

Congress of the United States
Washington, DC 20510

July 18, 2012

Via Electronic Transmission

Mr. B. Todd Jones
Acting Director
Bureau of Alcohol, Tobacco, Firearms, and Explosives
U.S. Department of Justice
99 New York Avenue, NE
Washington, DC 20226

Dear Acting Director Jones:

If courageous whistleblowers within the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF/Agency) had not come forward to Congress, the tactics used in Operation Fast and Furious might never have come to light. By providing Congress key information about the shortcomings of Fast and Furious, these whistleblowers put their careers on the line to prevent reckless operational tactics from ever being employed again and to make sure the family of murdered Border Patrol Agent Brian Terry got the whole truth about their son's death. On numerous occasions, we have stressed to ATF and the Department of Justice the importance of protecting whistleblower disclosures and preventing retaliation against whistleblowers.

We recently reviewed a video message you sent to ATF employees on July 9, 2012. In this message, entitled "ChangeCast #8: Choices and Consequences," you stress to ATF employees that "if you make poor choices, that if you don't abide by the rules, that if you don't **respect the chain of command**, if you don't find the appropriate way to raise your concerns **to your leadership**, there will be consequences. . . ." The essence of whistleblowing is reporting problems outside of an employee's chain of command when the chain of command has failed to address them. In fact, for a disclosure to be legally protected, it is often necessary for the employee to report the wrongdoing to someone other than his or her supervisor.

Your ominous message – which could be interpreted as a threat – is likely to have a major chilling effect on ATF employees exercising their rights to contact Congress. Therefore, it needs to be clarified.

You must remind ATF employees about their right to talk to Congress and provide Congress with information free and clear of agency interference or retaliation.¹ By clarifying your message, you will ensure that ATF employees are aware of their rights and whistleblower protections. Sometimes it is necessary to address concerns outside the chain of command, and those kinds of disclosures are protected by law and should not be threatened with unspecified "consequences." ATF managers should be required to respect protected whistleblower disclosures and held accountable when they do not. That would send a clear message that ATF will not tolerate intimidation of whistleblowers who provide information to Congress.

We would appreciate a written response by no later than July 25, 2012, indicating whether or not you intend to clarify your remarks so that they are not misunderstood and that you agree whistleblowers rights must be protected under law. If you have any questions concerning this matter, please contact Henry Kerner of the House Oversight Committee staff at (202) 225-5074 or Brian Downey of the Senate Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley, Ranking Member
Committee on the Judiciary
U.S. Senate



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

cc: The Honorable Patrick J. Leahy, Chairman
Committee on the Judiciary, U.S. Senate

The Honorable Elijah E. Cummings, Ranking Member
Committee on Oversight and Government Reform, U.S. House of Representatives

The Honorable James M. Cole
Deputy Attorney General, U.S. Department of Justice

¹ 5 U.S.C. § 7211 states:

The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.