

Appendix I

Exhibit 1

Exhibit 1



U.S. Department of Justice
Criminal Division

Assistant Attorney General

Washington, D.C. 20530

August 19, 2009

RECEIVED
AUG 19 10 54 AM '09
FBI

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

FROM: Lanny A. Breuer *LAB by MR*
Assistant Attorney General

SUBJECT: Recommendations of the Firearms Trafficking Working Group

PURPOSE: To obtain the approval of the Attorney General to implement the recommendations of the Firearms Trafficking Working Group.

TIMELINE: As soon as practicable.

DISCUSSION:

Introduction

This memorandum presents the recommendations of the Firearms Trafficking Working Group (the "Working Group").

During an April 2009 meeting of the Attorney General, DHS Secretary Napolitano, and Mexican Attorney General Medina Mora in Cuernavaca, Mexico, the Attorney General and the Secretary committed to form a working group in order to study steps the United States could take to curb illegal firearms trafficking from the United States to Mexico -- trafficking that is facilitating much of the violent drug cartel activity in Mexico. The Attorney General tasked the Working Group with exploring and recommending proposals to enhance the U.S. government's response to this firearms trafficking threat. The review focused on four areas: (1) investigation and interdiction; (2) training; (3) prosecution; and (4) intelligence-sharing.

The Working Group's recommendations address all four of these areas. As set forth below, the Working Group recommends the formation of a multi-agency umbrella strategy group to monitor and respond to emerging threats and challenges related to illegal firearms trafficking. Some of the proposals set forth below have already been initiated, and some have already been announced publicly; an "action item" under each proposal sets forth what approvals would be necessary if each recommendation were approved. A review of existing legislation or proposed

HOCR DOJ 006706

Memorandum for the Attorney General
 Subject: Recommendations of the Firearms Trafficking Working Group

Page 2

new legislation was outside the scope of this review and therefore is not included in the range of available recommendations.

The Working Group was led by the Criminal Division with input from several Department of Justice (DOJ) components, including the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), the Federal Bureau of Investigation (FBI), the National Security Division (NSD), the Drug Enforcement Administration (DEA), the Executive Office of U.S. Attorneys (EOUSA), and the Office of Legal Policy (OLP), as well as several Department of Homeland Security (DHS) components, including U.S. Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), and the DHS Office of General Counsel.

Because these proposals impact both DOJ and DHS, and because we have developed these recommendations in coordination with each other, we recommend that any announcement regarding the Working Group's recommendations reflect that these are joint DOJ-DHS proposals.

Discussion and Recommendations

I. Interagency Southwest Border Firearms Trafficking Strategy Group

Issue: A substantial number of firearms recovered in connection with drug cartel-related violence in Mexico were purchased in and trafficked from the United States. Therefore, a coordinated, comprehensive multi-agency strategy is necessary to stem the illegal flow of firearms to Mexico. Emerging threats and vulnerabilities must be monitored and necessary federal resources must be leveraged to disrupt traffickers and dismantle their enterprises. ICE and ATF have established and implemented an Interagency Working Group (IWG) to direct their respective investigative and intelligence resources in a unified manner, both in Mexico and the United States, to more effectively combat gun trafficking and smuggling. In addition, on August 13, 2009, ICE and ATF entered into a letter of intent with the Procurador General de la Republica of Mexico (PGR) to improve intelligence-sharing and cooperation in the investigation of smuggling and trafficking of weapons and ammunition.

Recommendation: The Attorney General and Secretary of Homeland Security should form an interagency Southwest Border (SWB) firearms trafficking strategy group (the "Firearms Trafficking Strategy Group").

- **Mission:** To regularly report to the Attorney General and Secretary on the current USG enforcement strategy and efforts to meaningfully disrupt firearms trafficking to Mexico. It shall also suggest resource enhancements for short term initiatives, as well as improvements to the enforcement strategy.

HOCR DOJ 006707

Memorandum for the Attorney General
 Subject: Recommendations of the Firearms Trafficking Working Group

Page 3

- Leadership: Co-chaired by Assistant Attorney General for the Criminal Division, ATF Director, DHS Assistant Secretary for ICE, and DHS Commissioner of Customs and Border Protection.
- Operation: Through monthly meetings, the Firearms Trafficking Strategy Group would monitor, through subgroups, all USG SWB firearms trafficking efforts. Subgroups would include: (1) investigation and interdiction; (2) training; (3) prosecution; (4) and intelligence-sharing. Subgroups would meet monthly, examine progress made in each area, and identify ways to enhance the USG enforcement strategy and make bi-monthly reports and recommendations to the Firearms Trafficking Strategy Group and ultimately to the Attorney General and Secretary of DHS.
- Participation: Subgroup participants would include CRM, ATF, FBI, EOUSA, USAOs, DEA, ICE, CBP, and potentially State, local, and tribal groups. Other agency participants could include the National Security Division, U.S. Marshals Service (USMS), State Department, and Mexico City U.S. Embassy personnel. ATF and ICE will take leading roles in the work of the Firearms Trafficking Strategy Group and its subgroups.
- Liaison with Mexico: Embassy Attachés from ICE and ATF already work closely on firearms trafficking issues with U.S. embassy personnel in Mexico and with representatives of the Mexican military, federal police, and Attorney General's office. ICE will increase its attaché program in Mexico by 21 additional agents, bringing the total number of ICE attachés to 54 by October 1, 2009. An individual from the Criminal Division should also be designated to participate with ATF and ICE in the liaison activities between the Firearms Trafficking Strategy Group and the U.S. embassy personnel in Mexico for purposes of implementing ongoing recommendations. Representatives from the State Department should also be invited to participate.

Action Item: The AG or DAG, in coordination with his counterpart at DHS, should issue a memorandum establishing the Firearms Trafficking Strategy Group under the leadership of the CRM AAG, ATF, ICE, and CBP.

II. Investigation and Interdiction

Issue: Aggressively investigating suspected illegal firearms trafficking, including straw and prohibited purchasers, and interdicting such firearms, are critical to deterring this criminal activity. Increased resources along the SWB and robust coordination among law enforcement partners are key components of this strategy.

HOCR DOJ 006708

Memorandum for the Attorney General
 Subject: Recommendations of the Firearms Trafficking Working Group

Page 4

Recommendations:

1. To enhance investigations of suspected firearms trafficking to Mexico, DOJ and DHS should increase the federal law enforcement resources of ATF, DEA, ICE, CBP, and FBI along the SWB.

- a. CRM

- Upon request, Criminal Division Gang Unit trial attorneys are prepared to work with SWB USAOs to focus on firearms trafficking prosecutions.

Action Item: CRM AAG, in consultation with the DAG, should approve this resource shift.

- b. ATF

- The ATF will enhance staff at ATF field offices along the SWB and in Mexico. ATF will staff each office with approximately 10 new and redirected agents, industry operations investigators, and support staff. This enhancement will complement the more than 100 agents, investigators, and other personnel that ATF deployed to southern Texas for 120 days to investigate leads associated with recovered firearms and will enhance ATF efforts to combat gangs and violent crime through the Violent Crime Impact Team (VCIT) program and other initiatives. This enhanced staffing will allow ATF to increase the number of Federal Firearms Licensee (FFL) inspections along the SWB and more thoroughly investigate firearms-related border violence.

Action Item: No action required. The 100 additional agents have already been the subject of a public announcement. ATF is in the process of opening new field offices along the border and hiring new personnel using the SWB supplemental appropriation.

- c. DEA

- The DEA will add 16 new agents and two new Mobile Enforcement Teams (MET) to DEA SWB field offices. MET teams respond quickly alongside local police to identify and remove violent drug offenders from the community. These additional resources will enhance DEA's ability to focus on violent crime as well as drug and gun trafficking targets along the SWB.

Action Item: No action required. The new agents and MET Teams have already been the subject of a public announcement.

HOCR DOJ 006709

d. FBI

- The FBI will re-program existing resources along the SWB to increase the number of agents focused on violent crime, gangs and firearms offenses. The FBI is already a contributing member at the El Paso Intelligence Center (EPIC), and it has recently increased its participation there by creating its Southwest Intelligence Group (SWIG). The SWIG will be used to coordinate information and intelligence relating to the SWB and to better disrupt ongoing violent criminal activity. The SWIG head will also serve as an Associate Deputy Director of EPIC.

Action Item: The AG or DAG, in coordination with the FBI Director, should issue a memorandum announcing the re-programming of these resources, which has not yet been made public.

e. ICE

- Simultaneous with the meetings in Cuernavaca, Mexico, ICE added 110 agents to its Border Enforcement Security Task Forces (BEST) located in Mexico and along the SWB. In addition, ICE added 25 intelligence officers in these same areas to support the BESTs. In addition, ICE added over 100 agents along the SWB to focus on violent crimes and aliens and will increase to 54 its number of attachés in Mexico by October 1, 2009.

Action Item: No action required. The new agents and intelligence officers have already been the subject of a public announcement.

f. CBP

- CBP deployed an additional 100 Border Patrol agents to the SWB.

Action Item: No action required. The new agents have already been the subject of a public announcement.

2. Augment existing task force participation and interagency cooperation.

- a. ATF has redirected resources to expand its participation at ICE's SWB Border Enforcement Security Task Forces (BEST) by designating a regular participant at each to improve information flow and ensure deconfliction. BESTs bring together state and local law enforcement officials, as well as various federal law enforcement and intelligence resources, to identify, disrupt, and dismantle criminal organizations in their region of operation.

Action Item: No action required. ATF is working with ICE to establish participation on BESTs.

Memorandum for the Attorney General
 Subject: Recommendations of the Firearms Trafficking Working Group

Page 6

- b. ICE will designate participants to established ATF Gunrunner Task Forces in order to accomplish the same goals as set forth in subparagraph (a), above.

Action Item: No action required. ICE is working with ATF to establish participation on Gunrunner Task Forces.

- c. ICE is establishing a Vetted Arms Trafficking Unit in Mexico City, which will target transnational smuggling and firearms trafficking organizations operating in Mexico. The establishment of this unit requires the thorough background investigation by ICE of individual members, including the administration by ICE of polygraph examinations. The unit will consist of approximately 10 Mexican law enforcement agents and prosecutors, partnered with ICE agents, and it should be operational within three months. ATF will participate in this vetted unit.

Action Item: No action required. ICE is already in the process of standing up the unit, and ATF has agreed to participate. The unit has already been the subject of a public announcement.

- d. CBP will assign a Border Patrol agent to each ATF Gunrunner Task Force along the SWB and to each ICE BEST.

Action Item: No action required. ATF is working with CBP to facilitate its participation on the Gunrunner Task Forces and ICE is working with CBP to facilitate its participation in the BESTs.

- e. DHS and DOJ should establish an information-sharing protocol for grant applicants and approved grantees to ensure that resources are most efficiently flowing to State, local, and tribal law enforcement, and to avoid grant duplication.

Action Item: The AG or DAG, in coordination with his counterpart at DHS, should issue a memorandum directing such coordination.

3. ICE and ATF will continue to engage in high-level talks with Mexican authorities to ensure that firearms seized by Mexican law enforcement and the Mexican military are made available to all U.S. law enforcement agencies. Procedures should be established to ensure that weapons seized by the Government of Mexico, and investigative material related to seizures, are made available for inspection and tracing by ATF and ICE and that the weapons themselves are available as evidence in U.S. courts when applicable. Such discussions will also include the possibility of controlled deliveries of firearms that have been seized during southbound interceptions. The Criminal Division's Office of International Affairs will also be involved in these discussions.

HOCR DOJ 006711

Memorandum for the Attorney General
 Subject: Recommendations of the Firearms Trafficking Working Group

Page 7

Action Item: No action required. ICE and ATF have developed working relationships with the Government of Mexico to coordinate and provide mutual support on the identification of seized firearms and related investigations. More generally, as reflected in the August 13, 2009, letter of intent with the PGR, ICE and ATF are committed to working closely with the Government of Mexico to improve coordination and cooperation in firearms investigations.

III. Training

Issue: In order to address meaningfully the firearms trafficking challenge both domestically and in Mexico, Federal, State, local, and tribal law enforcement, along with Mexican law enforcement, must be properly trained to identify, disrupt, and dismantle firearms trafficking networks.

Recommendations:

1. DOJ and DHS should train foreign prosecutors and law enforcement.
 - a. The Criminal Division's Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) will conduct two working-level training sessions – one on Mexico's Southern border and one on its Northern border, both scheduled for this fall. The Merida initiative will fund both training sessions. The Southern border conference will include law enforcement officers and prosecutors from Mexico and Central America while the Northern border conference will include Mexican and U.S. prosecutors and investigators. Topics will include basic firearms and explosives identification and handling; e-Trace data input; chain of custody issues; investigative interview techniques; basic investigation and prosecution of firearms cases; identifying firearms traffickers and criminal organizations that enable firearms traffickers; and border security. This course, coordinated by OPDAT, will place special emphasis on border enforcement issues, and the agenda will be developed in coordination with ATF, ICE, INL, FBI, EOUSA, CBP, and State and local officials, and the training will be conducted at least in part by representatives from those agencies.

Action Item: No action required. This has not been announced but is in progress.

- b. DOJ (ATF, FBI, DEA, USMS, ICITAP, OPDAT) and DHS (ICE, CBP) are actively engaged in the INL-led Federal Police Force (SSP) training in Mexico. With U.S. and foreign assistance, the SSP is engaged in a robust

HOCR DOJ 006712

Memorandum for the Attorney General
 Subject: Recommendations of the Firearms Trafficking Working Group

Page 8

12-week training program for 1,500 new recruits. The SSP specifically requested U.S. assistance in developing and implementing this training. DOJ and DHS are beginning the first round of training for these recruits, including courses in criminology, investigative techniques, interview techniques, surveillance, police intelligence, and trial testimony.

Action Item: No action required. This has not been announced but is in progress.

- c. With Merida funding, OPDAT will develop and coordinate a series of training programs for Mexican prosecutors and police officers on investigating and prosecuting firearms cases. Mexico is currently working in conjunction with ICE, ATF, and others to develop protocols for seizing, identifying, and storing firearms in criminal cases. The OPDAT training will include topics such as securing firearms crime scenes, identifying and storing firearms, establishing firearms protocols in Mexico and the U.S., and implementing successful prosecution models in Mexico and the U.S. This training is designed to increase the successful prosecution of firearms cases on both sides of the border by increasing the likelihood that firearms evidence seized in Mexico will be admissible in cases in either country.

Action Item: No action required. This has not been announced but is in progress.

- 2. DOJ and DHS should initiate no fewer than two training sessions that focus on training U.S. prosecutors and law enforcement, including State, local, and tribal officials.
 - a. In June 2009, ATF led a firearms prosecution training session for ATF agents and U.S. Attorneys along the SWB in Albuquerque, NM.
 - b. During the week of August 3, 2009, DOJ's Office of Legal Education (OLE), in coordination with EOUSA, ATF, CBP, and ICE, conducted firearms prosecution training for junior and mid-level AUSAs in the federal districts along the SWB, using the OLE's newly published Firearms Manual (4/09) as a guide for the course. This training, which was a hands-on trial advocacy training course for new prosecutors handling firearms cases along the SWB, taught new AUSAs (and representatives of other interested law enforcement agencies) the techniques to successfully identify, investigate, and prosecute firearms traffickers. It also included training on detecting, investigating, and prosecuting outbound smuggling cases; straw purchasers; export violations; aliens in possession of firearms cases; and other border and firearms-related offenses.

HOCR DOJ 006713

Memorandum for the Attorney General
 Subject: Recommendations of the Firearms Trafficking Working Group

Page 9

Action Item: No action required. This event has occurred.

- c. EOUSA and ATF, in consultation with ICE and CBP, will create a briefing and training for tribal law enforcement and the Bureau of Indian Affairs (BIA) on SWB issues. This briefing/training will focus on the nature of the firearms trafficking problem specific to Indian country and the ways tribal and federal law enforcement can impact the southbound flow of firearms in this region. Tribal leaders and law enforcement should be consulted in developing the agenda for this training.

Action Item: The AG or DAG should direct EOUSA to partner with ATF, ICE, and CBP to develop and initiate this training.

- 3. DOJ should conduct joint training for U.S. and foreign prosecutors and law enforcement.
 - a. As indicated above, during the week of August 3, 2009, OLE hosted a training course at the National Advocacy Center (NAC) for U.S. and Mexican federal prosecutors to enhance their ability to successfully prosecute firearms offenses within their respective jurisdictions. The course was sponsored by Project Safe Neighborhoods (PSN) and OLE. This same training should also be brought to SWB districts to maximize participation.

Action Item: No action required. The first NAC training has occurred and it will reoccur throughout the year. The AG or DAG should consider directing that the training be expanded to SWB districts.

IV. Prosecution

Issue: While each USAO has a unique set of law enforcement challenges and each may need to employ different techniques to address firearms trafficking, the Department must establish a coordinated firearms trafficking prosecution strategy. Equally important is the need for U.S. and Mexican law enforcement officials to understand each country's firearms laws and to establish a clear protocol for collecting, analyzing, and disseminating evidence that would be admissible in cases brought in either country.

Recommendations:

- 1. Given the nexus of these districts to the international border where many illegally exported firearms cross into Mexico, the prosecution of firearms trafficking should be a southwest regional priority for the border districts (*SDTX, WDTX, DNM, DAZ, SDCA*). These districts should consider a range of options, including modifying their intake criteria if necessary, in order to ensure aggressive prosecution of individuals

HOCR DOJ 006714

and organizations that illegally traffic in firearms. These districts should continue to support and encourage prosecution efforts related to firearms trafficking.

Action Item: The AG or DAG, in consultation with EOUSA and the AGAC, should issue a memorandum to the five USAOs along the SWB, indicating that prosecuting firearms trafficking should be a southwest regional priority.

2. Based upon the work done in June 2009 at ATF's Firearms Trafficking Summit in Albuquerque, NM, each SWB USAO, in consultation with ATF and other law enforcement partners, should continue to review its existing strategy to target illegal firearms trafficking in its district. In doing so, each district should ensure appropriate USAO support for, and coordination with, the efforts of the BEST and Gunrunner Task Forces. In addition, each district should consider a range of other approaches based on the specific needs and challenges of the district, including whether a new task force is needed to coordinate federal, State, local, and tribal efforts. While each district's approach to this problem may necessarily differ, in order to ensure a coordinated approach to firearms trafficking, each SWB district should appoint a representative (perhaps the existing PSN Coordinator) to the Firearms Trafficking Strategy Group. Each SWB USAO, through the appointed representative, should report to the Firearms Trafficking Strategy Group within 90 days regarding the district's comprehensive, multi-agency plan for combating firearms trafficking. The Firearms Trafficking Strategy Group will ensure effective coordination between Main Justice and the field, among USAOs around the country, and among State, local, tribal, and other federal partners.

Action Item: The AG or DAG should include this directive in the memorandum described above.

3. DOJ and DHS should create a working group of Mexican and U.S. prosecutors, along with representatives of ATF, FBI, DEA, and ICE, for the purpose of developing and implementing a standardized protocol for the collection and maintenance of evidence gathered in Mexico for use in U.S. and Mexican cases. This protocol will help standardize methods used to collect evidence in order to increase the likelihood that evidence gathered in Mexico and the U.S. is admissible at trial in the other country.

Action Item: The AG or DAG should include this directive in the memorandum establishing the Firearms Trafficking Strategy Group and note the work already being done by ATF and ICE to accomplish this task. ICE seeks to announce the creation of this working group, which would be a subgroup of the Firearms Trafficking Strategy Group, in connection with meetings in Mexico during the week of August 24, 2009.

Memorandum for the Attorney General
 Subject: Recommendations of the Firearms Trafficking Working Group

Page 11

4. CBP should erect explicit firearms export warnings along the Mexican-American border, and ATF should revise its Form 4473 to include a clear attestation of the firearms purchaser's knowledge that exporting a firearm without a license is a federal offense. ICE has already created and posted bilingual notifications of rewards programs it has in place for information about smuggling of contraband.

Action Item: The AG or DAG should direct the ATF Director to implement this reform. In addition, a DHS counterpart should direct CBP personnel to erect firearms export warnings.

5. The "Don't Lie for the Other Guy" public relations campaign is being actively implemented along the SWB. This program seeks to reduce illegal firearms trafficking facilitated by straw purchasers. The campaign focuses on educating licensed gun dealers in identifying persons who may be straw purchasers and publicizes that anyone caught illegally purchasing a firearm for another person can face up to 10 years in prison and a \$250,000 fine.

Action Item: The ATF Director will implement a full review of this program and determine where and how it can be expanded, and what additional resources, if any, such expansion would require.

V. Intelligence Sharing

Issue: The free flow of, and access to, information and intelligence is critical to leveraging all available resources to impact illegal firearms trafficking. Information-sharing should continually be encouraged across and within federal agencies, with our partners at the State, local and tribal level, and with our Mexican counterparts.

Recommendations:

1. On June 18, 2009, DEA and ICE entered into a Memorandum of Understanding (MOU) that memorializes both agencies' commitment to information-sharing. ICE will participate fully in the OCDETF Fusion Center (OFC) and the International Organized Crime Intelligence and Operations Center. ICE will provide investigative reports, records, and subject-indexing records from open and closed investigations, including those related to weapons. In addition, ICE will provide access to data related to all seizures of money, drugs, and firearms at EPIC. On June 30, 2009, ICE and ATF signed an MOU that sets forth mutual information-sharing responsibilities.

Action Item: No action required. ICE, DEA, and ATF have signed MOUs detailing the information-sharing agreements.

HOCR DOJ 006716

Memorandum for the Attorney General
Subject: Recommendations of the Firearms Trafficking Working Group

Page 12

- 2. By the end of December 2009, ATF should finalize distribution of a Spanish language version of e-Trace to Mexican authorities, accompanied by training sessions for all relevant Mexican law enforcement entities.

Action Item: No action required. ATF has developed and implemented a timeline to ensure timely delivery of the Spanish e-Trace program.

- 3. DOJ and ATF should integrate Mexican firearms information into the U.S. Integrated Ballistics Identification Systems (IBIS) so that law enforcement agencies from both countries can more effectively investigate cross-border crimes. IBIS is a ballistic imaging system that is the backbone of the United States National Integrated Ballistic Information Network (NIBIN). Law enforcement agencies nationwide use ballistic imaging to establish connections between crime scenes and specific firearms used at these scenes. Currently, Mexico has 7 IBIS systems and the United States has 214 systems, with 19 of these located along the SWB. ATF is in the process of upgrading the NIBIN system to allow increased sharing of ballistics data between our countries.

Action Item: Additional funding is necessary to complete upgrades on the current system in order to implement this recommendation. Asset forfeiture fund money has helped to pay for upgrades along the SWB. ATF will develop and implement a timetable to integrate existing IBIS systems in Mexico with the NIBIN Program. Further, ATF will work with DOJ to identify a funding source for the required system upgrades for the remaining parts of the network in order to fully incorporate IBIS integration.

RECOMMENDATION: The Criminal Division recommends that the above recommendations be adopted.

APPROVE: _____

Concurring Components:
ATF, DEA, FBI, ICE, DHS, EOUSA

DISAPPROVE: _____

Nonconcurring Components:
None

OTHER: _____

HOCR DOJ 006717

Exhibit 2

**DEPARTMENT OF JUSTICE STRATEGY FOR COMBATING THE MEXICAN
CARTELS**

It is a priority of the Department of Justice to stem the growing violence and associated criminal activity perpetrated by the Mexican drug cartels, along the Southwest Border and throughout the nation. In order to maximize the efficacy of its limited resources, which are spread through numerous components of the Department, it is necessary that the Department deploy those resources pursuant to a single, coherent strategic plan.

An essential aspect of the DOJ plan must be ensuring a productive partnership with the government of Mexico, as well as with our state and local law enforcement counterparts. Equally important, we must avoid wasteful overlap and duplication with the activities of our other federal partners, particularly the law enforcement agencies at the Department of Homeland Security.

The following document sets forth the policy considerations that will guide the Department in this process.

The Strategy

The Department will implement its Strategy for Combating the Mexican Cartels under the supervision of the newly-created Southwest Border Strategy Group.

Operationally, the strategy will be executed through the proven mechanism of prosecutor-led, multi-agency task forces, using the Organized Crime Drug Enforcement Task Forces (OCDETF) Program as the primary coordinating platform. The Strategy's key objectives are to:

- Increase the safety and security of U.S. citizens throughout the United States by enforcing violations of federal law along the Southwest Border.
- Reduce the flow of narcotics and other contraband entering the United States.
- Reduce the flow of illegal weapons, ammunition, explosives, and currency exiting the United States and entering Mexico.
- Strengthen Mexico's operational capacities and enhance its law enforcement institutions.
- Increase bilateral cooperation between Mexico and the United States on fugitive capture and extradition activities.
- Increase intelligence and information sharing to achieve focused targeting of the most significant criminal organizations.

- Improve case building through interagency coordination, leveraging the expertise and authority of each investigative and prosecutorial agency.
- Maximize the effectiveness of prosecution by locating, arresting, extraditing, and trying all levels, including most importantly the leadership, of these criminal organizations, and disrupting and dismantling the organizations' domestic transportation and distribution cells.

Division of Responsibilities with DHS

Addressing the Southwest Border threat has two basic elements: policing the actual border to interdict and deter the illegal crossing of undocumented persons or contraband goods, and confronting the large criminal organizations operating simultaneously on both sides of the border.

Given its statutory mission and the resources it can bring to bear at the border, DHS clearly bears primary responsibility for the policing function. DOJ fully supports DHS in that endeavor by sharing relevant intelligence and by prosecuting the most egregious offenders DHS arrests in the course of its policing function. The Department of Justice prosecutes tens of thousands of these reactive law enforcement cases in federal court every year.

However, the root cause of the explosion of violence along the Southwest Border is the conflicts within and among a limited number of sophisticated, transnational criminal organizations. These hierarchical, Mexico-based cartels are responsible for smuggling into the United States most of our nation's illegal drug supply. While the cartels' primary business is drug trafficking, they also sponsor a panoply of other crimes that support their illegal operations. These other crimes include extortion, torture, murder, corruption of public officials, sheltering of wanted fugitives, kidnapping and human smuggling, laundering of illicit criminal proceeds through the existing financial system and through bulk cash smuggling, and the illegal acquisition, trafficking, and use of firearms and explosives.

It is in taking down these organized, multi-faceted criminal enterprises that DOJ plays the primary role and brings to bear its special expertise. DOJ's success in this endeavor assists, in turn, DHS in the performance of its policing and enforcement function, by disrupting the operations of the cartels, thereby decreasing the pressure on the border. For its part, DHS, and in particular ICE, provides invaluable assistance to the attack on these criminal organizations, by bringing to bear its unique expertise on cross-border transit of contraband.

Border policing and interdiction, and the resulting prosecutions, are key elements of the U.S. government's overall border security strategy. However, the investigation, apprehension, extradition, and prosecution of key cartel leaders and their associates, and the deprivation through forfeiture of their ill-gotten gains, is the most effective means by

which we can move past merely addressing the symptoms of our problems along the Southwest Border and attack, instead, the underlying causes.

Deployment of Resources

The Department's view – based on its decades of experience in investigating, prosecuting, and dismantling organized criminal groups, such as the Mafia, international terrorist groups, and domestic and transnational gangs – is that the best way to fight large scale criminal organizations is through intelligence-based, prosecutor-led, multi-agency task forces that blend the strengths, resources, and expertise of the complete spectrum of federal, state, local, and international investigative and prosecutorial agencies. Through their participation in such task forces, the Department's prosecutors, together with its component law enforcement agencies – DEA, ATF, FBI, and USMS – give the Department the capacity to carry out the full range of activities necessary to succeed against these organizations.

The Department has embraced a model to achieve these comprehensive goals that is proactive, in which we develop priority targets through the extensive use of intelligence. This intelligence is obtained from law enforcement sources, as well as through the careful and disciplined use of classified information from intelligence community agencies to provide unclassified leads. Sharing information, we build cases, coordinating long-term, extensive investigations to identify all the tentacles of a particular organization. Through sustained coordination of these operations, we are able to execute a coordinated enforcement action, arresting as many high-level members of the organization as possible, disrupting and dismantling the domestic transportation and distribution cells of the organization, and seizing as many of the organization's assets as possible, whether those assets be in the form of bank accounts, real property, cash, drugs, or weapons. Finally, we prosecute the leaders of the cartels and their principal facilitators, locating, arresting, and extraditing them from abroad as necessary. In this effort, we coordinate closely with our Mexican counterparts to achieve the goal: destruction or weakening of the drug cartels to the point that they no longer pose a viable threat to U.S. interests and can be dealt with by Mexican law enforcement in conjunction with a strengthened judicial system and an improved legal framework for fighting organized crime.

The principal platform for the support and oversight of these prosecutor-led, multi-agency task forces is the OCDETF Program. In most places, along the border and throughout the country, OCDETF provides an effective mechanism for law enforcement agencies from within DOJ, from elsewhere in the federal government (including DHS and Treasury), and state and local law enforcement, to combine with federal prosecutors to form a "virtual task force" for the purpose of investigating and prosecuting a particular high-value drug trafficking organization. In certain key locales, OCDETF has established actual, brick-and-mortar Co-Located Strike Forces, for the pursuit of the highest level traffickers of drugs, guns, and money. For instance, the San Diego Major Mexican Traffickers Task Force has been responsible for coordinating the U.S. government's successful efforts against the Arellano-Felix Organization. The Houston

OCDETF Strike Force has directed our most damaging blows against the Gulf Cartel. And in the first several months of its existence, the Arizona OCDETF Strike Force has been responsible for the indictment of a leader and other members of a major Mexican cartel and the seizure of over \$43 million in cartel assets.

The Department will use the OCDETF Strike Force concept to target all the organized crime activities of the drug cartels – not just those crimes directly related to the drug trade. By further leveraging and coordinating the investigative expertise and jurisdiction of law enforcement agencies outside the drug enforcement area, the Department will task the Strike Forces to disrupt and dismantle every area of the cartels' infrastructure and undermine their ability to operate successfully in any illegal activity.

On a local level, each Strike Force co-locates law enforcement resources that are supplemented by one or more on-site Assistant United States Attorneys. Retaining the current Strike Force structure, specifically the co-location and intensive and early prosecutorial involvement, ensures that the Department capitalizes upon the proven synergy of these Strike Forces to maximize the effectiveness of long-term investigations of these organizations.

In those locations where they currently exist, DOJ will make the OCDETF Co-Located Strike Forces the focal point for interagency efforts against the Mexican criminal organizations.¹ Elsewhere along the border, and throughout the nation, DOJ will seek to replicate, to the extent possible, the OCDETF Strike Force model, in particular the characteristics of interagency cooperation, information sharing, and strategic, intelligence-based targeting that have been embodied in these Strike Forces. Depending on local conditions, existing institutions, such as HIDTA task forces, Southwest Border Initiative Groups, VICIT teams, or Safe Streets Task forces may serve as the appropriate focal point for this interagency cooperation in locations that do not have OCDETF Strike Forces.

The OCDETF Strike Force is a proven law enforcement strategy with a proven history of success in combating the major drug trafficking organizations. The synergy created by co-locating the diverse expertise of federal, state, and local law enforcement agencies with prosecutors from the U.S. Attorney's Office, has had demonstrable success against major criminal organizations operating throughout the country.

Supplementing the regional operations of the Strike Forces with a comprehensive national policy and coordination body run out of the Office of the Deputy Attorney General, will give the Department a unified and comprehensive vehicle through which the United States government can disrupt the influence of the cartels. This unified and coordinated approach to law enforcement is not only the best way to use the formidable resources of the United States government, but also the most effective way to decrease the influence of these violent criminal enterprises while enhancing the public safety.

¹ OCDETF Co-Located Strike Forces are currently located in San Diego, Phoenix, El Paso, Houston (with satellites in Laredo and McAllen), Tampa, San Juan, Atlanta, New York, and Boston.

While the prosecutor-led, intelligence-driven, multi-agency task force model is a key component of the Department's Southwest Border Strategy, it will not be the only component. We must also recognize and support the important daily work performed by our investigators and prosecutors in stopping and seizing the flow of massive amounts of narcotics, firearms, and bulk cash from flowing across the border in both directions. These more reactive narcotics cases are important to the overall cartel strategy, because in the process we are seizing millions of pounds of drugs, thousands of firearms, and millions of dollars in bulk cash as they enter and exit the country. In addition, these commodity-focused cases yield significant intelligence that is then fed into the Special Operations Division (SOD), the OCDETF Fusion Center (OFC), and the El Paso Intelligence Center (EPIC) for use in supporting more proactive, intelligence-driven investigations that are designed to attack all of the cartels' diverse lines of illegal business. Therefore, the Department's Strategy for Combating the Mexican Cartels must include an assessment of the resource needs of all our components, and a plan for how they intend to achieve the stated goals of the Strategy in light of the specific cartel activity impacting their jurisdictions.

Intelligence

Law enforcement agencies must have the ability to access, link, and interpret voluminous intelligence information from as wide a community as possible. We use this shared information to identify and target the most significant organizations, so that we can achieve the greatest impact with our finite resources. We also use shared information to develop coordinated, multi-jurisdictional investigations of those high-impact targets, making sure that investigations are mutually reinforcing, without duplicating or jeopardizing other investigations targeting overlapping organizations.

Several multi-agency endeavors are particularly important to the provision of tactical intelligence and operational support in targeting the largest and most dangerous Mexican cartels.

The Attorney General's Consolidated Priority Organization Target (CPOT) List

The CPOT list of international "Most Wanted" drug kingpins will be used to help focus our critical resources on the greatest threats from the Mexican cartels. Of the 59 worldwide cartels currently on the list, 25 of them are Mexico-based.

The El Paso Intelligence Center (EPIC)

EPIC is a DEA-led multi-agency organization that provides case-specific tactical intelligence, focusing specifically on the Southwest Border. The ATF Firearms Intelligence Analysis Team is a specialized component of EPIC that serves as a central point of analysis and repository for all Southwest Border firearms-related intelligence. FBI recently created the Southwest Intelligence Group (SWIG), a clearinghouse of all FBI activities involving Mexico, and it is in the process of moving that clearinghouse to

EPIC. EPIC houses the National Seizure System, which collects and maintains data on seizures of drugs, guns, and money by law enforcement agencies throughout the nation.

The Special Operations Division (SOD)

SOD is a DEA-led multi-agency coordination center that targets the communication devices the criminal organizations' leaders use to communicate with each other. SOD actively supports multi-jurisdictional, multi-national, and multi-agency electronic surveillance investigations, coordinating overlapping investigations and ensuring that tactical and operational intelligence is shared between law enforcement agencies.

The OCDETF Fusion Center (OFC)

The OFC is a comprehensive, multi-agency data center containing drug and related financial data from DEA, ATF, FBI, ICE, CBP, IRS, USMS, EPIC, USMS, the U.S. Coast Guard, the Financial Crimes Enforcement Network, the State Department's Bureau of Consular Affairs, and other key agencies. It conducts cross-agency and cross-jurisdictional integration and analyses to create comprehensive pictures of targeted organizations and to pass usable leads through SOD to participants in the field.

Current Areas of Focus

Pursuant to the principles articulated above, DOJ is pursuing initiatives in the following areas:

1. Ramping up Establishment and Use of Vetted Units in Mexico

An important aspect of case building in Mexico involves U.S. cooperation with specially vetted Mexican law enforcement units. DOJ law enforcement agents work in an advisory capacity to develop elite vetted units of Mexican federal police officers, training them to conduct law enforcement operations that lead to the discovery and seizure of drugs, guns, explosives, money, and documentary evidence to support bilateral investigations and prosecutions. The Mexican units also arrest active members of the cartels, who may eventually become either cooperating witnesses, defendants, or both. These units are essential to our operations. In order to properly leverage and support these crucial operations, the Department must expand their number, to include more drug trafficking units, a firearms trafficking unit, a money-laundering/financial unit, and a fugitive apprehension unit.

2. Continued Focus on Attacking Cartel Finances

A particular point of emphasis in recent years has been the dismantlement of the financial infrastructure of the drug trafficking organizations. These efforts have been hampered by the fact that financial cases are complex and time-consuming, and the pool of experienced financial investigators is finite. Since the curtailment of IRS involvement

in drug investigations in 2005, ATF, DEA, FBI, and USMS have hired additional financial investigators and forfeiture specialists. OCDETF has established the Financial Investigative Contractor (FIC) Program to bring additional experienced financial investigators to bear on the largest cartels, and has buttressed the analytical and document exploitation capabilities of its Co-Located Strike Forces in San Diego, Phoenix, El Paso, Houston, and Atlanta. DEA has implemented Financial Investigation Teams (FITs) in its field divisions to target the financial assets of drug traffickers. Analysts and attorneys in the U.S. Attorney's Offices and in the Department's Asset Forfeiture and Money Laundering Section have also stepped up their efforts to assist. In addition, Southwest Region federal agencies are working with state and local law enforcement agencies on an OCDETF bulk currency initiative that targets the highest level drug cartels and their transportation routes in the Southwest. These efforts must be supported and expanded.

3. Attacking the Southbound Flow of Firearms

Addressing the flow of weapons into Mexico from the United States is also a primary focus of our efforts. ATF's intelligence has shown that the prevalence of firearms and explosives trafficking into Mexico has a direct nexus to the cartels' national domestic drug distribution network. Thus, given the national scope of this issue, merely seizing firearms through interdiction will not stop firearms trafficking to Mexico. We must identify, investigate, and eliminate the sources of illegally trafficked firearms and the networks that transport them. Since 2006, Project Gumbur has been ATF's comprehensive strategy to combat firearms-related violence perpetrated by the drug cartels along the Southwest Border. Increasingly close collaboration between ATF and the efforts of the multi-agency drug task forces along the border, including, most particularly, the OCDETF co-located Strike Forces, ensures that scarce ATF resources are directed at the most important targets.

4. Increased Focus on Locating and Apprehending Fugitives



Department maintain its commitment to support and expand these international fugitive apprehension efforts.

5. Expanded Use of the Extradition Process

[REDACTED]

6. Continued Pursuit of Corrupt Public Officials Who Facilitate the Drug Trade

[REDACTED]

7. Merida

[REDACTED]



Exhibit 3

From: Newell, William D.
Sent: Tuesday, October 27, 2009 9:00 AM
To: Gillett, George T. Jr.; Cook, Nancy F.; Needles, James R.
Subject: FW: Southwest Border Strategy Group Meeting
Attachments: cartel.strategy2.wpd

Importance: High

Please read and we will discuss. I have a conference call with HQ on this.

Bill Newell
 Bureau of ATF
 Special Agent in Charge
 Phoenix Field Division
 Office - (602) [REDACTED]

From: Rowley, Raymond G.
Sent: Tuesday, October 27, 2009 8:22 AM
To: Torres, John A.; Webb, J. Dewey; Newell, William D.; Golson Sr., Michael A.; Champion, Robert R.
Subject: FW: Southwest Border Strategy Group Meeting
Importance: High

FYI. Not sure anyone forwarded this document to you. It is the Department's new strategy for combating Mexican drug cartels. A component of the strategy is the reduction of the flow of firearms from the U.S. to Mexico. You may want to take a look prior to our conference call. It is my belief that our enforcement strategies should be aligned with this DOJ strategy.

Thanks,

Ray

From: Kaplan, P. Sam
Sent: Monday, October 26, 2009 1:50 PM
To: Chait, Mark R.; McMahon, William G.; Kumor, Daniel J.; Stucko, Audrey M.; McDermond, James E.; O'Keefe, Kevin C.; Rowley, Raymond G.; Ford, Larry W.; Goddard, Valerie J.
Cc: Michalic, Vivian B.; Hoover, William J.
Subject: FW: Southwest Border Strategy Group Meeting

As discussed at staff. Please find attached the proposed DOJ Cartel Strategy, which will be run by the DAG's Southwest Border Strategy Group. Please let me know if you have any comments or questions.

From: Brinkley, Winnie [REDACTED] **On Behalf Of** Ogden, David W. (ODAG)
Sent: Friday, October 23, 2009 6:03 PM
To: Ruemmler, Kathryn (ODAG); Delery, Stuart F. (ODAG); Siskel, Edward N. (ODAG); Osuna, Juan (CIV); Torrez, Raul; Breuer, Lanny A. (CRM); Raman, Mythili (CRM); Melson, Kenneth E.; Kaplan, P. Sam; Hoover, William J.; Leonhart, Michele M. (DEA-US); Mueller, Robert S. III (FBI); Harrington, T. J. (FBI); Perkins, Kevin L. (FBI); Carlin, John (FBI); Clark, John (USMS) DIR; Fahey, Sean (USMS); Lappin, Harley G. (BOP); Dalius, William (BOP); Dodrill, D. Scott (BOP); Jarrett, Marshall (USAEO); Derden, Terry (USAEO); Nash, Stuart (ODAG); Burke, Dennis (USAAZ); Hewitt, Karen (USACAS); Fouratt, Greg (USANM); Johnson, Tim (USATXS) 7; Murphy, John E. (USATXW); Jones, Todd (USMS)

Cc: Blanco, Kenneth (CRM); Weinstein, Jason (CRM); Swartz, Bruce (CRM)
Subject: RE: Southwest Border Strategy Group Meeting

On behalf of DAG Ogden,

Earlier today you received notice from Ed Siskel of the inaugural meeting of the Southwest Border Strategy Group next Monday. One of the items that will be on the agenda for that meeting is discussion, and, if possible, adoption, of the Department's Strategy for Combating the Mexican Cartels. I am attaching hereto a draft copy of the strategy. It reflects a great deal of discussion with, and contributions from, many of your components over the past several months. The DAG asks that you come prepared with any specific suggestions or recommendations you may have related to this document.

And here is the document to attach:

<<cartel.strategy2.wpd>>

Winnie Brinkley

From: Brinkley, Winnie **On Behalf Of** Ogden, David W. (ODAG)

Sent: Thursday, October 22, 2009 6:32 PM

To: Ruemmler, Kathryn (ODAG); Delery, Stuart F. (ODAG); Siskel, Edward N. (ODAG); Osuna, Juan (CIV); Torrez, Raul; Breuer, Lanny A. (CRM); Raman, Mythili (CRM); Melson, Kenneth E. (ATF); Kaplan, P. Sam (ATF); Hoover, William J. (ATF); Leonhart, Michele M. (DEA-US); Mueller, Robert S. III (FBI); Harrington, T. J. (FBI); Perkins, Kevin L. (FBI); Carlin, John (FBI); Clark, John (USMS) DIR; Fahey, Sean (USMS); Lappin, Harley G. (BOP); Dalius, William (BOP); Dodrill, D. Scott (BOP); Jarrett, Marshall (USAEO); Derden, Terry (USAEO); Nash, Stuart (ODAG); Burke, Dennis (USAAZ); Hewitt, Karen (USACAS); Fouratt, Greg (USANM); Johnson, Tim (USATXS) 7; Murphy, John E. (USATXW); Jones, Todd (USMS)

Cc: Blanco, Kenneth (CRM); Weinstein, Jason (CRM); Swartz, Bruce (CRM)

Subject: Southwest Border Strategy Group Meeting

When: Monday, October 26, 2009 11:30 AM-12:30 PM (GMT-05:00) Eastern Time (US & Canada).

Where: Main RFK Bldg., Room [REDACTED]

Call in telephone #: (202) [REDACTED] and Pass Code #: [REDACTED]

Briefing materials in binder -- Tab #3.

Attendees: Kathryn Ruemmler, Stuart Delery, Ed Siskel, Juan Osuna, Raul Torrez, AAG Lanny Breuer/CRM, Mythili Raman/CRM

- Ken Melson, Director, ATF, Sam Kaplan, William Hoover
- Michelle Leonhart, Administrator, DEA
- Robert Mueller, Director, FBI, T.J. Harrington, Kevin Perkins, John Carlin
- John Clark, Director, USMS, Sean Fahey
- Harley Lappin, Director, BOP, William Dalius, Scott Dodrill attending on behalf of Mr. Lappin
- Marshall Jarrett, Director, EOUSA, Terry Derden
- Stuart Nash, Director, OCDETF
- Dennis Burke, U.S. Attorney, District of Arizona by telephone
- Karen Hewitt, U.S. Attorney, Southern District of California
- Greg Fouratt, U.S. Attorney, District of New Mexico
- Tim Johnson, U.S. Attorney, Southern District of Texas by telephone
- John Murphy, U.S. Attorney, Western District of Texas
- Todd Jones, Chair, Attorney General's Advisory Committee ("AGAC")

Exhibit 4

Exhibit 4

GEORGE THOMAS GILLETT

05/17/2011

1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

U.S. HOUSE OF REPRESENTATIVES

HOUSE COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM

IN THE MATTER OF:)
)
ATF'S PROJECT GUNRUNNER AND)
OPERATION FAST AND FURIOUS.)
_____)

INTERVIEW OF GEORGE THOMAS GILLETT

Phoenix, Arizona
May 17, 2011

ARIZONA REPORTING SERVICE, INC.

Cou _____ ing
P _____ 1

Prepared for: By: _____ ter
Certificate No. 50658

ARIZONA REPORTING SERVICE, INC. (602) _____
www. _____ Phoenix, AZ

1 INDEX TO EXAMINATIONS

2 WITNESS PAGE

3 GEORGE GILLETT

4 Examination by Mr. Castor 10

5 Examination by Mr. Sherman 55

6 Examination by Mr. Lindsay 70

7 Further Examination by Mr. Sherman 90

8 Further Examination by Mr. Lindsay 92

9 Examination by Mr. Foster 96

10 Further Examination by Mr. Castor 132

11 Examination by Mr. Kerner 140

12 Further Examination by Mr. Lindsay 141

13 Further Examination by Mr. Sherman 153

14 Further Examination by Mr. Castor 178

15 Further Examination by Mr. Foster 194

16 Further Examination by Mr. Castor 196

17 Further Examination by Mr. Foster 202

18 Further Examination by Mr. Lindsay 209

19

20

21

22

23

24

25

ARIZONA REPORTING SERVICE, INC.
 www. [REDACTED]

(602) [REDACTED]
 Phoenix, AZ

GEORGE THOMAS GILLETT

05/17/2011

12

1 this document attached outlined a conference call that
2 the DAG's office requested with all the agency heads,
3 Mr. Mueller from the FBI, Ms. Leonard from DEA,
4 Mr. Melson from ATF, and it scheduled a conference call
5 to discuss the specifics.

6 Q. And was that part of the overall Project
7 Gunrunner?

8 A. ATF's Project Gunrunner was directly affected by
9 that proposed strategy, yes, sir.

10 Q. Do you know if the U.S. Attorney's Office,
11 District of Arizona, was involved in that communication?

12 A. Yes, sir. Also requested to be included in that
13 conference call was Mr. Burke, B-u-r-k-e, who was the
14 U.S. Attorney for the District of Arizona.

15 Q. Was it your understanding that at that time DOJ
16 was looking to ATF to focus on cartels and more of an
17 organized crime level rather than straw purchasers?

18 A. Yes, sir. The content of that plan specifically
19 addressed wanting ATF not to focus on straw purchasers,
20 but to focus on cartels and larger complex conspiracy
21 type investigations.

22 Q. How did that initiative trickle down to the
23 agents in the Phoenix field office?

24 A. Well, to kind of paint the picture, there was
25 the IG reports that addressed the ineffective nature of

ARIZONA REPORTING SERVICE, INC.

(602) [REDACTED]

www. [REDACTED]

Phoenix, AZ

GEORGE THOMAS GILLETT

05/17/2011

13

1 straw purchasers. The drug enforcement for the office
2 here in Phoenix was looking to stand up an organized
3 crime drug enforcement task force strike force, OCDEF.
4 And the special agent in charge of the DEA office was
5 asking for ATF's participation in this joint
6 multi-agency strike force.

7 ATF here was not able to get any straw purchase
8 prosecutions at the time because of an interpretation of
9 the law by the U.S. Attorney's Office here in the
10 District of Arizona. So this strategy in October 2009
11 handed down by the DAG's office, actually from the
12 Phoenix perspective, was well timed and provided us with
13 direction on how to proceed in these types of firearms
14 trafficking investigations.

15 Q. And how long were you in Phoenix at this time as
16 of October '09 as the ASAC?

17 A. I arrived in early June of '08, so that would
18 have been approximately 16 months.

19 Q. And was it your experience that the prosecution
20 of straw purchasers was a challenge?

21 A. In the best terms. And the U.S. Attorney's
22 Office had issue with, in their opinion, in prosecuting
23 straw purchasers. It was the U.S. Attorney's Office's
24 position that they needed the guns for prosecutions in
25 the courtroom. And because the guns, a majority of the

ARIZONA REPORTING SERVICE, INC.

www. [REDACTED]

(602) [REDACTED]

Phoenix, AZ

GEORGE THOMAS GILLETT

05/17/2011

14

1 time, had been recovered in Mexico, the U.S. Attorney's
2 Office felt they couldn't prosecute the straw
3 purchasers, and referred to it as a corpus issue with
4 regard to the statute, the federal statute. So there
5 were virtually no straw purchase prosecutions.

6 Q. Was there any organized communication between
7 the U.S. Attorney's Office and ATF's Phoenix field
8 office about this problem or question?

9 A. Yes, sir, there was. In fact, there was a
10 number of meetings held between ASAC Needles
11 N-e-e-d-l-e-s, ATF's counsel in Phoenix, Tom Karmgard,
12 K-a-r-m-g-a-r-d, and the leadership at the
13 U.S. Attorney's Office here in Phoenix.

14 Q. Was Mr. Newell involved in those conversations?

15 A. I believe he was, yes, sir.

16 Q. But you were not?

17 A. I don't recall being involved in those meetings
18 specifically at the time. Until October 1st, the only
19 enforcement group that I oversaw in Phoenix was the
20 intelligence group, which was not involved in
21 prosecutions. So I covered the enforcement groups in
22 the southern half of Arizona, in Tucson, as well as the
23 southern half of New Mexico.

24 Q. I see. Until you learned about this meeting
25 from Mr. Needles or from Mr. Newell?

ARIZONA REPORTING SERVICE, INC.

www. [REDACTED]

(602) [REDACTED]

Phoenix, AZ

GEORGE THOMAS GILLETT

05/17/2011

15

1 A. We would have meetings, we being Mr. Needles,
2 Mr. Newell and I, regularly regard to this issue, as
3 well as Mr. Karmgard, and we disagreed with the position
4 of the U.S. Attorney's Office. But it was something
5 that Mr. Newell and Mr. Burke were working out, as well
6 as Mr. Needles and Mr. Karmgard.

7 Q. And on Mr. Burke's side, who else was involved
8 in those discussions, to your knowledge? Was Emory
9 Hurley, for example? We understand he is the AUSA that
10 has responsibility for firearms.

11 A. I believe Mr. Hurley was involved, yes. I am
12 not sure Mr. Cunningham was involved at that point. I
13 really don't recall who from their office was
14 specifically involved.

15 Q. Do you know if this dialogue with the
16 U.S. Attorney's Office led to a different approach in
17 the ATF Phoenix field office?

18 A. Yes, sir, it did. ATF was making some efforts
19 to have ATF special agents travel into Mexico or ATF
20 assistant attachés in Mexico to travel to scenes, crime
21 scenes where firearms were recovered, examine the
22 firearms, and place themselves in a position to travel
23 to Arizona to testify in the straw purchase cases.

24 That was difficult at best coordinating with the
25 government of Mexico. The system, the judicial system

ARIZONA REPORTING SERVICE, INC.

(602) [REDACTED]

www. [REDACTED]

Phoenix, AZ

GEORGE THOMAS GILLETT

05/17/2011

16

1 in Mexico is different than the United States. The
2 military is involved in seizing firearms. And the
3 firearms are almost immediately removed to military
4 bases. So actually getting to scenes and examining
5 firearms, or getting onto military installations in
6 Mexico was very, very tedious, and a delicate situation.

7 Q. So the strategy for the ATF agents here in
8 Phoenix then changed at some point after those
9 discussions with the U.S. Attorney's Office?

10 A. Yes, sir. And with all these issues coming to a
11 head, the reports and the strategy from Justice, ATF --

12 Q. And the corpus issue?

13 A. -- the corpus issue, the lack of prosecutions,
14 the straw purchasers, the focus here in Phoenix as well
15 as across the country as far as I am concerned became to
16 look at these cartels as a conspiracy, and trying to go
17 after the shot callers, if you will, within the cartel,
18 the upper echelon, instead of going after the straw
19 purchasers.

20 Q. As I understand it, in the latter half of '09,
21 some of the special agents in your office, such as Hope
22 MacAllister, began collecting information from some of
23 the area FFLs about suspected large bulk purchases from
24 suspicious persons.

25 A. Yes, sir. On October 1st of 2009, ATF

ARIZONA REPORTING SERVICE, INC.

(602)

www. [REDACTED]

[REDACTED]
Phoenix, AZ

GEORGE THOMAS GILLETT

05/17/2011

35

1 So the other thing that I guess I will say with
2 regard to October is I transitioned the oversight as the
3 ASAC of this investigation to ASAC Needles in mid April.
4 So as far as the developments between then and October,
5 I believe I was just forwarded this briefing paper,
6 because Mr. Needles was unavailable at that time.

7 Q. So you don't know whether there was a change in
8 strategy to not necessarily slow down the firearms, like
9 the strategy appeared to be in January?

10 A. In October I am not sure if there was, but I am
11 not aware that the strategy ever changed significantly
12 at any point during the investigation.

13 Q. Do you know if the attempt to slow the purchases
14 of guns worked?

15 A. I believe it worked, yes, sir.

16 Q. So the strategies that were put in place in
17 January or at least referenced in the OCDETF paper, you
18 think they were successful?

19 A. Yes, sir, because [REDACTED], the owner of [REDACTED],
20 would tell these straw purchasers when the straw
21 purchasers would call the store that his shipment wasn't
22 coming in for days ahead of time, when in fact he would
23 have them in his store. So he would keep the straw
24 purchasers on the hook and say it will just be a couple
25 more days, I expect them tomorrow. That next day would

ARIZONA REPORTING SERVICE, INC.
www.[REDACTED]

(602) [REDACTED]
Phoenix, AZ

GEORGE THOMAS GILLETT

05/17/2011

41

1 A. Okay. But if he called up in the end of
2 April he didn't speak to me, because I was off from
3 April 16th. So after April 16th -- from April 16th
4 until June 2nd I was out of the office. And after that
5 I no longer had oversight of the investigation. So if
6 Mr. Gil stated that he called the end of April and spoke
7 to me and expressed concerns, that would be inaccurate,
8 because I wasn't in the office.

9 Q. Fair enough. I was representing to you it is my
10 recollection he said it was March or April.

11 A. Okay.

12 Q. So... But do you remember generally any other
13 issues being raised by the ATF folks in Mexico?

14 A. I don't. Like I said, the Mexico folks
15 generally weren't coming to talk to me. They were
16 talking to Mr. Newell.

17 Q. Okay. If you flip over to tab 20.

18 A. Yes, sir, I have it in front of me.

19 Q. It is an e-mail between Dave Voth and Brian
20 Kenrick, who was an ATF lawyer in Rockford, Illinois.

21 A. Right, yes, sir.

22 Q. As I understand the process for going up on a
23 wire, correct me if I am wrong, but ATF is going to go
24 up on a wire, a case agent would work with the
25 U.S. Attorney to put together the application?

ARIZONA REPORTING SERVICE, INC.

(602) [REDACTED]

www. [REDACTED]

Phoenix, AZ

Exhibit 5

ATF Division Counsel Notes Relating to "Corpus Delicti" Issue in Straw Purchaser Case

In furtherance of ATF's primary investigative authority and the Southwest Border Initiative, ATF agents spend a very significant number of hours – and often place themselves in dangerous circumstances – investigating alleged straw transactions as part of firearms trafficking cases. In recent years, few of these investigations have resulted in Federal prosecutions in the District of Arizona. It is our desire to work with your office to adjust the scope of our investigations and/or our investigative procedures to provide straw purchaser cases that fall within the prosecution guidelines of your office. I am told that one common reason for declinations of straw purchaser cases has been the failure to recover the firearms which results in a lack of *corpus delicti*. None of the agents with whom I discussed this issue was able to produce a copy of the U.S. Attorney's *corpus delicti* policy or written explanation of this issue. I have, therefore, undertaken herein to informally review with you the issue of *corpus delicti* with a focus on straw purchaser and other firearm cases.

The term "*corpus delicti*" means "body of the crime" and has come to be associated with the judicial requirement that there be independent corroboration of any confession or admission. Historically, this was done to prevent convictions based on false confessions where there was in fact no crime committed or the defendant was not the perpetrator of the crime. Warszower v. United States, 312 U.S. 342, 345 (1941). Recently, with respect to ATF investigations in the District of Arizona, the "*corpus delicti*" issue has often arisen with respect to the recommended prosecution of straw purchasers where the purchased firearms have not been recovered or cannot be obtained from Mexican authorities who recovered the firearms south of the border – often in the possession of drug cartels or at the scene of violent crimes involving drug cartels.

Corpus Delicti Decisions

In 1954, the U.S. Supreme Court held that a defendant's confession must be supported by corroborating evidence in order to serve as the basis for a conviction – specifically, the prosecution must introduce independent evidence "tending to establish the trustworthiness of [a] statement" before the confession may be used as evidence of an element of the offense. Opper v. United States, 348 U.S. 84, 93 (1954). The Opper decision also established the amount of evidence necessary to corroborate the confession, i.e., "it is sufficient if the corroboration supports the essential facts admitted sufficiently to justify a jury inference of the truth."

The leading Ninth Circuit case on the *corpus delicti* issue is United States v. Lopez-Alvarez, 970 F.2d 583 (9th Cir. 1992). In that case, the Ninth Circuit articulated a two-part test to determine whether a confession has been sufficiently corroborated:

- Government must introduce sufficient evidence to establish that the criminal conduct at the core of the offense has occurred; and

- Government must introduce independent evidence tending to establish the trustworthiness of the admissions – unless the confession is, by virtue of special circumstances, inherently reliable.

The Court went on to say that the Government “no longer need introduce independent, tangible evidence supporting every element of the *corpus delicti*. Instead, the [Government] is required to support independently only the gravamen of the offense – the existence of the injury that forms the core of the offense and a link to a criminal actor – with tangible evidence.” *Id* at 591.

The Lopez-Alvarez case has been cited in numerous Ninth Circuit decisions as the seminal case relating to the *corpus delicti* issue. *See*, for example:

- Published decisions: United States v. Delgado, 545 F.3d 1195 (9th Cir. 2008); United States v. Norris, 428 F.3d 907 (9th Cir. 2005); and
- Unpublished opinions: United States v. Hernandez-Miranda, 202 Fed. Appx. 962, 2006 U.S. App. LEXIS 26466 (9th Cir. 2006); United States v. Armstrong, 166 Fed. Appx 949, 2006 U.S. App. LEXIS 3714 (9th Cir. Ariz. 2006); United States v. Southwell, 2005 U.S. App. LEXIS 29037 (9th Cir. Wash. Dec. 30, 2005) (Finding that the amount of evidence that must corroborate a confession is very low.)

In United States v. Lee, 315 F.Supp.2d 1038 (D. Ariz. 2003), the only published Arizona District Court opinion relating to the *corpus delicti* issue, the District Court – citing the Opper and Lopez-Alvarez decisions - held that circumstantial evidence of corroboration is sufficient if the corroboration supports the essential facts admitted to justify a jury inference of their truth.

Straw Purchasers

A straw purchaser may be prosecuted for making a false statement on the Form 4473 under either 18 U.S.C. § 922(a)(6) or 18 U.S.C. § 924(a)(1)(A). A transaction involving the purchase of a firearm by a straw purchaser on behalf of a prohibited or otherwise ineligible person may be prosecuted under § 922(a)(6) or § 924(a)(1)(A). If the actual purchaser is NOT prohibited or ineligible, the case should be charged under § 924(a)(1)(A). The reason is that § 922(a)(6) requires that the false statement must be material to the lawfulness of the sale of the firearm. *See United States v. Polk*, 118 F.3d 286 (5th Cir. 1997).

Many straw purchasers will confess to the offense when questioned by ATF agents. Sometimes the purchased firearms are recovered and will be available for trial, but more commonly the firearms are never recovered or are in the hands of Mexican authorities who decline to release the subject firearms. In order to prosecute the straw purchasers, under Lopez-Alvarez, ATF will need to provide corroboration to support the confession, i.e., the injury that forms the core of the offense and a link to a criminal actor.

So, under Lopez-Alvarez, what evidence will ATF need to provide to meet the corroboration requirement? It appears to me that the “core” injury and the link to the defendant would necessitate evidence of the following:

- The defendant made a written statement on the Form 4473 that he/she was the actual purchaser of the firearm(s);
- The defendant knew that the statement was false;

Corroboration of the defendant's execution of the Form 4473 can be proved by security cameras, handwriting on the Forms 4473 and/or eye-witness testimony. Corroboration of the fact that the item involved in the transaction was in fact a firearm may be proved through the security or undercover camera, transferee's commercial records, Form 4473, transferee's acquisition and disposition book, testimony of the transferee or expert testimony, and (if possible) the recovered firearm or photographs of the firearm in conjunction with the testimony of the ATF agent who has viewed and photograph the firearm in the custody of the Mexican officials.

Corroboration that the defendant lied when indicating that he/she was the actual purchaser of the firearm may be shown by security/undercover cameras and/or witness testimony showing the straw purchaser selecting the firearm, providing the purchase money, or receiving the firearm, evidence that the straw purchaser no longer has possession of the firearms, expert testimony of ATF agents that private individuals do not purchase multiples of the same firearm and/or that the firearms purchased are "weapons of choice" for the drug cartels, that the straw purchaser was financially incapable of providing the funds to purchase multiple firearms (often unemployed or under-employed individuals spending \$10,000 or more on the firearms), that the firearms were recovered in the possession of other individuals or by American/Mexican authorities, etc.

Firearms Need Not be Recovered or Produced At Trial to Prosecute

In an unpublished opinion, the Sixth Circuit affirmed convictions for conspiracy to straw purchase under 18 U.S.C §§ 922(a)(6) and possession of a firearm by a convicted felon where the firearms were not recovered or presented at trial and the jury relied on eye-witness testimony. United States v. Coleman, 178 F.3d 1296, 1999 U.S. App. LEXIS 19340 (6th Cir. 1999).

The Ninth Circuit, in an unpublished opinion, held that when a firearm is not recovered, a convicted felon's purchase and possession of a firearm may be proved by introduction of the Form 4473 and sales slip. United States v. Burke, 1992 U.S. App. LEXIS 25622 (9th Cir. 1992).

Numerous published opinions have held that the firearm need not be recovered or produced at trial – eyewitness testimony concerning the firearm is sufficient. United States v. Harris, 792 F.2d 866 (9th Cir. 1986) (armed bank robbery); Parker v. United States, 801 F.2d 1382 (D.C. Cir. 1986) (924(c)); United States v. Buggs, 904 F.2d 1070 (7th Cir. 1990)(possession of a firearm by a convicted felon and 924(c)); United States v. Castillo, 924 F.2d 1227 (2nd Cir. 1991) (924(c)); United States v. Jones, 16 F.3d 487 (2nd Cir. 1994) (possession of a firearm by a convicted felon); United States v. Brewer, 36 F.3d 266 (2nd Cir. 1994) (armed bank robbery and 924(c)); United States v. Anderson, 78 F.3d 420 (8th Cir. 1996)(possession of a firearms by a convicted felon); United States v. Beverly, 99 F.3d 570 (3rd Cir. 1996) (robbery of a postal employee and 924(c)); United States v. Hunt, 187 F.3d 1269 (11th Cir. 1999) (bank robbery and 924(c)); and United States v. Garcia-Hernandez, 530 F.3d 657 (8th Cir. 2008) (conspiracy to distribute methamphetamine and 924(c)).

Use of Photographs of Firearms Recovered in Mexico

Apparently, there has been some reluctance to use photographs taken by ATF agents of firearms recovered in Mexico and in the custody of Mexican authorities. Pursuant to Federal Rules of Evidence, Rule 901(b)(1), the witness identifying the item in a photograph (firearm) need only establish that the photograph is an accurate portrayal of the item in question. Guani v. Ojeda, 758 F.2d 403, 408 (9th Cir. 1985). Should there be a further concern that the evidence contained in the photograph relating to the manufacturer, serial number, etc. does not meet the “best evidence rule”, it should be noted that Federal Rules of Evidence, Rule 1004 permits the use of a photograph in lieu of the original “writing” if the original cannot be obtained by judicial process or procedure – as would be the case where Mexican officials refuse to release the firearm to ATF.

Please let me know if you would like to expound on any portion of these notes or if you would like to discuss. As indicated above, it is my understanding that the “corpus delicti” issue is based on policy – but I have not been able to obtain a copy of the policy. I would request a copy of the written policy on this matter. If no written policy exists, a brief summary of the policy would be most helpful to further discussions of this matter.

Thomas E. Karmgard
ATF Division Counsel (Phoenix)
(602) [REDACTED]
February 24, 2010

Exhibit 6

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> LODGED
<input type="checkbox"/> RECEIVED	<input type="checkbox"/> COPY
JAN 19 2011	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY _____	DEPUTY

SEALED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America,
Plaintiff,
v.

CR 11-126 PHX JAT(LOA)

INDICTMENT

1. Jaime Avila, Jr.,
(Counts 1, 2, 7-9)
2. Hector Rolando Carlon,
(Counts 1, 2)
3. Julio Jose Carrillo,
(Counts 1, 2, 10, 42, 43,)
4. Alfredo Celis,
(Counts 1, 2, 11, 12, 42, 52)
5. Manuel Fabian Celis-Acosta,
(Counts 1-42)
6. Jacob Wayne Chambers,
(Counts 1, 2, 13, 14)
7. Erick Avila Davila,
(Counts 1, 2, 15, 16)
8. Jonathan Earvin Fernandez,
(Counts 1, 2, 17,18)
9. Dejan Hercegovac
(Counts 1, 2, 19)
10. Kristi Gail Ireland,
(Counts 1, 2, 42, 46)

- VIO: 18 U.S.C. § 371
(Conspiracy)
Count 1
- 18 U.S.C. § 922(a)(1)(A)
(Dealing in Firearms Without a License)
Count 2
- 21 U.S.C. §846
(Conspiracy to Possess Controlled Substance with Intent to Distribute)
Count 3
- 21 U.S.C. §§841(a)(1) & 841(b)(1)(D)
(Possession with Intent to Distribute Marijuana, a Controlled Substance)
Count 4
- 21 U.S.C. §§841(a)(1) & 841(b)(1)(B)(vii)
(Possession with Intent to Distribute Marijuana, a Controlled Substance)
Count 5

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- | | |
|---|--|
| 11. Juan Jose Martinez-Gonzalez,
(Counts 1, 2) | 18 U.S.C. §924(o)
(Conspiracy to Possess a Firearm
in Furtherance of a Drug
Trafficking Offense)
Count 6 |
| 12. Jacob Anthony Montelongo,
(Counts 1, 2, 20, 21, 42, 44) | |
| 13. Joshua David Moore,
(Counts 1, 2, 22, 23, 42, 45) | 18 U.S.C. § 924(a)(1)(A)
(False Statements in Connection
With the Acquisition of Firearms)
Count 7 through 41 |
| 14. Danny Cruz Morones,
(Counts 1, 2, 24, 25) | |
| 15. Uriel Patino,
(Counts 1-6, 26-35, 42, 46-48, 50, 53) | 18 U.S.C. § 1956(h)
Conspiracy to Commit Money
Laundering
Count 42 |
| 16. Jose Angel Polanco
(Counts 1, 2, 41) | 18 U.S.C. § 1956(a)(1)(B)(i)
Money Laundering
Counts 43 through 53 |
| 17. Francisco Javier Ponce,
(Counts 1, 2, 33, 34,) | |
| 18. John William Rowland,
(Counts 3&4) | 18 U.S.C. § 2
(Aid and Abet)
Counts 2, 4, 5, 7-41, 43-53 |
| 19. Sean Christopher Steward,
(Counts 1, 2, 36-40, 42, 49, 51) | 18 U.S.C. §924(d)
21 U.S.C. §853
28 U.S.C. §2461
18 U.S.C. §982(a)(1)
(Forfeiture Allegations) |
| 20. Kenneth James Thompson,
(Counts 1, 2) | |
| Defendants. | |

THE GRAND JURY CHARGES:

INTRODUCTION

1. Drug Trafficking Organizations rely upon the use of firearms to protect their supply of drugs, supply routes, profits, and distribution territory from both law enforcement agents and threats from competing Drug Trafficking Organizations.

