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November 4, 2011

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing to request that the Committee hold a hearing with former Attorney General Michael Mukasey in order to assist our efforts in understanding the inception and development of so-called “gun-walking” operations over the past five years.

The Mukasey Memo

Documents obtained by the Committee indicate that Attorney General Mukasey was briefed on November 16, 2007, on a botched gun-walking operation by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). A briefing paper prepared for Attorney General Mukasey prior to a meeting with Mexican Attorney General Medina Mora describes “the first-ever attempt to have a controlled delivery of weapons being smuggled into Mexico by a major arms trafficker.” The briefing paper warns, however, that “the first attempts at this controlled delivery have not been successful.” Despite these failures, the briefing paper proposes expanding such operations in the future. It states:

ATF would like to expand the possibility of such joint investigations and controlled deliveries—since only then will it be possible to investigate an entire smuggling network, rather than arresting simply a single smuggler.¹

Attorney General Mukasey’s briefing paper was prepared only weeks after ATF officials had expressed serious concerns with the failure of these tactics and claimed they were shutting them down. After ATF officials discovered that firearms were not being interdicted, William Hoover, then ATF’s assistant director of field operations, wrote an e-mail on October 5, 2007, to Carson Carroll, ATF’s assistant director for enforcement programs, stating:

¹ Department of Justice, *Briefing Paper Prepared for Attorney General Michael Mukasey: Meeting with Mexican Attorney General Medina Mora* (Nov. 16, 2007).

I do not want any firearms to go South until further notice. I expect a full briefing paper on my desk Tuesday morning from SAC Newell [Special Agent in Charge William Newell] with every question answered.²

The next day, Special Agent in Charge Newell responded in an e-mail, stating:

I'm so frustrated with this whole mess I'm shutting the case down and any further attempts to do something similar. We're done trying to pursue new and innovative initiatives—it's not worth the hassle.³

It is unclear from the documents what changed between October 6, 2007, when Special Agent in Charge Newell indicated that he was shutting down these operations, and November 16, 2007, when Attorney General Mukasey was presented with a proposal to expand them. The documents do not indicate whether Attorney General Mukasey read this briefing paper or how he responded to the proposal to expand these operations.

Additional Gun-Walking Operations During the Bush Administration

Other documents obtained by the Committee indicate that the officials who prepared the November 16, 2007, briefing paper for Attorney General Mukasey were aware that it did not disclose the full scope of previous gun-walking operations. After reviewing the briefing paper, Mr. Carroll wrote an e-mail to Mr. Hoover, stating: "I am going to ask DOJ to change 'first ever'." He added: "there have [been] cases in the past where we have walked guns."⁴

Mr. Carroll's statement appears to be a reference to an earlier operation in 2006 known as Operation Wide Receiver. The documents obtained by the Committee do not indicate whether Attorney General Mukasey was in fact informed about this operation, which occurred a year earlier.

The documents obtained by the Committee appear to directly contradict your claim on national television that gun-walking operations under the previous Administration were well coordinated. During an appearance on *Face the Nation* on October 16, 2011, you asserted:

² E-mail from William Hoover, Assistant Director of Field Operations, Bureau of Alcohol, Tobacco, Firearms, and Explosives, to Carson Carroll, Assistant Director for Enforcement Programs, Bureau of Alcohol, Tobacco, Firearms, and Explosives (Oct. 5, 2007).

³ E-mail from William Newell Special Agent in Charge, Bureau of Alcohol, Tobacco, Firearms, and Explosives, to Carson Carroll, Assistant Director for Enforcement Programs, Bureau of Alcohol, Tobacco, Firearms, and Explosives (Oct. 6, 2007).

⁴ E-mail from Carson Carroll, Assistant Director for Enforcement Programs, Bureau of Alcohol, Tobacco, Firearms, and Explosives, to William Hoover, Assistant Director of Field Operations, Bureau of Alcohol, Tobacco, Firearms, and Explosives (Nov. 15, 2007).

We know that under the Bush Administration there were similar operations, but they were coordinated with Mexico. They made every effort to keep their eyes on the weapons the whole time.⁵

Your assertion was particularly troubling since the Committee obtained these e-mail exchanges in July, several months before your appearance on *Face the Nation*.

Conclusion

Over the past year, you have been extremely critical of Attorney General Eric Holder, arguing that he should have known about the controversial tactics employed in these operations. He has now agreed to your request to testify before the House Judiciary Committee on December 8, 2011, to answer additional questions about these operations.

Given the significant questions raised by the disclosures in these documents, our Committee's investigation will not be viewed as credible, even-handed, or complete unless we hear directly from Attorney General Mukasey.

During a press appearance on Wednesday, you stated: "Our job for the American people is to make sure—since they say they shouldn't walk guns and they did walk guns—is that we know they'll never walk guns again."⁶ I completely agree with this statement, and I believe my request will help us fulfill our shared goal. Thank you for your consideration of this request.

Sincerely,


Elijah E. Cummings
Ranking Member

⁵ *Face the Nation*, CBS News (Oct. 16, 2011).

⁶ *Press Pass: Rep. Darrell Issa*, NBC News (Nov. 2, 2011).