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**From:** Cole, James (SMO)  
**To:** Axelrod, Matthew (ODAG); Goldberg, Stuart (ODAG); Monaco, Lisa (ODAG)  
**Sent:** 4/16/2011 10:35:58 PM  
**Subject:** Re: Saturday April 16: Confirming all facts with Gaydos

Quite a different story from what we initially heard.

DP

Jim

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**From:** Axelrod, Matthew (ODAG)  
**Sent:** Saturday, April 16, 2011 06:30 PM  
**To:** Cole, James (SMO); Goldberg, Stuart (ODAG); Monaco, Lisa (ODAG)  
**Subject:** Fw: Saturday April 16: Confirming all facts with Gaydos

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**From:** Cunningham, Patrick (USAAZ)  
**Sent:** Saturday, April 16, 2011 06:10 PM  
**To:** Axelrod, Matthew (ODAG)  
**Cc:** Burke, Dennis (USAAZ); Morrissey, Mike (USAAZ)  
**Subject:** Saturday April 16: Confirming all facts with Gaydos

Matt: These facts were relayed by Larry Gaydos to Mike Morrissey and me on April 16, 2011. The edited letter is also enclosed. Thanks for your work on this investigation! PJC

Staffers from Chairman Issa's office contacted Gaydos on Friday April 15, 2011 and advised they wanted to interview his client [ATF]. G told them he was not going to agree to a voluntary interviews and that they would have to issue a subpoena. G "told them we need a subpoena." They discussed two options of A) a voluntary interview and B) a subpoena, and G "elected B, a Subpoena."

G advised them his client was a witness in the F and F case and advised them that Howard was concerned for his physical safety and so much so that G and H were going to through a "threat assessment next with the US Marshal's Service." The staff had no reaction G's advising them of these concerns.

G advised the staff that his client "does not want to get in any dispute between the Leg and Exec branches." Staffers advised that they "were flexible as to date and place to conduct an interview." G related that the staff seemed surprised that H would not agree to a voluntary interview and that G needed a subpoena. (We have been advised by Howard's other counsel Chris Rapp that H had previously reached out to Issa's staff and Rapp had terminated that contact. G did not advise us of this earlier contact. ) When G advised the staff that Howard would not agree to a voluntary interview, the staff offered to serve Howard with a "forthwith subpoena" in Phoenix so H could give an interview, and G rejected that proposal saying he is in Texas and not Arizona. The staff then asked G if he would accept service of a subpoena by email, and G said yes he would accept such service. He received such a subpoena by email Friday evening from Steve Caster.

G described the subpoena as having both the Testimony and Production boxes checked. The Testimony return date is May 23 in the Government Reform Committee Hearing in the Rayburn building and Howard is Commanded to Appear. G described the staff left open the option for an interview in lieu of appearance, but the subpoena and email do not mention that option and he is unclear how that would work.

G described the Production box as commanding the return of documents to the Rayburn Building in these categories:

1. All documents and communications with ATF from September 2009 to present.
2. All documents and communications with the District of Arizona USAO from September 2009 to present.
3. All records regarding whether H "should or should not testify before Congressional Committees."
4. All communications with ATF Agents Newell, Needles, [ATF] Gillett and [ATF] and any others)

5. All communications with anyone "relating to complaints or objections to selling weapons to straw purchasers."

Regarding compliance with the subpoena, both Cunningham and Morrissey at different points made clear to Gaydos that we are taking no position on Howard's compliance with the subpoena, that Congress is a separate branch of government, and that how they respond to the subpoena is completely up to Gaydos and his client.

G offered that he has "no ability to quash or stop the subpoena, and that he will not file such a motion unless a "legal basis jumps into my mind."

(We suggested no basis whatsoever). He suggested the option of a voluntary interview is still open but that he was unclear how or if he will try to arrange that. He will check with his client on whether he will forward a copy of the subpoena to us.

Thanks. PJC

**From:** Axelrod, Matthew (ODAG) (SMO)  
**Sent:** Saturday, April 16, 2011 5:28 AM  
**To:** Cunningham, Patrick (USAAZ)  
**Cc:** Burke, Dennis (USAAZ); Morrissey, Mike (USAAZ)  
**Subject:** Re: Confirming all facts with Gaydos

Thanks, Pat. Also, can you please confirm whether the subpoena is for a hearing or a depo (and the date)?

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**From:** Axelrod, Matthew (ODAG) (SMO)  
**Sent:** Friday, April 15, 2011 4:52 PM  
**To:** Cunningham, Patrick (USAAZ)  
**Cc:** Burke, Dennis (USAAZ)  
**Subject:** Confirming all facts with Gaydos

Pat,

Attached is a draft letter that I'm hopeful will go out on Monday.

DP

DP

Thanks, Pat.

Matt

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