2. Drug Trafficking Organizations operating in Mexico represent a ready market for firearms from the United States. These Drug Trafficking Organizations prefer certain makes, models, and caliber of firearms. These "weapons of choice" are generally semi-automatic versions of military type rifles and pistols. These include the AR-15/M-16 type rifles, AK-47

1 type rifles, AK-47 type pistols (resembling AK-47 type rifles with shorter barrels and without
2 a rear stock), 9mm pistols, 5.7mm pistols, Colt .38 Super Automatic (“38 Super”) caliber
3 pistols, as well as heavy .50 caliber belt-fed rifles, and .50 caliber sniper rifles.

4 3. These firearms are not available in Mexico through regular commercial retail
5 channels, but are available in the United States through licensed retail gun shops. Firearms dealt
6 illegally by firearms traffickers are commonly purchased from licensed retail gun shops.

7 4. When a firearm purchaser buys a firearm from a Federal Firearms Licensee (FFL), a
8 business licensed under Chapter 44 of Title 18, United States Code to engage in the business of
9 dealing in firearms, that buyer must fill out Bureau of Alcohol, Tobacco, Firearms, and
10 Explosives (ATF) Form 4473, Firearms Transaction Record, listing the buyer’s true name,
11 current residential address, and other identifying information. The information on the Form
12 4473 makes it possible to trace a firearm back to its retail purchaser. Federal Firearms Licensees
13 are required by Chapter 44 of Title 18, United State Code, to maintain these forms in their
14 records.

15 5. In addition, Form 4473 asks the purchaser: “Are you the actual transferee/buyer of the
16 firearm(s) listed on this form? Warning: You are not the actual buyer if you are acquiring the
17 firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer
18 the firearm(s) to you. . .”

19 6. Firearms traffickers often employ a number of “straw purchasers” to buy firearms
20 from licensed gun dealers. These “straw purchasers” falsely claim on the 4473 that they are
21 buying the firearm(s) for themselves, when in fact they are purchasing on behalf of another.

22 7. Firearms traffickers commonly acquire firearms through “straw purchasers” to avoid
23 firearms being traceable back to the firearms trafficker himself. Firearms purchased in
24 furtherance of a firearms trafficking conspiracy are usually purchased in cash to further conceal
25 the true buyer and source of funds.

26

27

28

1 8. Firearms traffickers commonly employ multiple straw purchasers to supply them with
2 their firearms, ensuring that they have more than one source of firearms for distribution to their
3 buyers.

4 9. Only licensed firearms importers, manufacturers, or dealers may engage in the
5 business of dealing in firearms or in the course of such business may ship or transport firearms
6 in interstate or foreign commerce.

7 10. At all times relevant to this indictment, JAIME AVILA, JR., JULIO CARRILLO,
8 HECTOR ROLANDO CARLON, ALFREDO CELIS, MANUEL FABIAN CELIS-ACOSTA, JACOB
9 WAYNE CHAMBERS, ERICK AVILA DAVILA, JONATHAN EARVIN FERNANDEZ, DEJAN
10 HERCEGOVAC, KRISTI GAIL IRELAND, JUAN JOSE MARTINEZ-GONZALEZ, JACOB
11 ANTHONY MONTELONGO, JOSHUA DAVID MOORE, DANNY CRUZ MORONES, URIEL
12 PATINO, JOSE ANGEL POLANCO, FRANCISCO JAVIER PONCE, JOHN WILLIAM ROWLAND,
13 SEAN CHRISTOPHER STEWARD, and KENNETH JAMES THOMPSON are not and have never
14 been licensed under the provisions of Chapter 44 of Title 18 as firearms importers,
15 manufacturers, and dealers.

16 11. At all times relevant to this indictment, American Gunshop, Inc.; Bear Arms; Gunnet;
17 Lone Wolf Trading Company; J&G Sales; Olsen Firearms, LLC; and Scottsdale Gun Club were
18 and are each a Federal Firearms Licensee (FFL), a business licensed under the provisions of
19 Chapter 44 of Title 18, United States Code to deal in firearms.

20 **COUNT 1**

21 **CONSPIRACY**

22 (18 U.S.C. §371)

23 12. Beginning on or about September of 2009, and continuing through on or about December,
24 2010, in the District of Arizona and elsewhere, defendants JAIME AVILA, JR., JULIO CARRILLO,
25 HECTOR CARLON, ALFREDO CELIS, MANUEL FABIAN CELIS-ACOSTA, JACOB WAYNE
26 CHAMBERS, ERICK AVILA DAVILA, JONATHAN EARVIN FERNANDEZ, DEJAN

27
28

1 HERCEGOVAC, KRISTI GAIL IRELAND, JUAN MARTINEZ-GONZALEZ, JACOB
2 MONTELONGO, JOSHUA DAVID MOORE, DANNY MORONES, URIEL PATINO, JOSE ANGEL
3 POLANCO, FRANCISCO JAVIER PONCE, SEAN CHRISTOPHER STEWARD, and KENNETH
4 THOMPSON, did willfully, knowingly and unlawfully combine, conspire, confederate and agree
5 together and with each other and with others known and unknown to the grand jury, to commit
6 the following offenses against the United States:

7 (1) Title 18, United States Code, Section 922(a)(1)(A) (Dealing in Firearms Without a
8 License);

9 (2) Title 18, United States Code, Section 924(a)(1)(A) (Making False Statements in
10 Connection with the Acquisition of a Firearm)

11 (3) Title 18, United States Code, Section 554 (Smuggling Goods from the United States);
12

13 MEANS AND METHODS OF THE CONSPIRACY

14 13. The means and methods employed by defendants to effect the object of the conspiracy
15 were as follows:

16 14. Between September of 2009 and December of 2010, defendants willfully engaged in
17 the business of dealing in firearms even though none of the defendants were a licensed firearms
18 importer, manufacturer, and dealer, under the provisions of Title 18, United States Code,
19 Section 923, and in the course of such business did ship and transport firearms in interstate and
20 foreign commerce.

21 15. Between September of 2009 and through December of 2010, defendants fraudulently
22 and knowingly exported and sent firearms from the United States to Mexico contrary to the laws
23 and regulations of the United States.

24 16. Between September of 2009 and through December of 2010, defendants fraudulently
25 and knowingly received, concealed, bought, sold, and facilitated the transportation, concealment,
26 and sale of firearms prior to exportation, knowing the firearms were intended for exportation
27

1 contrary to the laws and regulations of the United States.

2 17. As part of the conspiracy the defendants acquired the firearms by purchasing them in
3 the District of Arizona from Federal Firearms Licensees (FFLs), licensed under the provisions
4 of Chapter 44 of Title 18, and operating as licensed gun shops.

5 18. As part of the conspiracy, and in the course of purchasing firearms in the District of
6 Arizona, defendants knowingly made false statements and representations with respect to
7 information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept
8 in the records of a business licensed under the provisions of Chapter 44 of Title 18, United States
9 Code, in that defendants executed ATF Forms 4473, Firearms Transaction Records, representing
10 that the defendant executing each form was the actual purchaser of the firearm(s) when in fact
11 they were buying the firearm(s) for others.

12 19. As part of the conspiracy, defendants purchased the firearms with money derived from
13 the illegal distribution of controlled substances.

14 20. As part of the conspiracy, after firearms were purchased from FFLs, they were
15 transferred to other members of the conspiracy both known and unknown to the grand jury to
16 be stored, sold, transported.

17 21. As part of the conspiracy, defendants acquired and dealt in the types of firearms for
18 which there was a ready market among the drug trafficking organizations in Mexico and the
19 United States.

20 22. As part of the conspiracy, the firearms were sold and transferred to others known and
21 unknown to the grand jury who were engaged in drug trafficking and possessed in furtherance
22 of drug trafficking.

23 23. As part of the conspiracy, members of the conspiracy both known and unknown to the
24 grand jury shipped, transported, and exported firearms from the United States to Mexico.

25
26
27
28

OVERT ACTS

1
2 24. As part, and in furtherance of the conspiracy, overt acts were committed in the District
3 of Arizona including, but not limited to, the following:

4 25. On or about January 16, 2010, JAIME AVILA, Jr. purchased three AK-47 type
5 firearms from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of
6 such purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the
7 firearms.

8 26. On or about April 24, 2010, JAIME AVILA Jr. purchased two Draco AK-47 type
9 pistols from FFL Gunnet, Peoria, Arizona, and during the course of such purchase falsely
10 represented on ATF Form 4473 that he was the actual purchaser of the firearms.

11 27. On or about June 15, 2010, JAIME AVILA Jr. purchased one Barrett .50 caliber rifle
12 from FFL Scottsdale Gun Club, Scottsdale, Arizona, and during the course of such purchase
13 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearm.

14 28. On or about November 19, 2009, prior to being pulled over by police, HECTOR
15 ROLANDO CARLON attempted to dispose of an FN Herstal 5.7mm pistol purchased on
16 November 17, 2009, by JOSE ANGEL POLANCO.

17 29. On or about June 15, 2010, HECTOR ROLANDO CARLON sent a .50 caliber belt-fed
18 rifle to manufacturer TNW for repair, which rifle had been purchased on June 7, 2010, by
19 another. On or about August 3, 2010, HECTOR ROLANDO CARLON attempted to re-acquire
20 this .50 caliber rifle in furtherance of the conspiracy.

21 30. On or about March 23, 2010, JULIO CARRILLO purchased 10 AK-47 type rifles from
22 FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such purchase
23 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

24 31. On or about November 12, 2009, ALFREDO CELIS purchased ten AK-47 type rifles
25 from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such
26 purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

27

28

1 Within a month of their purchase four of these firearms were found in Mexico.

2 32. On or about January 20, 2010, ALFREDO CELIS purchased ten AK-47 type rifles
3 from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such
4 purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

5 33. On or about June 24, 2010, through on or about June 29, 2010, ALFREDO CELIS
6 purchased 30 AK-47 type rifles from FFL Lone Wolf Trading Company, Glendale, Arizona, and
7 during the course of such purchase falsely represented on ATF Form 4473 that he was the actual
8 purchaser of the firearms.

9 34. On or about June 30, 2010, ALFREDO CELIS purchased 20 AK-47 type rifles from
10 FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such purchase
11 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

12 35. On or about July 2, 2010, in a telephone conversation with ALFREDO CELIS,
13 MANUEL FABIAN CELIS-ACOSTA directed ALFREDO CELIS to take steps to recover
14 twenty AK-47 type rifles taken by police on or about June 30, 2010.

15 36. On December 8, 2009, a male caller using a telephone number utilized by MANUEL
16 FABIAN CELIS-ACOSTA called FFL Lone Wolf Trading Company, Glendale, Arizona, to
17 inquire as to the number of AK-47 type rifles in stock. Forty-five minutes after this call, on the
18 morning of December 8, 2009, SEAN CHRISTOPHER STEWARD arrived at Lone Wolf and
19 purchased twenty AK-47 type rifles which he transported to an auto auction business in Phoenix,
20 Arizona, and loaded into another vehicle or vehicles.

21 37. On the evening of December 8, 2009, SEAN CHRISTOPHER STEWARD returned
22 to Lone Wolf Trading Company and purchased an additional twenty AK-47 type rifles. SEAN
23 CHRISTOPHER STEWARD loaded the rifles into a white Nissan Titan in which MANUEL
24 FABIAN CELIS-ACOSTA was a passenger. This vehicle was driven to CELIS ACOSTA's
25 residence where the rifles were unloaded.

26

27

28

1 38. On or about December 11, 2009, MANUEL FABIAN CELIS-ACOSTA made several
2 telephone calls to direct JACOB WAYNE CHAMBERS' delivery of ten AK-47 type rifles,
3 purchased by CHAMBERS, to another.

4 39. On or about May 20, 2010, MANUEL FABIAN CELIS-ACOSTA directed URIEL
5 PATINO to purchase three FN Herstal 5.7mm pistols for another person and made arrangements
6 to meet with URIEL PATINO to give him money to pay for the purchase.

7 40. On or about May 20, 2010, URIEL PATINO purchased three FN Herstal 5.7mm pistols
8 from FFL Lone Wolf Trading Company.

9 41. On or about July 19, 2010, CELIS ACOSTA loaded approximately 48 pounds of
10 marijuana into a car driven by JOHN WILLIAM ROWLAND.

11 42. On or about October 13, 2009, JACOB WAYNE CHAMBERS purchased three AK-47
12 type rifles from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of
13 such purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the
14 firearms.

15 43. On or about October 26, 2009, JACOB WAYNE CHAMBERS purchased three AK-47
16 type firearms from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course
17 of such purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the
18 firearms.

19 44. On or about December 11, 2009, JACOB WAYNE CHAMBERS purchased ten AK-47
20 type rifles at FFL Lone Wolf Trading Company, Glendale, Arizona, on behalf of MANUEL
21 FABIAN CELIS-ACOSTA, and during the course of such purchase falsely represented on ATF
22 Form 4473 that he was the actual purchaser of the firearms.

23 45. On or about December 11, 2009, MANUEL FABIAN CELIS-ACOSTA made several
24 phone calls to direct JACOB WAYNE CHAMBERS delivery of AK-47 type rifles to another
25 member of the conspiracy.

26

27

28

1 46. On or about December 11, 2009, at the direction of MANUEL FABIAN CELIS-
2 ACOSTA, JACOB WAYNE CHAMBERS delivered the AK-47 type rifles to another.

3 47. On or about June 12, 2010, ERICK AVILA DAVILA purchased five Ruger 9mm
4 pistols from Lone Wolf Trading Company, and during the course of such purchase falsely
5 represented on ATF Form 4473 that he was the actual purchaser of the firearms.

6 48. On or about July 7, 2010, ERICK AVILA DAVILA purchased one Barrett .50 caliber
7 rifle from FFL Olsen Firearms, LLC, Scottsdale, Arizona, and during the course of such purchase
8 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

9 49. On July 13, 2010, ERICK AVILA DAVILA purchased one TNW .50 caliber belt-fed
10 rifle from manufacturer TNW Firearms, Inc., through Scottsdale Gun Club, Scottsdale, Arizona,
11 and during the course of such purchase falsely represented on ATF Form 4473 that he was the
12 actual purchaser of the firearm.

13 50. On or about August 10, 2010, JONATHAN EARVIN FERNANDEZ purchased ten
14 AK-47 type rifles from Lone Wolf Trading Company, and during the course of such purchase
15 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

16 51. On or about August 19, 2010, JONATHAN EARVIN FERNANDEZ purchased nine
17 AK-47 type rifles from Lone Wolf Trading Company, and during the course of such purchase
18 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms. After
19 purchasing the firearms, FERNANDEZ and DANNY CRUZ MORONES, riding with
20 FERNANDEZ, attempted to evade agents and officers conducting surveillance.

21 52. On or about November 25, 2009, DEJAN HERCEGOVAC acquired twenty-six AK-47
22 type rifles in a series of transactions from FFL Lone Wolf Trading Company, Glendale, Arizona,
23 and during the course of such transactions falsely represented on ATF Form 4473 that he was the
24 actual purchaser of the firearms. In the course of these transactions DEJAN HERCEGOVAC
25 returned several of these rifles in exchange for others with a different type of folding stock. In
26
27
28

1 the course of these transactions, DEJAN HERCEGOVAC returned for exchange an AK-47 type
2 rifle purchased the day before, on November 24, 2009, by URIEL PATINO.

3 53. On November 25, 2009, DEJAN HERCEGOVAC delivered rifles he had purchased
4 to the residence of MANUEL FABIAN CELIS-ACOSTA and to the auto shop at 3501 West
5 Lincoln Avenue, Phoenix, Arizona.

6 54. On or about April 14, 2010, KRISTI GAIL IRELAND paid approximately \$18,000 in
7 United States Currency to Lone Wolf Trading Company as a down payment for the purchase of
8 three Barrett .50 rifles. URIEL PATINO retrieved the money for the down payment out of
9 KRISTI GAIL IRELAND's purse to pay for the rifles.

10 55. On or before November 24, 2009, JUAN JOSE MARTINEZ-GONZALEZ and URIEL
11 PATINO introduced JAIME AVILA Jr. into the conspiracy to purchase firearms.

12 56. On or about November 24, 2009, PATINO accompanied JAIME AVILA Jr. into Lone
13 Wolf Trading Company while AVILA Jr. purchased firearms for the conspiracy.

14 57. On or about July 13, 2010, JUAN JOSE MARTINEZ-GONZALEZ possessed sixty-
15 two firearms purchased by ERICK AVILA DAVILA, and others at the auto body shop at 3501
16 W. Lincoln, Phoenix, Arizona.

17 58. On or about March 23, 2010, JACOB ANTHONY MONTELONGO purchased ten
18 AK-47 type rifles from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the
19 course of such purchase falsely represented on ATF Form 4473 that he was the actual purchaser
20 of the firearms.

21 59. On June 11, 2010, JACOB ANTHONY MONTELONGO purchased one Ruger 9mm
22 pistol and one Taurus 9mm pistol at FFL Lone Wolf Trading Company, Glendale, Arizona, and
23 during the course of such purchase falsely represented on ATF Form 4473 that he was the actual
24 purchaser of the firearms.

25 60. On October 31, 2009, JOSHUA DAVID MOORE purchased six AK-47 type rifles
26 from FFL J&G Sales, Prescott, Arizona, and during the course of such purchase falsely
27

28

1 represented on ATF Form 4473 that he was the actual purchaser of the firearms.

2 61. On November 3, 2009, MOORE purchased two AK-47 type rifles from Lone Wolf
3 Trading Company, and during the course of such purchase falsely represented on ATF Form 4473
4 that he was the actual purchaser of the firearms.

5 62. On or about November 10, 2009, JOSHUA DAVID MOORE purchased ten AK-47
6 type rifles from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of
7 such purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the
8 firearms.

9 63. On or about November 12, 2009, JOSHUA DAVID MOORE purchased five AK-47
10 type rifles from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of
11 such purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the
12 firearms.

13 64. On or about December 10, 2009, MOORE purchased 20 AK-47 type rifles at Lone
14 Wolf Trading Company, and during the course of such purchase falsely represented on ATF
15 Form 4473 that he was the actual purchaser of the firearms.

16 65. On or about March 23, 2010, JOSHUA DAVID MOORE purchased ten AK-47 type
17 rifles from Lone Wolf Trading Company, and during the course of such purchase falsely
18 represented on ATF Form 4473 that he was the actual purchaser of the firearms.

19 66. On or about June 30, 2010, DANNY CRUZ MORONES drove ALFREDO CELIS to
20 FFL Lone Wolf Trading Company, Glendale, Arizona, where ALFREDO CELIS purchased
21 twenty AK-47 type rifles.

22 67. On or about July 2, 2010, in a telephone conversation with ALFREDO CELIS,
23 MANUEL FABIAN CELIS-ACOSTA directed ALFREDO CELIS to take steps to recover
24 twenty AK-47 type rifles seized by police on or about June 30, 2010.

25 68. On or about July 29, 2010, DANNY CRUZ MORONES purchased ten AK-47 type
26 rifles from FFL Lone Wolf Trading Company, Glendale, Arizona. On or about July 30, 2010,
27

28

1 DANNY CRUZ MORONES purchased seven AK-47 type rifles from Lone Wolf Trading
2 Company. During the course of such purchases falsely represented on ATF Form 4473 that he
3 was the actual purchaser of the firearms.

4 69. On or about August 4, 2010, DANNY CRUZ MORONES purchased ten AK-47 type
5 rifles from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such
6 purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

7 70. On or about November 2, 2009, URIEL PATINO purchased four FN Herstal 5.7mm
8 pistols from FFL Scottsdale Gun Club, Scottsdale, Arizona. On or about November 23, 2009,
9 URIEL PATINO purchased one FN Herstal 5.7mm pistols from FFL Gunnet, Peoria, Arizona.
10 On or about November 27, 2009, URIEL PATINO purchased one Magnum Research Desert
11 Eagle pistol and six FN Herstal 5.7mm pistols from FFL Lone Wolf Trading Company, Glendale,
12 Arizona. On or about November 28, 2009, URIEL PATINO purchased one Magnum Research
13 Desert Eagle pistol from FFL Scottsdale Gun Club, Scottsdale, Arizona. During the course of
14 such purchases PATINO falsely represented on ATF Form 4473 that he was the actual purchaser
15 of the firearms.

16 71. On or about November 24, 2009, URIEL PATINO purchased five AK-47 type rifles
17 from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such
18 purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

19 72. On or about December 11, 2009, URIEL PATINO purchased twenty AK-47 type rifles
20 at FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such purchase
21 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

22 73. On or about January 15, 2010, URIEL PATINO purchased 10 AK-47 type rifles from
23 FFL Lone Wolf Trading Company, Glendale, Arizona. On or about February 8, URIEL PATINO
24 purchased five Draco AK-47 type pistols and five AK-47 type rifles from Lone Wolf Trading
25 Company. On or about February 11, 2010, URIEL PATINO purchased three AK-47 type rifles
26 and two Draco AK-47 type pistols from Lone Wolf Trading Company. On or about February 12,

27

28

1 2010, URIEL PATINO purchased two Draco AK-47 type pistols from Lone Wolf Trading
2 Company. On or about February 13, 2010, URIEL PATINO purchases eight AK-47 type rifles
3 and two Draco AK-47 type pistols from Lone Wolf Trading Company. During the course of
4 these purchases PATINO falsely represented on ATF Form 4473 that he was the actual purchaser
5 of the firearms.

6 74. On February 20, 2010, an Isuzu Rodeo was seen on the Tohono O'odham Nation in
7 Arizona driving toward the border between the United States and Mexico. The driver abandoned
8 the vehicle but was later found by law enforcement agents. The Isuzu was loaded with forty-one
9 firearms wrapped in plastic. Thirty-seven of these firearms were AK-47 type rifles and pistols
10 purchased by URIEL PATINO between January 15, 2010, and February 13, 2010.

11 75. On or about January 30, 2010, URIEL PATINO purchased 15 AK-47 type rifles from
12 FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such purchase
13 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

14 76. On or about March 15, 2010, URIEL PATINO purchased forty AK-47 type rifles from
15 FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such purchase
16 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

17 77. On or about March 25, 2010, URIEL PATINO purchased twenty-six AK-47 type
18 rifles and one Colt .38 Super pistol from FFL Lone Wolf Trading Company, Glendale, Arizona,
19 and during the course of such purchase falsely represented on ATF Form 4473 that he was the
20 actual purchaser of the firearms.

21 78. On or about March 26, 2010, URIEL PATINO purchased six AK-47 type rifles and one
22 Colt .38 Super pistol from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the
23 course of such purchase falsely represented on ATF Form 4473 that he was the actual purchaser
24 of the firearms.

25 79. On or about April 16, 2010, URIEL PATINO received three Barrett .50 caliber rifles
26 from FFL Lone Wolf Trading Company, Glendale, Arizona, that he and KRISTI GAIL
27

28

14

1 IRELAND had previously paid for on April 14, and 15, 2010. During the course of this
2 transaction, PATINO falsely represented on ATF Form 4473 that he was the actual purchaser of
3 the firearms.

4 80. On or about April 27, 2010, URIEL PATINO purchased ten FN Herstal 5.7mm pistols
5 from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such
6 purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

7 81. On or about May 28, 2010, URIEL PATINO received a .308 caliber rifle from FFL
8 Gunnet, Peoria, Arizona, at MANUEL FABIAN CELIS-ACOSTA's instruction, and during the
9 course of such transfer falsely represented on ATF Form 4473 that he was the actual purchaser
10 of the firearms. After receiving the rifle, URIEL PATINO spoke with MANUEL FABIAN
11 CELIS-ACOSTA by phone and MANUEL FABIAN CELIS-ACOSTA instructs URIEL
12 PATINO to deliver the rifle to MANUEL FABIAN CELIS-ACOSTA's residence.

13 82. On or about June 2, 2010, URIEL PATINO purchased ten AK-47 type rifles and one
14 Bushmaster AR-15 type rifle from FFL Lone Wolf Trading Company, Glendale, Arizona, and
15 during the course of such purchase falsely represented on ATF Form 4473 that he was the actual
16 purchaser of the firearms. On June 4, 2010, the Bushmaster rifle was found in the possession of
17 another.

18 83. On or about June 18, 2010, URIEL PATINO purchased nine FN Herstal 5.7mm pistols
19 from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such
20 purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

21 84. On or about June 21, 2010, URIEL PATINO purchased one Draco AK-47 type pistol
22 from FFL Bear Arms, Scottsdale, Arizona, and during the course of such purchase falsely
23 represented on ATF Form 4473 that he was the actual purchaser of the firearms.

24 85. On or about June 22, 2010, URIEL PATINO purchased one Draco AK-47 type pistol
25 from FFL Bear Arms, Scottsdale, Arizona, and during the course of such purchase falsely
26 represented on ATF Form 4473 that he was the actual purchaser of the firearms.

27

28

1 86. On or about July 8, 2010, URIEL PATINO purchased sixteen AK-47 type rifles from
2 FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such purchase
3 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

4 87. On or about August 5, 2010, URIEL PATINO purchased twelve AK-47 type rifles
5 from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of such
6 purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.
7 Three days later on August 8, 2010, federal agents found all twelve of these rifles concealed in
8 a stove and a television in an attempt to smuggle them into Mexico from the United States
9 through the Lukeville, Arizona, Port of Entry.

10 88. On November 17, 2009, JOSE ANGEL POLANCO purchased one 5.7mm pistol, one
11 5.7 mm rifle, and one AK-47 type rifle from Lone Wolf Trading Company, and during the course
12 of such purchase falsely represented on ATF Form 4473 that he was the actual purchaser of the
13 firearms.

14 89. Between November 16, 2009 and November 20, 2009, JOSE ANGEL POLANCO
15 attempted to purchase firearms at the American Gunshop, Inc., in Prescott, Arizona. POLANCO
16 placed a special order for ten AK-47 type rifles from the FFL.

17 90. On or about April 30, 2010, FRANCISCO JAVIER PONCE purchased one TNW .50
18 caliber rifle from FFL Gunnet, Peoria, Arizona, and during the course of such purchase falsely
19 represented on ATF Form 4473 that he was the actual purchaser of the firearms.

20 91. On or about July 6, 2010, MANUEL FABIAN CELIS-ACOSTA arranged the purchase
21 of firearms by URIEL PATINO for FRANCISCO JAVIER PONCE.

22 92. On or about July 6, 2010, URIEL PATINO purchased ten AK-47 type pistols from FFL
23 Lone Wolf Trading Company, Glendale, Arizona, and during the course of such purchase falsely
24 represented on ATF Form 4473 that he was the actual purchaser of the firearms. After the
25 purchase, MANUEL FABIAN CELIS-ACOSTA provided FRANCISCO JAVIER PONCE with
26 URIEL PATINO's number to facilitate the delivery of the firearms, after which FRANCISCO

27
28

1 JAVIER PONCE and URIEL PATINO meet.

2 93. On or about July 8, 2010, MANUEL FABIAN CELIS-ACOSTA and FRANCISCO
3 JAVIER PONCE spoke on the telephone and MANUEL FABIAN CELIS-ACOSTA arranged
4 an additional straw purchase for FRANCISCO JAVIER PONCE by URIEL PATINO.

5 94. On July 8, 2010, after URIEL PATINO's purchase of sixteen AK-47 type firearms
6 from Lone Wolf Trading Company, FRANCISCO JAVIER PONCE and another met with
7 URIEL PATINO and transferred firearms from URIEL PATINO's vehicle to the vehicle in which
8 FRANCISCO JAVIER PONCE was riding.

9 95. On July 19, 2010, JOHN WILLIAM ROWLAND spoke with CELIS ACOSTA about
10 coming to CELIS ACOSTA's residence to pick something up.

11 96. On July 19, 2010, JOHN WILLIAM ROWLAND followed CELIS ACOSTA from a
12 carwash to CELIS ACOSTA's residence and picked up a load of approximately forty-eight
13 pounds of marijuana.

14 97. On July 19, 2010, after picking up the marijuana, as JOHN WILLIAM ROWLAND
15 was being pulled over by police officers he phoned CELIS ACOSTA to let him know that he was
16 being pulled over.

17 98. On December 7, 2009, SEAN CHRISTOPHER STEWARD purchased ten Draco AK-
18 47 type pistols from J&G Sales in Prescott, Arizona, and during the course of such purchase
19 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

20 99. On December 8, 2009, SEAN CHRISTOPHER STEWARD purchased forty AK-47
21 type rifle from FFL Lone Wolf Trading Company, Glendale, Arizona, and during the course of
22 such purchases falsely represented on ATF Form 4473 that he was the actual purchaser of the
23 firearms. On December 9, 2009, nine of the AK-47 type rifles were found by Douglas, Arizona,
24 police officers in the course of a vehicle stop, concealed in the bumper of a car.

25 100. On December 14, 2009, SEAN CHRISTOPHER STEWARD purchased seven Draco
26 AK-47 type pistols and thirty-six AK-47 type rifles, and during the course of such purchase

27

28

1 falsely represented on ATF Form 4473 that he was the actual purchaser of the firearms.

2 101. On December 24, 2009, SEAN CHRISTOPHER STEWARD purchased 40 AK-47 type
3 rifles from Lone Wolf Trading Company, and during the course of such purchase falsely
4 represented on ATF Form 4473 that he was the actual purchaser of the firearms.

5 102. On January 7, 2010, SEAN CHRISTOPHER STEWARD purchased nineteen AK-47
6 type rifles from Lone Wolf Trading Company, and during the course of such purchase falsely
7 represented on ATF Form 4473 that he was the actual purchaser of the firearms.

8 103. On June 2, 2010, SEAN CHRISTOPHER STEWARD purchased ten AK-47 type rifles
9 and twenty-one pistols of various calibers, including a Taurus .45 caliber pistol, from Lone Wolf
10 Trading Company, and during the course of such purchase falsely represented on ATF Form 4473
11 that he was the actual purchaser of the firearms.

12 104. On June 23, 2010, STEWARD purchased ten AK-47 type rifles from Lone Wolf
13 Trading Company, and during the course of such purchase falsely represented on ATF Form 4473
14 that he was the actual purchaser of the firearms.

15 105. On July 12, 2010, KENNETH JAMES THOMPSON helped transfer twenty AK-47
16 type rifles purchased by another into KENNETH JAMES THOMPSON's vehicle.

17 COUNT 2

18 Dealing in Firearms without a License

19 106. Beginning on or about September, 2009, and continuing through on or about
20 December, 2010, in the District of Arizona and elsewhere, defendants JAIME AVILA, JR.,
21 HECTOR ROLANDO CARLON, JULIO CARRILLO, ALFREDO CELIS, MANUEL FABIAN CELIS-
22 ACOSTA, JACOB WAYNE CHAMBERS, ERICK AVILA DAVILA, JONATHAN EARVIN
23 FERNANDEZ, DEJAN HERCEGOVAC, KRISTI GAIL IRELAND, JUAN JOSE MARTINEZ-
24 GONZALEZ, JACOB ANTHONY MONTELONGO, JOSHUA DAVID MOORE, DANNY CRUZ
25 MORONES, URIEL PATINO, JOSE ANGEL POLANCO, FRANCISCO JAVIER PONCE, SEAN
26 CHRISTOPHER STEWARD, and KENNETH JAMES THOMPSON willfully engaged in the business
27 of dealing in firearms while such defendants were not a licensed firearms dealer under the
28

1 provisions of Title 18, United States Code, Section 923.

2 All in violation of Title 18, United States Code, Sections 922(a)(1)(A), 924(a)(1)(D) and 2.

3

4

COUNT 3

5

Conspiracy to Distribute Marijuana

6

(21 U.S.C. 846)

7

107. Beginning on or about September 22, 2009, and continuing through on or about
8 December, 2010, in the District of Arizona and elsewhere, defendants, MANUEL FABIAN
9 CELIS-ACOSTA, URIEL PATINO, JOHN WILLIAM ROWLAND, and others both known and
10 unknown to the grand jury, did knowingly and intentionally combine, conspire, confederate, and
11 agree together and with other persons known and unknown to the grand jury, to knowingly and
12 intentionally possess with intent to distribute 100 kilograms or more of a mixture or substance
13 containing a detectable amount of marijuana, a Schedule I Controlled Substance, in violation of
14 Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B)(vii).

15

All in violation of Title 21, United States Code, Section 846.

16

COUNT 4

17

Possession with Intent to Distribute Marijuana

18

(21 U.S.C. §§841(a)(1) & 841(b)(1)(D))

19

108. On or about July 19, 2010, in the District of Arizona and elsewhere, defendants,
20 MANUEL FABIAN CELIS-ACOSTA, URIEL PATINO, and JOHN WILLIAM ROWLAND,
21 and others known and unknown to the Grand Jury, did knowingly and intentionally possess with
22 intent to distribute less than 50 kilograms of a mixture or substance containing a detectable
23 amount of marijuana, a Schedule I Controlled Substance.

24

All in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(D) and Title
25 18, United States Code, Section 2.

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 5

Possession with Intent to Distribute Marijuana
(21 U.S.C. §§841(a)(1) & 841(b)(1)(B)(vii))

109. On or about August 1, 2010, in the District of Arizona and elsewhere, defendants, MANUEL FABIAN CELIS-ACOSTA and URIEL PATINO, and others known and unknown to the Grand Jury, did knowingly and intentionally possess with intent to distribute 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana, a Schedule I Controlled Substance.

All in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B)(vii) and Title 18, United States Code, Section 2.

COUNT 6

Conspiracy to Possess a Firearm in Furtherance of a Drug Trafficking Offense
(18 U.S.C. §924(o))

110. The factual allegations in paragraphs 24 to 105 of the Indictment are incorporated by reference and re-alleged as though fully set forth herein.

111. On or about August 1, 2010, in the District of Arizona, defendants, MANUEL FABIAN CELIS-ACOSTA and URIEL PATINO, and others known and unknown to the Grand Jury, did knowingly, and unlawfully combine, conspire, confederate, and agree together and with each other and with others known and unknown to the grand jury, during and in relation to a drug trafficking offense as defined in Title 18, United States Code, Section 924(c)(2), that is, possession with intent to distribute marijuana, a Schedule I Controlled Substance, in violation of Title 21, United States Code, Sections 841(a)(1), to knowingly use, carry, and possess in furtherance of the drug trafficking offense, a firearm, that is, two Draco, 7.62x39mm pistols, in violation of Title 18, United States Code, Section 924(c).

All in violation of Title 18, United States Code, Section 924(o).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 7

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

112. On or about January 16, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and JAIME AVILA Jr., did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that JAIME AVILA Jr. executed a Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 8

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

113. On or about April 24, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and JAIME AVILA Jr., did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Gunnet, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that JAIME AVILA Jr. executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 9**Making a False Statement in Connection with the Acquisition of Firearms**

(18 U.S.C. §924(a)(1)(A))

1
2
3
4 114. On or about June 15, 2010, in the District of Arizona, defendants MANUEL FABIAN
5 CELIS-ACOSTA and JAIME AVILA Jr., did knowingly make a false statement and
6 representation with respect to information required by the provisions of Chapter 44 of Title 18,
7 United States Code, to be kept in the records of Scottsdale Gun Club, a business licensed under
8 the provisions of Chapter 44 of Title 18, United States Code, in that JAIME AVILA Jr. executed
9 a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record,
10 representing that he was the actual purchaser of the firearms listed on the form, when in fact he
11 was purchasing the firearms on behalf of another.

12 In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.
13

COUNT 10**Making a False Statement in Connection with the Acquisition of Firearms**

(18 U.S.C. §924(a)(1)(A))

14
15
16
17 115. On or about March 23, 2010, in the District of Arizona, defendants MANUEL
18 FABIAN CELIS-ACOSTA and JULIO CARRILLO, did knowingly make a false statement and
19 representation with respect to information required by the provisions of Chapter 44 of Title 18,
20 United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed
21 under the provisions of Chapter 44 of Title 18, United States Code, in that JULIO CARRILLO
22 executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record,
23 representing that he was the actual purchaser of the firearms listed on the form, when in fact he
24 was purchasing the firearms on behalf of another.

25 In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 11

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

116. On or about January 20, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and ALFREDO CELIS, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that ALFREDO CELIS executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 12

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

117. On or about June 30, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and ALFREDO CELIS, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that ALFREDO CELIS executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 13

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

118. On or about October 26, 2009, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and JACOB WAYNE CHAMBERS, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that JACOB WAYNE CHAMBERS executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 14

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

119. On or about December 11, 2009, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and JACOB WAYNE CHAMBERS, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that JACOB WAYNE CHAMBERS executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 15

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

120. On or about June 12, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and ERICK AVILA DAVILA, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that ERICK AVILA DAVILA executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 16

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

121. On or about July 7, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and ERICK AVILA DAVILA, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Olsen Firearms, LLC, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that ERICK AVILA DAVILA executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 17

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

122. On or about August 10, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and JONATHAN EARVIN FERNANDEZ, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that JONATHAN EARVIN FERNANDEZ executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 18

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

123. On or about August 19, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and JONATHAN EARVIN FERNANDEZ, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that JONATHAN EARVIN FERNANDEZ executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 19

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

124. On or about November 25, 2009, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and DEJAN HERCEGOVAC, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that DEJAN HERCEGOVAC executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 20

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

125. On or about March 23, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and JACOB ANTHONY MONTELONGO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that JACOB ANTHONY MONTELONGO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 21

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

126. On or about June 11, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and JACOB ANTHONY MONTELONGO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that JACOB ANTHONY MONTELONGO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 22

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

127. On or about November 3, 2009, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and JOSHUA DAVID MOORE, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that JOSHUA DAVID MOORE executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 23

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

128. On or about March 23, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and JOSHUA DAVID MOORE, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that JOSHUA DAVID MOORE executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 24

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

129. On or about July 30, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and DANNY CRUZ MORONES, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that DANNY CRUZ MORONES executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 25

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

130. On or about July 29, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and DANNY CRUZ MORONES, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that DANNY MOROMES executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 26

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

131. On or about November 24, 2009, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and URIEL PATINO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that URIEL PATINO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 27

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

132. On or about January 15, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and URIEL PATINO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that URIEL PATINO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 28

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

133. On or about February 13, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and URIEL PATINO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that URIEL PATINO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 29

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

134. On or about April 16, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and URIEL PATINO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that URIEL PATINO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 30

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

135. On or about April 27, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and URIEL PATINO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that URIEL PATINO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 31

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

136. On or about June 2, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and URIEL PATINO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that URIEL PATINO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 32

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

137. On or about June 18, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and URIEL PATINO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Scottsdale Gun Club, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that URIEL PATINO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 33

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

138. On or about July 6, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA, FRANCISCO JAVIER PONCE, and URIEL PATINO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that URIEL PATINO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 34

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

139. On or about July 8, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA, FRANCISCO JAVIER PONCE, and URIEL PATINO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that URIEL PATINO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 35

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

140. On or about August 5, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and URIEL PATINO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that URIEL PATINO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 36

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

141. On or about December 8, 2009, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and SEAN CHRISTOPHER STEWARD, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that SEAN CHRISTOPHER STEWARD executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 37**Making a False Statement in Connection with the Acquisition of Firearms**

(18 U.S.C. §924(a)(1)(A))

1
2
3
4 142. On or about December 14, 2009, in the District of Arizona, defendants MANUEL
5 FABIAN CELIS-ACOSTA and SEAN CHRISTOPHER STEWARD, did knowingly make a false
6 statement and representation with respect to information required by the provisions of Chapter
7 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a
8 business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that
9 SEAN CHRISTOPHER STEWARD executed a Bureau of Alcohol, Tobacco, and Firearms Form
10 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms
11 listed on the form, when in fact he was purchasing the firearms on behalf of another.

12 In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.
13

COUNT 38**Making a False Statement in Connection with the Acquisition of Firearms**

(18 U.S.C. §924(a)(1)(A))

14
15
16
17 143. On or about December 24, 2009, in the District of Arizona, defendants MANUEL
18 FABIAN CELIS-ACOSTA and SEAN CHRISTOPHER STEWARD, did knowingly make a false
19 statement and representation with respect to information required by the provisions of Chapter
20 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a
21 business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that
22 SEAN CHRISTOPHER STEWARD executed a Bureau of Alcohol, Tobacco, and Firearms Form
23 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms
24 listed on the form, when in fact he was purchasing the firearms on behalf of another.

25 In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 39

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

144. On or about June 2, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and SEAN CHRISTOPHER STEWARD, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that SEAN CHRISTOPHER STEWARD executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 40

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

145. On or about June 23, 2010, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and SEAN CHRISTOPHER STEWARD, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that SEAN CHRISTOPHER STEWARD executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 41

Making a False Statement in Connection with the Acquisition of Firearms

(18 U.S.C. §924(a)(1)(A))

146. On or about November 17, 2009, in the District of Arizona, defendants MANUEL FABIAN CELIS-ACOSTA and JOSE ANGEL POLANCO, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Lone Wolf Trading Company, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, in that JOSE ANGEL POLANCO executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, representing that he was the actual purchaser of the firearms listed on the form, when in fact he was purchasing the firearms on behalf of another.

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

COUNT 42

Conspiracy to Commit Money Laundering

(18 U.S.C. §1956(h))

147. The factual allegations in paragraphs 24 to 105, and 107 to 109 of the Indictment are incorporated by reference and re-alleged as though fully set forth herein.

148. Beginning on or about September 22, 2009, and continuing through on or about December, 2010, in the District of Arizona and elsewhere, defendants JULIO CARRILLO, ALFREDO CELIS, MANUEL FABIAN CELIS-ACOSTA, KRISTI GAIL IRELAND, JACOB ANTHONY MONTELONGO, JOSHUA DAVID MOORE, URIEL PATINO, and SEAN CHRISTOPHER STEWARD, did knowingly combine, conspire, confederate and agree together, to knowingly conduct and attempt to conduct financial transactions affecting interstate and foreign commerce, which in fact involved the proceeds of specified unlawful activity, that is, the conspiracy to possess and possession with intent to distribute marijuana in violation of Title 21, United States Code, Sections 846 and 841(a)(1), with the intent to

1 promote the carrying on of said specified unlawful activity, and knowing that the transactions
 2 were designed in whole and in part to conceal and disguise the nature, location, source,
 3 ownership and control of the proceeds of said specified unlawful activity, and while knowing
 4 that the property involved in the financial transactions represented the proceeds of some form
 5 of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

6 All in violation of Title 18, United States Code, Section 1956(h).

7
 8 **COUNTS 43 through 53**

9 **Money Laundering**

10 (18 U.S.C. §§1956(a)(1)(B)(i) and 2

11 149. The factual allegations in paragraphs 24 to 105, and 107 to 109 of the Indictment are
 12 incorporated by reference and re-alleged as though fully set forth herein.

13 150. On or about the dates listed below, in the District of Arizona, and elsewhere,
 14 defendants, as set forth below, did knowingly conduct and attempt to conduct financial
 15 transactions affecting interstate and foreign commerce, as set forth below, which involved the
 16 proceeds of specified unlawful activity, that is, the possession with intent to distribute marijuana
 17 and conspiracy to possess with the intent to distribute marijuana, in violation of Title 21, United
 18 States Code, Sections 841(a)(1) and 846, knowing that the transactions were designed in whole
 19 and in part to conceal and disguise the nature, location, source, ownership and control of the
 20 proceeds of said specified unlawful activity, and while knowing that the property involved in the
 21 financial transactions represented the proceeds of some form of unlawful activity, each such
 22 instance being a separate Count of this Indictment.

23 All in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

24 Count	Date	Defendant(s)	Transaction
25 43	March 23, 2010	JULIO CARRILLO	Paid \$6000 in United States 26 currency to Lone Wolf Trading 27 Company for ten (10) AK-47 type rifles

1	44	March 23, 2010	JACOB ANTHONY MONTELONGO	Paid \$6000 in United States currency to Lone Wolf Trading Company for ten (10) AK-47 type rifles
2				
3	45	March 23, 2010	JOSHUA DAVID MOORE	Paid \$6000 in United States currency to Lone Wolf Trading Company for ten (10) AK-47 type rifles
4				
5	46	April 14, 2010	KRISTI GAIL IRELAND and URIEL PATINO	Paid \$18,000 in United States currency to Lone Wolf Trading Company as partial payment for three (3) Barrett .50 caliber rifles
6				
7	47	April 27, 2010	URIEL PATINO	Paid \$11,381 in United States currency to Lone Wolf Trading Company for ten (10) FN Herstal 5.7mm pistols
8				
9	48	June 2, 2010	URIEL PATINO	Paid \$6,640 in United States currency to Lone Wolf Trading Company for ten (10) AK-47 type rifles and one (1) .223 caliber rifle
10				
11	49	June 2, 2010	SEAN CHRISTOPHER STEWARD	Paid \$14,831 in United States currency to Lone Wolf Trading Company for ten (10) AK-47 type rifles and twenty-one (21) pistols
12				
13	50	June 18, 2010	URIEL PATINO	Paid \$10,099 in United States currency to Lone Wolf Trading Company for nine (9) FN Herstal 5.7 mm pistols
14				
15	51	June 23, 2010	SEAN CHRISTOPHER STEWARD	Paid \$5,500 in United States currency to Lone Wolf Trading Company for ten (10) AK-47 type rifles
16				
17	52	June 30, 2010	ALFREDO CELIS	Paid \$11,000 in United States currency to Lone Wolf Trading Company for twenty (20) AK-47 type rifles
18				
19	53	July 8, 2010	URIEL PATINO	Paid \$8,800 in United States currency to Lone Wolf Trading Company for 16 AK-47 type rifles
20				
21				
22				
23				
24				
25				
26				
27				
28				

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FORFEITURE ALLEGATIONS

Firearms Violations

Upon conviction of the offenses in violation of Title 18, United States Code, Sections 922 and 924, set forth in Counts 1, 2, and 6 through 41, the defendants shall forfeit to the United States pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c), any firearms and/or ammunition involved in or used in the knowing violation of the statutes set forth above.

If any of the property described above, as a result of any act or omission of the defendants:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

Controlled Substances Act Violations

Upon conviction of the offenses in violation of Title 21, United States Code, set forth in Counts 3, 4, and 5, the defendants shall forfeit to the United States pursuant to Title 21, United States Code, Section 853:

- (1) any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such violations; and
- (2) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violations.

1 If any of the above-described forfeitable property, as a result of any act or omission of the
2 defendants,

- 3 (1) cannot be located upon the exercise of due diligence;
- 4 (2) has been transferred or sold to, or deposited with, a third person;
- 5 (3) has been placed beyond the jurisdiction of the Court;
- 6 (4) has been substantially diminished in value; or
- 7 (5) has been commingled with other property which cannot be subdivided without
8 difficulty,

9 it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to
10 seek forfeiture of any other property of said defendants up to the value of the above forfeitable
11 property.

12 All pursuant to Title 21, United States Code, Section 853, and Title 28, United States Code,
13 Section 2461(c).

14 **Money Laundering Violations**

15 Upon conviction of the offenses in violation of Title 18, United States Code, Section 1956, set
16 forth in Counts 42 through 53, the defendants shall forfeit to the United States, pursuant to Title
17 18, United States Code, Section 982(a)(1), any property involved in such offenses, and any
18 property traceable to such property. If any of the above-described forfeitable property, as a result
19 of any act or omission of the defendants,

- 20 (1) cannot be located upon the exercise of due diligence;
- 21 (2) has been transferred or sold to, or deposited with, a third person;
- 22 (3) has been placed beyond the jurisdiction of the Court;
- 23 (4) has been substantially diminished in value; or
- 24 (5) has been commingled with other property which cannot be subdivided without
25 difficulty,

26 it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as
27 incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code,

28

1 Section 2461(c), to seek forfeiture of any other property of said defendants up to the value of the
2 above forfeitable property.

3 All pursuant to Title 18, United States Code, Section 982(a)(1), and Title 28, United States
4 Code, Section 2461(c).

5 A TRUE BILL

6
7
8 /s/
FOREPERSON OF THE GRAND JURY
Date: January 19, 2011

9 DENNIS K. BURKE
10 United States Attorney
District of Arizona

11
12 /s/

13 EMORY T. HURLEY
Assistant U.S. Attorney

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit 7

Case 4:10-cr-03019-DCB-CRP Document 174-1 Filed 10/07/11 Page 1 of 1

From: [REDACTED]
To: [Gwinn, Laura](#)
Subject: (no subject)
Date: Thursday, September 22, 2011 2:59:36 PM

Laura,
I spoke with the first AUSA that was on Wide Receiver. He told me the reason he chose not to prosecute it was because ATF lied to him and said that the guns were being followed/interdicted by the Mexican authorities on the other side of the border. This is also what they had told me.

The next AUSA chose not to prosecute it for the same reason.

If you were not aware of this...now you are. I'd hate to think that your integrity is flexible.

Best regards,
[REDACTED]

HOCR DOJ 006278

22

Exhibit 8

From: Tsethlikai, Serra (USAAZ)
To: Kleiner, AI (USAAZ)
Sent: 12/19/2008 12:38:07 AM
Subject: RE: Wide Receiver [REDACTED] deadlines

I reviewed Tom's prosecutor's memo. I don't like the case. I think it is wrong for us to allow 100s of guns to go into Mexico to drug people knowing that is where they are going.

From: Kleiner, AI (USAAZ)
Sent: Thursday, December 18, 2008 5:35 PM
To: Tsethlikai, Serra (USAAZ)
Subject: RE: Wide Receiver [REDACTED] deadlines

Iron River went to MDL. To the extent what RSH is talking about is Iron River-related, then we'll need to talk with Mike. Have you gotten to review any of the reports, etc. in your part of this thing?

From: Tsethlikai, Serra (USAAZ)
Sent: Thursday, December 18, 2008 5:29 PM
To: Kleiner, AI (USAAZ)
Subject: RE: Wide Receiver [REDACTED] deadlines

Sure. I thought Wide Receiver went to Mike LoGalbo as such his legal assistant should be dealing with this.

From: Kleiner, AI (USAAZ)
Sent: Thursday, December 18, 2008 5:28 PM
To: Tsethlikai, Serra (USAAZ)
Cc: Heinrich, Rachel (USAAZ)
Subject: FW: Wide Receiver [REDACTED] deadlines

Serra - Can we meet with Rachel tomorrow regarding this?

From: Heinrich, Rachel (USAAZ)
Sent: Thursday, December 18, 2008 5:15 PM
To: Kleiner, AI (USAAZ)
Cc: Dolph, Wendy (USAAZ); Tsethlikai, Serra (USAAZ)
Subject: Wide Receiver [REDACTED] deadlines

AI,
A couple of deadlines are notated on my calendar that will need to be dealt with while I am away on the Wide Receiver investigation. I'm not sure of the status of the Indictment since it has been reassigned to Serra, but I assume it's not happening before these deadlines.

[REDACTED]

HOCR WR 005430

Exhibit 9

RC-2

From: Shappert, Gretchen (USAEO) [mailto:[RC-1](#)]
Sent: Wednesday, July 22, 2009 3:05 PM
To: Trusty, James (CRM)
Subject: FW: Prosecutorial Assistance: SWB Gun Trafficking Cases

Jim:

See below. Does Laura have a resume that you care to pass along?
 Also, I heard from Karen Hewitt, who is reviewing her office situation and will get back to me.
 Many thanks,
 Gretchen

-----Original Message-----

From: Humetewa, Diane (USAAZ)
Sent: Wednesday, July 22, 2009 11:27 AM
To: Shappert, Gretchen (USAEO); Hewitt, Karen (USACAS); Fouratt, Greg (USANM)
Subject: RE: Prosecutorial Assistance: SWB Gun Trafficking Cases

Gretchen-it may be useful to send her resume. Thanks.

Sent from my GoodLink synchronized handheld (www.good.com)

-----Original Message-----

From: Shappert, Gretchen (USAEO)
Sent: Wednesday, July 22, 2009 09:57 AM Eastern Standard Time
To: Humetewa, Diane (USAAZ); Hewitt, Karen (USACAS); Fouratt, Greg (USANM)
Cc: Trusty, James (CRM); Smith, David L. (USAEO)
Subject: Prosecutorial Assistance: SWB Gun Trafficking Cases

Diane, Karen & Greg:

Laura Gwinn, an experienced violent crime prosecutor with the Gang Unit, has expressed an interest in assisting with the prosecution of gun trafficking cases on the SWB, either as lead or co-counsel. Her schedule is somewhat flexible and she is available to begin now, with general availability through the remainder of 2009, although she does have a capital murder trial starting in January. That trial is expected to last about 10 weeks. Once the trial is over, she would be able to return to her SWB duties.

This is part of the Department's SWB gun trafficking strategy, so Laura would be prosecuting gun trafficking cases (not simply 922(g) or 924© cases), whether or not the case has any gang connection.

If you believe that Laura's assistance would be of benefit to your district, please give me a call and let's discuss.

Thank-you,
Gretchen

RC-1

From: Trusty, James
Sent: Wednesday, August 12, 2009 5:32 PM
To: Gwinn, Laura; Carwile, Kevin
Subject: FW: S.W. Border Firearms Case

Good news, potentially!

See below, but Arizona has a case of gun trafficking involving 300-500 guns heading to Mexico. Don't know if there is any gang involvement or how solid the case is. It apparently involves about 4-5 targets and has a little age to it, but that may not be reflective of any problems with the case. There was apparently a little turf war between ATF and ICE, now resolved, and the assigned AUSA just got appointed magistrate. As of today, AZ has not reassigned it within their shop. Their crim chief, Robert Miskell, talked to Gretchen and is enthusiastic about our involvement. He is at RC-1

Laura, why don't we call him together tomorrow at some point?

Kevin, weigh in if you'd rather be in the mix on calling Miskell.

Jim

From: Shappert, Gretchen (USAEO) [mailto:RC-1]
Sent: Wednesday, August 12, 2009 5:05 PM
To: Trusty, James
Subject: S.W. Border Firearms Case

Jim:

AZ has a case, Operation Wide Receiver, 300-500 guns.

ATF, with some ICE assistance.

Has not yet been indicted.

They need a prosecutor.

Give me a call at your convenience.

Gretchen C.F. Shappert
 Anti-Gang National Coordinator,
 CAGI National Gang Coordinator,
 Legal Initiatives Staff
 EOUSA
 Phone: RC-1
 BB: RC-1
 Email: RC-1

Exhibit 10

From: Small, James K.
To: Gillett, George T. Jr.
Sent: 8/3/2009 10:11:01 PM
Subject: RE: Lingerin Prosecutions

George

The only major investigation that is lingering -

UI#/Case Title	Case Agent	AUSA	Date submitted to USAO Tucson
785085-06-0051 Wide Receiver	Bayer	Tsethlikai	2/13/2008

Here is the latest that I know about Wide Receiver. AUSA and SA are the second assigned to this case. I do not know exactly when AUSA Tsethlikai came on this case. RC-3

RC-3 AUSA was also pushing back w/ moral dilemma w/ the G allowing the targets to traffic 300+ firearms to Mexico. I advised AUSA that the case was investigated within ATF Trafficking guidelines and in furtherance of attempting to identify and secure evidence on targets inside Mexico receiving the firearms for the drug cartels. The case stands on its own merit and a prosecution decision should be made.

There may be other cases but I did not get any responses from the group. I will push on the SAS to pound NF and move all open investigations along to resolution (decline / prosecute).

Call if you have any questions

Jim

From: Gillett, George T. Jr.
Sent: Tuesday, July 28, 2009 1:16 PM
To: Small, James K.; Celaya, Sigberto F.
Subject: Lingerin Prosecutions

Gentlemen –

Please compile a list of those cases that have been submitted to the USAO in Tucson, and which continue to linger. In your list, please provide the Case title, Case agent, assigned AUSA, and date accepted for prosecution.

I will forward to the USAO for follow-up.

Thanks,

George T. Gillett
Assistant Special Agent in Charge
ATF - Phoenix Field Division
Office: RC-1

HOCR WR 005432

Exhibit 11

RC-1

From: Trusty, James
Sent: Wednesday, August 12, 2009 5:32 PM
To: Gwinn, Laura; Carwile, Kevin
Subject: FW: S.W. Border Firearms Case

Good news, potentially!

See below, but Arizona has a case of gun trafficking involving 300-500 guns heading to Mexico. Don't know if there is any gang involvement or how solid the case is. It apparently involves about 4-5 targets and has a little age to it, but that may not be reflective of any problems with the case. There was apparently a little turf war between ATF and ICE, now resolved, and the assigned AUSA just got appointed magistrate. As of today, AZ has not reassigned it within their shop. Their crim chief, Robert Miskell, talked to Gretchen and is enthusiastic about our involvement. He is at RC-1

Laura, why don't we call him together tomorrow at some point?

Kevin, weigh in if you'd rather be in the mix on calling Miskell.

Jim

From: Shappert, Gretchen (USAEO) [mailto:RC-1]
Sent: Wednesday, August 12, 2009 5:05 PM
To: Trusty, James
Subject: S.W. Border Firearms Case

Jim:

AZ has a case, Operation Wide Receiver, 300-500 guns.

ATF, with some ICE assistance.

Has not yet been indicted.

They need a prosecutor.

Give me a call at your convenience.

Gretchen C.F. Shappert
 Anti-Gang National Coordinator,
 CAGI National Gang Coordinator,
 Legal Initiatives Staff
 EOUSA
 Phone: RC-1
 BB: RC-1
 Email: RC-1

Exhibit 12

-----Original Message-----

From: Gwinn, Laura

Sent: Thursday, September 03, 2009 11:51 AM

To: Trusty, James

Subject: Tucson

I will try to pound this out before yet another disaster arises this morning. As you know it has been several weeks since I spoke to the aUSA so I am going off limited memory.

I believe the investigation of this case wrapped up about a year ago. It is an ATF led case

RC-5

[REDACTED]. I believe the ffl has a business but was selling the guns to the targets from his house. There are tapes which I am told have been translated. Cas involves 300 to 500 guns (unclear to me why we have such a wide range; doesn't someone know exact numbers?). It is my understanding that a lot of those guns "walked". Whether some or all of that was intentional is not known. The aUSA seemed to think ATF screwed up by not having a mechanism in place to seize weapons once they crossed the border. In any event I believe a small number of the guns have been recovered in connection with police action in Mexico. I do not know if they have been traced to crimes. If you have other specific Qs I will try to answer but I think I have told you everything I know.

Sent from Blackberry

Laura Gwinn

US Dept of Justice Gang Unit

RC-1

(c)

Exhibit 13

RC-1

From: Carwile, Kevin
Sent: Wednesday, September 30, 2009 8:41 AM
To: Trusty, James
Subject: FW: gun trafficking case

P. Kevin Carwile
 Chief, Gang Unit
 Criminal Division
 U.S. Department of Justice

From: Newell, William D. [mailto:RC-1]
Sent: Wednesday, September 30, 2009 8:40 AM
To: Carwile, Kevin
Subject: Re: gun trafficking case

I was informed of this yesterday. I appreciate your interest in the case and the assistance. Please don't hesitate to contact me should you need any additional information regarding the case. Take care.

Bill Newell
 Special Agent in Charge
 ATF Phoenix Field Division (AZ and NM)
 Cell: RC-1

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Carwile, Kevin
To: Newell, William D.
Sent: Wed Sep 30 08:04:32 2009
Subject: gun trafficking case
 Bill,

FYI - as I mentioned to you in Phoenix, I had one of my attys in Tucson last week reviewing the semi-dormant ATF gun trafficking investigation being handled out of that office. After our review, we have decided to take the case and the USAO has agreed. If you have any input/suggestions re: this matter, please feel free to send me an email or give me a call at RC-1. Thanks and I look forward to seeing you again soon.

P. Kevin Carwile
 Chief, Gang Unit
 Criminal Division
 U.S. Department of Justice

Exhibit 14

From: Newell, William D.
To: Gillett, George T. Jr.
Sent: 9/26/2009 2:06:20 PM
Subject: Re: Wide Receiver Summary for Kevin Carwile

That's what I'm afraid of. I'll give him a heads-up anyway as a courtesy. I'm trying to establish a straight-forward relationship with this guy.

Bill Newell
 Special Agent in Charge
 ATF Phoenix Field Division (AZ and NM)
 Cell: RC-1

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Gillett, George T. Jr.
To: Newell, William D.
Sent: Sat Sep 26 10:01:40 2009
Subject: Re: Wide Receiver Summary for Kevin Carwile

One of Kevin's attorney's spent most of this past week in Tucson reviewing our case. This was at the request of the USAO in Tucson that wanted an objective, fresh set of eyes to review the case..

The attorney reviewing Wide Receiver had discussions with Bayer and Maynard in person. I think (reading between the lines) when Kevin spoke with Bill McMahon and I, he asked for the executive summary to see if they were missing something. Kevin's comments were that his attorney felt the case, while not perfect, was prosecutable and straight forward.

Unless I'm missing something, if Dennis Burke doesn't already know about this, it's because Tucson didn't keep him in the loop.

George T. Gillett
 Assistant Special Agent in Charge
 ATF - Phoenix Field Division
 Cell: RC-1

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Newell, William D.
To: Gillett, George T. Jr.
Sent: Sat Sep 26 09:48:07 2009
Subject: Fw: Wide Receiver Summary for Kevin Carwile

Before I give this to Kevin today I want Dennis Burke to be aware of what we've done to try to get this case prosecuted. Can you e-mail me some bullets on the meetings we've had (quantity and date - approx), with whom at the USAO, and what was said. Thanks

Bill Newell
 Special Agent in Charge
 ATF Phoenix Field Division (AZ and NM)
 Cell: RC-1

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

HQGR-WR-005441

Exhibit 15

[REDACTED]

From: Newell, William D.
Sent: Wednesday, December 02, 2009 4:01 PM
To: McMahon, William G.
Subject: Phoenix VII Firearms Trafficking Case, ref: Naco, Sonora Seizure Case of 42 AKs
Attachments: American Auto Body.pdf; Phoenix Naco Seizure Case.docx

Bill, FYI. This is a good overview of the efforts of SA Hope MacAllister and crew to date on her case which directly relates to the recent seizure in Naco, Sonora, Mexico of 42 AK-47 type firearms. This case is evolving daily and they are doing a great job keeping on top of this considering it's only 3 of them and this is not the only case they are working on. Dave Voth, the new Group VII supervisor, arrives on Monday and that will allow Hope to not have to be the acting sup anymore. I'll keep you posted as this case develops but for now we've got it handled.

[REDACTED]

From: Gillett, George T. Jr.
Sent: Wednesday, December 02, 2009 2:16 PM
To: Newell, William D.
Cc: MacAllister, Hope A.; Quinonez, Louis A.; Voth, David J.
Subject: FW: Disregard my last...for your review
Attachments: synopsis.doc; American Auto Body.pdf

Boss –

For your review.

George T. Gillett
Assistant Special Agent in Charge
ATF - Phoenix Field Division
Office: (602) [REDACTED]

From: MacAllister, Hope A.
Sent: Wednesday, December 02, 2009 12:49 PM
To: Gillett, George T. Jr.
Subject: Disregard my last...for your review

Hope MacAllister
Special Agent Phoenix Group VII
602-[REDACTED]

CHAMBERS Trafficking Case IN#785115-10- [REDACTED]

1. On or about October 31, 2009, ATF Group VII Special Agents initiated an investigation into suspected firearms trafficking by,
 - **Jacob Wayne CHAMBERS**, date of birth [REDACTED], Arizona Driver's License (AZDL) number [REDACTED], Social Security Number (SSN) [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - **Joshua David MOORE**, date of birth [REDACTED], AZDL # [REDACTED], SSN [REDACTED]
 - **Uriel PATINO**, date of birth [REDACTED], AZDL# [REDACTED], SSN [REDACTED]
 - [REDACTED]
2. On or about October 31, 2009, ATF Group VII special Agents reviewed numerous ATF Form 4473's, "Firearm Transaction Records" from Federal Firearms Licensee (FFL) [REDACTED] which documented numerous firearms purchases completed by CHAMBERS, [REDACTED], [REDACTED], and [REDACTED].
3. On November 5, 2009, ATF agents conducted a query of Arizona Motor Vehicle Department (AZMVD) records. According to these records, both [REDACTED] and [REDACTED] Arizona Driver's Licenses listed the same residence, [REDACTED], AZ [REDACTED].
4. On November 5, 2009, ATF agents queried Maricopa County Assessor's Office website. According to the web based search, [REDACTED], AZ is owned by [REDACTED].
5. On November 10, 2009, ATF S/A's observed MOORE purchase ten (10) AK-47 style rifles. ATF S/A's observed MOORE place the firearms into a Honda [REDACTED].
6. On November 16, 2009, ATF agents received information from ATF S/A [REDACTED] regarding information from a source concerning previous firearms purchases by PATINO and MOORE at FFL, [REDACTED]. According to the source, both PATINO and MOORE had previously purchased firearms from [REDACTED] on separate occasions in the company of the same unidentified Hispanic male.
7. On November 18, 2009, ATF agents received information that at approximately 0845 hours, an individual contacted FFL [REDACTED], from a telephone number previously provided by CHAMBERS during a previous firearms transaction. The caller inquired as to [REDACTED] hours of operation and inventory of AK-47 style firearms. At approximately 0901 hours, [REDACTED] arrived at [REDACTED] and purchased

INVESTIGATIVE STEPS TAKEN/INVESTIGATIVE PLAN

Investigate Steps Taken

- Grand Jury Subpoena's have been served for phone records on the originally identified six straw purchasers (██████████, PATINO, CHAMBERS, ██████████, ██████████, MOORE). Agents are in the process of obtaining subpoenas for the remaining individuals.
- Agents provided the names of the original straw purchasers (above) to Financial Investigator ██████████ who has thus far identified several Cash Transaction Reports connected to PATINO and CHAMBERS.
- Agents have conducted general background checks on all suspects, identified vehicles and residences
- DEA Quick Check on the originally identified six straw purchasers, some have been preliminarily linked to DEA investigations.
- Surveillance conducted on several purchases identifying a stash residence and involved business.
- Received ATF Form 4473's and 3310.4 for all known purchases.
- Received all known video of purchases from FFLs.
- Took custody of a "side folder" AK-47 style rifle as evidence. The firearm was returned to an FFL by HERCEGOVAC to be traded for an "under folder" he had purchased earlier in the day. The actual returned AK-47 rifle was previously purchased by straw purchaser PATINO on a previous date.
- Working relationship established with FFL's ██████████, ██████████, ██████████ and ██████████ notifying ATF of suspect purchases/orders
- All known purchased firearms have been entered into ATF Suspect Gun database
- Working with AUSA Emory HURLEY for Grand Jury Subpoenas and future pen registers
- Obtained ICE point of contact, ██████████

Investigative Plan

- Identify main target from additional surveillance, and analysis of phone toll records by ATF IRS ██████████
- Based on intelligence analysis on phone tolls, obtain pen register(s)
- Additional financial investigation on all involved suspects
- Have requested pole cameras for both the stash house and business
- Identify any further Co-Conspirators
- Obtain further information regarding the connection to identified DEA investigations
- Confirm residence listed on 4473's are current and accurate
- Agents will be requesting a detailed financial background from ██████████ on all the additional identified participants as well as a spreadsheet of total money paid for the purchase of firearms by each purchaser.

Exhibit 16

LAW ENFORCEMENT SENSITIVE

OPERATION: THE FAST AND THE FURIOUS

A. BACKGROUND / FACTS ABOUT THE INVESTIGATION

1. BASIS FOR INITIATING THIS CASE – The states of Texas, California, Arizona and New Mexico supply 75% of all firearms illegally trafficked into the Republic of Mexico. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has identified the Phoenix, Arizona area as being one of the top five metropolitan areas where firearms and ammunition are obtained for this purpose. Furthermore, a majority of all Consolidate Priority Organized Target (CPOT) related investigations originate in the Southwest Organized Crime Drug Enforcement Task Force (OCDETF) region due to its proximity to the international border between the United States of America and the Republic of Mexico (Mexico). Major Mexican Drug Trafficking Organizations (DTO) are heavily represented on the CPOT list as posing a serious drug threat to the United States (U.S.).

The drug violence in Mexico has escalated with the expansion of the cartels' arsenals. The cartels are presently purchasing high caliber rifles, and anti-tank weapons. In addition to the rise in the number of killings, from 6,252 in 2008, to 7,025 through October 2009, the violence has escalated in other important ways that are more difficult to measure. Mexican drug violence is just as brutal as ever. Beheadings have now become a regular occurrence, with one of the most noteworthy incidents being the 11 mutilated bodies of alleged drug dealers found in Caborca, Sonora in July 2009.

In October 2009, ATF Phoenix Field Division (PFD) Phoenix Group VII Strike Force initiated investigations involving approximately five possible straw purchasers of firearms pursuant to ATF's Southwest Border/Operation Gunrunner Initiative. ATF Special Agents (Agents) received information from a Source of Information (SOI) that Jacob CHAMBERS, [REDACTED] and [REDACTED] had purchased numerous AK-47 style rifles from the same Glendale, AZ, Federal Firearms Licensee (FFL) during the same approximate time period. ATF agents also received information that a subject identified as Uriel PATINO had purchased numerous AK-47 style rifles and pistols during a short time frame from two FFL's including the FFL utilized by the above mentioned purchasers.

In November 2009, ATF agents identified additional straw purchasers Joshua MOORE, [REDACTED] Dejan HERCEGOVAC, Jaime AVILA, Jr., [REDACTED] and Jose POLANCO, through the SOI, FFL record checks, and surveillance operations. During the surveillance operations, ATF agents identified a Glendale, AZ, residence owned by a member of the CELIS-ACOSTA family, and a Phoenix automotive business that are being utilized as firearm drop locations. On November 20, 2009, some of the firearms purchased by the identified straw purchasers were recovered in a Naco, Sonora, Mexico seizure including firearms with a short time to crime. [REDACTED] and [REDACTED] were identified as additional straw purchasers from the Naco, Sonora, Mexico firearms seizure.

In December 2009, ATF agents also contacted an Internal Revenue Service (IRS) Special Agent in reference to initiating a financial crime investigation. Alfredo CELIS, [REDACTED] [REDACTED] were also identified as straw

LAW ENFORCEMENT SENSITIVE

Page 1 of 7

LAW ENFORCEMENT SENSITIVE

purchasers in December. On December 8, 2009, the SOI received a telephone call from a telephone number identified from Caller ID as belonging to Manuel Celis inquiring about AK-47 style firearms. On the same date, ATF agents identified additional straw purchaser Sean STEWARD through the SOI. During the subsequent surveillance operation, a traffic stop was initiated on a vehicle occupied by STEWARD. The occupants of the vehicle were identified as STEWARD, Manuel CELIS-ACOSTA and [REDACTED]. On December 9, 2009, nine firearms purchased by STEWARD on December 8, 2009, were recovered by Douglas, Arizona PD. The firearms were traced by an ICE SAC Phoenix agent on December 10, 2009. ATF agents contacted the Phoenix ICE agents in reference to the seizure.

In December 2009, ATF agents also learned that the investigation had a direct link to OCDETF Operation FLACO FEO under Special Operation Division (SOD) Operation [REDACTED] (DEA MN [REDACTED]). In April 2009, the Drug Enforcement Administration (DEA) Phoenix Field Division (PFD) and the Special Investigations Unit of the Glendale Police Department (GPD) initiated an investigation that targeted Phoenix-based narcotics distribution cells responsible for coordinating large scale shipments of cocaine and marijuana from Mexico into the Arizona before being distributed throughout the United States. Based on Confidential Source (CS) information, DEA investigators determined that [REDACTED] manages a large scale cocaine-trafficking organization based in Phoenix.

In December 2004 and January 2005, [REDACTED] was intercepted orchestrating large scale marijuana transactions with [REDACTED]. [REDACTED] was arrested and served three years in prison after pleading guilty to transportation of marijuana for sale. Approximately three years later, [REDACTED] resurfaced in another DEA PFD investigation named Operation [REDACTED], a joint investigation conducted by the DEA, Immigration and Customs Enforcement (ICE), Phoenix Police Department (PPD), Department of Public Safety (DPS), and Border Patrol (BP). Operation [REDACTED] targeted the [REDACTED] Drug Trafficking Organization (DTO) and resulted in 39 arrests, 60 indictments, and the seizure of \$769,472 U.S. currency, 11 pounds of methamphetamine, 13,246 pounds of marijuana, 28 vehicles, and 25 weapons. Information gathered through surveillance and intercepted calls indicated that [REDACTED] and his associates were utilizing a sophisticated transportation network to traffic large bulk shipments of marijuana from Mexico to Phoenix, Arizona. During the investigation, investigators identified [REDACTED] as being an associate of the [REDACTED] DTO. [REDACTED] was arrested subsequent to a vehicle stop where approximately 20 pounds of marijuana was seized from the vehicle [REDACTED] was driving. Information gathered in the investigation indicated that [REDACTED] was responsible for facilitating the remittance of large sums of bulk proceeds from Phoenix to Mexico.

In Operation FLACO FEO, surveillance operations and Financial Crimes Enforcement Network (FINCEN) inquiries identified several Phoenix businesses and locations that investigators believe are being utilized to launder narcotics proceeds generated from the sale of cocaine in Michigan and other unidentified locations outside the state of Arizona. On May 11, 2009, GPD investigators determined from surveillance and CS information that [REDACTED] was involved in the coordination of transportation of bulk currency from Detroit, Michigan to Phoenix, Arizona. DEA and GPD investigators were able to identify a tractor trailer driven by [REDACTED]. A traffic stop on the tractor trailer and subsequent search of the vehicle resulted in

LAW ENFORCEMENT SENSITIVE

Page 2 of 7

LAW ENFORCEMENT SENSITIVE

the seizure of approximately \$1.3 million in U.S Currency. The money had been concealed in the sleeping compartment of the vehicle. Based on CS information and information gathered through a post-arrest interview with ██████████ picked up the money in Detroit, Michigan. ██████████ stated that he was directed by an unidentified individual (believed to be ██████████) to leave the semi-truck in a parking lot where it would be picked up by a third party. ██████████ stated that he waited in a restaurant while an unknown individual drove the semi-truck away, loaded the drug proceeds, and returned the truck to the parking lot. ██████████ drove the tractor trailer to Arizona where it was subsequently stopped by law enforcement. ██████████ was detained and released pending indictment at a later date.

In May 2009, DEA and GPD initiated a state Title-III investigation targeting ██████████ ██████████ and ██████████ who have been identified as high-level leaders or associates within this drug trafficking organization. ██████████ is an RPOT believed to control drug trafficking operations at the Lukeville Port of Entry along the Arizona – Mexico border. PFD agents believe that they are responsible for the importation of multi-kilogram quantities of cocaine and marijuana into the United States, and the remittance of bulk narcotics proceeds back into Mexico.

During a Deconfliction meeting with DEA on December 15, 2009, the Operation FLACO FEO case agents advised that numerous telephone calls had been intercepted involving ██████████ aka ██████████ and the Phoenix DEA/GPD Operation FLACO FEO targets. ██████████ is believed to be in ██████████, Mexico, and has been intercepted orchestrating different amounts of US currency being illegally brought into the US for the purpose of purchasing firearms via the Phoenix DEA/GPD Operation FLACO FEO targets. Those targets were intercepted making arrangements with telephone numbers utilized by CELIS-ACOSTA, CHAMBERS and STEWARD to obtain the firearms for ██████████. On December 21, 2009, an intercepted telephone call between CELIS-ACOSTA and an Operation FLACO FEO target revealed that firearms recently purchased in Phoenix were going to be driven to El Paso, TX and trafficked into Mexico.

ATF agents believe that a Phoenix-based firearm trafficking group is actively purchasing firearms through straw purchasers using bulk narcotics proceeds. The firearms are then being trafficked into Mexico using non-factory compartments in various vehicles through various Ports of Entry (POE's) in Arizona and Texas.

Since the ATF case was initiated, ATF agents have identified approximately seventeen straw purchasers who have purchased a large amount of AK-47 style rifles and pistols from various FFL's in the Phoenix Metropolitan area and Prescott, AZ, since September 2009. There have been four firearms seizures in Arizona that were purchased by the identified straw purchasers including the above mentioned Douglas, AZ seizure. There have been two firearms seizures in El Paso, Texas, on January 13, 2010, involving firearms purchased by STEWARD. There have been five firearms seizures in Mexico involving firearms purchased by identified straw purchasers including the above mentioned Naco Seizure; a November 25, 2009, Agua Prieta, Sonora, seizure; a December 9, 2009, Mexicali, Baja California, seizure that yielded a seizure of over \$2 million dollars in US Currency, firearms, cocaine and methamphetamine from inside a

LAW ENFORCEMENT SENSITIVE

Page 3 of 7

LAW ENFORCEMENT SENSITIVE

warehouse; a December 18, 2009, seizure in Tijuana, Baja California; and a January 8, 2010, Tijuana, Baja California, seizure.

In January 2010, ATF agents received court authorization to install five Pen Registers on telephone numbers utilized by CELIS-ACOSTA, MOORE, STEWARD, PATINO, and CHAMBERS. Investigators anticipate the initiation of a Title-III targeting [REDACTED] CELIS-ACOSTA and the straw purchasers.

The focus of the proposed investigation will be on [REDACTED] Manuel CELIS-ACOSTA, Jacob CHAMBERS, [REDACTED] Uriel PATINO, Joshua MOORE, [REDACTED] Dejan HERCEGOVAC, Jaime AVILA, Jr., [REDACTED] Jose POLANCO, [REDACTED] Sean STEWARD, [REDACTED] Alfredo CELIS, [REDACTED] as well as [REDACTED] and [REDACTED] who have been identified as high-level leaders or associates within the drug trafficking organization. [REDACTED] is a Regional Priority Organized Target (RPOT) believed to control drug trafficking operations at the Lukeville Port of Entry along the Arizona – Mexico border.

2. CPOT AND RPOT LINK - Link to [REDACTED]

[REDACTED] and CELIS-ACOSTA are believed to be supplying firearms to the [REDACTED] DTO, a documented RPOT, and the BELTRAN-LEYVA organization, a documented CPOT. As described above, [REDACTED] aka [REDACTED] was a primary target of Operation [REDACTED] in which [REDACTED] was involved. [REDACTED] is the cocaine source of supply for [REDACTED] and his DTO associates. Based on intercepted calls and information gathered in OPERATION FLACO FEO, investigators believe that [REDACTED] is responsible for coordinating the transportation of drug proceeds from Arizona to Mexico for the [REDACTED] DTO. Investigators determined that the narcotics proceeds were being channeled through [REDACTED] in Mexico.

3. IMPACT OF DISMANTLING/DISRUPTING THE [REDACTED] DTO – Dismantling the firearms trafficking organization supplying the [REDACTED] DTO would have a impact and significantly disrupt the [REDACTED] DTO by incarcerating high level members of the organization and causing a disruption to the flow of drugs into the US, and firearms and drug proceeds back to Mexico. In particular, this investigation has the potential to significantly reduce the illegal trafficking of firearms and narcotics proceeds through Phoenix, Arizona. Anticipated seizures of firearms, cash and assets will cause a significant disruption in leadership as those traffickers held responsible will have to be replaced by other associates.

4. TARGETED ORGANIZATION

- a) Name: [REDACTED]
- b) Geographic Scope: Arizona, Mexico.
- c) Number of Participants: Unknown at this time.
- d) Criminal Activities: The trafficking of firearms into Mexico and the importation and distribution of controlled substances from Mexico to and throughout the US.

LAW ENFORCEMENT SENSITIVE

Page 4 of 7

LAW ENFORCEMENT SENSITIVE

- e) Type and Quantity of drugs: Multi-kilogram quantities of cocaine and multi-ton quantities of marijuana.
- f) Drug Trafficking Methods: Couriers are used to bring controlled substances from Mexico into and throughout the US. Stash houses located in Phoenix, Arizona are used until the drugs are ready to be moved throughout the US. Vehicles (some equipped with concealed compartments) including semi-trucks with cover loads are used to transport drugs.
- g) Money Laundering Methods: Bulk currency is transported from the United States into Mexico. Investigators believe that the proceeds are invested in businesses and assets, some of which are legitimate and others which are used to launder drug proceeds.

5. PRINCIPAL TARGETS OF INVESTIGATION AND THEIR ROLES

- a) [REDACTED] aka [REDACTED]: Mexico supplier of bulk narcotic proceeds to Phoenix targets of firearms trafficking organization.
- b) Manuel CELIS-ACOSTA: Receives firearms from straw purchasers and provides firearms to [REDACTED]
- c) Jacob CHAMBERS – Straw Purchaser
- d) Sean STEWARD - Straw Purchaser
- e) Uriel PATINO - Straw Purchaser
- f) Joshua MOORE – Straw Purchaser
- g) [REDACTED] – Straw Purchaser
- h) [REDACTED] – Straw Purchaser
- i) [REDACTED] Straw Purchaser
- j) Jaime A VILA, Jr. – Straw Purchaser
- k) Jose POLANCO – Straw Purchaser
- l) Alfredo CELIS – Straw Purchaser
- m) [REDACTED] Phoenix-based cell head and facilitator between Mexican SOS and Distribution Cells for marijuana and cocaine. [REDACTED] is believed to distribute cocaine supplied by [REDACTED] to Michigan and other locations outside the state of Arizona. Investigators also believe that [REDACTED] is responsible for coordinating the remittance of narcotics proceeds back to [REDACTED] in Mexico.
- n) [REDACTED] aka [REDACTED]: [REDACTED] is an established RPOT who is responsible for transporting cocaine and marijuana across the US – Arizona border at the Lukeville Point of Entry. Based on information gathered in this investigation, once the narcotics have reached Phoenix, Arizona, custody of the drugs are transferred to [REDACTED] and other drug trafficking cells for distribution to locations outside the state of Arizona.

6. CONNECTION TO TERRORIST GROUPS, NATIONAL GANGS, AND / OR ORGANIZED CRIMINAL GROUPS - To date the investigation has not established any connections between the [REDACTED] DTO and any terrorist organizations, national gangs or other organized criminal groups.

LAW ENFORCEMENT SENSITIVE

Page 5 of 7

LAW ENFORCEMENT SENSITIVE

7. EXTENT OF PUBLIC CORRUPTION - The investigation has not identified any links to public corruption within the United States.

B. INVESTIGATIVE TECHNIQUES AND GOALS

1. OVERALL GOALS OF THE INVESTIGATION - The direct goal of this investigation is to identify and arrest members of the [REDACTED] DTO as well as seize assets owned by the DTO. Based upon the amount of drugs this organization distributes in the US, it is anticipated that the investigation will continue to expand to other parts of the US and enable law enforcement operations in multiple jurisdictions. In addition to the [REDACTED] DTO, this investigation is intended to identify and expand to the hierarchy within the Mexico-based drug trafficking organization that directs the [REDACTED] DTO. This organization reaches across the U.S. and into Mexico. This investigation will seek to assist foreign offices in their investigations. Agents anticipate the GPS satellite tracking surveillance on various compartment vehicles and the assistance of El Paso Intelligence Center (EPIC) Command Center to be a tremendous asset. Their assistance will assist in identifying members of the [REDACTED] [REDACTED] DTO operating in various cities in Arizona. As these individuals become known to the investigation, other investigative tools will be used to further identify the individuals.

2. ADDITIONAL INVESTIGATIVE TECHNIQUES – Agents intend to use a variety of investigative techniques, including: Title-IIIs, Pen Registers, surveillance, EPIC Watch, surveillance cameras, GPS satellite tracking surveillance, administrative and Grand Jury subpoenas, public and law enforcement database historical searches and FINCEN requests. Due to the scope of the investigation, it is anticipated that the agents will use intelligence they obtain to assist other jurisdictions to begin their own investigation of firearms and drug trafficking which flows across the Mexico/Arizona or Mexico/Texas border and ultimately is distributed in their jurisdiction. Additionally, ATF intends to pass information and Title-III leads to ATF offices in Texas and other state and local law enforcement offices to enable those agencies to develop their own investigations.

To date, the financial investigative techniques have been critical to the identification of businesses, residences, bank accounts, and money laundering methods utilized by the [REDACTED] DTO. As this investigation progresses, agents will continue to utilize FINCEN inquiries, witness debriefings, commercial database inquiries, mail covers, and Suspicious Activity Reports (SAR) reviews to identify business fronts and other assets acquired through illicit activity.

3. POTENTIAL ASSET SEIZURES – ATF and ICE will be the lead agencies for this OCDETF investigation but will share in the process of seizures with IRS, in conjunction with their policy and procedures. Several businesses have also been identified as possible assets for seizures. Investigators anticipate identifying additional bank accounts, businesses, and corporations utilized by CELIS-ACOSTA to launder firearms trafficking proceeds. ATF, ICE and IRS anticipates seizing all assets that are identified as proceeds from, or used to facilitate, firearm trafficking.

LAW ENFORCEMENT SENSITIVE

Page 6 of 7

LAW ENFORCEMENT SENSITIVE

4. CONNECTIONS WITH OTHER INVESTIGATIONS – ATF and ICE agents in this investigation are sharing information with investigators from Operation FLACO FEO (DEA [REDACTED]), an active T-III investigation. Firearms purchased by Uriel PATINO were recovered in Nogales, Arizona (ATF IN #785065-10-[REDACTED]). Firearms purchased by straw purchaser Sean STEWARD were recovered in El Paso, Texas (ATF IN #781035-10-[REDACTED]) and Douglas, Arizona (Douglas PD report [REDACTED]). Two additional firearms were also recovered in El Paso, Texas, by Customs and Border Protection (CBP). It is expected that this investigation will divulge both domestic and international firearms trafficking connections. As a result, it is foreseeable that other divisions will have opportunities to investigate facets of this organization and related illegal drug organizations and the ultimate dismantlement of [REDACTED] [REDACTED] DTO, RPOT [REDACTED] DTO and CPOT BELTRAN-LEYVA.

5. OCDETF FUSION CENTER –ATF has utilized the OCDETF Fusion Center and received product from the OCDETF Fusion Center.

C. MANPOWER/RESOURCE REQUIREMENTS

1. INVESTIGATIVE RESPONSIBILITIES - This investigation is a joint investigation involving ATF and ICE with additional support from IRS and DEA. ATF Group VII OCDETF Strike Force and ICE SAC Phoenix Border Enforcement Security Task Force (BEST) are the primary Federal investigative agencies. IRS will provide financial investigative support. DEA and PPD personnel will provide investigative and intelligence support, and surveillance assistance.

2. ANTICIPATED FUNDING REQUIREMENTS – The investigation is comprised of Special Agents from ATF, ICE, IRS, and DEA. It is anticipated that this investigation will require intensive and extensive surveillance, monitoring of court authorized Title-III wire interceptions and pen registers, processing of large amounts of evidence and the frequent use of technical equipment. Additional funding may be required to pay for anticipated travel by agents to other Field Divisions, Country Offices, and jurisdictions to coordinate the investigation. Additional funding will also be required to pay for Local Overtime and possible travel.

LAW ENFORCEMENT SENSITIVE

Page 7 of 7

Organized Crime Drug Enforcement Task Forces

Investigation Initiation Form

OCDETF Investigation No.

--	--	--	--	--	--	--	--	--	--

THE FAST AND THE FURIOUS
Operation Name

	Name:	Agency:	Telephone:	Email:
Case Attorney:	AUSA Emory Hurley	USAO	602- [REDACTED]	Emory.Hurley@[REDACTED]
Case Agent(s):	Hope MacAllister	ATF	602- [REDACTED]	Hope.MacAllister@[REDACTED]
	Tonya English	ATF	602- [REDACTED]	Tonya.English@[REDACTED]

LAW ENFORCEMENT SENSITIVE



The attached information must be protected and not released to unauthorized individuals.

Investigation Initiation Form
Organized Crime
Drug Enforcement Task Forces

LAW ENFORCEMENT SENSITIVE

Page 1
OCDETF Investigation No. [] [] [] [] [] [] [] []
(Assigned by AUSA Coordinator)

Federal Judicial District Initiating this Investigation: District of Arizona
Special Operations Division (SOD) Coordination: Yes No (Note: Coordination refers to those multi-jurisdictional operations where SOD is actively coordinating with the field to provide guidance and oversight. SOD Funding of electronic surveillance does not, by itself, constitute coordination.)
If yes: SOD Staff Coordinator [REDACTED] SOD Operation Name TO BE DETERMINED
Have you received any product from the OCDETF Fusion Center regarding this case? (other than the initial Rapid Enforcement Review) Yes No
Did the OCDETF Fusion Center assist you with asset seizures for this case? Yes No
HIDTA Participation: Yes No HIFCA Participation: Yes No

I. Targeted Organization (N/A if name of organization is unknown)

Name: BELTRAN-LEYVA Operation (Code) Name: The Fast and the Furious

II. Prospective Defendants (If more than thirty, attach "Prospective Defendants Supplement" (OCDETF Form S-3))

Name (last, first, middle initial)	Non-U.S. Citizen (indicate with an X)	Alien Registration Number	DOB	SSN	FBI #	Leadership Role (indicate with an x)
1) [REDACTED]	<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>
2) CELIS-ACOSTA, Manuel Fabian	<input type="checkbox"/>		[REDACTED]	[REDACTED]	[REDACTED]	<input checked="" type="checkbox"/>
3) [REDACTED]	<input type="checkbox"/>			- -		<input checked="" type="checkbox"/>
4) AVILA Jr., Jaime	<input type="checkbox"/>		[REDACTED]	[REDACTED]		<input type="checkbox"/>
5) CELIS, Alfredo NMN	<input type="checkbox"/>		[REDACTED]	[REDACTED]		<input type="checkbox"/>
6) CHAMBERS, Jacob Wayne	<input type="checkbox"/>		[REDACTED]	[REDACTED]		<input checked="" type="checkbox"/>
7) MOORE, Joshua David	<input type="checkbox"/>		[REDACTED]	[REDACTED]		<input checked="" type="checkbox"/>
8) PATINO, Uriel NMN	<input type="checkbox"/>		[REDACTED]	[REDACTED]		<input checked="" type="checkbox"/>
9) STEWARD, Sean Christopher	<input type="checkbox"/>		[REDACTED]	[REDACTED]	[REDACTED]	<input checked="" type="checkbox"/>
10) HERCEGOVAC, Dejan NMN	<input type="checkbox"/>		[REDACTED]	[REDACTED]		<input type="checkbox"/>
11) [REDACTED]	<input type="checkbox"/>		[REDACTED]	[REDACTED]		<input type="checkbox"/>
12) [REDACTED]	<input type="checkbox"/>		[REDACTED]	[REDACTED]	[REDACTED]	<input type="checkbox"/>
13)	<input type="checkbox"/>					<input type="checkbox"/>
14)	<input type="checkbox"/>					<input type="checkbox"/>
15)	<input type="checkbox"/>					<input type="checkbox"/>
16)	<input type="checkbox"/>					<input type="checkbox"/>
17)	<input type="checkbox"/>					<input type="checkbox"/>
18)	<input type="checkbox"/>					<input type="checkbox"/>
19)	<input type="checkbox"/>					<input type="checkbox"/>
20)	<input type="checkbox"/>					<input type="checkbox"/>
21)	<input type="checkbox"/>					<input type="checkbox"/>
22)	<input type="checkbox"/>					<input type="checkbox"/>
23)	<input type="checkbox"/>					<input type="checkbox"/>
24)	<input type="checkbox"/>					<input type="checkbox"/>
25)	<input type="checkbox"/>					<input type="checkbox"/>
26)	<input type="checkbox"/>					<input type="checkbox"/>
27)	<input type="checkbox"/>					<input type="checkbox"/>
28)	<input type="checkbox"/>					<input type="checkbox"/>
29)	<input type="checkbox"/>					<input type="checkbox"/>
30)	<input type="checkbox"/>					<input type="checkbox"/>

FORM USA-244/Oct 09

LAW ENFORCEMENT SENSITIVE

Investigation Initiation Form
Organized Crime
Drug Enforcement Task Forces

LAW ENFORCEMENT SENSITIVE

OCDETF Investigation No. [] [] [] [] [] [] [] [] [] []
(Assigned by AUSA Coordinator)

III. Agency Involvement Check all boxes which apply and enter personnel commitment and agency case numbers, if available.
Note: Agency case numbers for Federal agencies must be submitted by the time of the first Interim Report
(that is, within six months of the initiation of the OCDETF investigation.)

Agency	# of Full Time Personnel	# of Part Time Personnel	Agency Case Number	Associated Agency Case Number(s)
<input checked="" type="checkbox"/> ATF	6	4	785115-10- [REDACTED]	785065-10- [REDACTED] 781035-10- [REDACTED]
<input checked="" type="checkbox"/> DEA - GDEP #		1		[REDACTED]
<input type="checkbox"/> FBI				
<input checked="" type="checkbox"/> ICE	1			[REDACTED]
<input checked="" type="checkbox"/> IRS		1		
<input checked="" type="checkbox"/> USAO		1		USAO [REDACTED]
<input type="checkbox"/> USCG				
<input type="checkbox"/> USMS				
<input type="checkbox"/> Other (Federal) (List Agencies)				
<input type="checkbox"/>				
<input checked="" type="checkbox"/> State/Local Investigators (List Agencies)				
<input checked="" type="checkbox"/> Phoenix Police Department (Gun Squad)		5		
<input type="checkbox"/>				
<input type="checkbox"/>				
<input type="checkbox"/>				
<input type="checkbox"/> State/Local Prosecutors (List Agencies)				
<input type="checkbox"/>				
<input type="checkbox"/>				
<input type="checkbox"/>				
<input type="checkbox"/> Foreign Law Enforcement (List Agencies)				
<input type="checkbox"/>				
<input type="checkbox"/>				
<input type="checkbox"/>				

Does this investigation anticipate requesting State and Local Overtime Funding?

Yes No

If yes, please indicate funding source

DOJ Treasury Other _____

If yes, please indicate an estimated amount for the current fiscal year. (Note-State and Local Overtime Funding must still be submitted through the separate appropriate process for approval.)

\$20,000.00

LAW ENFORCEMENT SENSITIVE

LAW ENFORCEMENT SENSITIVE

OCDETF Investigation No.

--	--	--	--	--	--	--	--	--	--

(Assigned by AUSA Coordinator)

VI. Investigative Techniques Used to Date Supervised by your District: (check all that apply)

General Investigative Techniques	Financial Investigative Techniques
<input type="checkbox"/> Drug Purchase/Reverse <input type="checkbox"/> Controlled Delivery <input type="checkbox"/> Undercover <input checked="" type="checkbox"/> Informant <input type="checkbox"/> T-III/Wiretap <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Foreign <input type="checkbox"/> Roving Title III <input checked="" type="checkbox"/> Other Electronic Surveillance <input checked="" type="checkbox"/> Toll Analysis <input checked="" type="checkbox"/> Pen Register/Trap and Trace <input checked="" type="checkbox"/> MLAT/Request to Foreign Gov't <input checked="" type="checkbox"/> Investigative Grand Jury <input type="checkbox"/> Wall-off <input checked="" type="checkbox"/> Search Warrant <input type="checkbox"/> Administrative Subpoena <input type="checkbox"/> Immigration Benefits (i.e., S-Visa) <input type="checkbox"/> Immigration Admin/Crim Action <input type="checkbox"/> Witness Protection <input type="checkbox"/> Other (Specify)	<p>Note: A financial investigation must have been commenced prior to submission of this form. Check all that apply: Corroborated information received from a witness/informant related to the organization:</p> <input checked="" type="checkbox"/> Assets and proceeds <input checked="" type="checkbox"/> Methods of moving/laundrying proceeds <p>Conducted followup on financial leads uncovered through:</p> <input checked="" type="checkbox"/> Commercial database checks <input checked="" type="checkbox"/> Public sources of information (bankruptcy, divorce records, articles of inc., deeds, mortgages) <input type="checkbox"/> Mail Cover <input type="checkbox"/> Trash Search <input type="checkbox"/> Search Warrant <input checked="" type="checkbox"/> Reviews of SAR's, CTR's, CMIR, etc. <input type="checkbox"/> Request to FinCEN for foreign bank information <input type="checkbox"/> Ex parte Tax Order <input checked="" type="checkbox"/> OCDETF Fusion Center Report <p>Conducted analysis of financial information:</p> <input checked="" type="checkbox"/> Received through subpoena to credit agencies, banks and other financial institutions <input type="checkbox"/> Relating to wire transfers, money order purchases, or other financial information <p>Methods Used:</p> <input type="checkbox"/> Net Worth Analysis <input type="checkbox"/> Asset Tracing <input type="checkbox"/> Financial/Money Laundering undercover operation <input type="checkbox"/> Other _____ <p>Which agency is conducting the financial investigation? (check one primary agency only)</p> <input checked="" type="checkbox"/> IRS <input type="checkbox"/> DEA <input type="checkbox"/> ICE <input type="checkbox"/> USAO <input type="checkbox"/> FBI <input type="checkbox"/> Other _____ <p>Are you being assisted by the:</p> <input type="checkbox"/> DEA FIT Team <input type="checkbox"/> USAO Financial Analyst <input type="checkbox"/> OCDETF FIC Squad <input type="checkbox"/> Strike Force Financial Analyst

LAW ENFORCEMENT SENSITIVE

Investigation Initiation Form
Organized Crime
Drug Enforcement Task Forces

LAW ENFORCEMENT SENSITIVE

Page 5

OCDETF Investigation No.

--	--	--	--	--	--	--	--

(Assigned by AUSA Coordinator)

VII. REQUIRED DATABASE CHECKLIST FOR OCDETF IIF

Name of Agent: Hope MacAllister /Tonya English
 Agency: ATF
 Telephone Number: 602- [REDACTED] /602- [REDACTED]
 OCDETF Operation Name: The Fast and the Furious
 Judicial District: District of Arizona

REQUIRED DATABASE CHECKS

DATABASE	DATE REQUESTED	DATE COMPLETED
EPIC MDBQ DATABASE	01/22/2010	
EPIC - IRS (Special Request) or FinCEN GATEWAY	01/22/2010	
EPIC- USMS (Special Request)	01/22/2010	
USSS (Special Request)	01/22/2010	
EPIC - ATF (Special Request)	01/22/2010	
EPIC - DEA Drug X (Special Request)	01/22/2010	
EPIC - ICE/AIU (Special Request)	01/22/2010	
OCDETF Fusion Center	01/13/2010	

OPTIONAL DATABASE CHECKS

While not required for OCDETF approval, please provide information, if checks were completed.

DATABASE	DATE COMPLETED
Choicepoint	
Lexis-Nexis	
Dun & Bradstreet	
INFO-USA	
Thompson Bank Directory	

VIII. SPECIAL OPERATIONS DIVISION (SOD) WORKSHEET

Date Prepared: (MM/DD/YYYY)
01/20/2010

Prepared By: Special Agent Tonya English Agency: ATF Telephone: 602- [REDACTED]

Current SOD Coordination: Yes No
(If Yes) SOD Operation Name:

Communication Devices previously submitted to SOD: Yes No
(If Yes, answer the following)

Submitted By: Special Agent Tonya English Agency: ATF Telephone: 602- [REDACTED]

Date Submitted to SOD: (MM/DD/YYYY)
01/21/2010

COMMUNICATIONS DEVICES

(NOT Previously Submitted to SOD)

Type of Device (Designate by letter)

- (A) Cell Phone (B) Hard-line (C) Pager (D) Calling Card
(E) Satellite (F) FAX (G) E-mail (H) Other

NAME of TARGET	Type	Number (with area code)	Type	Number (with area code)	Type	Number (with area code)

LAW ENFORCEMENT SENSITIVE

LAW ENFORCEMENT SENSITIVE

OCDETF Investigation No.

--	--	--	--	--	--	--	--	--	--

(Assigned by AUSA Coordinator)

IX. Narrative Summary (Number all pages, include investigation number and mark "Law Enforcement Sensitive")

Answer all questions below thoroughly, but concisely.

A. BACKGROUND/FACTS ABOUT THE CASE

1. What is the basis for initiating this case?
2. If the target organization is linked to, or has the potential to link to, a CPOT or RPOT, explain the available evidence to substantiate the connection.
3. How would disruption or dismantlement of this organization impact the CPOT or RPOT?
4. Provide the following information about the targeted organization:
 - a) Name
 - b) Geographic scope. (Note: the organization should operate in multiple districts and/or have a link to a nationwide or international drug trafficking organization.)
 - c) Number of participants.
 - d) Criminal activities involved (i.e., money laundering, drug production, transportation and/or distribution, drug related violence, public corruption, tax fraud, etc.)
 - e) Type and quantity of drugs involved and estimated annual supply capacity of the organization.
 - f) Describe drug trafficking methods.
 - g) Describe money laundering methods including a summary of the results of the financial investigation to date.
5. Identify the principal targets and their roles in the organization (i.e., organization head, supplier, transporter, broker, financier, distributor, enforcer, etc.).
6. Explain any connections to terrorist organizations, national gangs or other organized criminal groups.
7. What is the nature and extent of public corruption, if any?

B. INVESTIGATIVE TECHNIQUES AND GOALS

1. What are the overall goals and objectives of this investigation?
2. List: (a) planned financial investigative steps; and (b) planned investigative techniques beyond those listed in Part VI, above.
3. What is the potential for asset seizures? Describe these assets and list the properties and/or the names of businesses subject to potential seizure, and identify the relationship of the properties to the target(s) or criminal activities.
4. What, if any, connection does this case have to other investigations, districts or regions? What contact has been made with those other jurisdictions?
5. What, if any, assistance has the OCDETF Fusion Center provided to this investigation that has substantially contributed to investigative/prosecution efforts? Please be specific about any results from the OCDETF Fusion Center's support (e.g. identification of additional assets and/or associates, additional charges in indictment, etc.)

C. PERSONNEL/RESOURCE REQUIREMENTS

1. Explain the investigative responsibilities of each agency participating in this investigation.

LAW ENFORCEMENT SENSITIVE

LAW ENFORCEMENT SENSITIVE

OCDETF Investigation No.

--	--	--	--	--	--	--	--	--	--

(Assigned by AUSA Coordinator)

X. Approvals

Initiating District	PRINT NAME	INITIAL	DATE	Regional Coordination Group	
U.S. Attorney or Designee	_____	_____	_____	AUSA Coordinator Signature: _____ Date _____	
SAC or Designee	_____	_____	_____	ATF	Date _____
ATF	_____	_____	_____	DEA	Date _____
DEA	_____	_____	_____	FBI	Date _____
FBI	_____	_____	_____	ICE	Date _____
ICE	_____	_____	_____	IRS	Date _____
IRS	_____	_____	_____	USCG	Date _____
USCG	_____	_____	_____	USMS	Date _____
USMS	_____	_____	_____	Other	Date _____
Other	_____	_____	_____		

If an agency disagrees with this proposal, which has been approved by majority vote, please indicate below and attach a dissenting statement.
Dissenting Agency: _____

To be completed by the Regional Coordination Group:

Was this investigation generated as a result of an approved OCDETF Strategic Initiative?
Yes No

If yes, identify the initiative number:

S	I						
---	---	--	--	--	--	--	--

If this case is connected to an RPOT in another region, please identify region: _____

OCDETF Executive Office
Reviewed/Computer Entry:
Initials ___ Date ____

LAW ENFORCEMENT SENSITIVE

Exhibit 17



From: Voth, David J. <[REDACTED]>
Sent: Monday, November 9, 2009 11:28 AM
To: MacAllister, Hope A. [REDACTED] Medina, Jose L.
Subject: New case requires action, maybe Joe...?
Attach: Doc1.docx

Hope,

Sorry I don't mean to interfere when I am not even in the State of Arizona yet but this one screams actions...!

- 23 year old Hispanic male
- Lives in Phoenix; buying guns at [REDACTED] [REDACTED] has an in-house policy to always get a phone number plus they should have a corporate contact to get information without risking getting burned by FFL.
- In the month of November 2009 (9 days) he has purchased eleven (11) FN 5.7, one (1) 7.62, and one (1) .40 caliber = total 13 guns (12 of which are high profile guns for DTO.)
- Let's get something going on this guy, no surveillance or other enforcement action, but let's start looking into phone numbers, border crossings, method of payment especially if credit card or check...etc.

If it looks good I will send down a "go-by" for a pen register we used up here on our current SWB trafficker turned T-III.

Thanks, sorry for micro managing but I can't help myself when I see this kind of activity.



Voth

Exhibit 18

MINTZ LEVIN

701 Pennsylvania Avenue, N.W.
 Washington, D.C. 20004
 202-434-7300
 202-434-7400 fax
 www.mintz.com

Paul E. Pelletier | 202 434 7490 | [REDACTED]@mintz.com

September 21, 2011

Committee on Oversight and Government Reform
 2157 Rayburn House Office Building
 Washington, D.C. 20515-614

Dear Sir/Madam:

Enclosed please find the Supplemental Statement of Special Agent William Newell, supplementing and clarifying his testimony before the Committee on July 26, 2011. Please feel free to contact me if you have any questions.

Very truly yours,

Paul E. Pelletier (young)

Paul E. Pelletier

cc: Steve Castor (w/enclosures)
 Chief Counsel, Investigations
 Committee on Oversight and Government Reform

Susanne Sachsman Grooms (w/enclosures)
 Chief Counsel, Democratic Staff
 Committee on Oversight and Government Reform

cc: Bill Newell (w/enclosures)

5450230v.2

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

BOSTON | WASHINGTON | NEW YORK | STAMFORD | LOS ANGELES | PALO ALTO | SAN DIEGO | LONDON

**Supplemental Statement of William D. Newell,
Former Special Agent in Charge of the Phoenix Field Division
Bureau of Alcohol, Tobacco, Firearms and Explosives, To Testimony
Given Before the United States House of Representatives
Committee on Oversight and Government Reform
On July 26, 2011**

I am William D. Newell of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). I testified before the Committee on Oversight and Government Reform on July 26, 2011. After taking time to reflect and review my testimony from the hearing on July 26, 2011, I realize I could have given clearer, more complete and more direct responses to some questions. It was not my intention to give answers that lacked the clarity everyone on the panel deserved from a federal law enforcement agent in my position. It is not an excuse but a reality that the pressure I have been under over the last several months has been nothing like I have ever experienced; this inquiry and the way it has been handled has taken a physical toll on my family, me and the dedicated men and women who continue to pursue the goals of this investigation. The format of the hearing also was not conducive to providing answers which include the depth and breadth necessary for a full understanding of the underlying facts. As a consequence and in retrospect, some of my answers could have been more detailed and clearer. I would therefore like to take this opportunity to expound upon and clarify some of these answers through this supplemental statement in hopes that you will be better able to evaluate the principal goals underlying the Fast and Furious investigation for the purpose of assisting the inquiry.

Ranking Member Cummings asked whether the errors in Fast and Furious relating to ATF's inability to seize guns during the investigation were errors of omission or errors

of commission. To be clear, any errors were unintentional errors of omission and are rooted in the laws we have at our disposal in attempting to address this type of illegal activity, the inherent risks posed by the nature of these investigations and the rapid progression of this investigation, which I will attempt to summarize below.

As I stated in my opening statement at the hearing, throughout the course of this investigation we attempted to be innovative in tracking and seizing firearms purchased by the suspected “straw” buyers while simultaneously being engaged in a strategic effort to identify the decision makers, the financiers and an ever expanding network of “straw” purchasers of the firearms in order to ultimately disrupt the entire criminal organization. Ensuring the safety of the citizens of the United States and, concomitantly the citizens of Mexico, underlied the fabric of all of our law enforcement decisions in this investigation. To be clear, the main objective of the Fast and Furious investigation was to find a way to *eliminate* the flow of firearms to Mexico by this criminal organization. As such, those searching for the secret or hidden “high level” authorization to “permit guns to flow south,” an objective antithetical to our OCDETF investigation, ultimately will remain unsatisfied. Upon reflection and review, my efforts in the hearing to expound upon the bases and practical application of the law enforcement goals lacked a completeness which was difficult for me to effectuate in that forum.

The Inception of the Investigation

The operational phase of this ATF investigation was formally initiated by the case agents on November 16, 2009 under the title “Jacob Chambers, et al.” At that time, approximately seven (7) suspects had been identified as possibly being engaged in concerted firearms trafficking. During the next seven weeks, diligent ATF field agents

aggressively investigated these individuals, leading to the identification of other suspected “straw” purchasers and numerous firearms purchases that occurred both before and after the ATF investigation opened. The agents also conducted numerous queries of law enforcement databases which identified a potential link between these suspected firearms traffickers and a Phoenix area drug trafficking ring with ties to a Mexican drug trafficking organization. During this time there was active coordination, discussion, and assessment of the investigative information, strategy, and progress with the U.S. Attorney’s Office (USAO). Based on the limited information and evidence up to this point in the investigation regarding the suspected illegal trafficking activity, the organization, its members, and the methods, routes and suspects by which firearms had been diverted from lawful commerce, including some recovered in the U.S. and Mexico, additional investigation was required. The investigation, which initially focused on a few suspected “straw” purchasers, quickly ballooned to an expansive and expanding firearms trafficking network. It was believed that it was important to adopt an investigative plan to terminate this organization’s ability to traffic in firearms.

It is well established that many firearms trafficking organizations operating in the Southwest Border states are sophisticated transnational criminal enterprises involving multiple layers of criminal operators, including fungible “straw” purchasers. These purchasers have no prohibitive criminal history, and if arrested, generally refuse to cooperate and, indeed, have little ability to assist law enforcement in furthering the investigation through cooperation due to the insular design of the organization. They also have little incentive to cooperate based on the obvious prosecutive challenges and the nominal sentencing guidelines associated with the falsification of information required on

federal firearms transaction forms. Another disincentive for cooperation is the significant and well-founded fear of violent physical retaliation by the Mexican drug cartels. Thus, the premature arrest of “straw” purchasers prior to the identification and arrest of the organizers and financiers of the enterprise would have permitted the unabated trafficking of guns, as, in addition to potentially fatally exposing the investigation, the arrested “straw” purchasers would have been quickly replaced by new purchasers, unknown to law enforcement. Moreover, even if the USAO would have authorized the piecemeal arrest and prosecution of individual suspected “straw” purchasers, I am certain such arrests would literally have empowered the organization to continue to operate and illegally traffic firearms in virtual anonymity, undetectable to law enforcement and frustrating ATF’s ability to staunch the flow of guns by charging all of the organization’s members.^{1/}

As I stated at the hearing, with 20/20 hindsight I now see that I should have conducted more frequent assessments during the course of the investigation in order to determine whether our surveillance and seizure efforts were effective in those instances where we had advance knowledge of an attempt by a suspected member of the firearms trafficking organization to purchase weapons. This was not an intentional omission of either myself or the agents who were doing their level best under trying and difficult circumstances while seeking to effectuate these, and other, legitimate law enforcement objectives: (1) the desire to establish to the satisfaction of the USAO that the suspects were indeed unlawful “straw” purchasers^{2/} and members of the criminal enterprise; (2) to

^{1/} Experience dictates that decisions about arrest and seizure are best made by agents on the scene in accordance with the law and in consultation with their supervisors and federal prosecutors.

^{2/} It is my understanding that to lodge criminal charges against “straw” purchasers in the District of Arizona we must be able to produce for federal prosecutors sufficient evidence to establish beyond a

identify the breadth, scope and methodologies of the criminal enterprise; and (3) to seize firearms and arrest the criminally culpable members of the organization when lawfully permitted to do so.

Although we suspected that this organization was in the business of purchasing firearms for a Phoenix area drug trafficking ring with ties to a Mexican drug trafficking organization, we did not stand idly by and watch more than 2000 guns be transported to Mexico. When ATF had advance notice that a suspected “straw” purchaser would be purchasing guns,^{3/} the agents used available resources to track, surveil and seize the guns as permitted under existing laws and policies of ATF and the USAO.^{4/} ATF also, contrary to insinuations at the hearing, used a wide variety of well-established law enforcement investigative techniques during the investigation in an effort to identify the participants, locations, vehicles, financing and operating methods, to interdict and seize firearms, and to gather the evidence necessary to support a successful federal prosecution in the District of Arizona. In fact, new and innovative techniques were used during the course of this investigation in an effort to track the movement of firearms as well as seize them lawfully, including the use of Federal civil forfeiture warrants for firearms. ATF

reasonable doubt that the person suspected of “straw” purchasing a firearm intended to falsify the ATF F 4473 Firearms Transaction Record. A confession absent supporting evidence that the “straw” purchaser was buying guns for another does not rise to the level of proof beyond a reasonable doubt in this District. Furthermore, each substantive “straw” purchase violation must be proved with independent evidence related solely to that transaction; evidence of similar past behavior, to my understanding, will not be sufficient to support a prosecution in this District.

^{3/} For example, we did not receive notification that an FFL had sold 3 firearms to Jaime Avila on January 16, 2010 until three days later - - January 19, 2010. As such, ATF agents could not have surveilled the purchase, storage and/or transportation of those firearms. Two (2) of those firearms were later found on the scene of Agent Terry’s murder.

^{4/} It is frequently the practice in these types of trafficking rings for the weapons to change hands several times before ultimate transfer across the border, with guns occasionally being stored at stash houses, sometimes for weeks and months at a time, and comingled with guns acquired from other purchasers. Recoveries related to this case in the U.S. and Mexico indicate that this was indeed the practice of this organization.

also, contrary to other insinuations at the hearing, conducted numerous interviews with suspected “straw” purchasers throughout the course of the investigation, but gained minimal information and cooperation during these interviews as to their culpability and the structure of the criminal organization. Furthermore, during the investigation ATF also attempted to insert an experienced undercover agent into the organization in a proactive attempt to gain valuable insight and evidence as to the inner workings, means and methods of this criminal enterprise. This undercover attempt, which was well-planned by dedicated and experienced agents, ultimately was not successful. As such, Fast and Furious was not an ATF undercover operation but a proactive investigation using the previously noted law enforcement techniques. I want to further reiterate, in most instances we did not have advance notice of the firearms purchases by suspected members of the organization.

We also routinely shared information regarding this investigation with the ATF Country Office in Mexico, other ATF field divisions along the Southwest Border, ATF HQ, and our Mexican counterparts including the PGR Representative stationed in the ATF Phoenix Field division office.^{5/}

At the time ATF Phoenix Field Division opened this investigation in November of 2009, Phoenix ATF agents believed that suspects in this criminal enterprise had acquired more than 300 firearms. Though we did not know its scope or all of the players in the

^{5/} As part of “Project Gunrunner” ATF instituted a bi-weekly Southwest Border Briefing Paper which provides a wide ATF audience with information of active investigations, training efforts, and other Gunrunner related matters. Beginning in early December, 2009, when this investigation was then titled “Jacob Chambers, et al”, this report began providing bi-weekly updates on the investigation, including, *inter alia*, the number of guns purchased by the organization, investigative techniques being used, coordination with other law enforcement agencies, and the recovery of firearms in the U.S. and Mexico, to Darren Gil, the ATF Mexico Attaché, and to Carlos Canino, the Deputy Attaché. Mr. Gil would have continued to receive these bi-weekly Briefing Papers until his removal from that post in the Fall of 2010. Accordingly, I cannot reconcile Mr. Gil’s statement to the Committee that Operation Fast and Furious “was kept secret from [him] and his colleagues.”

enterprise, on November 20, 2009,^{6/} we learned that there had been a seizure in Naco, Sonora, Mexico of 42 firearms, of which 37 ultimately^{7/} were traced to the criminal enterprise we were investigating. At that time, Group VII of the ATF Phoenix Field Division had only three (3) agents, yet they continued to build an investigation into this previously unknown yet burgeoning firearms trafficking criminal enterprise. On December 8, 2009, ATF agents learned that one of the suspected “straw” purchasers, Sean Steward, had sought to purchase 20 AK-47 type rifles at a Federal Firearms Licensee (FFL) in the Phoenix area. ATF agents surveilled Steward’s eventual purchase of the 20 firearms at approximately 9:00 pm that evening. An ensuing traffic stop was conducted and Steward maintained to the law enforcement officers at the scene that he had purchased the guns and that they indeed belonged to him. Because Steward was not prohibited by law from purchasing or possessing the firearms, our agents on scene believed there did not exist lawful authority to seize the weapons despite their strong suspicions.^{8/} On December 21, 2009, a Phoenix Police Department Gun Squad officer made contact with suspect Jose Polanco who had purchased 3 pistols on November 17, 2009. In answer to questions regarding one of the pistols which had been seized from a convicted felon in Phoenix on November 19, 2009, Polanco specifically denied having

^{6/} As stated previously, “straw” purchasers are fungible; therefore, many of the “straw” purchasers we had identified as members of the organization at the inception of the investigation were no longer being used by the organization when the investigation received OCDETF approval.

^{7/} At the time of the seizure agents did not know that all 37 guns were linked to the organization they were investigating. Over the next several months, as ATF Phoenix continued to develop intelligence and work leads in the case, the case agents were able to connect those guns to several different suspected “straw” purchasers they believed were linked to the organization.

^{8/} Despite the clarity of 20/20 hindsight so fervently expressed by several Committee members and ATF witnesses at the July 26, 2011 hearing, the determination on the ground at that time was not unwarranted.

purchased the weapon for another individual and claimed he purchased it for himself but then decided to sell it.^{9/}

In a January 5, 2010, meeting at the United States Attorney's Office, it is my understanding that a determination was made that the legally sufficient evidence required to make arrests, seize firearms, and successfully prosecute the suspected violations had not yet been obtained. Over the next several weeks ATF continued to collect evidence to support an OCDETF^{10/} investigation into this enterprise that we now believed was organized, prolific and supplying firearms to a Phoenix area drug trafficking ring with ties to a Mexican drug trafficking organization.^{11/} By the time the United States Attorney's Office and the ATF Phoenix Field Division submitted the OCDETF paperwork to the OCDETF Regional Program Office in Houston, Texas in mid-January, the agents believed they had linked approximately 950 previously purchased guns to the Fast and Furious criminal enterprise.^{12/} On February 5, 2010 we were notified by the Houston Regional OCDETF Office that the Fast and Furious investigation had received OCDETF approval.

^{9/} In my experience, "straw" purchasers routinely deny the facts necessary to establish that they are indeed "straw" purchasers necessitating the collection of admissible evidence satisfactory to the USAO before charges can be filed. In this regard, Mr. Gil's testimony at the July 26, 2011 hearing that confessions are obtained "99.9%" of the time does not square with my experience or with the events in this case.

^{10/} At this time we had hoped that an OCDETF approved operation would provide funding that would allow for additional agents to be detailed to the group to assist in conducting surveillance and enhance other investigative techniques necessary to achieve the objectives of the investigation.

^{11/} To illustrate the herculean efforts of the 3 agents assigned to Group VII, during the first 6 weeks of their investigation the agents prepared and submitted more than 55 reports of investigation which recorded their early efforts to determine the scope of the criminal enterprise. This volume of investigative effort was unprecedented in my experience.

^{12/} Because there is no central registry of all firearms purchases, there is no way for ATF to immediately identify where, when and how many firearms purchases have been made by a person of interest, not even for those purchases made at federally licensed firearms dealers (FFLs). Therefore "linking" previously purchased firearms to suspects in a firearms trafficking organization involves, but is not limited to, agents reviewing and analyzing information of "after the fact" sales including: reported multiple sales forms, reviewing firearms transaction records at FFLs, information from cooperating individuals, surveillances, lawful interdictions and/or firearms traces by ATF and other law enforcement agencies. It should be noted that evidence of previously purchased firearms by suspects in this investigation is still being uncovered.

The Post-OCDETF Phase

Throughout the OCDETF phase of the investigation we continued to utilize the previously mentioned and well-established law enforcement investigative techniques to assist the agents in determining the size, scope and methods of the criminal enterprise as well as to obtain sufficient evidence to arrest and prosecute the culpable individuals and seize the firearms when we believed we lawfully could do so.^{13/} From the time of the inception of the Fast and Furious OCDETF phase of the investigation until the conclusion of the operational phase of the investigation at the end of July, 2010, ATF was able to surveil the purchase of approximately 300 firearms by people suspected of acting as “straw” purchasers for the criminal organization. ATF was able to proactively and lawfully seize approximately 60 of those firearms. For example, on February 13, 2010, ATF agents, because they had advance notice of a pending gun purchase from an FFL, obtained a court order to place a tracking device in the stock of one of the firearms that Uriel Patino purchased later that day. On February 20, 2010, ATF agents were able to track the firearms to the Tohono O’Odham Indian Nation in Arizona heading presumably toward Mexico. Upon coordination with the United States Border Patrol, a vehicle believed to be carrying the firearms was spotted near the border with Mexico. The vehicle was found to be loaded with forty-one (41) AK-47 type firearms wrapped in plastic. Thirty-seven of these firearms were subsequently determined to have been purchased by Uriel Patino between January 15, 2010 and February 13, 2010.^{14/} The

^{13/} To be clear, and contrary to statements made at the hearing, I am aware of only one instance in this investigation where ATF agents were prevented from confronting a suspect. In that instance, on April 27, 2010, it is my understanding that, due largely to considerations of agent safety, agents were prevented from stopping a vehicle to confront a suspect.

^{14/} Patino purchased the 37 firearms in the following manner: 10 firearms purchased on January 15, 2010; 10 firearms purchased on February 8, 2010; 5 firearms purchased on February 11, 2010; 2 firearms purchased on February 12, 2010; and 10 firearms purchased on February 13, 2010.

driver of the vehicle, unknown to ATF at that time, was placed under arrest and the firearms seized. Over the next several months agents were able to surveil Patino's purchase of approximately 200 firearms of which they were able to proactively and lawfully seize only 21.^{15/} It should be noted that, to date, ATF has seized a total of 231 firearms in this investigation.^{16/}

Using ATF and OCDETF resources we detailed several out-of-town agents to assist with surveillance during the period of March 14 to May 3, 2010. These agents often worked seven days a week and logged more than 4,000 hours of surveillance. From early May to mid-August the Phoenix Field Division was tasked with deploying the second Gunrunner Impact Team (GRIT) initiative which involved detailing approximately 85 ATF personnel of different job series from across the country to assist with the numerous firearms trafficking investigations being conducted by the Phoenix Field Division at that time. This included detailing 10 agents to Group VII to assist with firearms trafficking investigations including Fast and Furious. During this time period Phoenix Group VII personnel also continued to conduct numerous surveillances in support of this investigation.^{17/} During this period, to my knowledge not a single agent

¹⁵ At the time, the policy of the United States Attorney's Office for the District of Arizona as understood by me was that ATF did not have lawful authority to seize firearms being transferred between two non-prohibited persons absent articulable and specific proof that the transfer in question was in and of itself unlawful.

^{16/} As articulated earlier, in consultation with the United States Attorney's Office for the District of Arizona, ATF made every effort during this investigation to lawfully interdict and seize firearms. In that vein we used many law enforcement tools including trackers, visual surveillances, interviews, search warrants and electronic intercepts.

¹⁷ It should be emphasized, that even with the detailees and the additional manpower available during the GRIT operation, the field agents could not maintain surveillance on every "suspected" resident, suspected "straw" purchaser or dealer premises of interest on an uninterrupted, 24/7 basis. We utilized our human resources, other assets and tools as effectively and efficiently as possible. The agents in the field must be permitted to make judgments as to how to best proceed, particularly when they were dealing with approximately 50 suspected "straw" purchasers and other suspects.

was instructed to decline to make a seizure or interdict firearms when he or she could do so lawfully and safely.

As I stated at the hearing and previously in this supplemental statement I realize that with more regular assessments I could have articulated to my staff the need to be proactive in ascertaining the quantity of guns being purchased that we were not able to intercept and more urgently articulating to the USAO the need to address in some way these now clear facts. These are the unintentional *omissions* for which I am, in retrospect, responsible as the then SAC of ATF in Phoenix.

Also, Ranking Member Cumming's statement that Director Melson was not aware of the "so called 'gun walking' [allegations] until they were reported publically" and that "they stayed in-house down there" assumes that allegations of "gun walking" were *actually* raised in Phoenix by the whistleblowers during the operational phase of the investigation. As I stated in my interview with Committee staff and also at the hearing on July 26, 2011, I am unaware of any concerns of alleged "gun walking" raised by the whistleblowers during the operational phase of the investigation until they were being reported publically in or about February 2011.¹⁸ To me, the stark absence of contemporaneous documents voicing concerns to supervisors over "guns walking," establishes quite convincingly that concerns over alleged "gun walking" were not raised with the appropriate supervisors in the Phoenix Field Division during the operational phase of this investigation. Finally, there exists a well-established process within ATF in which employees can contact the Internal Affairs Division or Office of the Ombudsman

^{18/} I have reviewed the statements made by the whistleblowers to this Committee and it is my belief that many of the assertions in these statements are untrue. Certainly the immediate supervisor at the time as well as the lead case agent of the Fast and Furious investigation would have personal knowledge as to the veracity of most of those assertions.

to report activity they believe needs to be addressed immediately or when they believe their concerns are not being addressed in the field by the appropriate supervisors. To the best of my knowledge, at no time during the operational phase of the Fast and Furious investigation did any of the whistleblowers contact the Internal Affairs Division or Office of the Ombudsman with concerns regarding the investigation.

Pursuant to Title 28 United States Code, Section 1746, I declare under the penalty of perjury that the forgoing is true and correct.



William D. Newell

Executed this 20th of September, 2011.

Exhibit 19

[REDACTED] - Of interest

Page 1 of 1

2

Of interest

1 message

Fri, Jun 11, 2010 at 6:55 PM

To: "Voth, David J." <[REDACTED]>

David,

[REDACTED] was in today and purchased a firearm from us.

A couple of weeks ago you had requested a purchase history on him, so I thought I would bring this to your attention. I have copies of the 4473, sales receipt, his drivers license and CCW for you.

I did try to contact agent Jose Medina who we typically call when a person who may be of interest is in the store. He did not answer.

Would you like for me to hold these documents for you, or shall I try to reach agent Medina and fax them to him?

--
Thank you,
[REDACTED]
General Manager
[REDACTED]

This transmission is intended for the sole use of the individual or entity to whom it is addressed, and may contain information that is for official use only. DOD and/or Law Enforcement sensitive, privileged, confidential and/or exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited. If your receipt of this transmission is in error, please reply to the sender of this transmission.

[REDACTED] - Fwd: Project Gunrunner

Page 1 of 2 (2)

Fwd: Project Gunrunner

2 messages

[REDACTED]

Tue, Jun 15, 2010 at 9:30 AM

----- Forwarded message -----

From: [REDACTED]
Date: Mon, Jun 14, 2010 at 3:35 PM
Subject: Project Gunrunner
To: Jose Medina <[REDACTED]>

Hello Agent Medina just wanted to confirm i have the correct email address and that Jaime Avila will be in today for a .50 Barrett 20".

--
[REDACTED]

--
[REDACTED]

[REDACTED]
To: "Medina, Jose L." <[REDACTED]>
Cc: [REDACTED]

Tue, Jun 15, 2010 at 3:59 PM

I sent them yesterday. I will send them again, also I just wanted to confirm that Jaime Avila Jr purchased a Barrett .50 20" and all the paperwork was faxed this morning.
On Tue, Jun 15, 2010 at 10:38 AM, Medina, Jose L. [REDACTED] wrote:

Can you send those receipts for Celis and Steward from June 8, 2010?

From: [REDACTED]
Sent: Monday, June 14, 2010 3:35 PM
To: Medina, Jose L.
Subject: Project Gunrunner

Hello Agent Medina just wanted to confirm i have the correct email address and that Jaime Avila will be in

[REDACTED] - Fwd: Project Gunrunner

Page 2 of 2

3

today for a .50 Barrett 20".

--
[REDACTED]

***** NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

[Quoted text hidden]

Exhibit 20

RC-1

From: Morrissey, Mike (USAAZ)
Sent: Friday, November 20, 2009 12:47 PM
To: Hurley, Emory (USAAZ)
Subject: RE: Request w. short response time

Can I get a one or two paragraph synopsis of RC-2 - I was rushing before and I want to make sure I get it. And is it your case, Kathys', or what?

From: Hurley, Emory (USAAZ)
Sent: Friday, November 20, 2009 8:31 AM
To: Morrissey, Mike (USAAZ)
Subject: RE: Request w. short response time

RC-2

RC-2

RC-2

ATF S/A Hope Mac Allister is working on a trafficking case involving multiple straw purchasers (hub and spokes conspiracy). This case is just starting out and she will be looking for GJ subps. and pen&trap orders next.

RC-2

RC-2

Thank you ,
Emory

From: Morrissey, Mike (USAAZ)
Sent: Thursday, November 19, 2009 5:49 PM
To: Hurley, Emory (USAAZ)
Subject: FW: Request w. short response time

Sorry – oops, I sent this to the wrong Hurley. Can you try to respond by 9:30 or so tomorrow? Thanks. Mike

From: Morrissey, Mike (USAAZ)
Sent: Thursday, November 19, 2009 4:11 PM

Exhibit 21

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER



Phone:(800) [REDACTED] Fax:(800) [REDACTED]

Print Date: [REDACTED]

FIREARMS TRACE SUMMARY

Trace Number: T20090344359 Request Date: November 24, 2009 Completion Date: November 30, 2009

ALEX KRUTHAAPT
OFFICE OF STRATEGIC INTEL.

WASHINGTON, DC 20226
PHONE: (202) [REDACTED] Ext:
FAX (202) [REDACTED]

Badge No:
Investigation No: 164020-10-[REDACTED]

INFORMATION CENTER COMBATTING
[REDACTED]
MEXICO

Badge No:
Investigation No:

FIREARM INFORMATION

Manufacturer: ROMARM/CUGIR
Model: DRACO
Caliber: 762
Serial Number: DR-3389-09
Type: PISTOL
Country: ROMANIA
Importer: CENTURY ARMS INC (CAI),
ST
Obliterated:
Identifying Marks:
Gang Name:

RECOVERY INFORMATION

Recovery Date: 11/20/2009
Time to Crime: 14 days

ADRIANA DE NACO, SO
MEXICO

Possessor: VERONICA ALVAREZ TOSCANO
DOB: [REDACTED]
POB: DELAND, FL. UNITED STATES

PURCHASER INFORMATION

Purchase Date: 11/08/2009

URIEL NMN PATINO
[REDACTED]
PHOENIX, AZ 85037
DOB: [REDACTED]
POB: PHOENIX, AZ UNITED STATES
Race: HISPANIC Height: ft in
Sex: Male Weight: lbs
ID 1: AZ DRIVER'S LICENSE: [REDACTED]
ID 2: : REMOVED

DEALER INFORMATION

FFL: [REDACTED]

[REDACTED]
GLENDALE, AZ 85302
Phone: (623) [REDACTED] Ship-To-Date:
Ext: [REDACTED]

Contact the local ATF office for additional information.

ADMINISTRATIVE INFORMATION

PREVIA: [REDACTED]

SUMMARY OF RESULTS

THE DESCRIBED FIREARM WAS DETERMINED TO HAVE BEEN SOLD AS PART OF A MULTIPLE HANDGUN SALE AND REPORTED TO ATF BY A FEDERAL FIREARMS LICENSEE (FFL). THE TRANSACTION DATE NOTED IN THIS TRACE SUMMARY IS THE DATE THE MULTIPLE SALE WAS GENERATED BY THE FFL AND MAY NOT REPRESENT THE ACTUAL TRANSACTION DATE OF THE TRACED FIREARM. TO VERIFY THE ACTUAL TRANSACTION DATE OF THE TRACED FIREARM, PLEASE CONTACT THE FFL.

The information in this report must be validated prior to use in any criminal proceedings.

Trace: T20090344359
FOR OFFICIAL USE ONLY



Exhibit 22

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER



Phone:(800) [REDACTED] Fax:(800) [REDACTED]

Print Date: [REDACTED]

SUSPECT GUN SUMMARY

Suspect Gun Number: S20090001687 Entered Date: November 13, 2009

JOSE MEDINA
PHOENIX FD GROUP VII
[REDACTED]
PHOENIX, AZ 85004

Badge No:
Investigation No: 785115-10 [REDACTED]

DEALER INFORMATION

Business Name:
Licensee Name: [REDACTED]
Address: [REDACTED]
GLENDALE, AZ 85302
Phone: (623) [REDACTED] Ext:
FFL Number: [REDACTED]
Invoice #:

INDIVIDUAL INFORMATION

Name: URIEL PATINO
Address: [REDACTED]
PHOENIX, AZ 85037
DOB: 08/24/1986 Race: HISPANIC Sex: Male
Height: Weight: Date: 11/06/2009
ID 1: AZ DRIVER'S LICENSE #: [REDACTED]
ID 2: #:

NOTICE

The firearm(s) listed below was entered into the Firearms Tracing System as a suspect gun. You have requested NTC maintain a lookout for the firearm(s). If any of the suspect guns in this report are traced by another agency and/or individual, your Division's Firearms Trafficking Coordinator (FTC) will be notified in writing by the NTC. The notification will include the identity of the officer and/or agency requesting the trace. It will be incumbent upon the FTC or yourself to contact the firearms trace requestor. The NTC will not release any information concerning your suspect gun(s).

Weapon Summary

Weapon Count: 3

Manufacturer	Model	Caliber	Serial Number	Type	Importer
F.N. (FN HERSTAL)	FIVE-SEVEN	57	386195756	PISTOL	UNKNOWN IMPORTER
ROMARM/CUGIR	DRACO	762	DR-3389-09	PISTOL	UNKNOWN IMPORTER
ROMARM/CUGIR	DRACO	762	DR-3374-09	PISTOL	UNKNOWN IMPORTER

Suspect Gun: S20090001687
FOR OFFICIAL USE ONLY



Exhibit 23

From: Newell, William D.
 Sent: Tuesday, November 24, 2009 2:27:52 PM
 To: Burke, Dennis (USAAZ)
 Subject: RE: Gun seizure in Agua Prieta, Sonora

Attachments: TARJETA INFORMATIVA SONORA NACO 42 ARMAS 20 NOV 09.doc

10-4, at Naco - not Agua Prieta (that's where the seizure was taken). Mexican Customs canine alerted to the vehicle. Here's the PGR's preliminary report on the incident. Appears to be a brother and sister. We have an Special Agent/Border Liaison down there now verifying all the info. The original firearms information was wrong so the traces are pending.

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 [REDACTED]

-----Original Message-----

From: Burke, Dennis (USAAZ) [REDACTED]
 Sent: Tuesday, November 24, 2009 11:59 AM
 To: Newell, William D.
 Subject: RE: Gun seizure in Agua Prieta, Sonora

Wow, frickin-A.

They were already across the Border heading south?

-----Original Message-----

From: Newell, William D. (ATF)
 Sent: Tuesday, November 24, 2009 10:25 AM
 To: Burke, Dennis (USAAZ)
 Subject: Gun seizure in Agua Prieta, Sonora

Just making sure you're aware of this large gun seizure this past Friday in Agua Prieta, Sonora. Woman and juvenile (15) from Florida. Mexican Canine (trained by ATF!) alerted to vehicle due to presence of firearms and ammunition. ICE and ATF in Mexico are coord interviewing the woman. We are tracing the firearms to see what we can do with the info in terms of violations, most likely to be filed in Florida - if appropriate. FYI.

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Phoenix Field Division (Arizona and New Mexico) [REDACTED]

HOGRAF - 002344

Exhibit 24

----- Original Message -----

From: Newell, William D.

