

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

GUN OWNERS FOUNDATION,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 12-919 (BAH)
)	Judge Beryl A. Howell
BUREAU OF ALCOHOL, TOBACCO,)	
FIREARMS AND EXPLOSIVES,)	
)	
Defendant.)	
)	

**DEFENDANT’S MEMORANDUM OF POINTS AND AUTHORITIES
IN OPPOSITION TO
PLAINTIFF’S MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS**

Exhibit A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Gun Owners Foundation)

Plaintiff,)

v.)

Alcohol, Tobacco, Firearms and Explosives,)

Defendant.)

Civil Action No. 12-919 (BAH)
Judge Beryl A. Howell

DECLARATION OF PETER J. CHISHOLM,
ACTING CHIEF, DISCLOSURE DIVISION
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

I, Peter J. Chisholm, do hereby declare and say:

1. I am the Acting Chief, Disclosure Division, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ). In this capacity, I receive all requests made of ATF under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act (PA), 5 U.S.C. § 552a. I am responsible for processing all FOIA and PA requests, initiating searches relevant to such requests, supervising the determination of what records should be disclosed, processing all ATF documents referred to ATF and other agencies, and recording all administrative appeals filed with ATF.

2. The statements made herein are based on knowledge acquired by me through the performance of my official duties. I am familiar with the procedures followed by this office in responding to the FOIA request made by the Gun Owners Foundation (GOF).

3. To date, ATF has received 20 FOIA requests seeking records related to Operation Fast and Furious (Fast and Furious) and Project Gunrunner (Gunrunner).

These requests range in scope from requests seeking all records related to Fast & Furious and Gunrunner to requests seeking email correspondence on specific aspects of Fast and Furious and Gunrunner.

4. On April 26, 2011, ATF received GOF's FOIA request. Prior to receiving GOF's FOIA request, ATF had received nine FOIA requests seeking records related to Fast & Furious and Gunrunner.

5. There is a significant overlap among the majority of the FOIA requests, including those requests received before GOF's FOIA request. In particular, records that would be responsive to most of the FOIA requests, including GOF's FOIA request, consist of emails between ATF and DOJ concerning Fast and Furious and Gunrunner.

6. ATF has also received a number of inquiries from Congress seeking information about Fast and Furious and Gunrunner, including a subpoena dated March 31, 2011, from the House Oversight and Government Reform Committee.

7. Due to the number and overlapping nature of the many FOIA requests received by ATF relating to Fast and Furious, and in order to be able to respond to these requests in the most efficient and expeditious manner possible, ATF decided to conduct a comprehensive search for records responsive to the plethora of similar FOIA requests concerning Fast and Furious and Gunrunner. ATF believes that handling these Fast and Furious FOIA requests sequentially, as opposed to concurrently, would take longer and require greater DOJ resources because custodians would have to conduct repeated, similar searches for documents, and ATF and DOJ would have to apply exemptions repeatedly, often to the same documents. ATF concluded that processing the requests sequentially would ultimately take longer to satisfy all of the Fast and Furious and

Gunrunner FOIA requests it has received, and that conducting a comprehensive search would be the most efficient way to accommodate multiple FOIA requesters seeking similar information.

8. As a result of this decision, ATF conducted an extensive search for documents concerning Fast and Furious and Gunrunner. This search built on the searches that were conducted in response to congressional inquiries, but also incorporated the particularities of the various FOIA requests. This search has been completed.

9. Currently, ATF is working through the ongoing task of processing these documents to determine whether the documents are responsive and, if so, what information within them is subject to any of FOIA's nine exemptions. ATF is initially focusing on reviewing approximately 30,000 pages consisting primarily of email correspondence. This is the material most likely to be responsive to many of the requests, including GOF's FOIA request.

10. From the start of its work on the FOIA requests, ATF has had at least two employees working nearly full time on the various FOIA requests seeking documents concerning Fast and Furious and Gunrunner. ATF has also recently detailed three additional employees to work nearly full time on reviewing and redacting these documents. As such, ATF, whose Disclosure Division was understaffed during much of its work on these various FOIA requests, currently has five employees working nearly full time on the processing of these documents.

11. As of August 9, 2012, ATF has completed initial processing on approximately 8,000 records.

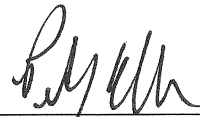
12. After ATF processes documents, it refers them to several other DOJ offices which have equities in the documents for consultation and further review. Once these offices complete their consultation and review, documents are cleared for public release.

13. As of August 9, 2012, approximately 1,460 pages of records have been cleared for public release.

14. Given the number of FOIA requests seeking information pertaining to Fast and Furious and Gunrunner, ATF is also currently working to create a website on which documents cleared for public release can be posted for the public to review. ATF is currently engaged in discussions with a contractor on the best way to allow the public to easily read and access the documents online.

15. Because of the number of documents that could be responsive and the layers of review, it would be impossible to complete the task of reviewing and redacting the approximately 22,000 pages of emails in 30 days, much less the larger collection of documents.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 9th day of August 2012.



Peter J. Chisholm
Acting Chief, Disclosure Division