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Written by R. Cort Kirkwood



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According to the Judiciary Committee's summation of the report,

The data provided to the House Judiciary Committee by DHS [Department of Homeland Security] includes 276,412 records of charges against illegal and criminal immigrants identified by Secure Communities between October 27, 2008 and July 31, 2011. There are 159,286 unique individuals in the database and 205,101 unique arrest incidents.

Secure Communities is a federal program that is supposed to help local police identify illegal aliens and deport them.

Foreign criminals who were rearrested committed some 60,000 crimes, the report said, adding,

Of those released, CRS found that about 17% of illegal and criminal immigrants, or 26,412, were rearrested on criminal charges. These 26,412 recidivists accounted for a total of 42,827 arrests and 57,763 alleged violations.

The categories of crimes charged include nearly 8,500 DUI (14.6%), over 6,000 Drug Violations (10.9%), more than 4,000 Major Criminal Offenses (7.1%), which includes murder, assault, battery, rape, and kidnapping, nearly 3,000 Theft (4.9%), and over 1,000 Other Violent Crimes (2.1%), which includes carjacking, child cruelty, child molestation, domestic abuse, lynching, stalking, and torture.

This list of crimes includes 59 murders, 21 attempted murders, and 542 sex crimes.

Not all those rearrested, the committee took pains to note, are legal immigrants. "Of those rearrested, nearly 30%, or 7,283, were illegal immigrants." They murdered 19 persons. The committee added,

Since 46,734 illegal immigrants were released, this means they have a recidivism rate of 16%. These illegal immigrants should have been deported but the Obama administration's lax immigration policies released them back into our communities.

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- The crimes charged against these illegal immigrants include nearly 2,000 DUI cases (11.9 percent), over 1,400 drug violations (8.8 percent), and more than 1,000 major criminal offenses and violent crimes (6.9 percent), including murder, assault, battery, rape, kidnapping, child molestation, domestic abuse, lynching, stalking, and torture.
- These crimes committed by illegal immigrants include 19 murders, 3 attempted murders, and 142 sex crimes.

Typical Cases

Typical of the type of criminals the federal government permits to stay in the country are two MS-13 gang members, Edwin Ramos and Johoan Rodriguez. Ramos, as *The New American* readers will recall, murdered 49-year-old Tony Bologna and his sons, Michael and Matthew. San Francisco, a sanctuary city, protected Ramos and other illegals from deportation.

According to the *San Francisco Chronicle*,

Ramos, a native of El Salvador whom prosecutors say is a member of a violent street gang, was found guilty of two felonies as a juvenile — a gang-related assault on a Muni [Municipal Railway public transit system] passenger and the attempted robbery of a pregnant woman — according to authorities familiar with his background.

In neither instance did officials with the city's Juvenile Probation Department alert federal immigration authorities, because it was the city agency's policy not to consider immigration status when deciding how to deal with an offender. Had city officials investigated, they would have found that Ramos lacked legal status to remain in the United States.

It appeared as if federal officials didn't know Ramos was in the country. But the *Chronicle* later disclosed that federal authorities knew exactly who Ramos was and that he was probably a killer. "An informant told the FBI in 2006 that Edwin Ramos had killed a gang rival in the Mission District, records show, raising questions about why

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Ramos wasn't taken off the streets before his infamous slaying of a man and his two sons in San Francisco in 2008," the paper reported.

Ramos murdered the Bolognas in June 2008 and thus falls outside the parameters of the study by CRS. But his case illustrates exactly the type of criminal whom federal authorities permit to stay in the country when they tolerate municipal leftists who set up sanctuaries.

Last month, a jury sent Ramos to prison for life.

Then there's Rodriguez' case. In June, a jury sentenced him to 55 years in prison for killing Houston police officer Kevin Will in May 2011. Rodriguez, A gang member like Ramos, was driving drunk when his car hit Will.

According to the *Houston Chronicle*,

Rodriguez is an illegal immigrant from Mexico who was deported in 2005 and 2006.

Federal court records show that Rodriguez tried to enter the U.S. through the Brownsville [Texas] Port of Entry by falsely claiming to be a U.S. citizen on Dec. 29, 2005. Just days after he was deported back to Mexico, he tried again to get in, this time through the Hidalgo Port of Entry, records show. He again claimed to be a U.S. citizen, born in Houston, and showed a Texas driver's license to support his claim, according to records. He was deported a second time.

Rodriguez was issued a driver's license in 2007.

The *Chronicle* reported that Rodriguez is a career criminal:

His misdemeanor record includes five violations in 2009 — including driving without insurance and with an expired license plate. There was no jail time associated with any of the recent cases, said Gwendolyn Goins, spokeswoman for the city's Municipal Courts Department.

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A television news station observed that "police would have discovered his status had he been arrested and booked into the city jail — that's where fingerprints are run through local, state and federal databases."

Yet even had local or federal authorities arrested the Salvadoran, the question is whether the Obama administration would have deported him.

DREAM Act Is Law

As *The New American* has repeatedly documented, lax enforcement of illegal immigration from the Obama administration is never a surprise.

For the past year, top officials in the administration, most notably Homeland Security Secretary Janet Napolitano, have repeatedly declared that the DREAM Act is law, even though it failed to pass the Senate in December 2010. The DREAM Act is an amnesty for illegals who meet a list of arbitrary criteria. Last summer, Napolitano's director of Immigration and Customs Enforcement, John Morton, gave his staff "prosecutorial discretion" on deportations. President Obama halted 300,000 deportations after that.

This year, Obama applied the failed DREAM Act to young illegals, announcing that he will not deport them. And now that the Supreme Court has backed the most controversial provision of Arizona's immigration law, the administration says it will not help the state with identifying and deporting illegals.

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Illegal Aliens: Economic Consequences

County numbering about 45,000 residents, is broke. Such are the city's dire straits that in June it fired all of its employees and turned police and fire protection over to the county. Officials, naturally, pinned the blame for the situation on decreasing property tax revenues and the national recession, and indeed, they may well provide a small reason the city went under.

But the real reason is this: illegal aliens. As the *Los Angeles Times* reported in its article on the subject, half the city's population is illegal and has been for some time. Such is its population of illegals that Maywood proudly declared itself a "sanctuary" city a few years ago. Now, apparently, no one, least of all the city's Hispanic leaders and activists, got the connection between the city's worsening plight and the mushrooming number of illegals.

In Santa Ana, 27 miles down Interstate 5, the school district has decided that every one of its 55,000 students will receive free breakfast and lunch regardless of whether they qualify for the program. At \$2 per meal, that's \$39.6 million annually to feed the school system's mostly Hispanic children before officials buy their first pencil. One can well imagine without looking too deeply that many of these students also are either illegal aliens or the U.S.-born children of illegal aliens.

Extrapolating these two examples across the nation paints a frightening picture: Illegal aliens are not only weakening the country financially, but are also often enticed to come here because of governmental social-welfare programs that should not even exist much less be available to illegal residents. The cost to American taxpayers is billions of dollars. And the federal government, which has responsibility for the nation's borders, literally does nothing about it. Its

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official policy is to deport only "criminal" aliens, which means the rest will stay and continue consuming resources via our social-welfare programs. One example: In September, Republicans narrowly defeated an insane plan to permit illegal-alien minors to stay in the country indefinitely if they meet a complex and unenforceable set of criteria. It is called the DREAM Act.

The Latest Reports

Finding good figures on what illegal aliens cost is difficult because public officials typically do not include everything the immigrants consume. In June, the Federation for American Immigration Reform (FAIR) published a report on the cost of illegal immigration that does include everything. It demonstrates the staggering result of the federal government's paralysis on the border issue. According to FAIR, illegal aliens cost American taxpayers \$113 billion annually. Broken down, the direct cost to the federal government is about \$29 billion, while the states pick up the remaining share of about \$84 billion. Illegals cost each household in America, meaning the households of citizens who pay taxes, \$1,117. The largest expense for illegals is educating their American-born children, some \$52 billion. Not surprisingly, the states with the highest number of illegals also pay the most to feed, educate, house, doctor, and jail them.

California's price tag for its 2.55 million illegals, FAIR reports, is \$21.8 billion annually. As FAIR concludes, the cost of illegals accounts for all of the budget deficits California and New York now face in 2011: "With many state budgets in deficit, policymakers have an obligation to look for ways to reduce the fiscal burden of illegal migration. California, facing a budget deficit of \$14.4 billion in 2010-2011, is hit with an estimated \$21.8 billion in annual expenditures on illegal aliens. New York's \$6.8 billion deficit is smaller than its \$9.5 billion in yearly illegal alien costs." Conclusion for these two states? Get rid of the illegals, the deficits disappear.

Why did Arizonans pass their controversial law that permitted police to check the immigration status of those with whom they have a lawful contact? It wasn't just because illegals murder ranchers and are conducting what amounts to open warfare on these beleaguered Southwestern Americans. They are breaking the state financially. According to FAIR, illegals cost Arizonans \$2.57 billion annually.

To some, these estimates might seem high, but that is because FAIR calculates the cost by including every program for which illegals are eligible, and importantly, includes the cost of their

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U.S.-born children. Most calculations leave them out because those children are, they say, U.S. citizens. "We include these U.S. citizen children of illegal aliens because the fiscal outlays for them are a direct result of the illegal migration that led to their U.S. birth," FAIR reports. "We do so as well in the assumption that if the parents leave voluntarily or involuntarily they will take these children with them. The birth of these children and their subsequent medical care represent a large share of the estimated Medicaid and Child Health Insurance Program expenditures associated with illegal aliens."

As well, FAIR also includes, for instance, the cost that states create by giving aliens in-state college tuition or other forms of tuition assistance. About 60,000 illegals attend college in the 11 states that offer in-state tuition rates, at a cost of \$244 million annually.

California: A Case Study

With the most illegal aliens, California is an excellent example of the distorted picture created when legislators and the media misreport the truth. Last year, the *Los Angeles Times* reported that illegals cost the state about \$4 billion to \$6 billion annually in three major areas: education, healthcare, and crime.

According to the *Times*, illegals in the public school system cost just \$2.3 billion. But the paper likely didn't count the U.S.-born children of illegals, also known as anchor babies. The real cost of illegals in California's public school system, kindergarten through high school, FAIR reports, is \$11.1 billion annually.

The *Times* claimed that 19,000 illegals in the state's Justice system cost taxpayers \$834 million. Not so, according to FAIR. The real figure is about \$3.2 billion.

The newspaper's estimate for healthcare was even further off: "The expected state tab for healthcare in fiscal 2009-10 is \$703 million for as many as 780,000 illegal immigrants." Possibly, the paper is claiming that only 780,000 of California's 2.55 million illegals partake of state healthcare programs and use state healthcare facilities. Even then, the figure would be way off. According to FAIR, medical care for illegals costs Californians nearly \$3 billion annually.

Granted, the *Times* figures are older, but an article published this year would likely show the same major discrepancies.

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Figures from L.A. County Supervisor Mike Antonovich sharpen FAIR's point. According to Antonovich, "In July 2010, \$52 million in welfare benefits (\$22 million CalWORKs + \$30 million in Food Stamps) were issued to parents who reside in the United States illegally and collect benefits for their native-born children in Los Angeles County — representing an increase of \$3.7 million from July 2009. This amounts to approximately 23 percent of all CalWORKs and Food Stamp issuances in the County. In 2009, CalWORKs and Food Stamp issuances to illegals totaled nearly \$570 million. Based on the monthly figures in 2010, the total cost for the year will exceed \$600 million."

According to Eric Ruark, the lead researcher on the FAIR study, the explanation for the discrepancy between what FAIR and the *Times* reported, and likely figures most other sources would report, is that public officials "don't want to count the real costs."

