
From: Axelrod, Matthew (ODAG)
To: Edward N. Siskel
Sent: 4/18/2011 8:00:05 PM
Subject: Re: More about the Committee staff call to the cooperator

My cell is **Privacy**

From: Axelrod, Matthew (ODAG)
Sent: Monday, April 18, 2011 03:00 PM
To: 'Edward_N_Siskel@who.eop.gov' Edward N. Siskel
Subject: Re: More about the Committee staff call to the cooperator

A letter, but from Ron, not the AG. I'm available on the cell. What times works for you?

From: Siskel, Edward Edward N. Siskel
Sent: Monday, April 18, 2011 02:14 PM
To: Axelrod, Matthew (ODAG)
Subject: Re: More about the Committee staff call to the cooperator

Thanks for the update. **Unrelated** Are you guys doing a letter from the AG on this? Can we find a time to check in this afternoon?

From: Axelrod, Matthew (ODAG) <Matthew.Axelrod@usdoj.gov>
To: Siskel, Edward
Sent: Sun Apr 17 14:36:44 2011
Subject: RE: More about the Committee staff call to the cooperator

Here's a longer version of the facts as we now understand them:

Staffers from Chairman Issa's office contacted the attorney on Friday April 15, 2011 and advised they wanted to interview his client. The attorney told them he was not going to agree to a voluntary interviews and that they would have to issue a subpoena. The attorney "told them we need a subpoena." They discussed two options of A) a voluntary interview and B) a subpoena, and the attorney "elected B, a Subpoena."

The attorney advised them his client was a witness in the F and F case and advised them that the witness was concerned for his physical safety and so much so that lawyer and the witness were going to through a "threat assessment next week with the US Marshal's Service." The staff had no reaction to the lawyer's advising them of these concerns.

The lawyer advised the staff that his client "does not want to get in any dispute between the Leg and Exec branches." Staffers advised that they "were flexible as to date and place to conduct an interview." The lawyer related that the staff seemed surprised that the witness would not agree to a voluntary interview and that the lawyer needed a subpoena. (The USAO has been advised by other counsel for the witness that the witness had previously reached out to Issa's staff and counsel had terminated that contact.) When the lawyer advised the staff that the witness would not agree to a voluntary interview, the staff offered to serve the witness with a "forthwith subpoena" in Phoenix so the witness could give an interview, and the lawyer rejected that proposal saying he is in Texas and not Arizona. The staff then asked the lawyer if he would accept service of a subpoena by email, and the lawyer said yes he would accept such service. He received such a subpoena by email Friday evening from Steve Caster.

The lawyer described the subpoena as having both the Testimony and Production boxes checked. The Testimony return date is May 23 in the Government Reform Committee Hearing in the Rayburn building and the witness is

Commanded to Appear. The lawyer described the staff left open the option for an interview in lieu of appearance, but the subpoena and email do not mention that option and he is unclear how that would work.

The lawyer described the Production box as commanding the return of documents to the Rayburn Building in these categories:

1. All documents and communications with ATF from September 2009 to present.
2. All documents and communications with the District of Arizona USAO from September 2009 to present.
3. All records regarding whether the witness "should or should not testify before Congressional Committees."
4. All communications with ATF Agents Newell, Needles, **ATF** Campbell, Gillett and **ATF** and any others)
5. All communications with anyone "relating to complaints or objections to selling weapons to straw purchasers."

Regarding compliance with the subpoena, the USAO at different points made clear to the attorney that we are taking no position on the witness's compliance with the subpoena, that Congress is a separate branch of government, and that how they respond to the subpoena is completely up to the attorney and his client.

The attorney offered that he has "no ability to quash or stop the subpoena, and that he will not file such a motion unless a "legal basis jumps into my mind." (The USAO suggested no basis whatsoever). The lawyer suggested the option of a voluntary interview is still open but that he was unclear how or if he will try to arrange that. He will check with his client on whether he will forward a copy of the subpoena to the USAO.

From: Axelrod, Matthew (ODAG)
Sent: Saturday, April 16, 2011 4:37 PM
To: **Edward N. Siskel**
Subject: Re: More about the Committee staff call to the cooperator

Unrelated

I just spoke to Pat Cunningham who spoke again with the witness's lawyer.

DP

DP

From: Siskel, Edward **Edward N. Siskel**
Sent: Friday, April 15, 2011 10:37 PM
To: Axelrod, Matthew (ODAG)
Subject: Re: More about the Committee staff call to the cooperator

What is the date for the hearing?

From: Axelrod, Matthew (ODAG) <Matthew.Axelrod@usdoj.gov>
To: Siskel, Edward
Sent: Fri Apr 15 19:36:13 2011
Subject: More about the Committee staff call to the cooperator

Fyi, the lawyer just received a subpoena by email calling for the witness's testimony at a hearing. We're working on a letter to go out Monday.

Matt

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