



**U.S. Department of Justice**

Office of Legislative Affairs

Office of the Assistant Attorney General

*Washington, D.C. 20530*

October 11, 2011

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

Dear Mr. Chairman:

This supplements our previous responses to your subpoena of March 31, 2011, and your letter of June 8, 2011, both addressed to then Acting Director of the Department's Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Kenneth Melson regarding Operation Fast and Furious.

We are delivering today to your office 56 pages of material and we have an additional 60 pages available for review at the Department by Committee staff. These documents bear limited redactions to protect specific details about pending investigations, including text that would identify targets and sensitive techniques, plus information relating to line employees. In addition, we have redacted from multi-subject documents text that is not responsive to your requests. The nature of specific redactions is indicated by a redaction code ("RC") in accordance with the attached index. In response to requests from Chairmen Smith and Leahy, we also will provide these documents to the House Committee on the Judiciary and the Senate Committee on the Judiciary, respectively. With this production, our records indicate that we have delivered to you a total of 2,050 pages of records, and made an additional 1,195 pages available for review at the Department.

We believe that we have now substantially concluded our efforts to respond to the Committee requests set forth in the subpoena and the letter of June 8<sup>th</sup>. As you know, these efforts have been based upon searches of ATF records, including the emails of twenty custodians identified by Committee staff, as well as hard copy records. It is possible that our search efforts with regard to other requests, particularly the Committee's letter of September 1, 2011, seeking specified documents from the United States Attorney's Office for the District of Arizona, could lead us to additional documents responsive to the subpoena and your June 8<sup>th</sup> letter. If that occurs, such documents will be processed as if they had been identified in the ATF search.

In the course of responding to the subpoena and June 8<sup>th</sup> letter, we have described to you the reasons for redactions in the documents we have produced or made available for review. As we have previously noted, other documents have not been produced or made available for these same reasons because neither redacting them nor making them available for review (as opposed

to production) was sufficient to address our concerns. Our disclosure of the vast majority of the withheld material is prohibited by statute. These records pertain to matters occurring before a grand jury, as well as investigative activities under seal or the disclosure of which is prohibited by law. Consistent with my testimony before the Committee on Oversight and Government Reform on June 15, 2011, we also have not disclosed certain confidential investigative and prosecutorial documents, the disclosure of which would, in our judgment, compromise the pending criminal investigations and prosecution. These include core investigative and prosecutorial material, such as Reports of Investigation and drafts of court filings.

Finally, as we have previously explained to Committee staff, we have also withheld internal communications that were generated in the course of the Department's effort to respond to congressional and media inquiries about Operation Fast and Furious. These records were created in 2011, well after the completion of the investigative portion of Operation Fast and Furious that the Committee has been reviewing and after the charging decisions reflected in the January 25, 2011 indictments. Thus, they were not part of the communications regarding the development and implementation of the strategy decisions that have been the focus of the Committee's inquiry. It is longstanding Executive Branch practice not to disclose documents falling into this category because disclosure would implicate substantial Executive Branch confidentiality interests and separation of powers principles. Disclosure would have a chilling effect on agency officials' deliberations about how to respond to inquiries from Congress or the media. Such a chill on internal communications would interfere with our ability to respond as effectively and efficiently as possible to congressional oversight requests.

We hope that this information is helpful. Please do not hesitate to contact this office if we can provide additional assistance regarding this or any other matter.

Sincerely,



Ronald Weich  
Assistant Attorney General

cc: The Honorable Elijah E. Cummings  
Ranking Member

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate

The Honorable Charles E. Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate

## **Index to Redaction Codes**

**RC-1: Redaction of text for privacy purposes.**

**RC-2: Redaction of text that is non-responsive.**

**RC-3: Redaction of text that relates to law enforcement sensitive investigative techniques.**

**RC-4: Redaction of text that relates to investigative targets or subjects.**

**RC-5: Redaction of text that discloses law enforcement sensitive investigative details.**