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**From:** Schmalzer, Tracy (SMO)  
**To:** Axelrod, Matthew (ODAG); Weich, Ron (SMO); Burton, Faith (SMO); Richardson, Margaret (SMO); Wilkinson, Monty (OAG); Colborn, Paul P (SMO); Bies, John; Goldberg, Stuart (ODAG); Monaco, Lisa (ODAG); Miller, Matthew A (SMO); Gaston, Molly (SMO)  
**Sent:** 6/14/2011 8:33:43 AM  
**Subject:** TPM post on Issa Releasing Docs

And good past quotes from Issa on this.

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**TPM Muckraker**

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## Cummings: Issa Staff Released Document Under Seal In ATF Gunrunner Probe

Ryan J. Reilly | June 14, 2011, 5:45AM

Rep. Darrell Issa (R-CA)  
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Staffers working for House Oversight Committee Chairman Darrell Issa (R-CA) improperly disclosed information about a criminal investigation being run by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) which could have compromised ongoing criminal proceedings, according to a letter House Oversight Ranking Member Rep. Elijah Cummings (D-MD) sent to Issa on Monday.

Justice Department officials met with committee staffers on May 5 and told them the committee had released a document filed under seal, Cummings wrote. A federal district court judge had issued an order prohibiting the public release of a particular document, according to Cummings' letter.

"Your staff stated that they were unaware that the document was under seal when they disclosed it to the press, but they discovered the breach soon afterwards," Cummings wrote in the letter to Issa. "At the conclusion of that meeting, and at the request of the Department, your staff seemed to agree that consultation would help avoid such mistakes in the future." A spokeswoman for Issa did not respond to a request for comment.

The letter came after Cummings warned at a hearing on Monday that there was a "dangerous potential to compromise criminal prosecutions" when congressional committees embarked on investigations while prosecutions were pending.

"Some committees have conducted investigations during open federal prosecutions, but in these relatively rare cases, committees have consulted meticulously with the Department to ensure that their actions do not negatively affect ongoing prosecutions," Cummings said. "For example, they have reached agreements to consult with the Department before publicly releasing documents or reports, to refrain from obtaining documents relating to certain sensitive sources or methodologies, and to secure limited information against public release."

Holding off on investigations until an internal probe has concluded is an argument Issa should be familiar with. Back in 2007, when the Democratic chairman of the Oversight Committee wanted to investigate Blackwater, Issa argued that the House should hold off and first allow the State Department's investigation to conclude.

"We're supposed to allow the administration to do its investigation and then we do oversight," Issa said at the time. "We're not investigators."

He also signed onto a letter with several other Republicans asking then Chairman Henry Waxman (D-CA) to postpone a hearing on Blackwater until the State Department's inquiry concluded.

Issa is investigating the Justice Department's handling of "Project Gunrunner" and "Fast and Furious," which were aimed at combating the trafficking of weapons from the United States into Mexico. The renewed effort was reportedly in response to criticisms from the Justice Department's Inspector General that the agency was only rounding up small-time straw purchasers instead of the larger kingpins.

But the guns ATF was supposedly keeping an eye on ended up crossing the border and wound up in the hands of Mexican drug cartels. The Justice Department inspector general is conducting its own investigation into what went wrong.

Issa held a hearing on Monday to examine what he claimed is that lack of cooperation

In a statement for the record at Monday's hearing, the Justice Department said it was "fully committed to working in good faith with the Committee to accommodate the Committee's legitimate oversight interests in this matter." DOJ said it had already accommodated some requests for information, including providing documents, briefing committee staff, and facilitating interviews with DOJ employees.

"Although the Department acknowledges as a general matter that Congress's oversight authority with respect to the Department extends to open matters, exercises of that oversight authority must also account for -- and in some cases yield to -- the legitimate confidentiality interests of the Department and the criminal justice system, especially in circumstances in which oversight is sought of open criminal investigations," DOJ's statement said.