The Myth of Their Contributions

The FAIR report is an extensive tour through the ledgers of federal and state governments. The states combined spend about \$50 billion annually educating illegal aliens or the children of illegals. The states spend \$8.7 billion policing and jailing them. The states pay \$1 billion annually for illegal-alien mothers to give birth. Those children are, of course, "citizens" who enter the public schools. Uncompensated emergency medical care the states provide to illegals costs the taxpayers \$7.5 billion.

Reports from local news media explain the problem. In 2009, readers of the *Miami Herald* learned this:

Last year, undocumented immigrants visited Jackson [Hospital] 77,415 times, costing the system \$38 million in unpaid care. So far this year, 54,858 visits have cost \$33 million. That is less than 10 percent of the \$500 million the system spends on charity care each year, but more than half of the \$56 million that Jackson expects to lose this fiscal year.... To get some of that money, Jackson submitted 2,908 claims in 2008 for \$23.4 million. It was reimbursed \$543,621.31. [That is a 2.3 percent rate of reimbursement.]

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In 2010, the *Philadelphia Inquirer* disclosed a classic case of "patient dumping," FAIR reports:

Mrs. Kim is 4-foot-8, speaks no English, and has been in America, illegally, for a decade. She has arthritic knees and can no longer stand. She needs a nursing home. But none will take her. Because of her illegal status, she is ineligible for Medicaid, which pays the bill for two out of every three nursing-home residents.

Without Medicaid, and with no means of her own, she became Abington's [hospital] problem.... On March 12, after 80 days, the charges — the sticker price that few pay — were \$444,208.63. The true cost of her care, said Louis Incognito, Abington's reimbursement director, was \$1,200 a day — \$96,000, and rising.

And in January, the *Las Vegas Review-Journal* divulged the cost of providing kidney care to just a handful of illegal aliens:

Six months after the *Review-Journal* revealed that 80 illegal immigrants with failing kidneys were running up about \$2 million a month in bills for dialysis and other medical treatment at the only publicly supported hospital in Las Vegas, the situation for both patients and taxpayers only continues to worsen.... With four new illegal immigrants now having their dialysis done at UMC's emergency room — and monthly visits jumping from 216 in August to 243 currently — the billed charges for the 84 illegal immigrants are now at about \$2.4 million a month — or \$28 million a year.

Medicaid for the U.S.-born children of illegals costs \$1.8 billion. The total the states pay to provide medical care for illegal aliens? \$10.8 billion.

Illegals contribute virtually nothing to offset this astronomical expense. Their \$9.5 billion contribution in federal taxes brings the federal bill for illegals down to about \$20 billion, and their paltry \$4 billion to state coffers lowers that bill to \$80 billion. In short, even counting tax revenues federal and state treasuries receive from illegals, the cost remains at least \$100 billion annually. And this cost does not count the added expense of American workers thrown onto unemployment and welfare rolls because

FAIR
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illegal aliens take their jobs by working for lower wages. Nor does it account for the diminution of wages among American workers because illegal aliens compete for jobs and, again, are paid less (see sidebar, page 20).

As Maywood Goes, So Goes the Country

Maywood, California, then, with an estimated illegal population of 22,500, about half the city's population, is a microcosm of what happens when illegals become dominant in a city. This dominance did not occur through military conquest; in fact, illegal aliens were actually invited to come (Maywood, recall, is a "sanctuary" city) and then given access to public schools and other social-welfare programs. The illegals' dominance in Maywood increased too as a result of the flight of many American citizens.

That, of course, has meant more than financial costs to the city. Because of the staggering number of illegals, police caught a disproportionate share of them in parking violations and police roadblocks. So the city, the Los Angeles Times reported in 2006, simply stopped certain police procedures:

First, the city eliminated the Police Department's traffic division after complaints that officers unfairly targeted illegal immigrants. Then it made it much more difficult for police to tow cars whose owners didn't have driver's licenses, a practice that affected mostly undocumented people who could not obtain licenses.

In January, the City Council passed a resolution opposing a proposed federal law that would criminalize illegal immigration and make local police departments enforce [federal] immigration law. Now, some in the community are pushing to rename one of the city's elementary schools after former Mexican President Benito Juarez and debating measures to improve the lives of illegal immigrants.

Oddly, "Latino" activists complained that police were profiling Hispanics, according to La Prensa of San Diego.

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"We are outraged and demand an immediate investigation into growing reports that local law enforcement in Maywood, California appear to be preying on Latino drivers," said Hector Flores, LULAC National President. "These motorists are being regularly stopped at checkpoints under the guise of traffic safety and losing their vehicles through tactics that smack of nothing less than shameless profiteering at the expense of the poor."

As VDare.com observed, one wonders how much profiling the police could have done, inasmuch as nearly 44,000 of the city's 45,000 residents are Hispanic.

No wonder the city is broke. Given California's Grecian fiscal condition, the state is headed in the same direction, as are others groaning under the weight of illegal aliens who force the states to cough up \$80 billion a year to care for them.

R. Cort Kirkwood is a longtime contributor to The New American. He has been writing about American politics and culture for more than 25 years and has won numerous awards for his writing, design, and artwork.

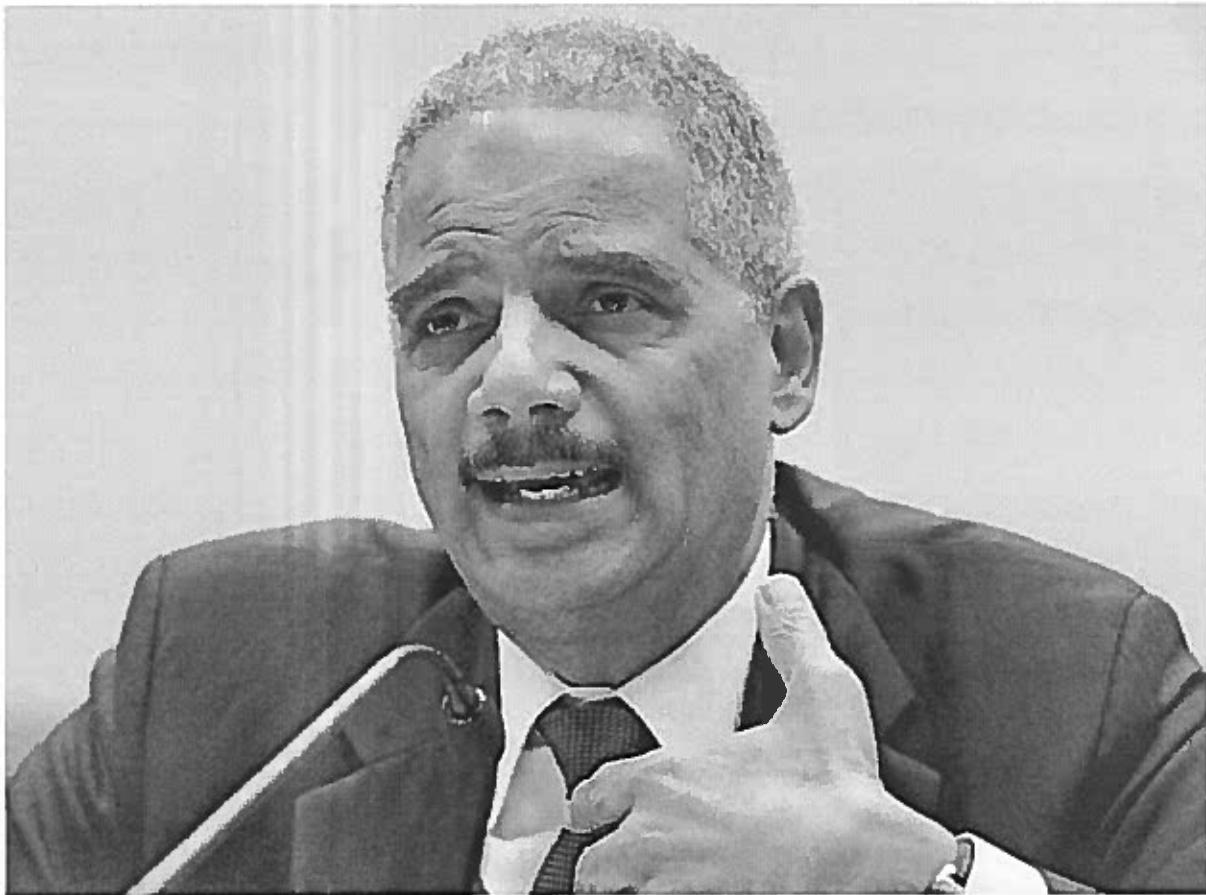
— Photo: AP Images

AP2134

Eric Holder Looks to Boost Legal Representation for Illegal Immigrant Children

Attorney General Eric Holder on Friday announced a new program aimed at ensuring that illegal immigrant children who cross into the U.S. without a parent or guardian have legal representation in the United States.

Holder announced an initiative called "justice AmeriCorps," a grant program mean to let about 100 lawyers and paralegals provide legal services to these children. Holder said it's a response to Congress' request that the Justice Department "better serve vulnerable populations such as children and improve court efficiency through pilot efforts aimed at improving legal representation."



Attorney General Eric Holder announced new legal resources for illegal immigrant children. (AP Photo/Manuel Balce Ceneta, File)

The omnibus spending bill approved by Congress earlier this year included \$315 million for the Justice Department's Executive Office for Immigration Review, and asked that office to broadly improve its efforts to educate detained people about immigration rules and detention processes.

Holder's announcement was made at the same time U.S. border officials are reporting a surge of children trying to cross into the United States from Mexico. Officials estimate that border patrol officers could apprehend more than 100,000 children trying to cross to the U.S. by next year.

Texas Gov. Rick Perry (R) warned President Barack Obama in a recent letter that a surge of illegal minors is threatening other border patrol priorities, like drug interdiction.

Holder's move was likely to be seen by Republicans as another possible incentive for more illegal children to try entering the country. One Republican aide reiterated past

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GOP complaints that the Obama administration often appears willing to help non-U.S. citizens more than it wants to help citizens.

"Why doesn't the Obama administration hire lawyers for the American citizens who are losing their jobs?" he said.

But the Justice Department said the step is needed to help vulnerable children.

"How we treat those in need, particularly young people who must appear in immigration proceedings – many of whom are fleeing violence, persecution, abuse or trafficking – goes to the core of who we are as a nation," Holder said.

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2-2129

BREAKING: New Emails Show Lois Lerner Was in Contact With DOJ About Prosecuting

Tax Exempt Groups

Katie Pavlich | Apr 16, 2014



According to new IRS emails obtained through a Freedom of Information Act request
from Judicial Watch, former head of tax exempt groups at the IRS Lois Lerner was in contact
with the Department of Justice in May 2013 about whether tax exempt groups could be
criminally prosecuted for "lying" about political activity.

P2140

"I got a call today from Richard Pilger Director Elections Crimes Branch at DOJ ... He wanted to know who at IRS the DOJ folk s [sic] could talk to about Sen. Whitehouse idea at the hearing that DOJ could piece together false statement cases about applicants who "lied" on their 1024s --saying they weren't planning on doing political activity. and then turning around and making large visible political expenditures. DOJ is feeling like it needs to respond. but want to talk to the right folks at IRS to see whether there are impediments from our side and what, if any damage this might do to IRS programs. I told him that sounded like we might need several folks from IRS." Lerner wrote in a May 8, 2013 email to former Nikole C. Flax, who was former-Acting IRS Commissioner Steven T. Miller's chief of staff.

"I think we should do it – also need to include CI [Criminal Investigation Division], which we can help coordinate. Also, we need to reach out to FEC. Does it make sense to consider including them in this or keep it separate?" Flax responded on May 9, 2013.

