

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

<http://oversight.house.gov>

March 13, 2017

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

Dear Mr. Brandon:

Thank you for appearing before the Committee last week, and for enthusiastically agreeing to cooperate with our oversight and investigative requests. We are now reviewing allegations of mismanagement in connection with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) disciplinary process in the wake of information supplied by former ATF Special Agent Jay Dobyns following last week's full committee hearing, "Reviewing ATF's Failures in the Death of ICE Agent Jaime Zapata." Special Agent Dobyns points to evidence of mismanagement following a myriad of issues relating to and immediately following the August 2008 arson of his family's home in Tucson, Arizona. Special Agent Dobyns has also raised credible allegations of whistleblower retaliation by ATF officials.

To assist the Committee in better understanding these issues, please produce the following items as soon as possible, but no later than noon on March 27, 2017:

1. All documents referring or relating to all disciplinary reviews, including but not limited to those conducted by the Professional Review Board, and the Bureau Deciding Official's final decision for the following current and former agency officials:
 - a) Charles "Chuck" Higman;
 - b) William Newell; and
 - c) George Gillett.
2. All documents referring or relating to the decision of these officials to separate from ATF, whether by retirement, removal, or otherwise, including any settlement documents.

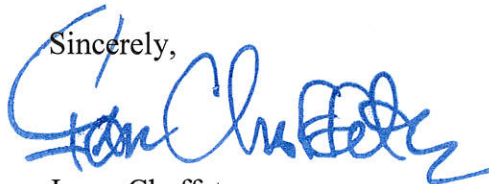
3. All documents referring or relating the facts and circumstances of the May 10, 2012, Notice of Proposal to Suspend Special Agent Jay Dobyns.
4. All documents referring or relating to the June 1, 2012, letter, attached for your ready reference, from former Chairman Darrell Issa to Attorney General Eric Holder about possible retaliation against Special Agent Jay Dobyns.

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. An attachment to this letter provides additional information about responding to the Committee's request. Please note that Committee Rule 16(b) requires counsel representing an individual or entity before the Committee or any of its subcommittees, whether in connection with a request, subpoena, or testimony, promptly submit the attached notice of appearance to the Committee.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Please contact Cordell Hull of Chairman Chaffetz' staff at (202) 225-5074 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz
Chairman

Enclosures

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

The Honorable Jefferson B. Sessions III, Attorney General

DARRELL E. ISSA, CALIFORNIA
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LAWRENCE J. BRADY
STAFF DIRECTOR

June 1, 2012

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Attorney General:

On October 12, 2011, I wrote to you to express serious concerns about retaliation by the Department against whistleblowers who provided information in the Fast and Furious investigation.¹ I now write regarding reports that another whistleblower, Special Agent Jay Dobyns, has also been retaliated against for speaking out about mismanagement and abuse at ATF. Agent Dobyns has been helpful to Congress throughout the Fast and Furious investigation in providing information related to your fatal gun trafficking program. He was also instrumental in encouraging several whistleblowers with firsthand knowledge of Fast and Furious to come forward and speak with Congress. I urge supreme caution when disciplining a Department employee for alerting the public about internal misconduct.

ATF has earned a reputation for vindictiveness when it comes to retaliating against its employees. Unfortunately, despite prior assurances from senior ATF officials, it appears that Acting Director B. Todd Jones has yet to change this reputation, as he recently upbraided Special Agent John Dodson in a private meeting at ATF headquarters. These apparent attempts to silence critics of the Bureau are potentially illegal and certainly counter-productive.² As I have previously stressed, direct communications with Congress are both vitally important and protected by law.³

¹ Letter from Senator Charles Grassley and Chairman Darrell Issa to Attorney General Eric Holder (Oct. 12, 2011).

² See 5 U.S.C. § 7211 ("The rights of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House or Congress, or to a committee or a Member thereof, may not be interfered with or denied.").

³ See Consolidated Appropriations Act, 2010, P.L. 111-117, 123 Stat. 3034, § 714 (2010) (setting prohibitions on restricting communications of federal government employees with Congress); see generally, Government Accountability Office, "Department of Health and Human Services-Chief Actuary's Communications with Congress," B-302911 (Sep. 7, 2004) (discussing the history and background in support of the government-wide prohibition on attempts to prevent direct communications with Congress); see also 18 U.S.C. § 1505 (providing that obstructing or impeding a Congressional inquiry is also a criminal violation).

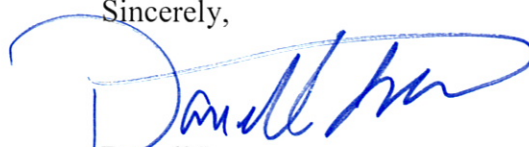
The Honorable Eric H. Holder, Jr.

June 1, 2012

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It appears that ATF has not received instructions from Department leadership that retaliation is not to be tolerated in any Department component. Please ensure that ATF receives the necessary instructions reiterating this policy.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darrell Issa", with a large, sweeping flourish above the name.

Darrell Issa
Chairman

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

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,
SENTHOUR, 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.

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.

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
115TH CONGRESS**

NOTICE OF APPEARANCE OF COUNSEL

Counsel submitting: _____

Bar number: _____ **State/District of admission:** _____

Attorney for: _____

Address: _____

Telephone: (_____) _____ - _____

Pursuant to Rule 16 of the Committee Rules, notice is hereby given of the entry of the undersigned as counsel for _____ in (select one):

All matters before the Committee

The following matters (describe the scope of representation):

All further notice and copies of papers and other material relevant to this action should be directed to and served upon:

Attorney's name: _____

Attorney's email address: _____

Firm name (where applicable): _____

Complete Mailing Address: _____

I agree to notify the Committee within 1 business day of any change in representation.

Signature of Attorney

Date