

PATRICK J. LEAHY, VERMONT, CHAIRMAN

HERB KOHL, WISCONSIN  
DIANNE FEINSTEIN, CALIFORNIA  
CHARLES E. SCHUMER, NEW YORK  
RICHARD J. DURBIN, ILLINOIS  
SHELDON WHITEHOUSE, RHODE ISLAND  
AMY KLOBUCHAR, MINNESOTA  
AL FRANKEN, MINNESOTA  
CHRISTOPHER A. COONS, DELAWARE  
RICHARD BLUMENTHAL, CONNECTICUT

CHARLES E. GRASSLEY, IOWA  
ORRIN G. HATCH, UTAH  
JON KYL, ARIZONA  
JEFF SESSIONS, ALABAMA  
LINDSEY O. GRAHAM, SOUTH CAROLINA  
JOHN CORNYN, TEXAS  
MICHAEL S. LEE, UTAH  
TOM COBURN, OKLAHOMA

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

June 20, 2012

**VIA ELECTRONIC TRANSMISSION**

President Barack Obama  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. President:

This morning, the House Committee on Oversight and Government Reform began considering a contempt citation against Attorney General Holder for his refusal to deliver documents related to Operation Fast and Furious. As you know, two guns that federal law enforcement allowed to be illegally purchased and trafficked to Mexico as part of that operation were found at the murder scene of Border Patrol Agent Brian Terry on December 14, 2010. I have been seeking documents related to this matter from the Justice Department since January 2011.

At the last minute before the House Committee proceedings began this morning, I received notice that you were claiming executive privilege. After 18 months of investigation and interaction with Justice Department officials on this matter, this was the first indication that anyone at the Department or the White House believed the documents being sought were subject to executive privilege claims. Last week, I questioned the Attorney General about a specific example of a document that I and the House Committee have been seeking and whether there could be a legitimate claim of executive privilege over that document and others like it. The document I referenced is an internal email from the then-Acting Director of ATF to people at ATF and DOJ headquarters.

The Attorney General was not clear in response to my question whether he believed that executive privilege could be asserted with regard to that document or others like it. Rather than executive privilege, the Attorney General talked about “deliberative process.” He indicated a willingness to provide that document and others like it, if the possibility of contempt were to be taken off the table. Yet this morning, it appears that you may be claiming executive privilege over the very same type of document—internal Justice Department communications not involving the White House—that the Attorney General said he was willing to provide.

Can you please provide a more precise description of the scope of your executive privilege claim? Are you asserting it only with regard to documents called for by the

subpoena that may have involved communications with you? Or are you extending your claim to records of purely internal Justice Department communications, not involving the White House? Please provide a more detailed description of the documents that you are or are not asserting executive privilege to protect.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley  
Ranking Member

cc: Darrell Issa  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives