



*State of North Carolina
Office of the Governor*

*Roy Cooper
Governor*

April 14, 2023

*20301 Mail Service Center
Raleigh, N.C. 27699-0301*

The Honorable Jake Johnson
North Carolina House of Representatives
300 N. Salisbury Street, Rm. 306B1
Raleigh, NC 27603-5925

The Honorable Harry Warren
North Carolina House of Representatives
300 N. Salisbury Street, Rm. 611
Raleigh, NC 27603-5925

Dear Chairman Johnson and Chairman Warren,

Thank you for inviting Eric Fletcher and me to appear and testify before the House Oversight and Reform Committee on April 18, 2023 at 3:00 pm. I observed your March 28 hearing as well as your April 12 editorial published in the News & Observer. I am deeply concerned that you have chosen to focus on the Director of the State Bureau of Investigation's description of our conversations while appearing to ignore the serious concerns about workplace practices that he referenced in his own comments.

The State of North Carolina provides legal protections to its employees consistent with state and federal personnel laws. In his own testimony, the SBI Director announced publicly that current and former agents of the State Bureau of Investigation raised concerns about human resources issues at the SBI. When human resources concerns are raised about an executive agency, we seek to ensure that they are reviewed and addressed. The Governor's Office takes these issues seriously.

The SBI is the state's premiere law enforcement agency. Its agents are asked to investigate some of the state's most sensitive and difficult cases. Their reputation for investigating without bias is critical to the public's confidence in our criminal justice system. The SBI's agents and employees deserve to be treated fairly and afforded the same protections they help provide to others. While we welcome the opportunity to work with the Committee to ensure oversight of the SBI and a fair and equitable workplace for its agents and other employees, and while we welcome the opportunity to respond to the Director's testimony, we are not available to testify at the requested time.

Importantly, I have also been informed that state personnel laws prevent us from discussing many aspects of the Director's testimony. Specifically, I have been advised that the State Human Resources Act makes confidential any "personnel file" information, which includes broad categories of information including performance evaluations and investigations. N.C. Gen. Stat. §§ 126-22(b)(3), 126-24; N.C. Attorney General Opinion to J. Phil Carlton (Dec. 22, 1977). If any witness from the Governor's Office is going to testify before the Committee, we would want to ensure that the witness can provide the Committee with important context and details without risk of litigation.

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In particular, during his testimony, Director Schurmeier chose to make some of his own personnel file information public, but we are constrained in responding to questions about his testimony because of the legal protections afforded to the Director's personnel file. For example, the Director chose to make public that he felt intimidated in certain meetings with the Governor's Office, but the Director has not waived confidentiality so that we can share all the details of those meetings. In addition, the Director acknowledged personnel complaints in his testimony, but cited personnel confidentiality in declining to answer questions about any such complaints. In your recent editorial, you referenced the Director's testimony in suggesting that personnel complaints were "pretext," but I have been informed that without his consent state law prevents us from disclosing the full story showing that those complaints were not "pretext."

I understand that Director Schurmeier has the power to waive his own personnel file confidentiality and he discussed otherwise confidential information from his own personnel file at the March 28 Committee meeting. N.C. Gen. Stat. § 126-24. We request that, before providing testimony from the Governor's Office, Director Schurmeier provide a written document waiving any personnel file confidentiality rights that may still exist regarding (1) his discussions with representatives of the Governor's Office at the meetings referenced in his March 28 testimony and (2) the number and types of Human Resources complaints that were discussed in Director Schurmeier's meetings with the Governor's Office. To be clear, we do not ask that Director Schurmeier waive personnel confidentiality for anything other than these two topics, which he chose to raise in his testimony to the Committee.

As for the details of personnel matters relating to SBI employees other than Director Schurmeier, any witness from the Governor's Office would have to respect their personnel confidentiality protections and would not be able to discuss them. Where current or former employees have made statements or raised concerns with an expectation of confidentiality, we fully intend to respect their rights. These conversations began around providing protection to state employees and we remain committed to continuing those protections.

We appreciate your willingness to get a waiver from Director Schurmeier as outlined in this letter. This waiver would allow us to have a more meaningful discussion about our personnel conversations with Director Schurmeier and ultimately help provide the most productive workplace for the men and women of the North Carolina State Bureau of Investigation.

Sincerely,



Kristi Jones
Chief of Staff,
Office of the Governor