abuse case had been properly handled. The doctor informed SA Turner that the injuries of the 3 year old boy were among the worst she had seen and that her staff had been traumatized over the incident. The doctor expressed her concerns over the welfare of the child and the fact that the child had been returned to his family without any government intervention. Based on SA Turner's knowledge of child crimes, and her experience many years of experience working sexual offender related crimes, she immediately recognized that the concerns of these doctors needed to be fully investigated. In fact, when the case had been initially reported to the FBI field office, SA Turner had suggested to the responsible field agent (SA Peter Klokstad) that the matter be investigated as a rape.

5. After the conversation with the doctor, SA Turner contacted the AUSA handling the Turtle Mountain reservation and was informed that the case had been declined because he had been informed that there was no evidence of sex abuse and that the injuries arose from a car accident. Based on the facts known to SA Turner, she recognized that the auto accident explanation was preposterous on its face and that no professional law enforcement organization could reasonably accept such a patently outrageous explanation.

6. After being informed of the declination, SA Turner properly reopened the [REDACTED] (Victim #1) case and performed the following standard investigative actions: (1) interviewed the medical professionals; (2) visited the reservation and conducted interviews of witnesses; (3) sought subpoenas from the AUSA and obtained the medical records.

7. Based on SA Turner's investigative methods, SA Turner developed evidence that the alibi given by the child's father was patently false. The fact that the father's explanation of the injuries was demonstrably false, combined with the forensic medical evidence, clearly indicated that the child had been brutally raped. Based on SA Turner's investigation, the U.S. Attorney's office reconsidered its prior declination and opened the case as a criminal matter.

7. Moreover, SA Turner learned that critical evidence relevant to investigating the crime had not been properly secured by the FBI and were not in the case file or the hospital file relevant to the [REDACTED] (Victim #1) case. Specifically, based on her interviews with medical personnel, SA Turner had learned that photos had been taken of the child during the child's treatment in the hospital. Taking such pictures of the victim while the wound is fresh is standard investigative technique. The failure to take such pictures under the circumstances in this case would be considered gross negligence. The review of the photos not only documents the extent of the injuries potentially caused by a rapist, but proper examination of the injuries recorded in the photographs can document the true cause of the injuries. After learning that pictures had been taken, but not properly secured by the FBI (in fact, these pictures were never even examined by the FBI prior to the initial declination) SA Turner returned to the hospital on two occasions to conduct extensive searches for the photos. In the second visit (February, 2000) SA Turner solicited the assistance for the search from the entire emergency room staff, and the second search was successful. The photos were located and supported Turner's belief that a brutal child rape had occurred.

7. Upon review of the case file, it is evident that the original case agent (Klokstad) failed to conduct any of these basic and standard investigatory tactics. Moreover, this initial failure to properly investigate such an obvious case of child rape raised a series of questions as to how the FBI was handling non-Turner assigned child rape cases and raised concerns over how the FBI could have permitted the child to be returned to the household of the offender, after the child had been hospitalized for perirectal tearing - injuries consistent with sodomy and rape.

8. After conducting her initial investigation, SA Turner recommended that the suspect be polygraphed. This recommendation was made in writing on February 3, 2000 and submitted to supervision (Ray Morrow).

9. On April 5, 2000 SA Turner was removed from the [REDACTED] (Victim #1) case. SA Turner never requested to be removed from the case and her removal from the case was inconsistent with the law enforcement mission of the FBI.

10. At the time of her removal from the case, SA Turner notified management that the polygraph had never been conducted. She again recommended the polygraph of the suspect. She also recommended that the case be reassigned outside of the Minot field office and that the

reassigned agent should have proper background and experience in child rape crimes. She also based the recommendation on the fact that there had been potential law enforcement misconduct in this case.

11. SA Turner's recommendation regarding the reassignment of the [REDACTED] (Victim #1) case was never followed. Instead, the case was assigned back to SA Klokstad.

12. Apparently, the FBI never acted on SA Turner's two requests for polygraph and the responsible AUSA made a renewed requests for a polygraph. Finally, on October 13, 2000 a polygraph was administered. [REDACTED]'s (Victim #1) father confessed to an act of sodomy on his son during that examination.

13. For the entire 18 month period since the crime was first reported, the victim had remained in the household of the father during this entire time period. Prior to the confession, SA Turner had repeatedly raised legal (and moral) concerns regarding the FBI's responsibility regarding victims of sexual abuse in Indian Country and the damage caused by placing infant children back in the household with the offender.

14. Based in part on SA Turner's re-investigation into the [REDACTED] (Victim #1) rape, management in the Minneapolis Division punished SA Turner. FBI management strongly criticized SA Turner's reopening of the [REDACTED] (Victim #1) case and attacked her, in writing, for reopening a case which, in turn, made a fellow SA look incompetent. FBI management used the [REDACTED] (Victim #1) case to justify other adverse actions against SA Turner. At the same time, the agent who failed to properly investigate the case was not subject to any discipline and, in fact, was given expanded job duties. This agent has, since the (Victim #1) matter, been named as the Assistant Legal Advisor for the Minneapolis Division. He was also provided a "statistical accomplishment" for that case, whereas Turner was not.

