

Exhibit 101

** PUBLIC ** PHOENIX POLICE DEPARTMENT REPORT ** RECORD **
ORIGINAL PAGE NUMBER: 1 DR NUMBER: 2010 00481598

REPORT DATE: 20100402 TIME: 0911
TYPE OF REPORT: MISCONDUCT WITH WEAPON OFFENSE: 415W
LOCATION: [REDACTED] ROAD BEAT: 0822 GRID: BG19
DATE/TIME OF OCCURRENCE: FRI 040210 0239
REPORTING OFFICER(S): [REDACTED] UNIT: [REDACTED]

PREMISES: STREET/ROADWAY/ALLEY VEHICLE
OFFENSE INVOLVED: BIAS - NONE (NO BIAS)
PHOTOGRAPHS TAKEN: YES BY: [REDACTED]
RELATED REPORT(S): 2010 00481598B 0000 0000
REPORT DISPOSITION: FIELD CLEARED BY ARREST OVER AGE 18: YES

**** SUSPECT INFORMATION ****

ARRESTED PERSON-02: *** SENT TO PROSECUTOR OFFICE ***
NAME: ACOSTA, MANUEL CELIS

SPEAKING: ENGLISH

SUSPECTED OF USING: NOT APPLICABLE

RACE: [REDACTED] SEX: M AGE: DOB: HT: WT:
HAIR: EYES: SSN:
OLN: AZ R&I:
LEVEL OF FORCE : NOT DICTATED OR WRITTEN

EMOTIONAL CONDITIONS: UNCOOPERATIVE

ARREST: DATE: 040210 TIME: 0239 DAY: FRI GRID: BG19
LOC: [REDACTED] PHOENIX AZ
PHX.P.D. BOOKING NO: 201004020290

RIGHTS ADVISED: YES TIME: 0251 OFFICER: [REDACTED]

ARRESTED PERSON-03: *** SENT TO PROSECUTOR OFFICE ***
NAME: [REDACTED] [REDACTED]

SPEAKING: ENGLISH

SUSPECTED OF USING: NOT APPLICABLE

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RACE: [REDACTED] SEX: M AGE: DOB: HT: WT:
 HAIR: EYES: SSN:
 OLN: AZ R&I:
 LEVEL OF FORCE : RESTRAINT, JOINT LOCKS, PRESSURE PTS, OR CUFFS

EMOTIONAL CONDITIONS: UNCOOPERATIVE

ARREST:

DATE: 040210 TIME: 0239 DAY: FRI GRID: BG19
 LOC: [REDACTED] ROAD PHOENIX AZ
 PHX.P.D. BOOKING NO: 201004020310
 CLD PRINTS: COURT-DATE: 041510 TIME: 1000
 CLD NO: 000139688551 STATUTE: ARS 13-3102A2 CLASS: 1M

RIGHTS ADVISED: YES TIME: 0257 OFFICER: [REDACTED]

CLOTHING DESC & MISC:
 DICTATED RES ADDR:

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

ON 040210, AT APPROXIMATELY 0239 HOURS, AP2 MANUEL ACOSTA AND AP3 [REDACTED] WERE ARRESTED NEAR [REDACTED] ROAD AFTER A TRAFFIC STOP REVEALED ONE CONCEALED HANDGUN, ONE PLAINVIEW HANDGUN AND A SMALL CLEAR PLASTIC BAGGIE CONTAINING A WHITE POWDERY SUBSTANCE BELIEVED TO BE COCAINE. AP3 WAS ARRESTED FOR MISCONDUCT WITH WEAPON, UNDER CITATION NUMBER 13968855, CLASS ONE MISDEMEANOR, AND AP2 WAS ARRESTED FOR POSSESSION OF NARCOTICS, CLASS FOUR FELONY. AP2 WAS READ [REDACTED] CONSTITUTIONAL RIGHTS AT 0251 HOURS AND STATED "YES SIR" WHEN ASKED IF [REDACTED] UNDERSTOOD [REDACTED] RIGHTS, AND AP3 WAS READ [REDACTED] CONSTITUTIONAL RIGHTS AT 0257 HOURS, AND STATED "YES SIR" WHEN ASKED IF [REDACTED] UNDERSTOOD [REDACTED] RIGHTS. BOTH SUBJECTS WERE BOOKED INTO 4TH AVENUE JAIL FOR THE ABOVE CHARGES.

ON 040210, AT APPROXIMATELY 0238 HOURS, OFFICER [REDACTED] AND I WERE DRIVING NORTHBOUND ON [REDACTED] AVENUE APPROACHING [REDACTED]. AS I WAS DRIVING THE VEHICLE, I HAD IMMEDIATELY OBSERVED A BLUE VEHICLE TRAVELING SOUTHBOUND WITHOUT HEADLIGHTS ON. AS THE VEHICLE PROCEEDED TO TURN EAST ONTO [REDACTED], I FOLLOWED CLOSELY BEHIND. SECONDS LATER, I OBSERVED A SILVER GUN BEING THROWN OUT THE PASSENGER SIDE OF THE VEHICLE CLOSEST TO THE CURBSIDE. I COULD NOT MAKE OUT ANY DESCRIPTION OF THE OCCUPANT THAT THREW THE HANDGUN; HOWEVER, DID RECOGNIZE IT COME OUT THE VEHICLE'S RIGHT SIDE. I THEN INITIATED MY LIGHTS AND SIRENS AS OFFICER [REDACTED] CALLED OVER THE RADIO FOR MORE UNITS AND THAT THE SUBJECTS IN THE VEHICLE HAD THROWN A GUN OUT THE WINDOW.

AS THE VEHICLE CAME TO A SLOW STOP NEAR [REDACTED] ROAD, I IMMEDIATELY GAVE VERBAL COMMANDS TO HAVE ALL THE PASSENGERS KEEP THEIR HANDS UP AND OUT OF THE WINDOW. AS SEVERAL OTHER OFFICERS ARRIVED ON SCENE TO ASSIST, I CONTINUED TO KEEP SECURITY.

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OFFICER [REDACTED] ADVISED THAT HE HAD PLACED BOTH AP1 [REDACTED] AND AP3 INTO CUSTODY; AND THAT PRIOR TO BEING READ THEIR RIGHTS AND ON HIS OWN FREEWILL, AP1 HAD ADVISED THAT THERE WERE THREE GUNS AND TWO PEOPLE STILL IN THE VEHICLE. IT SHOULD BE KNOWN THAT AP1 WAS THE FIRST OCCUPANT TO BE REMOVED FROM THE VEHICLE; AND AS OFFICER [REDACTED] TOOK AP3 INTO CUSTODY AND ASKED WHO WAS IN THE CAR, AP3 STATED OF [REDACTED] OWN FREEWILL THAT NO ONE WAS IN THE VEHICLE AND THAT THE GUN LOCATED UNDER HIS SEAT BELONGED TO [REDACTED]. IT SHOULD BE KNOWN THAT AP3 WAS SEATED IN THE RIGHT REAR PASSENGER SIDE OF THE VEHICLE.

I THEN READ AP2 [REDACTED] CONSTITUTIONAL RIGHTS AT 0251 HOURS, AND [REDACTED] STATED "YES SIR" WHEN ASKED IF [REDACTED] UNDERSTOOD [REDACTED] RIGHTS. I THEN READ AP1 [REDACTED] CONSTITUTIONAL RIGHTS AT 0252 HOURS, AND [REDACTED] STATED "YES SIR" WHEN ASKED IF [REDACTED] UNDERSTOOD HIS RIGHTS, HOWEVER, ALSO STATED THAT [REDACTED] WANTED [REDACTED] LAWYER PRESENT AND ADVISED THAT [REDACTED] HAD [REDACTED] LAWYER'S PHONE NUMBER IN [REDACTED] PANTS POCKET. I THEN READ AP3 [REDACTED] CONSTITUTIONAL RIGHTS AT 0257 HOURS, AND [REDACTED] AS WELL STATED "YES SIR" WHEN ASKED IF [REDACTED] UNDERSTOOD RIGHTS.

OFFICER [REDACTED] THEN TOOK AP1 TO THE SIDE WHERE [REDACTED] HAD TESTED FOR IMPAIRMENT OF ALCOHOL; AND FOR FURTHER INFORMATION REGARDING THE TESTING AND PROCESSING PROCEDURES, PLEASE REFER TO OFFICER [REDACTED] AND OFFICER [REDACTED] SUPPLEMENTAL REPORTS AND ALL OTHER RELATED REPORTS.

OFFICER [REDACTED] THEN TOOK CUSTODY OF THE SILVER HANDGUN WHICH WAS STOLEN OUT OF THE PASSENGER WINDOW WHERE HE WAITED FOR ADDITIONAL PHOTOGRAPHS TO BE TAKEN BEFORE PLACING THE GUN IN AN EVIDENCE BAGGIE UTILIZING A NEW PAIR OF LATEX GLOVES. OFFICER [REDACTED] ADVISED THAT [REDACTED] DID NOT LOCATE ANY ROUNDS IN THE MAGAZINE OR CHAMBER; HOWEVER, THE CHARGING HAMMER OF THE WEAPON WAS COCKED BACK. THE GUN WAS A SILVER COLT 38 CALIBER LOCATED IN THE BIKE LANE OF THE EASTBOUND TRAFFIC IN FRONT OF RESIDENCE [REDACTED] ROAD.

AFTER OFFICER [REDACTED] COMPLETED [REDACTED] DIGITAL PHOTOGRAPHS OF THE VEHICLE TO INCLUDE A SILVER HANDGUN LODGED IN BETWEEN THE DRIVER'S SEAT AND THE CENTER CONSOLE WITH THE HANDLE EMERGING IN PLAINVIEW, OFFICER [REDACTED] ALSO TOOK PHOTOS OF A BLACK SEMIAUTOMATIC GLOCK HANDGUN LOCATED UNDER THE BACK RIGHT SEAT OF THE TRUCK, AS WELL AS PHOTOS WERE ALSO TAKEN OF SEVERAL EMPTY CASINGS SCATTERED ALL THROUGHOUT THE FRONT OF THE VEHICLE WITH THE MAJORITY OF THE CASINGS LOCATED IN THE DRIVER'S SIDE OF THE VEHICLE. I THEN TOOK CUSTODY OF EACH OF THE GUNS BY UTILIZING DIFFERENT PAIRS OF GLOVES WHILE PLACING EACH OF THEM INTO ITS INDIVIDUAL PROPERTY BAG, AS WELL AS COLLECTING ALL CASINGS. DURING INVENTORY SEARCH OF THE VEHICLE, A SMALL CLEAR PLASTIC BAG CONTAINING A WHITE POWDERY SUBSTANCE BELIEVED TO BE COCAINE WAS LOCATED IN A BLACK CUP WHICH HAD ITS LID ON ALSO WHICH WAS LOCATED IN THE OPEN CENTER CONSOLE WITHIN ARMS REACH OF BOTH THE DRIVER, AP1, AND FRONT PASSENGER, AP2. THE SUBSTANCE WAS LATER FIELD TESTED POSITIVE FOR COCAINE BY MYSELF, WHOM IS A CERTIFIED CONTROLLED SUBSTANCE OFFICER WITH THE CITY OF PHOENIX. FOR FURTHER INFORMATION, PLEASE REFER TO SUPPLEMENTAL REPORT.

THE BLUE 2003 CHEVY PICKUP TRUCK WAS THEN TOWED BY [REDACTED] TOWING FOR

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VIOLATION OF ARS 28-3511C. A CELL PHONE WHICH WAS NOT CLAIMED BY ANY OF THE PASSENGERS LOCATED INSIDE THE VEHICLE WAS ALSO IMPOUNDED AS FOUND PROPERTY BY OFFICER [REDACTED]

ALL THREE SUBJECTS WERE THEN TRANSPORTED BACK TO MARYVALE PRECINCT FOR FURTHER QUESTIONING. EACH OCCUPANT WAS TRANSPORTED SEPARATELY TO KEEP THE INTEGRITY OF STORIES.

OFFICER BROOKS # [REDACTED] THEN TOOK CUSTODY OF ALL FIREARMS AND CASINGS AND CONTINUED TO IMPOUND ALL ITEMS AT MARYVALE PRECINCT. FOR FURTHER INFORMATION, PLEASE REFER TO HIS SUPPLEMENTAL REPORT.

OFFICER CHAVEZ # [REDACTED] THEN SPOKE TO AP1 CONCERNING THE INCIDENT. AP2 ADVISED THAT [REDACTED] WANTED TO SPEAK WITH [REDACTED] LAWYER. NO FURTHER QUESTIONS WERE ASKED.

I THEN TOOK AP3 TO THE SIDE AND ASKED IF [REDACTED] KNEW WHO HAD FIRED THE ROUNDS OFF IN THE VEHICLE AND WHO HAD THROWN THE GUN OUT OF THE FRONT WINDOW, AS WELL AS WHOSE COCAINE WAS LOCATED IN THE OPEN CENTER CONSOLE. AP3 WAS STILL HEAVILY INTOXICATED AND DENIED ALL KNOWLEDGE OF THE GUNS, DRUGS AND SHOTS FIRED. AP3 DID ADMIT TO HAVING HIS BLACK HANDGUN; HOWEVER, [REDACTED] STATED [REDACTED] HAD BELIEVED [REDACTED] HAD LEFT IT IN THE FRONT PASSENGER SEAT POCKET; AND WHEN THEY WERE GETTING PULLED OVER BY THE POLICE, AP3 HAD STATED [REDACTED] REACHED INTO THE POCKET AND TRIED TO PULL IT OUT; HOWEVER, IT WAS NOT WHERE [REDACTED] HAD LEFT IT AND INSTEAD PULLED OUT HIS BLACK PLASTIC HOLSTER. AP3 STATED THAT [REDACTED] WAS TOO DRUNK AND DID NOT REMEMBER ANYTHING THAT WAS GOING ON AT THE TIME.

AP2 WAS ARRESTED FOR POSSESSION OF NARCOTICS, VIOLATION OF ARS 13-3408A1, CLASS FOUR FELONY, AND BOOKED INTO 4TH AVENUE JAIL UNDER BOOKING NUMBER PHX 201004020290. AP3 WAS ALSO ARRESTED FOR MISCONDUCT WITH WEAPONS, VIOLATION OF ARS 13-3102A2, CLASS ONE MISDEMEANOR, AND ISSUED CITATION NUMBER 13968855, AS WELL AS BOOKED INTO 4TH AVENUE JAIL UNDER BOOKING NUMBER PHX 201004020310.

THAT'S CONCLUDES MY INVOLVEMENT IN THIS INVESTIGATION. FOR FURTHER INFORMATION, PLEASE REFER TO ALL OTHER REPORTS AND SUPPLEMENTAL REPORTS.

PAGE A4091/9363/040210/1232/1189/VW 43187
DICTATED ON 040210/0910/1

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 00481598

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REPORT DATE: 20100402 TIME: 0900

TYPE OF REPORT: MISCONDUCT WITH WEAPON

OFFENSE: 415W

PROSECUTION DESIRED: YES

SUSPECT[S]: BOOKED

LOCATION: [REDACTED] AVENUE
[REDACTED] ROAD

BEAT: 0822 GRID: BG19

DATE/TIME OF OCCURRENCE: FRI 040210 0239

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

PREMISES: STREET/ROADWAY/ALLEY

OCCUPIED: YES

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

**** SUSPECT INFORMATION ****

ARRESTED PERSON-01:

NAME: [REDACTED]

SPEAKING: ENGLISH

SUSPECTED OF USING: ALCOHOL

RACE: [REDACTED] SEX: M AGE: DOB: HT: WT:

HAIR: EYES: SSN:

OLN: R&I: PACE

LEVEL OF FORCE : RESTRAINT, JOINT LOCKS, PRESSURE PTS, OR CUFFS

ARREST:

DATE: 040210 TIME: 0239

DAY: FRI GRID: BG19

LOC: [REDACTED] ROAD

PHOENIX AZ

PHX.P.D. BOOKING NO: 201004020320

RIGHTS ADVISED: YES TIME: 0252 OFFICER: [REDACTED]

CLOTHING DESC & MISC:
DRIVERS LICENSE SUSPENDED

**** VICTIM INFORMATION ****

VICTIM -01:

NAME: STATE OF ARIZONIA

INSTITUTION TYPE: SOCIETY/PUBLIC

VICTIM OF:
DUI - COMPLETED

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**** SUSPECT VEHICLE ****

VEHICLE NUMBER: 01 INVOLVED PERSON: AP-01 [REDACTED]

VEHICLE YEAR: 03 MAKE: CHEV MODEL: SILVERADO STYLE: PK

VIN: OAN:

COLOR: TOP/SOLID-BLU

LICENSE PLATE: [REDACTED] STATE: AZ TYPE: TK YEAR: 12

FURTHER DESC.: IMP/030800 ARS 28-3511C

**** NARRATIVE ****

SERIAL NUMBER: 8921

ON 04-02-10 AT APPROXIMATELY 0239 HOURS, OFFICER [REDACTED] 9363 AND I WERE RIDING AS A TWO MAN IN A FULLY MARKED PATROL CAR CONDUCTING ROUTINE PATROL IN THE AREA OF [REDACTED] AVENUE AND [REDACTED] RD.

AS OFFICER [REDACTED] AND I WERE HEADING NORTHBOUND ON [REDACTED] APPROACHING [REDACTED], WE OBSERVED A BLUE CHEVY PICKUP DRIVING SOUTHBOUND ON [REDACTED] AVENUE APPROACHING [REDACTED] WITH THE FRONT HEADLIGHTS OFF. I THEN OBSERVED THE VEHICLE MAKE A SHARP LEFT TURN ONTO [REDACTED] FROM [REDACTED] AVENUE.

OFFICER [REDACTED] AND I FOLLOWED THE VEHICLE WHERE WE IMMEDIATELY NOTICED A SILVER HANDGUN GET TOSSED THROUGH THE FRONT PASSENGER WINDOW, AS THE VEHICLE CONTINUED EASTBOUND ON OSBORN ROAD.

OFFICER [REDACTED] ACTIVATED OUR LIGHTS AND SIRENS, AND WE CONDUCTED A HIGH RISK TRAFFIC STOP. I ADVISED DISPATCH FOR MORE UNITS TO ASSIST. AIR 4 ARRIVED QUICKLY ON SCENE AND ASSISTED WITH THE TRAFFIC STOP UPON WITH OTHER UNITS.

THE DRIVER, LATER KNOWN AS API [REDACTED], WITH DATE OF BIRTH OF [REDACTED] WAS TAKEN INTO CUSTODY WITH NO FURTHER INCIDENT. [REDACTED] ADVISED OFFICERS ON SCENE THAT THERE WERE 2 MORE MALE SUBJECTS INSIDE THE VEHICLE WITH A TOTAL OF 3 HANDGUNS.

THE TWO REMAINING PASSENGERS WERE CALLED OUT OF THE VEHICLE AND TAKEN INTO CUSTODY. UPON CONTACT WITH THE VEHICLE, I OBSERVED IN PLAIN VIEW A SILVER AND GOLD HANDGUN THAT WAS LOCATED IN-BETWEEN THE CENTER CONSOLE AND THE DRIVER SEAT WITH THE HAMMER COCKED BACK. AS I LOOKED INSIDE THE VEHICLE, I NOTICED MULTIPLE SHELL CASINGS ON THE PASSENGER SEAT AND THE FLOORBOARD OF THE DRIVER SIDE AND PASSENGER SIDE. OFFICER [REDACTED] FOUND A SMALL CLEAR PLASTIC BAGGIE CONTAINING WHITE POWDERY SUBSTANCE, BELIEVED TO BE COCAINE.

OFFICER [REDACTED] ADVISED ME THAT THE SECOND HANDGUN WAS TUCKED IN THE BACK PASSENGER SEAT, WHICH WAS IN PLAIN VIEW, AFTER THE CAB DOOR WAS OPENED. I OBSERVED A BLACK 9MM GLOCK HANDGUN UNDERNEATH THE BACK

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PASSENGER SEAT.

OFFICER [REDACTED] FOUND THE THIRD HAND GUN WHICH WAS ON THE SOUTH SIDE CURB ON OSBORN ROAD. OFFICER [REDACTED] STOOD BY UNTIL DIGITAL PHOTOGRAPHS WERE CONDUCTED. THE HANDGUN WAS COLLECTED INTO A PLASTIC BAG.

OFFICER [REDACTED] TOOK DIGITAL PHOTOGRAPHS OF TWO HANDGUNS INSIDE THE VEHICLE, INCLUDING ALL THE SHELL CASINGS THAT WERE FOUND. OFFICER [REDACTED] TOOK CUSTODY OF ALL THE HANDGUNS AND SHELL CASING FOUND, INCLUDING THE SMALL PLASTIC BAGGIE WITH A WHITE POWDERY SUBSTANCE. PLEASE SEE OFFICER [REDACTED] ORIGINAL REPORT FOR FURTHER INFORMATION.

THE BLUE CHEVY PICKUP WAS IMPOUNDED BY SHAMROCK TOWING FOR 28-3511C, AFTER IT WAS DETERMINED THAT THE DRIVER WAS FOUND TO BE DRIVING, WHILE INTOXICATED.

ALL THREE SUBJECTS WERE LATER TRANSPORTED TO MARYVALE PRECINCT FOR PROCESSING AND BOOKING.

UPON ARRIVAL, I CONDUCTED AN INTERVIEW WITH MANUEL CELIS WITH DATE OF BIRTH OF [REDACTED] I READ MANUEL HIS MIRANDA AT 0423 WHERE HE STATED, "YES," IN UNDERSTANDING HIS RIGHT BUT REFUSED TO TALK TO ME WITHOUT A LAWYER PRESENT. THAT CONCLUDED MY INTERVIEW WITH MANUEL.

OFFICER [REDACTED] PROCESSED AP1 [REDACTED] WITH THE DUI AND COMPLETED A BLOOD DRAW, WHICH WAS LATER IMPOUNDED. PLEASE SEE OFFICER [REDACTED] SUPPLEMENT FOR FURTHER INFORMATION ON THE BLOOD DRAW AND INTERVIEW.

AP1 [REDACTED] WAS FOUND TO HAVE A PREVIOUS FELONY IN HIS PACE RECORD AND WAS CHARGED WITH PROHIBITED POSSESSOR, AGGRAVATED DUI/ SUSPENDED LICENSE, POSSESSION OF DANGEROUS DRUGS/NARCOTICS.

AP2 MANUEL ACOSTA WAS CHARGED WITH POSSESSION OF DANGEROUS DRUGS/NARCOTICS.

AP3 [REDACTED] WAS CHARGED WITH MISCONDUCT WITH A WEAPON.

ALL THREE SUBJECTS WERE BOOKED INTO 4TH AVENUE JAIL.

PLEASE SEE ALL ADDED SUPPLEMENTS AND ORIGINAL REPORT FOR FURTHER INFORMATION.

PACE [REDACTED] 8921/040210/0951/608/LIVE/1
NARRATIVE EMAILED

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED] DR FINALIZED BY : [REDACTED]

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DR NUMBER: 2010 00481598 2

REPORT DATE: 20100402 TIME: 0710

TYPE OF REPORT: MISCONDUCT WITH WEAPON

OFFENSE: 415W

LOCATION: [REDACTED] AVENUE
[REDACTED] ROAD

BEAT: 0822 GRID: BG19

DATE/TIME OF OCCURRENCE: FRI 040210 0239

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000000

DATE: 000000

SEARCH WARRANT INVOLVED:

0001 PKG 001 CODE:EI UK00
ITEM: ACZG BRAND: CLT MODEL: 38 SUPRA COLOR:
SIZE: 38 QUANTITY: 0000 SERIAL/ACCT/ID: 38SS04394
DESCRIPTION: SILVER COLT HANDGUN

0002 PKG 000 CODE:EI UK00
ITEM: YAMMUNI BRAND: MODEL: MAGAZINE COLOR: SIL
DESCRIPTION: SILVER MAGAZINE THAT GOES TO THE COLT 38 SUPRA

0003 PKG 003 CODE:EI UK00
ITEM: ACZG BRAND: TAU MODEL: COLOR:
SIZE: 9 QUANTITY: 0000 SERIAL/ACCT/ID: TYG0S679
DESCRIPTION: 9MM TAURUS

0004 PKG 004 CODE:EI UK00
ITEM: YAMMUNI BRAND: MODEL: MAGAZINE COLOR: BLK
DESCRIPTION: BLACK MAGAZINE THAT GOES TO THE TAURUS

0005 PKG 005 CODE:EI UK00
ITEM: ACZG BRAND: GLC MODEL: COLOR:
SIZE: 9 QUANTITY: 0000 SERIAL/ACCT/ID: 9LW694
DESCRIPTION: GLOCK

0006 PKG 006 CODE:EI UK00
ITEM: YAMMUNI BRAND: MODEL: MAGAZINE COLOR: BLK
DESCRIPTION: GOES TO 9MM GLOCK

0007 PKG 007 CODE:EI UK00
ITEM: EHOLSTE BRAND: MODEL: COLOR: BLK
DESCRIPTION: NO DESCRIPTION DICTATED

0008 PKG 008 CODE:EI UK00
ITEM: YCASING BRAND: MODEL: COLOR: SIL

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PAGE NUMBER: 2

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SIZE: 9 QUANTITY: 0014 SERIAL/ACCT/ID:
DESCRIPTION: NO DESCRIPTION DICTATED

**** NARRATIVE ****

SERIAL NUMBER: 9418

THIS SUPPLEMENT WAS ORIGINATED TO IMPOUND THE THREE GUNS, THE THREE
MAGAZINES AND THE BLACK HOLSTER, ALONG WITH THE 14 CASINGS THAT WERE FOUND
IN THE BLUE CHEVROLET PICKUP AT THE VEHICLE STOP ON [REDACTED] AVENUE AND
OSBORN. ALL THE EVIDENCE WAS IMPOUNDED INTO MARYVALE PRECINCT AT 6180 W.
ENCANTO.

THERE IS NO FURTHER INFORMATION AT THIS TIME.

PAGE [REDACTED]/9418/040610/1653/71/VW 43175
DICTATED ON 040210/0714/3

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES: 3902153

DR ENTERED BY : [REDACTED] DR FINALIZED BY : [REDACTED]

END OF REPORT

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SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 00481598 3

REPORT DATE: 20100408 TIME: 0728

TYPE OF REPORT: MISCONDUCT WITH WEAPON

OFFENSE: 415W

LOCATION: [REDACTED] AVENUE
[REDACTED] ROAD

BEAT: 0822 GRID: BG19

DATE/TIME OF OCCURRENCE: FRI 040210 0239

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

=====
= *** REQUEST FOR LAB ANALYSIS *** =
=

CURRENT DR IS: 2010 00481598 003 BIOLOGICAL EVID (BLOOD, SEMEN, TISSUE): N
NAM: ACOSAT MANUEL
NAM: OFF:MIW
LOCATION: 004200 W OSBORN RD JAILED: Y
OFCR REQ OF ANALYSIS [REDACTED] [REDACTED] DATE OCC:040210 TIME:0239
(LAST, FIRST, MIDDLE) FIRM NAME USE BUS. DATE REQ:040810 TIME:0700
VIC: DUI RELATED:N
BUS: STATE

INVOICE	ITEM #	SFX	TYPE	TYPE OF REQUEST
0003902153	0001		ACZG	LATENT PRINT
0003902153	0002		YAMMUNI	LATENT PRINT
0003902153	0003		ACZG	LATENT PRINT FIREARMS
0003902153	0004		YAMMUNI	LATENT PRINT
0003902153	0005		ACZG	LATENT PRINT FIREARMS
0003902153	0006		YAMMUNI	LATENT PRINT
0003902153	0008		YCASING	FIREARMS

BLOOD DRAWN BY: 1.DATE/TIME DRAW:000000 / 0000
LOC OF DRAWING: 2.DATE/TIME DRAW:000000 / 0000

**** NARRATIVE ****

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SERIAL NUMBER: [REDACTED]

SWAB GUNS AND MAGAZINES FOR DNA THEN PRESERVE

FINGERPRINT GUN AND MAGAZINES

COMPARE GUNS TO SHELL CASINGS

ENTER INTO NIBIN

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 00481598 003

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 00481598

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REPORT DATE: 20100409 TIME: 0953

TYPE OF REPORT: MISCONDUCT WITH WEAPON

OFFENSE: 415W

LOCATION: [REDACTED] AVENUE
[REDACTED] ROAD

BEAT: 0822 GRID: BG19

DATE/TIME OF OCCURRENCE: FRI 040210 0239

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

ON 4/9/2010, THIS SUPPLEMENT IS TO CLARIFY THE EVENTS OF WHAT HAPPEN.

AP1 IS [REDACTED]
AP2 IS MANUEL CELIS ACOSTA
AP3 IS [REDACTED]

WHEN [REDACTED] (DRIVER) WAS ORIGINALLY REMOVED FROM THE VEHICLE, [REDACTED] STATED THAT THERE WERE THREE GUNS AND TWO OTHER SUBJECTS INSIDE THE VEHICLE.

THE SILVER HANDGUN (ITEM #1) WAS THE GUN THROWN FROM THE VEHICLE.

THE 9MM TAURUS HANDGUN (ITEM #3) WAS THE GUN BETWEEN THE DRIVER SEAT AND CONSOLE IN PLAIN VIEW, NOT CONCEALED.

THE GLOCK HANDGUN (ITEM #5) WAS CONCEALED UNDER THE REAR SEAT, WHERE JULIO CARRILLO WAS SITTING. CARRILLO WAS ISSUED A CLD FOR CARRYING A CONCEALED WEAPON.

AFTER MIRANDA RIGHTS WERE GIVEN TO [REDACTED] AND MANUEL CELIS ACOSTA, THEY INVOKED AND DID NOT WANT TO TALK TO THE POLICE.

[REDACTED] DENIED ANY KNOWLEDGE OF THE OTHER WEAPONS OR DRUGS INSIDE THE VEHICLE. [REDACTED] THOUGHT [REDACTED] HAD PUT HIS GUN IN THE FRONT SEAT PASSENGER POCKET AND WHEN [REDACTED] WAS BEING PULLED OVER BY THE POLICE, [REDACTED] REACHED INTO THE POCKET AND IT WAS NOT THERE.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 00481598 004

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 00481598 5

REPORT DATE: 20100412 TIME: 1449

TYPE OF REPORT: MISCONDUCT WITH WEAPON

OFFENSE: 415W

LOCATION: [REDACTED] AVENUE
[REDACTED] ROAD

BEAT: 0822 GRID: BG19

DATE/TIME OF OCCURRENCE: FRI 040210 0239

REPORTING OFFICER[S]: [REDACTED]

UNIT: V46

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000000
DATE: 000000

SEARCH WARRANT INVOLVED:

0001 PKG 000 CODE:IE UK00
ITEM: OTELEPH BRAND: MOTORO MODEL: COLOR: BLK
SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
DESCRIPTION: IMPOUNDED CELL PHONE AS EVIDENCE FROM FOUND
PROPERTY INVOICE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES: 3903859

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 00481598 005

** PUBLIC ** PHOENIX POLICE DEPARTMENT REPORT ** RECORD **
 SUPPLEMENT PAGE NUMBER: 1 DR NUMBER: 2010 00481598 6

REPORT DATE: 20100402 TIME: 0502

TYPE OF REPORT: MISCONDUCT WITH WEAPONS OFFENSE: 415W

LOCATION: 004200 [REDACTED] ROAD BEAT: 0822 GRID: BG19
 [REDACTED] AV JUST EAST ON [REDACTED] RD

DATE/TIME OF OCCURRENCE: FRI 040210 0239

REPORTING OFFICER[S]: [REDACTED] UNIT: [REDACTED]

PREMISES: STREET/ROADWAY/ALLEY VEHICLE

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

PHOTOGRAPHS TAKEN: YES BY: [REDACTED]

SCENE PROCESSED FOR LATENTS: NO BY:

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

ON 04-02-2010 AT 0239 HOURS OFC [REDACTED] AND I WERE DRIVING NORTH BOUND ON [REDACTED] AV NEAR [REDACTED] ROAD WHEN WE OBSERVED A BLUE TRUCK WITH ARIZONA PLATES [REDACTED] DRIVING SOUTH BOUND TURNING EAST ONTO [REDACTED] WITH ITS HEAD LIGHTS OFF. A HANDGUN WAS SEEN BEING THROWN OUT OF THE WINDOW AND A TRAFFIC STOP WAS CONDUCTED. IT WAS REVEILED THAT THE DRIVER HAD BEEN DRINKING AND TWO HANDGUNS WERE FOUND IN THE VEHICLE. PRIOR TO THE VEHICLE BEING TOWED A SMALL CLEAR BAG WITH WHITE POWDERY SUBSTANCE WAS LOCATED IN A BLACK CUP FOUND IN THE CENTER CONSOLE IN BETWEEN THE DRIVER AND THE FRONT PASSENGER.

ON 04-02-2010 AT 0239 HOURS THE WHITE POWDERY SUBSTANCE FIELD TESTED POSITIVE TO COCAINE.

I CERTIFY THAT I HAVE SUCCESSFULLY COMPLETED THE TRAINING FROM THE PHOENIX POLICE DEPARTMENT CRIME LABORATORY IN THE USE AND INTERPRETATION OF CHEMICAL FIELD TESTS FOR CONTROLLED SUBSTANCES. I AM A SWORN OFFICER WITH THE PHOENIX POLICE DEPARTMENT AND WILL BE AVAILABLE TO TESTIFY IN A COURT OF LAW AS TO MY FINDINGS IN THE CASE.

THE MARIJUANA WAS IMPOUNDED AT MARYVALE PRECINCT.

