

Testimony of the Honorable Frank Wolf
Committee on the Judiciary & Committee on Oversight and Government Reform
Joint Hearing on PTO's Telework Program
Tuesday, November 18, 2014

Good afternoon. Thank you for allowing me to testify today.

I am pleased to say I am a huge advocate of telework. Time and again I have said there is nothing magic about strapping yourself into a metal box and driving to an office. If you have a job that is conducive to teleworking, then you should be given that opportunity. Many members of my staff regularly telework. Studies show telework increases worker productivity, reduces traffic and helps the environment. It's also a quality of life issue. Less time sitting in traffic – particularly in this region – means more time doing what you want to do, from coaching Little League to volunteering at your church to just spending more time with your family.

The series of articles in *The Washington Post* over the last several months detailing problems with the Patent and Trademark Office's telework program are alarming. Secretary Pritzker is well aware of my displeasure. She and I have talked on the phone about the issue and I also have been in written communication with her.

I want to enter my August 11, 2014 letter to her into the hearing record. It clearly states my unhappiness with PTO and ends with this sentence: "I encourage you to take immediate action to hold these fraudulent employees accountable and send a clear message that this abuse will no longer be tolerated."

I also want to submit to the hearing record my September 15, 2014 letter to the U.S. Attorney for the Eastern District of Virginia urging him to open a criminal investigation into possible fraudulent activities at PTO with regard to time and attendance.

To say I am extremely disappointed that PTO failed to manage its telework program and, in general, to provide adequate managerial oversight throughout the organization would be an understatement. Compounding this are attempts, I believe, to minimize the problems.

While I am confident the vast majority of people working at PTO are honest, hardworking federal employees, there are some, unfortunately, who are abusing the telework program. They need to be fired. In all honesty, they should already have been dismissed.

I firmly believe if PTO and the Commerce Department fails to terminate employees who abused the system, other telework programs across the federal government could very well be in jeopardy. It is imperative that PTO identify any misconduct and management lapses, and work to put in place systems to ensure that this does not happen in the future.

I understand that some mid-level managers at PTO feel like their hands are tied, but there are certain things that can be done to ensure that staff are actually working their 80 hours a pay period. I also understand that PTO has the capability to know if their employees are in the building or are working on their computers, but that these tools are not used.

I also would like to point out that these abuses weren't just perpetrated by telework employees, but that other employees who report every day to the PTO headquarters building in Alexandria have also been gaming time and attendance through the system.

I understand PTO has brought the National Academy of Public Administration to review its telework program. This is a positive first step but it needs to be required to report back to these two committees.

NAPA, as you know, was chartered by Congress to assist federal, state, and local governments in improving their effectiveness, efficiency and accountability. I have enlisted NAPA on multiple occasions during my tenure as chairman of the Commerce-Justice-Science Appropriations subcommittee. NAPA played a huge role in the transformation of the FBI following the 9/11 attacks. I asked NAPA to work with the Department of Commerce to study the effects of offshoring on the U.S. workforce. In 2013, NAPA worked with NASA to review its security practices.

NAPA does good work. It is independent and non-partisan. It would bring a fresh set of eyes to the problem and provide a thorough review of PTO's telework program and make recommendations to return it to the model program it once was.

Again, I appreciate the opportunity to testify today. This is an important issue and Congress has a clear role in providing oversight. Moreover, I think telework has an important role to play in improving morale, improving productivity, cutting rent and other overhead costs and alleviating traffic congestion. But only if those who participate in these programs follow appropriate – and effective – management guidelines.

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FRANK R. WOLF
10TH DISTRICT, VIRGINIA

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Congress of the United States
House of Representatives

August 11, 2014

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The Honorable Penny Pritzker
Secretary
Department of Commerce
1401 Constitution Ave NW
Washington DC 20230

Dear Secretary Pritzker:

I was deeply troubled by the A-1 story in today's *Washington Post* about employees of the U.S. Patent and Trademark Office (USPTO) abusing the telework program and that the agency's leadership apparently sought to hide serious findings of abuse in a final report to the department's inspector general.

According to the article: "some of the 8,300 patent examiners, about half of whom work from home full time, repeatedly lied about the hours they were putting in, and many were receiving bonuses for work they didn't do. And when supervisors had evidence of fraud and asked to have the employee's computer records pulled, they were rebuffed by top agency officials, ensuring that few cheaters were disciplined, investigators found." It goes on to describe how the unedited version of the review found "a culture of fraud that is overlooked by senior leaders, lax enforcement of the rules and the resulting frustration of many front-line supervisors."