15. As set forth in the sworn testimony of the AUSAs responsible to the [REDACTED] (Victim #1) case, SA Turner was responsible for the reopening of the case and for obtaining the conviction in that matter. According to the AUSAs, SA Turner's conduct in this matter was exemplary. The AUSA's testimony supports the conclusion that the FBI's criticism of SA Turner's conduct in this matter was inappropriate and retaliatory.

16. SA Turner's actions in [REDACTED] (Victim #1) were used, in part, by FBI management as a justification for removing SA Turner from working on child-related crimes. It was used, in part, as a justification for removing SA Turner from working in North Dakota on Indian Reservation related crimes. As set forth in the depositions of the AUSAs, the United States Attorneys office did not support the removal of SA Turner from cases in North Dakota. Moreover, given SA Turner's excellent reputation in the investigation of child crimes, there was a concern regarding how the FBI would investigate child crimes after her removal. In fact, juxtaposing SA Turner's handling of the [REDACTED] (Victim #1) case with how that case would have been handled had she not intervened, creates a major concern over how child rape cases were investigated before and after SA Turner's forced transfer from the State of North Dakota.

17. According to the depositions of the AUSAs, these concerns were justified. After SA Turner's removal from North Dakota, the FBI did not open any child crime cases in the relevant reservations. Moreover, medical professionals employed at these reservations have again raised concerns that child rape cases are not being properly investigated. SA Turner has the name, address and phone numbers of various medical professional who will fully support this most serious allegation.

18. Documentation highly relevant to the [REDACTED] (Victim #1) case is apparently missing from the case file. Moreover, the FBI officially credited SA Klokstad with having solved this case. The involvement of SA Turner was never credited or recognized in any official FBI document and SA Turner's attempts to have her exemplary work in this case reflected in her performance reviews has been repeatedly denied. These facts support a finding that the FBI has attempted to cover-up the FBI's initial failure to properly investigate credible evidence of a child-rape.

REQUEST FOR IMMEDIATE ACTION

The evidence set forth above demonstrates that immediate action is necessary in order to address the following concerns:

1. Did the FBI's transfer of SA Turner from North Dakota to Minneapolis delay or interfere with the investigation into child crimes on Indian reservations. This is the most serious of all of the allegations implicated in this complaint. Children should not be placed at undo risk under any circumstances. Given SA Turner's successful work on child-crimes, and given the concerns of the AUSAs regarding the removal of SA Turner, the removal of Turner from North Dakota should have only occurred (if at all) *after* remedial steps had been taken to ensure that her work on child crimes would not be prejudiced. Removing SA Turner from her work on Indian child abuse crimes in the manner undertaken by the FBI is evidence of serious wrongdoing and evidence that SA Turner's transfer was undertaken for an improper purpose.

2. The FBI managers involved in the decision to remove SA Turner from North Dakota must be held fully responsible for gross misconduct should that removal decision be found to have interfered with the investigation of child crimes in areas under federal jurisdiction.

3. The FBI should commit the resources and expertise to review the reported cases of potential child crimes on the Turtle Mountain and Fort Berthold Indian reservations between August, 1999 and today. This audit must be undertaken by professionals experienced in child-crime.

4. SA Turner's record should be corrected in accordance with the Privacy Act and

other laws. Her record should properly reflect her contributions to investigating Indian child-related crimes, she should be given proper credit for her role in the [REDACTED] (Victim #1) case and all negative remarks regarding SA Turner's performance in the [REDACTED] (Victim #1) case should be corrected.

5. All FBI employees and managers responsible for the initial failure to properly investigate the [REDACTED] (Victim #1) case, the failure to take timely action in the case, the interference with SA Turner's work on the [REDACTED] (Victim #1) case, the removal of SA Turner from working on the [REDACTED] (Victim #1) case and the failure to properly credit SA Turner's work on the [REDACTED] (Victim #1) case should be held fully accountable and subject to appropriate discipline.

6. The FBI should ensure that all FBI agents who work on child crimes are properly trained so that the mistakes made by the initial field agent in this matter are not repeated. In this regard, SA Turner's expertise in child crimes should be properly recognized by the FBI and she should be consulted with regarding the implementation of a proper training program.

7. In accordance with the Privacy Act, SA Turner hereby requests that her performance reviews (and any corresponding award/promotional system) be corrected and reflect her expertise and exceptional work in child-related criminal investigations.

Please be advised that SA Turner has other evidence of wrongdoing. We are working as quickly as possible to ensure that this evidence is called to your attention for prompt action.

Thank you in advance for your prompt attention to this letter. If I can be of any assistance whatsoever, please do not hesitate to contact me.

Respectfully submitted,

Stephen M. Kohn

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