To: Gillett, George T. Jr.

Sent: Tue Nov 24 11:51:20 2009

Subject: FW: Gun seizure in Agua Prieta, Sonora

I know you're off but I don't want to cut you out of the loop on this since this seizure has the potential of being a "hot" issue in many ways. Please verify asap what the status of Bernie responding is and let me know. Thanks.

Bill Newell

Special Agent in Charge

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Phoenix Field Division (Arizona and New Mexico) Office - [REDACTED]

Â
Â

-----Original Message-----

From: McMahon, William G.

Sent: Tuesday, November 24, 2009 9:48 AM

To: Newell, William D.

Subject: RE: Gun seizure in Agua Prieta, Sonora

Bill,

Were you able to get one of your people down there on this seizure? I understand ICE is all over this and the info we have up here on the serial numbers is wrong. Thanks,

Bill

-----Original Message-----

From: Newell, William D.

Sent: Tuesday, November 24, 2009 11:35 AM

To: McMahon, William G.; Martin, Steve K.

Subject: Gun seizure in Agua Prieta, Sonora

Friday's Agua Prieta, Sonora (across from Douglas, AZ) gun seizure. 45 semi-auto rifles, mags, ammo, etc. Woman and juvenile from Florida. Mexican Customs dog alerted. Curious to see if it was one of our dogs.

Bill Newell

Special Agent in Charge

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Phoenix Field Division (Arizona and New Mexico) Office - [REDACTED]

Â
Â

HOCR ATF - 002023

Exhibit 25

Management Log for Case: 785115-10-██████████

Case Title: CHAMBERS, Jacob, et al

██████████
██████████
██████████

<u>Log Date</u>	<u>Log Type</u>	<u>Mgmt Log Text</u>
10/31/2009	INVESTIGATIVE ACTIVIT	ATF S/A MacAllister received numerous 4473's from ██████████ regarding multiple sales of AK-47 type firearms
11/04/2009	INVESTIGATIVE ACTIVIT	English/Medina - Rvwd 4473's rcvd prior week. Also rcvd 4473 via fax ref purchase by Patino on 11/02/09. Also notified of multiple purchase by Patino @ ██████████ and ██████████. Initiated background checks (N-Force, DL/DL photo, DES, Triple III, PACE, Accurant, Assessor, Veh reg, OLL/E-Trace, TECS) on Patino, ██████████, ██████████ and ██████████ based on purchases @FFL ██████████ #4926
11/05/2009	INVESTIGATIVE ACTIVIT	Background check on PATINO (DL/photo, Triple III, vehicle reg's, Assessor). Background checks on all subjects completed. #4926
11/07/2009	INVESTIGATIVE ACTIVIT	Moore - 4473 ref 6 f/a purchase rcvd from ██████████ via fax. #4926
11/09/2009	INVESTIGATIVE ACTIVIT	DES on Patino, ██████████, ██████████ and ██████████ rcvd back. #4926
11/10/2009	INVESTIGATIVE ACTIVIT	English/Medina obtained 4473/sales receipt from ██████████ ref 11/06/09 6 f/a purchase by Moore. Obs. Moore in store purchas. 10 addtl f/a's, ██████████ ██████████ Related 11/10/09 4473 fxd to office. #4926
11/12/2009	INVESTIGATIVE ACTIVIT	Background check on Moore (DL/photo, Triple III, veh reg, Assessor, TECS, OLL/E-Trace, DES). Rcvd Accurant and checks back on Vil, Cham, Wyl, Patino, and ██████████ #4926
11/13/2009	INVESTIGATIVE ACTIVIT	Rcvd 4473's from 10 f/a purchase @ ██████████ by Moore on 11/11/09 from SA ██████████ Rcvd PACE checks back. #4926
11/13/2009	ADMINISTRATIVE ACTIV	Received video surveillance from ██████████ of Uriel PATINO purchasing firearms on 11/02/2009 and 11/05/2009.
11/16/2009	INVESTIGATIVE ACTIVIT	SA MacAllister submitted #'s to PhxFIG ref subscriber info for toll records. Sent names to AFSPB ██████████ ref Fincen checks. Medina sent military request ref Moore. Submitted 26 f/a's purchased by Moore to SGP, SG4818. Patino's f/a's submitted to SGP. Rcvd info from SA ██████████ that Moore and Patino were in ██████████ accompanied by same h/m during their f/a transactions. #4926
11/17/2009	INVESTIGATIVE ACTIVIT	Sent/rcvd DES for Moore. Rcvd Accurant on Moore and submitted 6 f/a's purchased at ██████████ to SGP. Req. PACE name check on Moore. Rcvd 4473's from ██████████ ref f/a purchase by Polanco. #4926
11/18/2009	ADMINISTRATIVE ACTIV	Case #785115-10-██████████ opened on Patino on 11-10-09. Moore added on 11-16-09. Through surveillane determined purchasers also related to case #785115-10-██████████ Case closed per AGS MacAllister. Patino and Moore's info. added to case #785115-10-██████████ #4926
11/18/2009	INVESTIGATIVE ACTIVIT	Surveillance on purchaser ██████████ Moore's veh observed with ██████████'s veh. Believed to have dropped off f/a's @ ██████████ Also rcvd confirmation ref Moore and Patino's SGP submissions. #4926
11/19/2009	AUSA/DA CONTACT	Spoke with AUSA Hurley on 11/18/2009, regarding phone tolls for individuals.
11/19/2009	AUSA/DA CONTACT	Received approval from AUSA Hurley on 11/19/2009 for submission of Subpeona requests
11/19/2009	INVESTIGATIVE ACTIVIT	Rcvd info that Patino was at ██████████ buying FN's. Left prior to ATF agents. Rcvd 4473's from ██████████ ref ██████████ making 10 AK-47 purchase. #4926
11/20/2009	INVESTIGATIVE ACTIVIT	SA MacAllister rcvd 4473 via fax ref purchases @ ██████████ by ██████████ ██████████ Chambers, and ██████████ #4926
11/23/2009	INVESTIGATIVE ACTIVIT	Rvwd 10 f/a purchase @ ██████████ by Moore on 11/22/09 (Fxd to office on same date). Confirmed s/n's with ██████████. 10 f/a's added to SGP. #4926
11/23/2009	AUSA/DA CONTACT	Sent ██████████ subpeona requests to AUSA Hurley via e-mail
11/24/2009	DIVISION REVIEW	SAC Newell file review. Recent Multiple Sales info relayed to IRS Zicha with understanding that they were related to this case.
11/24/2009	INVESTIGATIVE ACTIVIT	Chambers, Patino and Avilla bought f/a's from ██████████. Obtained 4473's. Attempted to conduct surveillance but subjects left loc prior to agents arrival. Obtained add. of auto shop, ██████████. Checked Patino's 4473 address but no vehs @loc. Rcvd corrected 4473 from ██████████ ref 11/22/09 deal via fax. #4926
11/24/2009	INTER AGENCY CONTACT	Contacted b. GS ██████████ Adv. several multi le. urchasers identified b. SAC and passed information on. Subjects Patino and ██████████ were on list. #4926

Management Log for Case: 785115-10 [REDACTED]

Case Title: CHAMBERS, Jacob, et al

<u>Log Date</u>	<u>Log Type</u>	<u>Mgmt Log Text</u>
11/25/2009	INVESTIGATIVE ACTIVIT	Surveillance on 11-25-09 on purchaser Hercegovac. Drove to [REDACTED] Id as f/a drop off house. Observed Moore, Hercegovac, Polanco, Henderson's vehs @ loc. Also observed h/m driver in [REDACTED] make f/a drop at [REDACTED] Hercegovac, Moore and h/m dropped off weapons @ [REDACTED] #4296 Suspect guns submitted for Nov. 24th purchases and all other prior known purchases SA MacAllister rcvd 4473 from [REDACTED] for [REDACTED]
11/25/2009	AUSA/DA CONTACT	[REDACTED] Avila, [REDACTED] Chambers, [REDACTED] Hercegovac, [REDACTED] Ireland, Moore, Patino, Polanco, [REDACTED] and [REDACTED] entered into TECS. Rcvd Accurint for [REDACTED] Avila, [REDACTED] Polanco, and Hercegovac from IA [REDACTED] #4926 Spoke with AUSA Hurley regarding [REDACTED] Subpeonas. [REDACTED]
11/25/2009	INVESTIGATIVE ACTIVIT	Provided suspect names to [REDACTED] met with him on 11/23/2009, he provided S/A MacAllister with several CTR's. Advised he will provide S/A MacAllister with a contact for the financial institution for further information regarding these transactions
11/25/2009	STATE/LOCAL OVERTIM	Apprvd by ASAC Needles. Surveillance assistance Det. [REDACTED] 1500-1900 (4 hrs total) on November 25, 2009
11/25/2009	INTER AGENCY CONTACT	***F/A Recover in Mexico*** Notified b SGP [REDACTED] of f/a recovered in MX related to Patino a rox. 9. Also contacted b ATF [REDACTED] ref the recoveries. Ex lained art of active case. AGS MacAllister also spoke with L. Leadmon ref the case. Addtl purchasers identified: [REDACTED] and [REDACTED] #4926
11/27/2009	AUSA/DA CONTACT	Received subpoena from AUSA requested new letters to receive data electronically
11/27/2009	INVESTIGATIVE ACTIVIT	DES info sent/rvd for [REDACTED] Avila, [REDACTED] Polanco, Hercegovac. Background checks on [REDACTED] and [REDACTED] Placed in TECS. Submitted to SGP Moore 11/27/09 purchase and Polanco 11/17/2009 purchase. SA's MacAllister and English obtained 4473's for Patino, Moore, Hercegovac and 2 other possibly related subjects. Observed Partino in [REDACTED] making a purchase.#4926
11/27/2009	SUBPOENA SERVED	[REDACTED] Subpeonas served for Patino, [REDACTED] and Moore
11/27/2009	FIELD SUPPORT - GENE	Requested (2) pole cameras from DOO [REDACTED]
11/28/2009	FIELD SUPPORT - GENE	Submitted request to IRS Zicha for additional
11/28/2009	INVESTIGATIVE ACTIVIT	Addtl. Moore purchased submitted to SGP. Obtained trace info of some of the MX recoveries. #4926
11/30/2009	INVESTIGATIVE ACTIVIT	DES info sent/rvd for IRELAND, Kristi. Rcvd fax of 4473 from [REDACTED] ref Moore 11/30/09 purchase. F/a's submitted to SGP. #4926
11/30/2009	INTER AGENCY CONTACT	Rcvd SGP spreadsheet. Notified SGP of corrections and added addtl. f/a's. #4926
12/01/2009	INVESTIGATIVE ACTIVIT	Medina [REDACTED] obtained 4473/sales receipt from [REDACTED] ref 12/01/2009 f/a purchase by MOORE. MOORE purchased 9 AK 47 type rifles on this date. MOORE loaded the rifles in a white [REDACTED]. SGP sent Moore's 11/30 and 12/01 f/a's. #4926 Background check on ACOSTA DL photo, Crim Hist, Triple III
12/02/2009	INTER AGENCY CONTACT	Spoke to ICE Agent Ed Hamel re ardin case on 11/30/2009. Agent Hamel agreed to assist as the ICE point of contact for the case
12/02/2009	INTER AGENCY CONTACT	Participated in a conference call on 11/30/2009 with RAC Cela a ATF S/As Bernie Arellano and Creighton Brandt DHS S/As ASAC Scott Brown James Cobb Juan Mariscal Rana Saoud Carlos Cruz and Yovani Sandoval USMS Luis Noriega re ardin the Mexico recover relating to this case. All the DHS participants agreed not to pursue further leads on this case without notification S/A Macallister who provided her cell phone and office contact numbers. According to information provided by S/A Saoud during this meeting, suspect [REDACTED] gave a statement to Mexican officials but nothing was provided to US officials.
12/02/2009	DIVISION REVIEW	ASAC File Review. G. Gillett

Exhibit 26

From: Voth, David J.
Sent: Friday, January 28, 2011 5:48 PM
To: Needles, James R.
Subject: FW: draft memo
Attachments: Memo DKB Avila Purchases.wpd

Jim,

This document was drafted/typed by Emory to be submitted to Dennis Burke. Emory came over to my office this morning and we worked on this together. Please review and let me know what you think.

Thanks,

Dave

From: Hurley, Emory (USAAZ) [REDACTED]
Sent: Friday, January 28, 2011 2:58 PM
To: Voth, David J.; MacAllister, Hope A.
Subject: draft memo

<<Memo DKB Avila Purchases.wpd>>

Here is the draft of the memo from this morning.

Thank you for all of your help.

HOCR ATF - 002348

United States Attorney's Office
District of Arizona



Memorandum

To: Dennis K. Burke
From: Emory Hurley
Subject: Jaime Avila, Jr.
Date: January 28, 2011

The two AK-47 type rifles associated with the U.S. Border Patrol shooting, specifically two ROMARM WASR-10 7.62x39 mm rifles, Serial Numbers 1971CZ3775 and 1983AH3977 were purchased by Jaime Avila, Jr. (AVILA) on Friday, January 16, 2010, along with a third ROMARM WASR-10 7.62x39 mm rifle, Serial Number 1979IS1530. The three rifles were purchased in a single transaction from Federal Firearms Licensee (FFL) [REDACTED]. ATF was not notified of this purchase until Monday, January 19, 2010, when ATF received the ATF Form 4473 documenting AVILA's purchase of three AK-47 type rifles on January 16, 2010. These were forwarded to ATF by the FFL and the purchase is documented in **ATF ROI #67**.

Jaime AVILA, Jr.'s first known firearms purchase occurred on November 24, 2009, at FFL [REDACTED]. On that day he was in the company of another Fast and Furious suspect, Uriel PATINO. On November 24, 2009, AVILA purchased five (5) FN Herstal Five-Seven pistols, and PATINO purchased five (5) AK-47 type rifles. On the ATF Form 4473, AVILA listed his address as [REDACTED] Road, Phoenix, Arizona, [REDACTED]. At the time of the purchase, AVILA and PATINO were traveling in a 2000 Isuzu Rodeo registered to [REDACTED] Phoenix, Arizona [REDACTED]. This is documented in **ATF ROI # 12**. As of this date, the five (5) FN pistols purchased by AVILA on November 24, 2009, have not been recovered.

On November 25, 2009, ATF entered AVILA in the ATF case management system as a suspect in the investigation. This event does not result in the creation of an ROI.

On December 12, 2009, AVILA purchased five (5) ROMARM WASR-10 AK-47 type rifles from FFL [REDACTED]. ATF was notified of this purchase on December 12, 2009 when agents received the ATF Form 4473 recording the purchase. This is documented in **ATF ROI # 46**. As of this date, these five AK-47 type rifles have not been recovered.

On December 17, 2009, this AUSA, ATF Group Supervisor David Voth, and ATF Special Agent Hope MacAllister met with [REDACTED] the owner of FFL [REDACTED]. [REDACTED] had been providing information to ATF on large firearms purchases, including large purchases of (only) long guns which do not trigger any multiple purchase reporting requirements. This information was being provided voluntarily and without compensation from ATF. [REDACTED] had expressed concerns about the cooperation he was providing and whether he was endangering himself or implicating himself in a criminal investigation.

[REDACTED] was advised by the agents and this AUSA that they could not tell him who he could or could not sell to and that they could not instruct him to make a sale in violation of the law or to refuse to make a lawful sale. He was advised by the agents that as an FFL he has to comply with all of the statutes and regulations that govern the sale and transfer of firearms and cannot sell firearms unless the required

HOGRAF - 002349

Memo to DKB
January 28, 2011
Page - 2

paperwork and background check were completed. As long as the required forms were properly filled out and the FFL did not know or have a reason to know that the firearms were part of a straw purchase or intended to be used in a crime, that he could complete the transfer. [REDACTED] was also told by the agents and this AUSA that the information he provided to ATF regarding large firearms transactions, particularly sales involving only long guns, was very important and useful to ongoing ATF investigations.

During this meeting, ATF agents also described additional information that [REDACTED] or his employees might receive from purchasers which would not necessarily be required by the provisions of Chapter 44 of Title 18 to be kept in his records, but which would prove useful to ATF. This information included phone numbers or other contact information as well as license plate numbers and vehicle descriptions. As of the date of this meeting, [REDACTED] was already providing this type of information to ATF and continued to do so throughout the course of the investigation.

On January 9, 2010, AVILA purchased three (3) FN Herstal Five-Seven pistols from FFL [REDACTED]. ATF was not advised of this purchase by the FFL, however, on January 14, 2010, these firearms were entered into the suspect gun database by ATF Phoenix. These firearms were discovered by law enforcement on January 14, 2010, in Columbus, New Mexico, but were not traced and were returned to person carrying them. ATF Phoenix was not notified of this law enforcement contact until May 17, 2010. **ATF ROI #254.**

On January 14, 2010, in Columbus, New Mexico, (a border town), U.S. Border Patrol agents pulled over a vehicle driven by [REDACTED] with passenger [REDACTED], due to suspicious driving behavior. In the vehicle they found three AK-47 type rifles purchased by Uriel Patino, three FN Herstal Five-Seven pistols purchased by AVILA on January 9, 2010, from FFL [REDACTED], and two Ruger pistols purchased by another. U.S. Border Patrol agents did not observe any other criminal conduct and so returned the firearms to the occupants of the vehicle. They did not trace any of the firearms. ATF Phoenix was notified of the observation of the firearms on May 17, 2010, after ATF Las Cruces forwarded information in connection with a firearms trafficking investigation in New Mexico involving [REDACTED] and others. **The investigation of [REDACTED] is still on going, [REDACTED] and must be viewed as close-hold.**

On January 16, 2010, AVILA purchased the three ROMARM WASR-10 AK-47 type rifles, Serial Numbers **1971CZ3775** and **1983AH3977** as well as 1979IS1530. As detailed above, ATF was not notified of this purchase until January 19, 2010. This notification came only through the cooperation of the FFL as this long gun only purchase would not trigger any affirmative reporting requirements. **ATF ROI #67.**

On December 15, 2010, Jaime AVILA, Jr, was arrested for using a false address on the ATF Form 4473 on June 15, 2010. A complaint was filed on December 16, 2010, and he was indicted on January 11, 2011, for making false statements in connection with the acquisition of a firearm. On January 19, 2011, he was indicted as part of the overall Fast and Furious conspiracy.

Agents were able to determine that when AVILA purchased firearms on June 15, 2010, that he no longer lived at the [REDACTED] address listed on the ATF Form 4473 and his drivers license. His

HOGRAF - 002350

Memo to DKB
January 28, 2011
Page - 3

drivers license was changed in August of 2010, to reflect a different address. In the course of his post arrest interview in December 2010, he admitted that he had not lived at the [REDACTED] for two or three years. However, earlier in the investigation, agents had no reason to believe that this was not his address because his drivers license and the registration to the car that he was driving came back to the [REDACTED] address. **See ATF ROI #12.**

On March 1, 2010, Jaime AVILA, Jr., purchased one FN Herstal Five-Seven pistol from [REDACTED] in a single-firearm transaction. On or about March 3, 2010, this pistol was recovered by Phoenix Police in connection with a drug house in Phoenix. This was the first actual recovery of a firearm purchased by AVILA. **ATF ROI #107 and 156.**

HGR ATF - 002351

Exhibit 27

From: Burke, Dennis (USAAZ)
To: Hurley, Emory (USAAZ)
t: Wed Nov 25 15:39:54 2009
ject: FW: Friday's Naco gun seizure

Thoughts?

From: Newell, William D. (ATF)
Sent: Wednesday, November 25, 2009 12:37 PM
To: Burke, Dennis (USAAZ); Hurley, Emory (USAAZ)
Subject: Friday's Naco gun seizure

Due to traces "pinging" off our Suspect Gun system we just discovered Friday's 42 gun seizure in Naco directly links to an ongoing ATF Phoenix case by SA Hope MacAllister, OCDETF Strike Force. We are advising ICE to stand down on their current proactive activity in Arizona in order not to compromise our case. We are meeting with them on Monday to discuss.

Bill Newell
Special Agent in Charge
ATF Phoenix Field Division (AZ and NM)
Cell RC-1

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

Exhibit 28

From: Burke, Dennis (USAAZ)
To: Hurley, Emory (USAAZ)
t: Wed Nov 25 15:39:54 2009
ject: FW: Friday's Naco gun seizure

Thoughts?

From: Newell, William D. (ATF)
Sent: Wednesday, November 25, 2009 12:37 PM
To: Burke, Dennis (USAAZ); Hurley, Emory (USAAZ)
Subject: Friday's Naco gun seizure

Due to traces "pinging" off our Suspect Gun system we just discovered Friday's 42 gun seizure in Naco directly links to an ongoing ATF Phoenix case by SA Hope MacAllister, OCADETF Strike Force. We are advising ICE to stand down on their current proactive activity in Arizona in order not to compromise our case. We are meeting with them on Monday to discuss.

Bill Newell

Special Agent in Charge

ATF Phoenix Field Division (AZ and NM)

Cell RC-1

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

Exhibit 29

From: Hoover, William J.
 Sent: Wednesday, December 09, 2009 10:10:22 AM
 To: Chait, Mark R.
 CC: McMahon, William G.
 Subject: RE: Gun seizure in Agua Prieta, Sonora

No worries. I can't find it if you did. It's not like you had anything else going on in that "sleepy hollow" we call Field Op's!!!!!!!

William J. Hoover
 Assistant Director
 [REDACTED]

-----Original Message-----

From: Chait, Mark R.
 Sent: Wednesday, December 09, 2009 10:08 AM
 To: Hoover, William J.
 Cc: McMahon, William G.
 Subject: Fw: Gun seizure in Agua Prieta, Sonora

I thought I sent this to you, if not I apologize. Phoenix was already on two of the straws and have an ocdef case open prior to the event.

-----Original Message-----

To: Bill Newell
 To: Daniel Kumor
 Cc: Bill McMahon
 Subject: Re: Gun seizure in Agua Prieta, Sonora
 Sent: Nov 25, 2009 3:51 PM

Thank you

-----Original Message-----

From: Bill Newell
 To: Mark Chait
 To: Daniel Kumor
 Cc: Bill McMahon
 Subject: Re: Gun seizure in Agua Prieta, Sonora
 Sent: Nov 25, 2009 3:49 PM

On it, it's part of an active Phoenix case belonging to SA Hope MacAllister, OCDEF Strike Force.

Bill Newell
 Special Agent in Charge
 ATF Phoenix Field Division (AZ and NM)
 [REDACTED]

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

----- Original Message -----

From: Chait, Mark R.
 To: Newell, William D.; Kumor, Daniel J.
 Cc: McMahon, William G.
 Sent: Wed Nov 25 15:38:22 2009
 Subject: FW: Gun seizure in Agua Prieta, Sonora

I just heard from OSII regarding IN #163030-10-0006 ([REDACTED]) that 20 more semi-auto 7.62 Draco pistols were tied to this recovery on two multiple sales with a time to crime of 1 day. In light of how hot this info is I just wanted to make sure we put a all resources on this and get a solid interview with the transporter. Thx

Mark R. Chait
Acting Assistant Director
Field Operations
[REDACTED]

-----Original Message-----

From: McMahon, William G.
Sent: Tuesday, November 24, 2009 2:47 PM
To: Chait, Mark R.
Subject: FW: Gun seizure in Agua Prieta, Sonora

fyi

William G. McMahon
Deputy Assistant Director (West)
Office of Field Operations
[REDACTED] [REDACTED] [REDACTED]

-----Original Message-----

From: Newell, William D.
Sent: Tuesday, November 24, 2009 11:35 AM
To: McMahon,

-----Original Message Truncated-----

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Breuer, Lanny A. [REDACTED]
Sent: Sunday, December 06, 2009 10:33 PM
To: Melson, Kenneth E.; Chait, Mark R.
Subject: Re: Weapons seizures in Mexico

Ken, Absolutely. Will do. See you soon. Lanny

From: Melson, Kenneth E. <[REDACTED]>
To: Breuer, Lanny A.; Chait, Mark R. <[REDACTED]>
Sent: Sun Dec 06 18:04:57 2009
Subject: Re: Weapons seizures in Mexico

Lanny: this is exiting. Have the trial attorney contact Mark Chait who is the AD for Field Operations. I have cc'd him on this email. Look forward to talking with you soon. Ken

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Breuer, Lanny A.
To: Melson, Kenneth E.
Cc: Siskel, Edward N. (ODAG) (SMO) ; Hoover, William J.; Weinstein, Jason ; Rosen, Paul ; Raman, Mythili ; Fagell, Steven
Sent: Fri Dec 04 10:17:46 2009
Subject: RE: Weapons seizures in Mexico

Ken,

We think this is a terrific idea and a great way to approach the investigations of these seizures. Our Gang Unit will be assigning an attorney to help you coordinate this effort. Please let us know who will be the POC at ATF on this, and we'll have the Gang Unit folks reach out to that person. I would love to see you to discuss this further and other issues or common interest. I hope you are well.

Best,

Lanny

From: Melson, Kenneth E. [REDACTED]
Sent: Thursday, December 03, 2009 5:46 PM
To: Breuer, Lanny A.
Cc: Siskel, Edward N. (ODAG) (SMO); Hoover, William J.
Subject: Weapons seizures in Mexico

Lanny: We have decided to take a little different approach with regard to seizures of multiple weapons in Mexico. Assuming the guns are traced, instead of working each trace almost independently of the other traces from the seizure, I want to coordinate and monitor the work on all of them collectively as if the seizure was one case. Using the traces as intelligence, and compiling the information from each trace investigation, we can connect the purchases, identify the traffickers and use more serious charges against them. The intelligence analysis and linking of trace data and investigation results will be done at HQ out of our intelligence directorate. I would like to see if you have any interest in assigning a criminal division attorney to work with that group to develop multi-division/district cases and perhaps go to the district with the best venue to indict the case. The level of activity will depend on the number of Mexican seizures, and whether they will trace the guns, or allow us to do it. We do seem to be making progress with our Mexican partners. We are currently working on a case with SSP which might lead us to the first joint arrest in Mexico of a person connect to US arms trafficking. We should meet again just to catch up on where we are in our gun trafficking issues and we could talk about the above idea as well. Let me know what you think. Thanks. Ken.

HOCR ATF - 001985

Exhibit 30

From: Gillett, George T. Jr.
Sent: Tuesday, December 01, 2009 12:11 PM
To: Newell, William D.
CC: Needles, James R.; MacAllister, Hope A.; Carranza, Teresa A.; Simpson, Kevin; Quinonez, Louis A.
Subject: RE: FOTOS DE NUMERO DE SERIE ARMAS SONORA (segunda parte)

This will be done by Noon on Wednesday.

From: Newell, William D.
Sent: Monday, November 30, 2009 8:18 AM
To: Gillett, George T. Jr.
Cc: Needles, James R.
Subject: Fw: FOTOS DE NUMERO DE SERIE ARMAS SONORA (segunda parte)

Due to the high-profile nature of this event and all the info/intel out there I want the FIG and Grp 7 to put together an analysis of the case to date with a chart showing the known or potential links between suspects, straws, etc and an investigative plan of action - one involving ICE. (Jim, today let's discuss your conversation with Matt Allen on Wed.) I will then fwd to HQ. Thank you

Bill Newell
 Special Agent in Charge
 ATF Phoenix Field Division (AZ and NM)
 [REDACTED]

 NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Leadmon, Lorren D.
To: Newell, William D.; Gillett, George T. Jr.; Needles, James R.; MacAllister, Hope A.
Cc: O'Keefe, Kevin C.; Bass, William F.; Clark, Terrence L.; Surotchak, Frank J.; Martin, Steve K.
Sent: Sun Nov 29 14:47:03 2009
Subject: RE: FOTOS DE NUMERO DE SERIE ARMAS SONORA (segunda parte)

Mr. Newell- In addition to the below names, Jose Polanco is an additional purchaser that came back. It is the Phoenix case file. The case file was been 6E'd on Friday, so I don't know if you or your agents are aware of the following additional information:

[REDACTED] in this Seizure event was previously traced under [REDACTED]. The purchaser was [REDACTED]. It was recovered from him at his home by the Maricopa PD.

ALL FIREARMS AND OTHER INFORMATION IS ON FILE IN THE SEIZURE EVENT FILE IN NFORCE AND YOUR CASE AGENTS HAVE BEEN GIVEN ACCESS.

From: Leadmon, Lorren D.
Sent: Friday, November 27, 2009 12:22 PM
To: Newell, William D.
Cc: O'Keefe, Kevin C.; Bass, William F.; Clark, Terrence L.; Surotchak, Frank J.
Subject: RE: FOTOS DE NUMERO DE SERIE ARMAS SONORA (segunda parte)

Mr. Newell- THANKS SO MUCH FOR THE PHOTOS. There are additional purchasers in this seizure event that were not in the Phoenix case investigation file. I informed SA MacAllister of [REDACTED] (with [REDACTED] multiple sales) and [REDACTED] and she added them to her file on Wednesday. [REDACTED], [REDACTED], [REDACTED] and [REDACTED] are additional purchasers with low TTC and other FFL locations. Your case agent called the tracing center to have the

Exhibit 31

RC-1

From: Burke, Dennis (USAAZ)
Date: Tuesday, December 01, 2009 2:08 PM
To: Hurley, Emory (USAAZ)
Subject: Re: Friday's Naco gun seizure

Excellent, excellent and excellent.
 Whatever you need to keep this moving forward, let me know.

Thx.

From: Hurley, Emory (USAAZ)
To: Burke, Dennis (USAAZ)
Sent: Tue Dec 01 13:15:17 2009
Subject: RE: Friday's Naco gun seizure

We have a file open and RC-3 to start linking the conspirators together. ATF has requested a specific ICE agent, Ed Hamel (who was at last week's meeting) be assigned to the case. Ed is the case agent in Theresa Rassas' trafficking case and understands how to build a trafficking case. Hope MacAllister believes there may be as many as RC-5 straw buyers involved in this conspiracy. They will need to each be identified through traces and/or phone records. She also needs to identify the trafficker for whom they are buying and develop evidence to prove the connection to the buyers. Mike and I spoke with Hope and ASAC Jim Needles yesterday at ATF about the case and some of the 9th Cir. hurdles we have to overcome. We have assured her that we will work with her to find creative ways to overcome the *corpus delicti* challenges that accompany these straw purchasing cases.

The odds are that this will be a hub-and-spokes conspiracy and we will need to indict and secure the cooperation of the straw buyers before we are able to indict the trafficker(s). This case is one of Hope's priority cases right now.

From: Burke, Dennis (USAAZ)
Sent: Tuesday, December 01, 2009 10:59 AM
To: Hurley, Emory (USAAZ)
Subject: FW: Friday's Naco gun seizure

Where are we w/ this one?

From: Newell, William D. (ATF)
Sent: Wednesday, November 25, 2009 12:37 PM
To: Burke, Dennis (USAAZ); Hurley, Emory (USAAZ)
Subject: Friday's Naco gun seizure

Due to traces "pinging" off our Suspect Gun system we just discovered Friday's 42 gun seizure in Naco directly links to an ongoing ATF Phoenix case by SA Hope MacAllister, OCDETF Strike Force. We are advising ICE to stand down on their current proactive activity in Arizona in order not to compromise our case. We are meeting with them on Monday to discuss.

P:ll Newell
 Special Agent in Charge
 Phoenix Field Division (AZ and NM)
 Cell: RC-1

Exhibit 32

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER



Phone: [REDACTED] Fax: [REDACTED]
Print Date: [REDACTED]

SUSPECT GUN SUMMARY

Suspect Gun Number: S20090001811 Entered Date: December 17, 2009

[REDACTED]
PHOENIX FD GROUP VII

[REDACTED]
PHOENIX, AZ 85004

Badge No:

Investigation No: 785115-10-[REDACTED]

DEALER INFORMATION

Business Name:

Licensee Name:

Address:

Phone:

FFL Number:

Invoice #:

INDIVIDUAL INFORMATION

Name: SEAN CHRISTOPHER STEWARD

Address: [REDACTED]
PHOENIX, AZ 85008

DOB: [REDACTED] Race: WHITE Sex: Male

Height: [REDACTED] Weight: [REDACTED] Date: 12/13/2009

ID 1: AZ DRIVER'S LICENSE #: [REDACTED]

ID 2: [REDACTED] #:

NOTICE

The firearm(s) listed below was entered into the Firearms Tracing System as a suspect gun. You have requested NTC maintain a lookout for the firearm(s). If any of the suspect guns in this report are traced by another agency and/or individual, your Division's Firearms Trafficking Coordinator (FTC) will be notified in writing by the NTC. The notification will include the identity of the officer and/or agency requesting the trace. It will be incumbent upon the FTC or yourself to contact the firearms trace requestor. The NTC will not release any information concerning your suspect gun(s).

Weapon Summary

Weapon Count: 11

Manufacturer	Model	Caliber	Serial Number	Type	Importer
ROMARM/CUGIR	GP WASR-10	762	1975FO4574	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	GP WASR-10	762	1965NO2723	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	GP WASR-10	762	1969CE2190	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	GP WASR-10	762	1971CP4810	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	DRACO	762	DR-5151-09	PISTOL	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	DRACO	762	DR-4933-09	PISTOL	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	DRACO	762	DR-4837-09	PISTOL	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	DRACO	762	DR-4170-09	PISTOL	CENTURY ARMS INC (CAI), ST. ALBANS, VT

Suspect Gun: S20090001811
FOR OFFICIAL USE ONLY



ROMARM/CUGIR	DRACO	762	DR-5238-09	PISTOL	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	DRACO	762	DR-5147-09	PISTOL	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	DRACO	762	DR-4886-09	PISTOL	CENTURY ARMS INC (CAI), ST. ALBANS, VT

Unclassified Controlled Information

Suspect Gun: S20090001811
FOR OFFICIAL USE ONLY



Exhibit 33

Report of Investigation

Title of Investigation: AMBERS, Jacob, et al	Investigation Number: 785115-10-██████	Report Number: 36
---	---	----------------------

SUMMARY OF EVENT: On December 8, 2009, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Special Agents (SA's) T. English, H. MacAllister, J. Dodson, J. Medina, A. Bogle, Group Supervisor (GS) D. Voth, ATF Task Force Officers (TFO's) Phoenix Police Department (PPD) Detectives ██████ and ██████ PPD Sgt. ██████, PPD Officer ██████, ██████ and ██████ conducted surveillance involving Sean STEWARD (W/M, ██████).

NARRATIVE:

1. On December 7, 2009, at approximately 1145 hours, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Special Agent (SA) MacAllister received information from a source of information (SOI) that a subject later identified as Sean STEWARD (W/M, ██████) was in Federal Firearms Licensee (FFL) ██████ ██████, Glendale, AZ, FFL # ██████ inquiring about purchasing twenty (20) AK-47 style rifles. STEWARD advised he needed to leave to get his money to pay for the rifles but STEWARD would return later in the day.
2. On the same date, SA Medina received information that a call was received by FFL ██████ employees who identified the caller as Joshua MOORE. MOORE called and inquired about the twenty (20) AK-47 style rifles in inventory.
3. On the same date, between approximately 1230 hours to 2000 hours, ATF SA's English, J. Dodson, J. Medina, S. Hager, J. Schmidt, A. Bogle, Group Supervisor (GS) Voth, and ATF Task Force Officers (TFO's) Phoenix Police Department (PPD) Detectives (Dets.) ██████ ██████ on began surveillance in the area of FFL ██████ Neither STEWARD nor MOORE were observed at FFL ██████ during this time.
4. On December 8, 2009, at approximately 0830 hours, ATF SA MacAllister drove by ██████ W. ██████ ██████ Glendale, AZ 85303. SA MacAllister observed a Nissan vehicle displaying AZ LP ██████. A query of AZMVD records by SA English revealed the registered owner of the ██████ ██████ QXG bearing AZ LP ██████ is ██████, ██████ ██████, Glendale, AZ 85303.
5. At approximately 0845 hours, SA MacAllister drove by PATINO's listed address on PATINO's Driver's License and the ATF Forms 4473's, ██████, Phoenix, AZ 85037. SA MacAllister checked the location and advised the residence was vacant.

Prepared by: Tonya A. English	Title: Special Agent, Phoenix VII Field Office	Signature:	Date:
Authorized by: David J. Voth	Title: Group Supervisor, Phoenix VII Field Office	Signature:	Date:
Second level reviewer (optional): William D. Newell	Title: Special Agent in Charge, Phoenix Field Division	Signature:	Date:

Title of Investigation: CHAMBERS, Jacob, et al	Investigation Number: 785115-10-██████████	Report Number: 36
---	---	----------------------

6. At approximately 0905 hours, ATF SA MacAllister arrived at FFL ██████████. SA MacAllister received information from a SOI that at approximately 0916 hours, a telephone call was received by FFL ██████████ employees in reference to the number of AK-47 style rifles in inventory. The Caller ID revealed the telephone call came from telephone number (623) ██████████, listed owner Manuel Celis. Based on December 3, 2009, Accurant checks, this telephone number is associated with ██████████ ██████████ ██████████ Phoenix, Arizona, a previously identified involved residence.
7. At approximately 0949 hours, SA MacAllister observed a white male in a green army jacket, and green and black knit cap arrive at FFL ██████████ and ask to speak with FFL ██████████ owner ██████████. A store employee advised the male, later identified as Sean STEWARD (W/M, ██████████), that ██████████ would return in twenty minutes. STEWARD left the business and got into the driver seat of a red and black 4 door sedan parked near the business. STEWARD remained parked at the location waiting for ██████████ to return.
8. At approximately 1000 hours, a FFL ██████████ employee spoke with STEWARD in reference to the price discussed on December 7, 2009, for the AK-47 style rifles. STEWARD went back inside FFL ██████████ to begin the paperwork to purchase the twenty (20) AK-47 style rifles in inventory.
9. At approximately 1005 hours, ATF SA's English, Dodson, Medina, Bogle, GS Voth, PPD Det. ██████████ and PPD Officer ██████████ began surveillance in the area of FFL ██████████. SA English observed several vehicles in the parking lot of the strip mall where the business is located. SA MacAllister advised that a red 4 door vehicle parked near FFL ██████████ was STEWARD's vehicle. SA English observed a red 4 door Mitsubishi sedan displaying AZ LP ██████████ parked near FFL ██████████. The Mitsubishi had a black trunk and a large red spoiler extending from the trunk. A query of AZMVD records by IA ██████████ revealed the registered owners of the ██████████ bearing AZ LP ██████████, are Sean STEWARD and ██████████ of ██████████ E ██████████ Phoenix, AZ 85008.
10. At approximately 1059 hours, United Parcel Services (UPS) delivered twenty (20) additional AK-47 style rifles to FFL ██████████. STEWARD observed the delivery and advised that he would return later in the day to purchase all twenty (20) of the rifles. STEWARD provided contact telephone number (602) ██████████.
11. At approximately 1113 hours, STEWARD left the location without any firearms. SA English observed STEWARD get into STEWARD's red and black Mitsubishi Evo and drive southbound through the parking lot. STEWARD continued southbound across ██████████ and pulled into the Sonic parking lot located on the south side of ██████████. SA's English and Dodson observed STEWARD at a drive-thru order stand waiting. SA English observed STEWARD receive his food before STEWARD crossed back over ██████████ into the strip mall parking lot on the northbound side of ██████████, and parked in front of FFL ██████████ at approximately 1120 hours.
12. SA MacAllister received information that a telephone call was received at approximately 1122 hours by FFL ██████████ employees in reference to AK-47 style rifles with synthetic stocks in inventory. The Caller ID revealed the telephone call came from telephone number (602) ██████████, listed owner ██████████. It is unknown if ██████████ is related at this time.
13. At approximately 1134 hours, SA English observed STEWARD exit his vehicle and begin walking back and forth outside of FFL ██████████ while talking on a cell phone.
14. At approximately 1206 hours, SA English observed STEWARD and several FFL ██████████ employees carrying out brown cardboard rifle boxes to STEWARD's vehicle. SA English observed the employees making

Title of Investigation: CHAMBERS, Jacob, et al	Investigation Number: 785115-10 [REDACTED]	Report Number: 36
---	---	----------------------

back and forth trips into the FFL business while STEWARD loaded all of the rifle boxes into the rear passenger compartment of STEWARD's red Mitsubishi Evo. (Please see ROI #35 for further firearm transaction details).

15. At approximately 1209 hours, SA English observed STEWARD on his cell phone again. At approximately 1210 hours, SA English observed STEWARD get into the driver seat of the red Mitsubishi and travel southbound initially through the parking lot before traveling eastbound while still on the cell phone. SA English observed STEWARD turn southbound onto [REDACTED], before turning eastbound onto [REDACTED]. GS Voth, SA's English, Medina and Bogle followed the vehicle eastbound on [REDACTED]. STEWARD began traveling at a high rate of speed and weaving in and out of traffic lanes. Because of this, ATF agents became separated from STEWARD and lost sight of STEWARD's vehicle eastbound just east of the intersection [REDACTED] and [REDACTED]. ATF agents were aware that a previous purchaser had purchased firearms and immediately traveled to an automotive shop in the area [REDACTED] and dropped off firearms. ATF agents began checking southbound lanes of Interstate I-17 from [REDACTED] for STEWARD's red Mitsubishi Evo.
16. At approximately 1225 hours, SA English observed a red Mitsubishi Evo with a large red spoiler and black trunk displaying AZ LP [REDACTED] traveling southbound just south of [REDACTED] on Interstate I-17. SA English recognized the vehicle as STEWARD's vehicle. SA English continued surveillance on the red Mitsubishi Evo. SA English observed STEWARD exit [REDACTED] from Interstate I-17. STEWARD began traveling westbound in the [REDACTED]. SA's English, Medina, and GS Voth observed STEWARD turn southbound into a parking lot in the [REDACTED]. Several minutes later, SA Medina observed STEWARD parked at a gas pump at the [REDACTED], Phoenix, AZ 85009.
17. At approximately 1229 hours, SA's Medina and Bogle observed STEWARD's red Mitsubishi parked facing south at a gas pump on the west side of a row. A tan [REDACTED] and white [REDACTED] were parked facing south at the gas pumps on the east side of the same row. Medina and Bogle observed approximately five to six Hispanic and white males meeting with STEWARD and a Hispanic male in an orange shirt in the middle of the row in the parking lot of the QT. SA Medina observed the male in an orange shirt standing next to the open rear driver side door of STEWARD's Mitsubishi looking into the rear passenger compartment area. The other males were standing nearby also looking into the rear passenger compartment area of STEWARD's Mitsubishi. After talking for several minutes, SA English observed the Hispanic and white males get into the white [REDACTED] and the tan [REDACTED] before both vehicles left eastbound on [REDACTED]. SA Bogle further identified the white [REDACTED] as displaying AZ LP [REDACTED]. A query of AZMVD records by SA English revealed the registered owners of the [REDACTED] pickup are [REDACTED] and [REDACTED] of [REDACTED] Phoenix, AZ 85051. The [REDACTED] was further identified by SA English as displaying AZ LP [REDACTED] based on surveillance photos of the meeting at the QT taken by SA Medina. A Query of AZMVD records by SA English revealed the registered owner of the [REDACTED] as [REDACTED], [REDACTED] Phoenix, AZ 85037.
18. SA's English observed the Hispanic male in the orange shirt get into the front passenger seat of STEWARD's vehicle and STEWARD get into the driver's seat. At approximately 1238 hours, STEWARD then left the location southbound on [REDACTED].
19. SA's English and Bogle continued following STEWARD's vehicle. STEWARD traveled south on [REDACTED], before turning east onto [REDACTED]. STEWARD then turned southbound onto Interstate I-17. STEWARD traveled southbound on Interstate I-17 and then exited [REDACTED]. STEWARD began traveling eastbound on [REDACTED] before STEWARD turned southbound onto [REDACTED].

Title of Investigation: CHAMBERS, Jacob, et al	Investigation Number: 785115-10 [REDACTED]	Report Number: 36
---	---	----------------------

[REDACTED]. STEWARD began traveling southbound on [REDACTED]. STEWARD turned westbound onto [REDACTED]. STEWARD then turned southbound into [REDACTED], Phoenix, Arizona.

20. SA's English and Bogle observed STEWARD, the unidentified Hispanic male in the orange shirt and another unidentified short Hispanic male wearing sunglasses standing next to STEWARD's Mitsubishi talking. SA Bogle observed the short Hispanic male wearing sunglasses on a cell phone.
21. GS Voth further described the short Hispanic male as wearing a green hat, sunglasses and a blue shirt. GS Voth then observed STEWARD and the Hispanic male in a blue shirt standing next to a red newer model [REDACTED]. GS Voth observed STEWARD shake hands with an unidentified front seat passenger in the red [REDACTED]. GS Voth observed the trunk of STEWARD's red and black Mitsubishi open. GS Voth observed several subjects removing cardboard boxes from the Mitsubishi and placing them in the cargo area of the red [REDACTED]. Several minutes later, SA Medina observed a red newer model [REDACTED] exiting from the [REDACTED] parking lot that turned eastbound onto [REDACTED]. SA Medina further described the red [REDACTED] as having a [REDACTED] emblem on the rear windshield. GS Voth observed the Hispanic male in the blue shirt standing near the gate for approximately twenty minutes after that.
22. SA Bogle then observed a tan newer model [REDACTED] being driven by a Hispanic male stop facing westbound in the parking lot in front of STEWARD's vehicle. SA Bogle observed the rear passenger sliding door open and the short Hispanic male wearing sunglasses in the blue shirt going in and out of the van. After several minutes, SA Bogle observed the [REDACTED] van's sliding door close and the van began traveling westbound through the parking lot before turning northbound. At approximately 1255 hours, SA's Bogle and Medina observed the tan [REDACTED] van turn and began traveling westbound on [REDACTED]. Several minutes later, SA Bogle observed STEWARD's vehicle also leaving from the parking lot. SA English observed STEWARD's vehicle eastbound in the [REDACTED].
23. At approximately 1315 hours, SA Medina observed what he believed to be the same newer model tan [REDACTED] parked at [REDACTED], which is a previously identified involved business. SA Medina further identified the tan GMC van as displaying AZ LP [REDACTED]. A Query of AZMVD records by SA English revealed the registered owner of the [REDACTED] as [REDACTED], [REDACTED] Phoenix, AZ 85024.
24. On the same date, at approximately 1305 hours, SA MacAllister received information that STEWARD had called FFL [REDACTED] and advised STEWARD was going to return to FFL [REDACTED] to purchase the additional twenty (20) AK-47 style rifles later in the day.
25. On the same date, on or about 1500 hours ATF SA's H. MacAllister, T. English, J. Medina, J. Dodson, A. Bogle, and GS D. Voth, along with Phoenix Police Department (PPD) Officers [REDACTED] PPD Sgt. [REDACTED] conducted surveillance in the area [REDACTED], Glendale, Arizona.
26. At approximately 1910 hours, SA MacAllister received information that STEWARD was coming from Flagstaff, AZ passing Sunset Point, and would be arriving late to purchase the rifles. At approximately 1952 hours, SA MacAllister received information that STEWARD would be arriving in approximately twenty-five minutes.

Title of Investigation: CHAMBERS, Jacob, et al	Investigation Number: 785115-10 [REDACTED]	Report Number: 36
---	---	----------------------

27. At approximately 2015 hours, GS Voth observed STEWARD's previously identified red and black 2003 Mitsubishi, Arizona license plate [REDACTED], pull into the parking lot of [REDACTED] Avenue and park in a space southwest of FFL [REDACTED]. Upon STEWARD's arrival, a white [REDACTED] pick-up truck bearing Arizona license plate [REDACTED], and a maroon [REDACTED] parked next to STEWARD's vehicle. GS Voth watched as six to seven males exited all three vehicles and met with another male.
28. At approximately 2024 hours, PPD Det. [REDACTED] observed one of the males display a notebook to the other subjects. At approximately 2027 hours, SA MacAllister received information STEWARD would be arriving to purchase the firearms in five minutes. At approximately 2037 hours, SA Medina observed a red [REDACTED] park near the subjects. SA Medina watched as a Hispanic male walked from the area of the [REDACTED] and got into the white [REDACTED]. A short time later both the red Mitsubishi and red [REDACTED] left the area headed west on [REDACTED]. Upon heading west on [REDACTED], PPD Dets. [REDACTED] followed the [REDACTED] and further identified the license plate as [REDACTED]. A query of Arizona Motor Vehicle Department by SA English revealed the registered owner of the [REDACTED] as [REDACTED], [REDACTED], [REDACTED], Glendale, AZ 85301.
29. At approximately 2042 hours, SA Medina observed three males walk into FFL [REDACTED]. A short time later, SA MacAllister received information that STEWARD was purchasing (20) AK-47 style rifles at FFL [REDACTED] accompanied by two Hispanic males. At approximately 2046 hours, SA Medina observed two subjects exit the store. SA Medina watched the two subjects get into the [REDACTED] and park the truck east of the store. SA Medina and PPD Det. [REDACTED] watched the two Hispanic males move boxes from the bed of the truck to the rear passenger area of the vehicle and then return to the front of FFL [REDACTED] and back into a parking space in close proximity to the front door of the business.
30. At approximately 2105 hours, SA Medina observed all three subjects begin carrying the firearms out of the store and loading them into the bed of the truck. All three subjects got into the vehicle and drove through the parking lot heading west on [REDACTED]. ATF agents and PPD Detectives continued surveillance on the white [REDACTED].
31. At approximately 2115 hours, PPD Det. [REDACTED] advised the white [REDACTED] was pulling farther away from him. Det. [REDACTED] was traveling 50 miles per hour (mph) in a posted 40 mph zone on [REDACTED]. PPD Officers [REDACTED] # [REDACTED] and [REDACTED] # [REDACTED] conducted a vehicle stop on the truck for traveling in excess of the posted speed limit of 40 mph. During the stop, PPD Officers [REDACTED] and [REDACTED] identified the subjects inside the vehicle. The driver was identified as [REDACTED] (date of birth [REDACTED]) of [REDACTED] Phoenix, Arizona. The rear passenger was identified as Sean Christopher STEWARD (date of birth [REDACTED]) of [REDACTED] # [REDACTED], Phoenix, Arizona. The front seat passenger was identified as Manuel Celis ACOSTA (date of birth [REDACTED]) of [REDACTED] # [REDACTED], Phoenix, Arizona. While on-scene, Officers [REDACTED] and [REDACTED] observed the firearms in the bed of the truck and asked the subjects about the firearms. STEWARD advised he had purchased the firearms and they belonged to him. No traffic citations were issued.
32. At approximately 2126 hours, SA English began surveillance at [REDACTED], a previously identified involved residence and observed the red Mitsubishi belonging to STEWARD and a silver sedan with a spoiler parked on the street northbound in front of the residence. SA English also observed a red pick-up truck displaying AZ LP [REDACTED], a red [REDACTED], a silver truck and a tan SUV parked at the location. SA English further identified the Arizona LP on the tan SUV as [REDACTED]. This was the same vehicle observed at the [REDACTED] earlier in the day by surveillance units.

Title of Investigation: CHAMBERS, Jacob, et al	Investigation Number: 785115-10-████	Report Number: 36
---	---	----------------------

33. After the vehicle stop was concluded, PPD Officer █████ continued surveillance on the Nissan truck. Officer █████ observed the Nissan truck travel south on █████ until it turned west on █████, continued South on █████, and arrived at █████, Phoenix, Arizona.

34. At approximately 2141 hours, SA English watched the Nissan truck back into the driveway and the subjects get out and unload items from the bed of the truck. At 2144 hours, SA English watched the Mitsubishi belonging to STEWARD and the white █████ leave the residence. A short time later, SA MacAllister saw both vehicles park at the █████ gas station located on the northeast corner of █████. The occupants of both vehicles got out of their vehicles and were talking to each other for approximately five minutes. All the subjects then left the area in the aforementioned vehicles.

35. This case is ongoing and will continue.

Exhibit 34

From: Voth, David J.
Sent: Thursday, December 10, 2009 7:40 PM
To: Sonnendecker, Mark
Subject: RE: DEA clearance

Yeah good times, no looking for cases they slap you right in the face...

From: Sonnendecker, Mark
Sent: Thursday, December 10, 2009 5:39 PM
To: Voth, David J.
Subject: Re: DEA clearance

Wow...sounds like fun! I look forward to getting there.

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Voth, David J.
To: Sonnendecker, Mark
Sent: Thu Dec 10 19:37:42 2009
Subject: RE: DEA clearance

Crazy dude, we were out late every night, and our current group has purchased 90 guns that we know of this week alone. On Tuesday we followed a guy who purchased 40 AK-47s, 9 of them were already recovered near the border in Douglas, AZ on Wednesday night...24 hours!

From: Sonnendecker, Mark
Sent: Thursday, December 10, 2009 5:25 PM
To: Voth, David J.
Subject: RE: DEA clearance

Roger that. The form w/ my info is attached.

How is the first week treating you?

Mark Sonnendecker
Special Agent
Bureau of Alcohol, Tobacco, Firearms, and Explosives
Los Angeles Field Division, Glendale Group 1

From: Voth, David J.
Sent: Thursday, December 10, 2009 4:24 PM
To: Sonnendecker, Mark
Subject: RE: DEA clearance

Me please, I am sending them all in together...

From: Sonnendecker, Mark
Sent: Thursday, December 10, 2009 4:43 PM
To: Voth, David J.
Subject: RE: DEA clearance

HOCR ATF - 002277

Do you want it sent to you or should I follow the instructions and send to PSB Verifications?

Thanks.

Mark Sonnendecker
Special Agent
Bureau of Alcohol, Tobacco, Firearms, and Explosives
Los Angeles Field Division, Glendale Group 1

From: Voth, David J.
Sent: Thursday, December 10, 2009 3:39 PM
To: Alt, Lawrence M.; Sonnendecker, Mark
Subject: DEA clearance

Gentlemen,

Please complete and return this form as we will be co-located with DEA at the OCDETF Strikeforce and need this processed.

Thanks,

David Voth
Group Supervisor
Phoenix Group VII

HOGR ATF - 002278

Exhibit 35

From: Gillett, George T. Jr.
Sent: Tuesday, December 08, 2009 11:48 AM
To: Voth, David J.
Subject: Fw: Conference

Categories: F&F, ISSA, IG

Fyi -

I hope all this was discussed with Sig. If not, please keep this between us and we can discuss tonight.

George T. Gillett
Assistant Special Agent in Charge
ATF - Phoenix Field Division
[REDACTED] [REDACTED]

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

----- Original Message -----

From: Celaya, Sigberto F.
To: Gillett, George T. Jr.
Sent: Tue Dec 08 11:37:48 2009
Subject: RE: Conference

They have a case open that they are wanting to make an OCDEF case out of. I support their effort. I would only recommend that some action is taken in attempts to slow down the purchasing and exportation of the firearms and ammunition. Our agents have now been involved in two incidents that have had major seizures relating to their case. We are being told that they have documented over 300 firearms being purchased by this group. Our investigative efforts reflect that the suspect in this recent seizure is responsible for purchasing over \$25,000 of ammunition. Only \$10,000 worth of ammo was seized.

-----Original Message-----

From: Gillett, George T. Jr.
Sent: Tuesday, December 08, 2009 9:24 AM
To: Celaya, Sigberto F.
Subject: Re: Conference

Thank you. What did you both decide?

George T. Gillett
Assistant Special Agent in Charge
ATF - Phoenix Field Division
[REDACTED] [REDACTED]

From: Gillett, George T. Jr.
Sent: Friday, December 04, 2009 10:46 AM
To: Knapp, Joshua G.
Cc: Newell, William D.; Voth, David J.
Subject: SA Hope MacAllister

Categories: F&F

Hello Josh –

Hope MacAllister is scheduled to attend medic tactical re-cert next week in El Paso, TX.

She is the case agent on a southbound firearms trafficking investigation that is being closely monitored by DAD McMahon (FO) and DAD Martin (OSII). We are anticipating significant investigative movement in the next 5-10 days and need Hope to be in Phoenix to coordinate the investigation.

Could she please be excused from re-cert and rescheduled to the March training to satisfy the re-cert requirement?

Thank you, and please contact me if you have any questions.

Exhibit 36

From: Gillett, George T. Jr.
Sent: Sunday, December 13, 2009 1:24 PM
To: Newell, William D.
Subject: Re: Hope's case status?

At least 17 of the guns recently recovered in TJ are from Hope's purchasers.

The OCDETF proposal was drafted yesterday.

Total purchased last week (including yesterday) were approximately 175.

George T. Gillett
Assistant Special Agent in Charge
ATF - Phoenix Field Division
Cell: [REDACTED]

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

----- Original Message -----

From: Newell, William D.
To: Gillett, George T. Jr.
Sent: Sun Dec 13 13:14:35 2009
Subject: Hope's case status?

Bill Newell
Special Agent in Charge
ATF Phoenix Field Division (AZ and NM)
Cell: [REDACTED]

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

Exhibit 37

003 S

MICHAEL K. JEANES, CLERK
BY J. Chino DEP
FILED

09 DEC 18 AM 9:12

ANDREW P. THOMAS
MARICOPA COUNTY ATTORNEY

William Moore
Deputy County Attorney
Bar ID#: [REDACTED]

Phoenix, AZ 85003
Telephone: [REDACTED]

MCAO Firm # 000320000
Attorney for Plaintiff

DR 081107023-Buckeye Police Department
ESTRELLA MOUNTAIN JUSTICE COURT

CA2009027094

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

COUNTY OF MARICOPA, RCC-Downtown

THE STATE OF ARIZONA

Plaintiff,

vs.

JACOB WAYNE CHAMBERS ✓

SOUNTHONE ANTHONY NICKOLAS

EDWIN IVAN GUERRERO

Defendants

CR. 2009-177644-003 DT

DIRECT COMPLAINT

COUNT 1: BURGLARY IN THE SECOND DEGREE, A CLASS 3 FELONY (JACOB WAYNE CHAMBERS, EDWIN IVAN GUERRERO AND SOUNTHONE ANTHONY NICKOLAS)

COUNT 2: TRAFFICKING IN STOLEN PROPERTY, SECOND DEGREE, A CLASS 3 FELONY (JACOB WAYNE CHAMBERS)

The complainant herein personally appears and, being duly sworn, complains on information and belief against JACOB WAYNE CHAMBERS, SOUNTHONE ANTHONY NICKOLAS and EDWIN IVAN GUERRERO, charging that in Maricopa County, Arizona:

DCO

COUNT 1:

JACOB WAYNE CHAMBERS, EDWIN IVAN GUERRERO and SOUNTHONE ANTHONY NICKOLAS, on or about the 7th day of November, 2008, with the intent to commit a theft or a felony therein, entered or remained unlawfully in or on the residential structure of JOSE MANUEL CASTILLO and/or VALERIA CASTILLO, located at 5697 South 237th Drive, Buckeye, AZ, in violation of A.R.S. §§ 13-1507, 13-1501, 13-301, 13-302, 13-303, 13-304, 13-701, 13-702, 13-702.01, and 13-801.

COUNT 2:

JACOB WAYNE CHAMBERS, on or between the 7th day of November, 2008 and the 20th day of November, 2008, recklessly trafficked in the property of JOSE MANUEL CASTILLO and/or VALERIA CASTILLO, to-wit: a chain saw and a generator that had been stolen, in violation of A.R.S. §§ 13-2301, 13-2307, 13-701, 13-702, 13-702.01, and 13-801.

[Handwritten Signature]
/s/ William Moore
Deputy County Attorney

It is requested that a SUMMONS be issued.

It is requested that Defendant appear for fingerprints and photograph.

[Handwritten Signature] D. Anco 3636 Agency: Buckeye Police Department
Complainant

Subscribed and sworn upon information and belief this 17th day of December, 2009

WM:mat/AO

Exhibit 38

Michael K. Jeanes, Clerk of Court
 *** Filed ***
 09/03/2010 8:00 AM

SUPERIOR COURT OF ARIZONA
 MARICOPA COUNTY

CR2009-177644-003 DT

09/01/2010

HONORABLE MICHAEL D. JONES

CLERK OF THE COURT
 J. Field
 Deputy

STATE OF ARIZONA

BRADLEY FRANCIS PERRY

v.

JACOB WAYNE CHAMBERS (003)
 DOB: 07/11/1990

GARY L ROHLWING

APO-SENTENCINGS-CCC
 APPEALS-CCC
 DISPOSITION CLERK-CSC
 RFR
 VICTIM SERVICES DIV-CA-CCC

SUSPENSION OF SENTENCE - PROBATION GRANTED

8:54 a.m.

State's Attorney: Paula Dixon on behalf of Bradley Perry
 Defendant's Attorney: Gary Rohlwing
 Defendant: Present
 Court Reporter: Judie Bryant

Count(s) 2: WAIVER OF TRIAL: The Defendant knowingly, intelligently and voluntarily waived all pertinent constitutional and appellate rights and entered a plea of guilty.

IT IS THE JUDGMENT of the Court Defendant is guilty of the following:

OFFENSE: Count 2 (as amended): Theft
 Class 6 Felony
 A.R.S. § 13-1801, 1802, 701, 702, 702.01, 801
 Date of Offense: 11/07/2008

Docket Code 109

Form R109B-04

Page 1

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2009-177644-003 DT

09/01/2010

Non Dangerous - Non Repetitive

IT IS ORDERED suspending imposition of sentence and, under the supervision of the Adult Probation Department (APD), placing the defendant on probation for:

Count 2 Probation Term: Two years

To begin 09/01/2010.

Conditions of probation include the following:

Condition 16 - Restitution, Fines, and Fees:

PROBATION SERVICE FEE: Count 2 - \$65.00 per month, beginning 10/01/2010.

ASSESSMENTS:

Count 2: PROBATION SURCHARGE: \$20.00.

All amounts payable through the Clerk of the Superior Court.

The Court retains jurisdiction for any future restitution hearings.

Condition 17 - Not consume or drink any substance containing alcohol.

Condition 18 - Not have any contact with the victim(s) whatsoever, unless approved in writing by the Adult Probation Department.

Condition 24 - Participate and cooperate in any counseling or assistance as directed by the APD as noted in the Uniform Conditions of Supervised Probation.

IT IS ORDERED granting the Motion To Dismiss the following: Count 1, allegation of 702.02 multiple offenses not committed on the same occasion.

IT IS FURTHER ORDERED that Defendant must submit to DNA testing for law enforcement identification purposes and pay the applicable fee for the cost of that testing in accordance with A.R.S. § 13-610.

9:01 a.m. Matter concludes.

Docket Code 109

Form R109B-04

Page 2

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2009-177644-003 DT

09/01/2010

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>

Docket Code 109

Form R109B-04

Page 3

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2009-177644-003 DT

09/01/2010

Defendant's right index fingerprint is permanently affixed to this sentencing order in open court.

/s/ HONORABLE MICHAEL D. JONES
JUDGE OF THE SUPERIOR COURT

(right index fingerprint)

Docket Code 109

Form R109B-04

Page 4

Exhibit 39

[Redacted]

From: MacAllister, Hope A. <Hope.A.MacAlliste [Redacted]>
To: [Redacted]
Subject:
Date: 11/28/2009 4:52:58 PM

When all this calms down can you run these numbers? Thanks [Redacted]-7063 [Redacted]
0475 [Redacted] 5589 [Redacted]-7368 [Redacted] 7595 [Redacted]-0495 [Redacted]-0308 [Redacted]-0467
[Redacted]-0308 [Redacted]-4429 [Redacted]-3237 [Redacted]-7777 Hope MacAllister Special
Agent Phoenix Group VII [Redacted]

[Redacted]

[Redacted]

Exhibit 40

[REDACTED]

From: [REDACTED]
Sent: Monday, December 14, 2009 6:12 PM
To: [REDACTED]
Subject: RE: Wire Schedule

Still pending. They may do a payment tonight, but likely tomorrow. We checked with ATF and they have the gun source and the courier identified. They have a pole cam on the gun source's house. We scheduled a meeting tomorrow with the case agent to make sure we don't inadvertently step on each other. We have enough to get them up on the gun source and courier's phones. Hopefully, that will be the route they want to take.

[REDACTED]

Exhibit 41

785115-10- [REDACTED] ROI 50
Deconfliction Meeting with DEA Personnel on December 15, 2009
20091217
Open
OTHER (NON-EXPLOSIVE/FIRE)
1

963626
Deconfliction Meeting with DEA Personnel on December 15, 2009
20091217

SUMMARY OF EVENT: DECONFLICTION MEETING WITH DRUG ENFORCEMENT ADMINISTRATION - On December 15, 2009, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Special Agents (S/As) T. English, H. MacAllister and Group Supervisor (G/S) D. Voth met with U.S. Department of Justice Drug Enforcement Administration (DEA) personnel at the DEA office, [REDACTED] Phoenix, AZ [REDACTED], in reference to ATF's Jacob Chambers; et al case (ATF IN #785115-10-[REDACTED]) and DEA's [REDACTED] case (DEA IN # [REDACTED]). NARRATIVE: On or about November 23, 2009, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Special Agent (S/A) MacAllister submitted six telephone numbers to U.S. Department of Justice Drug Enforcement Administration (DEA) S/A [REDACTED] for Deconfliction. The telephone numbers belonged to identified possible straw purchasers in the Jacob Chambers; et al case, ATF IN #785115-10-[REDACTED]. On December 14, 2009, ATF S/As English and MacAllister were contacted by DEA S/As [REDACTED] and [REDACTED] in reference to the telephone numbers submitted. S/As English and MacAllister were advised Jacob CHAMBERS telephone number was related to an ongoing DEA investigation [REDACTED] Case Agents DEA S/A [REDACTED] and DEA TFO [REDACTED] [REDACTED]. On the same date, S/A English spoke via the telephone with DEA Intelligence Analyst (I/A) [REDACTED] and Case Agent [REDACTED]. S/A English determined that the DEA investigation was related to the ongoing ATF Jacob Chambers; et al case. Arrangements were made for a meeting between ATF and DEA personnel involved in both investigations on the following day. On December 15, 2009, ATF Group Supervisor (G/S) Voth, and ATF S/As English and MacAllister met with DEA personnel including G/S [REDACTED] S/A [REDACTED] DEA TFO Soto and I/A Smith at the DEA office, [REDACTED] Phoenix, AZ [REDACTED]. Representatives from both agencies were de-briefed in reference to both agencies respective investigations. Both agencies agreed to continue to deconflict and communicate with each other regarding their respective investigations. This case is ongoing and will continue.

1

[REDACTED]

[REDACTED]

[REDACTED]

Exhibit 42

[REDACTED]

From: [REDACTED]
Sent: Wednesday, December 16, 2009 9:14 AM
To: [REDACTED]
Subject: Re: Tuesday Night Wire Update

They should just use our case# - they need the drug nexus.

[REDACTED]

From: [REDACTED]
To: [REDACTED]
Sent: Wed Dec 16 11:12:37 2009
Subject: RE: Tuesday Night Wire Update

Yeah, that was the impression I got from their ATF GS. They seem excited to work up the case and one of the case agents seems pretty sharp. They are going to OCDETF the case and work with us if a gun load moves. They said that the best way is to try to stop the load as it goes across into Mexico which adds in a whole bunch of charges. They said that they have experience coordinating outbound inspections and have taken gun loads off in the past that way. They mentioned that a wall-off results in basically nothing. Because no one is a prohibited possessor, there aren't any good charges to stick to anyone, even if a confession is made by the driver. She said that the AUSA typically will not charge anyone and probation is the typical sentence. On the plus side, we have the conspiracy through the wire which will help significantly with charging down the road.

From: [REDACTED]
Sent: Wednesday, December 16, 2009 8:09 AM
To: [REDACTED]
Subject: Re: Tuesday Night Wire Update

[REDACTED] said ATF wants to write for phones.

[REDACTED]

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Sent: Wed Dec 16 00:50:29 2009
Subject: Tuesday Night Wire Update

Pretty quiet on the phones this evening. According to calls, [REDACTED] may be turning himself in to law enforcement. I'm assuming it is for his warrant in Texas regarding his role in harboring a fugitive. As a result, [REDACTED] may begin speaking directly to [REDACTED] the dispatcher in Nuevo Leon. We'll see how this unfolds once [REDACTED] listens to the calls.

