

ONE HUNDRED EIGHTEENTH CONGRESS

gress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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November 18, 2024

The Honorable Michael Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Suite 4706
Washington, D.C. 20530

Dear Inspector General Horowitz:

On March 5, 2024, six United States Marshals Service (USMS) agents pulled into the driveway of 66-year-old Phoenix, Arizona resident Penny McCarthy with their guns drawn demanding that she “get her hands up.”¹ The USMS agents insisted that McCarthy was really a fugitive who had violated probation in 1999 after committing several non-violent crimes.² The agents threatened Ms. McCarthy and denied her an opportunity to prove her identity. While the USMS has initiated a review of this apparent misconduct, we write to request that the Office of the Inspector General (OIG) conduct a thorough and independent investigation of this incident.

From publicly available information, it appears that the USMS violated Ms. McCarthy’s constitutional rights during the arrest. After six agents surprised Ms. McCarthy at her home screaming at her to “get her hands up,” she understandably asked if they had the right individual.³ At that point, the USMS agents screamed at her to “turn around,” threatening her “you’re going to get hit.”⁴ Video footage shows that Ms. McCarthy cooperated during the encounter, despite threats of being tased.⁵ Ms. McCarthy asked to see proof that the agents were law enforcement but the agents denied her request.⁶ The agents insisted Ms. McCarthy was a nonviolent fugitive from Oklahoma named Carole Anne Rozak.⁷ Ms. McCarthy offered to provide proof she was not Ms. Rozak, but federal agents refused.⁸ The USMS booked Ms.

¹ Alex Oliveira, *Shocking video shows Ariz. grandma falsely arrested by US Marshals at gunpoint: ‘I felt like I was being kidnapped’*, N.Y. POST (Oct. 29, 2024); Jennifer Kovaleski, *New police body cam video shows false arrest in wild case of mistaken identity*, ABC 15 (Oct. 28, 2024).

² *Id.*

³ *Id.*

⁴ ABC 15 Arizona, *New police body cam video shows false arrest in wild case of mistaken identity*, YOUTUBE (Oct. 29, 2024), <https://www.youtube.com/watch?v=YpJZPPY4OMY&t=195s>

⁵ Oliveira, *supra* note 1.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

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McCarthy in federal prison overnight and she was released the next day.⁹ A federal judge subsequently dismissed the case shortly thereafter.¹⁰ The USMS only admitted its misidentification after a local news channel conducted a thorough investigation.¹¹ The body camera footage was not released until six months after the incident through a Freedom of Information Act (FOIA) request.¹² Although the USMS claims it is conducting a review of the actions taken by their agents,¹³ an internal review is not enough.


We are very concerned at both the USMS's carelessness and the excessive force during this encounter. The USMS's lack of regard for Ms. McCarthy's due process rights is very troubling and oversight is necessary to ensure similar abuses do not happen in the future. Part of the stated mission of the Department of Justice (DOJ) OIG is to "review the programs and personnel" of the USMS.¹⁴ Additionally, one of the "major functions" of the Department of Justice OIG is to "[i]nvestigate alleged violations of criminal and civil laws, regulations and ethical standards arising from the conduct of Department employees."¹⁵ Accordingly, we ask that you investigate this matter and report back to the Committee on your findings and recommendations. Please confirm that you will examine this encounter as soon as possible but no later than December 2, 2024.

The Committee on the Judiciary has oversight jurisdiction over the Department of Justice and the USMS pursuant to Rule X of the Rules of the House of Representatives.¹⁶ If you have any questions about this request, please contact Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman



Andy Biggs
Chairman
Subcommittee on Crime and
Federal Government Surveillance

cc: The Honorable Jerrold L. Nadler, Ranking Member
The Honorable Lucy McBath, Ranking Member, Subcommittee on Crime and Federal
Government Surveillance

⁹ *Id.*

¹⁰ Kovalski, *supra* note 1.

¹¹ *Id.*

¹² *Id.*

¹³ Oliveira, *supra* note 1.

¹⁴ *Organization, Mission and Functions Manual: Office of the Inspector General*, U.S. DEP'T OF JUST., <https://www.justice.gov/doj/office-inspector-general> (last accessed Oct. 31, 2024).

¹⁵ *Id.*

¹⁶ Rules of the U.S. House of Representatives, R. X (2023).