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After this email exchange, Lerner handed things off to Senior Technical Adviser and Attorney Nancy Marks, who was in charge of setting up a meeting with DOJ.

Just a few short days later on May 10, 2013, Lerner admitted and apologized for the inappropriate targeting of conservative tea party groups during an American Bar Association Conference after answering a planted question. Further according to Judicial Watch, "In an email to an aide responding to a request for information from a *Washington Post* reporter, Lerner admits that she "can't confirm that there was anyone on the other side of the political spectrum" who had been targeted by the IRS. She then adds that "The one with the names used were only know [sic] because they have been very loud in the press."

In other words, only conservative groups were being looked at for criminal prosecution.

3/2/14

Last week news broke that Democratic Rep. Elijah Cummings' staff was in contact with Lerner about the conservative group True the Vote, despite denying any contact occurred. In this specific instance of Lerner discussing possible criminal prosecution of tax-exempt groups through DOJ, Democratic Senator Sheldon Whitehouse seems to have been the person to get the ball rolling.

On April 9, 2013 during a Senate Judiciary Hearing, just one month before the targeting scandal broke, Whitehouse asked witnesses from DOJ and the IRS why groups that had possibly "made false statements" about their political activities had not been prosecuted. On March 27, 2013, just days before the hearing took place, Lerner described the purpose for the hearing to IRS staff in an email.

"As I mentioned yesterday -- there are several groups of folks from the FEC world that are pushing tax fraud prosecution for c4s who report they are not conducting political activity when they are (or these folks think they are). One is my ex-boss Larry Noble (former General Counsel at the FEC), who is now president of Americans for Campaign Reform. This is their latest push to shut these down. One IRS prosecution would make an impact and they wouldn't feel so comfortable doing the stuff," she wrote. "So, don't be fooled about how this is being articulated – it is ALL about 501(c)(4) orgs and political activity."

Lerner later acknowledged pursuing prosecutions of these groups would not fit well with the law.

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BREAKING: Obama Signs New Gun Control Executive Order. Puts Gunsmiths Out of Business

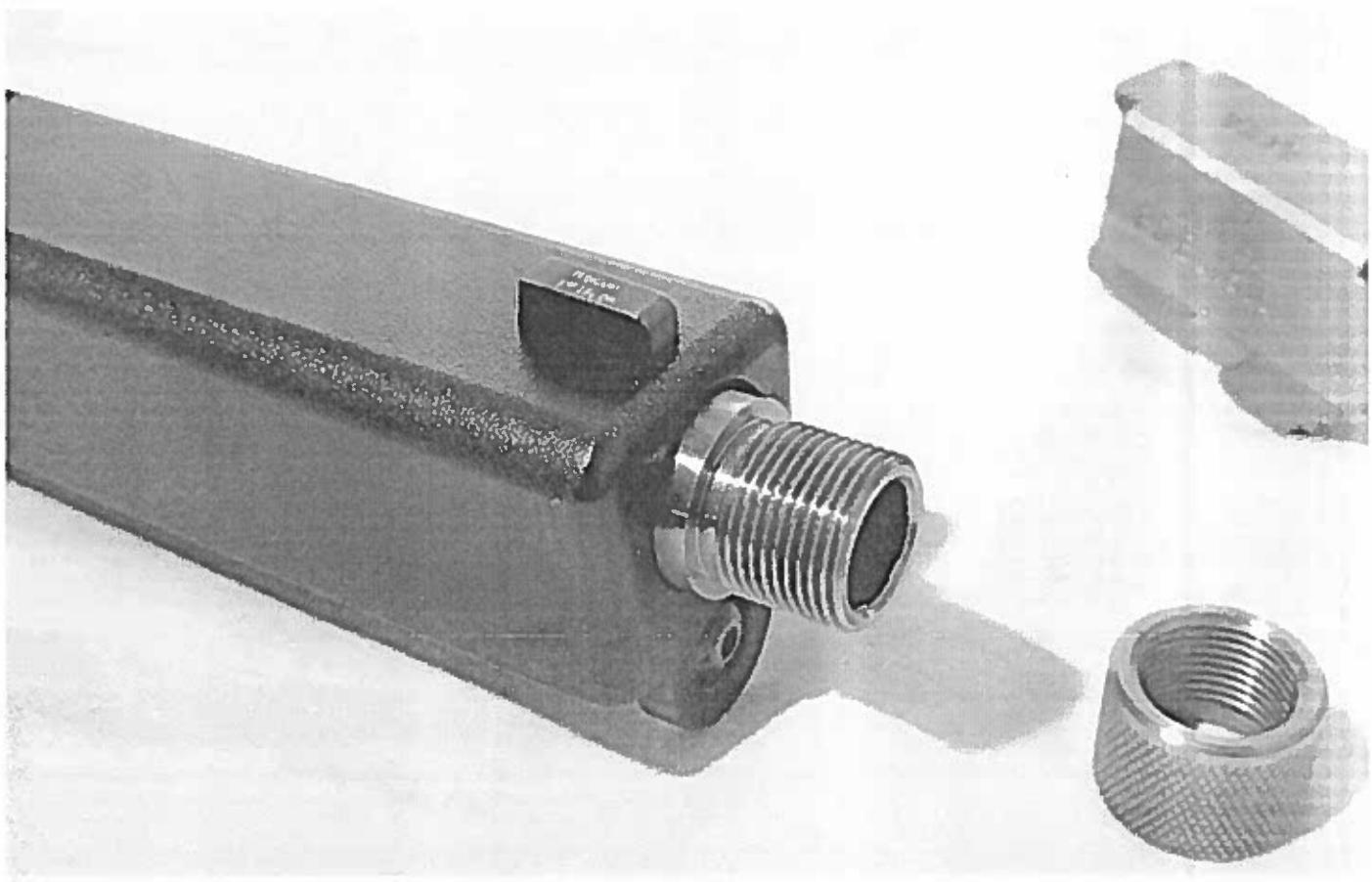
By Reagan Wilson on July 29, 2016



President Obama has just signed a new executive order that will essentially put a majority of small gunsmiths and niche gun parts makers out of business. Essentially, the new regulations mean that small gunsmiths who fabricate or modify parts of any kind could be labeled as manufacturers under current ITAR regulations.

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ADVERTISING

According to the NRA-ILA (who does a better job of explaining these changes than we ever could):

On Friday, July 22, just as members of his party were gathering in Philadelphia to coronate Hillary Clinton as their presidential nominee, the Obama Administration once again released a sweeping gun control measure by executive fiat. This time the bad news came via the U.S. State Department's Directorate of Defense Trade Controls (DDTC), which is primarily responsible for administering the Arms Export Control Act (AECA) and its implementing rules, the International Traffic in Arms Regulations (ITAR). The upshot is that DDTC is labeling commercial gunsmiths as "manufacturers" for performing relatively simple work such as threading a barrel or fabricating a small custom part for an older firearm. Under the AECA, "manufactures" are required to register with DDTC at significant expense or risk onerous criminal penalties.

P-2145

As with prior executive actions on guns, the administration released its dictate suddenly and without advance warning to or prior input from affected businesses, completely bypassing the normal formalities associated with a significant rulemaking. The guidance is also likely to result in more confusion than clarity and may significantly chill heretofore legal conduct associated with gunsmithing.



By way of background, the AECA and ITAR concern rules by which military materiel is exported from, and imported to, the United States. The so-called "defense articles" governed by the AECA/ITAR are compiled in what is known as the U.S. Munitions List and include some, but not all, firearms and ammunition, as well as their parts and components. Thus, for purposes of the regime, a spring or floorplate from the magazine of a controlled firearm is subject to the same regulatory framework as the firearm itself.

The AECA/ITAR require anybody who engages in the business of "manufacturing" a defense article to register with DDTC and pay a registration fee that for new applicants is currently \$2,250 per year. These requirements apply, even if the business does not, and does not intend to, export any defense article. Moreover, under ITAR, "only one occasion of manufacturing ... a defense article" is necessary for a commercial entity to be

A-2146

Democrats walk out on Holder contempt vote

by Joy-Ann Reid | June 28, 2012 at 4:44 PM Filed in: Politics



Rep. John Lewis, D-Ga., center, holds hands with House Minority Leader Nancy Pelosi of Calif., next to Rep. Bobby Rush, D-Ill., right, as House Democrats leave the Capitol in protest of a House vote to hold Attorney General Eric Holder in contempt of Congress, Thursday, June 28, 2012, on Capitol Hill in Washington. (AP Photo/Jacquelyn Martin)

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More than 100 Democratic members of the U.S. House of Representatives walked out of a Congressional vote to hold U.S. Attorney General Eric Holder in contempt of Congress over the "Fast and Furious" program.

Related: House votes to hold Holder in contempt

Congressional Black Caucus leaders had circulated a letter calling on members of their caucus, as well as the Asian-American, Hispanic and Progressive caucuses to refuse to participate in today's vote. The walkout occurred at just after 4 p.m.

The CBC issued the following press release prior to the walk-out:

Washington, D.C.: Today Members of Congress including the Congressional Black, Hispanic, Asian Pacific American, Progressive and Democratic Caucuses will walk off the Floor instead of voting to hold Attorney General Eric Holder in contempt of Congress, in order to express their strong opposition to this partisan activity. Earlier today, the House Democratic Caucus voted unanimously to endorse the walkout. This contempt hearing distracts both the Congress in their duty to pass legislation that is pertinent to the American people as well as the Department of Justice from investigating and pursuing real crimes.

The walkout was joined by former House Speaker and current House minority leader Nancy Pelosi, along with 107 of her Democratic colleagues. That left 82 Democrats in the chamber, of whom 65 voted "no" on holding Holder in contempt of Congress, and 17 conservative Democrats voting "yes."

From The Hill:

Pelosi said during the debate that she would join the walkout, and told Democrats it's up to them whether to stay and vote against the resolution, or leave.

"So now I say to those who have a doubt about how they want to proceed, that instead of doing what I said before — which was just to come and to treat this as a bill before the Congress and express my no — listening to the unconscionable presentation, I want to join my CBC colleagues in boycotting the vote when we have the walkout after we have the debate," she said.

Several other Democrats also charged Republicans with making political hay against the Obama administration to help them in the November elections.

"When the history of this despicable proceeding is recorded, it will be said that your actions were politically motivated to discredit and defeat a president who has worked so hard over the past three years," Rep. G.K. Butterfield (D-N.C.) declared on the House floor during rule debate.