ALL ARRESTED PERSONS WERE BOOKED FOR CHARGES TO INCLUDE POSSESSION OF COCAINE CLASS 4 FELONY VIOLATION OF ARS 13-3408 A1. THIS SUPPLEMENT WAS REPLICATED FROM REPORT 2010 00 841598, SUPPLEMENT #1. THE CORRECT REPORT NUMBER IS 2010 00481598.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

2010 00481598 6

Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 2

DR NUMBER: 2010 00481598 6

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 00481598 006

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 00481598 7

REPORT DATE: 20100422 TIME: 1233

TYPE OF REPORT: MISCONDUCT WITH WEAPONS

OFFENSE: 415W

LOCATION: 004200 [REDACTED] ROAD
[REDACTED] AV JUST EAST ON [REDACTED] RD

BEAT: 0822 GRID: BG19

DATE/TIME OF OCCURRENCE: FRI 040210 0239

REPORTING OFFICER[S]: [REDACTED] UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

.....

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED] DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 00481598 007

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 00481598 8

REPORT DATE: 20110804 TIME: 0618

TYPE OF REPORT: MISCONDUCT WITH WEAPON

OFFENSE: 415W

LOCATION: [REDACTED] AVENUE
[REDACTED] ROAD

BEAT: 0822 GRID: BG19

DATE/TIME OF OCCURRENCE: FRI 040210 0239

REPORTING OFFICER[S]: [REDACTED]

UNIT: C23

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

ORIGINATING DR: 201000481598 003

THE FOLLOWING IS A SUMMARY OF THE LABORATORY EXAMINATION RESULTS.
CONTACT THE LABORATORY BUREAU FOR THE OFFICIAL REPORT.

ANALYST: [REDACTED]

FRICTION RIDGE DETAIL WAS PRESERVED AND RETAINED IN THE MIDEO IMAGING DA
TABASE FOR ITEM 3902153-0001 (HANDGUN). IF A LATENT PRINT COMPARATIVE ANAL
YSIS IS REQUIRED, AND KNOWN PRINTS OF THE SUBJECT ARE AVAILABLE, PLEASE SU
BMIT A LATENT PRINT COMPARATIVE REQUEST VIA PACE.

NO FRICTION RIDGE DETAIL WAS PRESERVED FOR ITEMS 3902153-0002 (GUN MAGAZIN
E), 0003 (HANDGUN), 0004 (GUN MAGAZINE), 0005 (HANDGUN), AND 0006 (GUN MAG
AZINE).

THE FOLLOWING ITEMS HAVE BEEN PRESERVED FOR POSSIBLE DNA ANALYSIS AND WILL
BE CONSUMED DURING DNA ANALYSIS: 3902153-0001.01 (SWABS FROM HANDGUN), 00
02.01 (SWABS FROM GUN MAGAZINE), 0003.01 (SWABS FROM HANDGUN), 0004.01 (SW
ABS FROM GUN MAGAZINE), 0005.01 (SWABS FROM HANDGUN), AND 0006.01 (SWABS F
ROM GUN MAGAZINE). IF DNA ANALYSIS IS REQUESTED, PLEASE CONTACT THE FOREN
SIC BIOLOGY SECTION AT 602-262-6197.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 00481598 008

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 00481598 9

REPORT DATE: 20111007 TIME: 1402

TYPE OF REPORT: MISCONDUCT WITH WEAPON

OFFENSE: 415W

LOCATION: [REDACTED] AVENUE
[REDACTED] ROAD

BEAT: 0822 GRID: BG19

DATE/TIME OF OCCURRENCE: FRI 040210 0239

REPORTING OFFICER[S]: [REDACTED]

[REDACTED] UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: A5193

ORIGINATING DR: 201000481598 003

THE FOLLOWING IS A SUMMARY OF THE LABORATORY EXAMINATION RESULTS.
CONTACT THE LABORATORY BUREAU FOR THE OFFICIAL REPORT.

ANALYST: [REDACTED]
3902153-0001 THE DIGITAL IMAGING MANAGEMENT SYSTEM CONTAINS 4 PHOTOS FROM THIS ITEM.

AN EVALUATION FOR AFIS QUALITY HAS BEEN CONDUCTED. NO LATENTS WERE ENTERED INTO AZAFIS.

AN EVALUATION FOR COMPARATIVE QUALITY WAS NOT CONDUCTED; IF A COMPARATIVE ANALYSIS IS NEEDED, A "REQUEST FOR LATENT PRINT COMPARISON" MUST BE SUBMITTED.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 00481598 009

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 00481598 10

REPORT DATE: 20111008 TIME: 1402

TYPE OF REPORT: MISCONDUCT WITH WEAPON

OFFENSE: 415W

LOCATION: [REDACTED] AVENUE
[REDACTED] ROAD

BEAT: 0822 GRID: BG19

DATE/TIME OF OCCURRENCE: FRI 040210 0239

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: 5565

INVOICE #: 3902153
 ITEM #: 1
 WEAPON MAKE: COLT
 WEAPON MODEL: UNKNOWN
 CALIBER: 22
 AMMO USED: REMINGTON
 TEST FIRED BY: 6889

THE LISTED WEAPON WAS RELEASED FROM THE PHOENIX POLICE DEPARTMENT (PPD) PROPERTY MANAGEMENT BUREAU (PMB) FOR TEST FIRING PURPOSES. ON 9/01/2011 IT WAS TRANSPORTED TO THE ALEA RANGE. THE WEAPON WAS TEST FIRED AND THE CASINGS COLLECTED; THE FIREARM WAS RETURNED TO PMB AND RE-IMPOUNDED.

ON 9/24/11 THE TEST FIRED CASINGS WERE REMOVED FROM THE LOCKER AND EXAMINED. ONE CASING WAS PREPARED AND ENTERED INTO THE IBIS BRASSTRAX SYSTEM BY 5565.

AFTER ENTRY, THE ENVELOPE WAS TAPED CLOSED AND THE ENTRY DATE & SERIAL NUMBER OF THE PERSON WHO MADE THE ENTRY WAS PLACED ON THE TAPE. THE TEST FIRED CASINGS WERE PLACED IN THE SECURE NIBIN STORAGE ROOM AT PMB.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 00481598 010

Exhibit 102

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: S2010000409 Entered Date: March 30, 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: URIEL PATINO

Address: [REDACTED]
PHOENIX, AZ 85035

DOB: [REDACTED] Race: HISPANIC Sex: Male

Height: [REDACTED] Weight: [REDACTED] Date: 03/27/2010

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: 1

Manufacturer	Model	Caliber	Serial Number	Type	Importer
ROMARM/CUGIR	GP WASR-10	762	1974DR3572	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

Suspect Gun: S2010000409
FOR OFFICIAL USE ONLY



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: S2010000408 Entered Date: March 30, 2010

TONYA ENGLISH
 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: URIEL PATINO

Address: [REDACTED]
 PHOENIX, AZ 85035

DOB: [REDACTED] Race: HISPANIC Sex: Male

Height: [REDACTED] Weight: [REDACTED] Date: 03/26/2010

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: 7

Manufacturer	Model	Caliber	Serial Number	Type	Importer
ROMARM/CUGIR	GP WASR-10	762	1974DN3689	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	GP WASR-10	762	1974DP3289	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	GP WASR-10	762	1977DX2024	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	GP WASR-10	762	1970DA4242	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	GP WASR-10	762	1971DC4545	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	GP WASR-10	762	AG-2516-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
COLT	GOVERNMENT	38	38SS04394	PISTOL	

Suspect Gun: S2010000408

FOR OFFICIAL USE ONLY

Exhibit 103

RC-1 [Redacted]

n: Hurley, Emory (USAAZ)
c: Friday, April 09, 2010 7:11 PM
to: Koehler, Joe (USAAZ)

ATF/DEA/ICE Wire investigation

Case involves more than RC-5 straw buyers and hundreds of firearms. RC-3
RC-3 Case involves firearms recoveries in other districts. This case sucks up a tremendous amount of AUSA time consulting with agents, RC-3 AUSA and ATF have brought in IRS to develop financial crimes.

RC-2 [Redacted]

RC-2 [Redacted]

Exhibit 104

[REDACTED]
[REDACTED]

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: JAMES NEEDLES

Friday, November 4, 2011

Washington, D.C.

The interview in the above matter was held in Room 2247, Rayburn House Office Building, commencing at 9:10 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

STEVE CASTOR, CHIEF COUNSEL, INVESTIGATIONS

SCOTT LINDSAY, MINORITY COUNSEL

JUSTIN KIM, MINORITY COUNSEL

JASON FOSTER, CHIEF INVESTIGATIVE COUNSEL, COMMITTEE ON THE JUDICIARY,
UNITED STATES SENATE

TRISTAN LEAVITT, OFFICE OF SENATOR GRASSLEY

MAGGIE WHITNEY, SENIOR INVESTIGATIVE COUNSEL, SENATE JUDICIARY
COMMITTEE

For the WITNESS:

BRIAN WATSON, ESQ.

Schiff Hardin

233 South Wacker Drive,

Suite 6600

Chicago, Illinois 60606

MATTHEW CROWL, ESQ.
Schiff Hardin
233 South Wacker Drive,
Suite 6600
Chicago, Illinois 60606

in charge?

A It was in September of '07.

Q When did you take over responsibility for Dave Voth's group with this case, the Operation Fast and Furious case?

A I believe it was the first week of June, I believe it was about June 6th of 2010.

Q Of 2010? And prior to that Mr. Gillett had been the ASAC with responsibility?

A Yes, sir. Yes.

Q And what was your understanding of the case prior to June 6th? I mean, were you involved with any meetings? Did you have an awareness of what the plan was?

A No, I wasn't involved in any meetings on the case. I knew it was a firearms trafficking case, guns being purchased in the Phoenix area going to -- purchased by straw purchasers, presumably going to other individuals who may have been transporting them to Mexico for cartel members.

Q And certainly by June, you were aware that these guns were indeed showing up in Mexico --

A Absolutely.

Q -- with relatively short time to crimes?

A Yes.

Q And did you have a sense when the case began back in, I think some of, you know, Hope started logging some of the possible suspects in August of 2009. Did you have a sense back in the late summer, fall

Exhibit 105

1813123 ET



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

MAR 26 2010

Washington, DC 20226

RECEIVED
DEPT OF JUSTICE
EXECUTIVE SECRETARIAT
2010 MAR 26 PM 5:06

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

FROM: Kenneth Melson
Deputy Director, Bureau of Alcohol, Tobacco, Firearms and
Explosives

SUBJECT: Issuing demand letters to Federal firearms licensees (FFLs) in selected states requiring them to submit multiple sales information concerning certain types of rifles.

PURPOSE: Obtain concurrence for ATF to issue demand letters to FFLs requiring multiple sales information for certain rifles as a pilot project.

TIMETABLE: Concurrence is requested as soon as possible.

SYNOPSIS: ATF proposes a pilot project to issue demand letters to all FFLs in selected states requiring them to provide ATF with a report of multiple sales or other dispositions whenever the FFL sells or otherwise disposes of two or more rifles within any five consecutive business days with the following characteristics: (a) semi-automatic; (b) a caliber greater than .22; and (c) the ability to accept a detachable magazine. These reports would be submitted to ATF for a one-year period.

DISCUSSION:

ATF trace data, investigative experience and Mexican law enforcement officials indicate that a large number of certain types of rifles are being used in violent crimes in Mexico. These rifles typically include semi-automatic AR-15 variants with detachable magazines. Successful trace data from recovered rifles show they primarily come from the United States, and that many have been sold by Federal firearms licensees.

Memorandum for the Attorney General
 Subject: Issuing demand letters to Federal firearms licensees (FFLs)
 requiring multiple sales information concerning certain types of rifles

Page 2

It is proposed that ATF issue demand letters to all FFLs in the top twelve source states¹ for firearms recovered in Mexico requiring the FFLs to provide ATF with an immediate report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of two or more rifles within any five consecutive business days exhibiting the following characteristics: (a) semi-automatic; (b) a caliber greater than .22; and (c) the ability to accept a detachable magazine. This pilot program would require the reports to be submitted to ATF for a one-year period.

The Gun Control Act of 1968 (GCA) at 18 U.S.C. § 923(g)(3)(A) requires licensees to submit multiple sales reports to ATF for handguns, but not rifles or shotguns. However, ATF has authority under 18 U.S.C. § 923(d)(5) to issue demand letters to licensees requiring them to submit “on a form specified by the Attorney General, for periods and at the times specified in such letter, all record information required to be kept by this chapter or such lesser record information as the Attorney General in such letter may specify.” ATF has used this “demand letter” authority to require two groups of FFLs to submit to ATF certain firearm information in their required records: licensees who failed to respond to trace requests (Demand Letter 1) and licensees who had transferred ten or more secondhand firearms that were recovered in a crime (“time-to-crime”) within a three-year period of the sale (Demand Letter 2). Demand Letter 1 required submission of the make, model, type, serial number, and caliber / gauge, and the purchaser’s names, addresses, and federal firearms license numbers (if applicable). Demand Letter 2 included only descriptions of the firearms.

Licensees unsuccessfully challenged ATF’s use of its demand letter authority in court. *RSM v. Buckles*, 254 F.3d 61 (4th Cir. 2001) upheld ATF’s issuance of Demand Letter 1, and *Blaustein & Reich v. Buckles*, 365 F.3d 281 (4th Cir. 2004), and *J&G Sales v. Truscott*, 473 F.3d 1043 (9th Cir. 2007), upheld ATF’s issuance of Demand Letter 2. In these cases, the petitioners alleged that ATF exceeded its authority because federal law, 18 U.S.C. § 926(a), and ATF’s appropriations restrictions, otherwise prohibit ATF from consolidating or maintaining a registry of firearms record information. The courts disagreed with the petitioners and upheld ATF’s use of the demand letters. The courts explained, however, that ATF’s demand letter authority was not a limitless delegation of authority to ATF to request record information. The courts declined to specify the precise limits, but noted that the information requested in those demand letters was directed to a small number of licensees, was narrowly tailored in scope, and stemmed from reasoned decision-making. However, one court cautioned that “Congress intended to prohibit a large-scale enterprise to consolidate and centralize a substantial amount of FFL record information.” *Blaustein*, 365 F.3d at 289 n.16.

The multiple-sales-reporting requirement would provide law enforcement with extremely valuable investigative information. These reports would give ATF real-time leads for the

¹ The top twelve source states for firearms seized in Mexico during CY 2009 and traced to firearms licensees in the U.S. are: Texas, California, Arizona, New Mexico, Florida, Colorado, Oklahoma, Illinois, Nevada, North Carolina, Georgia, and Washington.

Memorandum for the Attorney General

Page 3

Subject: Issuing demand letters to Federal firearms licensees (FFLs) requiring multiple sales information concerning certain types of rifles

investigation of gun trafficking. ATF's experience in the source states proves that multiple purchases of the described rifles are strong indicators of firearms trafficking to Mexico. By obtaining information about these multiple sales, ATF increases the likelihood of uncovering and disrupting trafficking schemes before the firearms make their way into Mexico.

The following cases involving the multiple sale of rifles illustrate the potential benefit of ATF collecting information regarding firearms trafficking using the demand letter program. ATF believes these cases represent a very small portion of the overall trafficking activity of these firearms that is occurring, and that multiple sales reports of the specified rifles will enable ATF to uncover more illegal activity and develop better intelligence about trafficking patterns:

- Phoenix Field Division: On or about November 1, 2009, individuals in the Phoenix, Arizona area began to illegally purchase firearms, firearm magazines and/or ammunition to be transported to Mexico. Case agents identified 25 individuals that purchased in excess of 1130 firearms in the Phoenix area with over-the-counter cash transactions. Twenty-two of these individuals purchased firearms that were recovered in Mexico in the possession of drug traffickers affiliated with the Sinaloa Cartel. Over 50 firearms purchased by two of these individuals were recovered in stash locations or during a crossing along the border in Arizona and Texas and were destined for delivery to DTO's in Mexico. There was an extremely short time span, ranging from one (1) day to less than a month, between all the purchases of all these firearms and the recoveries. The majority of the firearms were purchased at a FFL involving transactions of five to ten rifles at a time.
- McAllen Field Office: The target of this investigation purchased several hundred pistols, rifles and lower receivers. Scores of these firearms were recovered in Mexico. The majority of the target's purchases were rifles and lower receivers acquired through multiple sale transactions. Of these, the target purchased mostly lower receivers (which are designated firearms by law) and upper receivers. He combined the receivers and parts kits to make complete rifles. The target was in turn selling the firearms at gun shows and other secondary market venues.
- Las Cruces Field Office: The target of this investigation purchased 19 AK47 rifles through multiple sale transactions. The investigation shows that the firearms are being transported to El Paso Texas for entry into Mexico.
- Phoenix Field Division: In this case, three rifles were recovered in Mexico and traced to the target of this investigation. At this point, it has been determined that the target has purchased five rifles. There were two multiple sale transactions of two rifles from two FFLs.
- McAllen Field Office: In this case, the target purchased 69 firearms. He acquired 50 rifles through multiple sale purchases. Sixteen of these rifles were recovered and traced.

Memorandum for the Attorney General

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Subject: Issuing demand letters to Federal firearms licensees (FFLs) requiring multiple sales information concerning certain types of rifles

- McAllen Field Office: The target of this investigation purchased a rifle that was recovered in Mexico. To date, he has been identified as purchasing seven rifles, several of which were purchased in multiple sale transactions of two (2) rifles.
- Corpus Christi Field Office: The targets of this investigation are purchasing rifles and handguns for a drug trafficking organization in Mexico. The targets are purchasing several of the rifles through multiple sale transactions of two or more rifles.

In addition to the real-time intelligence the multiple sales forms provide, many of these reports would be for secondhand sales of the specified rifles. Firearms sold in secondhand sales cannot be traced from the manufacturer to the secondhand purchaser. Traces of firearms typically end after new firearms are manufactured and sold by licensees to their first retail purchasers. Multiple sales reports concerning secondhand sales of qualifying rifles by retail dealers would allow ATF to trace those firearms from secondhand retail dealers to purchasers because ATF would be able to search the multiple sales records, as it does with multiple sales records for handguns.

Although ATF clearly has authority to issue demand letters for FFL record information, there may be litigation risks in requiring these reports. The demand letters would be limited to all FFLs in the top twelve source states, and would be further limited to a one-year pilot program and to certain types of rifles. Nevertheless, there is a possibility, however unlikely, that a court could rule that the proposed demand letter would constitute "a large-scale enterprise to consolidate and centralize a substantial amount of FFL record information."

Also, as can be expected, there may be resistance from the firearms industry to any increased reporting requirement. They would argue that the requirement would impose too great a burden on FFLs who, among other obligations, already have the burden of reporting multiple sales of handguns (particularly when multiple employees handle such transactions), and responding to trace requests.

ATF believes that the benefit to law enforcement and the enhanced ability to trace these firearms to combat violence along the Southwest Border are worth the litigation risks and the displeasure of the firearms industry. Moreover, ATF may be able to refine the scope of the letter in the future based on the information learned in response to the initial demand letter.

Memorandum for the Attorney General
Subject: Issuing demand letters to Federal firearms licensees (FFLs)
requiring multiple sales information concerning certain types of rifles

Page 5

RECOMMENDATION:

That you concur in ATF's issuance of a demand letter to all FFLs in twelve selected states, requiring them to provide ATF with reports of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of two or more rifles within any five consecutive business days with the following characteristics: (a) semi-automatic; (b) a caliber greater than .22; and (c) the ability to accept a detachable magazine. These reports would be submitted to ATF for a one-year period.

APPROVE: _____

Concurring Components:

OLP _____
OLC _____

DISAPPROVE: _____

Nonconcurring Components:

None

OTHER: _____

Exhibit 106

[REDACTED]

From: [REDACTED]
Sent: Wednesday, March 31, 2010 9:05 AM
To: 'Hope L. MacAllister@ [REDACTED]'; 'Mark Sonnendecker@ [REDACTED]'
Cc: 'Marjorie Zicha@ [REDACTED]'
Subject: FW: [REDACTED] De-confliction Notice 1113035 03/30/2010 [REDACTED]

Hits from Tolls from [REDACTED]
[REDACTED]

From: [REDACTED]
Sent: Wednesday, March 31, 2010 7:37 AM
To: [REDACTED]
Subject: RE: [REDACTED] De-confliction Notice 1113035 03/30/2010 [REDACTED]

I am working a joint investigation with FBI here in Las Cruces. We are looking at two brother, [REDACTED] [REDACTED]. We have attempted to go up on their phones since we started this investigation in December but they keep getting new phones frequently. Both [REDACTED] were in contact with [REDACTED] out in Phoenix and we think they may have received weapons from Acosta as well. We are currently up on a pen on [REDACTED] and [REDACTED] and we are in the final stages on a roving T-III on [REDACTED]

My case number is [REDACTED] and the case is in OCDETF under [REDACTED]

Let me know if you need anything else on our end.
[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Tuesday, March 30, 2010 10:22 AM
To: [REDACTED]
Cc: Sonnendecker, Mark; Zicha, Marjorie L.
Subject: RE: [REDACTED] De-confliction Notice 1113035 03/30/2010 [REDACTED]

I am working a joint Strike Force case with ATF on a weapons trafficking crew operating out of Phoenix and El Paso. We are currently up on a T-III on [REDACTED], Manuel CELIS-Acosta's cell phone. We are about to spin up on [REDACTED] utilized by [REDACTED] and [REDACTED], also used by [REDACTED] is a straw purchaser who has bought over 300 weapons for CELIS-Acosta. Any info you have on the [REDACTED] crossovers would be helpful.

[REDACTED]

From: [REDACTED]
Sent: Tuesday, March 30, 2010 9:05 AM

[REDACTED]

Exhibit 107

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 03/26/2010

On March 26, 2010, FBI Special Agent (SA) [redacted] and Las Cruces-Dona Ana Metro Narcotics Agent [redacted] met with Operation HEAD SHOT Confidential Source #3 (CS #3), FBI CHS file [redacted].

CS #3 identified "[redacted]" as [redacted], via [redacted]'s Texas driver's license photo.

CS #3 identified [redacted]'s "[redacted]" as [redacted], via [redacted]'s I-94 photo.

SA [redacted] and Agent [redacted] res drove CS #3 to the area of [redacted], New Mexico. From there, CS #3 directed SA [redacted] and Agent [redacted] to a two-story residence located at [redacted], New Mexico. CS #3 pointed to the residence and identified it as the stash house CS #3 had previously described to SA [redacted] and Agent [redacted]. CS #3 had visited the stash house in mid-January 2010 with [redacted] (aka: "[redacted]") and [redacted] (aka: "[redacted]"). CS #3 provided SA [redacted] with a sketch of the interior of the residence, to include the closet area where CS #3 observed 20-30 military style assault rifles behind a false wall.

While driving by the residence, SA [redacted] observed a green [redacted] license plate [redacted], parked in the driveway. The license plate returned to a [redacted] VIN [redacted], registered to [redacted], Mexico.

CS #3 indicated CS #3 had previously seen [redacted]'s brother, "[redacted]" ([redacted]) drive the [redacted].

SA [redacted] took photographs of the residence and [redacted]. SA [redacted]'s photographs, CS #3's sketch, and the photographs used to identify [redacted] and [redacted] were placed in a FD-340 and stored in the 1A section of the file.

Investigation on 03/26/2010 at [redacted], NM
File # [redacted] Date dictated 03/26/2010
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.

Exhibit 108

Law Enforcement Sensitive

Organized Crime Drug Enforcement Task Forces Final Report

OCDETF Case # SW-NM- [REDACTED]

HEAD SHOT

Operation Name

Case Attorney(s)

[REDACTED]

Telephone:

575 [REDACTED]
575 [REDACTED]

Email:

[REDACTED]

Case Agent(s)

[REDACTED]

FBI
DEA
IRS

575 [REDACTED]
575 [REDACTED]
575 [REDACTED]

[REDACTED]

* Be sure to update attorney/agent information

Date of Submission of this Report: _____

Law
Enforcement
Sensitive



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

[REDACTED]

[Handwritten signature]

Law Enforcement Sensitive

OCDETF Final Report

OCDETF Investigation No. SW-NM- [redacted]

Sponsoring Agency Case Number(s): FBI [redacted] [redacted]
DEA [redacted]
IRS [redacted]

G-DEP: [redacted]
Include G-DEP for DEA Cases

Instructions

The Final Report captures the results of OCDETF Investigations. A Final Report must be filed for all investigations within sixty (60) days from the date on which the case is either closed or placed in "Fugitive Only" status. A pre-populated Final Report with the information reported to the OCDETF MIS should be used to file this report. It is the responsibility of the case AUSAs and agents to review the information carefully in the pre-populated report to ensure that, once completed, the Final Report fully and accurately reflects the totality of the investigation and the results achieved. Please add any missing information and strike through any incorrect information. If any questions in this Report require additional explanation or discussion, please provide as part of the Narrative Section.

Date investigation was approved as OCDETF: 03/18/2010

OCDETF Operation Name: HEAD SHOT

Status of investigation: Fugitive only Closed

SOD-coordinated investigation: SOD Operation Name: _____

Did you received an intelligence product from the OCDETF Fusion Center regarding this case? (other than the initial RER that is generated at the time of submission of the IIF):

Did the OCDETF Fusion Center assist you with asset seizures for this case?

HIDTA Participation Yes No HIFCA Participation Yes No

Was this investigation initiated by an OCDETF Co-located Task Force/Strike Force? Yes No if yes, check all that apply:

- New York Houston Florida/Panama Express Puerto Rico/Caribbean Corridor Atlanta
- Boston San Diego/MMTTF Phoenix El Paso

Was this investigation linked to an OCDETF Co-located Task Force/Strike Force? Yes No if yes, check all that apply:

- New York Houston Florida/Panama Express Puerto Rico/Caribbean Corridor Atlanta
- Boston San Diego/MMTTF Phoenix El Paso

Did this case involve coordinated, simultaneous operational/prosecutorial activity: (please check all that apply)

- Internationally? Specify country(ies): Mexico
- Multiple OCDETF Regions? Specify region(s): SW, WC
- Multiple States? Specify state(s): AZ, CO, NM, NV, TX
- Multiple judicial districts? Specify district(s): AZ, CO, MN, NV, TXW
- None of the above applies?

Related OCDETF Case Numbers: SW-AZ [redacted], SW-TXW [redacted]

List all USAO #s assigned: [redacted] [redacted]

Results Achieved

Latest take down date for the investigation: Aug 18, 2010

(Date of last significant enforcement activity is necessary to permit evaluation of results achieved.)

- The organization was: (Check one)
- Dismantled:** destroying the organization's leadership, financial base and supply network such that the organization is incapable of operating and/or reconstituting itself.
 - If dismantled, has another organization filled the void? Yes Not at this time No information
 - Disrupted:** impeding the normal and effective operation of the targeted organization, as indicated by changes in organizational leadership and/or changes in methods of operation, including, for example financing, trafficking patterns, communications of drug production.
 - If disrupted, has the organization resumed operations? Yes Not at this time No information
 - Not Dismantled or Disrupted as a result of this investigation.**



Law Enforcement Sensitive

OCDETF Final Report

OCDETF Investigation No. SW-NM [REDACTED]

If the organization has not been dismantled or its operations have not been significantly disrupted by this investigation, indicate the circumstances that prevented disruption/dismantlement of this organization (check all that apply):

- Command and control cell is outside the jurisdiction of U.S. law enforcement agencies
- Principal members of this organization are federal fugitives
- Inadequate/insufficient evidence
- Death/disappearance of witness(es)
- Unreliable informant/information
- Adverse judicial/jury decision
- Lack of cooperation from foreign government
- Non-extradictable fugitive
- Insufficient resources to effectively conduct the investigation (explain) _____
- Lack of cooperation from agency/district/region (explain) _____
- Other (explain) _____

OCDETF SUMMARY CASE DATA (Check all that apply and strike through any incorrect information)

What investigative techniques were used during this investigation?

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Drug Purchase/Reverse | <input type="checkbox"/> Roving Title III | <input checked="" type="checkbox"/> Search Warrant |
| <input checked="" type="checkbox"/> Controlled Delivery | <input checked="" type="checkbox"/> Other Electronic Surveillance | <input checked="" type="checkbox"/> Administrative Subpoena |
| <input checked="" type="checkbox"/> Undercover | <input checked="" type="checkbox"/> Toll Analysis | <input checked="" type="checkbox"/> Immigration Benefits (i.e., S-Visa) |
| <input checked="" type="checkbox"/> Informant | <input checked="" type="checkbox"/> Pen Register/Trap and Trace | <input type="checkbox"/> Immigration Admin/Crim Action |
| <input checked="" type="checkbox"/> Title III | <input type="checkbox"/> MLAT/Request to Foreign Gov't | <input type="checkbox"/> Witness Protection |
| <input checked="" type="checkbox"/> Federal | <input checked="" type="checkbox"/> Investigative Grand Jury | <input type="checkbox"/> Other (specify) _____ |
| <input type="checkbox"/> State | <input checked="" type="checkbox"/> Wall-off | |
| <input type="checkbox"/> Foreign | | |

Law Enforcement Sensitive

OCDETF Final Report

OCDETF Investigation No. SW-NM [REDACTED]

OCDETF SUMMARY CASE DATA (Check all that apply and strike through any incorrect information)

Investigation resulted in the conviction of a defendant on a financial charge: Yes No

If no, please explain: Investigation did not produce sufficient evidence that

What financial investigative steps have you pursued? (If some information already has been provided, check boxes for new any of the techniques only. Please strike through any incorrect information.)

Corroborated information received from a witness/informant related to the organization's:

targets engaged in money laundering

- Assets and proceeds
- Methods of moving/laundrying proceeds

Conducted follow-up on financial leads uncovered through:

- Commercial database checks
- Public sources review (i.e.; bankruptcy filings, divorce proceedings, articles of incorporation, deeds, mortgages)
- Mail cover
- Trash search
- Search warrant
- Reviews of SAR's, CTR's, CMIR, etc.
- Request to FinCEN for foreign bank information
- Ex Parte Tax Order
- OCDETF Fusion Center Report (other than RER)

Conducted analysis of financial information:

- Received through subpoena to credit agencies, banks and other financial institutions
- Relating to wire transfers, money order purchases, or other financial information

Methods Used:

- Net Worth Analysis
- Asset Tracing
- Financial Money Laundering undercover operation
- Other (specify) WIRE TRANSFER BY CS-2

Which agency is conducting the financial investigation? (check one primary agency only)

- IRS
- ICE
- FBI
- DEA
- USAO
- Other _____

Are you being assisted by the:

- DEA FIT Team
- OCDETF FIC Squad
- USAO Financial Analyst
- Strike Force Financial Analyst

[REDACTED]

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OCDETF Final Report

OCDETF Investigation No. SW-NM- [REDACTED]

ORGANIZATION DESCRIPTION

Connections

(Explain in Narrative Summary)

Linked to CPOT (Specify target name)

[REDACTED]

Linked to RPOT (Specify target name)

Terrorist Organization (Identify)

National Gang (Identify):

Other Organized Crime Group (Identify):

[REDACTED]

Linked to Indian Country

The investigation revealed that a previously reported connection is not valid: (Specify category, for example "CPOT", and target name)

Not connected to:

Primary Activity of the Organization in Your Area

(check one primary activity only)

Source of Supply

Internet Pharmacy

Transportation

Distribution

Clandestine Manufacture

Precursor Supplier/Broker

Money Laundering

Other

Other Drug Activity of the Organization

(check all that apply)

Source of Supply

Internet Pharmacy

Transportation

Distribution

Clandestine Manufacture

Precursor Supplier/Broker

Money Laundering

Other

Related Criminal Activities

(check all that apply)

Alien Smuggling

Other Violence

Other Immigration Violation

Identity Theft

Criminal Tax Violation

Fraud

Firearms/Weapons Violation

Material Support to Terrorist Group

Public Corruption

Fugitive Investigation

Murder

Environmental

OPERATION OF THE ORGANIZATION

(Check all that apply, including subcategories, and strike through any incorrect information)

Trafficking Methods

Transportation

Land

Commercial Trucking

Personal Vehicle

Rental Vehicle/Van

Other (Specify)

Air

Commercial Airline

Personal Aircraft

Other (Specify)

Sea

Commercial Vessel

Cargo

Personal Vessel

Other (Specify)

Courier

Internal/Body Carrier

Luggage

Other (Specify)

Concealment - Specify:

FALSE COMPARTMENTS

Employs Juveniles

Employs Corrupt Officials

Law Enforcement Sensitive

OCDETF Final Report

OCDETF Investigation No. SW-NM- [REDACTED]

Money Laundering Methods

- Bulk Cash Smuggling
 - Land
 - Sea
 - Air
- Check Cashers
- Money Orders/Travelers Checks
- Money Remitter Businesses
- Purchasing Goods for Export
- Black Market Peso Exchange

- Smurfing Activity
- Wire Transfer (i.e. electronic bank transfers)
- Business Fronts
- Stored Value Card
- Casinos
- Property Investments
- Mobile Payment System
- Trade Based Money Laundering
- Other Legitimate Investments (Specify) _____
- Other (Specify) HORSE RACING/HORSE OWNERSHIP

Unusual Communication Methods to Avoid Interception

- Satellite Phones
- Radio frequency (i.e; Nextel "Direct Connect")
- Uses encryption
- Uses Internet
- Uses Pin to Pin Blackberry Function
- Other (specify): _____

Counter Measures Against Law Enforcement

- Witness Tampering
- Obstruction of Justice
- Counter-surveillance
- Test Loads/Shipments
- Other (Specify): _____

COORDINATION WITH OTHER DISTRICTS/COUNTRIES

Did this investigation generate leads that led to significant enforcement activity in another district(s)? Yes No

If yes, what district(s)? _____

If information from your investigation generated another OCDETF case, provide OCDETF case number(s) _____

What results were achieved in the related case(s)?

