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STAFF DIRECTOR

January 18, 2012

Patrick J. Cunningham, Esq.
Chief, Criminal Division
United States Attorney's Office for the District of Arizona
Two Renaissance Square
40 North Central Avenue, Suite 1200
Phoenix, Arizona 85004

Dear Mr. Cunningham:

Yesterday, you canceled your interview scheduled with the Committee for Thursday, January 19, 2012. As recently as last Friday, both your attorney and the Department of Justice had assured the Committee that you would submit to a voluntary interview and that you intended to cooperate with our investigation. The Committee has made every effort to accommodate you. The Justice Department has identified you as the most appropriate person to interview from the U.S. Attorney's Office regarding Operation Fast and Furious, and we have been working with your counsel and the Department since August to interview you. Your sudden withdrawal, without any explanation, is unfortunate. It has also delayed the Committee's ability to uncover the truth about this reckless program.

During the course of our investigation, the Committee has learned of the outsized role played by the Arizona U.S. Attorney's Office – and you specifically – in approving the unacceptable tactics used in Fast and Furious. Senior Justice Department officials have recently told the Committee that you relayed inaccurate and misleading information to the Department in preparation for its initial response to Congress. These officials told us that even after Congress began investigating Fast and Furious, you continued to insist that no unacceptable tactics were used. In fact, documents obtained confidentially just last week appear to confirm that you remained steadfast in your belief that no unacceptable tactics were used, even after the Department's initial response to the congressional inquiry. Given that the Attorney General has labeled these tactics as unacceptable and Fast and Furious as “fundamentally flawed,” this position is startling.¹

It is of paramount importance that you appear before the Committee. Given your intimate knowledge of Fast and Furious, your counsel's offer of an attorney proffer, akin to what a defense lawyer would offer for an indicted defendant, is wholly inadequate. As a result of your

¹ Letter from Att'y Gen Eric Holder to Chairman Darrell Issa, et al. (Oct. 7, 2011).

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recalcitrance and inflexible position, the Committee is now forced to engage in compulsory process to obtain your testimony.

Such compulsory process will require you to submit to a deposition with 72 hours advance notice. The deposition will take place at a time and place convenient to the Committee's schedule. Your lawyer has expressed a willingness to accept service of process on your behalf. The Committee will serve your subpoena in the near future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darrell Issa", written in a cursive style.

Darrell Issa
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform