

June 11, 2012

FACT SHEET: Oversight Committee Schedules June 20 Contempt Vote over Operation Fast and Furious Documents

- Today, House Oversight and Government Reform Committee Chairman Darrell Issa announced that the [House Oversight Committee will convene to consider a contempt of Congress report](#) for Attorney General Eric Holder on Wednesday, June 20.
- This comes after repeated [warnings](#) to the Attorney General about the consequences of his continued failure to produce subpoenaed documents related to the reckless conduct that occurred in Operation Fast and Furious – a failed ATF effort that allowed weapons to flow to Mexican drug cartels in an effort to build a bigger case against a smuggling syndicate.
- The Oversight Committee recently announced that it has obtained [six applications for wiretaps \(for monitoring phones of suspects\) from Operation Fast and Furious](#). These documents contain rich details about what occurred in Operation Fast and Furious. They also indicate that senior officials in the Department’s Criminal Division were given details of the operation’s reckless tactics but still approved the applications.
- Having already obtained these documents, the contempt effort will focus on the Justice Department’s refusal to turn over documents from after February 4, 2011 – the date the [Justice Department first denied accusations that reckless conduct occurred in Fast and Furious](#). The Obama Administration has not asserted Executive Privilege or any other valid privilege over these materials. They pertain to the Justice Department’s management, the treatment of whistleblowers, and why it took the Department nearly a year to retract false denials of reckless tactics.
- The Committee continues to pursue answers because the family of fallen Border Patrol Agent Brian Terry is still seeking answers and agents who blew the whistle on Operation on Fast and Furious now face retaliation from Justice officials who have not been held accountable. There’s been incredible damage on both sides of the border – the Mexican ambassador to the United States recently said that Operation Fast and Furious had ["poisoned the wellsprings"](#) of public opinion in Mexico.
- A finding of contempt does not place blame for what happened in Operation Fast and Furious on any individual. Contempt is the mechanism Congress uses to enforce compliance with its lawful subpoenas.
- Scheduling consideration of contempt is not altogether rare. Henry Waxman, the former Democratic Oversight Committee Chairman from 2007 through 2008, scheduled consideration of contempt proceedings twice. In a separate matter in 2008, Democrats voted to hold Harriet Miers and Josh Bolten – both former Bush officials – in contempt (see p. 38 [“Historical Perspectives on Contempt”](#)).

- The Justice Department argues it is cooperating, but the 7,600 pages of documents it has delivered represent only a small fraction of the over 100,000 pages that it has identified as related to Operation Fast and Furious. Many of these 7,600 pages have little value – many were already public and others have been nearly completely redacted. Witnesses DOJ has made available have also refused to discuss critical aspects of what occurred.
- Chairman Issa has been very clear that the Justice Department can still avoid contempt by producing these subpoenaed post February 4 documents related to the response to Fast and Furious and allegations by whistleblowers. Today he reiterated that point stating, *“If the Attorney General decides to produce these subpoenaed documents, I am confident we can reach agreement on other materials and render the process of contempt unnecessary.”*

Why are the post February 4, 2011, documents critically important?

On February 4, 2011, the Department of Justice denied whistleblower allegations that guns in Operation Fast and Furious had been allowed to “walk” to Mexico and defended the Operation itself. Ten months later, on December 2, 2011, the Justice Department formally withdrew this denial and acknowledged that Fast and Furious was “fundamentally flawed.” In responding to Congress, however, the Justice Department has taken the position that it will not share its internal deliberations related to Operation Fast and Furious that occurred after it denied anything inappropriate occurred on February 4, 2011. This position effectively denies Congress and the American people information about:

- o The Justice Department switching its view from denying whistleblower allegations to admitting they were true.
- o Hiding the identity of officials who led the charge to call whistleblowers liars and retaliate against them.
- o The reactions of top officials when confronted with evidence about gunwalking in Fast and Furious, including whether they were surprised or were already aware.
- o The Justice Department’s assessment of responsibility for officials who knew about reckless conduct or were negligent.
- o Whether senior officials and political appointees at fault in Operation Fast and Furious were held to the same standards as lower level career employees whom the Department has primarily blamed.

While the Department of Justice claims that divulging this information would have a “chilling effect” on future internal deliberations, virtually any agency could use this bland argument on nearly any topic. Congress, under both Democratic and Republican leadership, has never recognized internal agency discussions as privileged and protected.

This claim by the Department of Justice is also at odds with a previous decision to make internal

deliberations available to Congress in the midst of a 2007 investigation into the dismissals of several U.S. Attorneys.

No one disputes that the Justice Department has this critical information – the Justice Department’s flimsy rationale for withholding this information is simply about avoiding accountability for what occurred.

[Click here for more information about the case for contempt](#)

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