- Defendant(s) charged in another district
- Assets seized and/or forfeited in another district
- Wiretap initiated in other district
- Other _____

As part of your investigation, did you make a strategic decision to charge targets of the investigation in another federal judicial district? Yes No

If yes, identify district in which defendants were charged _____

How many defendants were charged in that district as a result of your investigation? _____

How many leadership-level defendants were charged? _____

Were any defendants charged in a state/local jurisdiction as a result of this investigation? Yes No

Were any defendants charged in a foreign country as a result of this investigation? Yes No

International Aspects

- Fugitive Defendant returned to U.S. via extradition (specify country) _____
- Fugitive Defendant returned to U.S. via Deportation/Expulsion (specify country) _____
- Fugitive Defendant returned to U.S. via approved "lure" operation _____
- Defendant remains fugitive - Extradition/Deportation requested (specify country) _____
- Defendant remains fugitive - Extradition/Deportation not requested (specify country/location) _____
- Defendant remains fugitive - Extradition denied (specify country/location) _____
- Overseas evidence obtained - Via MLAT (specify country) _____
- Overseas evidence obtained - Via Letter Rogatory (specify country) _____
- Overseas evidence sought but not obtained - Via MLAT (specify country) _____
- Overseas evidence sought but not obtained - Via Letter Rogatory (specify country) _____



Law Enforcement Sensitive

OCDETF Final Report

OCDETF Investigation No. SW-NM [REDACTED]

CAPACITY AND SEIZURE INFORMATION FOR DRUGS, WEAPONS AND CURRENCY

Provide final estimates and seizure amounts based upon all information developed during the course of the investigation.

Drug(s)	Total Quantity Moved on Annual Basis (reliable estimate based on corroborated CI information, intel, T-III intercepts, etc.)	Total Amount Seized (include related or "walled-off" federal/state/local seizures)
<input checked="" type="checkbox"/> Cocaine (in KG)	KG	0.170.80 ^{KG}
<input type="checkbox"/> Crack Cocaine (in KG)	KG	KG
<input type="checkbox"/> Heroin (in KG)	KG	KG
<input type="checkbox"/> South American	KG	KG
<input type="checkbox"/> Southeast Asian	KG	KG
<input type="checkbox"/> Southwest Asian	KG	KG
<input type="checkbox"/> Black Tar	KG	KG
<input type="checkbox"/> Other	KG	KG
<input type="checkbox"/> Other Opiates (in G)	G	G
<input type="checkbox"/> LSD (in G)	G	G
<input checked="" type="checkbox"/> Marijuana (in KG)	KG	KG
<input type="checkbox"/> Grown Domestically	KG	KG
<input type="checkbox"/> Indoor	KG	KG
<input type="checkbox"/> Public Land	KG	KG
<input checked="" type="checkbox"/> Grown Abroad	250.00	KG
<input type="checkbox"/> Hashish (in KG)	KG	KG
<input type="checkbox"/> Methamphetamine/Amphetamine (in KG)	KG	KG
<input type="checkbox"/> Produced Domestically	KG	KG
<input type="checkbox"/> Produced Abroad	KG	KG
<input type="checkbox"/> MDMA (in G)	G	G
<input type="checkbox"/> GHB/GBL (in G)	G	G
<input type="checkbox"/> Other Designer Drug _____	_____	_____
<input type="checkbox"/> Steroids (in unit dosages equivalent to 10 cc vials)		
<input type="checkbox"/> Pseudoephedrine (in G)	G	G
<input type="checkbox"/> Other Precursor		
<input type="checkbox"/> OxyContin (in G)	G	G
<input type="checkbox"/> Other Prescription (G) _____	_____	_____
<input type="checkbox"/> Other Drug (in) _____	_____	_____
<input checked="" type="checkbox"/> No Drugs Charged		

Law Enforcement Sensitive

OCDETF Final Report

OCDETF Investigation No. SW-NM [REDACTED]

Weapons Involved	For Gun Smuggling Operations: Total Number of Weapons Moved On Annual Basis (reliable estimate based on corroborated CI Information, Intel, T-III intercepts, etc.)	Total Weapons Seized/Forfeited (include related or "walled-off" federal/state/local seizures)		
		Identified	Seized	Forfeited
<input checked="" type="checkbox"/> Guns		1	1	.
<input type="checkbox"/> Other				

Amount of Currency Laundered on Annual Basis (reliable estimates based on corroborated CI Information, intel, T-III intercepts, etc.)
(\$) 165,000

Domestic Assets: Identified, Seized and/or Forfeited to date from the organization. (Include all related or "walled-off" federal/state/local administrative, civil and criminal) (Net Equity Value is the value of the property/enterprise minus all liens.)

	Identified (Total Estimated Value)	Seized (Total Net Equity Value)	Forfeited (Total Net Equity Value)
Cash/Monetary	(\$)	(\$)	(\$)
Real/Personal Property	(\$) 2,232,617	(\$)	(\$)
Business/Commercial Enterprise	(\$)	(\$)	(\$)

Foreign Assets: Identified and/or Seized to date from the organization. (Net Equity Value is the value of the property/enterprise minus all liens.)

	Identified (Total Estimated Value)	Seized (Total Net Equity Value)
Cash/Monetary	(\$)	(\$)
Real/Personal Property	(\$)	(\$)
Business/Commercial Enterprise	(\$)	(\$)

If assets have been identified or seized in a foreign country, please list country (ies):

Defendants: Indicate number of defendants that fall within each category.

Note: To correct MIS data provided in this chart, you must submit an updated Indictment/Information Form(s) and/or updated D&S form(s).

	Organization Leaders	Defendants w/ Financial Charges	Non-Leadership Role	Defendants w/ Financial Charges
Defendants Charged (By Indictment and/or Information)	1	0	0	0
Defendants Convicted	1	0	0	0
Defendants Sentenced	1	0	0	0
Average Sentence (months) *	0	0	0	0
Life Sentence	0	0	0	0
Death penalty	0	0	0	0
Fugitives	0	0	0	0
Defendants Dismissed on All Charges	0	0	0	0

* Note: Average calculated does not include any "Life" sentences.

State and Local Funding from FY 2009 to present: (Populated from State and Local Database)

	Regular Hours	Overtime Hours	Total Payments (\$)
FY 2011			
FY 2010			
FY 2009 to Date			

Law Enforcement Sensitive

OCDETF Final Report

OCDETF Investigation No. SW-NM [REDACTED]

Judicial Process

Did this investigation result in a trial? Yes No

If yes, how many trials: _____

If yes, total aggregate weeks in trial: _____

NARRATIVE SUMMARY OF INVESTIGATIVE EFFORTS AND RESULTS ACHIEVED

Attach a concise narrative summary (three to four pages) of the investigative efforts and results attributable to this case. Do not write in the space below. The narrative summary must include the following:

1. What was the significance of this organization's drug/money laundering activities in your district and/or region?
2. What was the impact, if any, of this investigation/prosecution within your district/region or within the area where the organization was operating? (i.e., did it result in a change in the quality of life in the region, a change in drug price, a reduction in the overall drug threat, etc.)
3. What was the impact, if any, of this investigation/prosecution in other regions nationally and/or internationally? (i.e., did it affect drug availability, distribution/transportation networks, methods of operation, etc.)
4. What impact, if any, did this investigation/prosecution have on the way this organization operated? (i.e., did it move geographically? change methods of transportation?, etc.)
5. Detail any unique methods by which the organization operated (i.e., new method of money laundering, innovative drug transportation scheme) and any innovative investigative or prosecution techniques used (i.e., new electronic surveillance, innovative use of statute, etc.)
6. Please identify the agency or agencies that made the most significant contribution to this investigation and explain that contribution.
7. If this investigation is CPOT - or RPOT - linked, how did disruption or dismantlement of this organization impact the CPOT or RPOT?
8. If you have identified this investigation as CPOT - or RPOT - linked for the first time in this Final Report, explain the available evidence to substantiate the connection.
9. If this Report identifies this investigation, for the first time, as connected to a terrorist organization, national gang or another organized criminal group, please explain the connection.
10. What assistance, if any, did this investigation/prosecution receive from the OCDETF Fusion Center that has not previously been reported? Please be specific about any results from the OCDETF Fusion Center's assistance (e.g. identification of additional assets and/or associates, additional charges in indictment, etc.).

AGENCY PARTICIPATION

Please confirm all agencies that participated (personnel, resources, or intelligence) during this investigation and provide agency case numbers for each.

- ATF _____
- DEA [REDACTED] _____
- FBI [REDACTED] _____
- ICE _____
- IRS [REDACTED] _____
- USCG _____
- USMS _____

- Other Federal agencies (specify) _____
- State/Local Prosecutors (specify) NEW MEXICO DISTRICT ATTORNEY'S OFFICE
- State/Local Investigators (specify) LAS CRUCES-DONA ANA METRO NARCOTICS AGENCY
- NEW MEXICO STATE POLICE
- CHAVES COUNTY METRO NARCOTICS TASK FORCE
- Foreign Government/Law Enforcement (specify) _____



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OCDETF Final Report

OCDETF Case # SW-NM- [REDACTED]

FINAL REPORT PREPARATION AND REVIEW

This report is to be completed by the AUSA prosecuting the case together with the lead Agent(s) for this OCDETF investigation. The Lead Task Force Attorney, Case AUSA and the Case Agent(s) should review this Report and sign below. The Report also should be submitted to, and reviewed by, the AUSA Regional Coordinator and the sponsoring agency's Regional Coordinator.

[REDACTED] *Lead TF Attorney* *Printed name* 3-8-2011
 Date

[REDACTED] *Printed Name* 3-04-2011
 Date

[REDACTED] *Printed Name* FBI 03/04/2011
 Agency Date

[REDACTED] *Printed Name* DEA 3/4/2011
 Agency Date

[REDACTED] *Printed Name* _____
 Agency Date

All agency case numbers have been forwarded for entry into CATs:

Initials (LTFA) _____ Date _____

The District Coordination Committee members from agencies other than those signing above as sponsors of the OCDETF investigation should review this Report and sign below. However, please submit this form immediately upon completion; do not wait for District Coordination Committee review and signatures.

- ATF _____ IRS _____
- DEA _____ USCG _____
- FBI _____ USMS _____
- ICE _____

To be completed by Regional Coordination Group:

Was this investigation generated as a result of a strategic initiative identified in the region's Strategic Plan or otherwise developed by the region?

- Yes No

If yes, identify initiative number: _____

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

LAW ENFORCEMENT SENSITIVE

**NARRATIVE SUMMARY OF INVESTIGATIVE EFFORTS
AND RESULTS ACHIEVED:
Operation Head Shot - Final Report**

**1. SIGNIFICANCE OF ORGANIZATION'S DRUG/MONEY LAUNDERING
ACTIVITIES IN DISTRICT/REGION**

Operation Head Shot revealed that the [REDACTED] Drug Trafficking Organization ([REDACTED] DTO) was a southern New Mexico-based marijuana and cocaine distribution cell with ties to larger Mexico-based narcotics organizations headed by [REDACTED] (the [REDACTED] Cartel), and [REDACTED] (the [REDACTED] Cartel), respectfully. [REDACTED], aka: [REDACTED], Operation Head Shot revealed that [REDACTED] and the [REDACTED] DTO were integrally involved in the distribution of marijuana and cocaine from southern New Mexico to points throughout the United States. Agents also believe that [REDACTED] and the [REDACTED] DTO were involved in money laundering, but the investigation produced insufficient evidence to prosecute [REDACTED] or any other [REDACTED] DTO associates for money laundering.

**2. IMPACT, IF ANY, OF THIS INVESTIGATION/PROSECUTION WITHIN OUR
DISTRICT/REGION OR WITHIN THE AREA WHERE THE ORGANIZATION
WAS OPERATING**

The dismantlement of the [REDACTED] DTO eliminated an experienced and savvy drug-cartel distribution cell in southern New Mexico and west Texas. The wider significance of Operation Head Shot is unclear at this time.

On August 18, 2010, FBI agents approached [REDACTED] to solicit his cooperation. [REDACTED] agreed to, and did, travel with FBI to New Mexico on August 18, 2010. Thereafter, FBI and DEA agents debriefed [REDACTED] at length about his drug-related activities in the United States and Mexico, as well as his knowledge of, *inter alia*, the [REDACTED] Cartel. On [REDACTED], [REDACTED] pled guilty in the District of New Mexico to a one-count information charging a violation of 18 U.S.C. §§ 922(g)(5), 924(a)(2), that being Alien in Possession of a Firearm. [REDACTED]'s arrest and prosecution has dismantled the [REDACTED] DTO, as [REDACTED] was the [REDACTED] DTO's undisputed leader and organizer. Since [REDACTED] began cooperating with the FBI, [REDACTED] has provided significant information about drug trafficking activity where the [REDACTED] DTO formerly operated (namely, in the El Paso, Texas, area, southern New Mexico, and Albuquerque, New Mexico).

**3. IMPACT, IF ANY, OF THIS INVESTIGATION/PROSECUTION IN OTHER
REGIONS NATIONALLY OR INTERNATIONALLY**

As noted above, [REDACTED]'s arrest and prosecution has dismantled the [REDACTED] DTO. Since [REDACTED] began cooperating with the FBI, the vast majority of the information he has provided pertains to [REDACTED] Cartel members' whereabouts and operations in the Republic of Mexico. Operation Head Shot's FBI and DEA case agents have promptly and systematically transmitted intelligence [REDACTED] has provided with FBI and DEA personnel in Mexico, as well as with DEA's Special Operations Division (SOD). To date, these efforts have proven successful, with

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LAW ENFORCEMENT SENSITIVE

several operations undertaken in Mexico based on ██████'s information. Operation Head Shot has had no known impact on any other prosecution.

4. IMPACT OF INVESTIGATION/PROSECUTION ON THE WAY THE ORGANIZATION OPERATED

As noted above, ██████'s arrest and prosecution has dismantled the ██████ DTO. ██████ was the ██████ DTO's undisputed leader and organizer.

5. UNIQUE METHODS BY WHICH THE ORGANIZATION OPERATED AND INNOVATIVE INVESTIGATIVE OR PROSECUTION TECHNIQUES USED

Among other techniques, Operation Head Shot employed ██████ at critical junctures in the investigation to identify ██████ DTO targets' ██████. The court orders Operation Head Shot obtained for ██████ were the first such orders ever issued in the District of New Mexico.

6. AGENCY/AGENCIES THAT MADE THE MOST SIGNIFICANT CONTRIBUTION TO THIS INVESTIGATION.

The Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA) were the two agencies that made the most significant contribution to this investigation. Operation Head Shot was truly a joint investigation.

7. INVESTIGATION'S IMPACT ON CPOTs.

Operation Head Shot is linked to two CPOTs: ██████, and ██████. While this investigation dismantled one drug distribution cell, which has ties to both CPOTs, its impact on the CPOTs themselves is unclear.

8. EVIDENCE AVAILABLE TO SUBSTANTIATE INVESTIGATION'S CONNECTION TO CPOT IDENTIFIED FOR FIRST TIME IN THE FINAL REPORT.

██████ has advised the United States that he has ties to the ██████ Cartel. This CPOT link is noted for the first time in this Final Report. In addition to providing specific information about identified members of the ██████ Cartel, ██████'s phone records substantiate this CPOT connection.

9. Not applicable.

10. Not applicable.

LAW ENFORCEMENT SENSITIVE

2 of 2

Exhibit 109

RC-1

From: Cooley, Joseph
Sent: Friday, January 15, 2010 12:03 PM
To: O'Keefe, Kevin C. (ATF)
Subject: Re: Mexican Firearms Trafficking

Thanks

Joseph A. Cooley

Gang Unit, DOJ

Cell RC-1

This message is via my blackberry. Please excuse any typos.

From: O'Keefe, Kevin C. <RC-1>

To: Cooley, Joseph

Sent: Fri Jan 15 11:35:44 2010

Subject: RE: Mexican Firearms Trafficking

Most definitely, and my apologies, but later today I will have the other info I owe you on the case #5, assigned agents and locations.

Kevin O'Keefe

Chief, Criminal Intel Div

RC-1

From: Cooley, Joseph [mailto:RC-1]
Sent: Friday, January 15, 2010 11:30 AM
To: O'Keefe, Kevin C.
Subject: Re: Mexican Firearms Trafficking

Kevin,

I am going to Houston the early part of the week of 1-25. I will be doing trial prep with LE including agents from ATF. If possible, I would like to also get acquainted with those working on the firearms trafficking involving the Mexican seizures. Can you reach out to those agents and give them a heads up?

Joseph A. Cooley

Gang Unit, DOJ

Cell RC-1

This message is via my blackberry. Please excuse any typos.

From: O'Keefe, Kevin C. <RC-1>

To: Cooley, Joseph

Sent: Mon Jan 11 16:52:43 2010

Subject: RE: Mexican Firearms Trafficking

Joe – sorry the delay in getting back to you. I have briefly discussed the below with Ray Rowley, and here are some quick statuses:

1. My folks in Intel will have the case agents/office locations for all the open cases listed in the large link analysis shortly
2. Our case management system does not allow for a search on the court docket numbers, so we will have to get that from the specific field agents
3. Ray will go thru operations and get copies of the blue jackets on the cases recommended to the USAO for prosecution; but just FYI, these are only hardcopy – they are not transmitted electronically (sorry)

Quite honestly, we here in ATF HQ are still trying to hash out a viable enforcement strategy to target the DTOs, and more specifically Sinaloa and Gulf/Zetas. We will keep you apprised of any developments. RC-5

RC-5

The Arizona case continues to progress – info coming in from the investigation, a DEA wire that intersects a common player, and from the intel community (at the classified level). An AUSA is on board; I will get the name for you shortly.

Safe travels.

Kevin O'Keefe
Chief, Criminal Intel Div

RC-1

From: Cooley, Joseph [mailto:RC-1]
Sent: Friday, January 08, 2010 5:57 PM
To: O'Keefe, Kevin C.
Cc: Rowley, Raymond G.
Subject: Mexican Firearms Trafficking

Kevin,

I want to follow-up on our telephone conversation on Monday afternoon. Kevin Carwile and I spoke with Anthony Garcia in the U.S. Embassy in Mexico yesterday. During our discussion, we brought up the issue with the firearms recoveries and the procedures the Mexican authorities use to document the seizures. We also mentioned the DEA and other agencies in country will need to collect as much information as possible regarding firearms seizures. Tony was very encouraging that the various U.S. agencies will be cooperative. However, he did suggest that the individual case agents in the U.S. may present a problem with the exchange of information. We will address those issues when they arise. Finally, Tony is going to see what information has been obtained from the U.S. citizen that was arrested during the firearms seizure connected with the AZ straw purchases.

From my review of the material you provided me during our meeting, I see that the AZ straw purchases may very well work as one case. The TX straw purchases are obviously much more complex. As I suggested in our telephone conversation, I will need some additional information from ATF that I have listed below:

- 1) The names of the ATF case agents for all of the open cases;
- 2) The names of the ATF case agents and judicial docket numbers for the six convicted defendants related to the TX-related seizures; and
- 3) Copies of the blue jackets (electronic version preferable) for cases that have been referred to the USAOs.

I would like to start with initially focusing on the AZ case. Clearly this is more of a pro-active investigation. I would like to contact that case agent(s) as soon as possible.

As I stated during our meeting, I believe connecting these firearm purchases and seizures with drug trafficking could provide tremendous leverage on our targets. That being said, I will insist that any defendant, cooperating or otherwise, plead to firearms violations in addition to any other potential charges. I realized that I gave "short shrift" to potential tax charges during our meeting. The problem with tax charges is that they are driven by the value of the unreported income. Typically in these cases the criminal exposure for tax evasion violations would not be that significant. In addition, any tax charges require prior approval from the DOJ Tax Division. This would add substantial delays in charging our targets. However, I do believe that IRS assistance would be very useful in tracking the money and would likely lead to money laundering charges. We certainly would consider tax evasion violations if IRS finds that such charges were essential for a successful prosecution.

I will be in TX for the next two weeks getting ready for a trial that starts next month. I will have access to my emails and computer files.

Again, I want to thank you and the others for their time. I am looking forward to working with ATF to address this serious increase in firearms trafficking. Let me know if there is anything you need from me.

Joseph A. Cooley
Trial Attorney
Gang Unit

Exhibit 110

From: Voth, David J.
 Sent: Monday, December 07, 2009 12:37:53 PM
 To: Gillett, George T. Jr.
 Subject: RE: How's your first day?

10-4

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

From: Gillett, George T. Jr.
 Sent: Monday, December 07, 2009 11:37 AM
 To: Voth, David J.
 Subject: Re: How's your first day?

Ummm. I'll fill you in tonight. It's high side info.

George T. Gillett
 Assistant Special Agent in Charge
 ATF - Phoenix Field Division
 [REDACTED]

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

From: Voth, David J.
 To: Gillett, George T. Jr.
 Sent: Mon Dec 07 12:33:57 2009
 Subject: RE: How's your first day?

Should be clear for football. I think Hope said [REDACTED] FFL #1 was getting a shipment of 7.62s on Wednesday so they anticipate surveillance... On that note Hope mentioned some info from SOD regarding a December 17th exportation of the stash of guns from here (Glendale) across the border. Is there a point of contact @ SOD or someone I can talk to regarding this information?

Thanks

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

From: Gillett, George T. Jr.
 Sent: Monday, December 07, 2009 11:28 AM
 To: Voth, David J.
 Subject: Re: How's your first day?

Are you up for going out to Monday Night Football or does your group have something going tonight?

George T. Gillett
 Assistant Special Agent in Charge
 ATF - Phoenix Field Division
 [REDACTED]

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HOCRAFP-002273

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

From: Voth, David J.
To: Gillett, George T. Jr.
Sent: Mon Dec 07 12:25:10 2009
Subject: RE: How's your first day?

So far so good! Thanks

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

From: Gillett, George T. Jr.
Sent: Monday, December 07, 2009 11:25 AM
To: Voth, David J.
Subject: How's your first day?

George T. Gillett
Assistant Special Agent in Charge
ATF - Phoenix Field Division
[REDACTED]

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HOGR ATF - 002274

Exhibit 111

Exhibit 111

RC-1

Subject: Arizona Gun Trafficking Investigation
Location: OAAG Criminal (2107)

Start: Mon 4/19/2010 2:45 PM
End: Mon 4/19/2010 3:15 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Breuer, Lanny A.
Required Attendees: Raman, Mythili; Fagell, Steven; Weinstein, Jason; Pope, Amy; Trusty, James; Carwile, Kevin

Participants: Lanny Breuer; Mythili Raman; Steve Fagell; Jason Weinstein; Amy Pope; Jim Trusty; Kevin Carwile

RC-1

From: Carwile, Kevin
Sent: Monday, April 19, 2010 6:42 PM
To: Trusty, James
Subject: Re: How did the

No problem. See you around noon.

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

From: Trusty, James
To: Carwile, Kevin
Sent: Mon Apr 19 18:40:08 2010
Subject: Re: How did the

Went fine. You know how he is. Wants us to meet with Ken and Billy at some point so they know the bad stuff that could come out. I'm going to come in late tomorrow - probably near noon -- work from home in the am and then work til around 6.

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

From: Carwile, Kevin
To: Trusty, James
Sent: Mon Apr 19 18:23:42 2010
Subject: How did the

Meeting go with lanny?

RC-1

From: Hoover, William J. RC-1
Sent: Tuesday, April 20, 2010 7:38 AM
To: Weinstein, Jason
Subject: RE: Calendar invite

Thank you Jason. Look forward to meeting with you! Will probably bring Larry Ford from our PGA.

William J. Hoover
 Executive Assistant Director
 O) RC-1

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

From: Weinstein, Jason RC-1
Sent: Tuesday, April 20, 2010 7:36 AM
To: Hoover, William J.
Subject: Calendar invite

Billy,

You and Ken will be receiving an invite for a meeting with Lanny, me, and some others next week on a soon-to-be-charged gun trafficking case we're doing with ATF in Tucson. (Your code name is Operation Wide Receiver.) The reason we wanted to meet with you before charging is that the case has 2 aspects that could create media challenges and we wanted to talk through them first. Happy to fill you in by phone whenever convenient. When you get the invite, feel free to include someone from your PIO (and anyone else you want).

Best,

Jason

Jason M. Weinstein
 Deputy Assistant Attorney General
 Criminal Division
 U.S. Department of Justice
 950 Pennsylvania Avenue, NW
 Washington, D.C. 20530
 Office: RC-1
 Cell: RC-1

Exhibit 112

From: Lowrey, Stuart L.
Sent: Tuesday, June 01, 2010 1:01:30 PM
To: Rowley, Raymond G.
CC: Chait, Mark R.; McMahon, William G.
Subject: RE: Response -- Negative / Request for Supplemental Documentation / ATF O 3310."Firearm Transfer" / ? - Supervisory Approval Requirement

Ray –

I think we should address this item with the immediate work ahead that we've discussed (and are meeting on today). I wasn't in the El Paso conversations, but I assume the student SAs were referring to allowing firearm transfers, between individuals or between FFLs and individuals, to occur without LE interference in furtherance of a trafficking type investigation. The question you raised before was what volume of firearms is acceptable to allow to "walk" before we intervene, 5, 10, 50? Also, my read of your comments does not imply that we are, with only field level approval, authorizing "prop" firearms to walk ... Good idea - let's discuss later today. Thanks

Stuart L. Lowrey
 Chief, Firearms Operations Division
 ATF HQ - Room 6.S.129


From: Rowley, Raymond G.
Sent: Tuesday, June 01, 2010 11:45 AM
To: Chait, Mark R.; McMahon, William G.
Cc: Lowrey, Stuart L.
Subject: FW: Response -- Negative / Request for Supplemental Documentation / ATF O 3310."Firearm Transfer" / ? - Supervisory Approval Requirement

This is what we've come up with regarding the transfers of firearms during the course of an investigation. This issue came up during the recent firearms trafficking seminar I attended in El Paso. Specifically, it appears that agents in the field are of the opinion that they can transfer or permit the transfer of firearms to further an investigation without HQ knowledge or approval. The language below would seem to support that position. Given that our Firearms Enforcement Order has not been updated for 21 years and much has changed during the intervening period I recommend that we develop policy to address this issue immediately, followed by an effort to update the Order.

Ray

From: Molek, Theresa C.
Sent: Tuesday, April 27, 2010 6:03 PM
To: Rowley, Raymond G.

HOCR ATF - 002077

Subject: Response -- Negative / Request for Supplemental Documentation / ATF O 3310."Firearm Transfer" / ? - Supervisory Approval Requirement

From: Carr, Mary Ann
Sent: Tuesday, April 27, 2010 11:49 AM
To: Molek, Theresa C.
Subject: RE: Request for Supplemental Documentation / ATF O 3310."Firearm Transfer" / ? - Supervisory Approval Requirement

Hi Theresa ... sorry for the delay. I've checked several resources, including our PD&E Shared Drive, which is an archive of old policy memos, broadcast messages, e-mails, and other miscellaneous documents and items and have not been able to find any supplemental policy regarding weapons transfer. It seems the information in ATF O 3310.4B is the only policy that exist.

Let me know if I can be of further assistance.

*Program Analyst Mary Ann Carr
 Policy Development and Evaluation Branch
 Field Management Staff, Office of Field Operations
 99 New York Avenue, NE, [REDACTED]
 Washington, DC 20226
 [REDACTED]*

I am who I am because of who we all are!

From: Molek, Theresa C.
Sent: Tuesday, April 20, 2010 4:14 PM
To: Carr, Mary Ann
Cc: Lowrey, Stuart L.
Subject: Request for Supplemental Documentation / ATF O 3310."Firearm Transfer" / ? - Supervisory Approval Requirement

REQUEST FOR SUPPLEMENTAL DOCUMENTATION RE ATF O 3310.48 " WEAPONS TRANSFER" AND SUPERVISORY APPROVAL REQUIREMENT

Per discussion this date, requesting supplemental documentation, if any, issued by HQ and/or Field Divisions reflecting the requirement of supervisory/SAC approval for "Weapons Transfers," which is not addressed in ATF O 3310.48.

Thank you for your time and assistance.

HOCR ATF - 002078

“WEAPONS TRANSFER”

ATF O 3310.48 Firearms Enforcement Program cites that a 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.”

Comment: Order reflects no procedural notation regarding supervisory approval; sole discretionary practice by investigative personnel

Reference: ATF O 3310.4B Firearms Enforcement Program, p. 113

Extract: 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.**

Document:

<< File: ATF O 3310.4B Firearms Enforcement Program.doc >>

HOGR ATF - 002079

Exhibit 113

Let me know a few good blocks of time and I'll set it up

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Office: RC-1 [REDACTED]
Cell: RC-1 [REDACTED]

From: Hoover, William J. <RC-1 [REDACTED]>
To: Weinstein, Jason
Sent: Mon Apr 26 10:58:51 2010
Subject: Re: Unrelated to this call...

Absolutely! Let me know when.
William J. Hoover
Assistant Director
Bureau of ATF

(C) RC-1 [REDACTED]
(C) [REDACTED]

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----- Original Message -----
From: Weinstein, Jason <RC-1 [REDACTED]>
To: Hoover, William J.
Sent: Mon Apr 26 10:55:36 2010
Subject: Unrelated to this call...

...do you have time this week to talk about that tricky gun traff. case in AZ?

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Office: RC-1 [REDACTED]
Cell: RC-1 [REDACTED]

Exhibit 114

Exhibit 114

RC-1

From: Walker, Anjanette
Sent: Tuesday, April 27, 2010 8:37 AM
To: Weinstein, Jason
Subject: FW: "Operation Wide Receiver"

Jason, looks like you can proceed with the meeting without Mark Chait. See below.

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

From: Hoover, William J. [mailto:RC-1]
Sent: Tuesday, April 27, 2010 5:52 AM
To: Walker, Anjanette
Subject: RE: "Operation Wide Receiver"

Anjanette,

Mark Chait is out of town most of the week. We can hold the meeting without him.

Billy

William J. Hoover
 Executive Assistant Director
 O) RC-1

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

From: Walker, Anjanette [mailto:RC-1]
Sent: Monday, April 26, 2010 4:33 PM
To: Walker, Anjanette; Carwile, Kevin; Trusty, James; Hoover, William J.; Chait, Mark R.
Cc: Coleman, Betty
Subject: RE: "Operation Wide Receiver"

I have two responses for this meeting as follows:

James Trusty and William Hoover are available for Wednesday at 11am.
 Kevin is on travel and we are still awaiting to hear from Mark.
 Hopefully, you will receive a firm date and time tomorrow after receiving everyone's response.

Thanks
 Anjanette

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

From: Walker, Anjanette
Sent: Monday, April 26, 2010 2:41 PM
To: Carwile, Kevin; Trusty, James; Hoover, William J. (ATF); Chait, Mark R. (ATF)
Cc: 'Betty.Coleman'
Subject: "Operation Wide Receiver"
Importance: High

Good afternoon All,

Jason asked me to schedule this meeting one day this week, please let me

know if the following dates and times are convenient for everyone.

Tuesday (1:30pm - 5:00pm)

Wednesday (11:00am - 12:00pm)

Thursday (10:00am - 12noon)

Friday (10:00am or 3:00pm - 5:00pm)

Thanks

Anjanette Walker
Office of Assistant Attorney General
Criminal Division

RC-1 [REDACTED] (office)
[REDACTED] (fax)

Exhibit 115

Exhibit 115

RC-1

From: Trusty, James
Sent: Wednesday, April 28, 2010 9:15 AM
To: Weinstein, Jason
Subject: RE: Wide Receiver ATF mtg

Sounds good

From: Weinstein, Jason
Sent: Wednesday, April 28, 2010 9:13 AM
To: Trusty, James
Subject: Wide Receiver ATF mtg

If ok with you, I figured you could do for Billy what you did for Lanny in terms of describing the case and the issues, and then we can spend the rest of the time talking messaging.

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Office: RC-1
Cell: RC-1

Exhibit 116

Exhibit 116

* May 12 - 2 or 3 defendants
 indictment 2006-07; 183 guns sold in
 first conspiracy, AR15's in bulk
 vast majority of guns not recovered

* 2nd conspiracy - same people but
 bigger mix of weapons 200 some
 purchased - 50 recovered - 5 in Mexico -
 Feb 07, 10 defendants

* gun trafficking, illegal aliens, straw purchase,
 * one overlap w/ investigation

* Fast and Furious,

Exhibit 117

Exhibit 117

RC-1

From: Weinstein, Jason
Sent: Friday, April 30, 2010 7:03 PM
To: Breuer, Lanny A.
Subject: Re: Operation Wide Receiver

As you'll recall from Jim's briefing, ATF let a bunch of guns walk in effort to get upstream conspirators but only got straws, and didn't recover many guns. Some were recovered in MX after being used in crimes. Billy, Jim, Laura, Alisa and I all think the best way to announce the case without highlighting the negative part of the story and risking embarrassing ATF is as part of Deliverance.

Jason M. Weinstein
 Deputy Assistant Attorney General
 Criminal Division
 U.S. Department of Justice
 950 Pennsylvania Avenue, NW
 Washington, D.C. 20530
 Office: RC-1
 Cell: RC-1

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

From: Breuer, Lanny A.
To: Weinstein, Jason
Sent: Fri Apr 30 18:39:45 2010
Subject: Re: Operation Wide Receiver

Anything I should know about thos?

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

From: Weinstein, Jason
To: Breuer, Lanny A.; Raman, Mythili; Fagell, Steven
Sent: Wed Apr 28 18:59:27 2010
Subject: Operation Wide Receiver

Jim T and I met with Billy Hoover and with Laura and Alisa to talk about this gun trafficking case with the issues about the guns being allowed to walk for investigative purposes. Can fill you in tomorrow in more detail but we all think the best move is to indict both Wide Receiver I and Wide Receiver II under seal and then unseal as part of Project Deliverance, where focus will be on aggregate seizures and not on particulars of any one indictment.

Jason M. Weinstein
 Deputy Assistant Attorney General
 Criminal Division
 U.S. Department of Justice
 950 Pennsylvania Avenue, NW

Exhibit 118

From: Chait, Mark R.
To: McMahon, William G.
Sent: 4/28/2010 7:49:13 PM
Subject: Re: Past Due Time Cards

Ok thanks
Mark R. Chait
Assistant Director
Field Operations

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From: McMahon, William G.
To: Chait, Mark R.
Sent: Wed Apr 28 15:45:51 2010
Subject: Re: Past Due Time Cards

With the Director it when fine. We brief the House Members tomorrow morning.

The briefing with DOJ on Wide Receiver went ok. I will brief you tomorrow on the details. Some surprises but nothing terrible.

I am at a doctors appointment right now.

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RC-2



HOCR WR 005455

Exhibit 119

RPTS [REDACTED]

DCMN [REDACTED]

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: JASON WEINSTEIN

Tuesday, January 10, 2012

Washington, D.C.

The interview in the above matter was held in Room 2247, Rayburn House Office Building, commencing at 10:06 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

STEPHEN CASTOR, CHIEF COUNSEL, INVESTIGATIONS

ASHOK M. PINTO, DEPUTY CHIEF COUNSEL, INVESTIGATIONS

HENRY J. KERNER, SENIOR INVESTIGATIVE COUNSEL

CARLTON DAVIS, COUNSEL

KATE DUNBAR, STAFF ASSISTANT

SUSANNE SACHSMAN GROOMS, MINORITY CHIEF COUNSEL

M. SCOTT LINDSAY, MINORITY COUNSEL

DONALD K. SHERMAN, MINORITY COUNSEL

CARLOS URIARTE, MINORITY STAFF

For the SENATE COMMITTEE ON THE JUDICIARY:

MAGGIE WHITNEY, SENIOR INVESTIGATIVE COUNSEL

MATT VIRKSTIS, COUNSEL

JASON FOSTER, MINORITY CHIEF INVESTIGATIVE COUNSEL

TRISTAN LEAVITT, MINORITY COUNSEL

BRIAN M. DOWNEY, MINORITY INVESTIGATOR

ROB DONOVAN, MINORITY STAFF

PATRICK BAILEY, MINORITY STAFF

For the U.S. DEPARTMENT OF JUSTICE:

STEVEN F. REICH, ASSOCIATE DEPUTY ATTORNEY GENERAL

M. FAITH BURTON, SPECIAL COUNSEL, OFFICE OF LEGISLATIVE AFFAIRS

strengthening our relationship with Mexico has been recognized repeatedly by officials on both sides of the border.

Given this level of commitment and given this record of accomplishment, it cannot reasonably be suggested that I or any other officials in this Criminal Division could have knowingly tolerated any situation in which guns were allowed to walk to Mexico, thereby endangering not only the citizens of both countries but also all that we have worked to accomplish with Mexico over the past 3 years.

Now let me turn briefly to the prosecution of the case known as Wide Receiver.

As part of the Criminal Division's efforts to assist in the fight against gun trafficking along the Southwest border, in the summer of 2009 the Criminal Division offered a gang unit prosecutor to help the border U.S. Attorney's Office prosecute gun-trafficking cases. And as a result of that effort in the fall of 2009 one of our prosecutors was assigned to a case we now know as Wide Receiver, which is a case that had been investigated in 2006 and 2007 in the prior administration that had then set uncharged by the U.S. Attorney's Office in Arizona for about 2 years.

To be clear, the case was investigated by ATF and the Arizona U.S. Attorney's Office and not by this Criminal Division. But when prosecutors in the gang unit reviewed the case in the fall of 2009 and decided to prosecute it they learned in the process that guns had walked in that case back in '06 and '07.

It was in the spring of 2010 when I personally learned about the

gun-walking that had taken place during the investigative phase of Wide Receiver back in '06 and '07. I was stunned by those tactics which were unlike anything I had encountered in my career as a prosecutor; and, although the tactics had been used years earlier, I was sufficiently troubled by them that I raised them with Mr. Breuer and at his direction with top officials at ATF. I made clear to ATF my concerns about the tactics, and I was satisfied that ATF leadership shared those concerns and viewed those tactics as unacceptable.

The Criminal Division's bottom-line assessment with respect to Wide Receiver was that although the guns should never have been allowed to walk in '06 and '07 we should not compound that error by allowing the gun traffickers to walk as well. So we decided to go forward and prosecute the case, notwithstanding any embarrassment it might cause for ATF.

Had embarrassment to ATF been an overriding concern we could simply have let the case continue to lie dormant as it had for 2 years, but that's not what we did. We chose to move forward, notwithstanding the inappropriate investigative tactics that had been used earlier because those tactics did not affect the integrity of the evidence and because prosecuting the case was simply the right thing to do.

Turning now to allegations of gun-walking in Fast and Furious.

I want to be clear that I did not know at any time during the investigation of Fast and Furious that guns had walked during that investigation. I first heard of possible gun-walking in Fast and Furious when the whistleblower allegations were made public in early

If the Office of Enforcement Operations decides that the wiretap is legally sufficient and meets the statutory requirements, they will prepare a summary memo of the affidavit for higher level review. And they will send the memo and the supporting documentation to our front office where it will be assigned to whichever deputy AG is next available, with the goal of getting these reviewed as efficiently as possible. There are thousands of wiretaps every year. We want to get them reviewed and out to the field if they're approved so they can be used.

So my role is to review the wires that come in. They come to me when it's my turn in the rotation to review them.

Q And did you review wiretap applications in Operation Fast and Furious?

A I reviewed what I believe to be three of the wiretaps in Fast and Furious, in what I now know to be Fast and Furious.

Q Did those -- did you review the wiretaps themselves or the cover memo prepared by your staff?

Mr. Reich. Before we get into what you did in Fast and Furious, would you mind asking as just a predicate what his general practice is?

BY MR. LINDSAY:

Q Yeah, what is your general practice?

A My general practice, which I understand to be consistent with the way DAGs have done this across administrations, is to review the summary memo in the first instance and to go to the affidavit only if

Exhibit 120

Exhibit 120

RPTS [REDACTED]

DCMN [REDACTED]

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: WILLIAM MCMAHON

Tuesday, June 28, 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

SUSANNE SACHSMAN GROOMS, MINORITY CHIEF COUNSEL

DONALD K. SHERMAN, MINORITY COUNSEL

For the SENATE COMMITTEE ON THE JUDICIARY:

JASON A. FOSTER, CHIEF INVESTIGATIVE COUNSEL

BRIAN M. DOWNEY, INVESTIGATOR

ROB DONOVAN, SENATOR GRASSLEY'S OFFICE

JUSTIN KIM, MINORITY STAFF

WILLIAM MILES, MINORITY PROFESSIONAL STAFF

For the DEPARTMENT OF JUSTICE:

MOLLY GASTON, ATTORNEY ADVISOR, OFFICE OF LEGISLATIVE AFFAIRS

For MR. MCMAHON:

GREG SERRES, DEPUTY CHIEF COUNSEL, ATF

Q Not legally, the person, the transferee is not legally allowed to buy the weapon --

A Correct.

Q Then you would certainly find a problem with that?

A Absolutely.

Q All right. When did you first become aware of allegations that gun walking might have occurred in the Fast and Furious case?

A Shortly after a takedown in January of 2011.

Ms. Grooms. I'm sorry, I was confused by the question. I thought the witness said that he hadn't thought that the gun walking had occurred.

Mr. Davis. Well, the allegations. I asked him about the allegation.

Ms. Grooms. Sorry? I misheard you.

BY MR. DAVIS:

Q So shortly after the takedown in January 2011?

A [Nods.]

Q How did that come to your attention?

A I think there was some media reports or blog reports that that sort of thing were on our news clippings that we get every day.

Q So you weren't aware of that before January 25 or the press conference or --

A Correct.

Q Around that time. Okay.

Did you do anything in your capacities as Deputy Assistant

Director to investigate those allegations?

A Investigate, I mean I have talked to the individuals involved and tried to figure out where this was all coming from.

Q Who were those individuals that were involved at that point?

A Usually it was just Bill Newell.

Q Bill Newell?

A Right.

Q So Bill Newell had an allegation that gun walking occurred? Is that what I'm understanding?

A No. When I read these reports I would talk to Bill and say what are they talking about here? And we just had a discussion about that, that you know, it was not true and that sort of thing.

Q But you didn't go and reach out to the actual agents who were making these reports?

A There were no agents identified until a month or two later.

Q And what did Mr. Newell relate to you about these allegations that gun walking had occurred?

A That they were untrue.

Q And what was his basis for the claim that they were untrue?

A That his knowledge of the case, the way that this case was investigated, all of that.

Q What is your current understanding of ATF's policy regarding gun interdiction?

A Our policy on gun interdiction?

Q Yes. Well, I'm sure you are familiar with section

being recorded as happening.

Q Describe for me a little bit your relationship with Bill Newell?

A I was his first line supervisor for I believe the 3 years that I have been in this position until just recently. We have day-to-day conversations about the ongoing activities in Phoenix. I have traveled to Phoenix a number of times, he has traveled to D.C., so a working relationship. I was his first line supervisor for those 3 years.

Q So day-to-day conversations about what is happening in Phoenix?

A Uh-huh.

Q Did you talk once a day, twice a day, three times a day?

A It varied. There were some days we spoke three, four times a day and I know that because Bill would call, sorry for going over my limit of one call a day type of thing. He would say things like that. But there were times that I wouldn't speak to him for a couple of days.

Q Why was he calling so frequently?

A Just to keep me updated what was going on. I have seven SACs. Some I don't hear from quite as often. I have to usually reach out to them. And then I have others that will call me quite a bit more. I have a SAC that probably calls me five times a day. Bill was kind of in the middle.

Q We have heard some testimony that he had a tendency to over

report to you, always wanting to keep you in the loop about what was going on in Phoenix?

A Bill was pretty good at that, yeah.

Q That was not necessarily just phone calls but written product, whether it is briefing points or memorandum or things like that?

A That's correct.

Q So as a result, you probably had a pretty good idea of what was going on in Phoenix?

A I did.

Q How often did you talk to folks below Bill Newell's level whether it is the ASACs or whether it is any of the group supervisors in Phoenix?

A Hardly at all. If I was in town, I would maybe talk to them then. There was never really any phone conversations, maybe a couple of phone calls with Jim Needles. I had a little bit more of a personal relationship with him. He used to work with me when I was the SAC in New York. We actually went to the academy together so.

Q How often did you see Mr. Newell in person?

A During the year, I would probably see Bill, four, five times a year. I would make some trips out there, he would be in D.C. We would be in joint conversations together.

Q And was your interaction with him, either in D.C. or in Phoenix, average, below average, above average compared to other SACs under your purview?

A Average.

Q Just about average?

A Yeah.

Q So your trips to Phoenix, how frequently did you go out to Phoenix?

A I would go out to Phoenix probably two or three times a year. I would probably go to other divisions about the same, some a little less, some a little more.

Q Okay. So the information that Mr. Newell gave you on your daily telephone calls or your three or four times daily telephone calls, what did you do with that information? What was your sort of pattern or practice of using this stuff that he told you?

A Mostly I would just either report it up or just give him advice on how to handle things or thank him for telling me what he told me.

Q And what types of, would you ever go above Mr. Chait's level to Mr. Hoover or Mr. Melson based on certain things that Mr. Newell was telling you?

A Not directly, no. There would be times that we would be together and I would relay information but that wouldn't go directly to --

Q To Mr. Chait?

A Unless Mark Chait wasn't there and then I was either acting, or yeah, if I was acting then I would go directly to Billy -- Mr. Hoover. Sorry.

Q If you were acting --

A In Mark's position.

Q So if, for example, Mr. Newell called and said hey, we got a problem with gun walking in Phoenix, that would go great straight to Mr. Chait and then you would just leave it at that?

A If that happened, yes. I would bring it to Mr. Chait's attention. And I'm sure we would have a meeting after that.

Q Sure. Okay. So it was from your perspective very chain of command oriented, your reporting?

A I'm very chain of command, absolutely.

Q Okay, when did you first find out about the Fast and Furious investigation?

A It was probably the end of '08, either November or December of '08.

Q All right, and what was the context that you found out about the investigation? How did that occur?

A It was just I believe a conversation between Bill and I about this very good firearms trafficking case that they had ongoing out of our brand-new strike force group.

Mr. Castor. That was '09, correct?

Mr. McMahon. I'm sorry, '09. I'm in '11. Two years ago. I apologize. I got my position in '08.

BY MR. DAVIS:

Q So you just said there was very good firearms trafficking case?

Mr. Davis. I have Exhibit 3.

[McMahon Exhibit No. 3
was marked for identification.]

BY MR. DAVIS:

Q Read it if you want. I affectionately refer to this as the Ray Rowley memo.

So the Ray Rowley memo here, very clearly, Mr. Rowley was expressing concern about the number of weapons going on in this investigation very early on, December 17, 2009, then you see up here an email at the top from Mr. Newell, I will address Ray's concerns with McMahon. Did Mr. Newell ever address these concerns with you?

A I believe we did speak about Ray's involvement in this case.

Q Okay. Can you describe some more about that conversation with Mr. Newell?

A Sure. It was some concerns that Ray was dictating things from headquarters to the field which was not his job. I agreed. I said I would speak to Ray. That is about what I remember from this.

Q Okay so Mr. Newell was not concerned about Mr. Rowley's actual concerns about the number of guns, but he was rather concerned that headquarters was interfering with his little operation down in Phoenix?

A Well, that position in headquarters. He will never have a concern with me interfering with a case, but that position in headquarters, absolutely.

Q So he never expressed to you Mr. Rowley's actual concern

A Absolutely, we had an offer from the Criminal Division, the gang unit, to provide us U.S. attorneys to prosecute individual cases. We normally don't get one attorney assigned to one case at any time, and we had this opportunity in this case and so we wanted to make sure we took advantage of that. We may have also talked about cases out of the Houston field division as well, because I know we have had meetings like that. And historically, we had someone from the Criminal Division assigned to a case out of Tucson which helped us an awful lot because we weren't getting the aggressive prosecution that we thought we needed on the case. So to assign someone from main Justice directly to one case is kind of a big deal.

Q Let alone two people from main Justice being assigned directly to one case?

A I don't think Kevin was going to be assigned to any case. Kevin was a supervisor of the gang unit.

Q Okay. Okay. And again, just to reiterate, I just want to make sure I am hearing you clearly, you don't ever recall Dan Kumor expressing concerns about this case to you? It doesn't have to be in this meeting, just over a period of months.

A Oh, I mean, yeah, we have talked about it, at some point during the case, about the number of guns ending up in Mexico, Dan would usually express his concern from the concern he was getting from his people in Mexico.

Q And what concern was that?

A That there was a large number of guns being recovered in

Mexico.

Q And what was your response to that?

A My response to --

Q To Mr. Kumor's concern.

A That it is our concern as well. We are working this investigation the best we can to take down this group of individuals and stop them from putting the guns in Mexico.

Q Did you ever coordinate with anybody under Mr. Kumor about in Mexico what was going on?

A Did I ever coordinate with people in Mexico?

Q Did you ever talk to anybody in Mexico, ATF or Mexican government, about this particular case?

A I'm sure at some point I did. I had business in Mexico City as well.

Q Who did you meet with down in Mexico City?

A Our people in the attache office.

Q Who specifically?

A Well at the time when I first took the position, the attache was Davey Aguilar. And then Davey was removed, and we had an acting attache down there, Chilicot was his name. And then, eventually we put Darren Gil as the attache. And then Darren was removed, and Carlos Canino has been acting attache for a while.

Q I believe Mr. Gil and Mr. Canino, I think they were the acting attaches during the case?

A Darren was actually the attache and Carlos was the --

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[11:04 a.m.]

Q Was this concern addressed to people above Mr. Chait, Mr. Hoover, and Mr. Nelson?

A I don't know.

Q Did you ever address these concerns about the large number of weapons?

A To people above -- outside the agency?

Q Sure. Certainly they were well aware of the large number of weapons that were being trafficked in this case?

A Who was?

Q I mean, Mr. Hoover, Mr. Nelson --

A Oh, absolutely.

Q So the concerns that were going on, were those being discussed?

A Absolutely. Oh, absolutely.

Q And what -- what I guess operational safeguards were in place to ensure that the guns weren't going to go to Mexico, weren't going to end up at crime scenes in Mexico? What safeguards were in place?

A Well, I mean, every individual in this case was put into the tech system. So if they ever had a border crossing that would be checked, if ICE -- if CBP was doing the check southbound.

All the guns that we suspected being purchased by this group were

put into our suspect gun database. We were obtaining a wiretap to help us identify when and if people are buying weapons and who is orchestrating that. So all of those safeguards and all of those techniques were put in place during this investigation.

Q So if you had a hunch that one of these straw purchasers who is buying a lot of weapons, one of the many, if you had a hunch they were connected specifically to the Sinaloa cartel, which you mentioned earlier, again, what would you do to make sure that the weapons that he buys are not actually given to the Sinaloa cartel?

A What would I do?

Q Well, what would be done normally? What was not done in this case? And as the Deputy Assistant Director for the Western Field Operations, you know that this is occurring over and over and over again. So what steps did you take to make sure that, for example, Uriel Patino and other suspects in this case do not continue to buy weapons, do not continue to illegally transfer them to prohibited third parties, and they did continue to end up in Mexico?

A Sure. Again, when you have a large group of people buying a large number of weapons, that is an issue. So there is constant communication between me -- what are we doing to slow this down? What are we -- what is our endgame? What is our plan? That is the direction I give.

I mean, I don't ever, in this position, dictate how someone conducts an investigation. That is not what this position is. My position is to monitor, to support, to provide assistance to the people

under my position.

Q You knew that this was happening over and over and over again. They still kept coming in and buying weapons --

A I knew a large --

Q They kept ending up in Mexico. They kept being transferred to prohibited third parties. And, in your position, you just sat there and you didn't do anything because it wasn't your job to say anything?

A I knew a large group of people were buying a large number of weapons. I never really got into the specifics of how many people, what days they were buying guns, when we found out that they bought a gun. I just knew we identified a large group of people that were buying a large number of guns.

Q So you weren't into the specifics, even though a month after this investigation started you ordered the link analysis, just to link everybody up. That sounds pretty specific.

A A link analysis so we can brief Criminal Division attorneys so that hopefully we can get them to like this case and want to prosecute.

Q So the strategy here was not to actually facilitate the transfer of firearms?

A Absolutely not.

Mr. Castor. Let me ask one question.

EXAMINATION

BY MR. CASTOR:

Q What is a large number of people?

A Trafficking cases, yes, that, is infrequent. But we have wiretaps going all across the country.

Mr. Castor. Carlton, sorry.

BY MR. DAVIS:

Q How many wiretaps were there in this case?

A I believe we applied for -- I think we used seven after -- I think we applied for nine.

Q Seven. So there were seven wiretaps and you never bothered to read any of them?

A Absolutely not. And there was no way I could. Some of these wiretaps would be up for, like, 2 days; and then we would be applying for another one.

Q But you never bothered to read any of the applications --

A I knew that --

Q -- rich in detail?

A I knew that we were applying for wires and that was what was important for me.

Q Whose job is it to read the applications, if it is not yours?

A Counsel, main Justice. I mean, there is quite a few levels.

Q Why are you even in the chain of command if you're just going to pass on your work to the level above you?

A That level is not above me. The Counsel and main Justice, the people that review wiretaps, that is what they do for a living.

Q Put out a memo for a wiretap application, isn't that your job to sign off on that?

A No, I never signed off on a memo for a wiretap application. Mr. Davis. All right. I am going to introduce Exhibit 4 here. Hopefully, we can come to an agreement on what exactly occurred. Here is Exhibit 4. I will give you the original. That is for you.

[McMahon Exhibit No. 4
was marked for identification.]

BY MR. DAVIS:

Q So this is dated February 5, 2010, a memorandum to Deputy Assistant Director, Westfield Operations. I assume that is you?

A That is. That is my title.

Q Through the Special Agent in Charge, Phoenix Field Division, from Group Supervisor, Phoenix Group 7.

Subject: Request for Authorization to Seek Title 3 Intercept of Telephonic Communications.

So this is a memo to you requesting authorization to seek Title 3 intercept. There is some good detail in here. Not as strong detail as the actual wiretap applications themselves. Are you saying that you never read this, that you just approved it and sent it up to the next level?

A If I -- if I -- if I had read this, I would have signed it and dated it. I don't believe I have ever read this.

Q You don't believe you have ever read this. So what is the point of even sending it to you then?

A I'm not sure if it was sent to me.

Q Memorandum to Deputy Assistant Director. This isn't you sending it on to somebody else. It is somebody sending it to you.

A Correct.

Q That's right. So do you sign everything that comes in your in box?

A I do.

Q Do you sign it immediately?

A Do I sign it immediately? I sign it when I review it.

Q You sign it when you review it.

A Then I would put "approved".

Q Okay. So, just to be clear, you never -- you've never seen this document before?

A Not that I recall, no.

Q Okay.

Mr. Foster. Feel free to take some time to review it, just to make sure.

Mr. McMahon. Sure.

Some of the facts in here I am familiar with, but, again, this memo does not -- I don't recall seeing this memo. I don't recall ever signing a memo of request for authorization to seek Title 3s in any of my divisions.

BY MR. DAVIS:

Q How does the Title 3 process work? Walk me through. If I'm Bill Newell, how do I get a Title 3 approved?

A Well, he doesn't.

Q If I am David Voth, how do I get a Title 3 approved?

A The case agent usually would be the one that prepares an affidavit with an assistant U.S. attorney. Then it gets reviewed by ATF counsel, and then it goes over to main Justice. For the life of me, I can't remember the unit in main Justice.

OEO. Thank you.

They are the approvers in this. Then it goes back to the U.S. Attorney's Office, and then they present it to a judge.

Q Okay. Just a last question before I hand over the questioning.

The first sentence here, "this memorandum serves to request authorization" -- the memorandum is to you -- "to initiate a Title 3 cellular telephone intercept." So if you never approved this, if you never saw it in the memorandum request authorization, how was this authorized?

A By a judge signing the order. I mean, that's how wiretaps work.

Q Mr. Voth can't simply sign it in -- sign it by himself and submit a wiretap application to a Federal judge.

A No. It has to go through the process I just described.

Q It seems as though you're a part of the process here.

A Not the process I described, no.

Mr. Davis. That's it.

EXAMINATION

BY MR. FOSTER:

licensee.

Q What about stocking the weapon? Does ATF get involved with the FFLs, telling them that they should stock more weapons in order to assist the flow of the gun traffic -- I guess the gun purchasers coming to that particular FFL?

A Stocking, no. An ATF should not be doing that, no.

Q And did you authorize agents to instruct FFLs to continue to stock or to sell these weapons?

A No.

Q And it is your understanding at this point that that didn't occur?

A Yes.

Q And that is your understanding from talking to SAC Newell?

A Sure. This has never come up, the fact that we told anyone to stock weapons or anything like that. That has never come up.

Q That is a new allegation for you?

A Absolutely.

Q Okay. Did you review the OCDEF application?

A No, I did not. I reviewed it subsequent to all of this coming about, but, no, not before. It is not something that comes up to my level.

Q So where -- I guess where does the review of an OCDEF application end?

A It is at that OCDEF -- there is a committee in that district and that is where the review is done, right there. There would be a

member from the U.S. Attorney's Office, each of the agencies. They will have a rep, those cases get presented and reviewed and approved or not approved.

Q I guess my question is within ATF.

A Within ATF? It should -- I'm not even sure if it would get to the SAC level. It could be as low as the first-line supervisor, maybe the ASCA. I'm not sure.

Q So if -- would you have gotten copied on the OCDETF application?

A No. I may have gotten a copy at some point. I just don't know when. I don't know if it was during the investigation or after, just -- I'm sure -- I know there was a conversation with Bill about, oh, the case got OCDETF approval; we are going to get OCDETF funding. There were those kind of conversations.

I'm not sure I got the actual application at that point. I know I have a copy of the application. It is an unsigned copy. So I just don't know when I got that.

Q What kind of paper would you have gotten about Fast and Furious, the case from SAC Newell?

A Sure. I think he provided a couple of briefing papers, more so near the end of the case than during. And most of the time we talked on the phone.

Q And in the briefing papers that you got, was there anything that you found concerning within them?

A Nothing concerning, other than the fact that we again had

this large group of people buying a large number of weapons and the numbers were concerning, something that we needed to keep an eye on. What are we doing? What is our endgame? You know, that sort of thing.

Q But those briefing papers didn't say anything in them about cutting short of the surveillance?

A No.

Q Or not moving forward with the case in instances when they had the opportunity to do so?

A No.

Q And certainly nothing about instructing FFLs to sell weapons?

A No.

Ms. Grooms. Let us look at one of those.

I will mark this as Exhibit 5.

[McMahon Exhibit No. 5

was marked for identification.]

Ms. Grooms. A briefing paper dated January 5th.

Mr. Serres. January 8th?

Ms. Grooms. I am sorry. January 8th.

Mr. Serres. Okay. Thanks.

[Discussion held off the record.]

BY MS. GROOMS:

Q Do you recall having seen this briefing paper in January?

A Of?

Q 2010.

A A couple of months ago. Not January of 2010, no.

Q So you didn't receive this briefing paper in January of 2010?

A Not this briefing paper, no.

Q But you received other briefing papers?

A I did.

Q That were in the same format or --

A Not really, no. The briefing papers I received were much shorter. I think the first one was only, like, three pages. But a little bit different format. There were more headings.

Q So I want to call your attention to Paragraph 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 guns to Mexican DTOs which are perpetrating armed violence along the southwest border.

So I understand that you couldn't recall having seen this memo, but do you recall whether this statement was in other memos that you saw?

A No, this statement was not in any of the briefing papers I ever received.

Q And was that your understanding of what was occurring? And I guess if you could give me your understanding, reading this now, of what this means, because I think we've had some controversy to that and then your understanding of what you thought was occurring.

and yes, I have a meeting with him next week, we are going to discuss it. So it was just constant little things causing more delays.

Q And did you ever personally get involved?

A Not above -- not other than with Bill, just following up with Bill, what he was doing.

Q Did you all discuss internally raising up the issues with main Justice?

A I believe it was, yeah. And I know -- I shouldn't say that. I don't believe we did -- I know I didn't bring it up to anybody in main Justice. People above me knew about these delays and they may have, I'm not sure. And I know that there may have been times of -- passing in the hallway I would see Dennis Burke and say hello and how are we dealing with that case, just kind of remind him that it is something that is important to all of us. But I was never involved in any discussion about -- a personal discussion about what is going on here other than with Bill Newell.

Ms. Grooms. Let's talk about the exit strategy. Let me mark this Exhibit 9.

[McMahon Exhibit No. 9

was marked for identification.]

BY MS. GROOMS:

Q Actually, before we talk about this Exhibit 9, I just want to follow up on what we were just discussing.

You said that you had concerns while you were waiting for the indictment, that the sale of these weapons was ongoing or that the

purchase of these weapons, transporting them to Mexico was ongoing and yet when you guys knew about the purchase of those weapons, you all were stopping that. So was your concern that they were purchasing it in ways that -- was your concern that they were purchasing it in ways that you didn't know about or --

A No, my concern was that we had enough to arrest these individuals and we can't allow them to continue making these purchases that we know are illegal at that point because we have indictable suspects at that point. That is the concern. We have made our case against these individuals, it is time to shut them down.

Q I guess did you have any concerns that they were going to FFLs that you weren't in contact with or other places or --

A Well, we had some techniques that they were using at that point that were allowing us to know if they were making purchases. But I was worried we were continuing to allow them to do something that we knew at this point we had indictable defendants or subjects.

Q So back to Exhibit 9. Is that a copy of the exit strategy that you were talking about?

A It is. It is redacted, but it is.

Q And from the email chain that is on the front of it, it appears that this was from around April 27th and then you emailed it to Mr. Chait on May 3rd.

RPTS [REDACTED]

DCMN [REDACTED]

A Correct.

Q What was the conversations around the creation of this exit strategy?

A In April, again, what is going on? We were getting briefed on this, and we saw that this large group of people is getting a larger and larger number of weapons. So we needed to know what, formally know, in writing, what Phoenix field division had plans for this. So that is when Mark actually asked me to ask to get an exit strategy from Phoenix. Phoenix provided that in April, and then I passed it on to Mark in May.

Q So who are you having these conversations with, you were having them with Mr. Chait?

A Mr. Chait, there were other people in these briefings at that point. Again, it is a collective group of people that the had concerns about what is our end game. We were always talking about the end game, what we were doing to shut this case down. And, again, most of that was verbally between Bill and I, but we needed to have them formalize something in a written document. So that is when I requested this exit strategy.

Q Who else was included in those conversations?

A Oh, it could have gone up to the acting director, the deputy

seen this before, I think you said several times. Is that right?

A Which?

Q Number 4.

A That's correct. To the best of my recollection, I don't remember seeing this.

Mr. Davis. Okay. I have Exhibit 11 right here.

[McMahon Exhibit No. 11
was marked for identification.]

BY MR. DAVIS:

Q So this is actually the email that was attached to Exhibit 4, the memo, from Mr. Newell to you on Friday, February 5th, 1:59 p.m. And I will give you a second to look at it really quickly.

A Okay.

Q Okay. First question is, who is Marino Vidoli?

A He is the chief of our Special Operations Division.

Q Okay. This email was sent to you from Mr. Newell, talking about how attached is the memo requesting the authorization, which is Exhibit 4. He also said that he could not scan the actual affidavit due to its size, that he was FedExing that to you, along with the original memo.

A Okay.

Q So I presume, based on your testimony, you never received that FedEx package. Is that right?

A Not that I recall.

Q So how many FedEx packages get delivered to your office on

a daily, weekly, monthly basis that you don't even see? Especially ones that you are aware that they are going to show up?

A Well, most of the times, the secretaries open up the FedEx packaging and then put, like, a pink envelope in my box.

Q Okay.

A So I don't know how many things come in on --

Q So the secretary probably did it, put the pink envelope in your box for this one?

A I don't know. I don't recall seeing this memo.

Q Okay. And even though Mr. Newell clearly sent it to you on a Friday afternoon, you never asked about the memo or the affidavit that he was sending?

A Correct.

Q Okay.

Mr. Foster. How frequently did Mr. Newell send you FedEx packages?

Mr. McMahon. Very infrequently.

Well, I shouldn't say that, because a lot of times travel vouchers and things like that may come in FedEx. But I'm not sure. Again, the secretary takes -- our mail system is a little antiquated, to say the least. If you mail something to our address, it goes to this processing center and gets irradiated, and it takes about 3 weeks to get to us, and it comes all yellow and crispy. So a lot of people FedEx other documents, like travel vouchers and credit card receipts and things like that.

But, you know, I don't actually get a FedEx. The secretary gets the FedEx. And then it is broken down from there and then passed out to whoever needs to sign things.

BY MR. DAVIS:

Q I guess I'm having a hard time understanding. I mean, you testified earlier that bringing in the DOJ attorney on a case for ATF is fairly rare. That is what Mr. Carlisle and Mr. Cooley did in this case; that is fairly rare.

A Well, we --

Q You mentioned that, you know, firearms trafficking, T3s, in ATF are extremely rare.

A Uh-huh.

Q You are Mr. Newell's direct supervisor. He sent you a FedEx package with the firearms trafficking T3 memo and affidavit, sent you an email, sent you a FedEx package. You said you had never seen it before today.

I'm just having a hard time reconciling all those facts. I'm hoping you can help me out with that.

A I said, first of all, that I don't recall ever seeing this. I'm not saying I didn't receive it. I don't recall seeing this.

Q That is what you are saying now. I believe --

A That is what I said the first time you asked me. I don't recall ever seeing that memo.

Q Okay.

A I forgot the first part of your question.

going to go ahead and complete the transaction.

Then I want to turn your attention to the following page. And this is where it gets a little tricky, in my view. This is an email from [REDACTED] notifying Voth that their annual check is occurring, and they were requesting extensive documentation. And so [REDACTED] tells Voth about this. And over the course of the next couple pages, Voth confirms that, you know, he essentially can help [REDACTED] out with this, you know, with their regulatory -- on the regulatory side of things.

So the concern here is, if [REDACTED] doesn't go through with the transaction it discussed with Voth, they might be worried about getting jammed up on the regulatory side of things. You can see here with these emails that there was a discussion about the regulatory side of things, and it looks like Voth hooked him up.

Is that concerning to you?

A Very much. Very much.

Q Okay. And so you were unaware that that type of thing was going on?

A I was. I was.

Q Mr. Newell didn't tell you about that type of thing?

A No.

Q And do you know if Mr. Newell knew about it, now, after the fact?

A No, I don't know.

Q Okay. Is this the first you're learning of this type of

thing?

A First I'm learning of this, yes.

Q Okay. So this is a problem.

A Absolutely.

Q Okay.

A We have to keep that balance. We license the industry. That is our job. And then we also conduct criminal investigations. They can't bleed into one another.

Q And it is our understanding, too, that Hope MacAllister was doing the same thing with another FFL, [REDACTED FFL 1]; that she was calling on the phone, notifying the proprietor of [REDACTED FFL 1], "Such and such a guy is come in to buy such and such weapons," and they essentially worked out a way to make sure the weapons changed hands to the suspect. And that is a problem?

A It is.

Q Okay.

A The only time that I know that that was happening and I agreed with the technique was when we were actually -- when we put a tracker on one of the weapons. I mean, that, to me, is perfectly fine, when you garner the cooperation of the FFL to help facilitate this transfer so that we can actually track weapons.

But I don't see that happening with these emails here. I don't think that happened in these cases, and that is concerning. But, as I said, there are times when I think it is helpful to do these things.

Q So if you knew a particular suspect was coming in to by 20

focus some of the prosecution resources on this case.

Q As I understand it, there was some frustration that the T3s weren't moving fast enough?

A Absolutely.

Q That, you know, Emory Hurley, the AUSA, wasn't processing them?

A Well, no. What came to me was the fact that OEO was -- there was a big delay with OEO.

Q Okay.

A And so, then that is when myself -- we were at a meeting with Jason Weinstein, and we brought it up to him after the meeting. And then he fixed it like that. He assigned it someone to just this case, and, sure enough, things started turning around much quicker.

Q And you had similar frustrations with getting the indictments out the door?

A Absolutely. Yeah.

Q And you had wanted them in July, right?

A We wanted them as soon as they could get them, is what it came down to.

Q And why did you want them as soon as possible?

A Well, it was time to take this case down. It was time to, you know, round everybody up and --

Q Because you didn't want them buying any more guns.

A Well, it was also, we wanted to show everybody what great work we have done. And that was key. There was a lot of discussion

about that. You know, can we take it down right around the end of GRIT, because then we could have a bigger press conference.

Q But, really, at the end of the day, you didn't want any more guns to be on the street.

A Oh, absolutely. That's why we were arresting all these people. I mean, that is what our job is.

Q So you wanted to lock up Patino in July.

A I wanted to shut down this organization once we could shut down the whole organization as soon as possible.

Q Because you didn't want any more firearms to go out the door.

A Absolutely. I mean, that's our ultimate goal. We want to stop guns from going into Mexico from the U.S. And that's why we conduct this investigation.

Q And by that time, you knew that these guns that Patino were buying and his associates in this network were making their way to Mexico.

A Absolutely. And that --

Q Every day that the case wasn't shut down, every day that an indictment didn't occur, more guns had the prospect of being sold and subsequently moving to Mexico.

A Sure. But guns are going to be recovered in Mexico for years to come. As I said, they have a long, long shelf life. They are being recovered in Phoenix, too. I mean, that is what is going on. So the quicker we can shut this group of people down and shut down this network, the better for everybody, absolutely.

Exhibit 121

RPTS [REDACTED]

DCMN [REDACTED]

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: WILLIAM J. HOOVER

Thursday, July 21, 2011

Washington, D.C.

The interview in the above matter was held in Room 2247, Rayburn House Office Building, commencing at 10:00 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

STEVE CASTOR, CHIEF COUNSEL, INVESTIGATIONS

HENRY J. KERNER, COUNSEL

CARLTON DAVIS, COUNSEL

JUSTIN KIM, COUNSEL

GREGORY PROSEUS, INTERN, OFFICE OF THE CHAIRMAN

KRISTY MCNAMARA, OFFICE OF THE CHAIRMAN

SCOTT LINDSAY, MINORITY COUNSEL

For SENATE COMMITTEE ON THE JUDICIARY:

MAGGIE WHITNEY, SENIOR INVESTIGATIVE COUNSEL

JASON A. FOSTER, MINORITY CHIEF INVESTIGATIVE COUNSEL

BRIAN M. DOWNEY, MINORITY INVESTIGATOR

ROB DONOVAN, MINORITY STAFF

For MR. HOOVER:

GREG SERRES, ASSOCIATE CHIEF COUNSEL, ALCOHOL, TOBACCO AND FIREARMS

MOLLY GASTON, ATTORNEY ADVISOR, OFFICE OF LEGISLATIVE AFFAIRS, U.S.

DEPARTMENT OF JUSTICE

Q And if you could tell us what led to that request?

A We received a pretty detailed briefing in March, I don't remember the specific date, I'm going to say it's after the 15th of March, about the investigation, about the number of firearms purchased by individuals.

Q Is that from Mr. Voth?

A No. That would have been by our Intel division in the headquarters. I believe Mr. Voth came in sometime in early March and gave a briefing, but I do not recall being at that briefing. I know my name appears on a list of folks, but I don't recall attending that. The briefing that I received is going to be somewhere around the -- sometime late March. During that briefing I was, you know, just jotting some notes. And I was concerned about the number of firearms that were being purchased in this investigation, and I decided that it was time for us to have an exit strategy and I asked for an exit strategy. It was a conversation that was occurring between Mark Chait, Bill McMahon and myself. And I asked for the exit strategy 30, 60, 90 days, and I wanted to be able to shut this investigation down.

Q And by shutting the investigation down, you were interested in cutting off the sales of weapons to the suspects, correct?

A That's correct.

Q And you were worried, is it fair to say, that these guns were possibly going to be getting away and getting into Mexico and showing up at crime scenes?

A I was concerned not only that that would occur in Mexico,

but also in the United States.

Q And at that time did you request, in addition to the exit strategy, did you request any specific actions on the part of the Phoenix folks to make sure these guns didn't get out of their control?

A I did not specifically request that. I allowed field operations to run that investigation. I did not make any specific request. Obviously, that's a concern anytime firearms get out of our control. And that's a little -- the control piece to that is a little -- we never really had control in some cases because, you know, we did not provide them the weapons, they were purchasing these at gun stores. And that's -- I'm not sure about the verbiage.

Q Are you talking about the verbiage of gun walking?

A Gun walking and control; that we have control in our ability to be able to stop some of these individuals that were purchasing those weapons.

Q What's your definition of gun walking? I know different ATF folks have different views.

A I believe I probably explained it to the committee in --

Q In May?

A -- in May when we did our review. Gun walking in my opinion is much like in the narcotics trafficking case where we provide firearms and somebody would leave the scene with something that we have provided to them, whether it's firearms or narcotics or whatever the contraband is. That's what I believe was firearms walking.

Q What term do you give when ATF is conducting a surveillance

in, or maybe Mr. McMahon didn't think these facts are alarming?

A You know, I can't speak to what Bill McMahon did. He may very well have looped Mr. Chait in on some of those items. I don't know. You have to ask them about that. They are certainly not going to feel the need to come up and brief me on all of the specific investigations that go on throughout the Bureau. And I trust their judgment to be able to make calls concerning these types of events. That's why they're in positions that they're in.

Q After you asked for the exit strategy in March of 2010, what did you do to ensure that that was going to be implemented?

A We have staff meetings twice a week. I would continually ask. If I would see Mr. McMahon I would say, hey, Bill, you know, we're developing the exit strategy, and he would tell me that Phoenix is working on it. And I would continually ask questions about how the case was progressing. I knew that they were also into a title 3 stage and that they were obtaining information from that. And I would just ask questions when I would see Mr. Chait or Mr. McMahon.

Q Did you get involved with the title 3 applications at all, did they get sent to you?

A No, sir.

Q Have you since read them?

A I have read some of them. I have not read all of them, yes.

Q And when did you read them?

A Probably March or April time frame, something like that, I'm guessing, of this year, 2011.

are just gathering information and intelligence from them. They don't even know they are giving it to you.

Q Just basic-level street work for a special agent?

A That's correct.

Q A natural part of almost every investigation, I assume?

A Yes, sir.

Q Did anyone ever tell you as a part of the briefings on Fast and Furious that they were not employing that basic tactic?

A No, sir, I did not get that as part of a briefing.

Q So did you understand in the course of 2010 that that was not being employed?

A No, sir, but I was -- I knew that we had made some seizures of firearms that we believed to be headed south or destined for the border.

I also knew that there were firearms that were being recovered in Mexico; did not know how those were moving. And I understood it to be the case that we were trying to determine how they were moving those firearms. Did we know, you know, we were trying to find out the information of when we knew about the sale, what we knew about the sale, and those kinds of questions.

That's, kind of, the things that led up to the briefing I received in March that called for me to ask for the exit strategy.

Q In March of 2010?

A March of 2010, that calls for me to ask for that exit strategy, that I want a 30-, 60-, 90-day plan to end this investigation.

I also knew that I was bringing that to bear at a very difficult time because they had just started the Title 3 wiretaps. And I am sure that most people in here know the amount of manpower and significant pressure that brings about on an investigation, because you not only have many to staff the wire room and ensure you are doing proper minimization, but you also have to staff surveillance units on the ground. You continue to have to respond to FFLs if they call or if they are sending you 4473s. It just adds to the demands on everybody in that investigation to be able to move forward.

But I also knew that we were discussing, as I answered a question before, that we were talking about a significant number of firearms, and I didn't feel comfortable with that. And I wanted us to have an exit strategy that allowed us to get to a point and we were going to wrap this investigation up, whether we were able to move up the chain or not.

Q And I want to talk about the exit strategy in detail. But, first, in March 2010, when you called for the exit strategy, did you understand, did you have any understanding that ATF Phoenix Field Division Group VII was not employing basic investigative tactics as a part of this investigation, a part of Fast and Furious?

A I don't recall having any information at that time that we were not looking at the major players in that investigation and maybe going to them and trying to flip them or otherwise utilize that information.

Q If Dave Voth or ASAC Gillett or SAC Newell or Mr. McMahon,

Mr. Chait had ever come in and told you, you know, 6 months in to this investigation, 700, 800, 1,200 firearms being sold already but we have never talked to a suspect, would that have raised questions in your mind?

A I think it just depends on the level of involvement of that suspect.

If you've got straw purchasers -- and there were many in this investigation -- and I think these investigations or investigations in general, especially when they go OCDEF, they hang titles on these cases, and I think that sometimes it's a challenge to hang titles on these. But whoever hung the title on this Fast and Furious because of this OCDEF proposal, I believe it was originally done because the original group of straw purchasers were members of a car club.

But I think, very quickly, early on, they found out that these guys were also buying firearms fast and furiously in that, from what I've learned, November-December-January timeframe. But they were in -- the normal trafficking group in an ATF firearms-trafficking investigation, you are talking about six or less, maybe seven, eight, or less straw purchasers involved with this group to be able to purchase these firearms and ultimately move them to wherever they are going.

In this case, went from being called the Jacob Chambers case, with 6 or 7 defendants, to rather quickly growing to 20 defendants and into an OCDEF proposal that ends up having a moniker hung on it like "Fast and Furious." And for lack of a better term, it exploded with the number of straw purchasers and the amount of information that our Group

VII and that strike force was getting. And I believe, for a bit, they were overwhelmed with all the information that was flowing and coming in, and they were trying to wrap their arms around all that information.

And I don't think anybody envisioned the Jacob Chambers case, when it was initiated, I don't think they envisioned Fast and Furious and us sitting where we are sitting today.

Q In March, you called for an exit strategy.

A Yes, sir.

Q Walk me through that, will you? What specifically triggered your belief that the case had gone far enough and needed to start to wind down?

A There had been a briefing in ATF headquarters sometime in early March. The director and I were unable to attend that briefing that was held, and I asked field ops to provide a briefing to the director and I, mid to late March, on what was said in the earlier briefing. I wanted to have a handle of what was going on.

During that briefing, there was a slide that popped up about our headquarters' Intelligence Division, and it listed the straw purchasers, the amount of firearms that they had purchased, and, I believe, the value of money that would have been placed on each one of those firearms. And I was concerned about the top echelon of that chart and the number of firearms that they had purchased and the fact that we had not stepped to them.

And I felt like -- I felt like, in my experience, that we should perfect that case and perfect it as quickly as possible. I knew that

A I think they intended to wall off what they could from the information from the wire taps. I also know that there had been discussions, I believe even earlier than March, with the FFLs to limit their inventory of these types of firearms so they could, you know, just tell the straw purchasers that, you know, it's going to take us, you know, a week or 2 to get those in. They were employing some of those techniques to slow down, if you will, the sale of these firearms.

Q But Uriel Patino would still get firearms in the meantime?

A Yes.

Q And there wouldn't be any interdiction?

A They did not -- they chose, at that time, based on the information they had, as I have spoken before, that they did not go to him.

Q Yeah, but what did you think would happen at the time? You were worried about the number of guns.

A Yes.

Q You were worried about Uriel Patino, because he was on that chart --

A He was.

Q -- showing how many guns he had purchased. And during this lengthy wiretap process --

A Yes.

Q -- you wanted a way out. But the question is, were there any other operational controls put in place that gave you personal comfort that fewer guns -- or that ATF was going to get control of this?

A I did not get any specific instruction. I remember having conversations with -- actually, the day of that briefing when I asked for the strategy, I had discussions with Mark Chait and also Bill McMahon around that strategy and how we needed to ensure that we were taking steps to interdict as many firearms as possible and to move to close that investigation down.

Q Uh-huh. And who did you ask for the strategy from, the exit strategy?

A I think it would have been directed to Mark and Bill McMahon, Mark being the assistant director of field operations and Bill McMahon being the deputy assistant director for the west, which had responsibility for Phoenix. I would have asked them.

Q And this is in March 2010.

A Yeah, probably, the second half of the month. I don't remember the specific date, but the second half of the month.

Mr. Lindsay. I want to introduce as Exhibit 3 the document -- this one to you. This is HOGRA ATF-001178, and it is the Operation Fast and Furious exit strategy with cover email.

[Hoover Exhibit No. 3
was marked for identification.]

BY MR. LINDSAY:

Q Now, this cover email doesn't have you on it, but it has -- and it's dated May 3rd, 2010. I assume you have received this memo, and this is in the same timeframe of May 2010. Is that accurate?

A Yes. It was sometime -- yeah, sometime, first of -- the

Q On the bottom page -- on the bottom paragraph of the first page of the exit strategy, not the email, it reads, "If we arrest Uriel Patino the firearms he has straw purchased thus far, we will only minimally impact the organization before Patino is replaced by another member of the organization."

That would seem to read to me like they had the evidence to arrest Uriel Patino at that time. Is that fair? Was that your reading at the time?

A Yes, sir.

Q But what? Uriel Patino is the single largest purchaser, the person that you were principally concerned about --

A Right.

Q -- in the March briefing.

A Yes.

Q They have enough evidence to arrest him. And yet this details a 90-day strategy until he might ever be arrested.

A Right.

Q And it comes 40-plus days after you made the request.

A That's correct.

Q So, at this point, we are looking at 130 days after your request and the concern about Uriel Patino, maybe they will be able to bring this case down --

A Right. I made the request in March, and the strategy was to end the investigation sometime in July. That's correct.

Q It comes out in May, so the --

A Right.

Q -- end of July.

A It would've been the very first part of May. It was May, June, July. That's correct.

Q I guess I am struggling to square this a little bit --

A Okay.

Q -- with your concerns --

A Okay.

Q -- with the concerns about Uriel Patino, that 130 days, given the rate of straw purchases between November and March, that giving Uriel Patino another 130 days, without significant operational controls put in place, how that satisfied your comfort as the deputy director.

A I think the issues that were raised with Patino were that they had -- my understanding, when I received this, was they had enough to make him a straw purchaser; they did not have enough to wrap him into this conspiracy. And that the strategy on the ground at the time was, Patino was providing them the link to Acosta and that they had information on -- it was, Acosta was throwing phones more than Patino was, and that they felt like they needed to have Patino to get to Acosta.

We asked -- or, field operations was asking the Phoenix Field Division to do everything they could to interdict the firearms that were being purchased, not only by Patino but others in this investigation, in order to minimize the concerns that you are raising.

But it still went to -- the 30-, 60-, 90-day strategy went to July.

I was hoping to end this as soon as possible. July was my absolute out time. We get to March, they have to advance on T-3s. They came back and they say, we need another 30 days of T-3s, and -- I am sorry, April -- May to June and then June to July, in order to be able to take this thing down. I asked field ops, I said, "This is it. We need to shut this thing down." And they were going to shut it down the end of July and bring this case to an end.

Q And so, Patino was key to Acosta.

A Patino was key to Acosta, as it was explained to me.

Q So if you arrest Patino, bring him off the -- bring him out of the game, the principal straw purchaser, you might not be able to get Acosta?

A Well, I think that's the choice you make. And the choice that the folks on the ground make between the strategy deployed by the strike force and the U.S. Attorney's Office was, we cannot step to Patino.

Q What about arresting him and flipping him?

A That's -- well, you can either -- you can step to him and do several different things. You can approach him and give him the opportunity to flip and work for you. You can approach him, and if he doesn't do that, then you can arrest him and then see if he will work for you. You can approach him and arrest him and then take him completely out of the picture. Those are the options you have at that time.

Q But none of those options were employed. They let him sit.

They didn't touch him. They didn't talk to him.

A That's correct.

Q They didn't step to him.

A That's correct.

Q They didn't interdict his weapons --

A That's correct. Well --

Q -- in any significant number.

A You are right; they did not step to him, period. And I think that was a mistake that we made.

EXAMINATION

BY MR. KIM:

Q You mentioned that he came back to you for an extension of the T-3?

A They didn't come back to me. They came back and told me that they were extending the Title 3s, which --

Q This is all contemporaneous with -- about the timeframe?

A Yes.

Q So you knew that they were going to go seek an extension for the --

A I fully expected an extension for the Title 3s based on everything I just told you about on my experience with Title 3 investigations.

Q Is it fair to say, then, that field ops was trying to keep this going a little longer, even after you had asked for the exit strategy?

A I don't know that that would be fair to say. I think what was occurring here was the natural progression of a Title 3 wiretap piece to this investigation. I don't think -- if you are asking if I thought that field operations was trying to push this along and not do what I was asking, I did not perceive that to be the case.

Q You didn't get any pushback from --

A No, sir.

Q -- field ops about the exit strategy request?

A No, I thought that Mark Chait and I and Bill McMahon were on board that we needed to have an exit strategy and it needed to be --

Q And how common is it for you to ask for an exit strategy in an ATF investigation?

A It's not common. I don't know that I have ever -- as the deputy director of ATF, I have never asked for an exit strategy --

Q Except for here.

A -- besides this case.

Q Besides this case.

A Right.

Q So this is a pretty big deal.

A It is to me, yes.

Q Coming from the top.

A Yes.

Q And did it concern you that it took about a month, over a month, to get from the time that you requested it to the time that one actually showed up on your desk?

A I think I have answered that. And it did concern me, but I also knew they had all these other things going. And the same people that had to write this exit strategy were the ones out working that wire and conducting the investigation that went along with this.

You have to understand, you are working the wire room and their surveillance 24/7, you are managing that aspect of this, with significant numbers of people. You are also still following up on firearms purchases and trying to surveil those people along. You are also trying to develop other individuals that you might be receiving information on who are other straw purchasers. So it's quite an operation.

BY MR. LINDSAY:

Q So what was your reaction when, at the end of July, the 90 days is up, you've got the document to hold them accountable for it, and they say, well, it's not going to be brought down yet, the U.S. Attorney's Office isn't ready"? And the case wasn't brought down until January 2011.

A Yes. I was --

Q A full 9, 10 months --

A Yes.

Q -- after your request for an exit strategy.

A Right.

Q How did that happen?

A I was -- well, ATF investigates cases, and we can present that information to the United States Attorney's Office. We do

not -- we may assist in drafting indictments, but that's all. Once it gets to that point, then it's in the control of the U.S. Attorney's Office for ultimately bringing that indictment to the grand jury and getting that rolling toward prosecution.

Q Did you ever put any pressure on the U.S. Attorney's Office or Department of Justice to get this going?

A We had conversations with -- I had field ops have conversations with Bill Newell to get to the U.S. Attorney's Office to imply the importance of this. There were -- I'm trying to think -- there were conversations -- we had conversations with Ed Siskel, I had conversations with Ed, speaking to the possible delay of the indictment. I do not recall that I ever called the Phoenix U.S. Attorney's Office directly.

RPTS ██████████

DCMN ██████████

[12:05 p.m.]

EXAMINATION

BY MR. LINDSAY:

Q Ed Siskel was the associate deputy attorney general handling ATF matters?

A Yes.

Q Did he take any action?

A I don't recall right now.

Q What did you tell him?

A I just told him that we were hoping to have this case indicted much more quickly than it is being indicted. The information we were getting back through field ops was that it's the normal process through the indictment stage, and that they needed this to be able to run, or draft the indictments on 20 individuals, and we were obviously concerned about the time it was taking.

Q Did you ask Ed Siskel to take action within the Department of Justice to expedite this?

A No.

Q Put command pressure down that chain?

A I don't recall asking Ed specifically to do that, no.

Q So you were --

A Just gave him my concerns.

Q You were providing almost an excuse for the delay but not

asking for action?

A I don't know that I was providing an excuse. I was just telling him -- giving him the information that I had received from the Phoenix field division about what was causing the delay.

[Hoover Exhibit No. 4
was marked for identification.]

BY MR. LINDSAY:

Q I want to introduce Exhibit 4, which is an email from SAC Newell to deputy assistant director McMahon dated April 27, 2010. You are not on this email, to be very clear. And I show it to you because it raises additional issues. And so I'll just give you a second to read it, but this is their correspondence relating to the execution of the exit strategy. You will see below on April 27th Mr. McMahon emails Mr. Newell, "Bill, we need to begin working on an exit strategy for this case. Let me know what your plans are for taking this case down, to include the timing."

Now, I don't know whether there was earlier correspondence or earlier discussion, he's memorizing why this occurred on April 27th when you put the request in through field ops in March, I can't speak to that. But the response from SAC Newell I think is instructive. And he says -- there's portions redacted -- but he says in response, "I don't like headquarters driving our cases, but understand the sensitivities of this case better than anyone. We don't yet have the direct link to a DTO that we want, need, for our prosecution" -- redacted. Once we establish that link we can hold this

end -- within the time frame set forth in the document?

Mr, Hoover. It was pushed along a little further than I would have liked because of some delays with the title 3s. I'm not sure how quickly. I do not have a timeline for how quickly we got the information at the U.S. attorney's office, but I can tell you I never envisioned a January indictment, I envisioned an August or September indictment.

[Hoover Exhibit No. 6
was marked for identification.]

BY MR. LINDSAY:

Q I want to introduce Exhibit 6, which is an email from William Newell to David Voth dated July 14, 2010. And this email -- and this again is responding in part to a Carlos Canino email. And Newell responds to Voth: Two rival DTOs went at it, Sinaloa and Juarez I believe. Maybe Jose Wall has more details. I told Carlos we were within 45 to 60 days of taking this down IF, capital I-F, the USAO, the U.S. attorney's office, goes with our 846, 924(c) conspiracy plan. Feel free to let Carlos know more details.

This suggests that Mr. Newell at this time in mid-July when you thought the case should be days from coming down --

A Two weeks.

Q -- is telling other people that he will come down in 2 months contingent upon a prosecutorial strategy that depends on a conspiracy for using firearms as a part of a -- in furtherance of a drug trafficking organization?

A Uh-huh.

Q When you requested the exit strategy, was that at all what the exit strategy was getting out of this case contingent upon developing a 924(c) charge, perfecting a 924(c) charge?

A No, sir. It was contingent upon that time limit and that time limit only. We had what we had at the end of that 30 60, 90 day plan, and that was when I wanted this investigation to be taken down.

Q Were you ever told in July or any point leading up to July that the case was not being brought down potentially because they hadn't yet perfected a 924(c) charge?

A No, sir. This is the first time I'm reading this.

Q If Bill Newell or Mr. McMahon had come in and said, Well, but we're still working to perfect bigger and bigger charges, what would you have said to them at that point?

A I would have allowed them to have a discussion with me. It's hard to speculate at this time based on what they would tell me, but I do not believe -- it would have had to have been an extraordinary circumstance for me to want to extend this beyond my original request for that 30, 60, 90 day exit strategy.

Q In your view, is it justified to not bring down a case in order to build -- you know, over months and months and months -- in order to build bigger and bigger charges, given the public safety hazard we saw here?

A I think -- again, it would have to be an extraordinary circumstance. I think I would have to know what they were thinking

conversations between ATF management and the management at the U.S. attorney's office to fix that.

Q And did those kind of conversations occur in Phoenix?

A My understanding was that Bill Newell was having constant communication with the hierarchy, not just Dennis Burke, but the hierarchy at the U.S. attorney's office.

Q This is from Newell to you?

A Well, it's reflected in several documents. It was I believe the briefing paper that Mr. Castor had me read earlier, that was in there.

Q But did you make any effort to talk to the hierarchy at the U.S. attorney's office?

A No. That's the responsibility of the SAC on the ground, and that's what field operations and the SAC on the ground does. I would certainly ask field operations throughout, especially after I asked for the exit strategy, are we in concert with the U.S. attorney's office and does the U.S. attorney's office know that we need to -- the strategy that we want to put in play is in play.

Q Were you aware -- let me rephrase.

When were you aware that there was a cooperating FFL in Fast and Furious or that there were multiple cooperating FFLs in Fast and Furious?

RPTS [REDACTED]

DCMN [REDACTED]

[1:30 p.m.]

Mr. Hoover. I really don't recall. I believe it would have probably been January of '09 maybe? Because the --

BY MR. FOSTER:

Q January of '09?

A No, I'm sorry. January of '10.

Q January 2010.

A January 2010. I'm sorry. Thank you for catching my mistake.

We received a briefing on, I believe -- I believe it was Lorren Leadmon that provided us a briefing of seizures in Mexico. And I don't remember if there were two or three seizures that he described. On Tuesday mornings, the Intelligence Directorate will provide briefings to the Field Operations Directorate on significant events that take place, not just in ATF, but things they may uncover from open-source documents or from the other agencies or even off the high side, classified side.

And I believe that -- I believe that that briefing is when I learned that part of the reason that we got into this case was that an FFL had provided some information to Phoenix Group VII about possible straw purchasers and Group VII went and looked at the 4473s. I believe that would have been --

Q So did you have an understanding then, in January of 2010,

that there was an ongoing relationship of cooperation with not only that FFL but other FFLs?

A I did not inquire as to the level of the relationship. I didn't ask that question.

Q So, did you know that the FFLs were faxing, in real-time, 4473s each time one of the suspects identified by ATF came into the store to buy or said they were going to be coming into the store to buy, that there was contemporaneous notice provided to the ATF by the FFL?

A I did not until -- I believe it was after January of 2011 that I knew that FFLs were faxing documents to ATF. And it was also my understanding that these were not contemporaneous, that there may be days between the time the FFL was faxing documents to ATF. I do not recall -- I don't recall anybody saying that the FFL was doing it all the time at the exact same time of the sale. I don't recall hearing that, no.

Q What about advance notice or contemporaneous notice on the phone, where the FFL would -- you know, they have the list, they know who the ATF is investigating, and they pick up the phone and they say, "Hey, Uriel is in again," and ATF agents rush down there in order to cover it and do surveillance?

A Oh, I knew there was some of that was taking place, but I don't -- I also don't recall that we provided the FFL a list of individuals. I don't recall -- I do not know that, if that occurred. I did not know that.

in training and outside of Phoenix during that time period and that, just prior to that time period, Mr. Gillett sought to have her get out of that training so that she could be there because there was going to be, quote, "significant investigative activity in the next few days"?

A I'm not aware of that, no, sir.

Q Just one more thing, and then I am going to turn the rest of the time over to Steve.

Ray Rowley?

A Uh-huh.

Q It's our understanding he expressed concerns much earlier in the investigation, like November-December timeframe, about the numbers of guns and that he raised those issues, you know, from his position in headquarters. Something happened to -- you know, where there was some pushback from Newell or from folks out in Phoenix, you know, like, hey -- sort of along the lines of the email we looked at earlier, "Hey, don't run the case from headquarters."

Are you aware of that?

A I know there was a timeframe when Ray had some concerns about the investigation. I don't recall when it was. I don't recall --

Q What do you recall about Ray Rowley's concerns?

A He -- I remember running into Ray in headquarters. And I'm trying to think what the -- I don't remember where -- I don't remember if we just passed each other in the hallway and we had a discussion.

Ray and I came on the job almost at the same time together. I

have known Ray for 24 years now. And when I was the special agent in charge of Boston, Ray was one of my special agents in charge in Boston. So I have known Ray and talk to him all the time. So it would not be out of the norm for us to pass in the hallway and stand and have a conversation, not only about ATF but about his girls in softball or my guys in football and baseball -- my boys.

So I don't remember exactly how the conversation came up. And he asked me if I was aware of the case out of Phoenix, and I said, yes, I had heard. And he said, you know, there is some significant movement of firearms in that case. And I go, I understand that. And this was -- and, as I recall, I think I said, well, I'm getting ready to have a briefing on that case, or be briefed on that case.

And that was what I recall of Ray raising concerns about Fast and Furious.

Q When people are raising concerns like Ray Rowley did and like a lot of other people did when they first learned about the numbers of guns --

A Uh-huh.

Q -- is there sort of an unspoken undertone to that, that, you know, why aren't we doing more to stop these, or can we be doing more to stop the flow?

A I think the prudent thing to do, in my opinion, is to get all the information about what's going on and what's taking place.

I mean, at that time, I believe -- don't hold me to this, but I believe Ray was what we call our southwest border coordinator. And

he was looking at not only Phoenix but all of our southwest border divisions and helping develop strategies and trying to determine if there were cases that crossed division boundaries and those types of things. And he would have had the ability to go hopefully talk to Bill Newell or Mark Chait -- or, Bill Newell or Bill McMahon and discuss those types of concerns.

Q So, to your knowledge, nobody sort of told him, hey, you know, stay out of it, it's Bill Newell's case to run, anything along those lines, anything similar to that?

A I have no knowledge of that. Not that I recall, no.

BY MR. CASTOR:

Q Now that you have had a chance to look at everything that's occurred and you are learning more, what do you make of the "not it" game?

Everyone seems to say that, you know, it's not their problem, not their fault. The folks in Phoenix say, "Oh, no, it's the U.S. Attorney's Office. You got to understand -- you know, if you appreciated the difficulties in prosecuting these cases, you'd know." Other people in Phoenix say, "No, no, no. This is all headquarters-driven. This is all driven from the DAG's office. They told us to stop pursuing straw purchasers." And then we talk to people in headquarters, and they say, you know, like you have today, and other folks in headquarters that we have spoken to say, "We didn't know about any of this?"

It just seems like there's no way to close the loop. You know,

Molly, would you mind writing a note and reminding me, please?

Ms. Gaston. Of course.

Mr. Hoover. Thank you. I'm sorry.

BY MR. CASTOR:

Q I think our hour is up, so we'll -- actually, one more question. Sorry. I think we're getting, hopefully, to the end of our --

A Okay.

Q -- all our questions.

Going back to one of the earlier exhibits, No. 4 --

A Okay.

Q The top, where it says, "I don't like HQ grabbing our cases but understand the sensitivities of this case better than anyone." Did you ever have a concern at any time during this case that maybe Newell's folks were out doing some things that you wouldn't be comfortable with, especially given the 2007 issue?

A No. I think the 2007 issue -- subsequent to that email, I had an opportunity to talk to Bill and Carson, and I think we came to a pretty clear understanding of what was expected. I did not have any issues after that with allowing Bill to run his field division.

Q Phoenix is one of the more important field divisions, just given the firearms situation in Arizona, right?

A As the deputy director of ATF, all 25 of the field divisions are important. Phoenix has a significant challenge with firearms going to Mexico; you are absolutely correct.

Exhibit 122

RPTS [REDACTED]

DCMN [REDACTED]

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: MARK CHAIT

Wednesday, July 20, 2011

Washington, D.C.

The interview in the above matter was held in 2247 Rayburn House
Office Building, commencing at 10:00 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

STEVE CASTOR, CHIEF COUNSEL, INVESTIGATIONS

ASHOK M. PINTO, DEPUTY CHIEF COUNSEL, INVESTIGATIONS

CARLTON DAVIS, COUNSEL

HENRY J. KERNER, COUNSEL

JUSTIN KIM, PROFESSIONAL STAFF

SUSANNE SACHSMAN GROOMS, MINORITY CHIEF COUNSEL

CARLOS URIARTE, COUNSEL

SCOTT LINDSAY, MINORITY COUNSEL PROFESSIONAL STAFF

VALERIE SHEN, MINORITY LEGAL ASSISTANT

For SENATE COMMITTEE ON THE JUDICIARY:

CHAN PARK, SENIOR COUNSEL

JASON A. FOSTER, MINORITY CHIEF INVESTIGATIVE COUNSEL

DAN MARTINI, MINORITY LEGAL CLERK

For MR. CHAIT:

GREG SERRES, ASSOCIATE CHIEF COUNSEL, ALCOHOL, TOBACCO AND FIREARMS
MOLLY GASTON, ATTORNEY ADVISOR, OFFICE OF LEGISLATIVE AFFAIRS, U.S.
DEPARTMENT OF JUSTICE

A Well, it's still ongoing. I don't know if I can get into --

Q Well, at this early stage you say there were a lot of people involved back in December?

A Well, we indicted 20.

Q You indicted 20?

A Right.

Q You keep saying there were a lot of people involved. Do you know how many people were involved? I guess my question is, it seems as though there were three individuals in particular who were buying far more firearms than anybody else?

A Right.

Q So even though you might say there were a lot of people involved, there were really three main individuals. Was there ever any thought of talking to those three particular individuals, Mr. Stewart, Mr. Patino, Mr. Moore?

A Yeah, I mean, again, those are decisions that would have been made on the ground.

Q Well, were concerns ever expressed to you at headquarters about the number of guns that were being bought by this firearms trafficking ring and sent to Mexico; did anybody ever express concerns to you, say, hey, Mark, we've got to shut this down, this operation is crazy, things are getting out of control, the numbers are climbing?

A I don't know of an individual. I think we collectively at some point saw that we need to shut this down.

Q And at what point did you collectively see that you needed

to shut it down?

A I think we asked for the exit strategy in March.

Q But you say there was no individual who ever approached you that said, hey, we need to shut this down?

A I don't recall that individual.

Q Did anybody ever express concerns about the strategy that was being used or maybe the lack of a strategy that was being used? Was there a strategy that was being used?

A Well, I believe there was. I mean, using the strike force OCDEF concept, you know, they used certain techniques to try to bring together an organization because obviously they saw that this wasn't just individuals acting, that there was an organized effort, and I think it was to try to attack the entire cell to stop the activity entirely rather than address a few straw purchasers who could be replaced, you know, very quickly.

Q So Ray Rowley never expressed any concerns to you about the number of guns, about the strategy here?

A I don't remember Ray talking to me directly about -- I don't recall that. I mean, he may have.

Q Did Ray -- you and Ray were buddies, he had an office in headquarters, you had an open door policy with him? He never expressed any concerns?

A I don't remember that.

Q Did Steve Martin ever express any concerns to you at any point?

being transferred?

A I honestly don't know if there are others. I mean --

Q But it sounds like you're not aware of any during your time?

A Well, we've had other cases with a lot of guns. I don't remember numbers per se, large numbers of guns.

Q With these other cases were a lot of guns showing up in Mexico during these cases?

A I don't recall the specifics of cases just in general.

Q So you mentioned that you had asked for the exit strategy around March of 2010 after this meeting; is that right?

A It was in the close proximity of the meeting. I don't know the exact date of the meeting.

Q I'll make it easy. The meeting was March 5th, 2010. I'll make it easy on you and pass out the exit strategy memo so we can all take a look at that.

[Chait Exhibit No. 2
was marked for identification.]

Q This is your copy. The date it was sent to you is Monday, May 3rd, 2010. I'm going to ask you a question really quickly about this. I'm having a little trouble understanding something. I'm going to pass out one more exhibit.

[Chait Exhibit No. 3
was marked for identification.]

Q This is an email from much later on. I don't believe you're on the email. It says exit strategy was from May 3, 2010, it eventually made its way up to you after it looks like at least a week or so, it finally made it up to your desk. So I'm going to turn your attention to the second page of the exit strategy towards the bottom, the last paragraph, we acknowledge that redaction is not the actual goal itself but an end to a means in that Uriel Patino and other straw purchasers --
Mr. Serres. Hold on a second, Carlton. He's on the wrong page.
Mr. Chait. Thank you.

BY MR. DAVIS:

Q The last paragraph there, Uriel Patino and other straw purchasers are the lowest rung on the proverbial criminal firearms trafficking organizational ladder. If we arrest Patino for the firearms he has straw purchased thus far, we will only minimally impact the organization before Patino is replaced by another member of the organization.

So let's contrast that with the other document I gave you right

there in the middle, the email from Mark [Sonnendecker], Patino is a primary target in a large scale trafficking investigation here in Phoenix Group VII. This email was from July 28, 2010.

So I'm having a hard time understanding whether Patino was the lowest rung on the proverbial organizational ladder or whether he was a primary target. Do you have any idea which was the case?

A Well, obviously, you know, people write documents. I'm not sure what Mark [Sonnendecker]'s role is, but I think he was --

Q An advisory group setting?

A I think he was an important suspect in this investigation, there's no doubt.

Q No doubt, okay. But he was so important that he was the lowest rung on the proverbial criminal firearms trafficking organizational ladder. So it seems to me that if he was an important suspect, then that would certainly not mesh up with the exit strategy memo. Am I reading it incorrectly?

A You know -- no, you're reading it correctly. I don't know necessarily who wrote this document.

Q Who would have written the exit strategy memo?

A I'm assuming it came from minimally the field division, but probably the supervisor, and he may have had an agent work on it collectively. I don't know. I've heard there were several versions of this. I don't actually know who wrote the final final on this one.

Q So let me put things in context. So the exit strategy memo, May 3rd, 2010, it makes its way to your desk, and so far as I know this

is the only exit strategy memo. That's what we've been given and what we've asked for. So May 3rd, 2010. I could show you emails, if you want, where you express concern later on that the operation is not being shut down from July, from October. The operation finally was shut down, it's our understanding, in January of the following year, so 8 months after the exit strategy was drafted.

So I understand your point of view, you want this thing indicted and people taken off the street, but when this makes its way to your desk, the exit strategy, what do you do with it? What did you do with it? What was the role of the exit strategy if things weren't taken down for another 8 months?

A Well, the role -- the use of the strategy was to make everybody aware that it's time to start focusing on closure. I'm not sure if I would have forwarded this on. I mean, I do send a lot of things to Mr. Hoover, as he's my boss. I don't remember if I did do that or not. The way we operate, you know, in field operations, my deputy assistant director is responsible for in this case that field division. I believe there were -- obviously there were some delays for different reasons, and I think what I've heard the delays are -- do you want me to answer that?

Q Go for it.

A Some of the issues around the Title IIIs and then preparing the indictment.

Q Let me ask real quickly about the Title IIIs. So what is the process for getting the Title III approved? How does that work?

A The field works with the assistant U.S. attorney to prepare an affidavit for a Title III. It goes through -- I think it was dual tracked, and I think the process may have changed recently. We actually send one version through our house. We have an attorney that reviews it, a DAD. At the same time I believe --

Q Who is the DAD that reviewed that?

A Well, DAD in this case of the West, Bill McMahon.

Q He told us he had never seen the application, he never read a wiretap application, never even read a memo for authorization of the application. You're saying it's his job to review it?

A I don't know at what point the process changed. I believe that in most cases the DADs do get them. So at the same time there's a track from the U.S. Attorney's Office, and I'm probably not a hundred percent. I believe they do go through -- at some point they go to OEO, Office of Enforcement Operations, at the Department, and I think there's some consultation with the Criminal Division.

Q So in the ATF world, you're out of the loop, it's taken care of below you, generally Mr. McMahon would have taken care of it?

A Sure. I mean -- yes.

Q Okay. Did you ever see the Title III applications?

A Since after the fact. I've looked at them in reviewing documents for, really to prepare myself for two things. One, a way forward for my organization, and so that I have a better understanding of the case. I did review them fairly recently.

Q How successful was the wiretap in this case, or the wiretaps

in this case in terms of the information gleaned from the wiretaps? Were they as helpful as ATF had anticipated back in March when they went up?

A I think that's, you know, maybe an individual decision. I think they were helpful to an extent. You know, obviously the fact that they had to go up many times, you had individuals that were changing phones quite a bit. That makes it cumbersome. But I would say it was helpful in the investigation.

Q Okay. So if I give you a hypothetical and said when the wiretap -- when a wiretap went up there were, for example, 21 straw purchasers identified in this organization, and then after 3 months there were an additional four straw purchasers identified in the organization. To me it seems like that's not a very good use of time and energy.

A Although -- we're still in an open investigation and I am still hopeful that there's more to follow. I think there is.

Q The wiretaps are no longer up; is that right?

A No, no, they're no longer up. I'm just saying more to follow in the investigation. There may be more subjects indicted and what have you. I think it's an individual's preference whether they feel it was worthwhile.

Mr. Foster. Could you tell me -- just one second. Could you tell me more specifically if you recall when you read the Title III affidavit?

Mr. Chait. When did this all begin?

know if he mentioned to me, I mentioned to him, but I think we were both thinking the same thing.

Q And then why -- why were you discussing an exit strategy at this point? You didn't recall any specific concerns being expressed to you, but why an exit strategy? Why the need to get out of this case?

A Well, I think it seemed to us that collectively there were a lot of guns in the case and we -- they tried using a Title III for a period of time, and I think had some successes, but had some obstacles; and it just seemed like it was time to, you know, to get it wrapped up. So the exit strategy would allow them a little time to get things in order to close the case.

Q And this is in March that you wanted the exit strategy?

A That's right.

Q And you received a copy of the exit strategy -- we looked at the email previously -- in -- May 3, 2010; is that right?

A That is when I received it, yes.

Q Was that the first time that you received a copy of the exit strategy, to your recollection?

A I believe so, yes.

Q So there was a significant time lag between your request as assistant director and your receipt of the exit strategy?

A That is correct.

Q Did you receive any explanation for that timeline?

A I really don't recall if there was.

Q Did it concern you that -- that a request like that had taken

over, well over a month to provide to you and the deputy director?

A I really don't remember at the time. I mean obviously, you know, we would have liked to have it sooner.

Q When you received the exit strategy did you review it?

A I did.

Q What was your reaction at the time?

A I think my reaction was we have got a game plan in place, and it was a little fluid the way I saw it. And on the long side, we would be 90 days out with the possibility of getting it closed up prior to.

Q So in March you requested the exit strategy, and in May they provided it to you. But you still wanted potentially to close down the case until August of 2010. Did that seem to you, given the concerns that you had expressed about the number of firearms in this case, a reasonable time frame; is that consistent with what you had expected or were thinking about when you had first asked for an exit strategy?

A We -- yeah, we were looking for a tiered -- a way to get them out, but allowing them to prepare for the prosecution and what have you. You know, there's a lot of things that we know now, that I know now, that I didn't know then. And it's difficult to go back and say should we have done something different, without knowing what I know today.

Q Did you send any questions back or have any follow-up on this, on this exit strategy?

A I don't believe I -- I don't remember that I did. My normal

course of operations would be for the DAD to really handle a lot of these things because, you know, this is -- obviously, it's an important case and it is one field division; we have 25 of them. So I would get a lot of different briefing papers and what have you, and some of these things are for my information. This is something we asked for, but it would be up to the DAD to work the SAC to carry the rest of this out.

Q Right. In normal circumstances. But here, your boss, the deputy director, had also requested this document, so that might warrant or create an expectation for your additional engagement?

A Right.

Q And were you engaged in the close-out of Operation Fast and Furious in monitoring the performance of the exit strategy between when you received the document and the closure of the case in January of 2011?

A I think I would say this. We -- I was monitoring it as far as timeliness. As far as the specifics, I would leave that for my deputy and really the command on the ground to carry it out. And I think there are probably some emails and things of me asking why we -- as far as closure, because I was under the impression we would be able to get this thing closed, I was hoping, in the July time frame, end of July, possibly August was my impression at the time.

Q And did you have discussions with Deputy Director Hoover about -- about that timeline about the exit strategy?

A I believe -- I believe I did.

come a time when you have to consider taking certain actions which may -- may spoil the opportunity to work in an organization or something. So safety should be one of the most important things, absolutely.

Q Did you trust in SAC Newell and the Phoenix field division, ASAC Julad, ASAC Needles, group supervisor Voth, the case agent, to be taking public safety into account throughout this case?

A Sure. I mean, you know, I have to trust the people that work for me. And I have learned a lot now, and there's some policy and procedure changes that I am making; but certainly, you know, you trust your people.

Q Did you ever get down into the weeds of the tactics that they were employing in Operation Fast and Furious?

A No, I did not.

Q Is that your role as the assistant director for field operations?

A I don't believe so. You know, we -- at any given time we have about 40-plus-thousand open investigations across field operations, and I certainly don't have the ability to know enough about every one of those cases. I have to rely on my people. I rely on the deputy assistant director, I rely on the SACs, I rely on ASACs, I rely on group supervisors, and I rely on AUSAs to work with us closely. And I don't get in the weeds. I really, I have too many other things going. I just, I don't feel that is my role as the assistant director.

Q And did Mr. Hoover or Mr. Melson ever ask you about what was

shut down, then so be it."

So this indicates that Mr. Newell is waiting or trying to develop -- the case strategy on the ground in Phoenix is to develop a direct link to a DTO in order to get a prosecution. From your understanding of the case in March, April, May of 2010, was that link necessary for a prosecution?

A I don't believe so, no.

Q And you said earlier that the principal impediment to prosecution to taking down -- to taking down the case, was the lack of sufficient evidence for prosecution?

A I would be concerned about evidence. I am less concerned about how far an investigation can go. When it is time to take a case down, it is time to take a case down.

Q So this is where I am going. There is a huge disconnect here. You and Mr. Hoover are asking to bring this case down. Mr. Hoover's language - and he is friendly with Bill Newell -- this is very direct.

A Yeah.

Q Excuse me. Mr. McMahon's language to Mr. Newell is you know, get us the exit strategy.

A Yeah uh-huh.

Q You're saying your understanding of the case's status at that time was that the exit strategy hinged on sufficient evidence for straw-purchasing prosecutions or dealing without a license prosecutions or the other charges typically brought against straw purchasing efforts.

Mr. Newell, the SAC in Phoenix, is saying he is waiting for something else. He is waiting to find an evidentiary link to a DTO. Is that, is that -- is that strategy, that case strategy, that prosecutorial strategy that is indicated here in this email, was that your understanding of what was necessary to bring the case down?

A I would say no. At the time -- at the time, we felt it was time to bring it down, regardless. I mean, there is a point -- we reached the point. That is why we asked for the strategy. To continue it for this purpose I think is outside the scope of what we were thinking.

Q Did Mr. McMahon ever bring this email to your attention or tell you, hey, in fact Bill Newell is trying to connect everything to a DTO, so this is just going to drag a little bit longer while we do that?

A I don't recall that ever happening. I think there was enough conversations from me to Mr. McMahon about getting the case closed, that it was pretty clear of what needed to occur.

Q And would you and Mr. Hoover said, get the case closed, it wasn't contingent upon developing links to DTOs; it was contingent upon sufficient evidence to prosecute under the straw-purchasing laws and under the firearms licensing laws such that they are; is that right?

A It was clear it was time to close the case. Whatever law, whatever charges they could make at the time -- because I know was other conspiracy and what have you, but bottom line is I was not looking for moving it further. It was time to exit.

briefed on this case weekly at the OSII meetings; you are aware of all of the seizures in Mexico where the guns have been recovered, the Naco seizure in November, the Mexicali seizure in December, the El Paso seizure in January, the Tohona O'odham Nation seizure in February, and it just keeps ticking and adding up, suspects that have been apprehended as transporters who have said the guns were going to the Sinaloa cartel. I know you sat through the March 5 presentation where it was very clear that guns were going straight to the Sinaloa cartel.

So why didn't you suggest investigative tactics at that point? I understand that, you know, you trust the folks in the field, but I mean, there are just a lot of guns.

A Well, most of the briefings from OSII are mostly just the recoveries. It is not giving us the investigative side.

Q But did you ever check to see what the investigative side was?

A Sure.

Q I mean you have admitted that there was a massive number of guns here. Did you ever call Bill Newell and say what are the techniques that you are using? Are we doing any knock and talks? Are we doing any aerial surveillance? Are we doing any trackers?

A I don't believe I did. I think probably the first briefing we had around the -- what was somewhat happening was with Dave Voth. Most of these things never rose to my level. It is easy to see now things very differently, but at that time what we were seeing wasn't exactly the same thing as what we see now. We see a very different

perspective today.

Q Right. But you knew in January that there were 685 guns. You knew in March that there were almost 1,100 guns. You knew that the guns were going to Mexico. Everybody knew the guns were going to Mexico. What, if any, operational safeguards were in place to ensure that the guns weren't going across the border, to ensure that they weren't going to be recovered at crime scenes? You are the Assistant Director for Field Operations over the entire country, the biggest case that you have going on. What operational safeguards were in place to make sure the guns weren't flowing south? Did you ever --

A I don't think it was the biggest case we had going on at the time.

Q Did you ever ask for any operational safeguards?

A I don't remember if I did or not, but I guess the thing was that the fact we had an OCDETF-led investigation, and you know, we have a AUSA heavily involved in the daily activities of the investigation. I think they did not have lawful authority to arrest or seize under the things we talked about earlier. Could other things have been done? You know, looking back on it, probably so.

Q I am going to introduce two real quickly back to back. Here is one and then here is eleven.

[Chait Exhibit Nos. 10 and 11
were marked for identification.]

Q We have here two emails from you. The one on July 10, top of the page where we take down the Fast and Furious case during this

know -- unfortunately, I don't get into the weeds in a lot of investigations.

Q So you wanted the operation shut down, you know, much earlier than it did. Did you want to get these folks off the street because they were dangerous? Is that what you were hoping, to get them behind bars?

A I wanted to stop the activity.

Q Stop the activity?

A Once -- you know, sometimes there is a point where it is just time.

Q Where are the defendants now that are indicted? Are they in jail, do you know?

A I am not sure where they are now.

Q Would it surprise you if 19 out of the 20 were living at the same address that they were before the indictments came around?

A It wouldn't surprise me.

Q Wouldn't surprise you. Okay. Just one other quick area of inquiry here.

A But if I could just and I know you guys are aware of it to some extent. I mean, the case is still going on, and there is a hope to bring some other defendants to bear. So I mean --

Q I understand that.

A All right.

Q I am still waiting but I understand that, yes.

A I can't speak to that part.

Exhibit 123

From: Newell, William D.
Sent: Tuesday, April 27, 2010 8:19 AM
To: McMahon, William G.
Subject: Re: SAC write up 04 26 2010

The indictments for Wide Receiver will come in two phases in mid-May but I'll have more detailed info early today. As for Fast and Furious I have already discussed an exit strategy and will have that today as well. The issue has been getting a

RC-3
 RC-3

I don't like HQ driving our cases but understand the "sensitivities" of this case better than anyone. We don't yet have the direct link to a DTO that we want/need for our prosecution. RC-3 Once we establish that link we can hold this case up as an example of the link between narcotics and firearms trafficking which would be great on a national media scale but if the Director wants this case shut down then so be it.

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

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From: McMahon, William G.
To: Newell, William D.
Sent: Tue Apr 27 07:59:35 2010
Subject: RE: SAC write up 04 26 2010

Bill,

We need to begin working on an "exit strategy" for this case. Let me know what your plans are for taking this case down to include the timing.

Also, can I get a write up on Wide Receiver? Billy is meeting with Kevin Carwile tomorrow and this case is on the agenda.

Thanks,

William G. McMahon
 Deputy Assistant Director (West)
 Office of Field Operations
 RC-1

From: Newell, William D.
Sent: Monday, April 26, 2010 8:14 PM
To: McMahon, William G.
Subject: Fw: SAC write up 04 26 2010

Update on Fast and Furious. RC-3
 RC-3

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

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HOCR ATF - 002416

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: Palmer, Douglas R.
To: Newell, William D.
Sent: Mon Apr 26 20:08:43 2010
Subject: FW: SAC write up 04 26 2010
Bill,

Attached is a one page update from Dave Voth.

Doug Palmer
Bureau of ATF
Phoenix Field Division
Supervisor, Phoenix V
RC-1

From: Voth, David J.
Sent: Monday, April 26, 2010 4:20 PM
To: Palmer, Douglas R.
Subject: SAC write up 04 26 2010

HOGR ATF - 002417

Exhibit 124

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January 6, 2012

Scott Lindsay
 Minority Counsel

Donald Sherman
 Minority Counsel

House Committee on Oversight & Government Reform
 512 Ford House Office Building
 Washington, DC 20510

Re: Fast & Furious Investigation

Scott and Donald:

You requested documents and other information regarding communications from the U.S. Attorney's Office for the District of Arizona to ATF agents and officials regarding the seizure of firearms and arrests of individuals. This letter and the enclosed documents are provided in response to that request. Nothing disclosed in this letter shall constitute a waiver of privilege.

We also responded to your request, per your assurance that you will protect the anonymity of the source of either the enclosed documents or the contents of this letter, and that you will not use them without obtaining my consent.

I. While Trying to Bring Down a Major Firearms Trafficking Organization, the ATF Agents Did Not Turn a Blind Eye toward Firearms Seizures or Straw Purchasers.

No credible witness has provided testimony in support of the position that the ATF acted with deliberate indifference to firearms seizures and arrests. The agents in ATF Group VII doggedly pursued evidence to make lawful seizures of weapons and arrests, but – as all agents must – adhered to the legal counsel provided to them by the USAO. That advice routinely

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 Donald Sherman
 January 6, 2012
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prevented the agents from making seizures and arrests. This letter encloses evidence of such advice.

A. USAO Criminal Chief: “The sales to the ‘straw purchasers’ are lawful.”

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)).¹

¹ 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 in original). The e-mail is attached at Tab 1 (emphasis added).

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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 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.²

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

² See e-mail from P. Cunningham, at Tab 1.

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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 unlawful, and ATF may only seize when a lawful basis for seizure can be proven under the US Constitution and statues passed by Congress.³

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 and evidence of such contemporaneous advice, consistent with Mr. Cunningham's e-mail, are set forth below. 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. 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.⁴

B. In Fast & Furious, the ATF Agents Had No Intention to Permit the Illegal Trafficking of Guns to Mexico.

One of the underlying false premises of Chairman Issa's inquiry is that ATF agents purposefully permitted guns to enter Mexico illegally, in Fast & Furious. There is a distinct lack of evidence supporting this counter-intuitive premise, which ATF Group VII Supervisor David Voth explained in his congressional staff interview was inaccurate.⁵

³ See e-mail from P. Cunningham, at Tab 1.

⁴ 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 entire ATF Phoenix field division. 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 Tabs 23 & 24.

⁵ Congressman Issa and Senator Grassley released their first report in this investigation on June 14, 2011, weeks before their staff even interviewed GS Voth. Despite that, the report included several harmful and inaccurate statements about GS Voth. The patently unfair release of such a report severely prejudiced GS Voth. In his staff interview, conducted on June 30, 2011, GS Voth explained why the statements made and quoted in the June 14 report were false. But Congressman Issa and Senator Grassley, despite releasing several more reports in this investigation, have never corrected the record.

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In April 2010, ATF Group VII Supervisor, David Voth, exchanged e-mails with SA Andrew Hilt, Project Officer, Technical Operations Branch, about the use of trackers. SA Hilt indicated to GS Voth that the tracker might not work in Mexico, to which GS Voth 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.*"⁶

C. The "Schism" Was Not about Gunwalking.

In their June 14, 2011, report, Congressman Issa and Senator Grassley relied on the false testimony of SA Olindo "Lee" Casa to mischaracterize GS Voth's March 12, 2010, e-mail to incorrectly suggest that the "schism" in the Group VII office concerned two groups of agents opposing and supporting a strategy to let guns walk. "Schism" solely refers to a divide between SA Dodson and Casa and the other Group VII agents about the schedule that GS Voth was putting together for staffing the wire room – *i.e.*, which by necessity required Group VII agents to be available monitor the wire on nights and weekends.⁷ GS Voth said as much in his interview with congressional staff:

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 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*

⁶ E-mail from D. Voth to A. Hilt, Apr. 23, 2010, at Tab 2 (emphasis added).

⁷ See Voth Declaration at ¶1, at Tab 4.

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*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.*⁸

Any fair reading of the e-mail itself convincingly establishes that the schism refers to a misperception of inequitable working conditions by certain agents and not a fight about investigative strategy. 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.⁹

D. The Exception Proves the Rule: The Fernandez Case

As further contemporaneous evidence that SA Dodson and SA Casa had not raised any concerns about any perceptions of gunwalking in 2010, one need look no further than to their proposal and full support of the sole instance when anyone at Group VII provided firearms to a straw purchaser with no intention of recovering them: the Isaias Fernandez case. GS Voth informed congressional staff of the same at his interview. The Fernandez matter as not part of the Fast & Furious investigation, and it was proposed and promoted by SA Dodson over GS Voth's objection.

SA Dodson opened the Fernandez case in April 2010. When GS Voth reviewed the Fernandez case on the N-FORCE system, he 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. To this point, there was no mention to GS Voth of a desire not to interdict guns in the hands of Fernandez. SA Dodson, however, already had staged two straw purchases via *his* confidential informant who had provided firearms to Fernandez on May 8 and May 11,¹⁰ and yet SA Dodson made no effort to interdict those weapons after Fernandez acquired them, and took little to no effort to conduct surveillance on Fernandez.

Rather than respond immediately to his supervisor's e-mail, SA Dodson, along with SA Alt, took the next five days to craft a misleading response to GS Voth's e-mail.¹¹ The first

⁸ The Committee's majority staff would not permit witnesses or their counsel to receive a copy of the transcript from the congressional interview. Nor would staff permit counsel to take verbatim notes of the transcript. The Majority's enforcement of those rules *inter alia* runs contrary to Mr. Issa's public criticisms of government's lack of transparency. That said, we did not take verbatim notes from the transcript, but did try to capture certain important passages. In any event, you have a copy of the transcript.

⁹ See Tab 3.

¹⁰ See Fernandez ROIs #4 & #5 at Tab 5.

¹¹ The e-mail thread between SA Dodson and SA Alt is attached at Tab 7.

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mention of letting any guns walk came in SA Dodson's response, an e-mail, dated May 24, 2010 (edited by SA Alt). In it, SA Dodson included a truncated version of an e-mail that AUSA Emory Hurley sent to SA Dodson: "[A]n AUSA won't be able to approve of letting firearms 'walk' in furtherance of your investigation without first briefing the US Attorney and Criminal Chief."¹² Interestingly, according to the N-FORCE management log for this case, SA Dodson did not discuss the case with Mr. Hurley until May 20, a day after GS Voth sent the May 19 e-mail to SA Dodson inquiring about the case and providing SA Dodson with ATF guidance on it. SA Dodson's May 24 e-mail was written to conceal from GS Voth the actual date of SA Dodson's discussion with Mr. Hurley – *i.e.*, SA Dodson cut and pasted an excerpt from Mr. Hurley's e-mail rather than forward the e-mail in its entirety to GS Voth.

Even with the understanding that the U.S. Attorney himself and the Criminal Chief of the USAO would first need to approve such a scenario, GS Voth was not comfortable with the proposal.¹³ Upon receiving SA Dodson's May 24 e-mail, GS Voth called the ASAC, James Needles, because GS Voth – as he informed ASAC Needles – was uncomfortable with SA Dodson's proposal on the Fernandez case and would not approve it.¹⁴ ASAC Needles told GS Voth that he should send ASAC Needles something in writing for him to evaluate.¹⁵ On May 27, 2010, GS Voth complied and forward SA Dodson's proposal, which ASAC Needles approved.¹⁶ Before he approved the plan, ASAC Needles met with SA Dodson, SA Alt, and SA Styers;¹⁷ GS Voth was not a party to those discussions.¹⁸

Ironically, when Senator Grassley sent a letter to the Department of Justice on March 3, 2011, his lone support for the proposition that the ATF Group VII agents knowingly let guns walk in the Fast & Furious case did not come from Fast & Furious at all. It was SA Dodson's ROIs ## 4, 5 & 7 from the Fernandez case. This was no small error by Senator Grassley. His misunderstanding of the lack of a Fast & Furious connection to the Fernandez case served as the cornerstone for his and Congressman Issa's fundamental criticism of Fast & Furious.

¹² E-mail from J. Dodson to D. Voth, May 24, 2010, at Tab 8.

¹³ See Voth Declaration at ¶ 2, at Tab 4.

¹⁴ See Voth Declaration at ¶ 2, at Tab 4.

¹⁵ See *id.*

¹⁶ See *id.*

¹⁷ See Fernandez ROI #7, at Tab 9.

¹⁸ See Voth Declaration at ¶ 2, at Tab 4.

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II. The USAO Advised the ATF Not to Make Seizures and Arrests.

Prior to June 2010, the USAO for the District of Arizona routinely advised the ATF Group VII agents working on Fast & Furious (and many other cases) that in straw purchaser investigations they lacked evidence to support probable cause for arrests and seizures of firearms. In some instances, the AUSA would indicate to the agent that an arrest would not be worthwhile because the evidence would not support a conviction or because a conviction would carry much of a sentence with it.

In June 2010, when the USAO advised Group VII agents that the evidence (derived from the wire) supported probable cause for seizures, Group VII agents seized dozens of firearms. Indeed, Group VII seized more firearms in 2010 than did any other ATF group along the Southwest Border – *i.e.*, 373 firearms.

For Operation Fast & Furious, SA Hope MacAllister was its lead agent and as such was in regular communication with AUSA Emory Hurley about the evidence she had gathered and whether it was sufficient to support probable cause for seizures and arrests.

You have informed us that the Department of Justice has made neither SA MacAllister nor Mr. Hurley available to testify before Congress, and that the Department of Justice has not provided many documents pertaining to their communications in 2010. Given the unavailability of those witnesses and the documents, the testimony from other credible witnesses, such as David Voth, Group VII Supervisor and ATF Agent of the Year 2009, should be credited.

A. David Voth: “And I think if [judges and AUSAs] say there’s not probable cause... I’ve never been told that I supersede their decision.”

In his interview with congressional staff, GS Voth informed Congress that SA MacAllister coordinated with AUSA Hurley 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 foregoing 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?

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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.*¹⁹

B. The Judiciary in Arizona Influenced the USAO.

As GS Voth indicated in his interview with congressional staff, the actions of the judiciary in Arizona influenced the advice that the AUSAs provided to the ATF agents there.

1. Federal Judges Denied Two Search Warrant Applications

An illustration of the judiciary's temperament on such matters is its denial of two 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.²⁰

a. The First Denial

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.²¹ AUSA

¹⁹ See *supra* note 8.

²⁰ See Voth Declaration at ¶ 3, at Tab 4.

²¹ See Voth Declaration at ¶ 4, at Tab 4.

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Hurley approved the application for the search warrant, and SA MacAllister presented it to the judge, who denied it.²²

b. The Second Denial

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.²³ AUSA Emory Hurley approved the applications for the search warrants, and SA MacAllister presented the applications to the judge, who denied them.²⁴

2. Dismissal of Case against an Alleged Straw Purchaser

Another example of the judicial temperament that helped shape the legal counsel of the USAO to the Group VII agents in 2010 was a recent dismissal of a case brought against an alleged straw purchaser. A judge in the Superior Court of Arizona for Maricopa County dismissed the state's case against George Iknadosian on March 18, 2009. The court ruled that the purchaser's falsification of the ATF Form 4473 was **not sufficient**, without more, to support a conviction. According to the court: "In order to be material, the falsification has to have resulted in an unlawful or prohibited person obtaining the weapons rather than the misrepresenting signatory answering question 11a [in the Form 4473]." The court found "no proof whatsoever that any prohibited possessor ended up with the firearms," even though the state produced witnesses "who were claimed to be 'straw' purchasers," because "[t]here was not testimony in this case that lawful purchasers bought for an unlawful one."²⁵

C. Uriel Patino

The ATF's approach to Mr. Patino also establishes that Group VII was not trying to forego the seizure of firearms or the arrests of straw purchasers, and yet was nevertheless forced

²² See *id.* One of the photographs is at Tab 28. Manuel Celis-Acosta is the individual standing up in the middle of the picture. The others pictured are down on one knee.

²³ See Tab 10.

²⁴ See Voth Declaration at ¶ 5, at Tab 4.

²⁵ See *Arizona v. Iknadosian*, Case No. CR2008-006471-001 DT (Sup. Ct. Az., Maricopa Cty Mar. 18, 2009), at Tab 11.

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to search for new legal avenues and evidence to support seizures and arrests due to the limiting 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, he 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.²⁶ 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.²⁷ 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.²⁸

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 stamps.²⁹ 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.³⁰

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."³¹ GS Voth made a similar inquiry of state attorneys in Maricopa County, Arizona, in June 2010.³²

²⁶ See e-mail from GS Voth to SA MacAllister and SA Medina, Nov. 9, 2009, at Tab 12.

²⁷ See Voth Declaration at ¶ 7, at Tab 4.

²⁸ See e-mail from GS Voth to SA MacAllister and SA Medina, Nov. 9, 2009, at Tab 12.

²⁹ See Voth Declaration at ¶ 8, at Tab 4.

³⁰ See *id.*

³¹ See e-mail from D. Voth to R. Parker, Mar. 30, 2010, attached at Tab 13.

³² See e-mail from D. Voth to A. Roby & M. McKessy, attached at Tab 14.

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Unfortunately, the responses proved impractical. But neither SA MacAllister nor GS Voth can be accused of being deliberately indifferent to Mr. Patino. Moreover, 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.

When the USAO finally concluded that probable cause existed to seize certain firearms purchased by Mr. Patino, agents went out to seize the firearms.³³

D. The ATF Provided the USAO with Evidence to Support Fast & Furious Indictments in July 2010, But the USAO Filed Them Only after Border Patrol Agent Brian Terry Was Killed.

As early as July 19, 2010, GS Voth sent an e-mail to AUSA Hurley requesting to speak with him about the "Indictment Phase."³⁴ This also is consistent with the "Exit Strategy" provided to ATF Headquarters in April of 2010 laying out a 90 day time table.

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.³⁵

Despite the evidence generated by Group VII in July 2010, it would not be until after Border Agent Brian Terry was killed in December 2010 that the USAO filed the indictments.

Shortly after the indictments were filed, 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."³⁶

³³ See Voth Declaration at ¶ 9, at Tab 4.

³⁴ The e-mail is attached at Tab 15.

³⁵ See Voth Declaration at ¶ 13, at Tab 4.

³⁶ The e-mail is attached at Tab 16.

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E. On Other Cases in 2010, the USAO Advised ATF Group VII That It Lacked Evidence to Support Seizures and Arrests.

Throughout 2010, Group VII worked on several other Southwest Border (“SWB”) Firearms Trafficking cases and received advice from the USAO on a daily basis that mirrored the advice on similarly situated facts in Operation Fast & Furious. The following examples are indicative of the advice from the same USAO provided to Group VII agents in 2010 and early 2011 and thus for Fast & Furious. In each of the following cases, the USAO advised Group VII not to arrest straw purchasers.

1. The ██████████ Case

GS Voth testified about this case, when he was interviewed by congressional staff. It is an example of the USAO advising Group VII not to arrest a suspected straw purchaser for perceived lack of probable cause. In an e-mail to an ATF agent in Texas, 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.”³⁷ The AUSA was Emory Hurley.

An ROI from this case also shows AUSA Hurley informed the ATF agents on August 3, 2010, that they lacked evidence to support probable cause for the seizure of the firearm.³⁸

2. The ██████████ 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.³⁹ Upon receipt of the e-mail, Mr.

³⁷ The e-mail is attached at Tab 17.

³⁸ See ██████████ ROI #5, at Tab 18.

³⁹ The e-mail is attached at Tab 19.

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STEIN, MITCHELL & MUSE

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.⁴⁰

1. The Special Delivery Case: Civil Asset Forfeiture

Since the criminal AUSA's were not permitting ATF agents to make firearms seizures based on the evidence that had been gathered, GS Voth explored the option of civil asset seizure and forfeiture with civil AUSA Reid Pixler. At a meeting of SWB ATF Group Supervisors, 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, GS Voth approached AUSA Pixler and asked if civil asset forfeiture could be used to seize firearms. AUSA Pixler said it could.⁴¹

In September 2010, however, GS Voth approached the USAO to use this authority when Mr. Pixler was not in the office for the "Special Delivery" case, and AUSA Paul Rood rejected the use of this authority. On September 9, 2010, AUSA Rood e-mailed ATF Legal Counsel Tom Karmgard at length to discuss his opposition to GS Voth's recommendation and advised that GS Voth not try this course of action in the future.⁴²

III. Chairman Issa's Congressional Investigation Has Chilled Law Enforcement from Making the Big Case and Has Resulted in a Dramatic Reduction in Seizures of Firearms along the Southwest Border.

What cannot be lost in this congressional investigation is its devastating impact on law enforcement's ability to seize firearms and bring down firearms trafficking organizations ("FTOs"). As a result of this congressional investigation, dramatically fewer firearms have been seized, and FTOs are at large with far fewer active federal law enforcement eyes and ears on them.⁴³

⁴⁰ See Voth Declaration at ¶ 10, at Tab 4.

⁴¹ See Voth Declaration at ¶ 11, at Tab 4.

⁴² The e-mail is attached at Tab 20.

⁴³ See Voth Declaration at ¶ 14, at Tab 4.

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A. Firearms Seizures Have Dramatically Plummeted.

In 2010, ATF Phoenix Group VII agents seized 373 firearms – more firearms seized (by a delta of 150) than any other ATF group along the Southwest Border.⁴⁴ Photographs show the Group VII vault was filled to the brim with the firearms seized by the agents in 2010.⁴⁵

In 2011, however, Group VII seized only 51 firearms,⁴⁶ of which 31 were seized before CBS News broke its *Fast & Furious* story on March 3, 2011.⁴⁷ As such, Group VII has seized only 20 firearms since that story broke.

B. Congress Should Strengthen Gun Laws and Encourage Law Enforcement to Bring Drug Cartels and Firearms Trafficking Networks to Justice.

What might tragically be lost in the discussion of the conduct of the ATF and other components of the Justice Department in *Fast & Furious* are the correct objectives of strengthening federal firearms laws and bringing these criminal firearms and drug trafficking organizations to justice. We need to be friends of law enforcement, as Ranking Member Cummings is and has been for so many years. Most unfortunately, Congressman Issa and Senator Grassley have, with this investigation, done real harm to my client's career and have chilled dozens of honest, hard working law enforcement agent from wanting to pursue cases beyond the arrests of straw purchasers.⁴⁸ In the meantime, gun laws remain weak, and drug cartels are at large.

Ranking Member Cummings' leadership to help strengthen our nation's gun laws is truly the best solution to help stop these sales. But under the status quo that suffers from such legislation, those sales would have occurred with or without Group VII. Indeed, [REDACTED] gun shop would have sold the firearms located at Agent Brian Terry's homicide scene with or without Group VII. Purchases by the hundreds were going on in the Phoenix area long before *Fast & Furious* began. *For the last seven years*, more recovered firearms were traced back to [REDACTED] than to any other FFL in

⁴⁴ See Tab 21.

⁴⁵ See photographs at Tab 22.

⁴⁶ The ATF's N-Force Vault record for 2011 firearms seizures by ATF Phoenix Group VII is attached at Tab 23.

⁴⁷ The ATF's N-Force Vault record for firearms seized by ATF Phoenix Group VII between January 1, 2011 and March 3, 2011, is attached at Tab 24. See also a chart regarding the Group VII firearms seizures from 2009 to 2011, at Tab 24.

⁴⁸ See Voth Declaration at ¶ 14, at Tab 4.

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Arizona,⁴⁹ and the *Washington Post* reported that ██████████ had been the nation's top seller of firearms recovered in Mexico.⁵⁰ It is legal for many people to buy those deadly weapons in Arizona, and the USAO for the District of Arizona agreed.⁵¹ Strengthening the gun laws could mightily help reverse that trend.

Notably, however, Group VII took the initiative to ask the licensed firearms dealers to provide the agents with the serial numbers and Form 4473's for many of the firearms purchased. Group VII agents entered the relevant data into the Suspect Gun Database. Such information would later help federal, state, and local law enforcement agencies have additional information about guns later seized at investigation and crime scenes. Such information also would help agents build the probable cause necessary to seize weapons, arrest suspected straw purchasers, and build the case against the firearms trafficking network itself.

Whatever judgment Congress believes it must pass, in hindsight, on *Fast & Furious*, it should not continue to send a message to federal law enforcement that the bold initiatives seeking to eliminate criminal enterprises, such as drug cartels and firearms trafficking networks, are not worthwhile. The goal cannot simply be to go after individual straw purchasers. Both can and should be done. Going up on a wire is not hindrance to law enforcement, but rather its biggest tool to obtain evidence that will help the U.S. government bring these monsters to justice. But the effect of the message from Congress today on law enforcement is to avoid going after the traffickers themselves.⁵² If that message continues, the cartels will win. The foregoing precipitous drop in firearms seizures along the Southwest border is convincing proof.

⁴⁹ See ATF Office of Strategic Intelligence and Information, Violent Crime Intelligence Division, Violent Crime Analysis Branch, #117515, *Top Arizona Source Federal Firearms Licensees for Firearms Recovered and Traced*, Jan. 1, 2005 – June 30, 2011, at Tab 25.

⁵⁰ See Sari Horowitz & James V. Grimaldi, "U.S. Gun Dealers with the Most Firearms Traced over the Past Four Years," *Washington Post*, Dec. 13, 2010, at Tab 26 ("Of the leading stores with Mexican traces, ██████████ eighth on the nationwide list, is No. 1 on the Mexico list. Over the past two years, it had 185 of its guns recovered and traced south of the border. Geography is a prime factor in those traces.").

⁵¹ See *Arizona v. Iknadosian*, at Tab 11; e-mail from P. Cunningham, at Tab 1 ("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....").

⁵² For example, 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. See Tab 27. See also Voth Declaration at ¶¶ 12 & 14, at Tab 4.

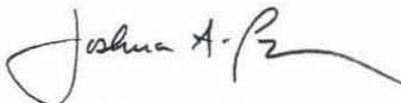
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Donald Sherman
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We hope that this submission helps place into context the conduct of these agents in Fast & Furious. GS Voth and the agents actually pursuing Fast & Furious tirelessly and creatively worked to interdict firearms and bring criminals to justice, within the legal boundaries set for them by the USAO for the District of Arizona.

Any findings and recommendations for this investigation should permit and encourage law enforcement to resume operations that target these organizations; and they should not malign or frustrate the careers of ATF personnel who have dedicated their lives to protecting all of us from criminal and dangerous behavior. We need them.

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua A. Levy". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Joshua A. Levy

Exhibit 125

From: Voth, David J. <[REDACTED]>
Sent: Tuesday, April 27, 2010 7:12 PM
To: Palmer, Douglas R. <[REDACTED]@atf.gov>
Subject: Exit Strategy - I hope this is what you want. If not I can amend/change...
Attach: Exit Strategy.docx

Operation Fast and Furious Exit Strategy

Operation Fast and Furious is a large scale investigation with many competing priorities and or considerations; investigative priorities, prosecutorial strategy, and international considerations.

- Investigative priorities – It is the goal of every agent to thoroughly investigate this case to encompass the highest level targets possible and exhaust all investigative leads. We strive to dismantle the entire organization and identify all the different facets possible; the straw purchasers, the transporters, the facilitators, the organizers, the money source(s), and ultimately the Cartel connection receiving the firearms in the Republic of Mexico.
- Prosecutorial strategy – It is the goal of every prosecutor to have the best evidence available to charge, try and convict as many defendants as possible. This being the case they have a stake in building the strongest case with the best evidence which may ultimately be taken in front of a jury. Additionally a straw purchase prosecution requires different evidence and burden of proof than an international firearms trafficking conspiracy.
- International considerations – The Republic of Mexico has a right to be concerned with the number of firearms illegally entering their country from the United States. It is hard to express that arresting any one straw purchaser in and of itself will not solve the full spectrum of the problem. Meanwhile the straw purchasers in this case continue to purchase firearms almost daily.

In an effort to juggle these competing priorities we acknowledge there must be an end to every investigation. Our current end goal to bring this stage of the investigation/prosecution to a successful conclusion for the agents and attorneys working this investigation is to successfully intercept Manuel Celis-Acosta via a T-III audio intercept engaging in a firearms trafficking conspiracy with other individuals both currently identified and others yet to be identified above his level in the organization.

We acknowledge that obtaining a T-III is not the actual goal itself but an ends to a means in that Uriel Patino and other straw purchasers are the lowest rung on the preverbal criminal firearms trafficking organizational ladder. If we arrest Uriel Patino for the firearms he has straw purchased thus far we will only minimally impact the organization before Patino is replaced by another member of the organization. Thus without actual oral communication between Manuel Celis-Acosta directing the activities of Patino and others in the conspiracy we have circumstantial evidence. Every call that we have intercepted thus far where Manuel Celis-Acosta is mentioned re-enforces the fact that he is the “boss” of this organization and that others listen to him, defer/seek his approval, and are under his direction.

Exhibit 126

Chait, Mark R.

From: McMahon, William G.
Sent: Monday, May 03, 2010 5:22 PM
To: Chait, Mark R.
Subject: FW: Exit Strategy Fast and Furious
Attachments: Exit Strategy Fast and Furious 2.docx

William G. McMahon
 Deputy Assistant Director (West)
 Office of Field Operations
 Office - [REDACTED]

From: Newell, William D.
Sent: Tuesday, April 27, 2010 9:33 PM
To: McMahon, William G.
Subject: Fw: Exit Strategy Fast and Furious

Bill Newell
 Special Agent in Charge
 ATF Phoenix Field Division (AZ and NM)
 Cell: 602-859-0882

 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: Palmer, Douglas R.
To: Newell, William D.
Sent: Tue Apr 27 21:26:28 2010
Subject: Exit Strategy Fast and Furious
 Mr. Newell,

Attached is an update on proposed action and an exit strategy for the Fast and Furious investigation.

Doug Palmer
 Bureau of ATF
 Phoenix Field Division
 Supervisor, Phoenix V
 [REDACTED]

Operation Fast and Furious Exit Strategy

Operation Fast and Furious is a large scale investigation with many competing priorities and or considerations; investigative priorities, prosecutorial strategy, and international considerations.

- Investigative priorities – It is the goal of every agent to thoroughly investigate this case to encompass the highest level targets possible and exhaust all investigative leads. We strive to dismantle the entire organization and identify all the different facets possible; the straw purchasers, the transporters, the facilitators, the organizers, the money source(s), and ultimately the Cartel connection receiving the firearms in the Republic of Mexico.
- Prosecutorial strategy – It is the goal of every prosecutor to have the best evidence available to charge, try and convict as many defendants as possible. This being the case they have a stake in building the strongest case with the best evidence which may ultimately be taken in front of a jury. Additionally a straw purchase prosecution requires different evidence and burden of proof than an international firearms trafficking conspiracy.
- International considerations – The Republic of Mexico has a right to be concerned with the number of firearms illegally entering their country from the United States. It is hard to express that arresting any one straw purchaser in and of itself will not solve the full spectrum of the problem. Meanwhile the straw purchasers in this case continue to purchase firearms almost daily.

In an effort to juggle these competing priorities we acknowledge there must be an end to every investigation. Our current end goal to bring this stage of the investigation/prosecution to a successful conclusion for the agents and attorneys working this investigation is to successfully [REDACTED] Manuel Celis-Acosta [REDACTED] engaging in a firearms trafficking conspiracy with other individuals both currently identified and others yet to be identified above his level in the organization.

We acknowledge that [REDACTED] is not the actual goal itself but an ends to a means in that Uriel Patino and other straw purchasers are the lowest rung on the preverbal criminal firearms trafficking organizational ladder. If we arrest Uriel Patino for the firearms he has straw purchased thus far we will only minimally impact the organization before Patino is replaced by another member of the organization. Thus without actual [REDACTED] between Manuel Celis-Acosta directing the activities of Patino and others in the conspiracy we have circumstantial evidence. [REDACTED] where Manuel Celis-Acosta is mentioned re-enforces the fact [REDACTED] that others listen to him, defer/seek his approval, and are under his direction.

HOCR ATF - 001179

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The piece of the conspiracy that we are missing [REDACTED]
[REDACTED] is Patino's discussion with Manuel Celis-Acosta and any individuals
from Mexico. We know from the investigation that this communication is currently being
conducted via the Nextel Push to Talk (PTT) network.

[REDACTED]

Another challenge we would like to overcome before the conclusion of this phase of the investigation is to identify and track the source of the finances utilized to purchase over \$900,000.00 in firearms in 6 months. The financial investigation has moved slowly largely because most or all of the information needs to be obtained via the use of Grand Jury subpoenas served on financial institutions with 30-60 day turn around to comply with the request. We have made progress in eliminating legitimate sources of income to substantiate the purchase of firearms in that most or all of these subjects appear unemployed or with low paying employment. In fact Uriel Patino and his girlfriend receive food stamp benefits through the State of Arizona due to their financial hardships.

Our goal is to bring this investigation to a successful conclusion in the minds of the ATF agents working the investigation and the Assistant United States Attorney prosecuting the case, while keeping in mind the international considerations involved in a high-profile collaborative strategy.

- 30 - day target goal: [REDACTED]
- [REDACTED]

HOCR ATF - 001180

- 60 – day target goal: [REDACTED]

- 90 – day target goal: [REDACTED]

[REDACTED] Secure Grand Jury Indictments against targets of this investigation and “take-down” the organization with multiple arrests and search warrants.

This exit strategy is a flexible time-line with numerous variables. The case could be concluded sooner than 90 days or longer than 90 days but we feel that based on where we currently are in the investigation that this 90 day goal appears reasonable.

HOGR ATF - 001181

Exhibit 127

RC-1

From: Newell, William D. (ATF)
Sent: Tuesday, April 27, 2010 9:33 PM
To: Burke, Dennis (USAAZ)
Subject: Fw: Exit Strategy Fast and Furious
Attachments: Exit Strategy Fast and Furious 2.docx

FYI
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: Palmer, Douglas R.
To: Newell, William D.
Sent: Tue Apr 27 21:26:28 2010
Subject: Exit Strategy Fast and Furious
Mr. Newell,

Attached is an update on proposed action and an exit strategy for the Fast and Furious investigation.

Doug Palmer
Bureau of ATF
Phoenix Field Division
Supervisor, Phoenix V

RC-1

Exhibit 128

RC-2



Operation: Fast and Furious (CHAMBERS, et al)/ATF Case # 785115-10- [REDACTED]

This is an approved ATF OCDETF investigation (# SWAZP0496) that is a large scale conspiracy of RC-5 interconnected straw purchasers. This group has purchased over 1,300 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 ten Barrett .50 caliber rifles. More than \$900,000 in cash has been paid for these firearms. Some of the recovered firearms in this case have a time to crime of only one day. ATF special agents continue to coordinate with the DEA RC-3 [REDACTED] as it affects this investigation and also to work with the USAO RC-3 [REDACTED]

RC-3

RC-3

Additionally, agents RC-3 [REDACTED] consensually record calls to/from a friendly FFL and one of the suspects for the purpose of ordering and discussing large-scale firearm purchases.

HOGRAF - 002407

On November 20, 2009 the Mexican military seized approximately 41 AK-47 type rifles and one .50 caliber Colt rifle in Naco, Sonora Mexico. The brother and sister suspects, a 21 year-old female and a 15 year-old male, are US citizens and were stopped near Agua Prieta at a border checkpoint. The firearms were located in the vehicle they were driving. The 15 year-old suspect is currently in custody at a youth facility in Mexico City and the adult female is at a detention facility in Mexico City. The Naco seizure directly links to the CHAMBERS case. ATF MCO is assisting PGR with the firearm traces. At this time, PGR informed MCO they are planning on charging the adult with all applicable firearms possession/trafficking charges possible. The PGR plans to charge the juvenile as well and expects he will remain in custody until he is 18 years old.

On December 11, 2009 at the request of the sub-Delegate from PGR-Mexicali, ATF Tijuana agents responded to Mexicali, Baja California to assist in the tracing of the 48 firearms that were seized by the Mexican military. The traces show these firearms are linked to the CHAMBERS case.

On January 13, 2010, ATF agents arrested Alberto SANDOVAL at his residence in El Paso TX. SANDOVAL was found to be in possession of forty (40) AK-47 type rifles and seven (7) ballistic vests. SANDOVAL who is currently under indictment for a narcotics offense received the rifles while under indictment. RC-5 [REDACTED] revealed that the rifles were going to be delivered by SANDOVAL to an unknown party who was going to transport the rifles to Mexico. The traces of these firearms show they are linked to the CHAMBERS case. This investigation and judicial process is continuing.

On April 7, 2010, twenty AK-47 style firearms linked to this case were recovered in El Paso, TX, along with approximately 300 pounds of marijuana. RC-3 [REDACTED]

As of April 27, 2010 approximately 150 of the firearms from this case have been recovered as crime guns in Mexico or near the Mexican border.

RC-2 [REDACTED]

Exhibit 129

Ongoing ATF investigation

6 messages

Voth, David J. <[REDACTED]@usdoj.gov> Tue, Apr 13, 2010 at 9:24 AM
 To: Cooperating FFL [REDACTED]
 Cc: ATF Agent [REDACTED]@usdoj.gov>, ATF Agent [REDACTED]@usdoj.gov>, ATF Agent [REDACTED]@usdoj.gov>, Cooperating FFL [REDACTED]

I understand that the frequency with which some individuals under investigation by our office have been purchasing firearms from your business has caused concerns for you. I totally understand and am not in a position to tell you how to run your business. However, if it helps put you at ease we (ATF) are continually monitoring these suspects using a variety of investigative techniques which I cannot go into detail. We are working in conjunction with the United States Attorney's Office (Federal Prosecutors) to secure the most comprehensive case involving the different facets of this organization. If it puts you at ease I can schedule a meeting with the Attorney handling the case and myself to further discuss this issue. Just know that we cannot instruct you on how to run your business but your continued cooperation with our office has greatly aided the investigation thus far.

Thanks again and please let me know how I can be of service to you.

Respectfully,

David Voth
 Group Supervisor
 Phoenix Group VII
 602-[REDACTED]

Cooperating FFL [REDACTED] Tue, Apr 13, 2010 at 1:29 PM
 To: "Voth, David J." <[REDACTED]@usdoj.gov>
 Cc: Cooperating FFL [REDACTED] ATF Agent [REDACTED]@usdoj.gov>, ATF Agent [REDACTED]@usdoj.gov>, ATF Agent [REDACTED]@usdoj.gov>, ATF Agent [REDACTED]@usdoj.gov>, Cooperating FFL [REDACTED]

David,

[REDACTED]

Let me start by saying thank you for the email and as always we will do what we can to continue to work with you and the ATF on Project Gun Runner. Our goal is to develop a system to get you (ATF) what you need in the most efficient manner possible. For us, we were hoping to put together something like a letter of understanding to alleviate concerns of some type of recourse against us down the road for selling these items.

We just want to make sure we are cooperating with ATF and that we are not viewed as selling to bad guys. If you and the case Attorney are free to meet some time this week or next, that would be great. I am out of town Friday of this week and have meetings Thursday afternoon but am open other than that and I am open next week. Please let me know what would work best for you.

Thank you again and I look forward to meeting.

Respectfully,

Cooperating FFI

[REDACTED]

[REDACTED]

[REDACTED]

Mail Delivery Subsystem <mailer-daemon@googlemail.com>

Tue, Apr 13, 2010 at 1:29 PM

To: [REDACTED]

Delivery to the following recipient failed permanently:

[REDACTED]

Technical details of permanent failure:

Message rejected. Please visit http://www.google.com/mail/help/bulk_mail.html to review our Bulk Email Senders Guidelines.

[REDACTED]

[REDACTED]

[REDACTED]

From: Cooperating FFL
 To: "Voth, David J." <[REDACTED]@usdoj.gov>
 Cc: Cooperating FFL, ATF Agent [REDACTED]@usdoj.gov,
 ATF Agent [REDACTED]@usdoj.gov,
 ATF Agent [REDACTED]@usdoj.gov,
 Cooperating FFL [REDACTED]

[REDACTED]

David,

Let me start by saying thank you for the email and as always we will do what we can to continue to work with you and the ATF on Project Gun Runner. Our goal is to develop a system to get you (ATF) what you need in the most efficient manner possible. For us, we were hoping to put together something like a letter of understanding to alleviate concerns of some type of recourse against us down the road for selling these items. We just want to make sure we are cooperating with ATF and that we are not viewed as selling to bad guys. If you and the case Attorney are free to meet some time this week or next, that would be great. I am out of town Friday of this week and have meetings Thursday afternoon but am open other than that and I am open next week. Please let me know what would work best for you.

Thank you again and I look forward to meeting.

Respectfully,

[REDACTED]

Cooperating FFL

[REDACTED]

[REDACTED]

Tue, Apr 13, 2010 at 1:31 PM

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

From: Cooperating FFL
Date: Tue, Apr 13, 2010 at 1:29 PM
Subject: Re: Ongoing ATF investigation
To: "Voth, David J." <[REDACTED]@usdoj.gov>
Cc: Cooperating FFL <[REDACTED]@usdoj.gov>, ATF Agent <[REDACTED]@usdoj.gov>, ATF Agent <[REDACTED]@usdoj.gov>, Cooperating FFL <[REDACTED]@usdoj.gov>, ATF Agent <[REDACTED]@usdoj.gov>, ATF Agent <[REDACTED]@usdoj.gov>

[REDACTED]

Voth, David J. <[REDACTED]@usdoj.gov> Thu, Apr 15, 2010 at 9:23 AM
To: Cooperating FFL <[REDACTED]@usdoj.gov>
Cc: Cooperating FFL <[REDACTED]@usdoj.gov>, ATF Agent <[REDACTED]@usdoj.gov>, ATF Agent <[REDACTED]@usdoj.gov>, ATF Agent <[REDACTED]@usdoj.gov>

Cooperating FFL

We at ATF consider [REDACTED] Cooperating FFL to be our ally in Project Gunrunner SWB Initiative and appreciate your cooperation with us in regards to this (and all) law enforcement matters. I have inquired from the Assistant United States Attorney (AUSA) handling this case as to his availability to meet with you next week. He is checking his schedule and I expect to hear from him soon.

Thanks again and please contact me any time with questions or concerns,

David Voth
Group Supervisor
Phoenix Group VII
602- [REDACTED]

From: Cooperating FFL [REDACTED]
Sent: Tuesday, April 13, 2010 1:30 PM
To: Voth, David J.
Cc: Cooperating FFL [REDACTED]; ATF Agent [REDACTED]; ATF Agent [REDACTED]; ATF Agent [REDACTED]; Cooperating FFL [REDACTED]
Subject: Re: Ongoing ATF investigation

David,

[REDACTED]

Cooperating FFL [REDACTED] Thu, Apr 15, 2010 at 10:39 AM
To: "Voth, David J." <[REDACTED]@usdoj.gov>
Cc: Cooperating FFL [REDACTED]; ATF Agent [REDACTED]@usdoj.gov; ATF Agent [REDACTED]@usdoj.gov; ATF Agent [REDACTED]@usdoj.gov

David,

Thank you for the kind words and the continued support. We will continue handling the transactions as we have in the past until we meet. If there is anything you need in the interim please don't hesitate to ask.

See you soon.

Respectfully,
Cooperating FFL [REDACTED]

[REDACTED]

[REDACTED] 2/14/2011

[Redacted]

[Redacted]

[Redacted]

Fox News report

3 messages

Cooperating FFL [Redacted]

Thu, Jun 17, 2010 at 11:56 AM

To: "Voth, David J." <[Redacted]@usdoj.gov>

David,

I hope this email finds you well.

As per our discussion about over communicating I wanted to share some concerns that came up. Tuesday night I watched a segment of a Fox News report about firearms and the border. The segment, if the information was correct, is disturbing to me. When you, Emory and I met on May 13th I shared my concerns with you guys that I wanted to make sure that none of the firearms that were sold per our conversation with you and various ATF agents could or would ever end up south of the border or in the hands of the bad guys. I guess I am looking for a bit of reassurance that the guns are not getting south or in the wrong hands. I know it is an ongoing investigation so there is limited information you can share with me. But as I said in our meeting, I want to help ATF with its investigation but not at the risk of agents safety because I have some very close friends that are US Border Patrol agents in southern AZ as well as my concern for all the agents safety that protect our country. If possible please email me back and share with me any reassurances that you can.

As always thank you for your time and I send this email with all respect and a hart felt concern to do the right thing.

Respectfully,

Cooperating FFL

[Redacted signature block]

[Redacted block]

Voth, David J. <[Redacted]@usdoj.gov>
To: [Redacted]

Fri, Jun 18, 2010 at 2:25 PM

[Redacted]

[REDACTED]
Cooperating FFL

Thanks for reaching out to me with your concerns. I would be happy to stop by and speak with you. If possible I have [REDACTED] [REDACTED] next Tuesday, June 22, 2010. Any chance you are available that day around 10:00-10:30 am?

Thanks,

Dave Voth

From: [REDACTED] Cooperating FFL
Sent: Thursday, June 17, 2010 11:56 AM
To: Voth, David J.
Subject: Fox News report

[REDACTED]

From: [REDACTED] Cooperating FFL
Reply-To: [REDACTED] Cooperating FFL
To: "Voth, David J." <[REDACTED]@usdoj.gov>

Mon, Jun 21, 2010 at 9:34 PM

David,

I am back intown. If you are still free to meet on the 22nd [REDACTED] around 10 and there for a few hours. Please stop by if you are available, if not let me know when we can reschedule.

Thank you,

[REDACTED] Cooperating FFL

Sent from my Verizon Wireless BlackBerry

From: "Voth, David J." <[REDACTED]@usdoj.gov>
Date: Fri, 18 Jun 2010 17:25:25 -0400
To: [REDACTED] Cooperating FFL
Subject: RE: Fox News report

[REDACTED]

Exhibit 130

[REDACTED] to David
show details 5:26 PM (17 hours ago)

David,

Greetings, I hope all is well with you.

I wanted to let you know that we have some ATF investigators performing an annual check [REDACTED]. This is a routine investigation covering all the standard avenues. They told us that one of the things they are interested in is any "suspicious transactions".

As you know we have extensive documentation that we've supplied you and your team with concerning transactions that may be suspect. Shall we supply this documentation to these investigators as well?

--

Thank you,

[REDACTED]
[REDACTED]
[REDACTED]
desk [REDACTED]
cell [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.

Voth, David J. to me
show details 6:21 PM (16 hours ago)

[REDACTED]

Thanks for reaching out to me. Yes I absolutely confirm the extensive documentation that you have supplied us. I don't want your routine compliance to cause extra work. If you have all of the documentation set aside and it is easy enough to provide the compliance investigators a copy, by all means I have no secrets. If this process creates extra time and work for you and your team perhaps I can attempt to justify the process involved in providing the same information to ATF twice, thereby creating compliance through previous disclosure.

Please advise if you can comply or would like me to reach out to the compliance investigators?

Thanks,

David Voth
Group Supervisor
Phoenix Group VII
602 [REDACTED]

Voth, David J. to me
show details 9:28 AM (45 minutes ago)

[REDACTED]

I spoke with Ben Richardson and I think we have come to an agreement. I will however have to speak with his supervisor but I don't anticipate any problems.

Thank you,

David Voth
Group Supervisor
Phoenix Group VII
602 [REDACTED]

Exhibit 131

From: Tsethlikai, Serra (USAEO)
To: Langner, Benjamin (USAILN); Sanchez, Kimberly (USACAE); Yarbrough, Steven (USANM)
Sent: Wed May 05 14:52:35 2010
Subject: FW: Prep for Lanny

Hi Benjamin, Kimberly and Steve,

I am on detail to EOUSA. I am specifically assigned to work on Southwest Border Issues and Immigration. Currently, SWB is the hot topic especially as it relates to firearms trafficking from the US to Mexico. As such, there has been a lot of contact between DOJ and Mexico. Lanny is getting ready to head down to Mexico.

Your cases are on the radar and we would like to brief Lanny about your cases. Can you please forward me the basic facts, status and potential charges in the below cases. I apologize for the short turn around but as usual, we need it as soon as possible.

Steve, I don't know who is assigned to the De la Rosa case (for some reason I know this name) is ATF Brandon Garcia working this case? Anyways, if you can forward this email to the assigned AUSA, I would really appreciate it.

Thanks,
 Serra

From: Pope, Amy (CRM)
Sent: Wednesday, May 05, 2010 2:12 PM
To: Tsethlikai, Serra (USAEO); Smith, David L. (USAEO); Villegas, Dan (USAEO)
Subject: FW: Prep for Lanny

Hi all

Lanny is going to be traveling to Mexico next week to meet with the Mexican AG, Deputy AG and our US Ambassador to Mexico. We have heard that our US Ambassador has taken an interest in 3 bi-national arms trafficking cases. ATF and ICE are involved in investigating these cases. We have been told that he is going to ask Lanny about these cases and we don't know anything about them. Can you help me get some additional info – basic facts, status, any problems we should be aware of, etc? The cases are:

1. Barajas case in the NDIL, AUSA Ben Langner
2. Gregorio Salgado Lopez case in the EDCA, AUSA Kimberly Sanchez
3. De La Rosa case in D/MN, OCDETF: GL-MN221

We are prepping Lanny tomorrow at 4, so if it is possible to get me a blurb about the cases by then, I would be really grateful.

Thanks.
 Amy

Exhibit 132

Lowrey, Stuart L.

From: Booth, David S. (IAO)
Sent: Wednesday, May 05, 2010 5:49 PM
To: Lowrey, Stuart L.
Subject: RE: Prep for Lanny
Attachments: DirectorDAD CEIT and Case brief.docx

Mcmahon and chait know about these cases, at least Bill has seen them. We don't want to use fast and furious (chambers, et. al), as that case, for a few reasons, is not the best one to trumpet in front of the Mexicans right now.

ATF SA David S. Booth
 International Affairs Office
 Program Manager-Mexico
 99 NY Ave. NE, 6S-144
 Washington, DC 20226

RC-1


From: Lowrey, Stuart L.
Sent: Wednesday, May 05, 2010 5:46 PM
To: Booth, David S. (IAO)
Subject: RE: Prep for Lanny

Yes Please. I'll attach them to earlier info, and let Chait and McMahon review/discuss. Thanks

Stuart L. Lowrey
 Chief, Firearms Operations Division
 ATF HQ RC-1


RC-1

From: Booth, David S. (IAO)
Sent: Wednesday, May 05, 2010 5:41 PM
To: Lowrey, Stuart L.
Subject: FW: Prep for Lanny

Stu, I have brief write ups on 5 cases (including this one)I provided PGA last week for the director on what we are doing in Mexico and the border, at the House meeting last week. random sentence, I know. Looks like we are going in circles again with the same info.

I will send them to you if you want.

ATF SA David S. Booth
 International Affairs Office

Exhibit 133

Lowrey, Stuart L.

From: Lowrey, Stuart L.
Sent: Wednesday, May 05, 2010 5:50 PM
To: Booth, David S. (IAO)
Subject: RE: Prep for Lanny

Categories: Purple Category

Yeah – anything sensitive should be held back.

Stuart L. Lowrey
 Chief, Firearms Operations Division
 ATF HQ - RC-1

RC-1

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 99 NY Ave. NE - RC-1
 Washington, DC 20226

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ATF SA David S. Booth
 International Affairs Office
 Program Manager-Mexico
 99 NY Ave. NE, 6S-144
 Washington, DC 20226

RC-1

From: Elmer, Andrew O.
Sent: Wednesday, May 05, 2010 5:38 PM
To: Thielhorn, Kurt H.
Cc: Livingston, Debbie L.; Booth, David S. (IAO)
Subject: FW: Prep for Lanny

Kurt,

This is related to our case [REDACTED] "Madera"

There has been ongoing communication related to prosecution and Mexico's involvement if any. I recently prepared a briefing that was sent to David Booth in International Affairs Office related to this investigation.

Thanks
 Drew

Andrew "Drew" Elmer
 Special Agent
 Fresno FO

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: Sanchez, Kimberly (USACAE) [REDACTED]
Sent: Wednesday, May 05, 2010 2:08 PM
To: Elmer, Andrew O.
Subject: FW: Prep for Lanny

Just an fyi

Kimberly A. Sanchez
Assistant U.S. Attorney
Eastern District of California
2500 Tulare St., Ste. 4401
Fresno, CA 93721

RC-1

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From: Sanchez, Kimberly (USACAE)
Sent: Wednesday, May 05, 2010 1:59 PM
To: Tsethlikai, Serra (USAEO)
Cc: Vincent, John (USACAE)
Subject: RE: Prep for Lanny

Kimberly A. Sanchez
Assistant U.S. Attorney
Eastern District of California
2500 Tulare St., Ste. 4401
Fresno, CA 93721

RC-1

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From: Tsethlikai, Serra (USAEO)
Sent: Wednesday, May 05, 2010 12:15 PM
To: Sanchez, Kimberly (USACAE)
Subject: RE: Prep for Lanny

Can you get it to me by noon – DC time? Lanny is being prepped at 4, our time, tomorrow.

