Rather, the court said, it should apply only to "communications authored or solicited and received by those members of an immediate White House adviser's staff" with responsibility for formulating advice for the president.

WASHINGTON (AP) -- Now that the politically potent National Rifle Association is keeping score, some Democrats may join House Republicans if there's a vote to hold Attorney General Eric Holder in contempt of Congress in a dispute over documents related to a botched gun-tracking operation.

The chief Democratic House head counter, Rep. Steny Hoyer of Maryland, declined to tell reporters how many defections he expected, but acknowledged that some in his party would consider heeding the NRA's call for a "yes" vote.

One of those Democrats, Rep. Jim Matheson of Utah, said, "Sadly, it seems that it will take holding the attorney general in contempt to communicate that evasiveness is unacceptable. It is a vote I will support."

The gun owners association injected itself last week into the stalemate over Justice Department documents demanded by the House Oversight and Government Reform Committee. The NRA

said it supports the contempt resolution and will keep a record of how members vote.

An NRA letter to House members contended that the Obama administration "actively sought information" from Operation Fast and Furious to support its program to require dealers to report multiple rifle sales.

The program, which began last August, imposed the requirement for sales of specifically identified long guns in four border states: Texas, California, Arizona and New Mexico. A federal judge upheld the requirement.

Republicans want Eric Holder to become the first attorney general to be cited by the House for contempt, because he has refused to give the Oversight and Government Reform Committee all the documents it wants related to Operation Fast and Furious.

Unless a last-minute deal is worked out, always a possibility in Congress, the contempt vote is scheduled for Thursday - the same day the Supreme Court is to announce its ruling on the legality of the nation's health care law.

A vote to hold Holder in contempt of Congress wouldn't send any documents to the Oversight committee and its chairman, Republican Rep. Darrell of California. President Barack Obama has claimed executive privilege, a legal step that presidents have used to maintain secrecy of internal administration documents.

Obama invoked what is known as "deliberative process privilege," a claim designed to broadly cover executive branch documents. However Issa, in a letter to the president, said Obama was misusing the narrower "presidential communications privilege," which is reserved for documents to and from the president and his most senior advisers.

White House Spokesman Eric Schultz said Tuesday that Issa's analysis "has as much merit as his absurd contention that Operation Fast and Furious was created in order to promote gun control. Our position is consistent with executive branch legal precedent for the past three decades spanning administrations of both parties."

Ironically, the documents at the heart of the current argument are not directly related to the workings of Operation Fast and Furious, which allowed guns to "walk" from Arizona to Mexico in hopes they could be tracked. The department has given Issa 7,600 documents on the operation.

Rather, Issa wants internal communications from February 2011, when the administration denied knowledge of gun-walking, to the end of that year, when officials acknowledged the denial was erroneous. Those documents covered a period after Fast and Furious had been shut down.

In Fast and Furious, agents of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives in Arizona abandoned the agency's usual practice of intercepting all weapons they believed to be illicitly purchased. Instead, the goal of gun-walking was to track such weapons to high-level arms traffickers who long had eluded prosecution and to dismantle their networks.

Gun-walking long has been barred by Justice Department policy, but federal agents in Arizona experimented with it in at least two investigations during the George W. Bush administration before Fast and Furious. These experiments came as the department was under widespread criticism that the old policy of arresting every suspected low-level "straw purchaser" was still allowing tens of thousands of guns to reach Mexico. A straw purchaser is an illicit buyer of guns for others.

The agents in Arizona lost track of several hundred weapons in Operation Fast and Furious. The low point of the operation came in Arizona in 2010, when U.S. Border Patrol Agent Brian Terry was killed in a firefight with a group of armed Mexican bandits and two guns traced to the operation were found at the scene.

Issa, in his letter to the president, wrote, "Courts have consistently held that the assertion of the constitutionally-based executive privilege ... is only applicable ... to documents and communications that implicate the confidentiality of the president's decision-making process."

The letter said that while the privilege covers only the president and his advisers, it is a qualified

privilege that can be overcome by a showing of the committee's need for the documents.

Issa quoted from a 1997 case in the U.S. Court of Appeals for the District of Columbia Circuit in which the court said the privilege should not extend to staff outside the White House in executive branch agencies.

Rather, the court said, it should apply only to "communications authored or solicited and received by those members of an immediate White House adviser's staff" with responsibility for formulating advice for the president.

However, the case Issa repeatedly cited in his letter distinguishes carefully between the "presidential communications privilege" and the "deliberative process privilege," which Obama invoked in the current dispute over Operation Fast and Furious. In the case Issa cited, the court dealt only with the presidential communication privilege but observed that both the communications privilege and the deliberative privilege are executive privileges designed to protect the confidentiality of executive branch decision-making.

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