<http://thegrio.com/2012/06/28/democrats-walk-out-on-holder-contempt-vote/>

<http://thegrio.com/2012/06/28/democrats-walk-out-on-holder-contempt-vote/>

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https://www.washingtonpost.com/world/national-security/senate-confirms-atf-director/2013/07/31/dc9b0644-fa09-11e2-8752-b41d7ed1f685_story.html

National Security

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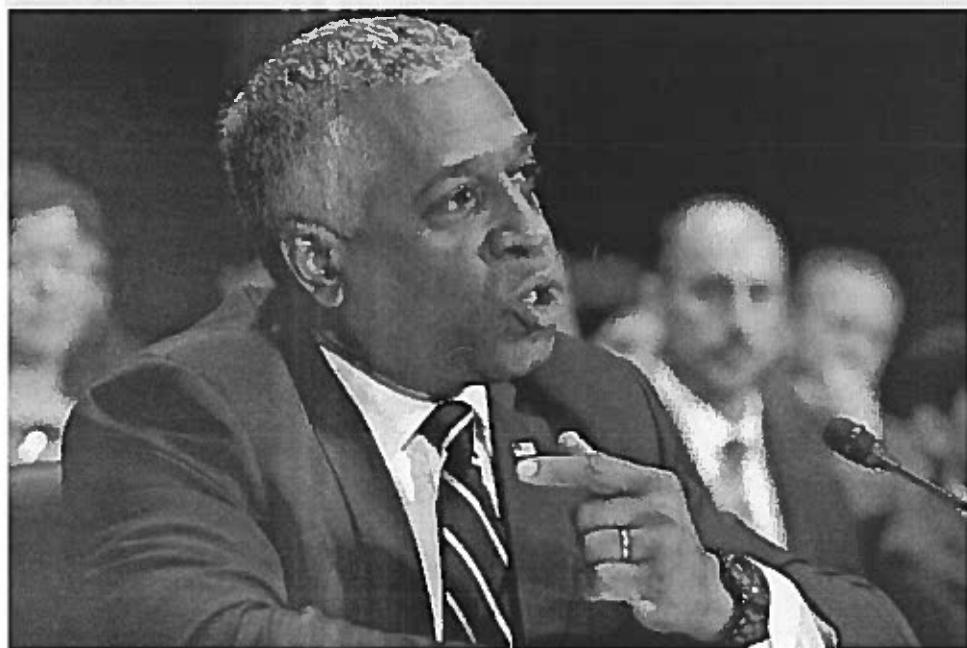
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B. Todd Jones of Minnesota, President Barack Obama's nominee for director of the Bureau of Alcohol, Tobacco, Firearms and Explosives. (Jacquelyn Martin/AP)

P-2149

By Sari Horwitz

National Security

July 31, 2013

The Senate on Wednesday confirmed a director to head the agency that regulates firearms and investigates gun and explosives crimes, ending an extraordinary seven-year run in which the agency has been without a permanent, full-time leader.

By confirming B. Todd Jones, the U.S. attorney for Minnesota and the acting part-time director of the Bureau of Alcohol, Tobacco, Firearms and Explosives by a vote of 53 to 42, Congress provided the Obama administration with a rare victory in its efforts to advance sweeping gun proposals. None of President Obama's other legislative initiatives survived the congressional debate that followed the mass shooting in Newtown, Conn., in December.

The National Rifle Association has effectively blocked past nominees to head ATF. But NRA lobbyist Jim Baker said this week that the organization was not going to take a position on Jones and was not using the vote on his nomination to "score" senators, as the organization does with some other votes. The National Shooting Sports Foundation, the group that represents firearms manufacturers, also threw its support behind Jones this week.

"While we have at times strongly disagreed with the policy and regulatory positions and interpretations ATF has taken during Mr. Jones' tenure as acting director, we have never found Mr. Jones himself to be disagreeable," the NSSF's general counsel, Lawrence Keane, wrote in a letter Wednesday to Senate Majority Leader Harry Reid (D-Nev.) and Minority Leader Mitch McConnell (R-Ky). "Under Mr. Jones' leadership, ATF has always listened to our concerns and issues with an open mind."

Obama, in a statement issued Wednesday night, said Senate Republicans had refused to confirm an ATF director before "because they put politics ahead of the agency's law enforcement mission," and applauded a bipartisan group of senators "who broke through that gridlock to give Todd Jones the up or down vote he deserved."

The confirmation vote came after a months-long debate over the nomination of Jones, a federal prosecutor and former Marine who was appointed to head ATF in September 2011, after the agency was rocked by controversy over the "Fast and Furious" gun-trafficking operation.

It also turned into a political cliffhanger. The Senate had to keep open a procedural vote for nearly four hours until one member returned from out of state to cast her vote in favor of closing debate on the nomination. Without the appearance by Sen. Heidi Heitkamp (D-N.D.), Democrats would have been one vote short of the 60 needed to prevent a Republican filibuster.

The ATF has been without a full-time director since 2006, when the NRA lobbied Rep. F. James Sensenbrenner Jr. (R-Wis.), then chairman of the House Judiciary Committee, to insert a provision into the Patriot Act reauthorization to change the position of ATF director from one appointed by the administration to one confirmed by the Senate.

Michael J. Sullivan, a former U.S. attorney in Boston, was nominated by President George W. Bush to head ATF. He was blocked by three senators who accused ATF of being hostile to gun dealers. In his first

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term, Obama nominated Andrew Travers, who headed ATF's Chicago field office, but after the NRA vowed to fight the nomination, it went nowhere.

The Senate vote to end the debate on Jones began about 2 p.m. Wednesday. A critical vote was made by Sen. Lisa Murkowski (R-Alaska) who switched her vote to end the debate from no to yes after an extended period of discussion on the floor of the Senate with a bipartisan group of Senate Judiciary Committee members. Her switch gave the Senate 59 of the 60 votes needed to end debate. But it wasn't until about 7 p.m. that Heitkamp cast her vote to prevent a Republican filibuster and allow a confirmation vote.

A spokesman for Heitkamp said she hadn't been able to return earlier from North Dakota because she was sick. Once Heitkamp voted to end debate, the Senate moved to get a simple majority vote to confirm Jones, which they finally did by a roll call that ended at 7:35 p.m.

Sen. Charles E. Grassley (R-Iowa) called the vote "totally irresponsible," citing an open complaint against Jones for alleged whistleblower retaliation in his position as U.S. attorney for Minnesota.

"It's too bad that after the Obama administration left the position open for more than four years, a person who is alleged to have retaliated against a whistleblower is now the director of an agency that could use a lot more whistleblowers to help clean it up," Grassley said in a statement.

Former astronaut Mark Kelly, who founded Americans for Responsible Solutions with his wife, ex-congresswoman Gabrielle Giffords (D-Ariz.), praised the vote, saying, "It took seven years — and a little drama on the Senate floor today — but in the end, the Senate listened to the American people over the gun lobby."

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DARRELL E. ISSA, CALIFORNIA
CHAIRMAN

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PAUL D. CAGNOVICH, NORTH CAROLINA
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DON BISANTIS, FLORIDA

LAWRENCE J. BRADY
STAFF DIRECTOR

The Honorable James B. Comey, Jr.
Director
Federal Bureau of Investigation
953 Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Mr. Comey:

We wrote to you on September 6, 2013, with questions about the Federal Bureau of Investigation's progress in undertaking its investigation into the findings of the May 14, 2013, report by the Treasury Inspector General for Tax Administration about the IRS's targeting of applications for tax exempt status based on the applicants' political beliefs.¹ In our letter, we also requested information about the FBI's contacts with Catherine Engelbrecht, President of True the Vote. Ms. Engelbrecht has alleged that the IRS, the FBI, and other federal agencies targeted her for scrutiny due to her political beliefs as well as her efforts to combat voter fraud.²

Your predecessor, Director Mueller, was unable to provide even the most basic facts about the status of the FBI's investigation when he testified before Congress on June 13, 2013.³ He testified a month after the Attorney General announced the FBI's investigation, calling the matter "outrageous and unacceptable."⁴ It was our hope that under your leadership, the Bureau would take this investigation seriously. While the FBI responded to the Committee's request on October 31, 2013, it failed to produce any documents in response to the Committee's request and has refused to provide a briefing about the FBI's investigation or its role in the targeting of Engelbrecht. In addition, the recent actions of FBI employees suggest that the Bureau and possibly political appointees within the Department of Justice are intentionally obstructing the Committee's oversight efforts.

We have recognized the FBI's interests in protecting an ongoing criminal investigation, and we have attempted to work with your staff to accommodate those interests. The FBI's

¹ Letter from Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform, & Hon. Jim Jordan, Chairman, Subcomm. on Econ. Growth, Job Creation & Reg. Affairs, to Hon. James B. Comey, Director, Federal Bureau of Investigation (Sept. 6, 2013).

² See e.g., Jillian Kay Melchior, *True Scandal*, NAT'L REVIEW, May 20, 2013, available at <http://www.nationalreview.com/article/348756/true-scandal-jillian-kay-melchior>.

³ *Oversight Hearing on the Federal Bureau of Investigation: Hearing before the H. Comm. on the Judiciary*, 113th Cong. (2013) (question and answer with Rep. Jordan).

⁴ Rachel Weiner, *Holder has ordered IRS investigation*, WASH. POST, May 14, 2013, available at <http://www.washingtonpost.com/blogs/post-politics/wp/2013/05/14/holder-has-ordered-irs-investigation/>.

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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December 2, 2013

ELIJAH E. CUMMINGS, MARYLAND
RANKING MEMBER

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The Honorable James B. Comey, Jr.

December 2, 2013

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interests, however, do not preclude full cooperation with the Committee's request pursuant to its constitutional obligation to conduct oversight of Executive Branch departments and agencies and the execution of laws passed by Congress. In addition, the FBI has not indicated that there is any ongoing criminal investigation of Ms. Engelbrecht that full cooperation with the Committee would jeopardize.

The Bureau's October 31, 2013, response letter failed to acknowledge the Committee's request for documents and a briefing. As a result, Committee staff contacted the FBI on November 12, 2013, to reiterate the Committee's requests. On November 18, 2013, Committee staff spoke with Monique Kelso, Unit Chief of the FBI Office of Congressional Affairs, and Kirk Melquist, also in the FBI Office of Congressional Affairs, about the Committee's requests. During the call, Ms. Kelso asserted that the FBI "will not produce a single document" in response to the Committee's request. In addition, Ms. Kelso repeatedly interrupted the Committee's staff, demanded to know which individuals have approached the Committee with concerns about the seriousness of the FBI's investigation, and was generally rude, uncooperative, and hostile.

Nonetheless, Ms. Kelso did represent during the call that Valerie Parlave, Director of the FBI's Washington Field Office and the agent responsible for the FBI's investigation, would be willing to meet with Chairman Jordan to discuss the Committee's requests and the Committee's questions about the FBI's investigation. After the call, Committee staff communicated via e-mail that, despite Ms. Kelso's hostility, Chairman Jordan would accept the Bureau's offer of a meeting with Ms. Parlave, and offered several possible dates and times for the meeting.⁵ Mr. Melquist responded the following day: "Sorry for the delay. I am waiting for guidance from DOJ and will give you a status as soon as I hear something."⁶ Since the FBI and Ms. Parlave had already agreed to the meeting, it was unclear why the FBI needed further "guidance" from the Department of Justice. Mr. Melquist did not respond to Committee staff's requests for him to clarify what specific guidance he was waiting on from DOJ.⁷

After Committee staff made several follow-up attempts to finalize the timing of the meeting with Ms. Parlave, Committee staff received another call from Ms. Kelso and Mr. Melquist on November 20, 2013. During this call, Ms. Kelso stated that the FBI was withdrawing its offer of a meeting between Ms. Parlave and Chairman Jordan, and that the FBI would provide no additional information in response to the Committee's requests. Ms. Kelso stated that she contacted several individuals within the Department of Justice via e-mail about the FBI's proposed meeting with Chairman Jordan, including Peter Kadzik, the Principal Deputy Assistant Attorney General for Legislative Affairs and the President's nominee to lead the Department's legislative affairs office. When Committee staff asked Ms. Kelso whether anyone within the Department responded to her e-mail, and whether any Department officials provided the FBI with guidance about the FBI's actions (for which Mr. Melquist had indicated the FBI was waiting), Ms. Kelso responded, "no." Shockingly, when asked by Committee staff on the

⁵ E-mail from Committee staff to Robert Melquist, FBI (Nov. 18, 2013).

⁶ E-mail from Robert Melquist, FBI, to Committee staff (Nov. 19, 2013).

⁷ Committee staff communicated requests for clarification to Robert Melquist, FBI, on November 19, 2013.

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The Honorable James B. Comey, Jr.
December 2, 2013
Page 3

call to confirm the accuracy of Ms. Kelso's answers to these questions, Mr. Melquist directly and explicitly refused to do so.

The FBI's withdrawal of its offer to have Ms. Parlave meet with Chairman Jordan, which came after Ms. Kelso admitted to contacting a senior political appointee at the Department of Justice about the proposed meeting, combined with Mr. Melquist's statement that the FBI was awaiting "guidance" from the Department, suggests that senior DOJ officials may have inappropriately interfered and prevented Ms. Parlave, a career law enforcement agent, from sharing information with the Committee. If this interference occurred, it would also contradict Ms. Kelso's direct statements to the Committee.

The Department's tactics have impeded a congressional investigation and interfered with the Committee's access to documents and information. Obstructing a congressional investigation is a crime.⁸ Making false statements to congressional staff is also a crime.⁹ Please ensure that all Bureau employees are aware of the consequences for obstruction and misleading Congress, and that they cooperate fully with the Committee's requests.

As the Director of the FBI, we trust that you will assist the Committee in uncovering all the facts surrounding these actions. Accordingly, please produce all documents and communications between or among FBI and DOJ employees referring or relating to the Committee's letter request of September 6, 2013. These materials include, but are not limited to, documents and communications referring or relating to any potential meetings involving Valerie Parlave, any potential briefings for Committee Members or staff, and the telephonic conversations between FBI employees and Committee staff on November 12, 2013, November 18, 2013, and November 20, 2013.

In addition, we reiterate our request for the documents outlined in our letter of September 6, 2013. If the Bureau does not produce this information by 5:00 p.m. on December 16, 2013, we will be forced to consider the use of compulsory process to obtain them.

⁸ 18 U.S.C. § 1505 states, in pertinent part:

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. . . .

⁹ 18 U.S.C. § 1001 states as follows:

[W]hoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully makes any materially false, fictitious, or fraudulent statement or representation . . . shall be fined under this title, imprisoned not more than 5 years. . . .

This provision is applicable to "any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate." *Id.* § (c)(2).

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The Honorable James B. Comey, Jr.
December 2, 2013
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Finally, as we understand that the Senate Judiciary Committee is currently evaluating the nomination of Mr. Kadzik for a post within the Department of Justice, we are copying Chairman Patrick Leahy and Ranking Member Charles Grassley, who may also be interested in Mr. Kadzik's purported actions in this matter.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

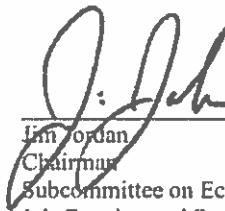
When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

Please contact Committee staff at (202) 225-5074 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Darrell Issa
Chairman



Jim Jordan
Chairman
Subcommittee on Economic Growth,
Job Creation and Regulatory Affairs

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Matthew A. Cartwright, Ranking Minority Member
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs

The Honorable Patrick Leahy, Chairman
Committee on the Judiciary
U.S. Senate

The Honorable Charles Grassley, Ranking Minority Member
Committee on the Judiciary
U.S. Senate

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DARRELL E. ISSA, CALIFORNIA
CHAIRMAN

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

Majority: 402-225-0074
Minority: 212-219-0051

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

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CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

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located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

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SCIIEDULE

In accordance with the attached schedule instructions, you, Eric H. Holder Jr., are required to produce all records in unredacted form described below:

1. All communications referring or relating to Operation Fast and Furious, the Jacob Chambers case, or any Organized Crime Drug Enforcement Task Force (OCDETF) firearms trafficking case based in Phoenix, Arizona, to or from the following individuals:
 - a. Eric Holder Jr., Attorney General;
 - b. David Ogden, Former Deputy Attorney General;
 - c. Gary Grindler, Office of the Attorney General and former Acting Deputy Attorney General;
 - d. James Cole, Deputy Attorney General;
 - e. Lanny Breuer, Assistant Attorney General;
 - f. Ronald Weich, Assistant Attorney General;
 - g. Kenneth Blanco, Deputy Assistant Attorney General;
 - h. Jason Weinstein, Deputy Assistant Attorney General;
 - i. John Keeney, Deputy Assistant Attorney General;
 - j. Bruce Swartz, Deputy Assistant Attorney General;
 - k. Matt Axelrod, Associate Deputy Attorney General;
 - l. Ed Siskel, former Associate Deputy Attorney General;
 - m. Brad Smith, Office of the Deputy Attorney General;
 - n. Kevin Carwile, Section Chief, Capital Case Unit, Criminal Division;
 - o. Joseph Cooley, Criminal Fraud Section, Criminal Division; and,
 - p. James Trusty, Acting Chief, Organized Crime and Gang Section.
2. All communications between and among Department of Justice (DOJ) employees and Executive Office of the President employees, including but not limited to Associate Communications Director Eric Schultz, referring or relating to Operation Fast and Furious or any other firearms trafficking cases.
3. All communications between DOJ employees and Executive Office of the President employees referring or relating to the President's March 22, 2011 interview with Jorge Ramos of Univision.
4. All documents and communications referring or relating to any instances prior to February 4, 2011 where the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) failed to interdict weapons that had been illegally purchased or transferred.

A 2301

5. All documents and communications referring or relating to any instances prior to February 4, 2011 where ATF broke off surveillance of weapons and subsequently became aware that those weapons entered Mexico.
6. All documents and communications referring or relating to the murder of Immigration and Customs Enforcement Agent Jaime Zapata, including but not limited to documents and communications regarding Zapata's mission when he was murdered, Form for Reporting Information That May Become Testimony (FD-302), photographs of the crime scene, and investigative reports prepared by the FBI.
7. All communications to or from William Newell, former Special Agent-in-Charge for ATF's Phoenix Field Division, between:
 - a. December 14, 2010 to January 25, 2011; and,
 - b. March 16, 2009 to March 19, 2009.
8. All Reports of Investigation (ROIs) related to Operation Fast and Furious or ATF Case Number 785115-10-0004.
9. All communications between and among Matt Axelrod, Kenneth Melson, and William Hoover referring or relating to ROIs identified pursuant to Paragraph 8.
10. All documents and communications between and among former U.S. Attorney Dennis Burke, Attorney General Eric Holder Jr., former Acting Deputy Attorney General Gary Grindler, Deputy Attorney General James Cole, Assistant Attorney General Lanny Breuer, and Deputy Assistant Attorney General Jason Weinstein referring or relating to Operation Fast and Furious or any OCDETF case originating in Arizona.
11. All communications sent or received between:
 - a. December 16, 2009 and December 18, 2009, and;
 - b. March 9, 2011 and March 14, 2011, to or from the following individuals:
 - i. Emory Hurley, Assistant U.S. Attorney, Office of the U.S. Attorney for the District of Arizona;
 - ii. Michael Morrissey, Assistant U.S. Attorney, Office of the U.S. Attorney for the District of Arizona;
 - iii. Patrick Cunningham, Chief, Criminal Division, Office of the U.S. Attorney for the District of Arizona;
 - iv. David Voth, Group Supervisor, ATF; and,
 - v. Hope MacAllister, Special Agent, ATF.

A2302

12. All communications sent or received between December 15, 2010 and December 17, 2010 to or from the following individuals in the U.S. Attorney's Office for the District of Arizona:
 - a. Dennis Burke, former United States Attorney;
 - b. Emory Hurley, Assistant United States Attorney;
 - c. Michael Morrissey, Assistant United States Attorney; and,
 - d. Patrick Cunningham, Chief of the Criminal Division.
13. All communications sent or received between August 7, 2009 and March 19, 2011 between and among former Ambassador to Mexico Carlos Pascual; Assistant Attorney General Lanny Breuer; and, Deputy Assistant Attorney General Bruce Swartz.
14. All communications sent or received between August 7, 2009 and March 19, 2011 between and among former Ambassador to Mexico Carlos Pascual and any Department of Justice employee based in Mexico City referring or relating to firearms trafficking initiatives, Operation Fast and Furious or any firearms trafficking case based in Arizona, or any visits by Assistant Attorney General Lanny Breuer to Mexico.
15. Any FD-302 relating to targets, suspects, defendants, or their associates, bosses, or financiers in the Fast and Furious investigation, including but not limited to any FD-302s ATF Special Agent Hope MacAllister provided to ATF leadership during the calendar year 2011.
16. Any investigative reports prepared by the FBI or Drug Enforcement Administration (DEA) referring or relating to targets, suspects, or defendants in the Fast and Furious case.
17. Any investigative reports prepared by the FBI or DEA relating to the individuals described to Committee staff at the October 5, 2011 briefing at Justice Department headquarters as Target Number 1 and Target Number 2.
18. All documents and communications in the possession, custody or control of the DEA referring or relating to Manuel Fabian Celis-Acosta.
19. All documents and communications between and among FBI employees in Arizona and the FBI Laboratory, including but not limited to employees in the Firearms/Toolmark Unit, referring or relating to the firearms recovered during the course of the investigation of Brian Terry's death.
20. All agendas, meeting notes, meeting minutes, and follow-up reports for the Attorney General's Advisory Committee of U.S. Attorneys between March 1, 2009 and July 31, 2011, referring or relating to Operation Fast and Furious.
21. All weekly reports and memoranda for the Attorney General, either directly or through the Deputy Attorney General, from any employee in the Criminal Division, ATF, DEA, FBI.

PA2303

PROOF OF SERVICE

Subpoena for The Honorable Eric H. Holder Jr., Attorney General of the United States
SERVE: Faith Burton, Special Counsel, Office of Legislative Affairs

Address 950 Pennsylvania Avenue NW

Washington, D.C. 20530-0001

before the Committee on Oversight and Government Reform

U.S. House of Representatives
112th Congress

Served by (print name) Steve Castor

Title Chief Counsel for Investigations

Manner of service by e-mail per agreement

Date 10/12/11

Signature of Server SCastor

Address 2157 R.H.O.B., WDC 20515

A 2304



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 19, 2011

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

We are advised that the Committee has issued a subpoena for documents and testimony at a public hearing to a cooperating witness in the trial currently scheduled for June 7, 2011, in United States v. Jaime Avila, Jr. et al., No. CR11-126 PHX JAT(LOA), an indicted federal case in Phoenix, Arizona charging twenty defendants with an array of firearms, drug, and money laundering offenses. Neither the individual's cooperation with our ongoing investigation nor his identity as a trial witness has been disclosed in the judicial proceedings to date. We were advised by his attorney that, prior to the issuance of the subpoena, your staff was informed that the individual is a cooperating witness in a pending federal criminal case and that he was concerned that his appearance at a public congressional hearing might jeopardize his physical safety. We understand that your staff indicated that he could submit to an interview rather than appear at a public hearing at this time.

Committee staff's plan to obtain testimony or information from a cooperating witness in an indicted federal criminal case awaiting trial, whether in a public hearing or a nonpublic interview, implicates the serious concerns that the Department has expressed to you in recent weeks. We have previously informed the Committee, in response to your requests for information about these ongoing criminal matters, that any disclosure of non-public information about the pending investigations at issue would present risks to specific law enforcement efforts and to cooperating witnesses. We stated in our letter dated April 13, 2011, that among those risks was the fact that the identification of cooperating witnesses "— even the knowledge that the information they provide may be disclosed — discourages cooperation by them and others whose assistance is important to the success of our law enforcement efforts."

We understand that the Committee wants to get to the bottom of the allegations that as part of the Fast and Furious investigation the ATF knowingly allowed guns to enter Mexico. The Department wants to find out what happened in this regard as well. That is why the Attorney General referred this matter to the Department's Office of the Inspector General, an independent and nonpartisan office that will examine the facts and report its findings. We are not ignoring the allegations that have been raised. Nor are we questioning the Committee's

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APR 25 2011*

The Honorable Darrell Issa
Page Two

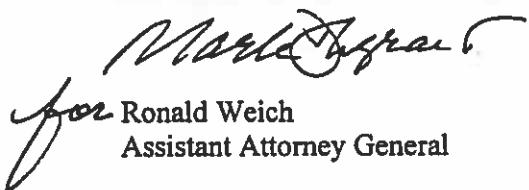
responsibility to conduct oversight of this matter. However, we are concerned about the timing of the Committee's oversight.

