

DARRELL E. ISSA, CALIFORNIA
CHAIRMAN

JOHN L. MICA, FLORIDA
MICHAEL R. TURNER, OHIO
JOHN J. DUNCAN, JR., TENNESSEE
PATRICK T. MCHENRY, NORTH CAROLINA
JIM JORDAN, OHIO
JASON CHAFFETZ, UTAH
TIM WALBERG, MICHIGAN
JAMES LANKFORD, OKLAHOMA
JUSTIN AMASH, MICHIGAN
PAUL A. GOSAR, ARIZONA
PATRICK MEEHAN, PENNSYLVANIA
SCOTT DESJARLAIS, TENNESSEE
TREY GOWDY, SOUTH CAROLINA
BLAKE FARENTHOLD, TEXAS
DOC HASTINGS, WASHINGTON
CYNTHIA M. LUMMIS, WYOMING
ROB WOODALL, GEORGIA
THOMAS MASSIE, KENTUCKY
DOUG COLLINS, GEORGIA
MARK MEADOWS, NORTH CAROLINA
KERRY L. BENTIVOLIO, MICHIGAN
RON DESANTIS, FLORIDA

LAWRENCE J. BRADY
STAFF DIRECTOR

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 (202) 225-5074

FACSIMILE (202) 225-3974

MINORITY (202) 225-5051

<http://oversight.house.gov>

December 2, 2013

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

CAROLYN B. MALONEY, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
STEPHEN F. LYNCH, MASSACHUSETTS
JIM COOPER, TENNESSEE
GERALD E. CONNOLLY, VIRGINIA
JACKIE SPEIER, CALIFORNIA
MATTHEW A. CARTWRIGHT, PENNSYLVANIA
MARK POCAN, WISCONSIN
L. TAMMY DUCKWORTH, ILLINOIS
ROBIN L. KELLY, ILLINOIS
DANNY K. DAVIS, ILLINOIS
PETER WELCH, VERMONT
TONY CARDENAS, CALIFORNIA
STEVEN A. HORSFORD, NEVADA
MICHELLE LUJAN GRISHAM, NEW MEXICO

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/>.

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.

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).

The Honorable James B. Comey, Jr.

December 2, 2013

Page 4

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.

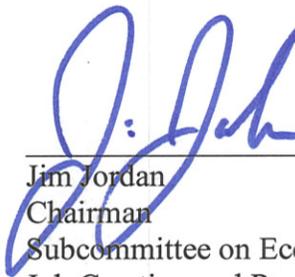
When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

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

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 (202) 225-5074
Minority (202) 225-5051

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,

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

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.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.