[REDACTED]

From: [REDACTED]
 Sent: Monday, December 28, 2009 10:50 AM
 To: [REDACTED]
 Subject: Update: [REDACTED]

[REDACTED]

Between when I left on the 22 and my return on the 26 there were over 2000 calls.

[REDACTED] is content with waiting until after the New Year comes in for shipments to arrive and start working. There were about 2000 pounds in Mcallen Texas ready to go out and they put it off until after the 25th. When I checked the calls on the 26th indications were that there were now 8000 pounds available. On the 26th they spoke about the shipments headed out to Detroit this Monday. Don't know if we missed that or not because of the power outage in the area and then the fire issue in the building. (hey at least I didn't get stuck in the elevator this time).

[REDACTED] has been talking about a having a dirty Border Guard on this side discribed as an older white guy. He isn't speaking directly to him but through others. He has advised [REDACTED] in Mexico and [REDACTED] about this Guard and hopes to get things going after the first of the year. On the 22nd Luis was hoping to send out what was at the [REDACTED] house to [REDACTED] in Detroit about 300 pounds left but the transportation didn't work out. Calls last night indicated that there are about 300 or so left.

There was a call from an unknown possibly the same guy on anther phone that lived up by [REDACTED] and his source brought in a ton (weed). [REDACTED] inquired if [REDACTED] could move 20 kilos of cocaine that were at the border ready to cross. [REDACTED] stated that he didn't have the funds right now.

[REDACTED] in Detroit indicated that he sent another address to [REDACTED] via text for the flatbed or Box trucks to arrive. Will check the text to see if we captured it. [REDACTED] has also been in touch (on antoher phone) with [REDACTED] in Mexico and that his product will be crossing after the first of the year to [REDACTED] in Phx. [REDACTED] indicates that those shipments will be 5000 pound quantities. [REDACTED] also provides heroin at times as well.

[REDACTED] delivered the 32 assault rifles to El Paso and were sold and he returned and ordered another 37 assault rifles to be going out in the next few days. ATF has been notified and they say that their CS indicated the same thing. [REDACTED] went to the horse races on Saturday and lost his phone and now acquired a new one which we are not up on.

This morning 28th calls indicated that [REDACTED] and [REDACTED] were out of town and it appears that they are in Orange California. Unknown why they are there but we know that [REDACTED] (guy from [REDACTED]) is there as well.

[REDACTED] left over the Christmas holidays to [REDACTED] with family and upon returning spoke to a Jamaican male "[REDACTED]" who is in New York about other Jamaicans. She has been indicating that she wants to rent two houses one to live in and another for work since her current house on [REDACTED] will be expiring at the end of the month.

Now that the power is back on in the building and waiting for voicebox to come back on line soon I hope, I'll try and catch up on what occurred yesterday. If there is anything new I'll send another update out.

Exhibit 43

LAW OFFICES

STEIN, MITCHELL & MUSE L.L.P.

1100 CONNECTICUT AVE., N.W., STE. 1100

WASHINGTON, D. C. 20036

GLENN A. MITCHELL
 JACOB A. STEIN
 GERARD E. MITCHELL
 ROBERT F. MUSE
 DAVID U. FIERST
 RICHARD A. BUSSEY
 ROBERT L. BREDHOFF
 CHRISTOPHER H. MITCHELL
 ANDREW M. BEATO
 LAURIE A. AMELL
 DENIS C. MITCHELL
 ARI S. CASPER
 JOSHUA A. LEVY
 JULIE L. MITCHELL
 KERRIE C. DENT

OF COUNSEL
 RONALD KOVNER

TELEPHONE: (202) 737-7777
 TELECOPIER: (202) 296-8312
 www.SteinMitchell.com

March 14, 2012

via Hand Delivery

Rep. Darrell E. Issa
 Chairman
 House Committee on Oversight & Government Reform
 512 Ford House Office Building
 Washington, DC 20510

Senator Charles E. Grassley
 Ranking Member
 Senate Committee on the Judiciary
 135 Hart Senate Office Building
 Washington, DC 20510

Re: Fast & Furious Investigation

Dear Chairman Issa and Senator Grassley:

On June 14, 2011, you publicly released a joint staff report that made many inaccurate and harmful statements about my client, ATF Phoenix Group VII Supervisor David Voth,¹ without having first interviewed him. The report mischaracterized documents he authored, and it included false and injurious allegations about statements he did not make and actions he did not take. Despite your failure to interview GS Voth before you released the report, you redacted many people's names from the report, but not GS Voth's. This astonishing lack of due process severely prejudiced my client.

¹ Joint Staff Report, Prepared for Rep. Darrell E. Issa, Chairman U.S. House of Rep. Comm. on Oversight & Government Reform, & Sen. Charles E. Grassley, Ranking Member, U.S. Sen. Comm. on Judiciary, "The Department of Justice's Operation Fast and Furious: Accounts of ATF Agents," June 14, 2011 (hereinafter "June 14 Joint Staff Report"). Although he is no longer the Group VII Supervisor, this letter will refer to him as "GS Voth."

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 2 of 27

STEIN, MITCHELL & MUSE

The day after you released this report, Ranking Member Elijah E. Cummings alerted you to the patently unfair conduct of this investigation, at the House Oversight and Government Reform Committee (“the Committee”) hearing:

This weekend, Chairman Issa stated on national television that this committee’s investigation and these hearings are not about finding the facts. He said – and I quote – “This is not a discovery process of what happened. We know what happened,” end of quote.

With all due respect, I strongly disagree. We do not know all the facts. We still have much to learn in this ongoing investigation, and we should not rush to judgment.²

By that point, Ranking Member Cummings’ comments were too late, as you already had released the June 14 report. You did not miss a beat, marched on with the hearing, and continued the rush to judgment about GS Voth and Fast & Furious, without conducting a thorough investigation.³

Two weeks *after* you released the report, congressional staff interviewed my client. GS Voth provided testimony that directly refuted the inaccurate and harmful statements included in the June 14 congressional staff report. He also explained how the report and other witnesses mischaracterized documents cited in the report. But you have never corrected the record, despite your subsequent release of additional staff reports on this investigation, your countless media appearances, and your numerous opportunities at subsequent hearings.

I am therefore requesting that Chairman Issa, Senator Grassley, and the House Committee on Oversight & Government Reform (“the Committee”) correct the record. Through this letter, I am transmitting additional documents and additional testimony from GS Voth, which – in addition to the congressional testimony from GS Voth already before you – belie the false statements made in the June 14 report and in other staff reports.

² “Operation Fast and Furious: Reckless Decisions, Tragic Outcomes,” U.S. House of Representatives, Committee on Oversight & Government Reform, 112th Cong., June 15, 2011 (hereinafter “June 15 Congressional Hearing”) at 4 (testimony of Ranking Member Cummings).

³ Likewise, ATF Headquarters has not interviewed my client to help the ATF respond to the many parallel investigations into Fast & Furious. ATF Headquarters continues to respond to Congress and others about this investigation without the benefit of my client’s first-hand understanding of the matter.

I. Special Agents Dodson, Casa, and Alt Did Not Complain to GS Voth about Operation Fast & Furious' Underlying Strategy or Tactics.

Contrary to their testimony before Congress, Special Agents Dodson, Casa, and Alt did not express any concern to GS Voth about the underlying strategy or tactics for Operation Fast & Furious. As this Section of the letter will demonstrate through documents and testimony:

- These agents used e-mail to complain about a great many things, but never once used it to complain about the investigative steps used in Fast & Furious or so-called “gunwalking.”
- Among their petty disputes were SA Dodson’s and Casa’s complaints to GS Voth that they did not want to work in the wire room on nights and weekends. Indeed, it was *those* complaints GS Voth was addressing in his March 12, 2010, “schism” e-mail.
- At the height of hypocrisy, contrary to complaining about “gunwalking,” SA Dodson proposed that he provide firearms to a suspected firearms trafficker in the Fernandez case, and, *over the objections of GS Voth*, personally provided those firearms to the suspected firearms trafficker and then failed to control the delivery.

A. SA Dodson, Casa, and Alt Used E-Mail to Complain about Petty Matters, But Never Once Used E-mail to Complain about Firearms Interdiction.

There is no evidence of SA Dodson, SA Casa, or SA Alt complaining to GS Voth about gunwalking or the tactics used in Fast & Furious, although they had plenty of experience using e-mail and other written correspondence to complain to GS Voth about many far more meaningless matters. Salient examples of these e-mails are enclosed.⁴

In one such example, SA Alt used e-mail to complain about his laptop and his purple cell phone. SA Alt e-mailed GS Voth, the ATF Ombudsman, and others at length to complain about his purple cell phone.⁵ The ATF Chief Technical Support Officer, copied on the e-mail, advised that such complaints in the future be directed to him. The ATF Ombudsman, however, wrote SA Alt and the others on the e-mail to say: “*With all due respect, every ATF employee has a right to*

⁴ See, e.g., e-mail from SA Dodson to GS Voth, Mar. 22, 2010 (complaining to GS Voth about his admonishment that SA Dodson should timely generate ROIs); e-mail from SA Dodson to GS Voth, June 4, 2010 (quibbling about the time within which he was supposed to process cash that was seized); letter from SA Alt posted anonymously on GS Voth’s door, Aug. 11, 2010 (disrespecting SA Hope MacAllister); e-mail from SA Dodson to GS Voth, Jun 8, 2010 (balking at opportunity attend complex T-III training); e-mail from SA Casa to GS Voth, June 8, 2010 (rejecting the same opportunity and replying “I have allergic reactions to T-IIIs that included hives, nausea, headaches, etc”), at Tab 1.

⁵ See e-mail from SA Alt to I. Koroma, D. Baynes, GS Voth, and M. Ketels, Apr. 8, 2010, at Tab 2.

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 4 of 27

STEIN, MITCHELL & MUSE

*contact the Ombudsman's office and they do not need permission to do so.*⁶ Thus, SA Alt knew to e-mail the ATF Ombudsman and GS Voth to complain about his purple cell phone, but never e-mailed them about “gunwalking” or the actual investigative methods used in *Fast & Furious*.⁷

As GS Voth informed your staff at his interview, these agents did not complain to him about “gunwalking” or the actual investigative steps taken in *Fast & Furious* at all. Their congressional testimony to the contrary is false.

B. The “Schism” Was Not about “Gunwalking,” But Was about Staffing the Wire Room.

The single document these agents rely on to show they complained about “gunwalking” has nothing at all to do with “gunwalking” and was not authored by any of them. The June 14 staff report relied on the false testimony of Special Agents Casa and Dodson to mischaracterize GS Voth’s so-called “schism” e-mail of March 12, 2010. Special Agents Casa and Dodson, and the June 14 report, falsely claimed that the “schism” in the Group VII office concerned two groups of agents opposing and supporting a strategy to let guns “walk.”⁸ The agents’ testimony is false. The “schism” solely referred to complaints from Special Agents Dodson and Casa about the schedule that GS Voth was putting together for staffing the wire room; the rest of the group did not complain.⁹ Special Agents Dodson and Casa had complained to GS Voth that they did not want to sit in the wire room, in particular, on nights and weekends and manufactured rumors about favoritism toward certain agents’ scheduling. GS Voth said as much in his interview with congressional staff:

⁶ See e-mail from M. Ketels to L. Alt et al., Apr. 9, 2010, at Tab 2.

⁷ In addition to using e-mail, these agents also orally complained to GS Voth about lesser matters. They were vocal and were prone to making mountains out of a molehill, especially SA Casa, who, on August 13, 2010, dropped a loud battery of expletives on GS Voth, after GS Voth relayed a directive from the ASAC to SA Casa that he would not be working the Group II storefront. SA Casa said he could not believe that he had been taken off the storefront. As SA Casa flew off the handle, GS Voth calmly remained even and said he would ask the ASAC to confirm the directive. The ASAC confirmed it, which GS Voth relayed a second time to SA Casa, who once more fired off an expletive-filled tirade at GS Voth. SA Casa told GS Voth he would be filing a grievance, and GS Voth told SA Casa that he would not stand in his way. The ASAC, GS Voth, SA Dodson, and SA Casa then met in person to discuss the matter, and SA Dodson informed SA Casa that the Group II agent did in fact say that they did not need SA Casa because of a concern that too many unmarked police cars and agents, even if undercover, in front of the storefront would give it away. See GS Voth Declaration at ¶ 17, at Tab 3.

⁸ See June 14 Joint Staff Report at 22-24 & 27 (testimony of SA Casa and SA Dodson).

⁹ See Voth Declaration at ¶ 1, at Tab 3.

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 5 of 27

STEIN, MITCHELL & MUSE

Q: So what is your reaction to this [“schism”] email and the way that people have pointed to this and said this is evidence that corroborates the testimony of agents?

A: I don’t think it corroborates it at all. The purpose of this email, and the reason this email was sent, is it’s dated March 12th, the wire was going up on March 15th, and a lot of people were concerned about their scheduling on the wire and if they were on surveillance or if they were in the wire room, if they were working Saturday, if they were working at night, if they were working Sunday, when was their day off, why were they on this assignment, so and so had that assignment.... There’[re] a lot of things going on, and it could be an exciting time if people would pull together [to] contribute. And, instead, they’re worried about why is so and so on this schedule, and I’m in the wire room. Why am I not on surveillance? I have more seniority or something than her or whatever. *It was strictly about the wire and working of the wire and the scheduling of the wire. It wasn’t about the way the case was being worked.*¹⁰

The plain language of the e-mail establishes that the “schism” refers to a misperception of inequitable working conditions by certain agents and not a fight about the investigative strategy or methods. In addition, other documents show that in the days leading up to March 12, 2010, GS Voth was working on the schedule to staff the wire room.¹¹ A year later, SA Casa confirmed the nature of the dispute in an e-mail: “And as far as favoritism, just one example, I recall last year in re to the [Fast & Furious investigation], certain individuals were excused from assignments like this in order to address the admin side of T-IIIs.”¹²

“[P]etty arguing, rumors or other adolescent behavior,” in the March 12, 2010, e-mail, refers directly to complaints lodged by Special Agents Casa and Dodson, who did not want to sit in the wire room. For example, at the eleventh hour as GS Voth was assembling the schedule for the wire room, SA Dodson called GS Voth about a “rumor” that co-case agent SA Tonya English was influencing the wire-room schedule, when in fact she was merely helping GS Voth input data into the schedule – a time-consuming and tedious process.

¹⁰ See Congressional Staff Interview of GS Voth, June 30 and July 1, 2011.

¹¹ See emails at Tab 4.

¹² See e-mail from SA Casa to GS Voth, Mar. 16, 2011, at Tab 5.

C. The Exception Proves the Rule: The Fernandez Case

As further contemporaneous evidence that SA Dodson and SA Casa had not raised concerns about any perceptions of gunwalking in 2010, one need look no further than to their proposal, support, and execution of the sole instance when anyone at Group VII provided firearms to a suspected firearms trafficker with no intention of recovering them: the Isaias Fernandez case.

The Fernandez case had *nothing* to do with the Fast & Furious case. Fernandez was initiated by SA Dodson, who proposed that guns “walk” and then let them “walk.” Congressional staff learned the same from GS Voth in his congressional staff interview. In this case, *over GS Voth’s objection*, SA Dodson knowingly provided six AK Draco pistols to Fernandez, whom the ATF suspected was exporting the firearms to Mexico.¹³ Neither SA Dodson, SA Casa, nor SA Styers maintained surveillance on those six firearms. SA Dodson took personal leave the very same week that he personally provided the six firearms to Fernandez.¹⁴ Yet there have been no hearings on this case and no mention of it in any congressional report.

SA Dodson initiated an investigation of Fernandez in April 2010. After reviewing the Fernandez case on the N-FORCE system, GS Voth e-mailed SA Dodson, on May 19, 2010, instructing SA Dodson (a) to generate the draft reports on the case, and (b) to follow the ATF and USAO rules regarding electronic surveillance.¹⁵ To this point, there was no mention to GS Voth of a desire not to interdict guns in the hands of Fernandez. Unbeknownst to GS Voth when the events occurred, SA Dodson already had staged two straw purchases via *his* confidential informant who had provided firearms to Fernandez on May 8 and May 11, and yet SA Dodson made no effort to interdict those weapons after Fernandez acquired them, and made no effort to conduct surveillance on Fernandez to determine where the firearms were going.¹⁶

On the day after GS Voth e-mailed SA Dodson about the Fernandez case, SA Dodson spoke with AUSA Hurley for the first time about the case. AUSA Hurley e-mailed SA Dodson to inform him that (a) he should have been contacted to approve the electronic surveillance

¹³ SA Dodson also staged two straw purchases via *his* confidential informant who provided additional firearms to Fernandez. See ENFORCE Management Log for the Fernandez case, at Tab 6.

¹⁴ Cf. ENFORCE Management Log for the Fernandez Case (noting that SA Dodson took leave from June 3 – 7, 2010), at Tab 6; *with* Fernandez ROI # 7 (indicating that SA Dodson provided Fernandez with six Draco pistols on June 1, 2010), at Tab 10.

¹⁵ See e-mail from GS Voth to SA Dodson, May 19, 2010, at Tab 7.

¹⁶ See Fernandez ROIs #4 & #5 at Tab 8.

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 7 of 27

STEIN, MITCHELL & MUSE

before SA Dodson conducted it; and (b) AUSA Hurley would not be able to approve letting firearms “walk” without first briefing the U.S. Attorney and the USAO Criminal Chief. The N-Force Management Log for the Fernandez case does not indicate that such approval or briefing occurred.¹⁷

Before responding to GS Voth’s e-mail, SA Dodson – on May 23 – made contact with Fernandez, but did not provide him with firearms.¹⁸

The next day, May 24, SA Dodson replied to GS Voth’s e-mail.¹⁹ SA Dodson spent the day editing his response with SA Alt.²⁰ In it, SA Dodson informed GS Voth that contact had been made with Fernandez; that an additional agent on the case would be helpful; that AUSA Hurley authorized the past electronic surveillance “ex post facto”; and that AUSA Hurley would not be able to approve “letting firearms ‘walk’ in furtherance of [SA Dodson’s] investigation without first briefing the US Attorney and Criminal Chief.”²¹ SA Dodson’s e-mail was the first time that GS Voth became aware of SA Dodson’s intention to let firearms “walk” in Fernandez or, for that matter, in any other case.

GS Voth objected to the proposal because SA Dodson was proposing that he provide firearms to a suspected firearms trafficker.²² GS Voth told SA Dodson the same and then called ASAC James Needles because GS Voth – as he informed ASAC Needles – was uncomfortable with SA Dodson’s proposal to provide firearms to a suspected firearms trafficker and would not approve it.²³ ASAC Needles told GS Voth to send him something in writing for ASAC Needles to evaluate.²⁴ GS Voth complied and forwarded SA Dodson’s proposal to ASAC Needles, who approved it.²⁵ Before he approved the plan, ASAC Needles met with SA Dodson, SA Alt, and SA Styers;²⁶ GS Voth was not a party to those discussions.²⁷

¹⁷ See ENFORCE Management Log for the Fernandez case, at Tab 6.

¹⁸ See *id.*; e-mail from SA Dodson to GS Voth, May 24, 2010, at Tab 7.

¹⁹ See e-mail from SA Dodson to GS Voth, May 24, 2010, at Tab 7.

²⁰ See e-mails between SA Dodson and SA Alt, May 24, 2010, at Tab 9.

²¹ See e-mail from SA Dodson to GS Voth, May 24, 2010, at Tab 7.

²² See Voth Declaration at ¶ 2, at Tab 3.

²³ See *id.*

²⁴ See *id.*

²⁵ See *id.*

SA Dodson's full-throated attempts to promote his own personal "gunwalking" in the Fernandez case sharply contradict his testimony before congressional staff, quoted in the June 14 report, that when surveillance of a firearms is taking place, agents "don't get to go home."²⁸ The six firearms that SA Dodson personally provided to Isaias Fernandez have not been recovered, and SA Dodson did precious little to recover them or to build a criminal case against Fernandez.

The stunning irony of this case was completely lost on Senator Grassley, who sent a letter to the Department of Justice on March 3, 2011, and attached to it ROIs from the *Fernandez* case to show that guns walked in *Fast & Furious*.²⁹ This was no small error by Senator Grassley. His inclusion of those documents served as the cornerstone for this congressional investigation's fundamental criticism of *Fast & Furious*.

II. In Operation Fast & Furious, the ATF Group VII Agents Did Not Walk Guns – They Did Not Avoid the Interdiction of Firearms When They Lawfully Could Have Seized Them.

Each of your staff reports inaccurately states that, in *Fast & Furious*, ATF agents *purposefully* did not interdict guns in an effort to watch them enter Mexico, in order to identify other members of a criminal network and build a bigger case against them.³⁰ GS Voth explained in his congressional staff interview that this premise was inaccurate. Documents support the same. You nevertheless have failed to correct the record, and I urge you to do so.

²⁶ See Fernandez ROI #7, at Tab 10.

²⁷ See Voth Declaration at ¶ 2, at Tab 3.

²⁸ See June 14 Joint Staff Report at 13 (emphasis in original).

²⁹ Letter from Senator Grassley to Attorney General Holder and ATF Acting Director Melson, Mar. 3, 2011, at 1 n.2 & Attachment 2, at Tab 11.

³⁰ See June 14 Joint Staff Report at 28 ("Allowing guns to fall into the hands of the DTOs was the Operation's central goal.") & 34 ("As all of the accounts from numerous ATF agents demonstrate, ATF intentionally and knowingly walked guns."); Joint Staff Report, "The Department of Justice's Operation Fast and Furious: Fueling Cartel Violence," prepared for Chairman Issa and Senator Grassley, July 26, 2011, at 4 ("Operation Fast and Furious made unprecedented use of a dangerous investigative technique known as 'gunwalking.' Rather than intervene and seize the illegally purchased firearms, ATF's Phoenix Field Division allowed known straw purchasers to walk away with the guns, over and over again.") (hereinafter "June 26 Joint Staff Report"); Majority Staff Memorandum, Feb. 1, 2012, at 1 (finding that "ATF purposefully failed to...interdict guns").

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 9 of 27

STEIN, MITCHELL & MUSE

Agents did not make seizures and arrests because the USAO informed the agents they lacked probable cause. Thus, according to the prosecutor, the agents lacked sufficient evidence that the firearms were illegally purchased, and it would have been *unlawful* for the agents to seize them. As GS Voth told your staff, an agent can disagree with a federal prosecutor about probable cause (and GS Voth did), but the agent ultimately must adhere to the prosecutor's counsel.³¹ Doing otherwise would be unlawful (and likely would expose the agent to personal liability). Under those circumstances, non-interdiction by the agents is not gunwalking, according to your own definition of the term.

GS Voth frequently complained to and commiserated with the SAC, the ASAC, and the other Group Supervisors in ATF Phoenix about the unnecessarily restrictive legal counsel provided by the USAO, but frequently was told that Arizona was different. For example, the upshot of some of those complaints was a memorandum that ATF Phoenix Legal Counsel sent to the USAO on February 24, 2010, urging the USAO to reconsider its understanding and application of the *corpus delicti* doctrine because the USAO's current use of the doctrine was weakening the agents' ability to make cases.³² This letter encloses additional evidence of

³¹ Minority Staff Report at 34-35 (quoting GS Voth); In his interview with congressional staff, GS Voth informed them that SA Hope MacAllister, the lead agent for Fast & Furious, coordinated with AUSA Emory Hurley, the lead prosecutor for Fast & Furious, multiple times a day, on nights, and on weekends; and that SA Tonya English also spoke with AUSA Hurley about Fast & Furious. Those communications resulted in the following pointed exchange during GS Voth's interview:

Q: So it's your understanding that as part of Fast & Furious, agents weren't forgoing making arrests where probable cause existed or interdicting weapons where sufficient legal authority existed you know when they had the authority to do so in order to facilitate this larger mission?

A: No, I don't think that agents in Fast & Furious were forgoing taking action when probable cause existed. We consulted with the US Attorney's Office. And if we disagree I guess we disagree. But if the US Attorney's Office says we don't have probable cause, I think that puts us in a tricky situation to take action independent especially if that is contradictory to their opinion....

Q: As part of Fast & Furious?

A: Yeah, as part of Fast & Furious. And certainly the judge is capable of determining probable cause. And on two occasions the judge did not think we had probable cause.... *And I think if [judges and AUSAs] say there's not probable cause... I've never been told that I supersede their decision.*

See Congressional Staff Interview of GS Voth, June 30 – July 1, 2011 (emphasis added).

³² See memorandum from ATF Legal Counsel T. Kamgard to USAO, Feb. 24, 2010, at Tab 12.

restrictive legal counsel from the USAO for the District of Arizona, which made it impossible for agents to make seizures and arrests in *Fast & Furious*.³³

In *Fast & Furious*, the agents certainly had no plan to avoid interdiction of firearms, so that they would be followed into Mexico. See, for example, the following e-mails:

- In *April 2010*, GS Voth exchanged e-mails with SA Andrew Hilt, Project Officer, Technical Operations Branch, about the use of trackers. SA Hilt indicated to me that the tracker might not work in Mexico, to which I replied: “I appreciate the concern but if everything works and goes according to plan we will intercept the firearm at or near the border. *We have no plans on letting any firearms (with or without a tracker) cross from the U.S. into Mexico.*”³⁴
- Later, in *August 2010*, GS Voth addressed a question from an agent outside of Phoenix as to whether Group VII was “letting these guns walk” and explained that they frequently could not interdict firearms because the USAO informed agents that they lacked probable cause.³⁵
- A day later, AUSA Hurley, the lead prosecutor assigned to *Fast & Furious*, wrote to the U.S. Attorney, Dennis Burke, that “ATF-Phoenix agents ‘have not purposely let guns walk.’”³⁶ As to *Fast & Furious*, AUSA Hurley was correct.

GS Voth informed congressional staff in his interview that up until June 2010, the USAO advised the agents that they lacked probable cause to make firearms seizures. When that legal counsel changed in June 2010, the agents made firearms seizures. Indeed, as the next section of this letter will show, the USAO’s legal counsel up until that point severely circumscribed the ability of the agents to interdict firearms and make arrests in *Fast & Furious*. It was the communication of those high legal standards that precluded the agents from making seizures and arrests. Testimony that the agents planned on intentionally balking at interdiction is false.

³³ See, e.g., e-mail from Patrick Cunningham to William Newell, James Needles, Dennis Burke, Ann Scheel, Rachel Hernandez, Mike Morrissey, Emory Hurley, and Kristen Kelly, Mar. 6, 2011 (emphasis added), at Tab 15

³⁴ E-mail from GS Voth to A. Hilt, Apr. 23, 2010, at Tab 13 (emphasis added).

³⁵ E-mail from GS Voth to F. Arredondo, at Aug. 15, 2010, at Tab 14.

³⁶ See Minority Staff Report at 38 & 58.

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 11 of 27

STEIN, MITCHELL & MUSE

III. The USAO Established the Legal Standard for Making Seizures and Arrests.

When assisting the Justice Department's response to requests for information from Congress on Fast & Furious, Patrick Cunningham, Chief of the Criminal Division, for the U.S. Attorney's Office for the District of Arizona during Fast & Furious – *via* e-mail on March 6, 2011 – reiterated the advice that Group VII ATF agents received in real time from his office. For example:

Neither the USAO nor ATF was engaged in an effort “to let guns flow to straw buyers” or to “walk” guns that could have been seized under any lawful theory with available facts to prove the theory.

The guns flow FROM straw buyers and until agents observe illegal conduct they cannot treat them as anything other than ordinary buyers. At the time of transfer of the firearms from the FFL to the straw purchaser based upon the facts available to the FFL at the time of the sale, *the sales to the “straw purchasers” are lawful*; and seizure of the weapons in the hands of those purchasers without evidence of criminality would violate the United States Constitution and would be an unlawful seizure and deprivation of property rights without cause. (Fourth and Fifth Amendments).

In these investigations, there may come a point over the course of an investigation where ATF believes, though it is well short of proof beyond a reasonable doubt required in criminal cases, that they can prove that a particular person only buys guns for the purpose of illegal trafficking. However, seizure of the guns at that point may not be legal because purchasing multiple long guns in Arizona is lawful, transferring them to another is lawful and even sale or barter of the guns to another is lawful unless the United States can prove by clear and convincing evidence that the firearm is intended to be used to commit a crime. (18 USC 924(d)).³⁷

Mr. Cunningham continued:

How is it that a person becomes a suspect in a straw purchase investigation? If they are buying multiple handguns, it could be because of multiple sales reports to

³⁷ E-mail from Patrick Cunningham to William Newell, James Needles, Dennis Burke, Ann Scheel, Rachel Hernandez, Mike Morrissey, Emory Hurley, and Kristen Kelly, Mar. 6, 2011 (emphasis added), at Tab 15.

Rep. Darrell E. Issa
Senator Charles E. Grassley
Page 12 of 27

STEIN, MITCHELL & MUSE

ATF, notifying the bureau that a suspect is buying large quantities of handguns. If they are buying only long guns, they may not become a suspect until guns they have purchased can be traced after being recovered at a crime scene, or an FFL voluntarily notifies ATF of an unusually large purchase. But a multiple purchase by itself, or the recovery of a firearm at a crime scene does not establish that the original buyer of the gun is an “unlawful straw purchaser.” If it did, then when a person buys a gun and then decides they don’t shoot it well, or it recoils too much, or they really can’t afford the ammunition, and sells it, out of the paper, or a gun show, or to a friend, if the next owner of the gun commits a crime with it, the original purchaser would become a suspect as an “unlawful straw purchaser” and a suspect in a gun trafficking case.

And your question presupposes that ATF agents should never let mere suspects possess a firearm. Your question seems to presume that once ATF identifies a suspect, they can treat that suspect as though they were a “prohibited person”, never again allowed to possess a firearm, regardless of the fact that they have not been convicted of a crime. If this were the case, ATF could stop any person they label a suspect and take any gun they have away from them. This means that if you (1) bought two 5.7 mm pistols because you wanted one for the home and one for the office, or (2) bought three AR type rifles for you and your two sons to target shoot, or (3) you sold one of your guns to your brother in law, who resold it to a co-worker who took it into Mexico and got caught with it, then you are an “unlawful straw purchaser” suspect and the next time you buy a gun, with your own money, for a hunting trip, ATF should take it away from you.³⁸

Likewise, Mr. Cunningham’s recapitulation of the USAO’s legal counsel regarding the seizure of weapons confirms the limitations placed on the ATF agents:

The full array of rights available to indicted defendants is also available to those persons suspected of committing gun crimes, and the government cannot violate legitimate gun owners rights by prematurely seizing their guns.... There seems to be some misconception on the part of the press and members of congress that the minute that ATF suspects that someone is a straw purchaser, agents can arrest that person and seize all of their guns. As explained above, that seizure would be

³⁸ E-mail from P. Cunningham, Mar. 6, 2011, at Tab 15.

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 13 of 27

STEIN, MITCHELL & MUSE

unlawful, and ATF may only seize when a lawful basis for seizure can be proven under the US Constitution and statues passed by Congress.³⁹

Although this e-mail was sent in March 2011, it cannot be seen as self-serving and should be fully credited as an accurate representation of the contemporaneous rules of the road given to and relied upon by the agents in the Fast & Furious investigation. Examples of such contemporaneous advice, consistent with Mr. Cunningham's e-mail, are included and annotated in this letter. As this letter demonstrates, the ATF Phoenix Group VII agents and their supervisor creatively worked to build evidence to meet the high legal thresholds established in Arizona and to explore alternate legal theories to make lawful seizures of firearms and arrests. In June and July 2010, when the USAO finally authorized agents to make seizures and arrests, they did. Group VII should not be blamed for failing to make seizures and arrests, when objective evidence establishes they were prevented from doing so by the USAO.⁴⁰

As soon as GS Voth arrived into Phoenix, in December 2009, AUSA Hurley told him that the agents lacked sufficient evidence to indict the straw purchasers and their recruiter, Manuel Celis-Acosta, whom agents already had identified. Mr. Celis-Acosta and his straw purchasers would be the target of the investigation, and AUSA Hurley agreed that a wire would be the best law enforcement tool to obtain the evidence to support indictments of them. AUSA Hurley also informed GS Voth that the agents lacked probable cause to seize firearms purchased by the network. GS Voth disagreed with AUSA Hurley about the legal counsel, but ultimately had no choice but to follow it.⁴¹ That said, there was no strategic decision to forgo firearms-seizures in favor of electronic intercepts; rather, the intercepts were needed to provide the missing elements for AUSA Hurley's determination of probable cause.

³⁹ E-mail from P. Cunningham, Mar. 6, 2011, at Tab 15.

⁴⁰ Notwithstanding the limitations placed on the Group VII agents, they seized 373 firearms in 2010, a five-fold increase over the number of firearms seized in the previous year by the previous Southwest Border firearms trafficking group in ATF-Phoenix. *See* Tab 16. As a result of the congressional investigation, however, firearms seizures by Group VII plummeted to 51 in 2011 (only 20 of which were seized after the CBS News report on March 3, 2011). *See* Tab 16.

⁴¹ *See* GS Voth Declaration at ¶ 15, at Tab 3. Although your staff memorandum indicated that DEA officials informed congressional staff that ATF agents could have arrested Celis-Acosta in December 2009, *see* Majority Staff Memorandum, Feb. 1, 2012, at 3, AUSA Hurley, the lead prosecutor on the case, disagreed and told the agents they lacked probable cause to arrest him. Your staff memorandum's conclusion that "ATF wanted to get its own federal wiretaps and create its own big case" is not correct. *Id.* DEA did not want ATF to piggyback on its wire, which was going to expire in the near future, and that is the reason why ATF went up on its own wire. Further, the DEA wire turned out to be illegal. All of the indictments resulting from it were thrown out.

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 14 of 27

STEIN, MITCHELL & MUSE

The high legal standard communicated to the agents by the prosecutor for Fast & Furious was no different from what he communicated to them *in other cases, where the network was not a target*. For example:

The [redacted] Case:⁴² In an e-mail to an ATF agent in Texas, in August 2010, GS Voth wrote the following: “Two weeks ago we stopped a suspect after he purchased a TNW 50 caliber belt-fed rifle for over \$10,000.00. We conducted a field interview and after calling the AUSA he said we did not have sufficient PC to take the firearm so our suspect drove home with said firearm in his car.”⁴³ The AUSA was Emory Hurley. An ROI from this case also shows that AUSA Hurley informed the ATF agents on August 3, 2010, that they lacked evidence to support probable cause for the seizure of the firearm.⁴⁴

Civil Asset Forfeiture: Even after the Group VII agents had come down off the Fast & Furious wire, they remained frustrated with the USAO Criminal Division’s restrictive legal counsel. Consequently, in August 2010, GS Voth began working with Civil AUSA Reid Pixler to use the civil asset forfeiture theory to seize firearms.

Neither GS Voth nor the Group VII agents balked at making seizures or arrests, when they lawfully could do so. For too long, however, the agents were advised by the USAO that seizures and arrests would be considered unlawful. But following that legal counsel is far different from the insinuation created in your staff memorandum that the ATF “purposefully failed” to seize firearms.⁴⁵

IV. The ATF Did Not Purposefully Fail to Interdict Firearms.

Your February 1 staff memorandum’s finding that ATF “purposefully failed to confront straw purchasers and interdict guns,” is incorrect because the agents in Fast & Furious did not plan to avoid arrests and seizures or sublimate those objectives “to the lofty goal of dismantling the entire organization.”⁴⁶ Rather, the agents did not make seizures when the USAO precluded

⁴² Although this case was discussed at GS Voth’s interview with congressional staff, in the presence of Department of Justice attorneys who did not object to discussion about the case, we, in an abundance of caution, are not disclosing the name of this investigation’s target because he has not been indicted.

⁴³ See e-mail from GS Voth to F. Arredondo, Aug. 15, 2010, at Tab 14.

⁴⁴ See [redacted] ROI #5, at Tab 17.

⁴⁵ Majority Staff Memorandum, Feb. 1, 2012, at 1.

⁴⁶ Majority Staff Memorandum, Feb. 1, 2012, at 1.

them from doing so. Once the prosecutors authorized such law enforcement action in June and July 2010, the agents made seizures. Inasmuch as the agents did not regularly “confront” suspected straw purchasers, it was not the result of the USAO’s interpretation of probable cause; however, it was the agents’ experience that such stops were not productive, particularly without the leverage to threaten arrest or seizure. For example, when at the direction of ATF agents, local law enforcement agents stopped suspected straw purchaser, Sean Steward, he lied and denied. He yielded no helpful evidence.⁴⁷

V. In Addition to the High Legal Standards of the USAO, GS Voth and the Agents Contended with Many Other Obstacles.

Neither the DOJ/ATF strategy memoranda nor the DOJ Southwest Border meetings in the fall of 2009 provided any warnings to GS Voth about a variety of challenges that would stand in the way of making seizures and cases. For example:

No OCDETF Prosecutor: The USAO did not assign an OCDETF prosecutor to Fast & Furious, even though it was an OCDETF case. Instead, AUSA Emory Hurley, who had never worked on an OCDETF case and had never applied for a wire, led the case.

Slow Pace of the USAO: The USAO took six or seven months to indict the case, after ATF had provided the prosecutors with all of the evidence they needed to indict.

Insufficient Coordination from DEA, FBI, and ICE: DEA and the FBI were not fully forthcoming with information, contrary to what they apparently have informed the Committee.⁴⁸ Early on in the case, an ICE agent deliberately precluded ATF agents from interviewing one of ATF’s suspects.⁴⁹

⁴⁷ See Chambers, ROI #36, Dec. 8, 2009, at Tab 26.

⁴⁸ At the December 15, 2009, de-conflict meeting between DEA and ATF, DEA agents did not inform ATF that DEA agents had captured evidence of calls between Manuel Marquez and the Miramontes brothers. DEA did, however, inform the FBI of that link, but neither the DEA nor the FBI informed the ATF of that link. GS Voth had informed congressional staff of the same in his interview with them, but your staff memorandum erroneously did not mention his testimony on that point. Cf. Majority Staff Memorandum, Feb. 1, 2012, at 2 (“ATF Group Supervisor David Voth and the case agents attended a December 15, 2009 meeting in which DEA shared with ATF the information they had thus far acquired on the ringleader, Manuel Celis-Acosta.”) (citing DEA ROI 50). Congressional staff did not ask GS Voth about DEA ROI 50. Likewise, the majority staff memorandum quotes from a December 16, 2009, internal DEA e-mail, about which congressional staff did not ask GS Voth. The e-mail apparently stated that ATF, at the December 15 de-confliction meeting, “said the best way is to try to stop the load as it goes across into Mexico which adds a whole bunch of charges.” Majority Staff Memorandum, Feb. 1, 2012, at 2-3. No one from ATF said that at the December 15 meeting. See GS Voth Declaration at ¶ 18, at Tab 3. Only days after the de-confliction meeting, while GS Voth was out of the state, the DEA obtained specific evidence of firearms

Denials of Search Warrants: On two separate occasions, federal judges in Arizona denied applications for search warrants. Prior to coming to Phoenix, GS Voth had applied for well over 100 or more search warrants and had only one of them denied by a judge in that time. He was therefore well aware of the sort of the evidence that should support a search warrant and was surprised when the Arizona federal magistrate judge denied each of these two warrant applications.⁵⁰

1. In the spring of 2010, Group VII sought a search warrant for a MySpace page on the Internet that posted photographs of firearms, including a photo of suspected recruiter of straw purchasers, Manuel Celis-Acosta, with firearms in what appeared to be his living room.⁵¹ AUSA Hurley approved the application for the search warrant, and SA MacAllister presented it to the judge, who denied it.⁵²
2. In August 2010, Group VII sought search warrants for two locations – 7557 W. Rose Lane and 4950 W. Bethany Home Road Lot #45, which were both addresses for Hector Carlon, who was tied to the purchase of a .50 caliber firearm and was suspected at the time of being a mid-level member of the firearms trafficking organization under investigation.⁵³ AUSA Emory Hurley approved the applications for the search warrants, and SA MacAllister presented the applications to the judge, who denied them.⁵⁴

trafficking, but did not share it with ATF when the information was actionable. *See* GS Voth Declaration at ¶ 19, at Tab 3.

⁴⁹ On December 9, 2009, the Douglas Police Department notified ICE of a vehicle the police had stopped. Firearms were found inside the vehicle. ATF Group VII agents earlier had entered those firearms into the Suspect Gun Database. They were purchased by suspects in the Jacob Chambers case (which later became the Fast & Furious case). ICE Agent Ed Hamel and ATF Agent Hope MacAllister agreed that they would jointly interview the driver of the vehicle, but ICE Agent Hamel unilaterally broke the agreement and interviewed the driver himself thereby depriving ATF of an opportunity to learn more about the firearms and the network they were investigating. For that reason, ICE removed Agent Hamel from work on Fast & Furious. *See* GS Voth Declaration at ¶ 20, at Tab 3.

⁵⁰ *See* Voth Declaration at ¶ 3, at Tab 3.

⁵¹ *See* Voth Declaration at ¶ 4, at Tab 3.

⁵² *See id.* *See* photograph at Tab 18.

⁵³ *See* e-mails from GS Voth to ASAC Needles, Aug. 5, 2010, at Tab 19.

⁵⁴ *See* Voth Declaration at ¶ 5, at Tab 4.

Months without Funding: For two months before he arrived in Phoenix (*e.g.*, in October and November 2009), GS Voth asked ATF for Group VII funding, but it did not come until April 2010.⁵⁵ Without such funding, Group VII agents went without its own long guns or electronic surveillance equipment (*e.g.*, vehicle trackers, recording devices, binoculars, night vision, video cameras).⁵⁶ In that period without funding, GS Voth scrambled to obtain loaner long guns, so his agents would not be armed merely with handguns when confronting suspects possessing upwards of 20 AK-47s.⁵⁷ Group VII managed to obtain a total of five long guns in mid-February 2010; four of them were on loan from another group.⁵⁸ While GS Voth pushed for his group's funding, the ATF Technical Operations Branch shared GS Voth's frustration on March 9, 2010: "Do you know are you the only one that was not provided equipment in Phoenix?"⁵⁹

Small Team: When GS Voth arrived in Phoenix, there were four agents in Group VII. One was a rookie, a GS-7, and one had just arrived from out of town, SA John Dodson. Over the next four months, Group VII would grow to only seven agents, four of whom were new to Phoenix, which created serious challenges when the agents were conducting on-the-ground surveillance on streets that were foreign to them, but not to the suspects. Only one of the agents previously worked on a wire.

⁵⁵ See, *e.g.*, e-mail from M. Collins to M. Vidoli & J. Newman, Oct. 6, 2009; e-mail from GS Voth to M. Collins, Oct. 6, 2009; e-mail from GS Voth to SA MacAllister, Oct. 9, 2009; e-mail from ASAC Gillett to SAC Newell, Oct. 8, 2009; e-mail from GS Voth to M. Collins, Nov. 10, 2009, at Tab 20.

⁵⁶ See e-mail from GS Voth to M. Collins, Mar. 22, 2010, at Tab 21.

⁵⁷ See, *e.g.*, e-mail from GS Voth to S. Tanabe, Feb. 22, 2010, at Tab 22.

⁵⁸ See e-mail from GS Voth to Group VII, Feb. 18, 2010, at Tab 23.

⁵⁹ See e-mail from M. Collins to GS Voth, Mar. 9, 2010, at Tab 24. GS Voth continued to push for resources. See e-mail from GS Voth to P. Harvey, Mar. 22, 2010 ("Group VII needs everything") (responding to e-mail from Paul Harvey, ATF Phoenix Field Division Technical Surveillance Specialist, who said, "I sure know that [G]roup VII needs the equipment. Group VII never received any ES gear and needs the full compliment as outlined in the Group"), at Tab 25.

VI. Group VII Responsibly Used Law Enforcement Techniques to Gather Evidence That Would Help Them Meet the USAO's High Legal Standards.

Before interviewing my client, your staff report of June 14, 2010, incorrectly and outrageously found that "ATF could have interdicted thousands of guns that were being trafficked in Mexico, yet chose to do nothing."⁶⁰ GS Voth informed the congressional staff of the many law enforcement techniques – in addition to the seeking of Title III authority, search warrants, and funding for the group (mentioned earlier) – that he and his agents employed to help gather evidence.

Toward the early inception of this case, in December 2009, the USAO informed GS Voth and others at ATF Phoenix that they lacked evidence to support bring Celis-Acosta and his network of straw purchasers to justice, despite the known purchase over 100 firearms by this network. On that basis, the USAO advised ATF its agents would need to gather more specific evidence of criminal activity (*e.g.*, transfers of firearms to prohibited persons), so that firearms could be seized and members of the network (including but not limited to straw purchasers) could be arrested, indicted, and convicted. Once agents had identified a network of straw purchasers, the prosecutor agreed that the case was appropriate for OCDETF funding, and that Title III authority for a wiretap would be the best way of gathering evidence of specific intent.

In addition to the application for OCDETF funding and Title III authority for wiretaps, Group VII also employed a number of law enforcement tools to make seizures and build cases against the individuals, such as:

- Pen Registers: Prior to GS Voth's arrival in Phoenix, the ATF agents there were not using pen registers. Under GS Voth, Group VII initiated 16 court-ordered pen registers. He taught SA McAllister, Casa, and Alt how to use them. GS Voth's introduction of this law enforcement tool permitted Group VII to connect individuals through evidence of phone calls made to different numbers.
- Pole Cameras: Under GS Voth's leadership, Group VII set up pole cameras at *inter alia* Celis-Acosta's house. At one point, encouraged by the prospect of this law enforcement innovation, ATF Director Melson asked to get up on the pole cameras with the agents.
- 4473s: FFLs are required to maintain completed Form 4473s on site for 25 years. They are not required to provide copies of those forms to law enforcement in real time. In Fast

⁶⁰ June 14 Joint Staff Report at 9 (relying on testimony of SA Dodson).

& Furious, however, ATF agents asked FFLs to provide them with the Form 4473s completed by suspected straw purchasers.

- Suspect Gun Database: Agents would enter the serial numbers from the Form 4473s into the Suspect Gun Database, so that Group VII and agents in the United States and Mexico could have faster access to information and more information about the firearms, which likely would have been sold with or without the ATF.

GS Voth and the *Fast & Furious* agents did not – as SA Dodson testified before Congress – “do nothing;” to the contrary, they deployed extraordinary police work to meet nearly impossible legal standards set by the USAO. For example, Group VII’s approach to straw purchaser Uriel Patino establishes that Group VII was forced to search for new legal avenues and evidence to support seizures and arrests due to the restrictive legal counsel provided by the USAO.

GS Voth began focusing on Mr. Patino in November 2009, a month before he even arrived in Arizona as the ATF Phoenix Group VII Supervisor. While still in Minnesota, GS Voth was reviewing multiple sales reports and identified Mr. Patino, who at the time (*i.e.*, Nov. 9, 2009), had purchased 13 firearms. Then, GS Voth knew nothing more than the fact that Mr. Patino had purchased the 13 firearms from Cabela’s in Glendale, Arizona; lived in Phoenix; and was then a 23-year old Hispanic male.⁶¹ Based on that information and the counsel he previously had received from the USAO in Minnesota, that evidence would not have been sufficient to support probable cause to seize the 13 firearms or arrest Mr. Patino at that time.⁶² Nevertheless, GS Voth e-mailed SA MacAllister and SA Medina in ATF Phoenix Group VII to inform them that “this one screams for actions” and recommended they “start looking into phone numbers, border crossings, method of payment especially if credit card or check...etc” to build more evidence, so that the ATF could later take lawful enforcement action.⁶³

One prime example of the follow-up police work that SA MacAllister performed with respect to Mr. Patino was the discovery that he was on food stamps. Indeed, the only reason anyone in law enforcement today knows Mr. Patino was receiving food stamps is because SA MacAllister dug through his trash to locate gun receipts and found evidence that he was on food

⁶¹ See e-mail from GS Voth to SA MacAllister and SA Medina, Nov. 9, 2009, at Tab 27.

⁶² See Voth Declaration at ¶ 7, at Tab 3.

⁶³ See e-mail from GS Voth to SA MacAllister and SA Medina, Nov. 9, 2009, at Tab 27.

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 20 of 27

STEIN, MITCHELL & MUSE

stamps.⁶⁴ Upon receiving that information, SA MacAllister discussed it with Mr. Hurley at the USAO, who concluded that evidence was not sufficient to seize weapons or arrest Mr. Patino.⁶⁵

Group VII did not stop there. Instead, in March 2010, GS Voth asked SA Randy Parker of the US Department of Agriculture Office of Inspector General to investigate whether Mr. Patino's \$300,000 purchase of firearms would constitute evidence of "Food Stamp Fraud."⁶⁶ GS Voth made a similar inquiry of state attorneys in Maricopa County, Arizona, in June 2010.⁶⁷ Unfortunately, the responses proved impractical.

But neither SA MacAllister nor GS Voth can be accused of being deliberately indifferent to Mr. Patino for any reason, let alone to make sure that Mr. Patino would not know about the ATF's investigation of him and the others suspected of being involved in the firearms trafficking network. GS Voth's overtures to the USDA OIG and to the state attorneys show that the advice from the USAO was that the agents lacked the necessary probable cause to make seizures and arrests. Indeed, were Mr. Patino to be indicted on food stamp fraud charges, he would have become aware that the ATF discovered the food-stamp evidence and thus that the ATF was investigating him.

When the USAO finally concluded that probable cause existed to seize certain firearms purchased by Mr. Patino, agents did in fact seize them.⁶⁸

⁶⁴ See Voth Declaration at ¶ 8, at Tab 3.

⁶⁵ See *id.*

⁶⁶ See e-mail from GS Voth to R. Parker, Mar. 30, 2010, attached at Tab 28.

⁶⁷ See e-mail from GS Voth to A. Roby & M. McKessy, attached at Tab 29.

⁶⁸ See Voth Declaration at ¶ 9, at Tab 3. Another example of GS Voth working to overcome the hurdles established by the USAO came in subsequent straw purchaser investigation. In that case, Group VII identified a suspected straw purchaser, who had purchased 10 AK-47s. The USAO advised GS Voth not to arrest the straw purchaser because the evidence likely would not support a conviction that would come with any meaningful jail time. GS Voth became aware of a case in Texas, where a federal judge sentenced an individual for 37 months upon a purchase of 13 firearms. GS Voth informed Mike Morrissey, Section Chief, National & Border Security, for the District of Arizona USAO, of the sentencing result in the Texas case. Mr. Morrissey advised that GS Voth reach out to the AUSA in Texas who handled the case. GS Voth did that and e-mailed Mr. Morrissey regarding the call. Through the e-mail, GS Voth provided Mr. Morrissey with the name and phone number for the AUSA in Texas, as well as a detailed discussion of how the sentencing enhancements were counted for the defendant. See e-mail from GS Voth to M. Morrissey, Jan. 7, 2011, at Tab 30. Upon receipt of the e-mail, Mr. Morrissey informed GS Voth that a court in Arizona would treat some of the calculations in Texas as double-counting and renewed his advice not to arrest the alleged straw purchaser. See Voth Declaration at ¶ 10, at Tab 3.

VII. ATF Group VII Agents Provided the USAO with Evidence to Support Fast & Furious Indictments in July 2010, But the USAO Finalized Them Only after Border Patrol Agent Brian Terry Was Killed.

On June 8, 2010, SA Mark Sonnendecker e-mailed a memorandum to AUSA Hurley with a lengthy memorandum, outlining overt acts to support the indictments of over 25 individuals.⁶⁹ As early as July 19, 2010, GS Voth sent an e-mail to AUSA Hurley requesting to speak with him about the “Indictment Phase.”⁷⁰ This also is consistent with the “Exit Strategy” that GS Voth provided to ATF Headquarters in late April 2010 laying out a 90-day time table.

By the end of July 2010, the agents provided the USAO with enough evidence to support the indictments of over 20 people. By August 2, 2010, the agents terminated the wiretap in Fast and Furious. Thereafter on a monthly basis, GS Voth would call AUSA Hurley to ask whether the indictments had been drafted and approved. Frustrated the indictments had not been filed in October 2010, GS Voth asked the ASAC to ask Mr. Cunningham, the Criminal Chief for the USAO, about the status of the indictments. The ASAC told GS Voth that the ASAC and Mr. Cunningham spoke, and that Mr. Cunningham said the indictments would be filed soon.⁷¹

Despite the evidence generated by Group VII in June and July 2010, it would not be until after Border Agent Brian Terry was killed in December 2010 that the USAO filed the indictments. The USAO indicted only 20 people. From Day One of the case, AUSA Hurley made it known that he could indict only 20 people at a time, contrary to GS Voth’s experience with other prosecutors, who had indicted far more than 20 people at a time.⁷² Indeed, by October 2010, the agents had amassed evidence to support the indictments of 60 people.

Shortly after the indictments were filed in January 2011, an ATF agent in Houston e-mailed GS Voth for assistance because the agents in Houston were in the indictment phase of a gun-trafficking case, and they had not seen many successful indictments “in our area.”⁷³

⁶⁹ See e-mail from SA Sonnendecker to AUSA Hurley, June 8, 2010, at Tab 31.

⁷⁰ E-mail from GS Voth to AUSA Hurley, Jul. 19, 2010, at Tab 32.

⁷¹ See Voth Declaration at ¶ 13, at Tab 3. By this time, agents had amassed evidence to support indictments for over 60 people. See *id.* at ¶ 13(b), at Tab 3. Your February 1, 2012, staff memorandum incorrectly identified the network as including only 40 straw purchasers. See Majority Staff Memorandum, Feb. 1, 2012, at 2.

⁷² See Voth Declaration at ¶ 13(c), at Tab 3. That was at odds with GS Voth’s past experience with federal prosecutors, who in some cases had indicted well over 20 people. See Voth Declaration at ¶ 13(c), at Tab 3.

⁷³ See e-mail from SA McDonald to GS Voth, Jan. 31, 2011, at Tab 33.

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 22 of 27

STEIN, MITCHELL & MUSE

VIII. GS Voth Coordinated with ATF Personnel in Mexico.

Some of the findings made in your staff's July 26 report are incorrect and require further examination. For example, the report incorrectly stated: "ATF personnel in Arizona denied ATF personnel in Mexico access to crucial information about the case, even though the operation directly involved their job duties and affected their host country."⁷⁴ Contrary to the foregoing statement in the report (and other similar statements in it), e-mails show countless examples of ATF Phoenix agents and officials working with ATF personnel in Mexico to make sure they had access to information about firearms in real-time.⁷⁵ Indeed, Darren Gil, ATF Attaché to Mexico during *Fast & Furious*, testified to Congress that "[his] analyst didn't have access to the trace data in E-Trace,"⁷⁶ but e-mails show that ATF officials in the U.S. were working in real time to provide Attaché Gil's analyst, Denis Fasciani, with the trace data he sought.⁷⁷

Documents also show that contrary to the testimony of ATF officials, Darren Gil and Carlos Canino, GS Voth was in frequent contact with them, as well as other ATF officials in Mexico, about the *Fast & Furious* case. For example, GS Voth drafted the Southwest Border reports twice a month and which were then circulated to a number of officials, including Gil, Canino, and other ATF officials in Mexico. Those reports revealed the increasing volume of firearms purchased by the suspects under investigation and kept people apprised of how the case was progressing.

IX. The Agents Outrageously Mischaracterized GS Voth's April 2, 2010 E-mail to AUSA Emory Hurley and ASAC George Gillett.

Inaccurate as it is offensive, your staff's June 14 report credited SA Dodson's distortion of GS Voth's reaction to the increasing violence and deaths in Mexico as "jovial, if not giddy."⁷⁸ SA Dodson manufactured this testimony about an e-mail that GS Voth sent to AUSA Hurley and ASAC Gillett on April 2, 2010.⁷⁹ SA Dodson and your staff report could not be any more

⁷⁴ July 26 Joint Staff Report at 4.

⁷⁵ See, e.g., e-mail from L. Leadmon to A. Rojas *et al.*, Jan. 13, 2010; e-mail thread between GS Voth and A. Hernandez, ATF Assistant Country Attache, Tijuana Field Office, Feb. 16, 2010, at Tab 34; see, e.g., e-mails at Tab 35.

⁷⁶ July 26 Joint Staff Report at 30.

⁷⁷ See, e.g., e-mails at Tab 35.

⁷⁸ June 14 Joint Staff Report at 35-38.

⁷⁹ See *id.*

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 23 of 27

STEIN, MITCHELL & MUSE

wrong.⁸⁰ Of course, you released the June 14 report to the public two weeks before your staff had given GS Voth the opportunity to comment on this insulting and false charge. This blatant lack of due process prejudiced my client.⁸¹

X. Contrary to the June 14 Report and the False Testimony of the Agents, GS Voth Did Not Retaliate against Them.

The June 14 report incorrectly stated that “[s]upervisors ignored complaints and retaliated against agents who did complain by transferring them out of ATF Phoenix Group VII.”⁸² As already has been addressed, these agents did not complain to GS Voth about “gunwalking” or the actual investigative steps taken in *Fast & Furious* in the first place. *See supra* at Section I. Further, GS Voth took no adverse action against the agents, including but not limited to the fact that he did not decide to transfer any of them out of Group VII.

A. Documents Show That SA Dodson Knowingly Made False Statements to Congress about the Reason for His Transfer out of ATF Phoenix Group VII.

In the June 14 report, SA Dodson knowingly made the following the false statement to Congress: “why I am no longer in Group 7, is because I addressed it with, or primarily with those on the other side of the schism.”⁸³

The foregoing statement is false. SA Dodson did not complain to GS Voth about *Fast & Furious* or gunwalking (*indeed*, in *Fernandez*, SA Dodson promoted gunwalking over GS Voth’s objection), and the very suggestion that GS Voth transferred SA Dodson out of Group VII is incorrect. Documents show that no one forced SA Dodson to work outside of Group VII. Early

⁸⁰ The context missing from your June 14 report as to this e-mail is as follows. Just days after the agents had begun their first wiretap of Celis-Acosta’s phone on March 15, 2010, he discarded his phone. That forced the agents and the USAO to seek Title III authority to wiretap Celis-Acosta’s new phone(s). GS Voth therefore sent this e-mail on April 2, 2010, to impress upon AUSA Hurley and ASAC Gillett the need to push people within the ATF and the Justice Department more broadly (*e.g.*, OEO) to work quickly and effectively, so that the agents could get back up on the wire. *See* e-mail from GS Voth to AUSA Hurley & ASAC Gillett, Apr. 2, 2010, at Tab 37. Any suggestion to the contrary is untrue and demeans GS Voth.

⁸¹ In the Federal Tort Claims Act action brought by the family of Brian Terry, the claimants cite to your staff report’s reliance on SA Dodson’s fictitious portrayal of both GS Voth’s April 2, 2010, e-mail and GS Voth’s reaction to the increasing deaths and violence in Mexico. *See Terry et al. v. ATF*, Form 95 Notice of Claim at 28-30, Feb. 1, 2012.

⁸² *See* June 14 Joint Staff Report at 27.

⁸³ *See* June 14 Joint Staff Report at 27.

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 24 of 27

STEIN, MITCHELL & MUSE

on, SA Dodson sought to leave Group VII.⁸⁴ He volunteered to assist Group II at its supervisor's request⁸⁵ and later sought to leave Group VII for Group IV and the Joint Terrorism Task Force ("JTTF"), which he joined in October 2010.⁸⁶ SA Dodson asked for and received support from GS Voth with respect to each of these transitions. Rather than grieve about the move or indicate that he viewed them as punitive, SA Dodson was excited and happy about the transfer opportunities.

B. ATF Transferred SA Alt Because of a Specific Need for an ENFORCE-Certified Agent.

In September 2010, ASAC Needles informed GS Voth that SA Alt was one of the few ENFORCE-certified ATF agents in Phoenix, and the last review of the Phoenix subdivision revealed several ENFORCE deficiencies. On that basis, ASAC Needles said he decided to assign SA Alt as a senior operations officer at the ATF Phoenix headquarters to look at the ENFORCE discrepancies there. That was the first that GS Voth had heard of anyone at ATF seeking to move SA Alt into that position or into any other position outside of Group VII.⁸⁷

Conclusion

The release of the June 14 report and its progeny severely prejudiced this investigation, GS Voth, and the parallel proceedings at the Department of Justice regarding this matter, such as the Office of Inspector General investigation into Fast & Furious and the Office of Special Counsel investigation into the agents' false and unsupported claims of retaliation against them. As part of those inquiries and your own, GS Voth has spent over six days answering questions and refuting the inaccurate and prejudicial allegations made in your staff report of June 14, as

⁸⁴ SA Dodson expressed an interest in volunteering to work outside of Group VII as early February 2010, when he asked GS Voth for an assignment in Mexico. See e-mail from GS Voth to ASAC Gillett & SA Dodson, Feb. 18, 2010 ("SA John Dodson [is] interested in having his name submitted for the following TDY to Mexico."), at Tab 39. SA Dodson renewed that request in April 2010 and again in August 2010. See e-mail from SA Dodson to GS Voth, Apr. 29, 2010; e-mail from SA Dodson to GS Voth, Aug. 10, 2010; e-mail from GS Voth to SA Dodson, Aug. 10, 2010, at Tab 39.

⁸⁵ See e-mail from M. Ratliff to GS Voth, Jul. 14, 2010; e-mail from GS Voth to M. Ratliff, Jul. 14, 2010; e-mail from M. Ratliff to GS Voth, Jul. 27, 2010 (copying B. Iber and SA Dodson); e-mail from M. Ratliff to GS Voth, Jul. 27, 2010; e-mail from SA Dodson to GS Voth, Aug. 10, 2010; e-mail from GS Voth to SA Dodson, Aug. 10, 2010; e-mails between SA Dodson to GS Voth, Aug. 12, 2010; e-mail from GS Voth to E. Curry, Aug. 31, 2010, at Tab 40.

⁸⁶ See e-mail from GS Voth to G. Gillett, Sept. 1, 2010; e-mail from SA Dodson to GS Voth, Sept. 1, 2010; e-mail from GS Voth to J. Needles, Sept. 2, 2010; e-mail from J. Needles to GS Voth, Sept. 2, 2010; e-mail from M. Ratliff to GS Voth, Sept. 3, 2010; e-mail from M. Briggs, Oct. 1, 2010 (attaching an organizational chart), at Tab 41.

⁸⁷ See GS Voth Declaration at ¶ 21, at Tab 3.

Rep. Darrell E. Issa
 Senator Charles E. Grassley
 Page 25 of 27

STEIN, MITCHELL & MUSE

well as the statements made in your staff's subsequent reports. You continue to have an opportunity to correct the record, and we urge you to do so.

You also have an opportunity to refer the testimony of Special Agents Dodson, Casa, and Alt to the Justice Department for a criminal investigation. Their intentionally false testimony has done real harm to this investigation and to my client's safety, health, livelihood, and career, and he is owed *at a minimum* a corrected record. GS Voth is a U.S. Marine and was the 2009 ATF Agent of the Year for the entire country,⁸⁸ and yet following the March 3, 2011, airing of the CBS News broadcast on Operation Fast & Furious, his life has been turned upside down. Two days later, intruders broke into GS Voth's house,⁸⁹ and he received threatening e-mails.⁹⁰ "ATF insiders" and others created such a risk to the personal safety of GS Voth and his family that ATF intelligence issued a detailed memorandum concluding that there were "CRITICAL" and "MEDIUM" threats to GS Voth and his family.⁹¹ Vindictive bloggers posted the name of GS Voth's wife and their home address on-line.⁹² In the fallout of the congressional investigation, ATF transferred GS Voth to Washington, DC, forcing their family to sell their house for a six-figure loss and relocate their children to new schools in the middle of the year. The Terry family also has quoted from and relied on your publicly released staff reports' mischaracterizations of GS Voth's e-mails in their Federal Tort Claims Act Notice of Claim.⁹³ These consequential outcomes would not have occurred, but for the false information provided to CBS News and the Congress by three agents working in Group VII, in 2010: Special Agents John Dodson, Olindo "Lee" Casa, and Larry Alt.

Justice should not be blind to the wrong or to the injury. The family of Officer Brian Terry is owed the truth and not a version of it that is skewed to meet the political agenda of elected officials whatever it might be.

⁸⁸ See, e.g., e-mail from R. Hedgepeth to GS Voth, June 18, 2009 (notifying GS Voth that he has been selected to receive the "Outstanding Non-Supervisory LE Employee of the Year" award and the "Distinguished Service Medal"), at Tab 38.

⁸⁹ See Letter from D. Roth to K. Melson, Apr. 20, 2011 (attaching Memorandum from Chief, ATF Office of Operations Security to SAC, ATF Phoenix Field Division re Risk Assessment for Group Supervisor David J. Voth, at 6), at Tab 42.

⁹⁰ See, e.g., e-mail from M. Porter to D. Voth, Mar. 5, 2011, at Tab 43; see also ATF Risk Assessment for GS Voth, at 1, at Tab 42.

⁹¹ See also ATF Risk Assessment for GS Voth, at 2, 3 & 6, at Tab 42.

⁹² See e-mail from AUSA D. Pimsner to GS Voth, Apr. 28, 2011, at Tab 36.

⁹³ *Terry et al. v. ATF*, Form 95 Notice of Claim at 28-30, Feb. 1, 2012.

Rep. Darrell E. Issa
Senator Charles E. Grassley
Page 26 of 27

STEIN, MITCHELL & MUSE

We hope this submission helps place into context the conduct of these agents in Fast & Furious. GS Voth and the agents who actually pursued Fast & Furious worked *in good faith* to interdict firearms and bring criminals to justice, despite all manners of obstacles, including but not limited to the nation's weak firearms trafficking laws; the USAO's weak interpretation of them; a reticent judiciary in Arizona; a lack of funding for Group VII; insufficient cooperation from DEA, FBI, and ICE; and unhelpful delays within the USAO and the Department of Justice.

The legal standards communicated by the USAO to the agents were unnecessarily high and immediately should be revised. Given that agents must be bound by the legal counsel they receive from the USAO, they worked hard to gather evidence to meet the USAO's high legal standards. When lacking the authority from the prosecutor to arrest an individual, agents had little leverage to persuade an individual to talk at a *Terry* stop. That was the experience of the agents in Phoenix, and it begged for the introduction of additional law enforcement tools to make cases. Although more knock-and-talks could have been employed, despite their lack of historical success in Arizona, the absence of them is no proof that agents willfully were balking at interdiction; quite the contrary.

Seizure statistics tell the story. In 2010, Group VII seized 373 firearms – by contrast, the previous Southwest Border firearms trafficking group in ATF-Phoenix seized only 72 firearms in 2009, and ATF-Phoenix Group VII seized a mere 51 in 2011: only 20 of which were seized after the airing of the March 3, 2011 CBS News story about Fast & Furious.

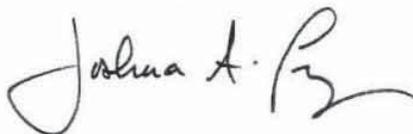
That firearms seizures have plummeted since this congressional investigation began is no surprise. In the meantime, the drug cartels and firearms traffickers remain at large, and the [REDACTED], which has sold more guns recovered in Mexico for the past *seven years*, long before Fast & Furious ever began, continues to sell the same kinds of deadly firearms by the dozens. It is not alone.

Rep. Darrell E. Issa
Senator Charles E. Grassley
Page 27 of 27

STEIN, MITCHELL & MUSE

Consequently, as much damage as you have caused to my client, you have weakened the criminal justice system's attempt to help protect innocent Americans and Mexicans from the drug cartel's conspiracy to purchase, deliver, and use some of the deadliest firearms to protect their dope. The facts simply do not support the savaging of the hard working case agents and their supervisor by your staff's reports.

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua A. Levy". The signature is fluid and cursive, with a large initial "J" and a stylized "L" at the end.

