
From: Axelrod, Matthew (ODAG)
To: Schmalzer, Tracy (SMO); Weich, Ron (SMO); Weiner, Robert (ODAG); Wilkinson, Monty (OAG); Delery, Stuart F. (OAG); Burton, Faith (SMO); Goldberg, Stuart (ODAG); Richardson, Margaret (SMO); Gaston, Molly (SMO); Miller, Matthew A (SMO); Monaco, Lisa (ODAG)
Sent: 4/20/2011 2:22:08 PM
Subject: Re: Chairman Issa Chastises ATF Director, Contempt Proceedings Possible Next Step

DP

Was there any coverage of our letter to Issa from yesterday?

From: Schmalzer, Tracy (SMO)
Sent: Wednesday, April 20, 2011 10:38 AM
To: Axelrod, Matthew (ODAG); Weich, Ron (SMO); Weiner, Robert (ODAG); Wilkinson, Monty (OAG); Delery, Stuart F. (OAG); Burton, Faith (SMO); Goldberg, Stuart (ODAG); Richardson, Margaret (SMO); Gaston, Molly (SMO); Miller, Matthew A (SMO)
Subject: Chairman Issa Chastises ATF Director, Contempt Proceedings Possible Next Step

DP

----- Forwarded message -----

From: Hill, Frederick <Frederick.Hill@mail.house.gov>
Date: Wed, Apr 20, 2011 at 9:59 AM
Subject: Press Release -- Chairman Issa Chastises ATF Director, Contempt Proceedings Possible Next Step
To:
Cc: "Hill, Frederick" <Frederick.Hill@mail.house.gov>

April 20, 2011
Hill ([202-225-0037](tel:202-225-0037))

Contact: Frederick

Chairman Issa Chastises ATF for Refusal to Comply with Subpoena

“If you do not comply with the subpoena, the Committee will be forced to commence contempt proceedings.”

WASHINGTON, D.C. – Rep. Darrell Issa (R-CA), the Chairman of the House Committee on Oversight and Government Reform today, in a letter to Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Acting Director Kenneth E. Melson, criticized the Director for failing to produce **any** documents in response to a subpoena issued March 31. The subpoena was issued after ATF and Department of Justice officials failed to cooperate in good faith with the Committee’s investigation.

“The Department’s internal policy to withhold documents from what it labels pending criminal investigations may not deprive Congress from obtaining those same documents if they are pertinent to a congressional investigation – particularly in a matter involving allegations that reckless and inappropriate decisions by top Justice Department officials may have contributed to the deaths of both U.S. and Mexican citizens,” Chairman Issa wrote in citing Supreme Court precedents and previous Congressional investigations. “Let me be clear ... we are not conducting a concurrent investigation *with* the Department of Justice, but rather an independent investigation *of* the Department of Justice – specifically, of allegations that the reckless and inappropriate decisions of Department officials have created a serious public safety hazard. We are asking for documents that relate to decisions such officials made. Congress is legally entitled to all of these documents.”

Issa noted that the Committee's request for documents has been pending since March 16, 2011 and a request from Senate Judiciary Committee Ranking Member Charles Grassley has been pending since January. While the Department of Justice has not produced any documents, Issa's letter to Melson included several documents obtained elsewhere by the Committee indicating the Justice Department knew the public danger the operation created. The role of top Justice Department officials in approving the operation remains top concern for investigators.

"Efforts by the Department of Justice and ATF to stonewall the Committee in its investigation by erroneously, but matter-of-factly, citing an internal department policy as a preventative measure for denying access to documents have only enhanced suspicions that such officials have played a role in reckless decisions that have put lives at risk. The Committee continues to pursue this matter vigorously, in part, because concerned individuals have indicated they do not have confidence in the Department's ability to review the actions of its own top officials."

Issa noted that the Justice Department's claimed concerns about sharing particular documents are undermined by their unwillingness to take steps to engage the committee in a serious conversation.

"Even if a legal basis did exist for withholding documents, the first step in evaluating this argument and the basis for a meaningful conversation between the Committee and the Department of Justice would be the production of a log of documents responsive to the subpoena with a specific explanation as to why you cannot produce each document," Issa wrote in criticizing the Department's disingenuous reasons for failing to cooperate. "The Department has failed to provide any such log."

Media reports have raised questions about the handling of operations involving gun trafficking into Mexico – specifically the allegation that ATF has had a policy of permitting – and even encouraging – the movement of guns into Mexico by straw purchasers. This practice may have contributed to the deaths of hundreds on both sides of the border, including federal law enforcement agents.

The last time the Oversight Committee raised a contempt concern to the Department of Justice was July 2008, when then Chairman Henry Waxman prepared to move forward with a contempt resolution against Attorney General Michael Mukasey for failing to produce subpoenaed information or to assert a valid claim of executive privilege over documents related to an investigation into the identity disclosure of former CIA employee Valerie Plame Wilson. The resolution did not move forward after President Bush asserted executive privilege over the documents in question.

[Click here for the April 20, 2011 letter to ATF Acting Director Kenneth E. Melson.](#)

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