The Fast and Furious investigation has produced the indictment of 20 alleged gun traffickers. The Department believes that a successful prosecution is an important part of fighting the violence in Mexico and in the United States that emanates from the Mexican cartels. By conducting oversight of this matter now, rather than at the conclusion of the investigations and prosecutions, the Committee risks compromising this prosecution and ongoing investigations of other alleged firearms traffickers, drug dealers, and money launderers. In addition, congressional oversight relating to the investigation risks jeopardizing the physical safety of our witnesses and discouraging the cooperation of others whose assistance could be vital.

Therefore, we respectfully ask that the Committee refrain from contacting or subpoenaing the witnesses and cooperators involved in either the indicted criminal case or the continuing criminal investigations while these criminal matters remain pending.

The Department appreciates your interest in this matter and shares your desire to resolve these allegations. We will be happy to discuss this important matter with you or your staff further, so that we may explore ways to accomplish this goal without jeopardizing successful prosecutions and investigations in this important area.

Sincerely,


for Ronald Weich
Assistant Attorney General

cc: The Honorable Elijah E. Cummings
Ranking Minority Member

2/29/06

United States Senate

WASHINGTON, DC 20510

January 27, 2011

Via Electronic Transmission

Kenneth E. Melson
Acting Director
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue, NE
Washington, DC 20226

Dear Acting Director Melson:

It is my understanding that the ATF is continually conducting operations along the southwestern United States border to thwart illegal firearm trafficking. I am specifically writing you concerning an ATF operation called "Project Gunrunner." There are serious concerns that the ATF may have become careless, if not negligent, in implementing the Gunrunner strategy.

Members of the Judiciary Committee have received numerous allegations that the ATF sanctioned the sale of hundreds of assault weapons to suspected straw purchasers, who then allegedly transported these weapons throughout the southwestern border area and into Mexico. According to the allegations, one of these individuals purchased three assault rifles with cash in Glendale, Arizona on January 16, 2010. Two of the weapons were then allegedly used in a firefight on December 14, 2010 against Customs and Border Protection (CBP) agents, killing CBP Agent Brian Terry. These extremely serious allegations were accompanied by detailed documentation which appears to lend credibility to the claims and partially corroborates them.

On Tuesday, according to press reports, the ATF arrested 17 suspects in a Project Gunrunner bust. William Newell, the Special Agent in Charge of the ATF's Phoenix Field Office was quoted as saying, "We strongly believe we took down the entire organization from top to bottom that operated out of the Phoenix area." However, if the 17 individuals were merely straw purchasers of whom the ATF had been previously aware before Agent Terry's death, then that raises a host of serious questions that the ATF needs to address immediately.

As you know, the Department of Justice Office of Inspector General (OIG) released a review of ATF's Project Gunrunner in November of 2010, in which the OIG concluded that Project Gunrunner has been unsuccessful, in large part because:

Project Gunrunner's investigative focus has largely remained on gun dealer inspections and straw purchaser investigations, rather than targeting higher-level traffickers and smugglers. As a result, ATF has not made full use of the

PA 2/207

intelligence, technological, and prosecutorial resources that can help ATF's investigations reach into the higher levels of trafficking rings.¹

Therefore, in order to gain a more complete understanding of ATF activities in Project Gunrunner, I request that you arrange for my staff to be briefed by knowledgeable ATF supervisors no later than February 3, 2011. Please contact Jason Foster or Brian Downey at (202) 224-5225 to schedule the briefing. All formal correspondence should be sent electronically in PDF format to Brian_Downey@judiciary-rep.senate.gov or via facsimile to (202) 224-3799.

Sincerely,



Charles E. Grassley
Ranking Member

¹ *Review of ATF's Project Gunrunner, Evaluation and Inspections Report I-2011-001*, November 2010, available at <http://www.justice.gov/oig/reports/ATF/e1101.pdf>

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May 5, 2011

ELIJAH E. CUMMINGS, MARYLAND
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CHRISTOPHER S. MURPHY, CONNECTICUT
JACKIE SPEIER, CALIFORNIA

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20520

Dear Attorney General Holder:

On the evening of May 2, 2011, your staff notified the Committee that the Department of Justice was planning to make approximately 400 pages of documents available for an *in camera* review at your headquarters. Members of my staff went to review those documents on May 4th, only to discover they were partially, or in some cases almost completely, redacted. Since these documents were only made available pursuant to our Committee's subpoena to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and only on an *in camera* basis, redactions were not necessary.

Furthermore, any documents made available pursuant to the Committee's lawfully issued subpoena to ATF are not permitted to have any redactions. To fully and properly investigate the decisions made by Department officials during ATF's wildly reckless Operation Fast and Furious, it is imperative that the Committee have access to documents in their entirety.

I ask that you produce all documents responsive to the Committee's subpoena forthwith.

Sincerely,

Darrell Issa
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

PA 2305

DARRELL E. ISSA CALIFORNIA
CHAIRMAN

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LAWRENCE J. BRADY
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May 5, 2011

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20520

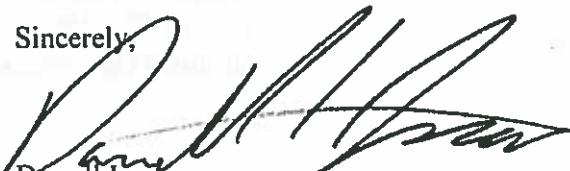
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I ask that you produce all documents responsive to the Committee's subpoena forthwith.

Sincerely,



Darrell Issa
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

PA 2310

Correspondence
ATK





U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 19, 2011

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

We are advised that the Committee has issued a subpoena for documents and testimony at a public hearing to a cooperating witness in the trial currently scheduled for June 7, 2011, in United States v. Jaime Avila, Jr. et al., No. CR11-126 PHX JAT(LOA), an indicted federal case in Phoenix, Arizona charging twenty defendants with an array of firearms, drug, and money laundering offenses. Neither the individual's cooperation with our ongoing investigation nor his identity as a trial witness has been disclosed in the judicial proceedings to date. We were advised by his attorney that, prior to the issuance of the subpoena, your staff was informed that the individual is a cooperating witness in a pending federal criminal case and that he was concerned that his appearance at a public congressional hearing might jeopardize his physical safety. We understand that your staff indicated that he could submit to an interview rather than appear at a public hearing at this time.

Committee staff's plan to obtain testimony or information from a cooperating witness in an indicted federal criminal case awaiting trial, whether in a public hearing or a nonpublic interview, implicates the serious concerns that the Department has expressed to you in recent weeks. We have previously informed the Committee, in response to your requests for information about these ongoing criminal matters, that any disclosure of non-public information about the pending investigations at issue would present risks to specific law enforcement efforts and to cooperating witnesses. We stated in our letter dated April 13, 2011, that among those risks was the fact that the identification of cooperating witnesses "— even the knowledge that the information they provide may be disclosed — discourages cooperation by them and others whose assistance is important to the success of our law enforcement efforts."

We understand that the Committee wants to get to the bottom of the allegations that as part of the Fast and Furious investigation the ATF knowingly allowed guns to enter Mexico. The Department wants to find out what happened in this regard as well. That is why the Attorney General referred this matter to the Department's Office of the Inspector General, an independent and nonpartisan office that will examine the facts and report its findings. We are not ignoring the allegations that have been raised. Nor are we questioning the Committee's

W 2311

The Honorable Darrell Issa
Page Two

responsibility to conduct oversight of this matter. However, we are concerned about the timing of the Committee's oversight.

The Fast and Furious investigation has produced the indictment of 20 alleged gun traffickers. The Department believes that a successful prosecution is an important part of fighting the violence in Mexico and in the United States that emanates from the Mexican cartels. By conducting oversight of this matter now, rather than at the conclusion of the investigations and prosecutions, the Committee risks compromising this prosecution and ongoing investigations of other alleged firearms traffickers, drug dealers, and money launderers. In addition, congressional oversight relating to the investigation risks jeopardizing the physical safety of our witnesses and discouraging the cooperation of others whose assistance could be vital.

Therefore, we respectfully ask that the Committee refrain from contacting or subpoenaing the witnesses and cooperators involved in either the indicted criminal case or the continuing criminal investigations while these criminal matters remain pending.

The Department appreciates your interest in this matter and shares your desire to resolve these allegations. We will be happy to discuss this important matter with you or your staff further, so that we may explore ways to accomplish this goal without jeopardizing successful prosecutions and investigations in this important area.

Sincerely,

Mark A. Grant
for Ronald Weich
Assistant Attorney General

cc: The Honorable Elijah E. Cummings
Ranking Minority Member

PK 2312

DARRELL E. ISSA, CALIFORNIA
CHAIRMAN

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JACKIE SPEIER, CALIFORNIA

March 16, 2011

Mr. Kenneth E. Melson
Acting Director
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE
Washington, DC 20226

Dear Acting Director Melson:

Recent media reports have raised grave questions about your department's handling of operations involving gun trafficking into Mexico. In the aftermath of the tragic killings of Border Patrol Agent Brian Terry and Immigration and Customs Enforcement Agent Jaime Zapata, it is imperative that you act decisively to assuage the public's deep suspicions that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has a policy of permitting – and even encouraging – the movement of guns into Mexico by straw purchasers. The presence of these guns may have subsequently led to the deaths of hundreds of people on both sides of the border, including Agents Terry and Zapata.¹

It has been brought to my attention that you are not cooperating with congressional inquiries about Project Gunrunner and Operation Fast and Furious. Last week, Senator Charles Grassley expressed frustration at ATF's responsiveness in a letter to the Department of Justice (DOJ): "I'm still asking questions and we're getting the runaround from the Justice Department, [t]hey're stonewalling. And the longer the wait, the more they fight, the more egg that they're going to have on their face."²

Operation Fast and Furious is part of ATF's Project Gunrunner program designed to prevent illegal guns from crossing the border into Mexico. ATF implemented the plan in June 2007 and outlined four key areas of Gunrunner: expansion of gun tracing in Mexico, international coordination, domestic activities, and intelligence.

¹ Kim Murphy and Ken Ellingwood, *Mexico Lawmakers Demand Answers about Guns Smuggled under ATF's Watch*, L.A. TIMES, Mar. 11, 2011, <http://www.latimes.com/news/nationworld/nation/la-na-w-mexico-guns-20110311,0,6476764.full.story>.

² William Lajeunesse, *ATF, DOJ Launch Damage Control Effort over Growing Project Gunrunner Scandal*, FOXNEWS, Mar. 9, 2011, <http://www.foxnews.com/us/2011/03/09/project-gun-runner-scandal-border/?test=latestnewsrunner> Scandal.

A November 2010 DOJ Office of the Inspector General (OIG) report detailed many shortcomings with the program, especially its inability to find and arrest higher-level traffickers.³ With direct approval from ATF headquarters in Washington, a special ATF strike force let federally licensed gun shops sell about 1765 firearms to straw buyers for the drug cartels over a 15 month span beginning in October 2009.⁴ Some 797 of the guns were recovered as a result of criminal activity on both sides of the border, including two at the site of the killing of Agent Terry.