Joshua A. Levy

Enclosures

cc: Rep. Elijah E. Cummings
Ranking Member, U.S. House of Representatives

Senator Patrick J. Leahy
Chairman, U.S. Senate Judiciary Committee

Declaration

1. My name is David Voth. I served as Group Supervisor for ATF Phoenix Group VII, beginning on December 6, 2009. Group VII went up on the wire on March 15, 2010. The week prior, I was working in the evenings to schedule which agents would be staffing the wire room on different shifts. It was a detail-intensive, but mission-critical process. During that time, SA Dodson and SA Casa complained that they should not be in the wire room.
 - SA Dodson said he wanted to be out doing surveillance rather than sit in the wire room, and SA Casa protested that senior agents should not be in the wire room; only GS-7's. I explained that I needed them, along with the other agents that were not working the case, to staff the wire room. We only had one GS-7 and furthermore we needed senior agents in the wire room because of their unique experience and expertise. As a senior agent, I sat in the wire room in Minnesota, which was populated by many other senior agents.
 - A rumor circulated that SA MacAllister and SA English was telling me how to schedule surveillance and manning on the wire. That rumor was false. On March 11 or 12, 2010, SA John Dodson called me and asked me whether SA English was telling me whom to schedule for the wire room at certain times. I explained that SA English was inputting the data, while I was scheduling the agents – nothing more. SA Dodson added that he should be doing surveillance and should not be in the wire room. I told him that everyone needs to pull their weight and contribute.

SA Dodson and SA Casa were putting themselves over the mission. That is why I sent the e-mail late that Friday, March 12, 2010, informing the group that we needed to rally together. The schism and the pettiness in that e-mail referred to these complaints from SA Dodson and SA Casa, and they – more than anyone – knew that. It had nothing to do with gunwalking.

2. When I received an e-mail from SA John Dodson on May 24, 2010, with his proposal regarding the Fernandez case, I was not comfortable with his proposal because he wanted me to authorize him to provide firearms to a suspected firearms trafficker. I objected to it. I then called the ASAC, James Needles, to let him know that I was uncomfortable with SA Dodson's proposal and would not approve it. ASAC Needles was brief on the phone with me and told me that I should send him something in writing for him to evaluate. On May 27, 2010, I complied and forward SA Dodson's proposal, which ASAC Needles approved.

Before he approved the plan, ASAC Needles met with SA Dodson, SA Alt, and SA Styers, but I did not participate in those discussions.

- a. SA Dodson's May 24, 2010, e-mail to me was the first time that I became aware of SA Dodson's intention to let firearms "walk" in Fernandez or any other case.
3. Before I came to Phoenix, I applied for 100 or more search warrants and had only one of them denied by a judge. I was therefore quite familiar with the quantum and quality of evidence that should support a search warrant and was surprised when the two Group VII search warrant applications were denied by the Arizona judiciary.
4. The first of these denied search warrants came in the spring of 2010, when Group VII sought a search warrant for a MySpace page on the Internet that posted photographs of firearms, including a photo of Manuel Celis-Acosta with firearms in what appeared to be his living room. AUSA Emory Hurley approved the application for the search warrant. But it was denied.
5. The second of these denied search warrants came in August 2010. Group VII sought search warrants for two locations – 7557 W. Rose Lane and 4950 W. Bethany Home Road Lot #45, which were both addresses for Hector Carlon, who was tied to the purchase of a .50 caliber firearm. AUSA Emory Hurley approved the applications for the search warrants. When SA MacAllister presented them to the judge, they were denied.
6. In Fast & Furious, SA Hope MacAllister routinely spoke with AUSA Emory Hurley about the operation and whether there was enough evidence to support probable cause, such that the agents could seize firearms and arrest individuals.
7. I first became aware of Uriel Patino in November 2009, while I was still in Minnesota. I understood – based on the legal counsel I had received from US Attorneys in Minnesota on previous cases – that the purchase of 13 firearms, without more, would not be enough evidence to support probable cause to seize the firearms or arrest Mr. Patino. At that time, I did not know anything about Mr. Patino's financial situation.
8. In November 2009, weeks before I began working in Phoenix, I e-mailed SA MacAllister to encourage her to open an investigation with respect to Mr. Patino. She did. As part of that investigation, SA MacAllister dug through his trash to

locate receipts from firearm purchases. During that process, she found receipts indicating he was on food stamps. SA MacAllister was advised by AUSA Hurley that such evidence was not sufficient to support probable cause to seize firearms and arrest Mr. Patino. Thereafter, I explored other legal avenues to take enforcement action against Mr. Patino by contacting the USDA OIG and the state attorney's office in Maricopa County.

9. When the USAO finally concluded that probable cause existed to seize certain firearms purchased by Mr. Patino, agents went out to seize them.
10. Group VII identified a suspected straw purchaser, who had purchased 10 AK-47s. The USAO advised me not to arrest the straw purchaser because the evidence likely would not support a conviction that would come with any meaningful jail time. I became aware of a case in Texas, where a federal judge sentenced an individual for 37 months upon a purchase of 13 firearms. I informed Mike Morrissey, Section Chief, National & Border Security, for the District of Arizona USAO, of the sentencing result in the Texas case. Mr. Morrissey advised me to reach out to the AUSA in Texas who handled the case. I did that and e-mailed Mr. Morrissey regarding the call. Through the e-mail, I provided Mr. Morrissey with the name and phone number for the AUSA in Texas, as well as a detailed discussion of how the sentencing enhancements were counted for the defendant. Upon receipt of the e-mail, Mr. Morrissey informed me that a court in Arizona would treat some of the calculations in Texas as double-counting and renewed his advice not to arrest the alleged straw purchaser.
11. Since the criminal AUSA's were not permitting ATF agents to make firearms seizures based on the evidence that had been gathered, I explored the option of civil asset seizure and forfeiture with civil AUSA Reid Pixler. At an all hands meeting of the ATF-Phoenix Field Division, AUSA Pixler made a presentation on the general use of civil asset forfeiture. He did not discuss the use of this tool with respect to the seizure of firearms. After the presentation, I approached AUSA Pixler and asked if civil asset forfeiture could be used to seize firearms. AUSA Pixler said it could. Shortly thereafter, AUSA Rood criticized this approach and strongly admonished that it not be used.
12. In 2009, there was one OCDETF case initiated by ATF, and it was initiated by SA MacAllister, in ATF Phoenix Group VII. In 2010, there were four OCDETF cases initiated by ATF, and all of them came out of Phoenix Group VII. In 2011, there

was one OCDETF case initiated by ATF, and it was initiated by SA MacAllister in Phoenix Group VII.

13. After July 2010, on a monthly basis, I would call AUSA Hurley to ask whether the indictments had been drafted and approved. Frustrated the indictments had not been finalized in October 2010, I asked the ASAC to ask Mr. Cunningham, the Criminal Chief for the USAO, about the status of the indictments. The ASAC told me that the ASAC and Mr. Cunningham spoke, and that Mr. Cunningham said the indictments would be filed soon.
 - a. From July 2010 on, when I asked AUSA Hurley when the indictments would be finalized, he never once indicated that he needed additional evidence or paperwork from me. Nor did he use that as an excuse as to why the indictments were not finalized. Rather, I would hear from AUSA Hurley that the USAO needed information from the IRS on a money laundering component to the indictments.
 - b. Even though we had provided enough evidence to the USAO to indict over 20 people by the end of July 2010, agents continued to gather evidence, as is customary for many cases. By October 2010, agents had gathered enough evidence to support the indictments for over 60 people.
 - c. The USAO indicted only 20 people in Fast & Furious. From early on in the case, AUSA Hurley informed me that he would indict no more than 20 people at a time. That was at odds with my experience. In Minnesota, while I was serving there as an ATF agent, federal prosecutors had indicted well over 20 people at once, in my cases.
14. Several agents have told me that, as a result of the congressional investigation, they are less inclined to go after the firearms traffickers out of a concern for their jobs and careers.
15. Early in the case (December 2009/January 2010), AUSA Hurley agreed that Mr. Celis-Acosta and his straw purchasers would be the targets of the investigation, and AUSA Hurley confirmed to me that a wire would be the best law enforcement tool to obtain the evidence to support indictments of *them*, in addition to whatever evidence might emerge on others in the network. AUSA Hurley also informed me that the agents lacked probable causes to seize firearms purchased by the network. I disagreed with AUSA Hurley about the legal counsel, but the agents

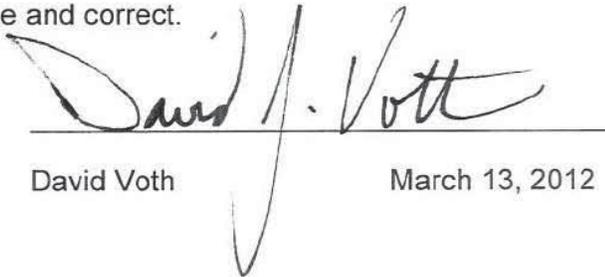
and I ultimately had no choice but to follow it. AUSA Hurley's counsel did not change in Fast & Furious until June 2010.

16. I had frequent meetings with the ASAC and, to a lesser extent, the SAC about Fast & Furious. But Ray Rowley, who was assigned to lead the Southwest Border operations for ATF, never once met with me.
17. On August 13, 2010, SA Casa dropped a loud battery of expletives on me, after I relayed a directive from the ASAC to SA Casa that he would not be working the Group II storefront. SA Casa said he could not believe that he had been taken off the storefront. As SA Casa flew off the handle, I remained even and said I would ask the ASAC to confirm the directive. The ASAC confirmed it, which I relayed a second time to SA Casa, who once more fired off an expletive-filled tirade at me. SA Casa told me he would be filing a grievance, and I told SA Casa that I would not stand in his way. The ASAC, SA Dodson, SA Casa, and I then met in person to discuss the matter, and SA Dodson informed SA Casa that the Group II agent did in fact say that they did not need SA Casa because of a concern that too many unmarked police cars and agents, even if undercover, in front of the storefront would give it away.
18. At the December 15, 2009, de-confliction meeting with the DEA, no one said "the best way is to try to stop the load as it goes across into Mexico which adds a whole bunch of charges." We did not try to get firearms into Mexico, so that seizures could be made there. Just the opposite, our goal was to lawfully seize weapons before they ever get to Mexico.
19. Just days after the December 15, 2009, de-confliction meeting with DEA, the DEA obtained specific evidence of firearms trafficking, but did not share it with ATF when the information was actionable. I was out of the office in Minnesota with my family, from December 19, 2009, to December 27, 2009.
20. On December 9, 2009, the Douglas Police Department notified ICE of a vehicle the police had stopped. Firearms were found inside the vehicle. ATF Group VII agents earlier had entered those firearms into the Suspect Gun Database. They were purchased by suspects in the Jacob Chambers case (which later became the Fast & Furious case). ICE Agent Ed Hamel and ATF Agent Hope MacAllister agreed that they would jointly interview the driver of the vehicle, but ICE Agent Hamel unilaterally broke the agreement and interviewed the driver himself thereby depriving ATF of an opportunity to learn more about the firearms and the

network they were investigating. For that reason, ICE removed Agent Hamel from work on Fast & Furious.

21. In September 2010, ASAC Needles informed me that SA Alt was one of the few ENFORCE-certified ATF agents in Phoenix, and the last review of the Phoenix subdivision revealed several ENFORCE deficiencies. On that basis, ASAC Needles said he decided to assign SA Alt as a senior operations officer at the ATF Phoenix headquarters to look at the ENFORCE discrepancies there. That was the first that I had heard of anyone at ATF seeking to move SA Alt into that position or into any other position outside of Group VII.

22. I swear that the foregoing is true and correct.



David Voth

March 13, 2012

Exhibit 44

Exhibit 44

Exhibit 45

[REDACTED]

From: Voth, David J. [REDACTED]
Sent: Thursday, January 14, 2010 11:24 AM
To: [REDACTED]
Subject: RE: Calls

Nope meeting is still on! I can just go to the Strike Force and pick up the calls/info from [REDACTED] if that is OK?

From: [REDACTED]
Sent: Thursday, January 14, 2010 11:12 AM
To: Voth, David J.
Subject: RE: Calls

I work out of an offsite at [REDACTED], so I'm not downtown that often.

I'm supposed to be at a meeting regarding this case tomorrow AM, unless it's off.

[REDACTED]

-----Original Message-----

From: Voth, David J. [mailto:[REDACTED]]
Sent: Thursday, January 14, 2010 11:06 AM
To: [REDACTED]
Subject: RE: Calls

Not a problem at all, we would have the same problem receiving a large file on our end anyway. I can run over and pick it up. Any chance as a Supervisor to get out of the office...maybe meet you?

From: [REDACTED]
Sent: Thursday, January 14, 2010 11:04 AM
To: Voth, David J.
Subject: Calls

David-

[REDACTED] been trying to email all the call summaries and transcripts, but there are over one hundred calls. It also sounds like [REDACTED] talked with Tonya today and she wanted the audio as well, which greatly increases the file size.

[REDACTED] can burn everything onto a CD, but Tonya's going to need to pick it up from DEA whenever she gets a moment. Our email system can't send the large audio files, unless they're sent them one at a time.

If you've got any questions, please give me a call when you get a chance. See you tomorrow.

[REDACTED]

[REDACTED]

[REDACTED]

Exhibit 46

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 01/17/2010

On 01/17/2010, FBI Special Agent [redacted] of the Las Cruces Resident Agency, reviewed two packets of telephone call logs pertaining to a Drug Enforcement Administration Title III investigation on [redacted], of Phoenix, Arizona, target telephone number 602-[redacted], DEA case number [redacted].

One set of call logs contained pertinent calls between [redacted] and [redacted], aka: "[redacted]". The second set of call logs contain pertinent calls between [redacted] and [redacted], aka: "[redacted]". [redacted] and [redacted] are the subjects of a joint FBI/DEA investigation in Southern New Mexico under FBI files [redacted] and DEA file [redacted].

SA [redacted] made the following observations and notes, based on a review of the DEA call logs.

	The following telephone call summaries pertain to conversations between [redacted] and [redacted], aka: [redacted].
CALL	NOTES
104	[redacted] uses a courier in McAllen, Texas.
237	[redacted] asked [redacted] for 200 packs of marijuana; moving product via semi trucks.
278	References made to the "[redacted]". Can [redacted] send the "[redacted]"? [redacted] may be source of supply. (?)
299	[redacted] has load cars ready with drivers to pick-up.
312	Discussed how load is in semi trailer and how load is packaged on truck. Hidden compartment referred to as "nest". References made to an "accountant" and a subject named "[redacted]". [redacted]'s brother in law's lady went to Denver. [redacted]'s brother in law had to pick kids up in Denver instead of California.

Investigation on 01/17/2010 at Las Cruces, NM

File # [redacted] Date dictated 01/17/2010

by SA [redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

██████████

Continuation of FD-302 of DEA Title III Call Summary Log . On 01/17/2010 . Page 2

332	Load has not arrived. ██████ asked ██████ if third party had device capable of loading 1,500. Discussed how to package load among legit items such as candy and shoes.
338	Unload at a ranch instead of a warehouse so people don't find out.
459	Driver near Chandler, wants to unload at warehouse because company won't let him at ranch.
460	Truck driver is white. ██████ will call owner of company. Owner is a friend of ██████. Owner's name is ██████ and he is trustworthy. Load should arrive soon.
477	Driver from El Paso not coming to Phoenix. ██████ and ██████ disagree. ██████ shows ██████ respect, but angry at ██████. ██████ says ██████'s comments were untrue.
503	██████ and ██████ working things out - may be over lost load. Lady in El Paso is now broke. Discuss \$20,000-\$30,000, giving money to lady; vehicles to ██████ if he needs them. ██████ says things are tough in ██████. ██████ will send vehicles to ██████ after Christmas. "██████" will bring the vehicles.
505	██████ didn't like that things went bad on first attempt. ██████ will help the lady out; he know's she's struggling. ██████ offered to give ██████ a house in ██████. ██████ owns 14 houses in ██████ that he rents out. He could give ██████ 2 houses. They are worth 1.5 million pesos. ██████ has a house in ██████ that is about to sell and a big house in ██████ that is also for sale. ██████ is sending money to ██████ and company. Can send vehicles too. Things will be very busy in the New Year - with 10 per week. ██████ can wire ██████ money via Wells Fargo, Bank of America, Chase, or Western Union. Female named "██████" is in background with ██████.
508	██████ will wire money to ██████ via Wells Fargo.
519	Wired money to ██████ at Wells Fargo, account number ██████, listed as ██████ "██████". ██████ heard in background reading account number to ██████ who repeats it to ██████. ██████ will wire money.

[REDACTED]

Continuation of FD-302 of DEA Title III Call Summary Log, On 01/17/2010, Page 3

541	[REDACTED] said [REDACTED] is very famous and [REDACTED] is with [REDACTED] from [REDACTED] and [REDACTED] was sending his regards. [REDACTED] is getting a new phone. [REDACTED] has niece and sister in law in [REDACTED]. [REDACTED] and [REDACTED] discussed large load is ready to move and the New Year would be very busy.
676	Conversation about [REDACTED] and his friend Acosta, reference firearms. [REDACTED] had lots of orders for the firearms and would send 3-horse trailer to pick up additional.
684	[REDACTED] needs the [REDACTED] [REDACTED] to run two load vehicles per day. [REDACTED] said limo guy would be ready after the first of the year. [REDACTED] met with [REDACTED]'s source of supply they call "20-20". [REDACTED] said 10,000 pounds there and wanted to get 2 cars out of the shop per day. Discussed two types of product, one being a whole different kind of deal. Discussed guy at packing plant who has locations near [REDACTED] and [REDACTED] would be ready to go after first of year. [REDACTED] mentioned keeping money in a safe. Uses it to bet on race horses.
709	Discussed \$21,000 horse bet. [REDACTED] taking car of lady with three kids. Husband arrested with 18 kilos of cocaine. [REDACTED] helping family due to arrest.
710	[REDACTED] a good race horse. [REDACTED] and [REDACTED] share horse. [REDACTED] in [REDACTED] owns the horse. [REDACTED] knows [REDACTED].
-----	-----
	The following telephone call summaries pertain to conversations between [REDACTED] and [REDACTED], aka: "[REDACTED]".
118	Wait til Monday because they were 2000 and the loads had just arrived.
121	Discussed travel to Denver and California. References made to "[REDACTED]" and "[REDACTED]".
196	[REDACTED] said guys in McAllen wanted to buy 100-200 pounds. Mark them down for 100-200.
205	[REDACTED] and "[REDACTED]" are ready, but can't get a hold of the driver. [REDACTED] told [REDACTED] to hold.
206	Negotiating price for product.

██████████

Continuation of FD-302 of DEA Title III Call Summary Log . On 01/17/2010 , Page 4

210	██████████ asked ██████████ if the 300 was really good. Third party said it was from ██████████ ██████████. The 300 is really good. Give ██████████ ██████████, aka: "██████████", the money. If things go well, start sending material 5,000-10,000 weekly.
266-267	Discuss departure of ██████████/ guys. ██████████ told ██████████ to call his guy's at ██████████.
285	██████████ said fifth party wants 100. Third part wants 80-100. Tell driver's ██████████ only authorized 80-100.
341	Source of supply doesn't have meat (product) until after Christmas. ██████████ has some product there for him. Truck would arrive at 7pm and take whatever product was there.
381	██████████ asked if ██████████ was coming back with money.
385	Third party will take product. More is here now. ██████████ asked ██████████ if the thing for tonight was for sure.
749	Third party left money. Discussed sending money via courier. The guys ██████████ had there were ready to start working hard at the beginning of the year. ██████████ tells ██████████ to put some effort into it. ██████████ acknowledged. ██████████'s guy Acosta is coming over. Acosta is source of supply for guns.
1136	██████████ asked ██████████ about the toys (guns). ██████████ has 32 Romanian assault rifles, with folding stocks - new in the box. "1 buck each" (\$1000).
1137	██████████ has third party interested in the guns. Wants them transported to El Paso. ██████████ will wire the money in the morning. Set up transport of guns in trailer.
1139	██████████ has guy who will transport guns to ██████████ in El Paso. \$1300 each gun. Acosta and ██████████'s cousin will bring the guns. Sending them in morning. ██████████ will wire money via Western Union right now.
1148	Does ██████████ want more guns? ██████████ waiting for a call back. ██████████ can send 2 pesos under a couple names.
1221	More conversation regarding the guns and wire transfer. The guns are ready to go via transport. ██████████ will fly to El Paso and get there at the same time.
1227	██████████ sending \$500 or \$800 via western Union.

[REDACTED]

Continuation of FD-302 of DEA Title III Call Summary Log . On 01/17/2010 . Page 5

1265	Third party about to make a deposit, but too many requirements to deposit money gram. [REDACTED] can send 2,3,4 or even 5. Whatever [REDACTED] needed. Guns are coming with Acosta in 3 or 4 cars.
1287	[REDACTED] waiting on "[REDACTED]". [REDACTED] has appointment with lawyer at 2:00 pm. [REDACTED] coming to El Paso via plane. One hour flight from Phoenix. Guns en route. Acosta doesn't want to be asked to take the guns into Juarez.
1305	Arrange payment through Bank of America.
1310	[REDACTED] sending \$2200 for guns to Bank of America account # [REDACTED] to [REDACTED].
1337	[REDACTED] said the girl, [REDACTED], was at the bank. [REDACTED] said he is in line, wait 5 minutes.
1339	[REDACTED] said third parties last name was [REDACTED], [REDACTED].
1340	[REDACTED] gave [REDACTED] his number, [REDACTED]. [REDACTED] said the guy, Acosta had [REDACTED] name MANUEL ACOSTA. Said [REDACTED] was his name. (?)
1388	[REDACTED] missed flight and will catch later one. Acosta and the vehicles are en route. [REDACTED] talked to them.
1412	[REDACTED] and [REDACTED] update status of travel. Plan to leave Acosta and the guys behind so [REDACTED] and [REDACTED] can go look at the guns.
1414	[REDACTED] said Acosta was an hour and a half away.
1509	[REDACTED] asked how it went. [REDACTED] said it went well and he was doing the last trip. [REDACTED] said he had just arrived and all was well. [REDACTED] asked if [REDACTED] had talked to his [REDACTED] and [REDACTED] said he had.
1514	[REDACTED] is going to El Paso to see [REDACTED]. Flying into El Paso airport.
1644	[REDACTED] is at the ranch with [REDACTED] and [REDACTED]. [REDACTED] and [REDACTED] talk. [REDACTED] then gets on phone with [REDACTED] and said he was [REDACTED]'s [REDACTED]. [REDACTED] gets back on line and he and [REDACTED] discuss the price and availability of .50 caliber rifles. The rifles sell for 11.5 and can be shipped to [REDACTED]. [REDACTED] has a really good direct hook up.

FD-302a (Rev. 10-6-95)

[REDACTED]

Continuation of FD-302 of DEA Title III Call Summary Log . On 01/17/2010 . Page 6

1657	[REDACTED] and [REDACTED] discuss the price and availability of the .50 caliber rifles. They can be sent to [REDACTED]. Further discussion about the amount of profit they will make on the rifles.
1912	[REDACTED] asked if his [REDACTED] [REDACTED] had arrived. Yes he has.
1948	[REDACTED] dropped his phone. Threw away the chips. Needs [REDACTED] phone number.
2002	[REDACTED] and [REDACTED] will arrive at 2:30 pm. [REDACTED] will pick them up at the airport.
2017	[REDACTED] calling saying he and [REDACTED] arrived. Looking for [REDACTED] and company. They find each other.

A copy of the DEA telephone call summary logs were downloaded onto a CD and placed in an FD-340 to be stored in the 1A section of this file.

Exhibit 47

From: Simpson, Kevin
Sent: Friday, December 18, 2009 3:16 PM
To: Voth, David J.
Subject: RE: Phoenix Group VII biweekly update 12-18-09

Dave,

Thank you for getting back to me so quickly.

Did this group purchase over 5000 firearms or should it be 500 firearm or am I not reading your description correctly?

Please let me know. Thanks.

785115-10-0004, Jacob Chambers et al: This case is a large scale conspiracy of over a fifteen interconnected straw purchasers. Thus far in the investigation (September through present) **the group has purchased over 5000 firearms**; most of which are the AK-47 variant 7.62 assault rifles and or the F.N. Herstal 5.7 mm pistols. Of those **500 firearms purchased** by the group approximately 50 have been recovered in Mexico or near the Mexican Border (the serial numbers are continually being updated and changed thus affecting the trace results) with a short time-to-crime; some as little as one day.

Kevin Simpson, Intelligence Officer
Phoenix FIG
U.S. Department of Justice - ATF
201 E. Washington Street - Suite 940
Phoenix, Arizona 85004-2428



From: Voth, David J.
Sent: Friday, December 18, 2009 11:21 AM
To: Simpson, Kevin; Gillett, George T. Jr.
Subject: Phoenix Group VII biweekly update 12-18-09

Exhibit 48

[REDACTED]

05/18/2011

1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

U.S. HOUSE OF REPRESENTATIVES
HOUSE COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM

IN THE MATTER OF:)
)
ATF'S PROJECT GUNRUNNER AND)
OPERATION FAST AND FURIOUS.)
_____)

INTERVIEW OF [REDACTED]

Phoenix, Arizona
May 18, 2011

ARIZONA REPORTING SERVICE, INC.
Court Reporting

[REDACTED] 1

By: [REDACTED] ter
Certificate No. 50658

Prepared for:
MR. STEPHEN CASTOR
Attorney at Law

ARIZONA REPORTING SERVICE, INC.
www. [REDACTED]

(602) [REDACTED]
Phoenix, AZ



05/18/2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO EXAMINATIONS

WITNESS	PAGE
	
Examination by Mr. Castor	59
Examination by Mr. Foster	103
Further Examination by Mr. Castor	108
Further Examination by Mr. Foster	124
Further Examination by Mr. Castor	132

ARIZONA REPORTING SERVICE, INC.
www. 

(602) 
Phoenix, AZ

[REDACTED] 05/18/2011

18

1 Gunrunner, we, I, as an owner of the gun store and an
2 FFL dealer, have always cooperated and informed the
3 Phoenix field office of the Bureau of Alcohol, Tobacco,
4 Firearms, and Explosives of any sales involving either
5 large numbers of military type gray weapons or handguns,
6 anything of this nature. And this is above and beyond.
7 We have always cooperated.

8 In fact, I made reference to this this year in a
9 statement dated February 1st, which applies to those
10 individuals I feel that do uphold the law and don't use
11 it as a political hidden agenda. But that's beside the
12 point.

13 To continue, these purchases, once I was
14 notified by Hope MacAllister directly, she asked me to
15 notify her via cell number, which is (602) [REDACTED]. I
16 know it by heart. I asked her at that time why, what is
17 up. Her answer to me is well, you can expect to see an
18 increase of purchases of AK-47 type rifles. This, of
19 course, is not a surprise. We do carry them as part of
20 our inventory, as a lot of other stores do. When I say
21 carry, I don't stock normally more than, say, six or
22 eight in any given time normally.

23 What occurred immediately, within five days,
24 four to five days, of my conversation with Agent
25 MacAllister in which she is giving me a heads-up to

ARIZONA REPORTING SERVICE, INC.
www.[REDACTED]

(602) [REDACTED]
Phoenix, AZ

[REDACTED] 05/18/2011

20

1 Getting back to it, Agent MacAllister nor any
2 other agent identified the cash, recorded serial
3 numbers, didn't photograph it. No drug sniffing dog was
4 brought in by the Phoenix Police Department, which they
5 do, by the way, maintain a logbook of when those dogs
6 are used. That didn't happen until much later in the
7 declining months of 2010, in which I was instructed
8 personally by Agent MacAllister and representatives from
9 ATF to set this cash aside in a plastic bag in which the
10 narcotics dogs could take an assessment of it to
11 determine if there were narcotics somehow on the money.

12 Now, getting back to, say, approximately
13 October, November of 2009, I had my meeting, once again
14 at my request, what I believe was going to be David Voth
15 and Hope MacAllister. Emory Hurley introduced himself.
16 He was introduced to me, rather, by the two ATF agents.
17 And in my office, I voiced my concerns over several
18 subjects, one of which primarily was the amount of
19 weapons that were being purchased at my store.

20 Now, it is important to note that I had never
21 before seen an instance in my 20 years of doing business
22 where we would see purchases go from, say, zero to 50
23 quite literally overnight, within a matter of days being
24 notified by ATF. And particularly with the cash
25 involved at this juncture, I expressed my concern to

ARIZONA REPORTING SERVICE, INC.

www. [REDACTED]

(602) [REDACTED]

Phoenix, AZ

05/18/2011

21

1 what I believe was the head of the meeting, which would
2 be Emory Hurley. He's the Assistant United States
3 Attorney, who was also identified to me by the agents as
4 the prosecuting attorney of these cases they were
5 beginning to get into.

6 Emory Hurley began in an exculpatory manner
7 saying towards me that my help has been demonstrative
8 and beyond belief that I would help them in a just
9 cause. Demonstrative was the exact term Assistant
10 U.S. Attorney Hurley used. I decided to simply ask what
11 was on my mind, and that is how long is this case going
12 to continue; number two, do I still keep bringing these
13 weapons into my store, because, number three, apparently
14 word is getting out on the street from your targets that
15 all of a sudden now I am attracting a lot of other
16 individual buyers respect not just the targets but I am
17 getting a lot of peripheral activity.

18 In other words, we have females coming in;
19 Caucasian; Hispanic; Black, African American. It really
20 didn't matter. Everybody seemed to be coming in and
21 starting to purchase one, two, three. But the initial
22 targets that ATF was focused on at that time would be
23 Jacob Chambers and Sean Stewart. They focused their
24 attention primarily on them.

25 What I found strange was that they would use

ARIZONA REPORTING SERVICE, INC.

www. [REDACTED]

(602) [REDACTED]

Phoenix, AZ

[REDACTED] 05/18/2011

22

1 money, they would come right in and without a care in
2 the world make purchases as if nobody was watching them.
3 It was just uncanny. I didn't understand it. It made
4 no sense. I have never seen this before. And trust me,
5 I am quite literally familiar, being 20 years in this
6 business, of how these things go. This followed not a
7 predictable ordinary pattern whatsoever. And I voiced
8 these concerns to all three of the individuals at that
9 December 17th meeting in 2009.

10 I was instructed in that meeting in no uncertain
11 terms by the agents and the Assistant United States
12 Attorney himself to continue to stock these weapons,
13 second, to keep working and inform the Phoenix field
14 office and their agents and keep them apprised of all
15 developments with regard to these types of purchases.

16 Now, what you must understand, I never suspected
17 at that point that there was a problem with this. I
18 trusted ATF, as I always have. They are my regulatory
19 agency who licenses me, audits me, oversees me. And
20 these are federal agents. And also that this is a
21 United States Assistant U.S. Attorney here in Phoenix.
22 So I had no reason to doubt or suspect anything in
23 comparison to what we now know. So I went along with
24 this.

25 And all the way through this going into year

ARIZONA REPORTING SERVICE, INC.

www. [REDACTED]

(602) [REDACTED]

Phoenix, AZ

05/18/2011

63

1 Q. The ATF agents?

2 A. That is correct, Agent Dodson being one of them
3 that I experienced myself.

4 Q. Who from ATF first invited you to have a camera
5 put in the store?

6 A. Hope MacAllister.

7 Q. And you believe that happened in late spring of
8 2010?

9 A. Yes.

10 Q. And did she have to make a sales pitch to you on
11 that?

12 A. No. She emphasized the importance of my
13 cooperation, that it was leading to so many different
14 areas, that my help was so, you know, monumental that it
15 would be so helpful if they were able to do that, which
16 led me to believe that I was doing what I was supposed
17 to do, cooperate under the guidelines of the license.
18 So I said sure, put it in.

19 Q. Was it your understanding they were watching the
20 camera so they could surveil some of these straw
21 purchase suspects?

22 A. That is the purpose they told me, yes.

23 Q. Was it your understanding they were going to
24 interdict these weapons shortly after?

25 A. Absolutely. I was assured all the way through

ARIZONA REPORTING SERVICE, INC.
www. [REDACTED]

(602) [REDACTED]
Phoenix, AZ

[REDACTED] 05/18/2011

64

1 this program that they would be stopped before they
2 would ever harm anyone or get below the border.

3 Q. So ATF made affirmative representations to you
4 that these weapons would be interdicted?

5 A. The entire time.

6 Q. Did they make any representations to you that
7 other FFLs were participating in a similar type of
8 arrangement?

9 A. They did.

10 Q. Did they give you the names of those FFLs?

11 A. [REDACTED] was one them in Prescott. I do not
12 recall any others, but they said there were others.

13 Q. Do you know if any other FFLs had cameras in
14 their store?

15 A. I was not told.

16 Q. Did you ever have any conversations with any
17 other area FFLs about this?

18 A. No, I did not.

19 Q. Were you told not to by ATF?

20 A. Yes. I was told somewhere along the line that,
21 the exact verbiage I can't recall, something like we
22 need to keep this quiet, something along those lines. I
23 cannot be specific, though. That was my understanding.

24 Q. When the indictment came out in January 2011,
25 were you surprised to have your name all over that?

ARIZONA REPORTING SERVICE, INC.

www.[REDACTED]

(602) [REDACTED]

Phoenix, AZ

Exhibit 49

RPTS

DCMN

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: DAVID VOTH

Thursday, June 30, 2011

Washington, D.C.

The interview in the above matter was held in Room 2247 Rayburn

House Office Building, commencing at 10:05 a.m.

Appearances:

For the HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

STEVE CASTOR, CHIEF COUNSEL, INVESTIGATIONS

CARLTON DAVIS, COUNSEL

ASHOK M. PINTO, DEPUTY CHIEF COUNSEL, INVESTIGATIONS

JESSICA LAUX, COUNSEL

SUSANNE SACHSMAN GROOMS, MINORITY CHIEF COUNSEL

DONALD K. SHERMAN, MINORITY COUNSEL

JUSTIN KIM, MINORITY PROFESSIONAL STAFF

For the SENATE COMMITTEE ON THE JUDICIARY:

JASON PARIS, CHIEF COUNSEL FOR OVERSIGHT AND NOMINATIONS

CHAN PARK, SENIOR COUNSEL

JASON A. FOSTER, CHIEF INVESTIGATIVE COUNSEL

TRISTAN LEAVITT, MINORITY STAFF

BRIAN M. DOWNEY, MINORITY INVESTIGATOR

ROB DONOVAN, MINORITY STAFF

For the DEPARTMENT OF JUSTICE:

MOLLY GASTON, ATTORNEY ADVISOR, OFFICE OF LEGISLATIVE AFFAIRS

For MR. VOTH:

GREG SERRES, DEPUTY CHIEF COUNSEL, ATF

I think, historically, they had opted, to some extent, to take the cases to the State court in just kind of like a fraud-type statute. It had nothing to do with firearms specifically. It's just the fact that you -- I guess it would be like a nonsufficient check really. You know, it was a fraud-type count. I know they have gone that route specifically because of not getting where they thought they wanted to get with firearms prosecutions with regards to straw-purchase cases.

Q Okay.

A And so I think there was a general sense of that frustration. And I'm quite certain Mr. Newell was aware of it. He had been there the longest, and he had talked about some of the hurdles of working in Phoenix and how we were trying to get past some of these things and move forward.

Q I think I'm at the end of my time, but I have a couple more questions.

So when you raised that concern, what came down?

A Well, I know there was -- one of the issues was this corpus delecti issue, as the U.S. Attorney's Office calls it. And I know Mr. Karmgard prepared a corpus delecti kind of briefing, where he cited some caselaw and stuff, and sent that over to the U.S. Attorney's Office and had some discussion with them on, kind of, the ATF position on that.

You know, the position of corpus delecti is that if the gun goes to Mexico and is recovered in Mexico, it kind of never happened, because we can't use that in court. It would be hearsay or whatever for a criminal prosecution. And so they believed, correctly or incorrectly,

wasn't a strategic initiative, and this case she did had different defendants. I mean, just some real general facts, nothing specific that I remember.

Q But you knew at that time that you were talking to her that [REDACTED] was a cooperating FFL in this case, Fast and Furious -- what became the Fast and Furious case.

A Yes.

Q So you mentioned a December 17 meeting. Are you aware of -- let's back up a second before we get to that. Are you aware of an October or November 2009 meeting that other agents may have had with [REDACTED]?

A No. I was not in Phoenix at that time period.

Q Right. I understand you wouldn't have firsthand knowledge, but do you have any secondhand knowledge? Were you aware of a meeting that occurred in that time frame that included Mr. Emory Hurley, the assistant U.S. attorney?

A No, I am not aware.

Q Are you aware of any meetings that Emory Hurley may have attended at [REDACTED] office at any time?

A Just the one that I was at on December 17.

Q So that took place at [REDACTED] office?

A Yes. It is a little office in the back of the gun shop.

Q Can you tell us about that meeting?

A Yes. We went in. It was Emory Hurley and another AUSA who I don't remember and who is no longer an AUSA; it was a female. It

was Hope, it was Emory, it was me, it was [REDACTED]. We went into his office and told him that we can't tell him who to sell guns to, we can't tell him not to sell guns to people, that it is his business and he needs to follow his business practice and his business license. But in the event that somebody called, let's say, from a phone number prior to picking up guns, if he could provide us that phone number off his caller ID, that that would be helpful. He didn't have the video surveillance in his store that he owned or maintains. We talked about putting one in, an ATF one that we would monitor. We talked about if there are any license plates he could get, that would be helpful. We just generally talked about cooperation.

Q Why was Emory Hurley at that meeting?

A He is an AUSA. We wanted to make sure that we were following the letter of the law and not asking him to do anything illegal, and also not violating anybody's civil liberties by denying their right to firearms. So he is a person with legal -- I guess you would call it legal expertise for lack of anything better I guess. He certainly seemed like a logical choice. He was involved in the investigation. He was aware of the cooperation of the FFL in the investigation.

Q So how many other times did you have assistant U.S. attorneys go and talk to cooperating FFLs?

A Just this occasion, and the occasion when we went to meet with [REDACTED] at [REDACTED].

Q So those two occasions and this case. How about any other cases?

A I don't think I was involved in any other cases.

Q Why not?

A I didn't really have firearms trafficking cases going on in my previous role at the ATF. And we weren't really seeing the same problem, so we didn't have the same need to cooperate with FFLs like that.

Q What was the problem? You said you didn't see the same problem. What was the problem?

A Well, the large volume of guns being purchased. In St. Paul, Minneapolis, I mean, if someone buys one High Point or three High Points, they don't buy the same volume of firearms that we see in Phoenix.

Q So Mr. Hurley got involved in the meeting on December 17 for what purpose?

A I thought I answered that; to make sure that we weren't denying anybody's civil liberties or their Second Amendment right. And we also weren't doing the opposite of that and asking him to do illegal sales.

Q Who suggested that Emory Hurley come to the meeting?

A I don't know.

Q So it wasn't your idea?

A I don't think so. It was just, hey, we are going to have a meeting with [REDACTED], Emory is coming.

Q Was it Mr. Hurley's idea?

A I don't know.

Q Did [REDACTED] request to meet with Mr. Hurley?

A I don't know. I guess I didn't question who --

Q Who told you Mr. Hurley was going to be there?

A I think Hope. I think she said we are going to have this meeting Thursday -- whatever the day of the week -- and we are going to go talk to [REDACTED], and Emory is going to be there. And I didn't think twice I guess.

Q So did [REDACTED] express any concerns at the meeting about his cooperation?

A No.

Q Did he ask any questions?

A No. He just asked like logical questions about phone numbers or license plates or the camera, where the camera would be and stuff like that.

Q So he just asked sort of practical, logistical kinds of questions?

A Yes.

Q He did not raise any concerns about the numbers of guns that he was selling to folks who were known to the ATF to be suspected straw purchasers?

A Not that I remember.

Q You say not that you remember. Could he have said that and you have forgotten?

A I suppose. I can't remember. I remember our meeting was whether or not he was doing anything illegal, follow the letter of the

RPTS [REDACTED]

DCMN [REDACTED]

A [REDACTED] When they determined that the two guns found at the scene were purchased by Jaime Avila I got a phone call from ASAC George Gillett, and he said that he wanted Mr. Avila arrested 15 minutes ago, expressing to me a sense of urgency.

I contacted Emory Hurley personally, relayed that information to him. There was initially a little bit of what I guess I would characterize as maybe reluctance in that he was concerned about charging the entire case and if this would compromise the entire case by revealing all the other -- through discovery -- all the other reports and wiretaps and all that stuff.

And I suggested, if possible, we could find a kind of stand-alone reason to charge him if that would suffice to satisfy his concern.

He asked me what I was thinking, and I expressed that if we could try to do what would generally be characterized as a residency check, if we could determine he didn't live at the residence he listed on the 4473, if he would be agreeable to charging that kind of stand-alone violation for purposes of satisfying the direction that I got to arrest Mr. Avila.

He said he was open to that idea, and so I sent a couple of agents out to the address that he had been using on the 4473s, which, without knowing the exact numbers, I'm genuinely thinking I have the right address, [REDACTED] Lane or something like that.

When agents went out, they made contact at [REDACTED] Lane.

The current occupants of the House stated that they purchased the house at some sort of maybe auction or sheriff's auction or something generally in April of 2010, and this is now December of 2010.

And you know the things that go along with the residency check: Do you know Jaime Avila? No. Show him a photo. No, I don't know that guy. Does he live here? No, he doesn't live here. These kind of questions or statements.

Went back to Mr. Hurley and said we had done the residency check and that Mr. Avila had, at the very least, not lived there since April, maybe before, maybe not, but at the very least since April.

So he said to find the latest gun purchased after April, and we submitted a complaint for that. And that was a June purchase or maybe a couple June purchases that were maybe close in time in June. And so we prepared a complaint, and we arrested Mr. Avila, and I think the complaint is in the court record or something.

Q And he was apprehended relatively quickly?

A I think that night, whatever that night was.

Q So there was a reluctance, we understand, before Avila's arrest to not arrest the suspects in the case because Mr. Hurley didn't think there was enough evidence to do an arrest or to do an indictment?

A On the entire case or on Mr. Avila?

Q Just on all the defendants.

I mean, there's a couple ways to do this. You could have done each one separately as soon as you found information on each particular defendant --

say that I don't recollect being told or telling people that it was under their pay grade or this continual, as you expressed, dissatisfaction or whatever.

Mr. Castor. This is Exhibit 7.

[Voth Exhibit No. 7
was marked for identification.]

BY MR. FOSTER:

Q So you're familiar with this email that's referred to as the schism email by a lot of folks?

A Yes.

Q So what is your reaction to this email and the way that people have pointed to this and said this is evidence that corroborates the testimony of the agents?

A I don't think it corroborates it at all. The purpose of this email and the reason this email was sent is it's dated March 12th, the wire was going up on March 15th, and a lot of people were concerned about their scheduling on the wire and if they were on surveillance or if they were in the wire room, if they were working Saturday, if they were working at night, if they were working Sunday, when was their day off, why were they on this assignment, so and so had that assignment.

And I don't know maybe if you view it from a different light. You know, what I'm talking about. It's an exciting opportunity to use the biggest tool in our law enforcement toolbox. That's the wiretap. And that, you know, it's the domestic -- it's the pinnacle of domestic U.S. law enforcement techniques. That's the wiretap. After this the

toolbox is empty. That's the wiretap.

And, you know, I understand that maybe it wasn't the best email. You know, the fact that it's fine -- and what I meant by fine is, it's a complex investigation, it's a wiretap, it's dynamic, it's complex. There's a lot of things going on, and it could be an exciting time if people would pull together and contribute. And, instead, they're worried about why is so and so on this schedule, and I'm in the wire room? Why am I not on surveillance? I have more seniority or something than her or whatever.

It was strictly about the wire and the working of the wire and the scheduling of the wire. It wasn't about the way the case was being worked.

Q So, prior to this, you never had any discussions with any of these agents about whether or not your definition of walking guns or their definition of walking guns was correct or any kind of concerns about walking guns?

A No. The only even close discussion to the word walking guns that I remember was Mr. Dodson's case, and I don't know if I can talk about it. I think it's the Isaiah Fernandez or Hernandez case. I can tell you the case number. The name is either Fernandez or Hernandez. But it is 785115-10-[REDACTED].

I mean, that was the only, you know, time that --

Mr. Park. I'm sorry, could you repeat that?

Mr. Voth. I'm sorry, sir. 785115-10-[REDACTED]. That's the case number.

they express them to me or amongst themselves and express them to the case agent or express them to --

Q Well, did any of them express a concern to you that they were being prohibited from using what they believed were lawful authorities to interdict guns?

A No, I don't have a recollection of that.

Q So after this email we understand that there was a meeting as a follow-up somewhat to this email that Mr. Gillett attended?

A Yeah. I think, as I read the dating of this, it's saying there's a Monday meeting. And this was sent on a Friday, so I think there's a Monday meeting, and that's the meeting Mr. Gillett attended.

Q And what do you recall about that meeting?

A Talking about, you know, pulling together and working this case and that, you know, we got a lot going and we need to work together and we're going to have people coming into town and we just all need to work together.

Q And Mr. Gillett didn't say anything at that meeting about you guys don't know what walking guns is, I'll tell you what walking guns is, or something to that effect?

A I don't have a specific recollection of that.

Q Do you have a general recollection of that or something similar to it?

A No. I've seen other people say that, but I don't have a recollection of that.

Q Okay. And so all these people that are saying all these

Celis-Acosta is not going to stop his activity. They would simply replace Mr. Patino.

And if Mr. Patino is replaced, the firearms are still being purchased and still being trafficked to the same source, but we're now unaware of who that source is, and we need now to re-identify the new straw purchaser and how they fit in the organization.

Q So is it your understanding that arresting Uriel Patino at that point in time, April 2010, would have hindered your ability to take down the network of straw purchasers?

A That was a discussion we had with the U.S. attorney and amongst ourselves, and that was the general consensus, that taking him down wouldn't have brought the organization to an end or to a close.

Q And that conclusion is based on the fact that straw purchasers are easily replaceable?

A Yes.

Q And that the violations for straw purchasing aren't significant enough to flip defendants in order to go up the chain.

A Correct.

Q Now, I think we've spoken about the large number of firearms that were involved in this case and that were purchased as part of Operation Fast and Furious?

A Yes.

Q And, as a result of those purchases, did you notice a spike in violence across the border?

A I don't know. I know from that one email that, you know,

Operation Fast and Furious from crossing the border into Mexico.

A I believe so, yes.

Q Now, I believe you mentioned that the case began to wind down in July and August of 2010?

A Well, I don't know if the case began to wind down. We made the decision to not go after another wire, to take the evidence we had amassed thus far and charge the people that we could charge thus far with the crimes and the charges we thought we had at that time.

We still had the loftier goal of going after, you know, the cartels or the DTO in Mexico. We hadn't got there at that time, but we made the decision not to go further. And that was essentially the, kind of, end date or end time of the investigation.

Q Why did you make that decision at that point in time?

A Because we were having so much trouble with the phones and the flipping of phones and maybe the inability to get a roving wire or something. We felt the only way to get the evidence needed to charge somebody in Mexico or in a DTO with them being in Mexico and not hands-on buying guns and transporting guns by having straws buy the guns and having, I guess just for easy safety, mules transport the guns, that to get evidence on the person actually doing it we would have to have their word, their intercepted communication directing these activities. We hadn't gotten there.

We thought we had certainly made a good effort at getting there, but the phone issue was basically overwhelming: the delays, maybe through OEO or the U.S. Attorney's Office or whatever; missing the line

we wanted to be on maybe by days or hours; being up on some lines but not necessarily getting the communication we had hoped to get; and that, you know, there has to be an end. You know, I had written an exit strategy that said 90 days. This is almost exactly 90 days, from the end of April to early August -- maybe it is 100 days.

But it seemed we had given it a good try and gotten where we had gotten. And, certainly, we were going to charge people. Maybe not the ultimate goal that we had started with. But in knowing what we know now, I think maybe there are still some options open for that.

Q And at that point in August, the case went to the U.S. Attorney's Office to perfect an indictment?

A Correct.

Q And you indicated that that process didn't happen as quickly as you anticipated it would?

A Correct.

Q Can you describe any reasons that you were given from the U.S. Attorney's Office for why that didn't happen in the time frame that you expected it to?

A Not really. It was just kind of this delay, that, well, we are perfecting the indictment, we are perfecting our evidence, you know, we'll indict in September. And then, you know, well, I'm still waiting on, you know, maybe some figures from the IRS on the money portion, and, you know, when we get those new numbers, we'll indict in October.

And it got to the point where I kind of backed off because I was

Exhibit 50

From: Voth, David J.
Sent: Thursday, December 17, 2009 1:37 PM
To: Gillett, George T. Jr.
Subject: RE:

Not yet...?

From: Gillett, George T. Jr.
Sent: Thursday, December 17, 2009 11:28 AM
To: Newell, William D.
Cc: Voth, David J.
Subject:

Bill-

OSII has not yet finished a link diagram on this investigation. Therefore, there is no "chart" in existence diagramming this investigation. Lorren Leadmon and crew are currently working on such a link-diagram chart, but it is not yet complete. Mr. Leadmon did have a power point that gave an overview of the case and that has been forwarded to GS Voth. However, that power point is about 1 week old, so the info is already a bit dated. GS Voth and Mr. Leadmon are speaking on a regular basis, so the lines of communication are now the equivalent of the proverbial fire hose. During one of their conversations, Lorren told Voth that Ray Rowley received a briefing on the investigation this week and mentioned the possibility of needing to shut the investigation down due to the large number of guns that have already been trafficked. Therefore, I spoke with Ray Rowley today and explained that even though the identified straw-purchasers bought approximately 175 guns last week alone, we have slowed down the FFL on future purchases and are obtaining intelligence directly related to this investigation from RC-3. Ray did express some concern regarding the total number of guns that have been purchased by this straw-purchase scheme. I cautioned Ray on not doing any type of informal calculations on purchase numbers as that likely will result in double counting of firearms (counting purchased guns as well as recovered guns). I have also advised that we will slow the purchasers down as much as possible, but we have not identified the network yet. The result will be that the responsible conspirators will have new straw-purchasers operational before we complete the booking paperwork. I have asked Ray to consider me his direct point of contact on any future questions and/or concerns and I will do the same with him. I have also spoken with Kevin O'Keefe today and maintain those lines of communication.

As for plans to proceed, I have asked Mr. Voth to begin preparing a white paper that outlines progress to date as well as a plans for proceeding with the investigation. I know that he wants to take the information from the RC-3. RC-3 I have also asked Mr. Voth to prepare a list of resources that HQ can provide (personnel and equipment) to support this investigation. I will keep you posted as things arise.

George T. Gillett
 Assistant Special Agent in Charge
 ATF - Phoenix Field Division
 RC-1

HOCR ATF - 002491

Exhibit 51

From: Gillett, George T. Jr.
Sent: Thursday, December 17, 2009 1:39 PM
To: Voth, David J.
Subject: RE:

Categories: [REDACTED]

Anticipatory mi amigo. Let me know when "the eagle is in the nest."

Below is an excerpt from ATF Order 3310.4B

Please see 148 (a)(1) and (2).

148. "WEAPONS TRANSFERS".

- a. Considerations. During the course of illegal firearms trafficking investigations, special agents may become aware of, observe, or encounter situations where an individual(s) will take delivery of firearms, or transfer firearm(s) to others. In these instances, the special agent may exercise the following options:
- (1) In cases where probable cause exists to believe a violation of law has occurred and the special agent determines there is a need to intervene in the weapons transfer (e.g., the recipient of the firearms is a known felon; it is known the firearms will be used in crime of violence), the special agent shall do so but should place concerns for public safety and the safety of the involved special agents as the primary determining factor in exercising this option.
 - (2) In other cases, immediate intervention may not be needed or desirable, and the special agent may choose to allow the transfer of firearms to take place in order to further an investigation and allow for the identification of additional coconspirators who would have continued to operate and illegally traffic firearms in the future, potentially producing more armed crime.
- b. Alternative Intervention Methods. In the event it is determined by the special agent that a weapons transfer should not take place, the special agent may consider alternative methods of intervention other than arrest and/or search warrants that will prevent the culmination of the weapons transfer but allow the investigation to continue undetected. These alternative methods are considered to be a course of action that must be approved by the RAC/GS or SAC as previously noted. These alternative interventions may include, but are not limited to:
- (1) A traffic stop (supported by probable cause to search or supported by a traffic violation allowing for plain view observations) by a State or local marked law enforcement vehicle that would culminate in the discovery and retention of the firearms. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. Should

the occupants of the vehicle be new/unknown participants in the organization under investigation, they may be fully identified which in turn will yield additional information for followup investigation. Should the occupants of the vehicle be known participants in the investigation, requesting telephone tolls for these individuals (or if a Penn Register/T-III interception order is in use) for the period shortly after the traffic stop may show calls and yield identifying information relating to the intended receivers of the firearms.

- (2) If the firearms are being shipped out of the United States via a common carrier via checked luggage or freight, the firearms may be seized/or recovered by the special agents, in coordination with the U.S. Customs Service under border search authority, without detection by the traffickers. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. The investigation may then continue with the traffickers led to believe the shipment of firearms was stolen in transit. Requesting telephone tolls for these individuals (or if a Pen Register/T-III interception order is in use) for the period shortly after the recovery of the firearms may show calls and yield identifying information relating to the intended receivers of the firearms.
- (3) If the firearms are being shipped via the U.S. mail, coordination with the U.S. postal inspectors will assist the special agents in recovery of the firearms without detection by the traffickers. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. The investigation may then continue with the traffickers led to believe the shipment of firearms was stolen in transit. Requesting telephone tolls for these individuals (or if a Penn Register/T-III interception order is in use) for the period shortly after the recovery of the firearms may show calls and yield identifying information relating to the intended receivers of the firearms.
- (4) If the special agent chooses to arrest the individual(s) with the firearm(s), the possibility exists that a debriefing of this individual will yield other members of the organization, or the individual(s) will agree to participate in a controlled delivery of the firearm(s) to the original intended receivers.

From: Voth, David J.
Sent: Thursday, December 17, 2009 11:37 AM
To: Gillett, George T. Jr.
Subject: RE:

Not yet...?

From: Gillett, George T. Jr.
Sent: Thursday, December 17, 2009 11:28 AM
To: Newell, William D.
Cc: Voth, David J.
Subject:

Exhibit 52

ALDERSON REPORTING COMPANY

████████████████████

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: KENNETH MELSON

Monday, July 4, 2001

Washington, D.C.

The interview in the above matter was held in Room

2154, Rayburn House Office Building, commencing at 10:15
a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

STEVE CASTOR, CHIEF COUNSEL, INVESTIGATIONS

JESSICA LAUX, COUNSEL

CARLTON DAVIS, OFFICE OF CHAIRMAN ISSA

SCOTT LINDSAY, MINORITY COUNSEL

JUSTIN S. KIM, MINORITY COUNSEL

DONALD K. SHERMAN, MINORITY COUNSEL

For the SENATE JUDICIARY COMMITTEE MINORITY STAFF:

JASON FOSTER, CHIEF INVESTIGATIVE COUNSEL

BRIAN DOWNEY, INVESTIGATOR, OFFICE OF SENATOR GRASSLEY

For the WITNESS:

RICHARD CULLEN, ESQ.

McGUIRE WOODS, LLP

████████████████████

████████████████████

Richmond, VA 23219-4030

one of our Texas divisions, was going back home. So they asked me to do that, and at the same time, they moved Marshall Jarrett from the head of OPR over to EOUSA.

I took over the helm at ATF at a time in which there was significant controversy and inability, I think, to run itself as a business. And therefore, when I got there, I began to institute a number of changes proactively to make sure that ATF could run as efficiently and effectively as it could be. It was very stove-piped at the time with its various directorates. They weren't communicating with each other or among each other and decisions were being made that were contrary to decisions being made in other parts of the directorate. So I reformatted our entire structure, and moved our SES individuals around to put them in the best seat with respect to those directorates.

We did things that were unprecedented, such as bringing in a subject matter expert for the chief information officer instead of using an 1811, which is a law enforcement officer out of the ranks. I appointed a non-1811 subject matter expert for our office of management, and we are now interviewing for a person to head our newly formed human resources and professional development

illegal side, the more we get pushed back from the industry side, and it's challenged in that way, yes, in enforcing the laws.

Q Have you received positive feedback from Department management about your initiatives within ATF.

A I guess I would --

Q Is there a recognition.

A -- I guess I would have to say not necessarily, because I don't know that they are necessarily aware of the things we have done. We meet monthly with the Deputy Attorney General, the DAG, and we try to explain some of those things to them. I'm not sure they're interested in that type of perhaps minutia in an organization like ours.

Q You have made clear to -- I guess you have worked for three DAGs now, is that fair to say? Mr. Ogden, Mr. Grindler --

A Three DAGs in this Administration, yes.

Q And Mr. Cole. Did you brief Mr. Ogden, Mr. Grindler and Mr. Cole about the various --

A Yes.

Q -- management initiatives.

A Yes. And perhaps not all at one time, because some

of them were seriatim. So --

Q In the course of explaining that, you have received some feedback that that was the type of management that they were looking for.

A I received no feedback that it was not. They acknowledged what I did, but didn't opine on it too much.

Q What is ATF's reporting relationship with the DAG? Are there regular meetings that you have.

A Yes. The DAG is my direct supervisor. And so we have a person on -- in ODAG, the Office of the Deputy Attorney General who is assigned to our portfolio, and that is the person with whom we have the most direct contact in trying to develop initiatives or getting things approved, personnel issues or demand letter 3, or whatever it is.

But in addition to that, we have a monthly meeting with the DAG, which is usually a half an hour to 45 minutes, and we brief him on the issues that are coming to the top at ATF. Oftentimes the cases that we are doing that are significant, or the issues that we may have on the regulatory side, like the Airsoft gun issue and others, so that they were not caught by surprise if an issue pops out in the press.

firsthand knowledge of someone speaking with Faith Burton, but we were in touch.

Q So you received a letter from Senator Grassley, put your head together with Mr. Hoover and Mr. Chait and you were getting ready to go brief Senator Grassley.

A Well, we weren't getting ready, we were floating the idea and asking them to allow us to do that. We have had good relationships with our members of Congress, and we have done a lot of briefings on various ATF initiatives and so forth, and this was nothing other than that.

The pushback from the Department was that it pertained to an ongoing criminal case, and certainly concerns about releasing information on an ongoing criminal case is a serious concern and has to be treated with sensitivity, but we thought that we could go over and brief him. I don't know that he would have needed to know exact names, dates and places of transactions, but to understand the scope of Fast and Furious and what it was and so forth would have ameliorated the response that Congress has come out with.

Q And what was the feedback that you received from OLA or the DAG's office.

A The feedback is the same feedback that was

encompassed by Senator Grassley and others, and it is a longstanding policy at the Department of Justice that we don't talk about ongoing cases for a number of reasons that were set forth in previous memos from the Office of Legal Counsel and Attorneys General concerning the Department's interaction with Congress.

This case is a little different, because you are actually investigating looking at an investigation, as opposed to looking at subject matters which might tangentially impact an investigation. This was about an investigation itself and you can hardly investigate or discuss that without getting into some issues that impact the case.

Q I will represent to you that the Department came and briefed our staff in May.

A Yes. And that was in May. And in conjunction with ATF. Matt Axelrod.

Q Mr. Hoover and Mr. Axelrod came in, and it was a sense by then that this was a case that perhaps warranted some congressional oversight. I think the terminology shared with us was that maybe there is a there there. And I wonder if you recall at what point the Justice Department

realized that indeed this was a matter worthy of congressional interest.

A Well, I don't know that I can say precisely when they thought it was of congressional interest. I might characterize it, and I hope I'm not going too far abroad, but I think they were doing more damage control than anything.

My view is that the whole matter of the Department's response in this case was a disaster. That as a result, it came to fruition that the committee staff had to be more aggressive and assertive in attempting to get information from the Department, and as a result, there was more adverse publicity towards ATF than was warranted if we had cooperated from the very beginning. And a lot of what they did was damage control after a while. Their position on things changed weekly and it was hard for us to catch up on it, but it was very clear that they were running the show.

Mr. Castor. I'm going to mark an Exhibit.

[Exhibit No. 1 was for identification.]

BY MR. CASTOR:

Q Exhibit number 1 is marked, it's a letter dated February 4 from the Justice Department Assistant Attorney

ROIs and everything, but missed the smoking guns.

I decided to have confidence that we've looked at everything, that I would read them all. So sitting on the plane, reading the wiretap affidavit and one of the wiretap affidavits -- in fact, I think more than one, there was a statement in there prepared by the agents -- the AUSA and reviewed by the Criminal Division that suggested there was probable cause to believe that straw purchasers were taking guns across the border.

Because they set out in the affidavit the various -- the various border crossings of the straw purchasers. These were not observed border crossings. ATF did not know they were crossing the border ahead of time. These were from CBP's, the Custom and Border Protection database. We could go back and see when people go and come north because there is no southbound transactional record.

But it was apparent to me that they were suggesting that there was probable cause to believe that this information -- that these straw purchasers were taking guns across the border. So while on the plane, I drafted an e-mail to our people, and said, you know, you better back off, you better back off this statement, because -- the statement

in this letter, this February 4th letter to Senator Grassley, because I don't believe we can say that in light of the information that our agent was swearing to before a federal district court judge to get the wiretap.

There was also some conversation -- I tried to find the e-mail last night from home, but I couldn't access it. What I had printed out didn't seem to have printed out completely, but I think there was also conversation with Matt in that regarding -- because there was something I would say, well, look at page X, Y, and Z. But that was well after this fact right here.

With respect to the second sentence, "ATF makes every effort to interdict weapons." Of course, that is what our mission is in ATF, is to interdict weapons. And while in Fast and Furious, there were ways that they could have slowed down the number of guns being purchased or perhaps dissuaded straw purchasers to purchase weapons, they, I think -- and I think the people who drafted this would have thought that under the investigative strategy, they did try to interdict weapons, even though they didn't take them between the store and a defendant's home, they knew they went to the home, but had, according to the U.S. Attorney,

apparently had some view as to what they could present to their court to get a conviction and what couldn't be presented to their court.

So this case was done very -- was investigated closely with the U.S. Attorney's office. Remember we have David Voth who became a supervisor and entered on duty in Phoenix on December 6, 2009. He is an inexperienced agent. MacAllister is a relatively new agent. I am sure that they were influenced by the direction they were given both by the ASAC George Gillett and by the U.S. Attorney's office. Nevertheless, they should have had perhaps other views as to the propriety of what they were doing. But it is a multi-agency investigation.

Mr. Castor. Okay. I think I am about 7 minutes over here. So we will --

Mr. Melson. I have until 9:15. That's when the fireworks start.

Mr. Lindsay. Let's take a short break and return on the record.

[Recess is taken at 11:28 a.m.]

BY MR. LINDSAY:

Q Okay. It is 11:37 a.m. and we are back on the

entirety on that.

I think early on, if there had been an awareness of not just the number of guns, but the number of guns that a single person purchased, and that we were watching the guns being purchased by them, I think we would have taken a different approach on it, and would have approached Patino and at the risk of putting the investigation in danger at least stopped his multiple purchases that continued on and on and on for a significant period of time.

It -- you know, that would have to have been a judgment made at the time, if we were alerted to it, but nevertheless that was a judgment made by the Phoenix supervisors and the U.S. Attorney's office, that this should continue in that vein because we didn't have sufficient evidence to prosecute those individuals at the time. And that's a legal decision. That's a lawyer's decision, a prosecutor's decision. It's not a street agent's decision to tell the U.S. Attorney when we've got enough for a case. I know they oftentimes have opinions on it, but the final arbiter of that decision is made by the U.S. Attorney.

Does that answer your question.

Q Sure. It's a start. So let's explore that a

This is an issue that I have been attacking for several years, and that is how old our orders are, some still referencing Treasury and other places, and I've told my SES staff that it's going to be reflected on their performance ratings this year if not every single one of those orders aren't up to date and reviewed.

So we have changed the way we supervise major cases from the way it was before, where it was just if major case funds were being expended, then apparently field ops would look at it, now we are coming up with a guideline as to when a case is a case that needs to have more direct headquarters supervision, and more headquarters awareness of these cases, so that we can stop some of this stuff if there is an errant approach to investigations.

In addition, we are trying to develop a policy with respect to when we let guns go to a purchaser, and what the different types of situations are. We had the Southwest border SACs and intel people in, I think it was just last week -- it may have been the week before -- I lose track of time, for the purpose of reviewing our strategy and tactics in these cases. We have come up with a delineation of when guns are to leave our custody and control, or to be

Q When did you first become aware of operation Fast and Furious, previously named the Jacob Chambers case.

A Well, that's hard to say, because it could have come up in conversation at any point in time, but there was a briefing on the Fast and Furious case on December 9, 2009. That's when our office -- our OSII which is the intelligence branch put together a briefing for us on the -- primarily the seizures that were occurring in Mexico, somewhat unclear to us was that many of the seizures had weapons coming from Fast and Furious.

But I had e-mailed Lanny Breuer, on December 6, 2009, the day that Voth came on the job in Mexico -- I mean, in Phoenix, and asked him to come over and be briefed on some of these cases, so that perhaps his people, his prosecutors could help us develop a case. Because this is my view, we have got all these seizures across the border, and in each of these seizures, there are guns from different sources in the United States. So there's got to be some connection. If you have three different seizures and Fast and Furious is here and here and John Doe is here and here and there, there's got to be some connection with these people.

So we ought to be developing a multi-division, multi-

U.S. Attorney district case on all this. Get the intel from all these seizures, bring it together, develop the case and take it down. So I obviously couldn't do it, so I wanted Lanny Breuer to do it. Lanny Breuer became very active in the Southwest border plans and implementation. He worked on the Merida initiative, with the four pillars of the Merida initiative. We briefed him on what we were doing in Mexico. We have briefed him on Fast and Furious. So he was a partner with us in a lot of what we were doing along the Southwest border as well as in Mexico.

And there were one or two times that he and I went down there together. So on that date that I mentioned previously in December 6 -- I should remember that, it's a significant date for me -- I e-mailed him and on December 9, I had the first briefing on Fast and Furious. And these were primarily, though, surrounding the Douglas, what we call the Douglas seizure.

Then on December 17th, there was a briefing again by our intel section on the Reynoso seizure and the Phoenix Fast and Furious case. Now, this was just December 17, so it was early in the investigation. But Kevin Carlisle, who is the supervisor in the Criminal Division, I think he was

in charge of gang cases, I think -- I'm not 100 percent sure and Joe Cooley who was one of the trial attorneys came over to be briefed on it as well, in anticipation of them working this whole spectrum of seizures that were across the border.

Q So at that time, with respect to Fast and Furious only, what did you understand the strategy to be? This is December of 2009.

A Well, it wasn't so much what we understood as a strategy. Because I don't believe -- and you know, this is a long time ago -- that the purpose of it was the strategy as much as the linking of various seizures in Mexico to the gun trafficking groups in the U.S.

So there was not a discussion, I don't recall, that talked about how the case was going to be investigated -- Fast and Furious in particular with respect to, were guns going to be observed being purchased and so forth. As I said, this was early on.

Nevertheless, we had the participation of the Criminal Division in that briefing, and what I hoped to be in that whole case. In fact, they did send a prosecutor to Phoenix who worked on other ATF gun cases concurrently with what was going on in Fast and Furious. And as you recall, the press

get out, and they worked, I assume with the U.S. Attorneys, on a strategy to get out.

Q How regularly did you receive briefings that touched upon Fast and Furious following December of 2009.

A Well, the -- I received -- I think there were maybe -- let me check. I think there were maybe two briefings that I received on Fast and Furious. The one was in December 17, and one was in December 9. And then on March 11, there was an abbreviated briefing. That's when Voth came up and had a meeting and briefed Chait, Hoover, McMahon, and our Southwest border guru by the name of Rowley. So there were three times I was briefed generally on Fast and Furious.

