



Written by [Alex Newman](#) on October 17, 2012

AG Holder Demands U.S. Court Allow Fast and Furious Coverup

As lawmakers seek to use federal courts to force disgraced Attorney General Eric Holder and the Justice Department to hand over documents on the deadly Fast and Furious gun-running scandal, the Obama administration [filed a motion](#) this week claiming that the judicial branch has no power to interfere. According to the Department of Justice, a ruling in favor of Congress and its oversight authority would violate so-called “executive privilege.” But lawmakers are not buying it.



While he is currently abusing his position to shield himself from prosecution, Holder famously became the first attorney general in U.S. history to be [held in civil and criminal contempt of Congress](#) in late June on a bipartisan vote. Lawmakers were upset over the administration’s ongoing coverup in which it refused to provide subpoenaed documents on Fast and Furious, the now-infamous federal scheme that put thousands of high-powered American weapons into the hands of Mexican drug cartels.

“Disputes of this sort have arisen regularly since the founding,” the Justice Department [claimed](#) in the legal brief filed late Monday, asking the U.S. District Court for the District of Columbia to dismiss the lawsuit. “For just as long, these disputes have been resolved between the political branches through a constitutionally grounded system of negotiation, accommodation and self-help.” The filing also claimed the courts lack jurisdiction in the case.

The administration has unlawfully refused to hand over thousands of documents related to the scandal, repeatedly defying congressional subpoenas and flouting the authority of Congress. When it became clear that lawmakers would not back down in the effort to uncover the details of Fast and Furious, however, President Obama stepped in and claimed “executive privilege” to justify the coverup.

Congress responded with contempt charges and over 120 members of the House and Senate demanded Holder’s resignation. When that failed, [lawmakers filed suit in federal court](#). Now the administration claims that even the judiciary does not have the authority to force the executive branch’s hand. Lawmakers trying to carry out their oversight responsibilities, though, say the Justice Department’s argument is absurd on its face.

“The Obama Administration’s argument should trouble Americans who believe the President and the federal government are not above the law,” [said](#) House Oversight and Government Reform Committee Chairman Darrell Issa (R-Calif.), who has been leading the charge for accountability. “In perpetuating a cover-up, through false and misleading statements that even the Justice Department’s own Inspector General found troubling, the Obama administration argued for months that it did not have to meet its legal obligations to a lawfully issued congressional subpoena.”

Incredibly, after purporting to have the authority to defy the American people’s elected representatives, the Obama administration is currently claiming that it is also above the courts, too. In other words, the



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executive branch is above the law, above Congress, above the courts, and accountable to nobody. Rep. Issa, however, says that reasoning will not fly.

“Now, the Department is advancing arguments — already rejected by the federal judiciary — that our court system does not have jurisdiction to ensure accountability either,” Issa explained. “The American people deserve to know the full truth about what happened in Operation Fast and Furious and why top justice officials stood behind false denials of reckless conduct.”

The new DOJ brief does acknowledge that federal courts ruled just four years ago in *Committee on Judiciary, U.S. House of Representatives v. Miers* that Congress could indeed compel executive branch officials to cooperate with congressional investigations. However, the Justice Department argued that the decision in that case was allegedly leading the country down the wrong path by getting courts involved in what the administration claims is essentially a “political” dispute.

The deadly federal gun-trafficking program was exposed over a year ago when brave whistleblowers within the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) stepped forward. Since then, the scheme has become a massive international scandal. And as the Obama administration continues its half-baked efforts to conceal the truth, outrage over the blood-drenched plot has only grown louder.

Some of the Fast and Furious guns were recovered at the murder scenes of U.S. federal law enforcement officers such as Border Patrol agent Brian Terry. Others were used to [massacre Mexican teenagers](#). The Obama administration’s operation was supposedly aimed at targeting two “drug lords” who [already worked for the FBI](#), official documents later revealed. Resulting violence, meanwhile, was [exploited by the top officials](#) to push for more restrictions on Americans’ right to keep and bear arms.

Despite contempt charges and the escalating nationwide uproar over the scandal, the coverup, and the official lies told by top officials throughout the investigation, however, the Justice Department, which [originally responded to the gun-trafficking accusations with lies](#), still refuses to cooperate. If the judicial branch were to force the administration to come clean, “countless other suits by Congress are sure to follow, given the volume of document requests issued by the dozens of congressional committees that perform oversight functions,” according to the federal court filing this week.

It was not immediately clear why the potential for more transparency and oversight of the executive branch going forward was a proper reason to dismiss the suit. If anything, critics of the increasing level of government secrecy say more lawsuits from Congress demanding accountability would be a positive development — somebody has to hold the administration accountable, after all. The Justice Department, however, apparently disagrees.

“The combination of robust alternative remedies and the historical absence of involvement by the judiciary have provided incentive for both branches to work in earnest through the process of negotiation, accommodation and ultimate resolution,” the DOJ filing claimed. “That process would unravel if courts were available to dictate what information may be demanded or withheld. Judicial intervention would move the branches toward litigation, not accommodation, and would dramatically alter the separation of powers.”

Justice Department Inspector General Michael Horowitz recently released the results of his investigation into the scandal as well. While [blasted by critics as a “joke” and a “whitewash,”](#) the final report concluded by recommending that more than a dozen senior DOJ and ATF officials be considered for disciplinary measures.

However, according to the investigation, evidence that Holder knew his top officials were sending



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weapons to cartels was not found, though Horowitz did [acknowledge that White House officials refused to cooperate](#) with the investigation. Experts say the truth about the deadly scheme remains concealed, but that the operation must have been known to the White House and senior officials including Holder, Homeland Security Secretary Janet Napolitano, Secretary of State Hillary Clinton, and others.

The Department of Justice, however, does not want the courts or Congress to intervene in the matter, raising even more suspicions among critics — especially considering the growing amount of evidence suggesting that Fast and Furious was [part of a far more sinister plan](#) than the administration has admitted thus far. “Judicial restraint, not judicial intervention, is warranted,” the latest DOJ court brief argues.

The current case is being handled by U.S. District Court Judge Amy Berman Jackson, a recent Obama appointee. A ruling on the dispute is not expected until after the election, though even then it is likely to be appealed. Analysts say the outcome is difficult to predict, but lawmakers believe they are standing on solid ground. Activists hope the prosecutions, if warranted, can begin once all of the facts eventually emerge.

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