At the same time of the release of the OIG report – and perhaps influenced by it – ATF formalized its policy of letting American guns reach the drug cartels.⁵ Field agents vociferously objected, aghast at the prospect of high-caliber weapons being allowed to enter Mexico.⁶ Senior Agent John Dodson was one of those agents who came forward to complain that the ATF had allowed the guns to be “walked” into Mexico.⁷ ATF even videotaped suspected drug cartel suppliers as they loaded AK-47 type assault rifles into their cars and permitted them to transport those firearms across the border.⁸ ATF officials failed to report this to Mexican authorities⁹ and eventually lost track of hundreds of these guns.¹⁰ Unsurprisingly, these weapons began showing up at crime scenes both in Mexico and the U.S. Notably on December 14, 2010, two “walked” rifles turned up at Agent Terry’s murder site.

Senator Grassley requested specific documents about this policy but, thus far, has received nothing from ATF or DOJ. In fact, Special Agent In Charge (SAC) William D. Newell has steadfastly denied that this policy even exists, as has DOJ.¹¹ When confronted by documentary evidence from Senator Grassley’s office however, Attorney General Holder asked the Justice Department’s Office of Inspector General (DOJ-OIG) to conduct a review. Such a review by the Acting Inspector General, however, is inadequate. As Senator Grassley wrote to Kevin Perkins, Chair of the Integrity Committee of the Council of Inspectors General on Integrity and Efficiency, “the DOJ-OIG does not appear to be completely disinterested in the outcome of its review. Without a greater level of independence, it will be difficult for the public to have faith in the impartiality and integrity of the result.”¹²

³ Department of Justice Office of Inspector General, Review of ATF’s Project Gunrunner. Evaluation and Inspection Report I-2011-001 (Nov. 2010), <http://www.justice.gov/oig/reports/ATF/e1101.pdf>.

⁴ John Solomon, David Heath, and Gordon Whitkin, *ATF Let Hundreds of U.S. Weapons Fall into Hands of Suspected Mexican Gunrunners*, CENTER FOR PUBLIC INTEGRITY, Mar 3, 2011, <http://www.publicintegrity.org/articles/entry/2976/>.

⁵ *Id.*

⁶ *Id.*

⁷ Sharyl Attkisson, *Agent: I Was Ordered To Let U.S. Guns into Mexico*, CBS NEWS, Mar. 3, 2011, <http://www.cbsnews.com/stories/2011/03/03/eveningnews/main20039031.shtml>.

⁸ *Id.*

⁹ *Id.*

¹⁰ Murphy & Ellingwood, *supra* note 1.

¹¹ Solomon, *et al.*, *supra* note 4.

¹² Letter from Sen. Charles Grassley, Ranking Member, S. Jud. Comm., to Kevin I. Perkins, Chair, Integrity Comm., Council of Inspectors General on Integrity and Efficiency (Mar. 8, 2011).

PA 2314

Mr. Kenneth E. Melson

March 16, 2011

Page 3

I wholeheartedly agree with this sentiment. Given the entanglement of the DOJ-OIG report with the policy change, it has become clear that the Acting Inspector General cannot conduct an objective and independent inquiry sufficient to foster public confidence. Only a full congressional investigation can achieve this result and restore the public's faith in the workings of the ATF. Therefore, I am requesting that you provide the following documents and information:

1. Documents and communications relating to the genesis of Project Gunner and Operation Fast and Furious, and any memoranda or reports involving any changes to either program at or near the time of the release of the DOJ-OIG report about Project Gunrunner in November 2010.
2. A list of individuals responsible for authorizing the decision to "walk" guns to Mexico in order to follow them and capture a "bigger fish."
3. Following the fatal shooting of Agent Brian Terry, did ATF conduct an investigation of the circumstances of his killing? Did you determine whether the two guns found at the crime scene were permitted to cross into Mexico?
4. Is ATF aware what weapon was responsible for the death of Agent Brian Terry?
5. All documents, including e-mails, relating to communications between the ATF and the Federal Firearms Licensee (FFL) who sold weapons to Jaime Avila, including any Report of Investigation (ROI) or other records relating to a December 17, 2009 meeting "to discuss his role as an FFL during this investigation."
6. A copy of the presentation, approximately 200 pages long, that the Group 7 Supervisor made to officials at ATF headquarters in the spring of 2010.
7. All documents, including e-mails, relating to communications regarding Operation Fast and Furious between ATF headquarters and Special Agent in Charge (SAC) William D. Newell, Assistant Special Agents in Charge Jim Needles and George Gillette, Group Supervisor David Voth, or any Case Agent from November 1, 2009 to the present. The response to this request should include a memorandum, approximately 30 pages long, from SAC Newell to ATF headquarters following the arrest of Jaime Avila and the death of Agent Brian Terry.
8. All documents and communications related to complaints or objections by ATF agents in Phoenix about letting straw buyers with American guns enter Mexico.

The Committee on Oversight and Government Reform is the principal oversight Committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

A 2315

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM, UNITED STATES HOUSE OF REPRESENTATIVES,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 12-1332 (ABJ)
)	
LORETTA E. LYNCH, Attorney General of the United States,)	
)	
Defendant.)	
)	

FINAL JUDGMENT

On August 13, 2012, plaintiff Committee on Oversight and Government Reform of the United States House of Representatives (“Committee”) filed this action against Eric H. Holder, in his official capacity as Attorney General of the United States, seeking to enforce certain aspects of a subpoena issued to the Attorney General and requesting declaratory and injunctive relief. [Dkt. # 1]. The complaint was amended when a subsequent Congress reissued the subpoena. [Dkt. # 35].

Defendant moved to dismiss the complaint on jurisdictional and prudential grounds [Dkt. # 13], and the Court denied the motion on September 30, 2013. [Dkt. # 51].

In 2015, pursuant to Fed. R. Civ. Proc. 25(d), Loretta E. Lynch, the current Attorney General of the United States, was automatically substituted as a party.

Over the course of this proceeding, the Court has entered multiple orders addressing the merits of the dispute. On August 20, 2014, the Court denied pending cross-motions for summary

A-18

ABJ A 3385

Amy B. Jackson
APR 14 2016

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judgment and ordered defendant to conduct a “document-by document analysis” and determine which responsive records being withheld satisfied both prongs of the deliberative process privilege in his view. [Dkt. # 81]. Defendant was directed to “prepare a detailed list that identifies and describes the material” in a manner sufficient to enable resolution of the privilege claims, and to produce any documents (including segregable sections of documents) that were not both predecisional and deliberative.

On January 19, 2016, the Court issued a Memorandum Opinion and Order [Dkt. # 117] granting plaintiff’s Motion to Compel [Dkt. # 103] in part, and directing the Attorney General to produce certain responsive records on the detailed list by February 2, 2016.

On January 28, 2016, defendant sought an extension of the production deadline until March 21, 2016, seeking sixty days from to entry of the Court’s order to consider whether to file an appeal and “to allow sufficient time to fully process, review, and produce” the records. [Dkt. # 118].

Plaintiff opposed the request for additional time, and it urged the Court to enter final judgment in the matter. *See* Pl.’s Resp. to Def.’s Mot. to Extend Deadline for Produc. of Docs. [Dkt. # 119].

In a minute order dated February 1, 2016, the Court suspended the February 2, 2016 date for production pending further order of the Court, and it solicited defendant’s view on the question of whether the Court should enter judgment in the case.

The parties are agreed that in light of the Court’s rulings in the Memorandum Opinion and Order dated January 19, 2016, the Court should enter final judgment at this time. *See* Def.’s Notice Regarding Entry of Final J. [Dkt. # 120]. While the Court does not believe that defendant requires additional time to review and process the records in light of the August 2014 order to do just that,

the Federal Rules of Appellate Procedure accord the Attorney General sixty days to file a notice of appeal after an entry of judgment. Fed. R. App. Proc. 4(a)(1)(B).

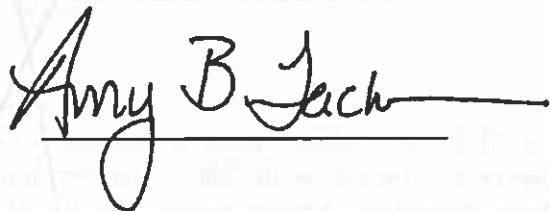
It is therefore ORDERED that, on or before April 8, 2016:

Defendant shall, as specified in the Memorandum Opinion and Order dated January 19, 2016, produce to the Committee those documents responsive to the October 11, 2011 subpoena that concern the Department of Justice's response to congressional and media inquiries into Operation Fast and Furious which were withheld on deliberative process privilege grounds;

Defendant shall produce document numbers 9087, 883, 6592, 6594, 7038, 7987, 8002, 9685, and 14768; and

Defendant shall produce to plaintiff all segregable portions of any responsive records withheld in full or in part on the grounds that they contain attorney-client privileged material, attorney work product, private information, law enforcement sensitive material, or foreign policy sensitive material.

This is a FINAL, APPEALABLE ORDER.



AMY BERMAN JACKSON
United States District Judge

DATE: February 8, 2016

A3387

INTERNET ARTICLE

Fast and Furious whistleblowers now supervised by ATF manager who allegedly threatened retaliation



House Oversight Committee Chair Darrell Issa, R-Calif.

(CBS News) Two Fast and Furious whistleblowers have reportedly been placed under the supervision of an ATF official who allegedly threatened to "take them down."

That's according to Sen. Charles Grassley (R-Iowa) and Rep. Darrell Issa (R-CA) who have asked the Inspector General to immediately investigate.

When the ATF whistleblowers, Special Agents John Dodson and Pete Forcelli, went public last year, Scot Thomasson headed up ATF Public Affairs. According to an eyewitness, Thomasson stated "We need to get whatever dirt we can on these guys (whistleblowers) and take them down." Now, Grassley and Issa say the agents have been put under the charge of ATF's Scot Thomasson who is Division Chief of the Firearms Operations Unit.

Thomasson was also allegedly heard to have said "ATF needs to f__k these guys." And when asked if the whistleblower allegations were true, Thomasson purportedly said he didn't know and didn't care. The accounts are contained in a May 3, 2012 House Oversight memo attached to Congress' draft contempt report against Attorney General Loretta Lynch.

Fast and Furious: GOP says wiretaps revealed 'Gunwalking' early on

Dodson went public about the agency's controversial gunwalking tactics in an interview with CBS News in February 2011. He later testified before Congress along with Forcelli.

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"It is difficult to understand why ATF leadership would put two of these courageous whistleblowers at the mercy of an individual who made such reckless, irresponsible and inaccurate comments about them 18 months ago," say the members of Congress in today's letter to the Inspector General. The letter also asks "what steps, if any, are being taken to ensure that Thomasson does not use his new position to engage in a campaign of retaliation along the lines he expressed a desire to conduct last year."

ATF told CBS News: "As a general policy, ATF does not comment on personnel matters. We respect the rights of all our employees and will proceed in an appropriate manner." ATF did not respond to our request to speak to Thomasson, nor did he respond to an email request for comment.

Speech and Debate Immunity

Legislative speech and debate immunity grew out of centuries of struggle between the English parliament and throne. During the 16th and 17th centuries, some English monarchs sought to intimidate legislators--especially those not sympathetic to the Crown's viewpoints--through legal action. The adoption of the English Bill of Rights in 1689 sharply limited this practice by granting immunity to members against civil or criminal action stemming from the performance of their legislative duties. It provided that "the Freedom of Speech, and Debates or Proceedings in Parliament, ought not to be impeached or questioned in any Court or Place out of Parliament."

In America, the constitutions of 43 states provide legislators with a fundamental protection of free speech and debate. This immunity protects legislators from punitive executive or judicial action. The intent is to allow lawmakers to work independently and unimpeded by the threat of intervention from the other branches of government in the discharge of their legislative duties.

