

Congress of the United States

Washington, DC 20515

March 26, 2015

The Honorable B. Todd Jones
Director
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue NE
Washington, D.C. 20226

Dear Director Jones:

The Committees are reviewing the Bureau of Alcohol, Tobacco, Firearms and Explosives' effort to address employee misconduct related to Operation Fast and Furious. As you know, the Committees, and the Department of Justice Office of Inspector General, found that ATF employees in Phoenix and Washington bore responsibility for the conduct of Operation Fast and Furious and that the Justice Department failed to adequately supervise ATF's conduct of the case. In a 2012 ATF Professional Review Board report we recently obtained, the Board concluded that "the Bureau has the right to expect its employees to exhibit high standards of ethical, personal and professional behavior."¹ However, ATF has failed to demonstrate to the Congress and public that it has upheld those high standards by taking corrective action against the individuals identified by the Committees and the Inspector General.

Many of those individuals have retired, been removed from leadership positions, or were otherwise reassigned. In an April 1, 2014 letter to the Committee on Oversight and Government Reform from Assistant Director James H. Burch, ATF provided a brief summary of personnel actions against eight individuals with involvement in the Fast and Furious operation.² It remains unclear, however, whether and to what extent additional disciplinary actions were taken. For example, documents from the ATF's Professional Review Board dated November 30, 2012, indicate that the Board recommended that Special Agents George Gillett and William Newell be terminated from federal service based on their "poor judgment" in relation to the arson investigation of a Fast and Furious whistleblower.³ Yet, the April 1, 2014 letter to Chairman Issa shows that William Newell remains an employee of the Bureau.⁴

For a more thorough understanding of the disciplinary actions ATF administered to individuals who bore responsibility for Operation Fast and Furious, please provide to the Committees the following information for each of the current and former ATF employees identified below:

¹ Letters from ATF Professional Review Board to Special Agents George T. Gillett, Jr. and William Newell (Nov. 30, 2012).

² *Id.*

³ Letters from ATF Professional Review Board to Special Agents George T. Gillett, Jr. and William Newell (Nov. 30, 2012).

⁴ Letter from James H. Burch, II, Ass't Dir., Bureau of Alcohol, Tobacco, Firearms and Explosives, to Hon. Darrell Issa, Chairman, H. Comm. on Oversight and Gov't Reform (Apr. 1, 2014).

1. a description of any disciplinary action, including any proposed or executed settlement agreements;
2. the effective date of any disciplinary action, resignation, termination, or retirement;
3. whether the individual is still employed by ATF, and if so, his current title and duty station; and,
4. a detailed explanation of why ATF failed to implement each of the recommendations of the PRB, including the recommendations that Gillette and Newell be terminated.

Also, please provide all records related to any potential disciplinary action, including copies of all settlement agreements negotiated or executed between ATF and the following employees. The following individuals are identified by title at the time Operation Fast and Furious was an active operation:

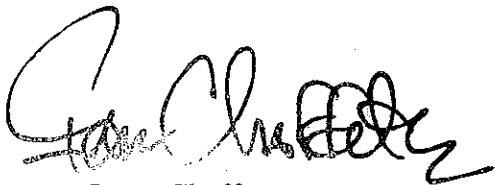
1. Acting Director Kenneth Melson;
2. Acting Deputy Director William Hoover;
3. Assistant Director for Field Operations Mark Chait;
4. Deputy Assistant Director for Field Operations William McMahon;
5. Special Agent in Charge of the Phoenix Field Division William Newell;
6. Assistant Special Agent in Charge of the Phoenix Field Division George Gillett;
7. Assistant Special Agent in Charge of the Phoenix Field Division James Needles;
8. Phoenix Group VII Supervisor David Voth; and,
9. Special Agent Hope MacAllister.

When producing documents to the Committees, please deliver production sets as follows: to the Majority staff in Room 2157 of the Rayburn House Office Building and the Minority staff in Room 2471 of the Rayburn House Office Building for the Committee on Oversight and Government Reform; and two copies to Room 224 of the Dirksen Senate Office Building for the Senate Committee on the Judiciary. Please provide all documents in electronic format. An attachment to this letter provides additional information about responding to the Committees' request. As an additional reminder, the Privacy Act authorizes the disclosures requested in this letter under 5 U.S.C. § 552a(b).

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If you have any questions about this request, please contact Jessica Donlon or Henry Kerner of the House Committee on Oversight and Government Reform staff at (202) 225-5074, and Katherine Nikas at (202) 224-5225 of the Senate Committee on the Judiciary staff. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives



Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate

Enclosure

cc: Hon. Elijah E. Cummings, Ranking Minority Member
House Committee on Oversight and Government Reform

Hon. Patrick Leahy, Ranking Minority Member
Senate Committee on the Judiciary

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTHOUR, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.