

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

March 22, 2007

Via Electronic Transmission

Dr. Julie L. Gerberding, MD, MPH
Director
Centers for Disease Control and Prevention
200 Independence Avenue, SW, Room 746-G
Washington, DC 20201

Dear Dr. Gerberding:

I am in receipt of your letter refusing my request for a briefing from the newly-appointed Ombudsmen for the Centers for Disease Control and Prevention (CDC). As Ranking Member of the Senate Finance Committee (Committee), responsible for maintaining oversight of Medicare and Medicaid, I am deeply concerned by your denial of my request for this briefing. This is particularly troubling in light of the fact that during our meeting, you represented to me that the creation of an Ombudsman Office was a major component of your effort to improve the operation of the CDC. At that meeting I took you at your word. However, I fully intend to exercise my oversight responsibilities to ensure the success and integrity of the Ombudsman effort.

Your letter claims that the Ombudsman Office believes that briefing me on their preliminary work would somehow damage their objectivity and would be contrary to the guidelines established for ombudsmen. Since I have only requested information about the ombudsmen's objective and general observations and findings regarding the status of employee morale at the CDC, I am confused by that response. Since I am neither the subject of the ombudsmen's work nor a potential cause of employee angst at CDC, I do not see any valid reason why my requested briefing would compromise the ombudsmen's mission in any way. Yet, in the same letter, you report that both ombudsmen met with you personally and provided you with a detailed briefing on their initial findings. Dr. Gerberding, am I missing something here? Why would two individuals claim preserving their objectivity as Ombudsmen requires refusing to brief Congress, but allows meeting with you to discuss their findings? Accordingly, I find that it is no small wonder that fewer than 1% of the employees at the Centers for Disease Control and Prevention have felt comfortable approaching these two men to seek their help on their problems with CDC management.

By means of this letter I again extend an open invitation to the two Ombudsmen, as well as all CDC staff, to report their concerns directly to my office and to contact my office to share any information they think will help us work to resolve the apparent problems at CDC. Accordingly, please share this letter with the CDC staff and let them know that my staff welcomes their calls. Furthermore, I hope that all of your employees know that the Centers for Disease Control and Prevention play a vital role in the

protection and welfare of the American people. As such, the morale of the agency's employees is of utmost concern to me.

In addition, I hope that along with my invitation, you provide to CDC employees the assurance that neither you, nor anyone else at CDC, can interfere with your employees' right to talk to Congress. I include the following citations to make sure employees know they have this right, and demonstrate that Congress believes it is so important that we have mandated it by statute.

Interfering with a Congressional inquiry is against the law. 18 U.S.C. § 1505 states:

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or 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--

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

Denying or interfering with employees' rights to furnish information to Congress is also against the law. 5 U.S.C. § 7211 states:

The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.

Federal officials who deny or interfere with employees' rights to furnish information to Congress are not entitled to have their salary paid by taxpayers' dollars. P.L. 109-115 § 818 states:

No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who -

- (1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or

contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

- (2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

Thank you again for your assistance and I hope that you will also make clear that you understand Federal law protects CDC employees' right to talk to Congress and, as Director of the CDC, you will neither attempt to abridge your employees' rights nor will you tolerate it if any of your employees attempt to prevent their fellow employees from contacting Congress. I express my appreciation for the important work that CDC employees perform and I look forward to working with CDC employees as we strive to improve the agency's ability to fulfill its important mission.

Sincerely,



Charles E. Grassley
Ranking Member

cc: CDC Office of the Ombudsman
Mr. Joseph McDade
Mr. Gerald Naehr