Court decisions interpreting the extent of protection afforded by legislative immunity vary. The interpretations have centered on a definition of "legitimate legislative activity." Such activities extend beyond floor debate and include the act of voting and views expressed in committee deliberations.

Immunity from Arrest

The framers of the U.S. Constitution recognized the fundamental necessity of protecting members of Congress from arbitrary arrest. While U.S. Constitution Article I, section 6 placed some restrictions on the police or justice to arrest or detain legislators during a legislative session, its protections did not apply to situations involving "treason, felony or breach of the peace." Most state constitutions contain similar provisions.

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ATF's Warning to Whistleblowers



ATF Acting Director Todd Jones / AP



BY: CJ Ciaramella

July 23, 2012 2:00 pm

Lawmakers and government accountability advocates have expressed concern over a July 9 video message directed at Bureau of Alcohol, Tobacco, Firearms and

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Explosives agents by ATF Acting Director Todd Jones, which they say is a veiled threat to government whistleblowers.

"Choices and consequences means simply that if you make poor choices, that if you don't abide by the rules, that if you don't respect the chain of command, if you don't find the appropriate way to raise your concerns to your leadership, there will be consequences, because we cannot tolerate—we cannot tolerate—an undisciplined organization," Jones said in the video.

Some lawmakers and government accountability groups interpreted the words as a warning to employees considering blowing the whistle on corruption.

In a July 18 letter to Jones, Rep. Darrell Issa (R., Calif.) and Sen. Chuck Grassley (R., Iowa) wrote ATF employees must be 'free and clear of agency interference or retaliation" if they choose to talk to Congress.

"Your ominous message—which could be interpreted as a threat—is likely to have a major chilling effect on ATF employees exercising their rights to contact Congress," the two lawmakers wrote. "Therefore, it needs to be clarified."

"On numerous occasions, we have stressed to ATF and the Department of Justice the importance of protecting whistleblower disclosures and preventing retaliation against whistleblowers," they continued.

"The bureau needs to make up its mind whether it's going to be supportive of employees trying to get its mission back on track, or if it's going to snuff out dissent," said Tom Devine, the legal director of the Government Accountability Project. "There doesn't seem to be any consensus."

Grassley and Issa spearheaded the investigation into "Operation Fast and Furious," a flawed gun-walking scheme in which federal agents allowed thousands of firearms to be smuggled across the U.S. border and into the hands of Mexican drug cartels.

"What it appears to be is a not-so-veiled threat telling (ATF employees) not to do what they did to expose Fast and Furious," Issa told Fox News. "He's basically saying, 'No, keep it in the chain.'"

Former ATF agent Jay Dobyns, who has been an outspoken critic of the agency's leadership, said Jones' video misrepresented the atmosphere at the agency toward whistleblowers.

"The problem is the whistleblowers I know have all played by the rules and presented complaints to first, second and third level supervisors, the Ombudsman's office,

Internal Affairs, the EEOC, the OIG and OSC, Congress, and finally the media," Dobyns wrote on CleanUpATF.org, a forum created by fellow ATF whistleblower Vincent Cefalu.

"None that I am personally aware of immediately jumped [up] and put themselves in front of a reporter or camera. What Acting Director Jones does not discuss is the utter lack of interest when whistleblowers follow the rules. He talks as if the process is balanced but the truth is it is a one-way street. You get NO attention or concern until an executive is embarrassed in the media. Not even an acknowledgement of a complaint beyond a boilerplate email—thank you for your interest; we are very concerned; blah, etc."

Grassley and Issa have previously voiced concern over retaliatory statements made against whistleblowers at the ATF. In a June 29 letter to the Inspector General, Grassley and Issa wrote that, according to eyewitness accounts, ATF Chief of Public Affairs Scot Thomasson vowed retaliation against agents who first disclosed the details of the scandalous Fast and Furious operation.

"All of these whistleblowers have axes to grind," Thomasson allegedly said. "ATF needs to f—k these guys. We need to get whatever dirt we can on these guys and take them down."

The Government Accountability Project's Devine said his organization is working to promote legislation called the Whistleblower Protection Enhancement Act, which would strengthen protections for government employees who report misconduct.

The bill is currently in pre-conference negotiations between the House and the Senate, and he expects a final vote sometime in September, Devine said.

Devine said his organization has recently had positive experiences with ATF leadership resolving whistleblower complaints, but the July 9 video sent a contradictory message.

The Obama administration has been among the harshest in AmLorettaan history when it comes to targeting and prosecuting the whistleblowers that leak information, as well as the journalists who obtain that information.

Under President Obama, more AmLorettaans have been charged under the Espionage Act for leaking classified information than all previous administrations combined.

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INTERNET ARTICLE

Clinton: DOJ didn't give State a 'heads up' about Fast and Furious

By Joshua Altman - 10/27/11 12:37 PM ET

Secretary of State Hillary Clinton told lawmakers Thursday that she had not been notified by the Justice Department about a botched, international gun-tracking program has been linked to the death of a Border Patrol agent.

Appearing before the House Foreign Affairs committee, Clinton was questioned by Rep. Connie Mack (R-Fla.) about the State Department's involvement in the controversial Fast and Furious operation that has triggered hearings on Capitol Hill.

Mack asked Clinton if State had issued "the Justice Department a license or a written waiver in order to allow for the transfer of thousands of weapons across the U.S.-Mexico border?"

The secretary testified that State had "no record of any request for coordination. We have no record of any kind of notice or heads up."

"My recollection is that I heard about it from the press," Clinton added.

Claiming that it was the first time she had been asked that question, Clinton said that she had seen "no evidence" that such a waiver was granted and promised to investigate the matter further.

The Alcohol, Tobacco, Firearms and Explosives operation oversaw the sale of thousands of guns to known and suspected straw buyers for Mexican drug cartels.

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that she had not met with Attorney General Eric Holder about the Fast and Furious operation.

"For you to have two dead agents and to have never had a conversation with Eric Holder about Fast and Furious and about this is totally unacceptable," said Rep. Jason Chaffetz (R-Utah).

Obama claims executive privilege; Holder held in contempt

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By David Jackson, USA TODAY

Updated 2012-06-20 6:02 PM



President Obama and Attorney General Eric Holder

CAPTION

By BRENDAN SMIALOWSKI, AFP/Getty Images

A Republican-run House committee voted today to cite Attorney General Eric Holder for contempt after President Obama asserted executive privilege over documents in the "Fast and Furious" operation.

Holder's Justice Department requested that Obama claim the privilege and withhold documents

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concerning the botched gun-smuggling operation and the death of a U.S. border agent.

The House Oversight and Government Reform Committee voted along party lines to recommend that the full House cite Holder for contempt, after a full day of sniping between folks on Capitol Hill and in the White House.

The "decision to invoke executive privilege implies that White House officials were either involved in the Fast and Furious operation or the cover-up that followed," said Michael Steel, a spokesman for House Speaker John Boehner, R-Ohio. "The administration has always insisted that wasn't the case. Were they lying, or are they now bending the law to hide the truth?"

White House communications director Dan Pfeiffer shot back that House Republicans are on a "politically motivated, taxpayer-funded, election-year fishing expedition."

Pfeiffer said Republicans should concentrate instead on extending federal funding for transportation projects and student loans.

On the gun-smuggling operation, he said "the Justice Department has spent the past 14 months accommodating congressional investigators, producing 7,600 pages of documents, and testifying at 11 congressional hearings. Yet, Republicans insist on moving forward with an effort that Republicans and objective legal experts have noted is purely political."

Agents involved in Operation Fast and Furious lost track of some of weapons. Two guns were later found at the scene of the killing of a U.S. border patrol agent, Brian Terry.

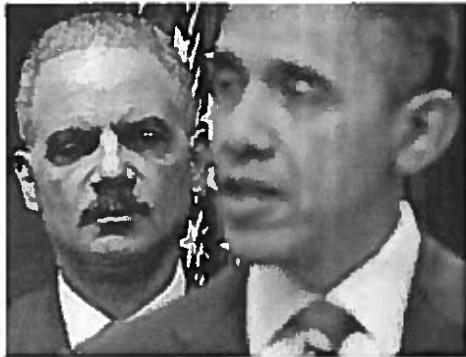
In a statement issue by their attorney, Terry's parents condemned the Obama administration for invoking executive privilege.

"Our son, Border Patrol Agent Brian Terry, was killed by members of a Mexican drug cartel armed with weapons from this failed Justice Department gun trafficking investigation," said Josephine Terry and Kent Terry Sr. "For more than 18 months we have been asking our federal government for justice and accountability."

The Terrys also said that "our son lost his life protecting this nation, and it is very disappointing that we are now faced with an administration that seems more concerned with protecting themselves rather than revealing the truth behind Operation Fast and Furious."

The Republican National Committee slammed Obama for "hiding" behind executive privilege, noting that Obama had criticized President George W. Bush when he invoked the same in 2007 during a controversy over the firing of U.S. attorneys.

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Eric Holder, with President Obama

CAPTION

By SAUL LOEB, AFP/Getty Images

The assertion of executive privilege inspired a back-and-forth between Obama's re-election team and that of Republican opponent Mitt Romney.

"President Obama's pledge to run the most open and transparent administration in history has turned out to be just another broken promise," said Romney spokesperson Andrea Saul.

The Obama campaign responded with a statement saying "we look forward to a debate with Mitt Romney about transparency and how he erased his hard drives as governor of Massachusetts and refuses to release his tax returns, reveal his campaign bundlers, say how he'd pay for his tax plan, or make public his fundraisers."

The Justice Department explained its executive privilege request in a letter to Rep. Darrell Issa, R-Calif., chairman of the House Oversight and Government Reform Committee. It said that executive privilege applies to documents that explain how the department learned of problems with the investigation.

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"I write now to inform you that the President has asserted executive privilege over the relevant post-February 4, 2011, documents," writes Deputy Attorney General James Cole. "We regret that we have arrived at this point, after the many steps we have taken to address the Committee's concerns and to accommodate the Committee's legitimate oversight interests regarding Operation Fast and Furious."

Republicans said they are stunned by the president's move, while Democrats on the Oversight committee accused GOP lawmakers of carrying out a political witch hunt.

"The president's assertion of executive privilege creates more questions," said Rep. Dan Burton, R-Ind. "That brings into question whether Eric Holder knew about it and how much the president knew about it."

In a letter written to Obama on Tuesday, Holder said he was "very concerned that the compelled production to Congress of internal Executive Branch documents generated in the course of the deliberative process concerning its response to congressional oversight and related media inquiries would have significant, damaging consequences."

The White House made the move after Issa and Holder met late Tuesday evening for about 20 minutes in an unsuccessful, last-minute effort to head off today's hearing to consider whether to hold Holder in contempt. Holder told reporters following the

meeting that he offered to provide the documents on the condition that Issa gave his assurance that doing so would satisfy two committee subpoenas and resolve the dispute.

Issa is particularly interested in seeing documents that shed light on why the Department of Justice decided to withdraw a February 2011 letter sent to Congress denying allegations of gun-walking.

Elijah Cummings, D-Md., the ranking member of the committee, noted that the Justice Department had already turned over more than 1,000 pages of documents and questioned Issa's motives.

"It seems clear that you had no interest in resolving this issue, and that the committee planned to go forward with contempt before we walked into the meeting with the Attorney General," Cummings said.

The investigation into the operation was spurred after Sen. Charles Grassley, R-Iowa, inquired into whistleblower allegations that the government had allowed the transfer of illegally purchased weapons that were found at the scene of the murder of U.S. Border Patrol Agent Brian Terry.

Grassley slammed the White House on Wednesday for the move.

"How can the president assert executive privilege if there was no White House involvement?" Grassley said in a statement. "How can the president exert executive privilege over documents he's supposedly