After it got into July or so and the exit strategy had been completed, almost every Monday when we had our staff meetings, I asked Chait what's the status of the case? Now it's the end of August, now it's the beginning of September, now it's the middle of September. They told us they were going to get an indictment. Now it's November and now it's December. And it keeps getting pushed. I offered to send our own lawyers out there to get this case indicted. In fact, I offered to go out and do the indictment myself.

So I asked the IG to look at the interagency sharing of information. One of the things we had asked the Department to help us with in 2009 and part of 2010 was to promote our entrance into the intelligence community, the ICE, and we thought that was very important because there is information that we are missing, whether it be based upon information from national security assets or information received, what they call behind the wall or behind the curtain down in Mexico City at our embassy. We are excluded from a lot of that, and we thought our participation in that would benefit not only ATF and gun trafficking, but also our information would help the ICE.

That wasn't going very far and it wasn't promoted sufficiently to get us in. We finally withdrew our request because with the budget crunch, we couldn't afford to put the personnel into the shop that we would have to create to manage the information that would come from the ICE. I think if we had been in it, and we had known and therefore had access to the information that perhaps other agencies had, we could have either shut the operation down because we know already who the end game is, or we could have dramatically facilitated reaching that goal and then

information they give them. I just don't have any -- and remember also that there's a different perhaps chain of communication, because they deal so much with national security cases and national security assets that whatever information might have been obtained in that case may have gone up through the national security division.

Q Okay.

A So I don't know what it was and I don't know whether they ever briefed the intelligence committee in Congress on what they were doing.

Q It would seem to us that at whatever point in time that deportation and reentry into the United States happens would have been an ideal time to loop ATF into this network, and this network's relationship to the firearms trafficking folks?

A It would have made it unnecessary to continue the case.

Q When you communicated that information, you said you communicated it to the DAG's office and also to the IG. Was that roughly around the same time period? When was it roughly, was it after our hearing or was it before.

A No, when we first notified ODAG.

Q -- as to how McMahon got the affidavit.

A I would assume that the authority to authorize these types of things should be pushed down to the DAD because everything can't come up to Chait, and certainly Hoover can't handle another thing. I mean, he is just overwhelmed with things that are going on in the agency. So whether -- so I wouldn't be surprised either if it should stay at the DAD level unless there is something extraordinary about it that raises a question that you need the Assistant Director's approval on.

Q Okay. And then the Exhibit 10 was just the exhibit that referenced Voth and that had to go through the DAG's office.

A Well, and let me say this. Again, I don't know of any provision that requires these to go to the DAG. I wouldn't be surprised if Voth who is a new supervisor, hadn't been involved in this process before, got the DAG confused with the AAG, which would be the Assistant Attorney General for the Criminal Division. So, if he is saying that, I would make sure first that he understands the difference between the DAG and the AAG. Because I still don't think that's the normal process, but I may be wrong.

watch Patino buy guns and take 'em to his home, and we have the resources to watch it, or we had a tracker in one of the guns as we did in the Tohono O'odham Reservation case, and we discovered that device was moving and we were able to track Patino going to El Paso and we saw him put those or deliver those guns to a stash house in El Paso.

Well, we made the next leap. We now know not only who is purchasing the guns but who is the keeper of the weapons for purposes of getting ready to take them across the border. Because see what they do, and what they are doing in the stash house, is they brought the guns to the stash house in El Paso and they wait for an opportunity to take them over the border. They look where CBP is doing southbound checks and when things all seem to be in the clear, then they move them south.

So knowing where that stash house is is incredibly important for purposes of determining how the guns are getting to Mexico, which is probably even more important than finding out who's purchasing the weapons. But being able to then identify that stash house and keeping it under surveillance, we can determine that there are more people involved in taking guns to that stash house than just

Exhibit 53

From: Newell, William D.
Sent: Friday, December 18, 2009 5:35 PM
To: Martin, Steve K.
Subject: RE: New academic book on Mexican law enforcement touches on Firearms Trafficking

Amen brother. George Gillett had to have a long talk with one Mr. Ray Rowley yesterday because we heard he was one of the "hand wringers" on this deal and asking why we weren't shutting this deal down now. I had Gillett call him and "counsel" him on why we weren't going to do that and if he had anymore concerns to contact us directly and not worry so much about those things he has absolutely no control over, or say in for that matter. By the way isn't he the head of the SWB Group??

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 RC-1

From: Martin, Steve K.
Sent: Friday, December 18, 2009 3:32 PM
To: Newell, William D.
Subject: RE: New academic book on Mexican law enforcement touches on Firearms Trafficking

Great stuff—aiming for those cartels! It is painful trying to get the powers to be to see that the target is the top in the cartel and not the straw purchase urchin (whose brain should be sucked dry for intel). Good luck and let us know how we can help.
Steve

From: Newell, William D.
Sent: Friday, December 18, 2009 5:29 PM
To: Martin, Steve K.
Subject: RE: New academic book on Mexican law enforcement touches on Firearms Trafficking

10-4, they are on stand-by.

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 RC-1

From: Martin, Steve K.
Sent: Friday, December 18, 2009 3:29 PM
To: Newell, William D.
Subject: RE: New academic book on Mexican law enforcement touches on Firearms Trafficking

Sweet! RC-3

From: Newell, William D.

HOCR ATF - 002395

Sent: Friday, December 18, 2009 5:25 PM

To: Martin, Steve K.

Subject: RE: New academic book on Mexican law enforcement touches on Firearms Trafficking

RC-3

RC-3

We will be taking RC-3 it RC-3

RC-3

to the cooperating FFL today and not giving him too much info other than if these guys come back, which they will, that he needs RC-3 and call us immediately to begin monitoring.

Bill Newell

Special Agent in Charge

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

Phoenix Field Division (Arizona and New Mexico)

RC-1

From: Martin, Steve K.

Sent: Friday, December 18, 2009 3:23 PM

To: Newell, William D.

Subject: RE: New academic book on Mexican law enforcement touches on Firearms Trafficking

I will. Outstanding on the tracking device!! RC-3 ?

From: Newell, William D.

Sent: Friday, December 18, 2009 5:20 PM

To: Martin, Steve K.

Subject: Re: New academic book on Mexican law enforcement touches on Firearms Trafficking

No but I'm hoping you'll buy it for me. Also, we have a tracking device RC-3

RC-3

Bill Newell

Special Agent in Charge

ATF Phoenix Field Division (AZ and NM)

RC-1

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Martin, Steve K.

To: Newell, William D.

Sent: Fri Dec 18 17:16:55 2009

Subject: RE: New academic book on Mexican law enforcement touches on Firearms Trafficking

You got the book?

From: Newell, William D.

Sent: Friday, December 18, 2009 5:09 PM

To: Hagerty, Paul C.; Carroll, Timothy J.; Wicks, Joseph F.; Rowley, Raymond G.; Gil, Darren D.; Lauffer, Kristen E; O'Keefe, Kevin C.; Martin, Steve K.; Mokos, Joseph P.; Torres, John A.; Kruthaupt, Alex J.; Canino, Carlos A.; Phoenix, Alfredo A.

HOGR ATF - 002396

Subject: RE: New academic book on Mexican law enforcement touches on Firearms Trafficking

Dr. Shirk was the guy who testified before a House approps committee this year along with El Paso DEA SAC Joe Arabit, Phoenix Mayor Phil Gordon, and I in relation to SWB violence. Interesting guy, for an academic.

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 RC-1

From: Hagerty, Paul C.

Sent: Friday, December 18, 2009 12:14 PM

To: Carroll, Timothy J.; Wicks, Joseph F.; Rowley, Raymond G.; Gil, Darren D.; Lauffer, Kristen E; O'Keefe, Kevin C.; Martin, Steve K.; Mokos, Joseph P.; Newell, William D.; Torres, John A.; Kruthaupt, Alex J.; Canino, Carlos A.; Phoenix, Alfredo A.

Subject: New academic book on Mexican law enforcement touches on Firearms Trafficking

Gentlemen:

The Trans-Border Institute at the University of San Diego announced a new book (copyright 2010) – The ***Police and Public Security in Mexico*** - website <http://www.justiceinmexico.org/resources/publications.php>

Starting on page 15, of the attached "preview" of the new books introduction it addresses Firearms Trafficking

Members of this Trans-Border Institute include many senior advisors in both the US and Mexico governments.

This book may be something that other parties may be quoting from in future meetings, like they do with any new GAO and CRS reports. I have not seen the entire book yet and can only offer the attached preview.

VR,

Paul

HOCR ATF - 002397

Exhibit 54

**Phoenix Field Division
Phoenix Group VII (SWB Group)
Briefing Paper on: 785115-10-0004**

Background

1. This investigation has currently identified more than [REDACTED] individual connected straw purchasers. More suspects are being identified as the scope of the investigation expands. The straw-purchase suspects currently identified are associated with one another through [REDACTED]. To date (September 2009 – present) this group has purchased in excess of 650 firearms (mainly AK-47 variants) for which they have paid cash totaling more than \$350,000.00.
2. To date there have been five (5) notable seizure events connected with this group, and approximately 53 firearms originally purchased by this group have been recovered. Three of these seizures have been in the Country of Mexico, one recovery in Douglas, AZ, and one recovery in Nogales, AZ. The U.S. recoveries were both believed to be destined for Mexico.
3. The seizures referenced above were not from any member of the targeted group of straw purchasers identified in this investigation. Rather, they were from Hispanic individuals (both male and female) whose association with our target group is currently unknown. [REDACTED] straw-purchase suspects delivering recently purchased firearms to Hispanic males. Two such transactions were observed to take place at auto shops/auto auctions.
4. At one of the Mexico seizures there were 45 firearms recovered in addition to 500 kilograms of cocaine, 85 pounds of methamphetamine, and over \$2,000,000.00 in U.S. currency. Of the 45 firearms recovered, 14 of those firearms (all AK-47 variants) were originally purchased by this target group. Our investigation has not produced any indication of drug trafficking or financial resources consistent with the seizures listed above.
5. [REDACTED]
6. To date, five (5) applications for Pen Register Devices have been forwarded for review to the office of the United States Attorney in the District of Arizona. Once approval is received, these Pen Registers will be activated [REDACTED].

HOGR ATF - 001144

7. There have been three (3) recorded telephone calls since January 4, 2010, between the most prolific suspected straw-purchaser and the Federally Licensed Firearms Dealer ([REDACTED]). These conversations have been to schedule a future purchase of AK-47 variant rifles. The anticipated purchase is approximately forty (40) rifles.
8. On January 5, 2010, ASAC Gillett, GS Voth, and case agent SA MacAllister met with AUSA Emory Hurley, who is the lead, federal prosecutor on this matter. ~~Investigative~~ and prosecution strategies were discussed and a determination was made that there was minimal evidence at this time to support any type of prosecution; therefore, additional firearms purchases should be monitored and additional evidence continued to be gathered. This investigation was briefed to United States Attorney Dennis Burke, who concurs with the assessment of his line prosecutors and fully supports the continuation of this investigation.
9. [REDACTED] be delivered during the next purchase of firearms by the suspects in this investigation. The [REDACTED] will be monitored through the resources at the El Paso Intelligence Center (EPIC) and the weapon(s) will be interdicted prior to their crossing of the Mexican border.
10. A joint strategy/de-confliction meeting is planned for Friday, January 15, 2010, with representatives from ICE, DEA, and ATF. This investigation, as well as other ongoing investigations, will be briefed to all present.

Investigative Techniques Used to Date

11. To date in this investigation we have utilized numerous proactive, advanced investigative techniques:

- [REDACTED]

Exhibit 55

From: Gillett, George T. Jr.
Sent: Friday, January 08, 2010 4:05 PM
To: Newell, William D.
Cc: Voth, David J.
Subject: Briefing Paper
Attachments: briefing paper II (3).docx

Bill –

Status BP on the ongoing trafficking investigation.

George T. Gillett
Assistant Special Agent in Charge
ATF - Phoenix Field Division
Office: [REDACTED]

Exhibit 56

From: Newell, William D.
Sent: Tuesday, October 19, 2010 9:33 AM
To: McMahon, William G.
Subject: RE: Fast and Furious case
Attachments: Operation FAST AND FURIOUS.DOCX; Wide Receiver.docx

Will do. This is what I sent two weeks ago. As you can see the USAO has pushed the indictment date back to December 7, saying they need this time to "prepare". I have a meeting scheduled with Dennis to discuss but they aren't budging so there's not much we can do. I will get a more detailed document to you today. Also, the Tucson Wide Receiver case (prosecuted by the detailed Main Justice AUSA) is also on hold until the Fast and Furious case goes to indictment since they are connected.

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 [REDACTED]

From: McMahon, William G.
Sent: Tuesday, October 19, 2010 6:19 AM
To: Newell, William D.
Subject: Fw: Fast and Furious case

Bill,

I know you sent me something the other day but could you update an overview with answers to Mark's questions below?

Thanks,

Bill

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Chait, Mark R.
To: McMahon, William G.
Sent: Tue Oct 19 08:52:14 2010
Subject: Fast and Furious case

Bill – can we get an update on this indictment and potential arrests (when and how many defendants etc.). The DD would like to put a place holder on his schedule to be in Phoenix for some media etc. at the right time. Thanks

Mark R. Chait
 Assistant Director
 Field Operations
 [REDACTED]

HOCR ATF - 002106

From: Newell, William D.
Sent: Tuesday, January 05, 2010 6:24 PM
To: McMahon, William G.
Subject: Mtng with USAO, re: Phoenix "Fast and Furious" case

Met with the USAO today on the status of this case. They want us to proceed with [REDACTED] before conducting any overt investigative activity. [REDACTED]

[REDACTED] They agree that right now we have very little to prosecute on especially considering the issues with prosecuting straw purchasers in this State and 9th Circuit. Even though I don't like it I have to agree and we are doing everything possible to slow these guys down. I need help though, in the form of detailees to conduct surveillance. I was hoping to wait until the GRIT but this case has progressed so fast, much quicker than any other case we've been involved with, that I need bodies asap. If it's OK with you I'll start reaching out to non-SWB SACs tomorrow to feel them out about letting us have some bodies to assist with surveillance. We are coordinating with ICE, they have a former ATF IOI now an ICE SA assigned to this case with us. It's a Strike Force case so we are also coordinating with ICE and DEA through the Strike Force coordination process.

Bill Newell
Special Agent in Charge
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
Phoenix Field Division (Arizona and New Mexico)
[REDACTED]

HOGR ATF - 002107

Exhibit 57

RC-1

From: Burke, Dennis (USAAZ)
Date: Thursday, January 07, 2010 5:08 PM
To: Morrissey, Mike (USAAZ)
Cc: Lodge, Joe (USAAZ); Hurley, Emory (USAAZ)
Subject: RE: heads up on gun trafficking case

Hold out for bigger. Let me know whenever and w/ whomever I need to weigh-in.

From: Morrissey, Mike (USAAZ)
Sent: Tuesday, January 05, 2010 5:13 PM
To: Burke, Dennis (USAAZ)
Cc: Lodge, Joe (USAAZ); Hurley, Emory (USAAZ)
Subject: heads up on gun trafficking case

Dennis – Joe Lodge has been briefed on this but wanted to get you a memo for your review. Bottom line – we have a promising guns to Mexico case (some weapons already seized and accounted for), local ATF is on board with our strategy but ATF headquarters may want to do a smaller straw purchaser case. We should hold out for the bigger case, try to get a wire, and if it fails, we can always do the straw buyers. Emory's memo references that this is the "Naco, Mexico seizure case" -- you may have seen photos of that a few months ago. << File: Emory trafficking case.wpd >>



United States Attorney's Office
District of Arizona

Memorandum

To: Mike Morrissey
From: Emory Hurley
Subject: Manuel Celis Acosta Trafficking Investigation
Date: January 5, 2010

Today I met with ATF regarding their investigation centered around Manuel Celis Acosta, suspected of trafficking firearms to Mexico. He is the center of a hub-and-spokes conspiracy involving [REDACTED] or more straw purchasers. Based upon inspection of 4473s, the case involves more than 600 firearms purchased to date. There have been recoveries of approximately 100 firearms in both the US and Mexico, including a seizure of nine firearms in Douglas, Arizona, and the Naco seizure of forty-one AK variants.

We have reviewed the available evidence thus far and agree that we do not have any chargeable offenses against any of the players. In the past, ATF agents have investigated cases similar to this by confronting the straw purchasers and hoping for an admission that might lead to charges. This carries a substantial risk of letting the members of the conspiracy know that they are the subject of an investigation and not gain any useful admissions from the straw buyer. In the last couple of years, straw buyers appear to be well coached in how to avoid answering question about firearms questions. Even when the straw buyers make admissions and can be prosecuted, they are easily replaced by new straw buyers and the flow of guns remains unabated.

In this case, ATF has discovered that the central target of their investigation is linked to a state wire case being run out of the DEA wire room. They have reviewed a number of "dirty" calls from the Celis Acosta regarding gun trafficking and believe that they could pursue a federal T-III. They are also pursuing pole cams and other surveillance. It is believed that the guns are beings stored at a number of locations, including an auto-body shop. We currently have [REDACTED] RC-3 [REDACTED] to link the various players in this investigation.

ATF believes that there may be pressure from ATF headquarters to immediately contact identifiable straw purchasers just to see if this develops any indictable cases and to stem the flow of guns. Local ATF favors pursuing a wire and surveillance to build a case against the leader of the organization. If a case cannot be developed against the hub of the conspiracy, he will be able to replace the spokes as needed and continue to traffic firearms. I am familiar with the difficulties of building a case only upon the interviews of a few straw purchasers and have seen many such investigations falter at the first interview. I concur with Local ATF's decision to pursue a longer term investigation to target the leader of the conspiracy.

Please let me know if you need additional information on this matter. Thank you.

HOCR USAO 002961

Exhibit 58

From: Newell, William D.
Sent: Friday, January 08, 2010 6:45 PM
To: McMahon, William G.
Subject: Fast and Furious Briefing Paper
Attachments: Fast and Furious Briefing Paper.docx

FYI.

Forgot to mention in the GRIT proposal the need for a detailed TOO. Our TOO is currently burning himself out. As you may have heard during the summer's home invasion initiative he is a top notch TOO but he is killing himself with all the cases we have going on, including this one, the Yuma grenade case, several OCDETF cases, VCIT cases, and on and on. If you could include a request for a detailed TOO in your conversation with Mark and Billy about our GRIT proposal I'd appreciate it. Thank you Senor, have a good weekend.

HOCR ATF - 001914

Exhibit 59

BRIEFING PAPER

**Phoenix Field Division
Phoenix Group VII (Gunrunner/Strike Force)
785115-10-0004
January 8, 2010**

Background

- 1. This investigation has currently identified more than 20 individual connected straw purchasers. More suspects are being identified as the scope of the investigation expands.

[REDACTED]

To date (September 2009 – present) this group has purchased in excess of 650 firearms (mainly AK-47 variants) for which they have paid cash totaling more than \$350,000.00.

- 2. To date there have been five (5) notable seizure events connected with this group, and approximately 53 firearms originally purchased by this group have been recovered. Three of these seizures have been in the Country of Mexico, one recovery in Douglas, AZ, and one recovery in Nogales, AZ. The U.S. recoveries were both believed to be destined for Mexico. It should be noted however that there has been one seizure in the Phoenix area related to the ongoing DEA narcotics trafficking investigation.

- 3. The seizures referenced above were not from any member of the targeted group of straw purchasers identified in this investigation. Rather, they were from Hispanic individuals (both male and female) whose association with our target group is currently unknown. This is consistent with what ATF agents have observed thus far during surveillance: straw-purchase suspects delivering recently purchased firearms to Hispanic males. Two such transactions were observed to take place at auto shops/auto auctions.

- 4. At one of the Mexico seizures there were 45 firearms recovered in addition to 500 kilograms of cocaine, 85 pounds of methamphetamine, and over \$2,000,000.00 in U.S. currency. Of the 45 firearms recovered, 14 of those firearms (all AK-47 variants) were originally purchased by this target group. Our investigation has not produced any indication of drug trafficking or financial resources consistent with the seizures listed above.

- 5. [REDACTED]

[REDACTED] This is being coordinated out the Phoenix OCDETF Strike Force, of which Phoenix Group VII is a full-time member.

6. [REDACTED]

7. [REDACTED]

8. On January 5, 2010, ASAC Gillett, GS Voth, and case agent SA MacAllister met with AUSA Emory Hurley, who is the lead federal prosecutor on this matter. Investigative and prosecution strategies were discussed and a determination was made that there was minimal evidence at this time to support any type of prosecution; therefore, additional firearms purchases should be monitored and additional evidence continued to be gathered. This investigation was briefed to United States Attorney Dennis Burke, who concurs with the assessment of his line prosecutors and fully supports the continuation of this investigation. Furthermore, Phoenix Special Agent in Charge Newell has repeatedly met with USA Burke regarding the on-going status of this investigation and both are in full agreement with the current investigative strategy.

9. [REDACTED]

10. A joint strategy/deconfliction meeting is planned for Friday, January 15, 2010, with representatives from ICE, DEA, and ATF. This investigation, as well as other ongoing investigations, will be briefed to all present. It should be noted that deconfliction in the OCDETF Strike Force is not the issue, rather there are several Arizona ICE offices involved in this investigation due to the location of the firearms seizures and coordination between the various ICE offices has been problematic. Even though ICE has a group at

HOGR ATF - 001916

the OCDETF Strike Force the other ICE offices in Arizona are under different ASACs and that has created a coordination issue amongst all parties involved. Phoenix SAC Newell has previously requested that ICE coordinate all their investigative activity out of the OCDETF Strike Force, of which ICE is a member, in order to eliminate the requirement of the ATF Strike Force to try to coordinate with several different ICE offices. This will be discussed at the January 15 meeting.

Investigative Techniques a/o Efforts Used to Date

11. To date in this investigation we have utilized numerous proactive, advanced investigative techniques:

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

Investigative Strategy

12. This investigation is currently being conducted in conjunction with the Phoenix DEA OCDETF strike force. ATF Phoenix VII is the lead investigating enforcement group in the firearms trafficking portion of this investigation. A formal OCDETF proposal is completed and will be presented on January 26, 2009, in furtherance of this investigation. It is unknown at this time what direct connection exists between these straw-purchasers and the drug trafficking organizations (DTOs) of Mexico.

HOCR ATF - 001917

13. Currently our strategy is to allow the transfer of firearms to continue to take place, albeit at a much slower pace, in order to further the investigation and allow for the identification of additional co-conspirators who would continue to operate and illegally traffic firearms to Mexican DTOs which are perpetrating armed violence along the Southwest Border. This all in compliance with ATF 3310.4(b) 148(a)(2). It should be noted that since early December efforts to "slow down" the pace of these firearms purchases have succeeded and will continue but not to the detriment of the larger goal of the investigation. It should also be noted that the pace of firearms procurement by this straw purchasing group from late September to early December, 2009 defied the "normal" pace of procurement by other firearms trafficking groups investigated by this and other field divisions. This "blitz" was extremely out of the ordinary and created a situation where measures had to be enacted in order to slow this pace down in order to perfect a criminal case.

14. The ultimate goal is to [REDACTED] identify and prosecute all co-conspirators of the DTO to include the 20 identified straw purchasers, the facilitators of the distribution cell centered here in Phoenix, the transportation cells taking firearms South, and ultimately to develop and provide prosecutable information to our Mexican law enforcement counterparts for actions. It should be noted that DEA has specifically requested, at the ASAC and SAC level, that ATF continue this investigative strategy in order to not adversely impact their on-going narcotics trafficking investigation, which to date has identified direct ties between their [REDACTED] targets and the Sinaloa DTO.

HOCR ATF - 001918

Exhibit 60

From: Aarthun, Stefanie J [mailto:stefanie.aarthun@atf.gov] [redacted]
Sent: Tuesday, October 18, 2011 5:36 PM
To: Leavitt, Tristan (Judiciary-Rep)
Cc: [Henry, Kerne](#); Foster, Jason (Judiciary-Rep); Paris, Jeremy (Judiciary-Dem);
[Susanne Grooms](#); Alfred, Kimonia
Subject: Operation Fast & Furious

Tristan,

Our apologies for the delay. Please find the answer to your question below:

Question: Has ATF ever asked ICE to halt an investigation because a gun is traced back to Operation Fast and Furious?

Answer: Yes. On two occasions – one in November 2009 and one in December 2009 – ICE ceased investigations into weapons cases in response to a request by ATF. These requests were made due to the possibility that the ICE investigations would conflict with an ongoing ATF investigation. ICE later learned that the ATF investigation in question was Operation Fast and Furious.

In January 2010, after ICE was asked to halt the two investigations, ICE requested a meeting with an ATF Assistant Special Agent in Charge (ASAC) and the Assistant US Attorney (AUSA) responsible for prosecution of the ATF cases. At this meeting, the AUSA and ATF ASAC determined that the ATF investigations would take priority and asked ICE not to interfere with the ATF investigation. Further, the ATF ASAC and the AUSA requested that ICE coordinate with ATF before taking any enforcement actions against targets that may be associated with the ongoing ATF investigation. The ATF ASAC and the AUSA explained that such coordination was necessary to ensure that ATF's investigative efforts would not be damaged.

Please let us know if you have any other questions.

Thanks,
 Stefanie

Stefanie Aarthun
 Office of Congressional Relations

U.S. Immigration and Customs Enforcement
202. [REDACTED] (office) 202. [REDACTED] cell

Exhibit 61

From: Newell, William D.
Sent: Thursday, January 14, 2010 11:41 AM
To: Gil, Darren D.
CC: Kumor, Daniel J.; Booth, David S. (IAO); Canino, Carlos A.; Gillett, George T. Jr.; Voth, David J.; Chillcott, Dewey C.; Kullman, William F.
Subject: RE: Naco, Sonora seizure

Agreed. I didn't even mention the fact that following the Agua Prieta, Arizona seizure -- a seizure by Agua Prieta PD by the way that they forwarded to ICE since we don't have an office close, the local ICE office tried to [REDACTED] We made them aware we were 100% against this [REDACTED]

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 [REDACTED]

From: Gil, Darren D.
Sent: Thursday, January 14, 2010 9:37 AM
To: Newell, William D.
Cc: Kumor, Daniel J.; Booth, David S. (IAO); Canino, Carlos A.; Gillett, George T. Jr.; Voth, David J.; Chillcott, Dewey C.; Kullman, William F.
Subject: RE: Naco, Sonora seizure

Bill,

I agree with your assessment.

We have grenade conflicts as well here in Mexico.

I have addressed this issue repeatedly with ICE, the DCM and the AMBO.

I have run out of options ref ICE

This is an issue for 99 NY Ave.

If it can't be resolved there then it won't be resolved here,

d

Darren D. Gil
 ATF Attache-Mexico

[REDACTED]

A good president, wrote 19th century historian Henry Adams, "resembles the commander of a ship at sea. He must have a helm to grasp, a course to steer, a port to seek."

From: Newell, William D.
Sent: Thursday, January 14, 2010 10:22 AM
To: Gil, Darren D.
Cc: Kumor, Daniel J.; Booth, David S. (IAO); Canino, Carlos A.; Gillett, George T. Jr.; Voth, David J.
Subject: Re: Naco, Sonora seizure

HGR ATF - 001962

Carlos is correct, we have asked ICE several times to stand down on the Naco case because they were briefed here that this seizure ties into a much bigger ATF case which relates directly to a Phoenix DEA case [REDACTED]

[REDACTED] We are meeting with the various Arizona ICE POCs tomorrow in our office in Phoenix to discuss. Problem has been that ICE has several domestic offices and their Mexico office involved and they aren't coordinating and are expecting us to deconflict with each individual ICE office. We aren't going to do that especially when just in Arizona there are 3 different ASACs and 2 Deputy SACs involved. I have made it clear with the SAC that this is an ATF ODETF Strike Force case out of the Phoenix based Strike Force. ICE has a group at the Phoenix Strike Force and we have repeatedly requested that their case (which is only based on our trace info) be coordinated with the ATF Strike Force group in order to have one deconfliction and coordination spot. Our recent requests to make this one-stop shop coordination happen have been met with "well, that's another office's case....". We will make this request again tomorrow. The other issue is our use of Suspect Guns. They don't like the fact that our tracing system will not provide them results of traces conducted by ICE in Mexico of guns we entered into Suspect Guns because we know they tie directly into our case. Question - why is ICE in Mexico still tracing guns without the knowledge of ATF Mexico or CENAPI? They aren't using the previously agreed upon CENAPI ORI. We have explained to them repeatedly the need to do this and also the reasons we enter guns into Suspect Guns. They think this an attempt to do an "end around" on them - not true, they just don't understand our system or how we conduct firearms trafficking investigations. Last time I checked this was our expertise.

Bill Newell

Special Agent in Charge

ATF Phoenix Field Division (AZ and NM)

[REDACTED]

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Gil, Darren D.
To: Newell, William D.
Cc: Kumor, Daniel J.; Booth, David S. (IAO); Canino, Carlos A.
Sent: Thu Jan 14 10:41:18 2010
Subject: FW: Naco, Sonora seizure

Bill,

You can read the train and see that that may be some confusion?

I am forwarding just as an fyi in case you need to de conflict with ICE

Take care

d

Darren D. Gil
 ATF Attache-Mexico

[REDACTED]

A good president, wrote 19th century historian Henry Adams, "resembles the commander of a ship at sea. He must have a helm to grasp, a course to steer, a port to seek."

From: Canino, Carlos A.
Sent: Wednesday, January 13, 2010 9:21 PM
To: Gil, Darren D.
Subject: Re: Naco, Sonora seizure

I don't think this info is correct. ATF phx asked ICE to stand down reference Naco case

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Gil, Darren D.
To: Canino, Carlos A.; Chillcott, Dewey C.
Sent: Wed Jan 13 22:09:50 2010
Subject: Fw: Naco, Sonora seizure

HOCR ATF - 001963

Fyi
D

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Rojas, Alice M
To: Leadmon, Lorren D.
Cc: O'Keefe, Kevin C.; Bass, William F.; Gil, Darren D.; Fasciani, Dennis C.; Kumor, Daniel J.; Voth, David J.; Gillett, George T. Jr.; MacAllister, Hope A.
Sent: Wed Jan 13 19:35:53 2010
Subject: RE: Naco, Sonora seizure
 Hi Lorren,

I was operating on incomplete information before. It appears there is a joint ATF/ICE case being worked by BEST Phoenix (PX03BB10PX001) related to the ACOSTA Smuggling Organization. This case was just opened yesterday so when I ran queries yesterday I was not aware there was an open ICE case.

In terms of the deconfliction meeting, probably your agents in Phoenix would be in the best position to respond as the meeting will be held at ATF Phoenix. My understanding is that there will be representatives from ICE Douglas, ICE Phoenix, AIA Hermosillo and ATF Phoenix to presumably discuss this trafficking case. The only information I have is that it relates to the 11/20/2009 seizure in Naco, Sonora, MX. I don't believe it has anything to do with the ICE/ATF agents recently in Hermosillo related to that Miami investigation.

AIA Hermosillo received information from GoM contacts related to the 11/25/2009 Agua Prieta seizure. I forwarded whatever information I had to Alex earlier today. Of the traces I ran, two have been sent out within the last two days to the field for possible follow-up. [REDACTED] has close ties to two closed ICE Douglas investigations and appears to be involved in alien and possibly narcotics smuggling across the Naco, AZ POE. The information has been provided to BEST Phoenix and ICE Douglas for follow-up investigation. Another trace tied back to a recent purchase near Seattle. That was sent to SAC Seattle with a recommendation to coordinate with the local ATF office for any possible purchaser interview.

You can reach me at [REDACTED] though I can only speak to the above. If you are looking for other information, I can try to find you the appropriate POC.

From: Leadmon, Lorren D. [REDACTED]
Sent: Wednesday, January 13, 2010 5:15 PM
To: Rojas, Alice M
Cc: O'Keefe, Kevin C.; Bass, William F.; Gil, Darren D.; Fasciani, Dennis C.; Kumor, Daniel J.; Voth, David J.; Gillett, George T. Jr.; MacAllister, Hope A.
Subject: FW: Naco, Sonora seizure

ALICE- The below seizure event immediately came back to a major active ATF trafficking case involving a very, very, very large amount of firearms. Alex ran the traces for the ATF Mexico Country Office for this seizure event. There are several other seizure events linked to the case. Our case has links to a major ongoing DEA OCDETF case. The ATF Phoenix case agents have been coordinating their efforts with DEA Phoenix and we have been working with our agent assigned to DEA SOD. I am coordinating the ATF HQ support with the Mexico Country Office, Phoenix and DEA SOD. The case agents in Phoenix have been in contact with ICE in reference to the Naco, Sonora seizure and a seizure in Douglas. Our agents in the Mexico Country Office are coordinating with ICE & DEA personnel at the Embassy. After the seizure, I received the a report routed by ATF Mexico Country Office from your Assistant Attaché' in Hermosillo of an interview with [REDACTED]. Are there any other reports available? . Are you saying that ICE is running an investigation parallel to that relates to this case? Do you have a connection to 11/25/2009 Agua Prieta seizure, because it is connected to the Phoenix case? An ATF Mexico Country Office agent assigned to Juarez was just in Hermosillo along with an ATF agent assigned to Miami in reference to ATF Operation Safeguard/Project Exodus. They met with DEA & ICE agents and your Assistant Attaché'. Does this have anything to do with the Friday meeting to deconflict?

Please call me or furnish me a contact number so we can coordinate our efforts and exchange information.

From: Kruthaupt, Alex J.
Sent: Wednesday, January 13, 2010 2:27 PM
To: Rojas, Alice M
Cc: Leadmon, Lorren D.; Lauffer, Kristen E
Subject: RE: Naco, Sonora seizure

Alice,

Lorren is responding to your earlier request. However, I can give you the info on the .50 Cal.. Upper is a beowulf .50 cal and the lower is a

HGR ATF - 001964

Exhibit 62

From: Voth, David J.
Sent: Thursday, December 10, 2009 7:40 PM
To: Sonnendecker, Mark
Subject: RE: DEA clearance

Yeah good times, no looking for cases they slap you right in the face...

From: Sonnendecker, Mark
Sent: Thursday, December 10, 2009 5:39 PM
To: Voth, David J.
Subject: Re: DEA clearance

Wow...sounds like fun! I look forward to getting there.

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Voth, David J.
To: Sonnendecker, Mark
Sent: Thu Dec 10 19:37:42 2009
Subject: RE: DEA clearance

Crazy dude, we were out late every night, and our current group has purchased 90 guns that we know of this week alone. On Tuesday we followed a guy who purchased 40 AK-47s, 9 of them were already recovered near the border in Douglas, AZ on Wednesday night...24 hours!

From: Sonnendecker, Mark
Sent: Thursday, December 10, 2009 5:25 PM
To: Voth, David J.
Subject: RE: DEA clearance

Roger that. The form w/ my info is attached.

How is the first week treating you?

Mark Sonnendecker
Special Agent
Bureau of Alcohol, Tobacco, Firearms, and Explosives
Los Angeles Field Division, Glendale Group 1

From: Voth, David J.
Sent: Thursday, December 10, 2009 4:24 PM
To: Sonnendecker, Mark
Subject: RE: DEA clearance

Me please, I am sending them all in together...

From: Sonnendecker, Mark
Sent: Thursday, December 10, 2009 4:43 PM
To: Voth, David J.
Subject: RE: DEA clearance

HOCR ATF - 002277

Do you want it sent to you or should I follow the instructions and send to PSB Verifications?

Thanks.

Mark Sonnendecker
Special Agent
Bureau of Alcohol, Tobacco, Firearms, and Explosives
Los Angeles Field Division, Glendale Group 1

From: Voth, David J.
Sent: Thursday, December 10, 2009 3:39 PM
To: Alt, Lawrence M.; Sonnendecker, Mark
Subject: DEA clearance

Gentlemen,

Please complete and return this form as we will be co-located with DEA at the OCDETF Strikeforce and need this processed.

Thanks,

David Voth
Group Supervisor
Phoenix Group VII

HOGR ATF - 002278

Exhibit 63

Exhibit 64

From: Newell, William D.
Sent: Thursday, January 14, 2010 7:52 PM
To: McMahon, William G.
Subject: Latest in Phoenix "Fast and Furious" F/As trafficking case

Yesterday El Paso PD hit a "stash house" on information that it had dope/money/guns, etc. They found 40 AK-47s from our "Fast and Furious" case that were in Suspect Guns and were purchased by our most prolific purchaser – Christopher Sean Steward. CPB also busted a guy trying to cross into Mexico with two of "our" AK-47s from the same case and purchaser. As I said they were all purchased by our main straw purchaser, Chris Steward. [REDACTED]

[REDACTED] He's now buying FN pistols because he just turned 21. [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

[REDACTED] Our two offices are talking and we are trying to get all the info on the "stash house" since our main guy Acosta has family ties to El Paso. We believe this house may have been used as a way station for guns from the Phoenix area before attempting to cross them into Mexico. We are also coordinating with El Paso CPB to get all the info on the person they busted trying to cross the two into Mexico. We are working this "fast and furious", good news being we got another 42 off the street and can keep our case going. Hopefully the big bosses realize we are doing everything possible to prevent guns going into Mexico while at the same time trying to put together a phenomenal case. Good news too is now we have another Federal venue should the office here decide to punt. [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 Office - [REDACTED]

159	12/24/2009	Thurs	[REDACTED]	1974FI3139	Romarm/Cugir	GP WASR	7.62	Rifle
160	12/24/2009		[REDACTED]	1966PR3333	Romarm/Cugir	GP WASR	7.62	Rifle
161	12/24/2009		[REDACTED]	1985SBH4935	Romarm/Cugir	GP WASR	7.62	Rifle
162	12/24/2009		[REDACTED]	1966RS4632	Romarm/Cugir	GP WASR	7.62	Rifle
163	12/24/2009		[REDACTED]	1966PR1262	Romarm/Cugir	GP WASR	7.62	Rifle
164	12/24/2009		[REDACTED]	AB205147	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
165	12/24/2009		[REDACTED]	AB204847	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
166	12/24/2009		[REDACTED]	AB202708	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
167	12/24/2009		[REDACTED]	AB203499	CENTURY ARMS	M70AB2	7.62	Rifle

					INTL.			
168	12/24/2009			AB202876	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
169	12/24/2009			AB203056	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
170	12/24/2009			AB203461	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
171	12/24/2009			AB203177	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
172	12/24/2009			AB203188	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
173	12/24/2009			AB205205	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
174	12/24/2009			AB202791	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
175	12/24/2009			AB204842	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
176	12/24/2009			AB203076	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
177	12/24/2009			AB205095	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
178	12/24/2009			AB203640	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
179	12/24/2009			AB203466	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
180	12/24/2009			AB202714	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
181	12/24/2009			AB203219	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
182	12/24/2009			AB202686	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
183	12/24/2009			AB203362	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
184	12/24/2009			AB203113	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
185	12/24/2009			AB203071	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
186	12/24/2009			AB203051	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
187	12/24/2009			AB202901	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
188	12/24/2009			AB202776	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
189	12/24/2009			AB203578	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
190	12/24/2009			AB202803	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
191	12/24/2009			AB203564	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
192	12/24/2009			AB202849	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
193	12/24/2009			AB205059	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
194	12/24/2009			AB205114	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
195	12/24/2009			AB202864	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
196	12/24/2009			AB203090	CENTURY ARMS	M70AB2	7.62	Rifle

					INTL.			
197	12/24/2009		[REDACTED]	AB204841	CENTURY ARMS INTL.	M70AB2	7.62	Rifle
198	12/24/2009		[REDACTED]	AB203015	CENTURY ARMS INTL.	M70AB2	7.62	Rifle

From: Henderson, Frank J.

Sent: Thursday, January 14, 2010 5:12 PM

To: Williams, Curtis D.; Flores, Oscar B.; English, Tonya A.; Leadmon, Lorren D.; Voth, David J.

Cc: O'Keefe, Kevin C.

Subject: s/ns for last night

The case agents from El Paso and Phoenix are already talking. I went to the AUSA's office and looked over the affidavit for the 2 AKs at the Port. Right now, they are charging the driver w/ 1001-False Statements.

Here are the serial number for last night's seizure:

RomArm, GP/WASR 10/63:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]

Century Arms, Model M70AB2:

6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]
14. [REDACTED]
15. [REDACTED]
16. [REDACTED]
17. [REDACTED]
18. [REDACTED]
19. [REDACTED]
20. [REDACTED]
21. [REDACTED]
22. [REDACTED]
23. [REDACTED]
24. [REDACTED]
25. [REDACTED]
26. [REDACTED]
27. [REDACTED]
28. [REDACTED]
29. [REDACTED]
30. [REDACTED]
31. [REDACTED]

32. [REDACTED]
33. [REDACTED]
34. [REDACTED]
35. [REDACTED]
36. [REDACTED]
37. [REDACTED]
38. [REDACTED]
39. [REDACTED]
40. [REDACTED]

Frank Henderson
ATF EPIC Branch Chief
Office: [REDACTED]
Fax: [REDACTED]

Exhibit 65

From: [Alfred, Kimonia](#)
To: [Foster, Jason \(Judiciary-Rep\)](#)
Cc: [Leavitt, Tristan \(Judiciary-Rep\)](#); [Jonathan Meve](#); [Jennifer Johnston](#); [Baronof, Kim](#)
Subject: Re: Doc for 2nd Round
Date: Tuesday, October 25, 2011 3:12:41 PM

Jason:

Thanks for your question on this. To the best of our knowledge, both documents are accurate. When the Border Patrol stopped the two individuals in question, it ran database searches on the individuals and weapons, including a National Crime Information Center ("NCIC") search on the weapons' serial numbers. That is typical Border Patrol practice for such situations. At the time, the Border Patrol Agents did not run an eTrace search as the Border Patrol had limited access to eTrace and an eTrace would only be pursued by a Border Patrol intelligence officer as a follow-up in certain situations, conditions which were not present in this case.

While we have no independent knowledge regarding the DOJ memo you shared with us, we suspect that the statement "[t]hey did not trace any of the firearms" refers to eTrace or some other tracing procedure ATF/DOJ uses with weapons. Therefore, our statement that "CBP conducted database searches on ... the weapons" is accurate, and likely does not contradict DOJ's statement.

Thank you,
 Kim Alfred

----- Original Message -----

From: Foster, Jason (Judiciary-Rep) [REDACTED]
 Sent: Wednesday, October 19, 2011 11:18 AM
 To: 'Kim Baronof' [REDACTED]
 Subject: Re: Doc for 2nd Round

Trying to reconcile the marked portion with your previous answers indicating CBP *did* check databases for the serial numbers.

 Sent using BlackBerry

----- Original Message -----

From: Baronof, Kim [REDACTED]
 Sent: Wednesday, October 19, 2011 11:02 AM
 To: Foster, Jason (Judiciary-Rep)
 Cc: Leavitt, Tristan (Judiciary-Rep)
 Subject: Re: Doc for 2nd Round

Thanks Jason.

----- Original Message -----

From: Foster, Jason (Judiciary-Rep) [REDACTED]
 Sent: Wednesday, October 19, 2011 10:53 AM
 To: 'Kim Baronof' [REDACTED]
 Cc: Leavitt, Tristan (Judiciary-Rep) [REDACTED]
 Subject: Doc for 2nd Round

Attached is the document I sent you back on July 15 related to our questions about a CBP stop of Fast and Furious suspects. Senator Grassley may reference it in his second round. I also have a hard copy for you.

Sent using BlackBerry

Kimonia Alfred
US Department of Homeland Security
Office of Legislative Affairs
(202) [REDACTED] (office)
(202) [REDACTED] (office)
(202) [REDACTED] (blackberry)

Exhibit 66

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER



Phone: (800) [REDACTED] Fax: (800) [REDACTED]

Print Date [REDACTED]

SUSPECT GUN SUMMARY

Suspect Gun Number: S20100000059 Entered Date: January 14, 2010

PHOENIX FD GROUP VII
201 E WASHINGTON ST STE 940
PHOENIX, AZ 85004

Badge No:
Investigation No: 785115-10 [REDACTED]

DEALER INFORMATION

Business Name:
Licensee Name: [REDACTED]
Address: [REDACTED]
GLENDALE, AZ 85302
Phone: (623) [REDACTED] Ext:
FFL Number: 98602353
Invoice #:

INDIVIDUAL INFORMATION

Name: NAIME NMINAVIA JR
Address: [REDACTED]
PHOENIX, AZ 85035
DOB: [REDACTED] Race: HISPANIC Sex: Male
Height: [REDACTED] Weight: [REDACTED] Date: 01/09/2010
ID 1: AZ DRIVER'S LICENSE #: [REDACTED]
ID 2: [REDACTED] #:

NOTICE

The firearm(s) listed below was entered into the Firearms Tracing System as a suspect gun. You have requested NTC maintain a lookout for the firearm(s). If any of the suspect guns in this report are traced by another agency and/or individual, your Division's Firearms Trafficking Coordinator (FTC) will be notified in writing by the NTC. The notification will include the identity of the officer and/or agency requesting the trace. It will be incumbent upon the FTC or yourself to contact the firearms trace requestor. The NTC will not release any information concerning your suspect gun(s).

Weapon Summary

Weapon Count: 3

Manufacturer	Model	Caliber	Serial Number	Type	Importer
F.N. (FN HERSTAL)	FIVE-SEVEN	57	386203502	PISTOL	FNH USA LLC, FREDERICKSBURG VA
F.N. (FN HERSTAL)	FIVE-SEVEN	57	386203509	PISTOL	FNH USA LLC, FREDERICKSBURG VA
F.N. (FN HERSTAL)	FIVE-SEVEN	57	386206115	PISTOL	FNH USA LLC, FREDERICKSBURG VA

Exhibit 67

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER



Phone: [REDACTED] Fax: [REDACTED]
Print Date: [REDACTED]

SUSPECT GUN SUMMARY

Suspect Gun Number: S2010000088 Entered Date: January 19, 2010

[REDACTED]
PHOENIX FD GROUP VII

[REDACTED]
PHOENIX, AZ 85004

Badge No:

Investigation No: 785115-10-[REDACTED]

DEALER INFORMATION

Business Name:

Licensee Name:

Address:

Phone:

FFL Number:

Invoice #:

INDIVIDUAL INFORMATION

Name: JAIME AVILA JR

Address: [REDACTED]
PHOENIX, AZ 85035

DOB: [REDACTED] Race: HISPANIC Sex: Male

Height: [REDACTED] Weight: [REDACTED] Date: 01/16/2010

ID 1: #:

ID 2: #:

NOTICE

The firearm(s) listed below was entered into the Firearms Tracing System as a suspect gun. You have requested NTC maintain a lookout for the firearm(s). If any of the suspect guns in this report are traced by another agency and/or individual, your Division's Firearms Trafficking Coordinator (FTC) will be notified in writing by the NTC. The notification will include the identity of the officer and/or agency requesting the trace. It will be incumbent upon the FTC or yourself to contact the firearms trace requestor. The NTC will not release any information concerning your suspect gun(s).

Weapon Summary

Weapon Count: 3

Manufacturer	Model	Caliber	Serial Number	Type	Importer
ROMARM/CUGIR	WASR-10	762	1983AH3977	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1979IS1530	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1971CZ3775	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

Suspect Gun: S2010000088
FOR OFFICIAL USE ONLY



Exhibit 68

From:
To: McMahon, William G.
Subject: FW: OCDETF Proposal
Attachments: The Fast and The Furious.doc; The Fast and The Furious narrative.doc

Bill Newell
Special Agent in Charge
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
Phoenix Field Division (Arizona and New Mexico)
[REDACTED]

From: Gillett, George T. Jr.
Sent: Tuesday, January 26, 2010 11:26 AM
To: Newell, William D.
Subject: FW: OCDETF Proposal

Bill –

Hope MacAllister and Tonya English's OCDETF proposal was unanimously passed today at the USAO. This investigation is currently engaging [REDACTED]. Hope is working on the [REDACTED]. We'll coordinate with ATF Counsel and the USAO regarding review of the [REDACTED]. Purchases have significantly slowed for now as the "straws" are waiting for a significant cash infusion to make some "large" purchases, whatever those might be.

George T. Gillett
Assistant Special Agent in Charge
ATF - Phoenix Field Division
[REDACTED]

HOCR ATF - 002217

Exhibit 69

RC-1

From: Voth, David J. (ATF)
Sent: Friday, February 05, 2010 5:20 PM
To: Hurley, Emory (USAAZ)
Subject: FW: OCDETF Operation The Fast and The Furious

Here you go...!

From: Gee, Chong (USATXS) RC-1
Sent: Friday, February 05, 2010 8:26 AM
To: English, Tonya A.; MacAllister, Hope A.
Cc: Voth, David J.
Subject: OCDETF Operation The Fast and The Furious

Good morning Hope/Tonya

Congratulations on your approval of the sponsored OCDETF investigation, Operation The Fast and The Furious. The number assigned by the SW Regional Committee is **SWAZP0496**. Please contact me in regards to any funding need you may have including state/local overtime.

Also, it is imperative that your time working on this investigation is reported accurately. All manpower, including other participating S/As, expended in this case must be coded to project code C1C in the WEB T&A. When completing your T&A, referencing to OCDETF, click on the work "New" in the lower left corner of your T&A Data Sheet. Under required fund for Accounting Selector, place 03 (700R) Reim; put your organization code in and C1C (OCDETF) under project. The rest is self explanatory and click on continue.

Thank you for your participation in the OCDETF Program. I am available to assist you in any way possible throughout this investigation.

Take care.

SA Chong Gee

ATF OCDETF Coordinator

Southwest Region

USAO- RC-1

CELL RC-1

Exhibit 70

[Redacted]

From: English, Tonya A. [Redacted]@usdoj.gov]
Sent: Wednesday, January 27, 2010 1:31 PM
To: [Redacted]
Subject: Ref Wire tap affidavit and order

Hey [Redacted]

Would it be possible to receive a copy of the wire tap affidavit and order that relates to Manuel Acosta please? Just let me know.

Thanks,

Tonya

[Redacted]

Exhibit 71

[REDACTED]

From: Newell, William D.
Sent: Friday, February 05, 2010 2:00 PM
To: Gillett, George T. Jr.
Subject: FW: Phoenix "Fast and Furious" OCDETF Strike Force F/As Traff - TIII Affidavit Memo
Attachments: 20100205134642944.pdf

FYI

Bill Newell
Special Agent in Charge
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Phoenix Field Division (Arizona and New Mexico) Office - (602) [REDACTED]

-----Original Message-----

From: Newell, William D.
Sent: Friday, February 05, 2010 1:59 PM
To: McMahon, William G.
Cc: Vidoli, Marino F.
Subject: Phoenix "Fast and Furious" OCDETF Strike Force F/As Traff - TIII Affidavit Memo

Attached is the cover memo requesting authorization to conduct a T-III intercept on the main suspect in our on-going OCDETF Strike Force firearms trafficking case out of Phoenix entitled "The Fast and Furious", OCDETF SWB# SWAZP0496. I could not scan the actual affidavit due to its size so I am FedExing that to you along with the original memo.

Bill Newell
Special Agent in Charge
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Phoenix Field Division (Arizona and New Mexico) Office - (602) [REDACTED]



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

201 E Washington St., Suite 940, Phoenix, AZ

February 5, 2010

www.atf.gov

785115: DJV
3264

MEMORANDUM TO: Deputy Assistant Director - West
Field Operations

THRU: Special Agent in Charge
Phoenix Field Division

APPROVED
EAT 2/5/10

FROM: Group Supervisor
Phoenix Group VII

SUBJECT: Request for authorization to seek Title III intercept of telephonic
communications.

This memorandum serves to request authorization to initiate a Title III cellular telephone intercept per ATF Order 3530.2, Electronic Surveillance Procedures. The case involved is ATF investigation 785115-10- [REDACTED] which is a Southwest Border Firearms Trafficking Investigation providing firearms to Mexican Drug Cartels. This is an approved Organized Crime Drug Enforcement Task Force investigation; OCDETF # SWAZP0496.

The attached affidavit is being prepared in cooperation with the United States Attorney's Office, who will vet this version through the DOJ Office of Enforcement Operations (OEO). Once the affidavit has been approved by Justice they will seek the ATF Agency approval memorandum to complete the approval process.

BACKGROUND AND SCOPE OF INVESTIGATION

The states of Texas, California, Arizona and New Mexico supply 75% of all firearms illegally trafficked into the Republic of Mexico. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has identified the Phoenix, Arizona area as being one of the top five metropolitan areas where firearms and ammunition are obtained for this purpose. The drug violence in Mexico has escalated with the expansion of the cartels' arsenals.

In October 2009, ATF Phoenix Field Division (PFD) Phoenix Group VII Strike Force initiated investigations involving approximately five possible straw purchasers of firearms pursuant to ATF's Southwest Border/Operation Gunrunner Initiative. ATF Special Agents (Agents) received information from a Source of Information (SOI) that Jacob CHAMBERS, [REDACTED], [REDACTED], and

██████████ had purchased numerous AK-47 style rifles from the same Glendale, AZ, Federal Firearms Licensee (FFL) during the same approximate time period. ATF agents also received information that a subject identified as Uriel PATINO had purchased numerous AK-47 style rifles and pistols during a short time frame from two FFL's including the FFL utilized by the above mentioned purchasers.

In November 2009, ATF agents identified additional straw purchasers Joshua MOORE, ██████████, ██████████, Dejan HERCEGOVAC, Jaime AVILA, Jr., ██████████, and ██████████, through the SOI, FFL record checks, and surveillance operations. During the surveillance operations, ATF agents identified a Glendale, AZ, residence owned by a member of the CELIS-ACOSTA family, and a Phoenix automotive business that are being utilized as firearm drop locations. On November 20, 2009, some of the firearms purchased by the identified straw purchasers were recovered in a Naco, Sonora, Mexico seizure including firearms with a short time to crime. ██████████ and ██████████ were identified as additional straw purchasers from the Naco, Sonora, Mexico firearms seizure.

In December 2009, ██████████, were also identified as straw purchasers in December. On December 8, 2009, the SOI received a telephone call from a telephone number identified from Caller ID as belonging to Manuel Celis inquiring about AK-47 style firearms. On the same date, ATF agents identified additional straw purchaser Sean STEWARD through the SOI. During the subsequent surveillance operation, a traffic stop was initiated on a vehicle occupied by STEWARD. The occupants of the vehicle were identified as STEWARD, Manuel CELIS-ACOSTA and ██████████. On December 9, 2009, nine firearms purchased by STEWARD on December 8, 2009, were recovered by Douglas, Arizona PD. The firearms were traced by an ICE SAC Phoenix agent on December 10, 2009. ATF agents contacted the Phoenix ICE agents in reference to the seizure.

During a Deconfliction meeting with DEA on December 15, 2009, the DEA Operation FLACO FEO case agents advised that numerous telephone calls had been intercepted involving FNU LNU aka "██████████" and the Phoenix DEA/GPD Operation FLACO FEO targets. "██████████" is believed to be in ██████████, Mexico, and has been intercepted orchestrating different amounts of US currency being illegally brought into the US for the purpose of purchasing firearms via the Phoenix DEA/GPD Operation FLACO FEO targets. Those targets were intercepted making arrangements with telephone numbers utilized by CELIS-ACOSTA, CHAMBERS and STEWARD to obtain the firearms for "██████████". On December 21, 2009, an intercepted telephone call between CELIS-ACOSTA and an Operation FLACO FEO target revealed that firearms recently purchased in Phoenix were going to be driven to El Paso, TX and trafficked into Mexico.

ATF agents believe that a Phoenix-based firearm trafficking group is actively purchasing firearms through straw purchasers using bulk narcotics proceeds. The firearms are then being trafficked into Mexico using non-factory compartments in various vehicles through various Ports of Entry (POE's) in Arizona and Texas.

Since the ATF case was initiated, ATF agents have identified approximately seventeen straw purchasers who have purchased a large amount of AK-47 style rifles and pistols from various FFL's in the Phoenix Metropolitan area and Prescott, AZ, since September 2009. There have been four firearms seizures in Arizona that were purchased by the identified straw purchasers including the above mentioned Douglas, AZ seizure. There have been two firearms seizures in El Paso, Texas, on January 13, 2010, involving firearms purchased by STEWARD. There have been five firearms seizures in Mexico involving firearms purchased by identified straw purchasers including the above mentioned Naco Seizure; a November 25, 2009, Agua Prieta, Sonora, seizure; a December 9, 2009, Mexicali, Baja California,

seizure that yielded a seizure of over \$2 million dollars in US Currency, firearms, cocaine and methamphetamine from inside a warehouse; a December 18, 2009, seizure in Tijuana, Baja California; and a January 8, 2010, Tijuana, Baja California, seizure.

NAMES AND BACKGROUND OF PROSPECTIVE SUBJECTS

1. Manuel Fabian CELIS-ACOSTA - Date of Birth: [REDACTED]
 Arizona Driver's License Number: [REDACTED]
 Social Security Number: [REDACTED]
 Alien Registration Number [REDACTED] (Permanent Resident Alien)
 ADDRESS: [REDACTED], Phoenix, Arizona 85037
 Alternate Address: [REDACTED] Phoenix, Arizona 85033
2. [REDACTED]
 [REDACTED]
 Security [REDACTED]
 [REDACTED]
3. [REDACTED]
 [REDACTED]
 Security [REDACTED]
 [REDACTED]
4. [REDACTED] LNU: Date of Birth: Unknown
 ADDRESS: Agua Prieta, Sonora, Mexico
 Mexican National
5. Uriel PATINO - Date of Birth: [REDACTED]
 Arizona Driver's License: [REDACTED]
 Social Security Number: [REDACTED]
 United States Citizen
 ADDRESS: [REDACTED], Phoenix, Arizona 85035
6. Sean Christopher STEWARD - Date of Birth: [REDACTED]
 Arizona Driver's License Number: [REDACTED]
 Social Security Number: [REDACTED]
 United states Citizen
 ADDRESS: [REDACTED], Phoenix, Arizona, 85008
7. Jacob Wayne CHAMBERS - Date of Birth: [REDACTED]
 Arizona Driver's License: [REDACTED]
 Social Security Number: [REDACTED]
 United States Citizen
 ADDRESS: [REDACTED], Buckeye, Arizona, 85326

SUPERVISING UNITED STATES ATTORNEYS/AGENTS/OFFICERS

1. Assistant United States Attorney Emory Hurley
2. ATF Special Agent Hope MacAllister
3. ATF Special Agent Tonya English

CERTIFICATION

The normal investigative procedures characteristic of those utilized in this type of criminal case and outlined in this section have proven insufficient to develop evidence that all parties associated with the target organization along with the scope of their involvement have been identified. These procedures have been tried and failed, appear unlikely to succeed if tried, and in certain circumstances are too dangerous to employ. They have failed to identify all significant members of the organization all of the co-conspirators transporting the firearms, and all of the co-conspirators distributing the firearms once in Mexico. It is unlikely that this information will be obtained without the interception of the wire communications over the *Target Telephone 1*.

It is our belief that the interception of wire communication is the only investigative technique that has a reasonable likeliness to success in securing evidence needed to prove beyond a reasonable doubt that the target subjects and other not yet identified are acting as part of a firearms trafficking organization, are engaged in the straw purchase of firearms, and are engaged in the possession and distribution of firearms to Mexican Drug Cartels and are supplying these firearms in furtherance of drug trafficking crimes, and the laundering of monetary proceeds.

The following investigative techniques, including the use of physical surveillance, pen analysis, and interviewing, have all provided valuable information to the investigators. They however have not provided investigators information relating to the organization as a whole and as such have hindered the investigators ability to successfully ascertain each of the participant's level of involvement within the conspiracy.

SUBSCRIBER TELEPHONE LINE

The focus of this investigation is the firearm trafficking organization of the target subjects. It is believed that conversations of the aforementioned persons and others yet to be identified are likely to be overheard through the interception of wire communications over target cellular telephone bearing the number [REDACTED], *Target Telephone 1*. *Target Telephone 1*, [REDACTED] is a T-Mobile cellular telephone, with International Mobile Subscriber Identifier (IMSI) [REDACTED], subscribed to and utilized by Manuel CELIS.

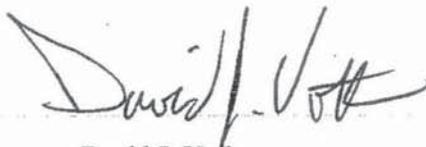
LOCATIONS

Residence of Manuel CELIS: [REDACTED] Phoenix, AZ, 85033.

DURATION

This application to intercept wire communications is for a period of thirty (30) days. It is believed that the facts stated above establish that the target subjects are engaged in a continuing criminal enterprise and that the evidence sought will be intercepted on a continual basis following the first of the particular communications that are the object of this request. Therefore, it is requested that interception not

automatically terminate upon the first interception of wire communications determined to be relevant to the firearm offenses set forth above but be allowed to continue until the full scope of the enterprise is developed, including the identities of all participants, their places and methods of operation and the various activities in which they are engaged in furtherance of the enterprise or for thirty (30) days, whichever comes first. The thirty (30) days will be measured from either the day on which investigators or law enforcement officers first begin to conduct an interception under the Court's Order or ten (10) days after the Order is issued, whichever is earlier.



David J. Voth

Attachment: Affidavit of ATF Special Agent Hope MacAllister seeking T-III Order Authorizing Interception of Audio Communication.

Exhibit 72

RC-1

From: Burke, Dennis (USAAZ)
Sent: Thursday, February 18, 2010 3:52 PM
To: Hurley, Emory (USAAZ)
Subject: RE: Manuel Celis Acosta Trafficking Investigation

Helpful. Thanks. Fingers crossed.

From: Hurley, Emory (USAAZ)
Sent: Thursday, February 18, 2010 1:40 PM
To: Burke, Dennis (USAAZ)
Subject: RE: Manuel Celis Acosta Trafficking Investigation

RC-3

The latest development in the case is that one player in this investigation was picked up last night in connection with another case (Parecki's), with \$100,000+ and two pounds of meth. Now we have to cross our fingers and hope that our main target RC-3 as a reaction to this arrest.

From: Burke, Dennis (USAAZ)
Sent: Wednesday, February 17, 2010 6:18 PM
To: Hurley, Emory (USAAZ)
Cc: Morrissey, Mike (USAAZ)
Subject: RE: Manuel Celis Acosta Trafficking Investigation

Thanks. Very helpful.

RC-3

From: Hurley, Emory (USAAZ)
Sent: Tuesday, February 16, 2010 4:36 PM
To: Burke, Dennis (USAAZ)
Cc: Morrissey, Mike (USAAZ)
Subject: RE: Manuel Celis Acosta Trafficking Investigation

An AK variant with a GPS device [RC-3] was sold to a conspirator and will be tracked until the battery goes dead. Right now the device has only gone so far as Avondale.

[RC-3]

[RC-3]

Emory

From: Burke, Dennis (USAAZ)
Sent: Tuesday, February 16, 2010 4:03 PM
To: Hurley, Emory (USAAZ)
Cc: Morrissey, Mike (USAAZ)
Subject: Manuel Celis Acosta Trafficking Investigatiion

Any movement on this guy by ATF?

Dennis K. Burke
United States Attorney
District of Arizona
40 N. Central Avenue, Suite [RC-1]
Phoenix, AZ 85004
Ph: [RC-1]
Fx: [REDACTED]

RC-1

From: Newell, William D. (ATF)
 Sent: Monday, February 22, 2010 10:18 AM
 To: Burke, Dennis (USAAZ)
 Subject: RE: [REDACTED] 50 caliber rifle

10-4, it's part of the "Fast and Furious" OCEETF Strike Force case we are hoping to be up on a Federal T-III soon. This group is up to approx 800 "weapons of choice" mainly AK-47s, FN 5.7 pistols, etc. Emory is fully up to speed on it but if you want a more in-depth briefing we can do that over here at your earliest convenience. We have the charts showing the trafficking hierarchy, links due to purchases, phone tolls, intel from surveillance, etc.

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Phoenix Field Division (Arizona and New Mexico) Office - RC-1

-----Original Message-----

From: Burke, Dennis (USAAZ) RC-1
 Sent: Monday, February 22, 2010 8:13 AM
 To: Newell, William D.
 Cc: Hurley, Emory (USAAZ)
 Subject: RE: [REDACTED] .50 caliber rifle

What happened last Saturday w/ the 42 AK-47s? Do we have that case?

-----Original Message-----

From: Newell, William D. (ATF)
 Sent: Monday, February 22, 2010 7:34 AM
 To: Burke, Dennis (USAAZ)
 Cc: Hurley, Emory (USAAZ)
 Subject: TNW .50 caliber rifle

This is was seizure two weeks ago in Baja Norte, Mexico. In the picture ATF SA Jose Wall is inspecting the TNW, .50 caliber rifle. If you recall two years ago we seized 42 "weapons of choice" out of a storage locker in Yuma following a Phoenix gun show operation. Also seized was approx 500 rounds of linked .50 caliber ammo. All were headed to Mexico and all are still in our ATF vaults here in Phoenix. RC-5

RC-5

[REDACTED] Since then several .50 caliber rifles have been seized in Mexico but not the one purchased in Kingman - not yet. So every time a [REDACTED] .50 caliber rifle is seized in Mexico we immediately dispatch an agent to verify the information. TNW Firearms Inc., is based in Oregon. See more at [REDACTED]

One of the [REDACTED] .50 caliber rifles seized was the one in April, 2009 in Sonora from the Itran Leyva DTO (see second photo attachment). The pictures of this gun, mounted in the back of a pickup behind a man-made shooting platform, fed the rumor mill on the internet and the media of the people who believe that this gun, and many more like it, come from the Central/South American black market or are "stolen" from the Mexican military. Not true at

least not in this case and from what we see on a daily basis - including the 42 AK-47 rifles we seized this past Saturday west of Tucson and a mile from the border. The Casa Grande Border Patrol folks assisted us in an outstanding manner with this. The two cars carrying these firearms were about to cross into Mexico. This is from the ATF "Fast and Furious" DETF case. The suspects stopped at an address in Tucson before heading south and as it turns out this residence is a main target residence in our "Wide Receiver" OCDETF case out of Tucson.

Bill Newell
Special Agent in Charge
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Phoenix Field Division (Arizona and New Mexico) Office - RC-1

RC-1

From: Hurley, Emory (USAAZ)
Sent: Monday, February 22, 2010 4:13 PM
To: Cunningham, Patrick (USAAZ)
Cc: Morrissey, Mike (USAAZ)
Subject: FW: TNW .50 caliber rifle

Pat,

Bill Newell's email below regarding a seizure of 42 (now I understand it to be 41) AK-47s is linked to the Fast and Furious OCADETF case in which we are drafting a wire application. The AKs were being driven by people not yet identified as major targets and may just be mules for the gun traffickers. We had a GPS device inside one of the rifles and the shipment was going to be interdicted during and out-bound inspection. The drivers apparently saw the out-bound secondary inspection going on and turned around. The agent did not have much specific information about the stop and seizure of the firearms, but is optimistic that there was a pretext stop so the drivers and the traffickers are not too hinked up. Drivers were not arrested, one is showing willingness to be interviewed and/or cooperate.

I can further brief you and Dennis at your convenience.

Thank you
Emory

-----Original Message-----

From: Burke, Dennis (USAAZ)
Sent: Monday, February 22, 2010 9:24 AM
To: Hurley, Emory (USAAZ)
Subject: RE: TNW .50 caliber rifle

Talk to Cunningham. I would like a briefing from you and him on Fast and Furious when I get back to Phoenix.
Thanks.

This is great stuff!

-----Original Message-----

From: Hurley, Emory (USAAZ)
Sent: Monday, February 22, 2010 8:57 AM
To: Burke, Dennis (USAAZ)
Subject: RE: TNW .50 caliber rifle

I have a call in to the case agent. I have not yet heard about the 42 AKs, but if they are linked to Fast and Furious, or Wide Receiver, then the case is ours. I will let you know as soon as I know more.

-----Original Message-----

From: Burke, Dennis (USAAZ)
Sent: Monday, February 22, 2010 8:13 AM
To: Newell, William D. (ATF)

Exhibit 73

From: Newell, William D.
Sent: Monday, February 22, 2010 11:56 AM
To: Voth, David J.; Gillett, George T. Jr.
Subject: RE: FYI photo from this weekend...

