

The following actions would evidence a good faith first step toward meaningful cooperation with the joint investigation by Senate Judiciary Committee and House Oversight and Government Reform Committee staff into ATF whistleblower allegations:

1. Delivery of a written acknowledgment that DOJ will treat Senator Grassley's staff as authorized to conduct the investigation on an equal basis in cooperation with Chairman Issa's staff, to include meaningful notice and participation in: (a) negotiations over the terms of witness interviews, (b) negotiations over the production and access to documents, (c) any *in camera* review of documents, and (d) any interviews, briefings, or meetings with officials from DOJ components and Committee staff.
2. Delivery of a written commitment that DOJ will make witnesses available for transcribed interviews without seeking to impose any of the following conditions: (a) participation by the Office of Legislative Affairs, (b) participation by DOJ counsel if the witness chooses to have personal counsel, (c) notice and coordination on any interviews of non-DOJ personnel, or (d) immediate possession of interview transcripts.
3. Delivery of responsive, written answers to each subpart of each question for the record related to the ATF controversy submitted by Senator Grassley following the May 4, 2011 Senate Judiciary Hearing and also transmitted with Senator Grassley's letter of May 16, 2011.
4. Delivery of the following subset of documents initially requested by Senator Grassley's February 16, March 4, and March 16 letters as well as by letter and subpoena from the House Oversight and Government Reform Committee on March 16 and March 31:
  - a. The memorandum from Phoenix SAC Newell to ATF headquarters following the death of CBP agent Brian Terry.<sup>1</sup>
  - b. The presentation given by ATF on March 5, 2010 on the southwest border, attended by DOJ official Joe Cooley and senior ATF officials.<sup>2</sup>
  - c. All records relating to a meeting on or about December 17, 2009 between a Federal Firearms Licensee (FFL) and any ATF or U.S. Attorney's Office official.<sup>3</sup>
  - d. All briefing papers relating to Fast and Furious transmitted to ATF Headquarters, U.S. Attorney's Offices, or Justice Department headquarters.<sup>4</sup>

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<sup>1</sup> This is a subset of request #2 from Senator Grassley's February 16 letter and item #7 from the March 31 House subpoena.

<sup>2</sup> This is more specific description of request #3 from Senator Grassley's February 16 letter and item #6 from the March 31 House subpoena.

<sup>3</sup> This is a subset of request #1 from Senator Grassley's February 16 letter and item #5 from the March 31 House subpoena.

<sup>4</sup> This is a subset of item #7 from the March 31 House subpoena.

- e. All records relating to instances in which case agents or their superiors ordered field agents to “stand down,” “discontinue surveillance,” or otherwise failed to authorize requested attempts to interdict weapons.<sup>5</sup>
  - f. All records relating to communications between FBI personnel in Phoenix or Tucson and the FBI Laboratory Firearms/Toolmark Unit relating to the firearms recovered during the course of the investigation of CBP Agent Brian Terry’s death.<sup>6</sup>
  - g. All records relating to the genesis of Operation Fast and Furious and communications between ATF personnel and personnel in the United States Attorney’s Office for the District of Arizona.<sup>7</sup>
5. In the event that no responsive document exists in any given category, delivery of a written certification to that effect.

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<sup>5</sup> This is a subset of item #2 from the March 31 House subpoena.

<sup>6</sup> This is a subset of item #3 from the March 31 House subpoena.

<sup>7</sup> This is a subset of item #1 from the March 31 House subpoena.