The article also provides examples of abuse by employees including "an examiner who missed 304 hours of work in a year but was paid for the time. Despite warnings, this examiner kept cheating and was caught twice but not fired. Another examiner claimed to have worked 266 hours for which there was no evidence she was on the job, and she received \$12,533 in pay. She was never charged with time fraud because an assistant deputy commissioner refused her supervisor's request to pull computer records."

This is inexcusable. The employees that have been abusing telework and committing time fraud should be fired today. So too should the senior USPTO managers who sought to hide these troubling findings in the report provided to the inspector general.

I am also asking that you refer these individuals and all relevant findings to the Justice Department for prosecution for any fraud that has taken place. If the department determines criminal fraud has occurred, they should be prosecuted to the full extent of the law. I am also referring this report to the House Oversight and Government Reform Committee and will ask

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Chairman Rogers to consider an investigation by the Appropriations Surveys and Investigations subcommittee to ensure that all resources of the committee are being used to address this matter.

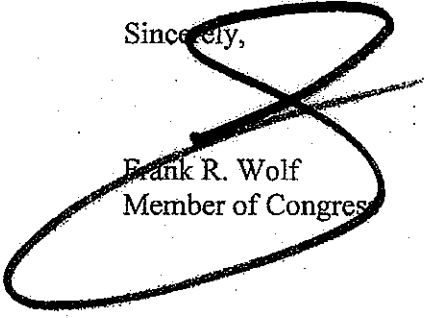
What has happened at USPTO is symptomatic of an agency that has not had leadership for the last 18 months when the last confirmed director left. Because it continues to lack a permanent director, I am asking you to take immediate action to address this matter and to report to the Congress on the steps that have been taken to ensure that this abuse does not occur again.

For the past 20 years, I have been one of the leading advocates for telework – both at federal agencies and in the private sector. I continue to believe that telework, if properly managed, can be an effective tool to boost both productivity and quality of life, while reducing traffic. However, this report also demonstrates what can happen when an agency fails to hold employees accountable – much less tries to cover up alleged criminal fraud committed by employees from the inspector general's office.

I am very disappointed that USPTO, which holds itself up as a telework model for the federal government, has failed to manage this program appropriately. I encourage you to take immediate action to hold these fraudulent employees accountable and send a clear message that this abuse will no longer be tolerated.

Best wishes.

Sincerely,



Frank R. Wolf
Member of Congress

FRANK R. WOLF
10TH DISTRICT, VIRGINIA

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The Hon. Dana Boente
US Attorney
Eastern District of Virginia
2100 Jamieson Ave
Alexandria VA 22314

Dear Mr. Boente:

I am writing to request that you open a criminal investigation into the reported time and attendance abuses at the U.S. Patent and Trademark Office (PTO). For your reference, I have attached several *Washington Post* articles, a related Commerce Inspector General report and two internal PTO reports regarding this matter. These reports describe allegations that certain telework employees have defrauded the federal government by getting paid for and/or receiving bonuses for time they had not worked. To date, I am not aware of any employee or manager involved in this scandal being fired.

I am one of the strongest supporters in Congress of the federal workforce. I regularly speak out on the House floor in defense of federal employees and was once a federal employee myself. I know the overwhelming majority of federal employees – whether at the PTO or elsewhere across the federal government – are honest and hardworking civil servants.

I also have been one of the champions in Congress of telework. I was the author of legislation authorizing and encouraging telework options in the federal workforce and have included language in a number of appropriations bills penalizing agencies for failing to make telework available to federal employees. I strongly believe – and studies have shown – telework increases productivity, reduces overhead costs, creates family-friendly work environments and relieves traffic congestion.

Telework, however, should not be abused. The fraudulent activity at PTO has the potential to undermine telework programs throughout the federal government. There must be a zero tolerance policy for fraud and abuse; federal employees who defraud the government must be held accountable.

While I have spoken with Commerce Secretary Pritzker and understand that she has launched an outside review of these abuses, I believe it is important for federal prosecutors to independently review these allegations for criminal wrongdoing as well. A clear message must be sent to anyone in the government that fraudulent activity is unacceptable and will be met with punishment.

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Please do not hesitate to contact me directly at (202) 225-5136 if you have any questions.

Best wishes.



Sincerely,

Frank R. Wolf
Member of Congress