Mr. Gillett sent it to me yesterday but thank you. Also, I talked to the USA this morning about this case and advised him of the seizure and link to the Tucson OCDETF case. He was taken aback by some of the facts I informed him about (including the fact that we are up to approx 800 guns) so I am setting up a briefing for him (alone no USAO "posse") about this case and several other cases I feel his is being mislead about. Should be within the next couple of weeks so be prepared. Thanks.

Bill Newell
Special Agent in Charge
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
Phoenix Field Division (Arizona and New Mexico)
Office - [REDACTED]

From: Voth, David J.
Sent: Monday, February 22, 2010 9:53 AM
To: Gillett, George T. Jr.; Newell, William D.
Subject: FYI photo from this weekend...

David Voth
Group Supervisor
Phoenix Group VII
[REDACTED]

Exhibit 74

RC-1

From: Burke, Dennis (USAAZ)
 Date: Monday, February 22, 2010 6:33 PM
 To: Hernandez, Norma (USAAZ)
 Subject: FW: ██████████ .50 caliber rifle
 Attachments: IMG00026-20100210-1431.jpg; 3297430.jpg

Need a briefing on this from Emory, Mike Morrissey and Pat Cunningham. Soon as we can.
 Thx.

-----Original Message-----

From: Newell, William D. (ATF)
 Sent: Monday, February 22, 2010 7:34 AM
 To: Burke, Dennis (USAAZ)
 Cc: Hurley, Emory (USAAZ)
 Subject: TNW .50 caliber rifle

This is was seizure two weeks ago in Baja Norte, Mexico. In the picture ATF SA Jose Wall is inspecting the ██████████ .50 caliber rifle. If you recall two years ago we seized 42 "weapons of choice" out of a storage locker in Yuma following a Phoenix gun show operation. Also seized was approx 500 rounds of linked .50 caliber ammo. All were headed to Mexico and all are still in our ATF vaults here in Phoenix. RC-5

RC-5

██████████ Since then several ██████████ .50 caliber rifles have been seized in Mexico but not the one purchased in Kingman - not yet. So every time a ██████████ .50 caliber rifle is seized in Mexico we immediately dispatch an agent to verify the information. ██████████

One of the ██████████ .50 caliber rifles seized was the one in April, 2009 in Sonora from the Beltran Leyva DTO (see second photo attachment). The pictures of this gun, mounted in the back of a pickup behind a man-made shooting platform, fed the rumor mill on the internet and the media of the people who believe that this gun, and many more like it, come from the Central/South American black market or are "stolen" from the Mexican military. Not true at least not in this case and from what we see on a daily basis - including the 42 AK-47 rifles we seized this past Saturday west of Tucson and a mile from the border. The Casa Grande Border Patrol folks assisted us in an outstanding manner with this. The two cars carrying these firearms were about to cross into Mexico. This is from the ATF "Fast and Furious" OCDETF case. The suspects stopped at an address in Tucson before heading south and as it turns out this residence is a main target residence in our "Wide Receiver" OCDETF case out of Tucson.

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Phoenix Field Division (Arizona and New Mexico) Office - RC-1

Exhibit 75

RC-1

From: Hornbuckle, Patrick (USAAZ)
nt: Friday, February 26, 2010 1:21 PM
u: Burke, Dennis (USAAZ)
Cc: Cunningham, Patrick (USAAZ)
Subject: RE: 73 weapons of Navojoa Son.

Will do

From: Burke, Dennis (USAAZ)
Sent: Friday, February 26, 2010 10:58 AM
To: Hornbuckle, Patrick (USAAZ)
Cc: Cunningham, Patrick (USAAZ)
Subject: Fw: 73 weapons of Navojoa Son.

Find out if ATF is going back to Robert Anglen on this at some pt. Thx.

From: Burke, Dennis (USAAZ)
To: Newell, William D. (ATF); Hurley, Emory (USAAZ)
Sent: Fri Feb 26 12:55:40 2010
Subject: Re: 73 weapons of Navojoa Son.

Wow! Thx.

From: Newell, William D. (ATF)
To: Burke, Dennis (USAAZ); Hurley, Emory (USAAZ)
Sent: Fri Feb 26 11:30:18 2010
Subject: FW: 73 weapons of Navojoa Son.

Big firearms seizure in Sonora yesterday. Look at how many of the AR-15s (including several from [REDACTED] [REDACTED] have had their serial numbers obliterated. Word's gotten around about serial numbers, something we expect and why we have a very active serial number restoration training program. Also, we are going through these firearms right now but I can guarantee you a good number of these are from our "Fast and Furious" OCDETF Strike Force case.

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 Office - RC-1 [REDACTED]

From: Ordonez, Carlos F.
Sent: Friday, February 26, 2010 9:00 AM
To: Newell, William D.

Exhibit 76

From: Newell, William D.
 Sent: Friday, October 29, 2010 1:22:00 PM
 To: McMahon, William G.
 Subject: Fw: Fast and Furi.

FYI - before I left Orlando I asked Jim to verify what I told you and Mark earlier was correct, that being the purchases have slowed significantly. Several reasons for this main one being [REDACTED] (Acosta) is in some trouble with the Glendale PD [REDACTED]

[REDACTED] Also, we have been very successful over the past several months in seizing guns before they head south by quickly responding to calls from cooperating FFLs as well as "flagging" our known straw purchasers via NICS.

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

----- Original Message -----

From: Needles, James R.
 To: Newell, William D.
 Sent: Fri Oct 29 12:46:19 2010
 Subject: RE: Fast and Furi.

Of the [REDACTED] individuals we know of who are supplying firearms to the organization, in the last 30 days one individual (Patino) purchased 5 firearms which we immediately seized, that was on Oct. 8. We have flagged these individuals in NICS and are notified if they make a purchase.

-----Original Message-----

From: Newell, William D.
 Sent: Friday, October 29, 2010 4:46 AM
 To: Needles, James R.
 Subject: Fw: Fast and Furi.

Get with Voth since you're together and give me a status on firearms purchase activity over the past 30 days of the suspects in this case. An e-mail will suffice.

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

----- Original Message -----

From: Chait, Mark R.
 To: Newell, William D.
 Cc: McMahon, William G.
 Sent: Fri Oct 29 07:39:08 2010
 Subject: Re: Fast and Furi.

I'm concerned that we are not shutting down the activity waiting on an indictment. Thanks
 Mark R. Chait
 Assistant Director

HOCR ATF - 001912

Field Operations

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

----- Original Message -----

From: Newell, William D.
To: Chait, Mark R.
Cc: McMahon, William G.
Sent: Fri Oct 29 07:29:16 2010
Subject: Re: Fast and Furi.

No, they pushed it to December 7. I was supposed to meet with the USA this coming week to discuss the delay but he canceled due to an "unexpected" DC trip. I'm going to call him today.

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

----- Original Message -----

From: Chait, Mark R.
To: Newell, William D.
Cc: McMahon, William G.
Sent: Fri Oct 29 07:27:17 2010
Subject: Fast and Furi.

Any news on a quicker indictment?
Mark R. Chait
Assistant Director
Field Operations

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

HOCR ATF - 001913

Exhibit 77



From: Voth, David J.
Sent: Monday, March 01, 2010 9:00 AM
To: Phoe-Group VII
Subject: keeping up with Patino

Patino, Uriel	2/24/2010	19:36	986013012L02353 Sale of a Long Gun
Tatino, Uriel	2/25/2010	18:14	986013012L02353 Sale of a Long Gun
Patino, Uriel	2/26/2010	17:11	986013012L02353 Sale of a Long Gun
Patino, Uriel	2/27/2010	16:38	986013012L02353 Sale of a Handgun
Patino, Uriel	2/27/2010	17:34	986013102J01053 Sale of a Handgun

I know people were off on Friday due to working the Gun Show on Saturday (thanks) but we need to make sure we stay up to date on Patino's firearms purchases; he bought on Wednesday, Thursday, Friday, and twice on Saturday.

David Voth
 Group Supervisor
 Phoenix Group VII
 602-

Exhibit 78

[REDACTED]

From: Voth, David J.
Sent: Thursday, March 11, 2010 9:11 AM
To: Phoe-Group VII
Subject: FW: another hit
Attachments: AZ SWB Tracking.xlsx

Patino bought handgun at hand gun At [REDACTED] last night @ 6:30ish. You probably know this but if not FYI...

From: [REDACTED]
Sent: Thursday, March 11, 2010 5:36 AM
To: Voth, David J.
Subject: another hit

David,
Here is the updated list. Patino again.

Eric M. Moore
ATF NICS Liaison Specialist

[REDACTED] phone
[REDACTED] fax
[REDACTED] cell

Exhibit 79

[REDACTED]

From: Voth, David J.
Sent: Tuesday, March 16, 2010 9:03 AM
To: Phoe-Group VII
Subject: FW: Investigations

Patino, Montelongo, and Celis all bought guns on 03/15/2010...

From: [REDACTED] [eo.gov](#)
Sent: Tuesday, March 16, 2010 8:15 AM
To: Voth, David J.
Subject: Investigations

David,

Here are three more (all from the same FFL):

Name: Uriel Patino
DOB: [REDACTED]
SS# [REDACTED]
Create Date: 3/15/2010
Time: 4:29 PM Eastern Time
Type: Long gun
NTN: 1JPP-0LY

Name: Jacob Montelongo
DOB: [REDACTED]
SS# [REDACTED]
Create Date: 3/15/2010
Time: 7:23 PM Eastern Time
Type: Handgun
NTN: 1JPT-GSH

Name: Alfredo Celis
DOB: [REDACTED]
SS# not provided
Create Date: 3/15/2010
Time: 4:59 PM Eastern Time
Type: Long gun
NTN: 1JPP-LWW

FFL Number (RDS key): [REDACTED]
FFL Name: [REDACTED]
Address:
 [REDACTED]
 Glendale, AZ 85302

Let me know if you need anything else.

Thanks,
Marc

Marc Chamberlain
NICS Liaison Specialist
FBI NICS Section
[REDACTED]

Exhibit 80

304- [redacted] phn
304- [redacted] fax

From: Voth, David J. [redacted]
Sent: Thursday, March 25, 2010 13:55
To: eric.m.moore@[redacted]
Subject: Updating the NICS watch list for our case

Eric,

We appreciate all the work you have done on this case and it has proven very helpful. After receiving your NICS watch list the other day we queried our end and found few minor discrepancies. The ones highlighted below in yellow are on your list but with slightly different DOB or SSN. This is the correct information here.

Celis, Alfredo; [redacted]; [redacted] (Correct SS# [redacted])
Chambers, Jacob; [redacted]; [redacted] (Correct SS# [redacted])
[redacted]; [redacted]; [redacted] (Correct DOB [redacted])
Moore, Joshua; [redacted]; [redacted] (Correct SS# [redacted])

Can we add the individuals listed below to the NICS watch list for our investigation? They are continually recruiting new Straw Purchasers and other are obviously falling off. These individuals have purchased firearms recently with our crew (Patino, Moore, etc) and have been connected through surveillance and Pen Register data.

[redacted]
[redacted]
[redacted]

Thanks again for all your help,

David Voth
Group Supervisor
Phoenix Group VII
602- [redacted]

Exhibit 81

From: Voth, David J.
Sent: Monday, May 24, 2010 1:06 PM
To: MacAllister, Hope A.; English, Tonya A.; Sonnendecker, Mark
Subject: FW: Investigations
Attachments: Voth Tracking.xlsx

RC-5	Avila, Jaime	5/21/2010	19:00	RC-5	Sale of a Handgun
	Montelongo, Jacob	5/21/2010	21:11		Sale of a Long Gun
	Patino, Uriel	5/22/2010	19:45		Sale of a Long Gun
	Patino, Uriel	5/22/2010	20:25		Sale of a Handgun and Long Gun

Wouldn't be great if we were up on RC-3 ...anyway 4 transactions, the only one i knew of was Montelongo.

From: Chamberlain RC-1
Sent: Monday, May 24, 2010 10:02 AM
To: Voth, David J.
Subject: Investigations

David,

There were four more transactions over the weekend. The updated spreadsheet is attached. Let me know if you need anything else.

Thanks,
 Marc

Marc Chamberlain
 NICS Liaison Specialist
 FBI NICS Section

RC-1

HOCR ATF - 002691

Exhibit 82

From: Voth, David J.
Sent: Thursday, February 25, 2010 6:59 PM
To: Newell, William D.; Gillett, George T. Jr.
Subject: Going to DC?

Gentlemen;

I have unofficially been informed that while in the DC area next week to attend the DEA SOD meeting I will be asked to stay a day extra to go to ATF HQ and attend a briefing to Mr. Hoover (and others obviously) regarding our current case. I am sure you are aware but I just thought I would make sure.

David Voth
Group Supervisor
Phoenix Group VII
[REDACTED]

Exhibit 83

From: Leadmon, Lorren D.

Sent: Friday, March 05, 2010 5:40 PM

To: Chait, Mark R.; McMahon, William G.; Martin, Steve K.; Newell, William D.; Champion, Robert R.; Torres, John A.; Webb, J. Dewey; Gillett, George T. Jr.; Needles, James R.; Golson Sr., Michael A.; Chisholm, Kenneth L.; Elder, Robert W.; Anglin, Karl G.; Shaefer, Christopher C.; Kumor, Daniel J.; Rowley, Raymond G.; Quinonez, Louis A.; Dwyer, Daniel J.; Cole-Bigelow, Delmaria; Bohan, Rich G.

CC: Martin, Steve K.; O'Keefe, Kevin C.; Bass, William F.; Feingold, Edward D.

Subject: FW: Presentation Slides and Case synopsis document

Attachments: Timeline for briefing 030410.docx; PHX presentation (final) draft presented on 030510.pdf

Attached is the timeline briefing handout and a PDF of the powerpoint presentation from today's briefing on Operation - The Fast and The Furious

LORREN D. LEADMON

TEAM LEADER

Field Intelligence Support Team - Southwest Border
Bureau of Alcohol, Tobacco, Firearms and Explosives
Intelligence Operations Specialist



HOCR ATF - 002091

Exhibit 84

**OPERATION THE FAST
AND THE FURIOUS**



HOCR DOJ 002819

Note: Two pages have been withheld from this seven page document because they included sensitive investigative details and information about targets/subjects.

Total Firearms
Purchased as of
Feb 27, 2010
785115-10-0004

Patino	Uriel	313
Steward	Sean	241
Moore	Joshua	116
Chambers	Jacob	68
Cells	Alfredo	55
Herregovac	Dejan	30
RC-4		
Montelongo	Jacob	18
Avila Jr	Jamie	17
RC-4		
Polanco	Jose	3
RC-4		
Cells-Acosta	Manuel	1
RC-4		
TOTAL		1026

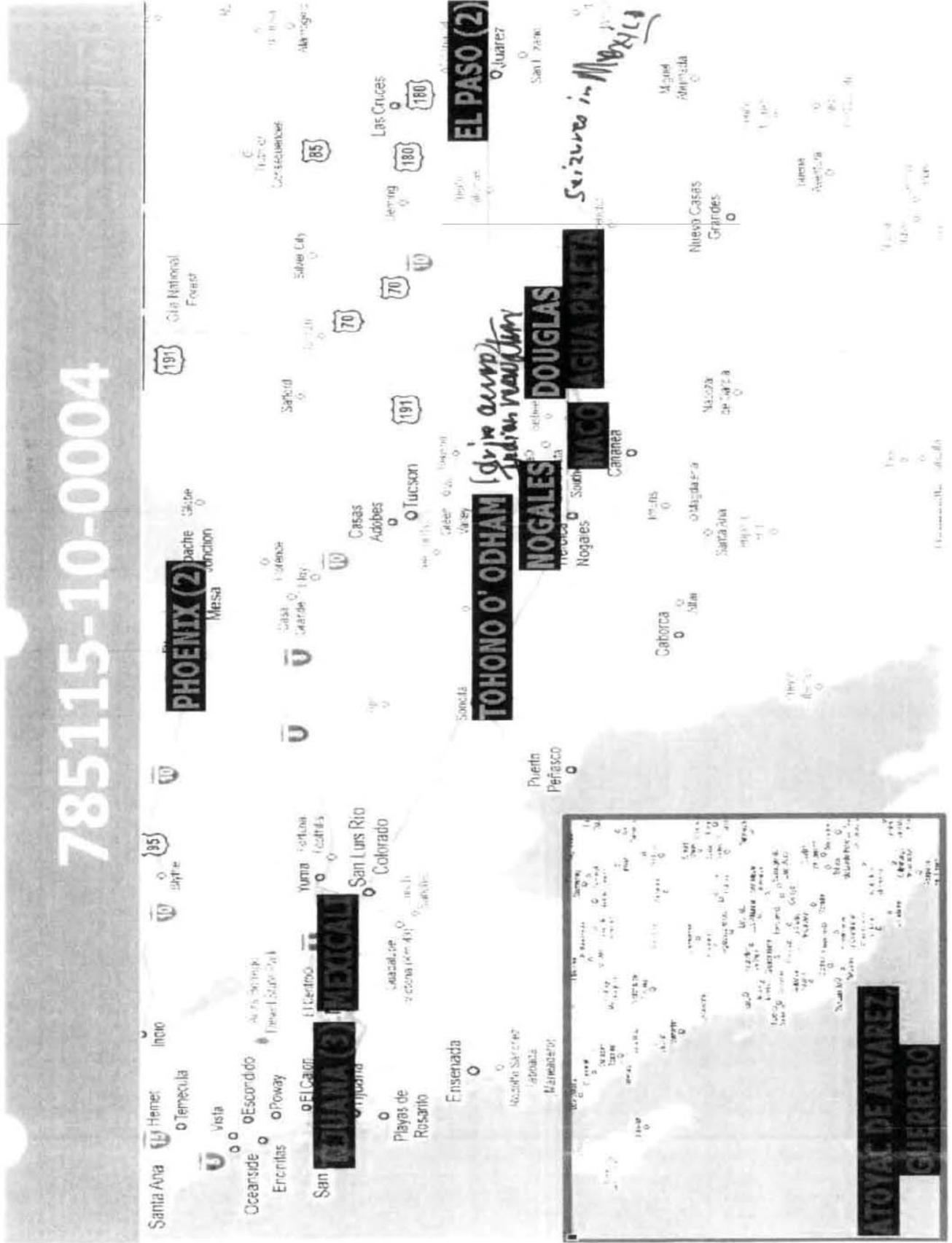
HOCR DOJ 002820

All cash
 West-Verish
 only

PURCHASE SUMMARY		OUR PURCHASES	INVOICE TOTAL	NOTES
RC-4	NAME			
	Jaime Avilar	11,684.00	13,002.64	
	Alfredo Celis	36,659.75	36,323.33	
	Jacob Chambers	36,641.75	39,863.58	
	Dorian Hernandez	22,719.80	23,781.91	
	Jacob Merislongo	7,446.97	7,731.27	
	Leahna Moore	59,563.40	64,928.88	
	Uriel Pastino	204,110.59	213,756.87	
	Jose Pollanco	1,798.00	1,851.92	
	Scott Stewart	136,636.04	140,034.35	
TOTAL PURCHASES		\$ 515,394.08	\$ 649,745.32	

Total Cost of
 Firearms
 Purchased as of
 Feb 27, 2010
 785115-10-0004

HOCR DOJ 002821



HOCR DOJ 002822



AK 47

Drako (pink)
MTHab only
vague reports

Drako
tracks, followed to Botash house

no
MTHab
sales
reports
vague
need veg. log rolls

HOCR DOJ 002823

Exhibit 85

From: Gillett, George T. Jr.
Sent: Friday, March 12, 2010 10:54 AM
To: Newell, William D.
Subject: FW: Director's questions

Please see the changes...

From: Voth, David J.
Sent: Thursday, March 11, 2010 11:50 AM
To: Gillett, George T. Jr.
Subject: Director's questions

George,

Here are the answers to what I understand the Director's questions to be. More detail can be provided upon request, I thought it best to start brief.

1. IP Address for Pole Cameras; [REDACTED] User id: [REDACTED] password: [REDACTED] This must be monitored from a stand-alone computer as ATF Network bandwidth does not permit continuous monitoring.
2. Money Transfers: FINCEN, CTRs, SARs, Western Union, Arizona Department of Economic Security, ATF Special Investigator John Delfrari, IRS-CID Linda Wallace, [REDACTED] etc.
3. Mail covers – negative. In my experience this is a huge waste of time and resources for limited or no return.
[REDACTED]
4. How many seizure have been reviewed by our Mexico agents; to the best of my knowledge – three (3).
5. Nogales Seizure regarding [REDACTED]; there are a couple ROIs in N-Force, one from Tucson who initially responded to this incident, and one from us when it was determined to be part of our case. But in summary;
[REDACTED]

I hope this is what you are looking for, please advise if you need/want more.

David Voth
 Group Supervisor
 Phoenix Group VII
 [REDACTED]

Exhibit 86

ATF Monthly Meeting
with the Acting Deputy Attorney General
Friday, March 12, 2010

AGENDA



4. Phoenix Case - Update on a significant firearms trafficking case



HOCR DOJ 002817

ATF Monthly Meeting

3/12/10

RC-2



RC-2

3. Operation The Fast

Fast Furious
Drafts

~~Process~~

long visits - multiple
sales issues

RC-2



seizures in Mexico
take ↑ predicate
to case in US
links to Cartel

COCAINE STRIKE FORCE

Primary - Phoenix WFO

(A)

HOCR DOJ 002818

**OPERATION THE FAST
AND THE FURIOUS**



HOCR DOJ 002819

Note: Two pages have been withheld from this seven page document because they included sensitive investigative details and information about targets/subjects.

Total Firearms
Purchased as of
Feb 27, 2010
785115-10-0004

Patino	Uriel	313
Steward	Sean	241
Moore	Joshua	116
Chambers	Jacob	68
Celis	Alfredo	55
Herregovac	Dejan	30
RC-4		
[REDACTED]		
Montelongo	Jacob	18
Avila Jr	Jamie	17
RC-4		
[REDACTED]		
Polanco	Jose	3
RC-4		
[REDACTED]		
Celis-Acosta	Manuel	1
RC-4		
[REDACTED]		
TOTAL		1026

HOCR DOJ 002820

All cash
 West-Verish
 only

PURCHASE SUMMARY		OUR PURCHASES	INVOICE TOTAL	NOTE
RC-4	NAME			
	Jaime Avilar	11,684.00	13,002.64	
	Alfredo Celis	36,659.75	36,323.33	
	Jacob Chambers	36,641.75	39,863.58	
	Dorian Hercebovsk	22,719.80	23,781.91	
	Jacob Merislongo	7,446.97	7,731.27	
	Leahou Moore	59,563.40	64,928.88	
	Uriel Pastino	204,110.59	213,756.87	
	Jose Pollanco	1,798.00	1,851.92	
	Scott Stewart	136,636.04	140,034.36	
TOTAL PURCHASES		\$ 516,394.08	\$ 649,746.32	

Total Cost of
 Firearms
 Purchased as of
 Feb 27, 2010
 785115-10-0004

HOCR DOJ 002821



AK 47

Drako (pink)
MTHab only
vague reports

Drako
tracks, followed to Sotash house

no
MTHab
sales
reports
vague
need veg. logs
logs

HOCR DOJ 002823

Exhibit 87

RPTS [REDACTED]

DCMN [REDACTED]

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: GARY G. GRINDLER

Wednesday, December 14, 2011

Washington, D.C.

The interview in the above matter was held in 2247, commencing
at 10:00 a.m.

Appearances:

For the HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

STEVE CASTOR, MAJORITY CHIEF COUNSEL, INVESTIGATIONS

HENRY J. KERNER, MAJORITY SENIOR COUNSEL

CARLTON DAVIS, COUNSEL TO THE CHAIRMAN

SCOTT LINDSAY, MINORITY COUNSEL

CARLOS URIARTE, MINORITY COUNSEL

For the SENATE COMMITTEE ON THE JUDICIARY:

JASON A. FOSTER, CHIEF INVESTIGATIVE COUNSEL

TRISTAN L. LEAVITT, INVESTIGATIVE COUNSEL

ROB DONOVAN, COUNSEL

BRIAN M. DOWNEY, INVESTIGATOR

For U.S. DEPARTMENT OF JUSTICE:

DAN ROLLINS, DEPARTMENT OF JUSTICE

STEVEN F. REICH, ASSOCIATE DEPUTY ATTORNEY GENERAL

M. FAITH BURTON, SPECIAL COUNSEL, OFFICE OF LEGISLATIVE AFFAIRS

A That's correct. They're selecting items that they want to discuss with me.

Q Just generally speaking, over the course of 2010, how often would discussions of specific cases come up in those monthly meetings versus general discussions of policy issues or management issues other things of that nature?

A It just varied. There have been discussions about investigations and it just varies month to month.

Q What issues did you expect ATF to bring to your attention as opposed to handle themselves? What issues would arise, generally speaking, to the level of ATF needing to bring those matters to the Deputy Attorney General's attention?

A Well, part of it is their judgment about whether they think that there are problems or success stories that they want to talk to me about. There are other issues that have been reoccurring that reflect decisions that have to be made by the Deputy Attorney General's office. If there's a decision that they don't have authority to make, where I would, then I would expect them, of course, to bring them up to me so I would get grounding in what that decision is. And there are -- I mean, it's just a variety of administrative and other issues that arise from time to time.

Q I would like to turn your attention back to Exhibit 1, which was the briefing paper provided by ATF at the March 12, 2010, meeting, along with an agenda, your notes, and the notes of an unidentified third person appended at the end.

On the first page, with the agenda, did you ask ATF to bring up the Phoenix case -- Update on a Significant Firearms Trafficking Case -- or was that introduced on the agenda by ATF, to your knowledge?

A I did not ask them. To my knowledge, they put it on the agenda.

Q And to the best of your recollection, who else attended this meeting?

A My recollection is -- Acting Director Melson and Billy Hoover attended, I believe, all of the monthly meetings. Sometimes they would bring someone else. So there may have been someone else at this meeting. I just don't recall. From my office I believe Ed Siskel and Mark Michalic were there. It's possible that Lisa Monaco was there, my principal deputy, but I just don't recall.

Q And you previously stated that the total meeting, roughly, to the best of your recollection, may have lasted 45 minutes, or at least that would have been typical?

A That's typical. That's what it is scheduled for.

Q And to the best of your recollection, if there were seven agenda items listed for that day, how long was the discussion of the Fast and Furious case?

A I just don't know. It would just be an estimate on my part.

Q So you don't have any -- what do you recall about what they briefed you at that time about Fast and Furious?

A As I said before, I really don't have a recollection beyond what's set forth in my notes and in the PowerPoint itself.

Exhibit 88

RC-1

From: Morrissey, Mike (USAAZ)
Sent: Wednesday, March 10, 2010 8:42 PM
To: Hurley, Emory (USAAZ)
Subject: FW: Celis-Acosta, RC-3

You've made the US Attorney happy. Read the chain below.

From: Burke, Dennis (USAAZ)
Sent: Wednesday, March 10, 2010 6:35 PM
To: Morrissey, Mike (USAAZ)
Cc: Cunningham, Patrick (USAAZ)
Subject: Re: Celis-Acosta, RC-3

Frickin' love it!!

From: Morrissey, Mike (USAAZ)
To: Burke, Dennis (USAAZ)
Cc: Cunningham, Patrick (USAAZ)
Sent: Wed Mar 10 20:34:24 2010
Subject: FW: Celis-Acosta, RC-3

RC-3

RC-3 Good job by Emory – a T-3 in a gun case is unusual, and aggressive. Hopefully we'll do it more in the future, but Emory is the trailblazer.

From: Hurley, Emory (USAAZ)
Sent: Wednesday, March 10, 2010 5:58 PM
To: Morrissey, Mike (USAAZ)
Subject: FW: Celis-Acosta, RC-3

Now we are just waiting on ATF.

RC-3

Exhibit 89

From: Voth, David J. <djvoth@[REDACTED]>
Sent: Thursday, March 11, 2010 3:20 PM
To: Quinn, Brent <[REDACTED]@atf.gov>
Subject: RE: Phoenix VII wire

It really is first come first serve. Because of the building access issues with the DEA wire room it will be manned by Group VII agents. Therefore what is left is 5 day shifts, 5 nights shifts on surveillance. I am attempting to split the weekends so everyone has to work one of the two days that way no one get screwed too hard and everybody gets screwed a little bit...I guess I am open to the possibility if someone works the entire weekend they could have the entire next weekend off...?

From: Quinn, Brent
Sent: Thursday, March 11, 2010 1:14 PM
To: Voth, David J.
Subject: RE: Phoenix VII wire

I guess, you're not going to give the out of towners the crappy shifts are you?

Brent Quinn
Resident Agent in Charge
Las Cruces I Field Office
Bureau of Alcohol, Tobacco, Firearms and Explosives
 (575) [REDACTED] - Office
 (575) [REDACTED] - Fax
 (575) [REDACTED] - Cell



From: Voth, David J.
Sent: Thursday, March 11, 2010 1:13 PM
To: Quinn, Brent
Subject: RE: Phoenix VII wire

He must want day shift, mon-fri...?

From: Quinn, Brent
Sent: Thursday, March 11, 2010 12:55 PM
To: Voth, David J.
Subject: RE: Phoenix VII wire

King-man said in that case he'll see you tomorrow. ☺

Brent Quinn
Resident Agent in Charge
Las Cruces I Field Office
Bureau of Alcohol, Tobacco, Firearms and Explosives

(575) [REDACTED] - Office
 (575) [REDACTED] - Fax
 (575) [REDACTED] - Cell



From: Voth, David J.
Sent: Thursday, March 11, 2010 12:53 PM
To: Quinn, Brent
Subject: RE: Phoenix VII wire

That would be ideal. In some respect it will be first come first pick with regard to shifts. They are all surveillance shifts but days/nights/weekends etc...Also we need to have minimization meeting with everyone involved which we are planning for Monday morning...

From: Quinn, Brent
Sent: Thursday, March 11, 2010 12:25 PM
To: Voth, David J.
Subject: RE: Phoenix VII wire

Travelling 03/14?

Brent Quinn
Resident Agent in Charge
Las Cruces I Field Office
Bureau of Alcohol, Tobacco, Firearms and Explosives

(575) [REDACTED] - Office
 (575) [REDACTED] - Fax
 (575) [REDACTED] - Cell



From: Voth, David J.
Sent: Thursday, March 11, 2010 11:50 AM
To: Quinn, Brent
Subject: RE: Phoenix VII wire

Copy that, thank you sir!

From: Quinn, Brent
Sent: Thursday, March 11, 2010 11:26 AM
To: Voth, David J.
Subject: Re: Phoenix VII wire

Dennis King

Brent Quinn - RAC
ATF Las Cruces Field Office
575 [REDACTED] - Cell
575 [REDACTED] - Office
575 [REDACTED] - Fax

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: Voth, David J.
To: Quinn; Brent
Cc: Gillett, George T. Jr.
Sent: Thu Mar 11 13:13:01 2010
Subject: RE: Phoenix VII wire
Brent,

It was my understanding that Mr. Gillett intended for each group to forward a name; thus two names from Las Cruces. Sorry for any confusion on your end or my end...?

Thanks,

Dave

From: Quinn, Brent
Sent: Thursday, March 11, 2010 10:22 AM
To: Voth, David J.
Subject: FW: Phoenix VII wire

As I understand it, ARAC Jorgensen forwarded David Tabullo's name to cover the below listed requirement for Las Cruces. Thanks.

Brent Quinn
Resident Agent in Charge
Las Cruces I Field Office
Bureau of Alcohol, Tobacco, Firearms and Explosives

(575) [REDACTED] - Office
(575) [REDACTED] - Fax
(575) [REDACTED] - Cell



From: Gillett, George T. Jr.
Sent: Thursday, March 11, 2010 9:56 AM
To: Forcelli, Peter; Ratliff, Mark D.; Palmer, Douglas R.; Arellano, Bernardo; Nallin, Michael T.; Quinn, Brent; Jorgensen, Karl A.; Gonzales, Jake A.
Cc: Newell, William D.; Needles, James R.; Voth, David J.; Simpson, Kevin; Perez, Carmelo

Subject: Phoenix VII wire

Gentlemen –

Phoenix VII is going to be activating a T-III intercept beginning Monday, March 15, 2010. I will need to have one (1) special agent nominee from each of the Phoenix groups, one (1) special agent nominee from Albuquerque and Las Cruces groups, and two (2) special agent nominees from each of the Tucson groups. The actual intercept will be handled at the Phoenix DEA office by contract monitors supported by special agents and Intel personnel. However, special agents will be required for surveillance and any enforcement operations.

Special agents will be required for two (2) week rotations to support this T-III intercept beginning at 9:00 AM, Monday, March 15, 2010.

Please forward the names to Group Supervisor David Voth by close of business today, March 11, 2010.

If you have any questions regarding the personnel issues, please contact me. If you have questions regarding the assignments, please contact GS Voth.

George T. Gillett
Assistant Special Agent in Charge
ATF - Phoenix Field Division
Office: (602) [REDACTED]

Exhibit 90

Voth, David J.

From: Voth, David J.
Sent: Friday, March 12, 2010 7:34 PM
To: Phoe-Group VII
Subject: Monday Morning Meeting, Strike force 9:30am

To all;

It has been brought to my attention that there may be a schism developing amongst the group. This is the time we all need to pull together not drift apart. We are all entitled to our respective (albeit different) opinions however we all need to get along and realize that we have a mission to accomplish.

I am thrilled and proud that our Group is the first ATF Southwest Border Group in the country [REDACTED]. On that note I thank everyone for their efforts thus far and applaud the results we have achieved in a short amount of time.

Whether you care or not people of rank and authority at HQ are paying close attention to this case and they also believe we (Phoenix Group VII) are doing what they envisioned the Southwest Border Groups doing. It may sound cheesy but we are "The tip of the ATF spear" when it comes to Southwest Border Firearms Trafficking.

We need to resolve our issues at this meeting. I will be damned if this case is going to suffer due to petty arguing, rumors or other adolescent behavior.

I don't know what all the issues are but we are all adults, we are all professionals, and we have a exciting opportunity to use the biggest tool in our law enforcement tool box. **If you don't think this is fun you're in the wrong line of work - period!** This is the pinnacle of domestic U.S. law enforcement techniques. After this the tool box is empty. Maybe the Maricopa County Jail is hiring detention officers and you can get paid \$30,000 (instead of \$100,000) to serve lunch to inmates all day.

One last point is that we have many of our brother and sister ATF agents coming into town to assist us on this case. We have to put our best effort forward and lead by example. No one wants to leave their families behind or leave their case work behind to come help someone who does even appreciate their sacrifice.

We need to get over this bump in the road once and for all and get on with the mission at hand. This can be the most fun you have with ATF, the only one limiting the amount of fun we have is you!

David Voth
 Group Supervisor
 Phoenix Group VII
 [REDACTED]

Exhibit 91

From: Voth, David J.
Sent: Sunday, March 14, 2010 11:02 PM
To: Phoe-Group VII
Subject: Lots of good work

To all,

I read a lot of good reports tonight on individuals who purchased firearms that have been recovered in Mexico. I must insist that we not forget to run those numbers through DEA! You never know when/where one of these numbers is going to pop up and then our straw purchasers are suddenly related to a Cartel or DTO which is exactly where we what to be.

Good job by all, keep it up, thanks!

David Voth
Group Supervisor
Phoenix Group VII
[REDACTED]

HOGR ATF - 001681

Exhibit 92

1 INDEX TO EXAMINATIONS

2 WITNESS PAGE

3 LAWRENCE ALT

4 Examination by Mr. Castor 8

5 Examination by Mr. Lindsay 61

6 Examination by Mr. Sherman 102

7 Examination by Mr. Foster 107

8 Further Examination by Mr. Castor 117

9 Further Examination by Mr. Foster 145

10 Further Examination by Mr. Castor 150

11 Further Examination by Mr. Lindsay 155

12 Further Examination by Mr. Sherman 167

13 Examination by Ms. Bertrand 172

14 Examination by Mr. Kerner 182

15 Further Examination by Mr. Foster 192

16 Further Examination by Mr. Castor 201

17 Further Examination by Mr. Foster 209

18

19

20

21

22

23

24

25

ARIZONA REPORTING SERVICE, INC.

(602) [REDACTED]

www. [REDACTED]

Phoenix, AZ

1 I don't know verbatim the content of the e-mail,
2 I didn't memorize it, but in general it refers to there
3 is a schism, which I interpreted as being some division
4 within the group, people weren't getting along. There
5 was going to be a meeting on Monday. There was a
6 reference to if people didn't like what they were doing,
7 they could, I guess, go work somewhere else. And I
8 think the content is public knowledge, but I don't want
9 to get into quoting it.

10 I contacted David Voth after I read the e-mail
11 and basically said, you know, what is going on, what is
12 the story here. He essentially said I didn't
13 necessarily need to be present for the meeting, but I
14 could be if I wanted to. And I indicated that no, I
15 was, I was coming in as what I believe to be the most
16 senior grade 13 in the room and any group, and that I
17 wanted to see what was going on. So I came into, I
18 guess, the meeting on Monday morning.

19 Q. And what are your recollections as you sit here
20 today of that meeting?

21 A. There was clearly a division in the group. It
22 started the conversation. The meeting was initiated by
23 Dave Voth. And I am not going to quote him, but the
24 context of the conversation was, you know, we need to
25 fix this, we have people coming in from various parts of

1 office, did you find out anything else about tactics
2 that were going on in the field or --

3 A. Not initially. One of the things that did
4 happen -- and I need to go back to them. I would like
5 to go back to the meeting if I can.

6 Q. Of course.

7 A. One of the things that happened at that meeting
8 was there was a conversation, I guess this would be
9 tactics in the field. Conversation went on to talk
10 about there was an accusation that Lee Casa and John
11 Dodson were in a, quote, beating, I think it was beating
12 up of the FFLs with their badges, beating them up with
13 badges. And it is an expression. You know, maybe they
14 were.

15 In the course, the schism was revolving around
16 the idea of strategies, how you approach the firearms
17 licensee. And John and Lee had approached apparently a
18 firearms licensee prior to getting there and I guess
19 exercised their authority to some degree to gain some
20 compliance of federal firearms licensee. And there was
21 some pushback from, I guess, Hope McAllister and Tanya
22 English in that regard.

23 And that's what I witnessed in the schism
24 meeting. So I guess it would go to strategy in the
25 field.

ARIZONA REPORTING SERVICE, INC.

www. [REDACTED]

(602) [REDACTED]

Phoenix, AZ

Exhibit 93

JOHN DODSON

04/26/2011

1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

U.S. HOUSE OF REPRESENTATIVES

HOUSE COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM

IN THE MATTER OF:)
)
ATF'S PROJECT GUNRUNNER AND)
OPERATION FAST AND FURIOUS.)
_____)

INTERVIEW OF JOHN DODSON

Phoenix, Arizona
April 26, 2011

ARIZONA REPORTING SERVICE, INC.

Cou ing

████████████████████
████████████████████
Phoenix, Arizona 85004-1481

By: ████████████████████
Certified Reporter
Certificate No. 50658

Prepared for:

ARIZONA REPORTING SERVICE, INC.
www.████████████████████

(602) ██████████
Phoenix, AZ

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO EXAMINATIONS

WITNESS

PAGE

JOHN DODSON

Examination by Mr. Castor	14
Examination by Mr. Sherman	65
Examination by Mr. Foster	106
Further Examination by Mr. Castor	123
Further Examination by Mr. Foster	147
Further Examination by Mr. Sherman	158
Further Examination by Mr. Foster	159
Further Examination by Mr. Castor	165

ARIZONA REPORTING SERVICE, INC.
www. [REDACTED]

(602) [REDACTED]
Phoenix, AZ

JOHN DODSON

04/26/2011

44

1 So now to get to your question, when we voiced
2 our concerns to Group Supervisor Voth, originally it
3 started as when I would talk to Voth myself, Casa would
4 talk to Voth. Then we would talk to him together. It
5 came to the point where Casa and I, and I am not sure if
6 Alt was in the group yet at this point or not, but we
7 went to him formally, hey, this is -- we have problems
8 with this, this is going to end bad, we need to do
9 something about it.

10 Then we get an e-mail that George -- there is
11 going to be a meeting. Assistant Special Agent in
12 Charge George Gillett is coming down, George Gillett
13 comes into the Group 7 office and tells us essentially
14 we better stand down with our complaints, that we didn't
15 know what the definition of walking guns was, we weren't
16 familiar with the Phoenix way of doing things, that all
17 of this was sanctioned and we just needed to essentially
18 shut up and get in line. That's not a quote, but that's
19 the feel of the meeting, so...

20 Q. Do you remember approximately when that
21 occurred?

22 A. It was right after we went to the Group 7
23 building, so it had to be late February, early
24 March 2010.

25 Q. Okay.

ARIZONA REPORTING SERVICE, INC.

(602) [REDACTED]

www. [REDACTED]

Phoenix, AZ

JOHN DODSON

04/26/2011

45

1 A. So when you already have the ASAC come down and
2 tell you shut up, we are not going to listen to your
3 complaints, there is -- it is kind of hard to reapproach
4 him with the same complaint.

5 Q. And you talked about -- you used the word
6 schism, which obviously comes up in some e-mails that
7 have been publicized. Were there any -- as we have
8 discussed it here, it was special agent in charge, the
9 assistant special agent in charge, the group supervisor,
10 and two lead case agents on one side of the schism, and
11 on the other side of the schism it was the special
12 agents like yourself.

13 Were there any other special agents that were
14 similarly situated to yourself, to Special Agent Alt, to
15 Special Agent Medina, that were on the side of the
16 schism that thought that what --

17 A. Yes, sir. I have yet to speak to a rank and
18 file enforcement agent that is of the same mind-set as
19 the individuals you just named, McAllister up to Newell.

20 Q. Can you recollect a time when you were
21 conducting surveillance on an FFL and you saw firearms
22 being loaded into a car when you said to your colleague
23 we got to go, we got to go seize this now, I understand
24 the direction we have been given, but this is bad stuff,
25 these are bad people, we need to go just --

ARIZONA REPORTING SERVICE, INC.

(602) [REDACTED]

www. [REDACTED]

Phoenix, AZ

JOHN DODSON

04/26/2011

92

1 suspect beats you in a foot chase and he gets away, you
2 didn't let him walk, you just lost the chase. So that's
3 what walking is.

4 When ASAC George Gillett came down to our
5 office, he really didn't -- and this happened a lot in
6 Phoenix, is that most of our concerns or questions
7 weren't addressed directly. The attitude and the
8 mentality was that they didn't need to be addressed. We
9 just needed to do what we were told.

10 And so when ASAC Gillett came down, we were told
11 you don't know what walking is, we are not walking guns.
12 And that's pretty much the extent of the debate, because
13 in Phoenix there is very little debating one of the
14 ASACs or the SAC. So it was, you know, a declaration,
15 you don't know what walking guns is, we are not walking
16 guns, this is all okay.

17 Q. There wasn't any explanation provided by ASAC
18 Gillett as to what he specifically meant?

19 A. Not that I recall, no, sir. And if you talk to
20 many people in Phoenix you are probably going to see
21 that as a common theme, that there is very little
22 explanations offered.

23 Q. Now, when Mr. Castor was asking you questions, I
24 believe you made reference to approximately 2,000 guns
25 entering Mexico. Do you recall that?

ARIZONA REPORTING SERVICE, INC.

(602) [REDACTED]

www. [REDACTED]

Phoenix, AZ

JOHN DODSON

04/26/2011

110

1 of the picture right now, so the guy -- or girl -- the
2 person you're up on the T-III on, he has some explaining
3 to do. He owes somebody some money, he needs to explain
4 why somebody isn't where they are supposed to be when
5 they are supposed to be there. He needs to explain to
6 somebody why this happened and when. All right? Tickle
7 the wire.

8 That's why you -- it is just a tool. It is not
9 the end all, be all. You can't go up on a wire and sit
10 back and push the TiVo button and have your case solved
11 for you. You need to be out there and do those bread
12 and butter things that as cops, as case agents, as law
13 enforcement, we have to do. All right?

14 I got dinged on my evaluation because it said I
15 was too adherent to those old staples of law
16 enforcement, like surveillance, undercover, informant,
17 things like that. And my argument is I will take that
18 lump with pride, because those staples are staples for a
19 reason, they work. It is what we do. It is how you
20 investigate crimes.

21 Q. So was it your impression from your
22 conversations with Mr. Voth or Ms. McAllister or others
23 there when you, when you got here in Phoenix that they
24 took the other view, that they -- that the goal that
25 they were working toward was to get the T-III and they

ARIZONA REPORTING SERVICE, INC.

(602)

www.

Phoenix, AZ

JOHN DODSON

04/26/2011

121

1 Directive 3310.4, and that the relevant part of it is
2 Section 148 sub (a)(2). I am just going to read that
3 into the record.

4 In other cases immediate intervention may not be
5 needed or desirable, and the special agent may choose to
6 allow the transfer of firearms to take place in order to
7 further an investigation and allow for the
8 identification of additional co-conspirators who would
9 have continued to operate and illegally traffic firearms
10 in the future, potentially producing more armed crime.

11 Is that the order that you were referring to
12 earlier that you said you are familiar with?

13 A. Yes, sir.

14 Q. And just so we are clear on what your
15 understanding of the order was, and we can all obtain it
16 and read it and have our own understanding of it, but
17 what were you taught about what that means?

18 A. That that implies when the straw purchaser makes
19 the purchase at the counter, you don't have to land on
20 them right there at the counter or as soon as he walks
21 out the door, that it is okay to allow it to happen, to
22 allow him to go with that gun under your surveillance to
23 the ultimate purchaser of it or whom he is delivering it
24 to, or if he is taking it to a gang or a stash house or
25 whomever, it is okay to allow it to happen, to go there,

ARIZONA REPORTING SERVICE, INC.

(602) [REDACTED]

www. [REDACTED]

Phoenix, AZ

JOHN DODSON

04/26/2011

122

1 to be delivered. But you don't get to go home. You get
2 the gun, is my understanding, what I have been taught
3 and how in every other ATF office not only that I have
4 been in but that I have gone like TDY to work at that
5 that policy is implemented.

6 Q. So, in other words, your understanding is that
7 there is a temporal or time limitation on how long it
8 can be allowed to continue on its course without you
9 intervening.

10 A. I think it is not so much time as it is
11 availability of eyes on. Like if I get an agent that's
12 on the house and we know that gun is on the house,
13 that's still okay. You know, even if it is overnight,
14 on to the next night, the gun and bad guy are still
15 there. We are just waiting on the guy he is supposed to
16 deliver it to to come by and pick it up.

17 Q. Well, the beginning of it said in other cases
18 immediate intervention may not be needed or desirable.

19 A. Correct.

20 Q. So are you saying that, in other words,
21 intervention, that doesn't mean no intervention ever?

22 A. Correct.

23 Q. Just the intervention doesn't have to happen
24 right now, but intervention does need to occur, that's
25 your understanding?

ARIZONA REPORTING SERVICE, INC.

(602) [REDACTED]

www. [REDACTED]

Phoenix, AZ

JOHN DODSON

04/26/2011

123

1 A. Yes, sir, that it is not as soon as the FFL
2 hands the straw purchaser the gun, that's it, you can't
3 let him leave the store with it.

4 Q. It is not a license to forego intervention at
5 all?

6 A. Correct.

7 MR. FOSTER: That's all I have.

8

9

FURTHER EXAMINATION

10 BY MR. CASTOR:

11 Q. Would it surprise you -- I mentioned a little
12 bit before if confidential witnesses call us up, call
13 our whistle blower hotline, reach out with us, we want
14 to work with them, obtain any information they have and
15 we keep their, the fact that they reached out to us
16 anonymous. Obviously it is hard to use too much
17 information without sharing documents with our
18 colleagues in the minority. But would it surprise you
19 if other special agents that worked in Group 7 were
20 interested in communicating with the committee staff and
21 interested in cooperating with our investigation?

22 A. No, sir, not at all.

23 Q. And would it surprise you if some of those
24 people who are interested in cooperating with the
25 committee staff, want to be part of the investigation,

ARIZONA REPORTING SERVICE, INC.

(602) [REDACTED]

www. [REDACTED]

Phoenix, AZ

JOHN DODSON

04/26/2011

135

1 communication that you had with him?

2 A. Not at this time. I don't want to make any
3 decision for him.

4 Q. Okay.

5 A. You know what I mean?

6 Q. Would it surprise you if some of these FFLs were
7 interested in cooperating with Congress?

8 A. No, sir. No, that would not surprise me.

9 Q. And would it surprise you if some of these FFLs
10 were interested in receiving a subpoena from Congress to
11 facilitate their cooperation?

12 A. No, sir, that wouldn't surprise me at all.

13 Q. And speaking very generally, not about any
14 specific FFL, but do you know whether any FFL has an
15 interest in cooperating with Congress?

16 A. Yes, sir, I do.

17 Q. One of the items discussed in the CBS news piece
18 related to somebody in management, and by management I
19 mean whether it is the group supervisor or Mr. Gillett
20 used the terminology scramble some eggs.

21 A. Yes, sir.

22 Q. If you are going to make an omelette you have
23 got to scramble some eggs. Do you remember the context
24 of that?

25 A. Yes, sir. It was -- there was a prevailing

ARIZONA REPORTING SERVICE, INC.
www.az-reporting.com

(602) 274-9944
Phoenix, AZ

1 attitude amongst the group and outside of the group in
2 the ATF chain of command, and that was the attitude.
3 And although there were several times where that saying,
4 that metaphor was used, I can't give you a specific date
5 and time that it, you know, to quote it, that it was
6 used.

7 However, I had heard that, you know, sentiment
8 from Special Agent English, Special Agent McAllister,
9 and Special Agent Voth. And the time referenced in the
10 interview was, I want to say, in May as the GRIT team or
11 gunrunner initiative team was coming out. I was having
12 a conversation with Special Agent McAllister about the
13 case in which the conversation ended with me asking her
14 are you prepared to go to a border agent's funeral over
15 this or a Cochise County deputy's over this, because
16 that's going to happen. And the sentiment that was
17 given back to me by both her, the group supervisor, was
18 that, or along the lines of, if you are going to make an
19 omelette, you need to scramble some eggs.

20 Q. Along those lines, when did you find out that
21 Agent Terry was killed?

22 A. I found out December 16th, 2010.

23 Q. And what can you tell us about your
24 recollections of receiving that information? Again, not
25 getting into any specific investigation.

Exhibit 94

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO EXAMINATIONS

WITNESS

PAGE

OLINDO JAMES CASA

Examination by Mr. Castor	16
Examination by Mr. Lindsay	60
Examination by Mr. Sherman	83
Examination by Mr. Foster	88
Examination by Mr. Davis	114
Further Examination by Mr. Foster	124
Further Examination by Mr. Davis	126
Further Examination by Mr. Foster	130

1 interactions with my group supervisor 14 and I have some
2 limited interactions with my ASAC who is GS 15. Above
3 that it is above my rank and chain of authority, so I
4 couldn't really say above that level.

5 Q. Fair enough.

6 A. So I am sorry, I just want to clarify that.

7 Q. In the schism e-mail are you able to identify
8 who was on each side of the schism?

9 A. Oh, yes.

10 Q. And who was that?

11 A. Larry, is it okay if I name names?

12 MR. BERGER: That's okay. I am all right with
13 that.

14 THE WITNESS: Okay. Myself, Larry Alt, John
15 Dodson and, to a lesser degree, Jose Medina. He was
16 outspoken against it, too, but he was in training and he
17 was in -- he is probationary. So the senior agents
18 advised him to share his thoughts with us because we
19 would be afraid based on the schism e-mail. It wouldn't
20 be beyond Dave Voth to fire him or remove him from duty.
21 It would be very easy for a probationary employee to be
22 removed.

23 On the other hand, the people that didn't
24 subscribe to how Larry, John, and I thought would be, of
25 course, the author of that e-mail, David Voth; the case

ARIZONA REPORTING SERVICE, INC.

www. [REDACTED]

(602) [REDACTED]

Phoenix, AZ

1 agent, Hope McAllister; the co-case agent, Tanya
2 English. And there was another individual and he was
3 more neutral, he tried not to take sides, and that would
4 be Mark Sonnendecker. He didn't really take a side
5 either way.

6 BY MR. CASTOR:

7 Q. There was another e-mail from Mr. Voth dated
8 April 2nd, 2010 that was also in the same piece, and he
9 referenced the number of deaths in Mexico. Do you
10 recollect that e-mail?

11 A. Sure.

12 Q. And he said there was 958 killed in March 2010?

13 A. Uh-huh.

14 Q. 937 in January 2010?

15 A. Uh-huh.

16 Q. And then the numbers were increasing?

17 A. Of course.

18 Q. And do you know if he was trying to tie, you
19 know, the decisions to let the guns get into the hands
20 of the straw purchasers to this violence in Mexico?

21 A. Again, I don't want to speculate what Dave
22 thought or didn't think, but I would say it doesn't take
23 a rocket scientist to see the correlation going on. The
24 more straw purchasers buying the guns, the more violent
25 it got.

1 Q. And is it fair to say that, you know, the folks
2 on your side of the schism wanted to do everything they
3 could to interdict these weapons so they wouldn't get
4 any farther down the street than they have to?

5 A. Yes, sir. We were all sick to death when we
6 realized that -- when we realized what was going on or
7 when we saw what was going on by the trends. We were
8 all just, yes, we were all distraught.

9 Q. And these guns that the suspicious folks were
10 obtaining, AK-47s, AK-47 variants, you know, Barrett .50
11 calibers, can you think of any other types of weapons
12 that were typically in the mix here?

13 A. Oh, yes. The cop killers, that's the nickname
14 for the FN Five-seven. It will go through a vest, go
15 through a plate in the vest. They are a pistol. It is
16 a hot round. It is -- they call it the cop killer. I
17 can't think of the Mexican name for it, but there is a
18 Spanish -- yes, it is a hot weapon.

19 The Colt El Jefe, it is a .38 caliber revolver.
20 There is a Bushmaster, also a cheaper -- it is a cheaper
21 version of the Barrett. It is about five grand as
22 opposed to ten and it is a .50 caliber. Those
23 .50 calibers are very awesome destructive weapons, as
24 well as AK, the Dracos. Draco is an AK-47 pistol.

25 Q. And you witnessed weapons of this type --

ARIZONA REPORTING SERVICE, INC.

(602) [REDACTED]

www. [REDACTED]

Phoenix, AZ

Exhibit 95



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

February 3, 2011

MEMORANDUM TO: Special Agent in Charge
Dallas Field Division

THRU: Resident Agent in Charge ^{TL}
Lubbock Field Office 2-3-2011

FROM: Gary M. Styers
Special Agent
Lubbock Field Office

SUBJECT: Contact with Congressional Investigators

On February 2, 2011, at approximately 1500 hours, ATF Special Agent Gary Styers was contacted telephonically by Robert Donovan and Brian Downey, representing United States Senator Chuck Grassley and the Senate Judiciary Committee. Downey and Donovan after identifying themselves asked Special Agent Styers if he would be willing to answer some questions regarding the time Special Agent Styers spent on a detail to the Phoenix Field Division, Phoenix Group VII Office. Special Agent Styers said he would be willing to answer questions to the best of his knowledge.

Special Agent Styers was asked if he was familiar with the large firearms trafficking case in Phoenix Group VII and Special Agent Styers said he was. Downey and Donovan asked if Special Agent Styers knew the name of the case and he responded that it was "Fast and Furious". Downey and Donovan then asked if Special Agent Styers knew who the case agent was and Special Agent Styers said it was Special Agent Hope McAllister. Special Agent Styers was also asked who the supervisor of the group was and Special Agent Styers said it was Group Supervisor David Voth. Downey and Donovan also asked who helped Special Agent McAllister, Special Agent Styers said that Special Agent McAllister had a Co-Case Agent from Immigration and Customs Enforcement (ICE) as well as an agent from Group VII. Downey and Donovan asked who was the Agent from ICE and Special Agent Styers told them it was Lane France.

Downey and Donovan asked Special Agent Styers if he knew what the agents were assigned to do on the investigation. Special Agent Styers explained that a group of agents were assigned to the case and that since the case was in the stage of an active wiretap, some agents were working within the group and

others were working at various functions related to the wire. Special Agent Styers further said that he did not specifically know the role of each individual agent.

Downey and Donovan inquired as to the role that Special Agent Styers had in this case and Special Agent Styers advised that he had assisted with some surveillance operations with the case. Special Agent Styers was asked to describe the operations and relayed that one of the operations was a suspected transaction that was to occur at a gas station and detailed agents were asked to cover the transaction. While positioning to observe the suspects, Special Agent Styers and other detailed agents were told by Special Agent McAllister that agents were too close and would burn the operation. Special Agent McAllister told all the agents to leave the immediate area. While the agents were repositioning, the transaction between the suspects took place and the vehicle that took possession of the firearms eventually left the area without agents following it.

Downey and Donovan asked Special Agent Styers if he ever saw guns actually go into Mexico. Special Agent Styers said he did not see any firearms cross the border to Mexico. They also asked if Special Agent Styers had worked with any agencies in Mexico, Special Agent Styers relayed that he had not, but had knowledge that other agents within Group VII spoke of communication with other ATF Special Agents assigned in Mexico.

Downey and Donovan then asked if Special Agent Styers had any knowledge that Federal Firearms Licensees (FFLs) were reporting suspected straw purchasers. Special Agent Styers explained that FFLs were indeed reporting such situations and that Special Agent Styers had numerous contacts with FFLs in the Phoenix area and had also worked inside of an FFL in an undercover capacity, while an individual attempted a large scale straw purchase. Special Agent Styers told Downey and Donovan that in speaking with the FFL holder and owner of the gun shop, he told Special Agent Styers that he had asked ATF to install cameras inside his shop and to have an undercover agent inside on a more regular basis.

Downey and Donovan inquired as to what the procedures were and who handled the calls from the FFLs when they reported such suspected transactions. Special Agent Styers told them that he had no knowledge of any special procedures. If the FFLs called during normal business hours, Special Agent Styers assumed that, if they called the office number, their call was handled by the Group Supervisor. Special Agent Styers also told Downey and Donovan that if the FFLs were calling individual agents within the group, he had no direct knowledge of those calls and what the ATF response was to those reports. However, Special Agent Styers did tell Downey and Donovan that he had heard from within the group that FFLs were calling case agents.

With regards to statistics and reporting, Downey and Donovan, questioned Special Agent Styers as to whether he had any knowledge of "padding of statistics or inconsistent reporting". Special Agent Styers advised them that he had no knowledge of a wide scale effort to skew statistics. However, Special Agent Styers relayed that he did question the Group Supervisor as to why he wanted Special Agent Styers to trace firearms that had not been recovered. Special Agent Styers was assigned to the investigation and provided the ATF Form 4473s, the Firearms Transaction Record, and told to trace said firearms. Special Agent Styers asked as to why, when ATF has the Suspect Gun Database, which is designed for such firearms that have yet to be recovered by law enforcement. Group Supervisor Voth said he wanted them traced so that if someone else traced the firearms, they would know the firearms were connected to the case Special Agent Styers was assigned. Special Agent Styers relayed that even though he disagreed with the requested procedures, he follow the request of Group Supervisor Voth. Special Agent Styers also informed Donovan and Downey that he asked several agents also assigned to Group VII if they had to submit similar firearms traces and they replied that they in fact also were told to trace all firearms in a similar fashion.

Special Agent Styers was then asked about his general impression of the Fast and Furious case. Special Agent Styers stated that the case had systematically divided and isolated agents from the group. The case agent had solicited the advice of numerous experienced agents, including Special Agent Styers, regarding how to conduct and end the wiretap operations and case overall. Special Agent Styers gave the case agent his honest opinion and advice since Special Agent Styers had worked two wiretap investigations in his career. Special Agent Styers felt that his advice and opinions, as well as other agents' advice and opinions were widely disregarded. Along with other agents within the group, Special Agent Styers explained that he was no longer asked to assist with Fast and Furious and concentrated on his assigned cases and provided necessary assistance to fellow agents within the detail and group.

Downey and Donovan asked Special Agent Styers what he felt was incorrect about the way the Fast and Furious case was conducted. Special Agent Styers explained that first and foremost, it is unheard of to have an active wiretap investigation without full time dedicated surveillance units on the ground. Special Agent Styers relayed that no agents in the group were assigned to surveillance on the Fast and Furious case. Special Agent Styers said that other agencies or task force officers may have been used to conduct surveillance and respond to calls of FFLs, but it seemed that either the case agent or Group Supervisor would poll the office for agents who were available to respond at short notice.

Secondly, Special Agent Styers said that it appeared odd to have a majority of ATF Agents working on a wiretap investigation, who had never worked such a case. Especially, when numerous, permanent Group VII agents and detailers had previous wiretap experience.

Special Agent Styers was provided with contact information for Downey and Donovan and the conversation was ended. Special Agent Styers contacted the Lubbock Resident Agent in Charge, Jim Luera at 1545 hours after the conversation with Downey and Donovan ended, to inform him of the contact. Special Agent Styers was later asked to document the conversation herein and attempted to do so to the fullest extent possible.

Respectfully,



Gary M. Styers
Special Agent, ATF

Exhibit 96

From: Voth, David J.
Sent: Friday, March 19, 2010 10:47 PM
To: Gillett, George T. Jr.
Subject: The week in review

George,

The following is a approximate update of this weeks activities in review. If I have omitted something it is due to the busy schedule not intentional;

[REDACTED]

Since 03/15/2010 our targets have purchased 105 firearms from local FFLs. This includes 3 Barrett .50 caliber rifles. On one occasion surveillance followed Patino and Moore from [REDACTED] to [REDACTED] to Acosta's location; [REDACTED] [REDACTED] [REDACTED] At Acosta's location firearms were transferred into 3 separate waiting vehicles. Additional firearms were observed being transported to [REDACTED], Phoenix, AZ (previously unidentified address.) The tracker confirmed that Patino drove to our previously identified auto business after purchasing a Barrett . 50 caliber rifle.

[REDACTED]

David Voth
Group Supervisor
Phoenix Group VII
[REDACTED]

Exhibit 97

Phoenix Group VII (OCDETF Strike Force)

RC-2



785115-10-0004, Jacob Chambers et al: This is an approved ATF OCDETF investigation (# SWAZP0496) that is a large scale conspiracy of RC-5 interconnected straw purchasers. Thus far in the investigation (September through present) the group has purchased over 1,100 firearms; most of which are the AK-47 variant 7.62 assault rifles and or the F.N. Herstal 5.7 mm pistols, to include approximately 5 Barrett .50 caliber rifles. For these firearms they have paid over \$700,000.00 in cash. Of those firearms purchased by the group approximately 150 have been recovered in Mexico or near the Mexican Border (the serial numbers are continually being updated and changed thus affecting the trace results) with a short time-to-crime; some as little as one day. New straw purchasers are continually being identified as part of this investigation.

RC-3



RC-3



ATF Phoenix Field Division and ATF Denver Field Division have brought in out of town agents to assist in this ongoing investigation.

HOCR ATF - 002795

Exhibit 98

[REDACTED]

From: Voth, David J.
Sent: Sunday, March 28, 2010 2:31 PM
To: Kenrick, Brian C.; Karmgard, Thomas E.
Cc: Gillett, George T. Jr.; Hall, Diane C.
Subject: PATINO TIII Affidavit revised 3-26-2010
Attachments: PATINO TIII Affidavit revised 3-26-2010.docx

Brian,

This affidavit for T-III audio intercept is for the two (2) lines (T-Mobile & Boost utilizing the Sprint/Nextel push to talk (PTT) network) for Uriel Patino. We have provided this affidavit to our local AUSA Emory Hurley and we are hopeful he will submit it up the chain to OEO this upcoming week (Monday/Tuesday?) Patino is a "Lieutenant" in the Manuel Celis-Acosta firearms trafficking organization. We believe Patino orchestrates the purchase of firearms here in Phoenix and provides them to other members of the cell for smuggling south to Mexico at the direction of Celis-Acosta.

Thanks for your help and consideration in this mater,

David Voth
Group Supervisor
Phoenix Group VII
602- [REDACTED]

Exhibit 99

From: Kenrick, Brian C.
Sent: Wednesday, March 31, 2010 5:45 AM
To: Voth, David J.
Cc: Gillett, George T. Jr.; Hall, Diane C.; Karmgard, Thomas E.; Lee, Patria M.; Orlow, Barry S.
Subject: RE: PATINO TIII Affidavit revised 3-26-2010

David – every time I read this case I am amazed at the amount of firearms we are talking about, an incredible case. I have a couple of comments below but my biggest concern is the length and my recommendation is one that could only help you speed things along. OEO is currently swamped with T3 applications and as you know they need to read each affidavit a couple times (and so does the DAG) before approval. This affidavit could be cut down drastically merely by incorporating the prior affidavits facts through a FN saying something to the effect of “Affidavit dated XXXXXX which was used as the basis for the Order signed by Judge XXX on XXXXXX is incorporated by reference and attached.” I would then recommend removing the following paragraphs which you do not need to get the pc for these two phones: 21-27,48-66, 76-108. This would remove at least 25 pages which has already been made part of the underlying pc and reviewed through the first affidavit. It will also make OEO and the Judge much happier.

For specific comments I do not have much, but here it is...

Caption We list 3 identifiers for TT3, I have been advised that OEO will only accept 2 identifiers per device, I would remove the UFMI
P4 Same comment, remove UFMI
P34 You may want to note PATINO does not have an FFL (assuming a check was done) since this affidavit primarily deals with him, or remove this paragraph as it was already in the last affidavit.
P74 I would update this purchase # through March for PATINO
P124 I do not see a paragraph anywhere showing we received a court order for the pen on TT3, I would put it here or before paragraph 143
P182 Need to include updated ELSUR check date and need to include these new numbers and any new potential interceptees

Great job on the necessity section, very specific in regards to PATINO.

I will be on travel status until Friday morning, if you need anything just call my cell. Let us know when our comments are addressed and when you hear back from OEO so we may provide our approval letter. I would seriously consider making it shorter for your benefit, thanks David.

Brian C. Kenrick
Senior Attorney (Field Operations & Information)
Bureau of Alcohol, Tobacco, Firearms and Explosives
United States Department of Justice
ATF Rockford Satellite Office

Rockford, IL 61114

Phone: (815) [REDACTED]

Cell: (202) [REDACTED]

Fax: (815) [REDACTED]

[REDACTED].gov

WARNING: This electronic transmission is intended only for the person(s) named above. It may contain information that is confidential and protected from disclosure by the attorney-client privilege and/or work product doctrine or exempt from disclosure under other applicable laws. Any use, distribution, copying or other disclosure by any other person is strictly prohibited. Do not

Exhibit 100

From: Voth, David J.
Sent: Friday, April 02, 2010 1:31 PM
To: Hurley, Emory (USAAZ); Gillett, George T. Jr.
Cc: Phoe-Group VII
Subject: No pressure but perhaps an increased sense of urgency...

MEXICO STATS

958 killed in March 2010 (Most violent month since 2005)

937 killed in January 2010

842 killed in December 2009

SINALOA - MARCH STATISTICS

187 murders in March, including 11 policemen

I hope this e-mail is well received in that it is not intended to imply anything other than that the violence in Mexico is severe and without being dramatic we have a sense of urgency with regards to this investigation. Our subjects purchased 359 firearms during the month of March alone, to include numerous Barrett .50 caliber rifles. I believe we are righteous in our plan to dismantle this entire organization and to rush in to arrest any one person without taking in to account the entire scope of the conspiracy would be ill advised to the overall good of the mission. I acknowledge that we are all in agreement that to do so properly requires patience and planning. In the event however that there is anything we can do to facilitate a timely response or turnaround by others we should communicate our sense of urgency with regard to this matter.

Thanks for everyone's continued support in this endeavor,

David Voth
Group Supervisor
Phoenix Group VII