From: Sanchez, Kimberly (USACAE)
Sent: Wednesday, May 05, 2010 2:59 PM
To: Tsethlikai, Serra (USAEO)
Subject: Re: Prep for Lanny

I'll get something out by tomorrow. Will that be soon enough? Thanks.

Kimberly A. Sanchez
 Assistant U.S. Attorney
 U.S Attorney's Office
 Eastern District of California
 2500 Tulare Street
 Ste. 4401
 Fresno, CA. 93720

RC-1

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We are prepping Lanny tomorrow at 4, so if it is possible to get me a blurb about the cases by then, I would be really grateful.

Thanks.
Amy

Exhibit 134

From: Voth, David J.
To: Berisha, Ali N.; Brooks, Michael R.; Campbell, Steven E.; Hoxter, Eric C.; Kelsey, Francis L.; Ludington, Undre L.; McLaughlin, Lori D.; Meuris, Kurt J.; Springer, John N.; Styers, Gary M.; Phoe-Group VII
Sent: 5/21/2010 5:32:57 PM
Subject: Group VII/ GRIT weekly synopsis
Attachments: Friday, May 21, 2010.docx

To all;

Here is a copy of what I have submitted to Division regarding our collective efforts on the issue of South West Border Firearms Trafficking initiative. Please review as this is document as this is the format that Division has requested and we will use for our future submissions. Thanks for all your efforts, I think this synopsis shows great work thus far.

Two quick administrative notes;

- To all, please ensure that you are receiving the Mexico seizure information if your case has firearms recovered in Mexico. Also once you receive this information please include a quick ROI "Intelligence Analysis" to document that people were killed, drug were recovered, it was Cartel related etc. This will help us down the road if we get to the point of submitting these cases to the USAO for prosecution.

RC-2



Thanks again for all the great work,

Dave Voth

HOGR ATF 005007

Exhibit 135

Report of Investigation

Title of Investigation: AMBERS, Jacob, et al	Investigation Number: 785115-10-██████	Report Number: 292
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SUMMARY OF EVENT:

CONTACT INTERVIEW: On May 29, 2010, Alcohol, Tobacco, Firearms and Explosives (ATF) Special Agent (S/A) Hope MacAllister along with Immigration and Customs Enforcement (ICE) S/A's Layne France and ██████ conducted an interview with Manuel Fabian CELIS-ACOSTA

NARRATIVE:

1. On May 29, 2010, ATF S/A MacAllister along with ICE S/A's France and ██████ conducted an interview with Manuel CELIS-ACOSTA at the Border Patrol Station located at the ██████, Arizona, Port Of Entry, (POE).
2. According to Customs Border Protection reports, on May 29, 2010, at approximately 1100 hours, a 2002 BMW (██████████) was stopped for an outbound inspection at the ██████, AZ Port of Entry (POE). A vehicle registration check through the ██████ determined the vehicle was registered to ██████, Odessa, TX. The vehicle contained three occupants. The driver was identified as Manuel CELIS-ACOSTA, DOB ██████. The two passengers were identified as Person 1 (front passenger), DOB ██████ and Person 2 (rear passenger), DOB ██████.
3. According to a witness statement prepared by Customs and Border Protection Officer, (CBPO) ██████, P1 claimed the rear passenger, P2 was his uncle. P2 failed to provide identification and was turned over to Border Patrol to determine his alienage. Border Patrol determined P2 was an undocumented alien unlawfully present in US.
4. CBPO ██████ obtained negative oral declarations from CELIS-ACOSTA, P1 and P2 for firearms, ammunition, and currency before beginning an inspection of the vehicle. CBPO ██████ and ██████ assisted in the inspection. While inspecting the trunk, CBPO ██████ discovered a folder containing personal notes written on loose paper and on a pad of paper. Some of the notes appeared to the officer to be ledgers. CBPO ██████ also noted a reference about money given to "██████" and a list of firearms such as an AR15 short and a Bushmaster, (see attachments).
5. During the inspection, a Border Patrol Agent assisting the CBPOs performed ██████

Prepared by: Hope A. MacAllister	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:

██████████ subject queries on the subjects which disclosed CELIS-ACOSTA was under investigation for firearms trafficking. CBPO ██████████ contacted the ICE Duty Special Agent, ██████████, to inform him of the situation. CBPO ██████████ continued with his inspection of the vehicle, while waiting for Special Agent (S/A) ██████████ to return his call. During his inspection, CPBO ██████████ found an AK type high capacity drum magazine loaded with 74 rounds of 7.62 ammunition underneath the spare tire in the truck. Nine cellular telephones as well as other miscellaneous documents were also found during the search including identification documents hidden by the dash of the vehicle (see attachments). The cellular telephones, high capacity drum magazine, and ammunition were seized by CBP and transferred to ATF as evidence.

6. On this same date, a CBPO on duty contacted S/A ██████████ to notify him of the contraband. After contacting ATF S/A MacAllister, S/A ██████████ instructed the CBP officers on scene to read all three subjects their Miranda Rights and determine whether any of them would be willing to give a statement. CBP Officers ██████████, and ██████████ provided CELIS-ACOSTA and P1 ██████████ their Miranda Rights in English as stated on the United States Customs and Border Protection's "Statement of Rights". CBP Officer ██████████, provided P2 ██████████ his Miranda Rights in Spanish as stated on the United States Customs and Border Protection "Statement of Rights". P1 ██████████ invoked his right to remain silent. CELIS-ACOSTA and ██████████ waived their rights. A CBP officer on duty contacted S/A ██████████ to inform him CELIS-ACOSTA and P2 ██████████'S willingness to be interviewed.
7. On this same date, S/A ██████████ contacted ICE S/A Layne France and ATF S/A Hope MacAllister to request their presence at the POE to conduct an interview with CELIS-ACOSTA. At approximately 1800 hours, SA MacAllister, France and ██████████ arrived at the POE. CBP Officers ██████████ and ██████████ briefed the S/A's of the events surrounding the outbound inspection. At approximately 1840 hours, S/A MacAllister, France and ██████████ interviewed CELIS-ACOSTA. Prior to initiating the interview, S/A MacAllister showed CELIS-ACOSTA his "Statement of Rights" he had signed earlier and reminded him of these rights.
8. CELIS-ACOSTA stated the BMW belong to P1 ██████████'s mom. He also stated P1 ██████████'s mom lives in Texas. He stated he and P1 ██████████ were going to a friend's house in Mexico and that their friend was having a party that weekend. CELIS-ACOSTA stated he did not know the undocumented alien (UDA) in the car with them, but he stated the UDA went by the name of, "██████████". CELIS-ACOSTA stated this was his second trip to ██████████. He stated his first trip was on May 10, 2010. He said he remembers the date because it was Mother's Day.
9. CELIS-ACOSTA stated he did not know the magazine and ammunition were in the car. He stated he knew he could jeopardize his permanent resident alien status if he was caught smuggling firearms or ammunition to Mexico. He stated he would never jeopardize his status.
10. CELIS-ACOSTA stated he had been to ██████████ in Prescott, AZ in the past to buy ammunition. CELIS-ACOSTA stated he and ██████████ go shooting at ██████████.
11. CELIS-ACOSTA stated he had met P1 ██████████ through race car driving. CELIS-ACOSTA stated he thinks ██████████ is from Texas. He stated he and P1 ██████████ go to clubs and "hangout" with each other. He has seen P1 ██████████ with the BMW for the last four months. CELIS-ACOSTA stated P1 ██████████'s mom bought the BMW with a credit card and that P1 ██████████ makes the monthly payments. CELIS-ACOSTA stated P1 ██████████ also has a ██████████, 600cc motorcycle, a ██████████ and a ██████████. CELIS-ACOSTA stated P1 ██████████ lives with his kids and his brother in Phoenix. CELIS-ACOSTA stated he did not know the address to P1 ██████████'s house. CELIS-ACOSTA said in the past, P1 ██████████ had picked him up at a Wal-Mart. CELIS-ACOSTA stated P1 ██████████ took him to several of houses where people had a lot of money.

Title of Investigation:
CHAMBERS, Jacob, et al

Investigation Number:
785115-10-██████

Report Number:
292

12. CELIS-ACOSTA stated he is currently unemployed, but on occasion helps his dad with wrought iron fencing. CELIS-ACOSTA stated his parents are, ██████ and ██████. CELIS-ACOSTA stated he has three brothers, ██████, ██████ and ██████. He stated he lives at ██████, Phoenix, AZ. He added that he had previously lived near ██████. He provided two contact numbers, a landline number (██████) ██████ and a mobile number (██████) ██████. CELIS-ACOSTA stated a couple of months ago he was going back and forth to Juarez, Mexico to help his uncle, ██████, clear land that his uncle had recently sold to Wal-Mart. He said his uncle received approximately one million dollars and his mother received approximately one hundred thousand dollars from Wal-Mart as payment for the land. He said his mother is receiving monthly installments from Wal-Mart for her portion of the sale.
13. CELIS-ACOSTA told investigators about his previous trip to Mexico in May 2010. He stated during his trip, he was at a restaurant with another male who CELIS-ACOSTA later identified as "P3". While eating, CELIS-ACOSTA observed a man get out of a truck carrying an AR-15 style rifle. CELIS-ACOSTA stated he knows a lot about firearms which is why he knew the man was carrying an AR style rifle. CELIS-ACOSTA said he got scared and dropped to the floor. He stated P3 laughed at him because the man worked for P3.
14. S/A MacAllister asked CELIS-ACOSTA to write a statement regarding his knowledge of the magazine and ammunition and the events that led him to be detained. CELIS-ACOSTA agreed and prepared a written statement. After S/A MacAllister reviewed the statement, she informed CELIS-ACOSTA that P1 was not accepting responsibility for the contraband found in the vehicle, and it was important the statement he prepared was truthful. At that point, CELIS-ACOSTA recanted some of the details he had previously stated. CELIS-ACOSTA stated he would tell the agents what happened since P1 was not accepting responsibility. The original statement was entered as evidence by S/A MacAllister (Item 150).
15. CELIS-ACOSTA stated that when they got pulled over at the Port of Entry, P1 told CELIS-ACOSTA the drum magazine and ammunition were in the trunk under the spare tire. CELIS-ACOSTA also stated P1 said he would take responsibility for the magazine and ammunition. CELIS-ACOSTA stated P1 told him that CELIS-ACOSTA had more to lose. CELIS-ACOSTA stated he knew of the export restrictions on firearms and ammunitions and that he would not jeopardize his permanent resident card trying to smuggle contraband from the United States into Mexico. He stated he was reluctant earlier to mention he and P1 would go shooting because he believed P1 was a felon.
16. CELIS-ACOSTA stated when they were stopped at the port P1 was "freaking out" and trying to hide all the cell phones. CELIS-ACOSTA stated one of the phones, a ██████ phone, belonged to him. CELIS-ACOSTA stated ██████ told him he would take responsibility, and he did not know any contraband was in the car. CELIS-ACOSTA stated P1 must have put the magazine and ammunition in the car before he picked CELIS-ACOSTA up at his house.
17. CELIS-ACOSTA said P2 and P1 picked him up at his house. He said P1 was in the passenger seat when he exited his house. CELIS-ACOSTA stated he asked P1 if he wanted CELIS-ACOSTA to drive. CELIS-ACOSTA stated P1 told him to drive. According to S/A ██████ P2 had informed him that CELIS-ACOSTA and P1 were both in the vehicle when he was picked up.
18. CELIS-ACOSTA stated "P2" was a ranch hand for a man he later identified as P3. CELIS-ACOSTA said P2 was in Phoenix doing landscaping work for P1. He stated P2 did not like it in Phoenix so they were driving him back to Mexico.

Title of Investigation: CHAMBERS, Jacob, et al	Investigation Number: 785115-10-████	Report Number: 292
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19. CELIS-ACOSTA stated they were going to meet █████ P3 █████ in █████ Mexico. He stated █████ P3 █████ was having a birthday party at his house. CELIS-ACOSTA stated █████ P3 █████ liked him and allowed █████ to bring him back. CELIS-ACOSTA stated it was █████ P3 █████ who had loaned them a house in █████ Mexico █████ in early May.
20. CELIS-ACOSTA stated he thought █████ P3 █████ is a Mexican cartel member. CELIS-ACOSTA said █████ P1 █████ would not tell him what █████ P3 █████ did for a living, but CELIS-ACOSTA said when he first saw █████ P3 █████'s house he knew he was a drug dealer. CELIS-ACOSTA stated █████ has a lot of vehicles. He said █████ P3 █████ owned a black █████, a █████ truck, █████, and all terrain vehicles (ATV). CELIS-ACOSTA stated █████ P3 █████ had a lot of gold in his house and wore a \$15,000 watch. CELIS-ACOSTA stated he once saw a FiveSeven pistol in █████ P3 █████'s truck.
21. CELIS-ACOSTA again told agents about an incident which occurred during his trip to Mexico in May 2010. He stated he was riding an ATV with one of █████ P3 █████'s sons when one of the tires went flat. He said the boy told him where they could go to get it fixed. While they were driving along the road to the repair shop a Mexican police officer stopped them. CELIS-ACOSTA stated █████ P3 █████'s son yelled at the officer and told the officer █████ P3 █████ was his father. He said a short time later █████ P3 █████ pulled up in his truck. CELIS-ACOSTA commented █████ P3 █████ had emergency vehicle lights installed on his truck similar to those used by law enforcement officials. He stated █████ P3 █████ yelled at the officer and then went to the police station and yelled at some of the officers at the station. He stated █████ P3 █████ asked why he was paying them if they were going to harass his son. CELIS-ACOSTA described █████ P3 █████ as approximately █████ years old, █████" and clean cut with a slim build. He stated █████ P3 █████ has █████ children ranging from █████ years of age.
22. CELIS-ACOSTA stated █████ P3 █████ used to live in Phoenix, but the Drug Enforcement Administration (DEA) was looking for him so he fled to Mexico. CELIS-ACOSTA stated █████ P3 █████ never crosses the border into the United States. CELIS-ACOSTA stated the first time he met █████ P3 █████ was on May 10, 2010, because he remembers it being Mother's Day weekend.
23. CELIS-ACOSTA stated █████ P1 █████ told him █████ P3 █████ moved as much as 6,000 lbs of marijuana a week, but this was a long time ago. He said █████ P1 █████ had met █████ P3 █████ approximately ten years ago, but when █████ P3 █████ moved to Mexico they lost contact. Manuel said approximately six months ago █████ P1 █████ ran into █████ P3 █████ in █████, Mexico and they have been in contact since that time. CELIS-ACOSTA stated █████ P3 █████ may be coming to Phoenix for █████ P1 █████'s birthday within the next couple weeks.
24. CELIS-ACOSTA stated he had once seen a pilot come to █████'s house. He stated the pilot's name was █████. CELIS-ACOSTA also stated █████ P3 █████ controls the █████ and █████ P3 █████ told CELIS-ACOSTA he had met Chapo Guzman and that he was his right hand man.
25. CELIS-ACOSTA stated █████ P1 █████ told him █████ P3 █████ wanted █████ P1 █████ to start receiving drugs to into the United States. He said █████ P3 █████ told █████ P1 █████ he would have to come up with \$15,000 to get his drug business started. Later, CELIS-ACOSTA admitted he and █████ P1 █████ were on their way to █████ P3 █████'s house that day to get █████ P1 █████'s first shipment of narcotics. He said █████ P1 █████ was supposed to buy a warehouse or a house in Phoenix to start up a narcotics trafficking operation.
26. CELIS-ACOSTA stated █████ was employed as an engineer █████, but now he is unemployed. CELIS-ACOSTA stated that he still races cars.

Title of Investigation: CHAMBERS, Jacob, et al	Investigation Number: 785115-10-████████	Report Number: 292
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35. Based on ATF trace records, a large number of the weapons purchased by the CELIS-ACOSTA organization are AK type rifles or FN Herstal pistols.
36. Prior to the end of the interview S/A MacAllister, in the presence of S/A's ██████████ and France, asked CELIS-ACOSTA if he would be willing to cooperate with Federal agents in any investigations involving the violation of federal law. CELIS-ACOSTA agreed. Approximately thirty minutes later, S/A's returned to provide CELIS-ACOSTA with S/A MacAllister's contact information handwritten on a piece of notebook paper to avoid any detection from his associates. CELIS-ACOSTA then asked S/A MacAllister to write the contact information on a ten dollar bill and told her he would call her upon his return from Mexico. S/A MacAllister advised CELIS-ACOSTA that he and his associates would be released until further investigation was conducted and warned CELIS-ACOSTA not to participate in any illegal activity unless under her direction. As of June 16, 2010, CELIS-ACOSTA has not initiated any contact with S/A MacAllister
37. The investigation continues.

ATTACHMENTS:

Miscellaneous Documents

CBP Form 6051 (12)

U.S. ICE Statement of Rights Form, ██████████

U.S. ICE Statement of Rights Form, CELIS-ACOSTA

U.S. ICE Statement of Rights Form, ██████████

CELIS-ACOSTA Handwritten Statement (2)

CBP Witness Statement belonging CBP Officer ██████████

CBP Witness Statement belonging CBP Officer ██████████

Exhibit 136

From: McMahon, William G.
Sent: Thursday, June 03, 2010 3:26 PM
To: Newell, William D.
Subject: RE: Fast and Furious update

10-4 thanks.

From: Newell, William D.
Sent: Thursday, June 03, 2010 3:24 PM
To: McMahon, William G.
Subject: Fast and Furious update



4. Acosta never called SA McAllister back on Tuesday, not a big surprise, but we are aware of his whereabouts. He met with one of the main straw purchasers (Stewart) yesterday regarding a purchase of 9mm handguns. GRIT personnel are being used to maintain surveillance of Acosta and Stewart.
5. Meeting at USAO to begin plans to shut case down by approaching several straw purchasers, Grand Jury subpoenas, etc.

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

Exhibit 137

From: Zicha, Marjorie L.
Sent: Tuesday, June 15, 2010 5:13 PM
To: MacAllister, Hope A.
CC: Quinonez, Louis A.
Subject: Request from Lorren Leadmon

Hope

I am not sure this was forwarded to you, please advise if you wish the Phoenix FIG to process or if your office will be responding to this request.

Thanks.

Marjorie Zicha
 Senior Intelligence Research Specialist
 Phoenix Field Division

From: Quinonez, Louis A.
Sent: Tuesday, June 15, 2010 2:03 PM
To: PhoenixFIG
Subject: Fw:

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: Quinonez, Louis A.
Cc: Feingold, Edward D.; O'Keefe, Kevin C.; Gillett, George T. Jr.
Sent: Tue Jun 15 16:34:59 2010
Subject:

Lou- Could you please provide me the information on the recovered firearms reported below. Please provide firearms data and information to include the date, time and location of recoveries. We have a good handle on the US recoveries (just off by a few) but we need more info on the Mexican recoveries. We will be utilizing this information to update our seizure events in Mexico.

785115-10- [REDACTED] Operation Fast and Furious

ATF agents are aware of or have caused 309 of these firearms to be recovered. To date, 179 crime guns have been recovered in the Republic of Mexico, and 130 have been recovered domestically in the United States. Of those domestic recoveries, all have been along or near the U.S. and Mexican border, i.e., El Paso, TX; Douglas, AZ; Nogales, AZ; Sells, AZ and Casa Grande, AZ, with the farthest recovery north of the border being here in Phoenix, AZ. In order to purchase these 1,608 suspected firearms, this group has spent over one million in cash transactions at various Phoenix area FFLs. Due to the proximity to the border, bank subpoenas and financial investigations have yielded little or no results.

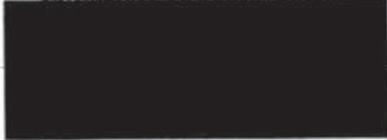
HOCR ATF - 002162

THANKS SO MUCH

Lorren D. Leadmon

Team Leader

**Field Intelligence Support Team - Southwest Border
Bureau of Alcohol, Tobacco, Firearms and Explosives
Intelligence Operations Specialist**



HOGR ATF - 002163

Exhibit 138

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: S20100000978 Entered Date: June 16, 2010

[REDACTED]
PHOENIX FD GROUP VII

[REDACTED]
PHOENIX, AZ 85004

Badge No:

Investigation No: 785115-10-[REDACTED]

DEALER INFORMATION

Business Name: [REDACTED]
Licensee Name: [REDACTED]
Address: [REDACTED]
[REDACTED]
Phone: [REDACTED] Ext: [REDACTED]
FFL Number: [REDACTED]
Invoice #: [REDACTED]

INDIVIDUAL INFORMATION

Name: JAIME AVILA JR
Address: [REDACTED]
PHOENIX, AZ 85035
DOB: [REDACTED] Race: HISPANIC Sex: Male
Height: [REDACTED] Weight: [REDACTED] Date: 06/15/2010
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: 1

Manufacturer	Model	Caliber	Serial Number	Type	Importer
BARRETT FIREARMS MFG CO	82	50 BMG	14753	RIFLE	

Suspect Gun: S20100000978

Exhibit 139

[REDACTED]

[REDACTED]

[REDACTED]

Fox News report

3 messages

Cooperating FFL [REDACTED]

Thu, Jun 17, 2010 at 11:56 AM

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

David,

I hope this email finds you well.

As per our discussion about over communicating I wanted to share some concerns that came up. Tuesday night I watched a segment of a Fox News report about firearms and the border. The segment, if the information was correct, is disturbing to me. When you, Emory and I met on May 13th I shared my concerns with you guys that I wanted to make sure that none of the firearms that were sold per our conversation with you and various ATF agents could or would ever end up south of the border or in the hands of the bad guys. I guess I am looking for a bit of reassurance that the guns are not getting south or in the wrong hands. I know it is an ongoing investigation so there is limited information you can share with me. But as I said in our meeting, I want to help ATF with its investigation but not at the risk of agents safety because I have some very close friends that are US Border Patrol agents in southern AZ as well as my concern for all the agents safety that protect our country. If possible please email me back and share with me any reassurances that you can.

As always thank you for your time and I send this email with all respect and a hart felt concern to do the right thing.

Respectfully,

Cooperating FFL

[REDACTED]

[REDACTED]

Voth, David J. <[REDACTED]@usdoj.gov>
To: Cooperating FFL [REDACTED]

Fri, Jun 18, 2010 at 2:25 PM

[REDACTED]

[REDACTED]
Cooperating FFL

Thanks for reaching out to me with your concerns. I would be happy to stop by and speak with you. If possible I have [REDACTED] [REDACTED] next Tuesday, June 22, 2010. Any chance you are available that day around 10:00-10:30 am?

Thanks,

Dave Voth

From: [REDACTED] Cooperating FFL
Sent: Thursday, June 17, 2010 11:56 AM
To: Voth, David J.
Subject: Fox News report

[REDACTED]
Cooperating FFL
Reply-To: Cooperating FFL
To: "Voth, David J." <[REDACTED]@usdoj.gov>

Mon, Jun 21, 2010 at 9:34 PM

David,

I am back intown. If you are still free to meet on the 22nd [REDACTED] around 10 and there for a few hours. Please stop by if you are available, if not let me know when we can reschedule.

Thank you,

Cooperating FFL

Sent from my Verizon Wireless BlackBerry

From: "Voth, David J." <[REDACTED]@usdoj.gov>
Date: Fri, 18 Jun 2010 17:25:25 -0400
To: Cooperating FFL
Subject: RE: Fox News report

Exhibit 140

RPTS [REDACTED]

DCMN [REDACTED]

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: WILLIAM NEWELL

Wednesday, June 8, 2011

Washington, D.C.

The interview in the above matter was held in Room 2157 Lounge,
Rayburn House Office Building, commencing at 10:07 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

STEVE CASTOR, CHIEF COUNSEL, INVESTIGATIONS

ASHOK M. PINTO, DEPUTY CHIEF COUNSEL, INVESTIGATIONS

HENRY J. KERNER, COUNSEL

SUSANNE SACHMAN GROOMS, MINORITY CHIEF COUNSEL

DONALD K. SHERMAN, MINORITY COUNSEL

SCOTT LINDSAY, MINORITY COUNSEL

CARLTON DAVIS, OFFICE OF CHAIRMAN ISSA

MOLLY GASTON, ATTORNEY ADVISOR, OFFICE OF LEGISLATIVE AFFAIRS UNITED STATES DEPARTMENT OF JUSTICE

JASON FOSTER, CHIEF INVESTIGATIVE COUNSEL, COMMITTEE ON THE JUDICIARY, UNITED STATES SENATE

TRISTAN LEAVITT, OFFICE OF SENATOR GRASSLEY

BRIAN DOWNEY, INVESTIGATOR, OFFICE OF SENATOR GRASSLEY

ROB DONOVAN, OFFICE OF SENATOR GRASSLEY

For MR. NEWELL:

GREG SERRES, ESQ.

Associate Chief Counsel,

Bureau of Alcohol, Tobacco, Firearms, and Explosives

BY MR. CASTOR:

Q Okay. Mr. Newell, can you tell us how long you have been with ATF?

A Since September of 1989. So approximately 23 years, I guess.

Q Were you in law enforcement prior to that?

A Two years with INS, which is now ICE.

Q So how many years of law enforcement experience total?

A Oh, probably about close to probably 24 years.

Q And you were the Special Agent in Charge of the Phoenix field office from when to when?

A From June of 2006 until May of 2011.

Q And currently what is your position?

A I'm on detail to Washington at the Bureau headquarters.

Q The decision to not focus merely on the prosecution on straw buyers as we understand it was rolled out some time during 2009. Is that your understanding?

A Yes. Which -- there were several --

Q We understand the Department had an initiative at the Justice Department level --

A Right.

Q -- communicated down through ATF to begin thinking about ways of going after firearms trafficking problems.

A There was a strategy, the strategy to combat Southwest border crime from the Department that was late 2009 and then I think early

2010 officially in a memo.

Q And could you tell us about how that was rolled out and some of the reasons for it?

A As I recall and I want to say I think it was October or November -- it was October of 2009, I received an e-mail from our Southwest border coordinator which had a draft document related to the Department's strategy to combat Southwest border crime, the major crimes occurring along the Southwest border; and it was a departmental kind of focused strategy, if you will, on the different, you know, issues -- narcotics trafficking, bulk cash, human trafficking -- and firearms trafficking was one of those as well.

Q Is Arizona one of those States that has a particular strong firearms trafficking problem?

A Arizona is considered by -- well, by ATF and other agencies as kind of the eye of the hurricane, if you will, on the Southwest border because of the amount of drugs and humans and other related border crimes that occur along the Southwest border. Arizona is high in those numbers, yes.

Q So the ATF Phoenix field division office was a key player in this?

A Yes. All the Southwest border divisions were. All national divisions, really.

Q Was that Ray Rowley that communicated that to you?

A As I remember, I think it was Ray Rowley was the Southwest border coordinator at that time, yes.

Q What other folks in ATF management were directing this initiative, from your perspective?

A Well, I know from my supervisor, Bill McMahon, we had several meetings with the SACs, Southwest border SACs, and he is over the western division, the western SACs. We discussed that strategy. And I know that we had conference calls on the strategy.

Q What was the plan to push that strategy out into the field?

A In what sense? In what form?

Q The Department-level strategy was communicated to you and you had to implement it.

A Right.

Q And was there any guidance as to specifically how down at the agent level?

A It was -- we received instruction, but we wanted to focus on firearms trafficking networks, organizations as per the strategy that the Department had pushed out, yes.

Q And was there a goal to not merely focus on straw buyers?

A The goal was to go after the infrastructure, the organizations themselves; and straw buyers are considered the low rung and one part of a larger organization, yes.

Q Was there ever a decision made to allow straw purchasers to acquire firearms to watch where they would go?

A What do you mean by "allow"? There is a legal -- there is legality involved. I mean, someone goes in and buys a gun and if it is a straw purchase, we have to approve it as a straw purchase.

to do with those 20 AK-47s? Is that a fair question?

A It depends. Yeah, I guess it would be, but it depends on the circumstances. It is not unusual for people in places like Arizona and Texas and those places to go in and buy multiple firearms, multiple handguns, multiple long guns. It is not unusual, and it is not illegal in many instances. And so we have to put the evidence together to prove that, in fact, that transaction is illegal by many different ways. And that's what we struggle with to do all the time on these cases, because we have to look at each individual transaction and try to put those pieces of the puzzle together and try to determine how does this fit into that puzzle.

Q Going back to my hypothetical, you're at the FFL, your badge is displayed, and the buyer looks over to you, acknowledges that you're with the ATF, and initiates conversation with you and says, do you have any questions? What other types of questions would you ask that potential buyer who initiated the conversation with you and wants to be completely open and honest with you?

A Again, that is a scenario that has never happened to me in 20-plus years of law enforcement. I don't think it has ever happened to anybody in ATF in my career. So it is a scenario that is almost in the realm of fantasy.

But I would guess I would ask, how come you like AK-47s so much? You seem to like AK-47s. You must have a niche for AK-47s. Because, again, it is legal, as far as based on the scenario.

Q In your experience in the Phoenix field office, do buyers

frequently come in and buy 20 AK-47s at a time? Is that a common occurrence? Does that raise any suspicions?

A It is not a common occurrence. It is not common. And that is why a case like this was --

Q Like, if one of your case agents bumped into you at the water cooler and said, I just found out -- some FFL called me and said they had a person buy 20 AK-47s. Would that be the type of information that you would want your agents to follow up on?

A Yes. Yeah, absolutely.

Q And get the 4473s?

A Sure.

Q And talk to the FFL and find out if that suspicious --

A And put that purchase -- look at that purchase before you go approach someone. Again, when you're conducting an investigation like this, apart from -- just in general, a firearms-trafficking investigation -- and I did it many, many years on the southwest border in south Texas and south Florida and other places in the country -- you don't want to show your hand. I mean, if you suspect something is occurring, but you're well short of probable cause to be able to prove something beyond a reasonable doubt, especially in a jury in a place like Arizona, a State that has a lot of guns, and that is okay, you want to be able to say, okay, this purchase just occurred, okay? Let's find out if there are any other purchases that this gentleman made.

individual to --

Q Is there a volume of weapons in a particular transaction that would automatically ramp it up from reasonable suspicion to probable cause, or from something short of reasonable suspicion to reasonable suspicion? Is there any amount of weapons that would trigger that?

A No, not --

Q No?

A I mean, no, not in my experience.

Q Okay. So a professionally dressed person comes into an FFL, says to the FFL, "I would like to buy 5,000 --

A Well --

Q -- AK-47s, and here is a wad of cash" --

A You're giving me a scenario --

Q Okay.

A -- just like the scenarios you gave before --

Q Okay.

A -- that have never occurred to me.

Q Okay. But you would agree, there is a --

A Well, sure.

Q Is 500 enough?

A There is no set number. I mean, it depends on when you have enough evidence --

Q Okay.

A -- supported by rock-solid documentation and evidence, in conjunction with the U.S. Attorney's Office, to be able to say --

Q No, you're getting into prosecutions, arrest, and all that stuff. I'm getting into --

Ms. Grooms. Could we perhaps not interrupt the witness while he's answering a question? Because I would actually like to hear the answer to the questions.

Mr. Newell. My issue is -- again, this goes back to the issue of, firearms, in and of themselves, are not contraband. You know, someone can have 100 AK-47s in their car, driving around on a Sunday afternoon in Phoenix, and get stopped by the police for speeding, you know, and there could be nothing wrong with that, absolutely nothing wrong with that.

Now, if that was 100 kilos of cocaine, that would be a totally different story. But firearms, in and of themselves, are not contraband. So it's a legal commodity until it's taken from legal commerce to illegal commerce, or unless it's been modified in some way, you know, serial-number obliteration or whatever.

So I can't give you a set number because it's really a set of facts supported by evidence, probable cause, to say that that person is, in fact, violating the law. And when we get to that point and we believe we have enough to effect an arrest, then we'll get with the U.S. Attorney's Office and get in a complaint or get an indictment.

BY MR. CASTOR:

Q My time is just about up, so I'll just ask one more question.

Could you give us examples of what would be facts that count as reasonable suspicion to effect a traffic stop?

A Well, sure. If we have evidence that the form -- that the individual actually falsified the form in some way as to a false address or a false, you know -- the identification was false.

If we thought that the person was in some way prohibited, you know, a convicted felon, illegal alien, had lied on the form for that.

Or maybe that the person that was receiving the firearms was, in fact, prohibited; you know, the person went in, straw-purchased the firearms for his brother, who is a convicted felon, let's say, in this scenario, and we knew that to be the case, then, yes, we would do that. But that's because we had evidence to be able to support that.

Q So is it fair to say that you need evidence that is external to what you're watching -- what one of your agents is watching?

A Well, supporting, yeah, evidence that supports the charge that, in fact, that activity is, in fact, illegal, supported by probable cause.

Q So it's very difficult or unusual for an agent to conduct surveillance and effectuate traffic stops based on observing what --

A Well, absent any other information, sure. I mean, because, again, firearms, in and of themselves, are not contraband. I mean, I think that's difficult for some people to understand. And it's just that, it goes to the whole thing about the statute of -- the firearms trafficking statute, the lack thereof, of being able to say, hey, we have a statute that, looking at this pattern of activity, we can say, "This, by statute, is illegal," instead of looking at each individual transaction and trying to piece all that together, which is what we

Q Well, I think -- and you can correct me if I'm wrong -- but I think that you're aware that at some point during the course of Operation Fast and Furious line agents made complaints about the tactical decisions made at the agent level to cease surveillance?

A I became aware of that probably in February maybe of this year when the allegations were first made.

Q So prior to February 2011 you were unaware of complaints from line agents in the Phoenix field division Group VII regarding surveillance tactics being employed on the ground?

A To the best of my recollection, I don't remember anytime ever being advised that there was some discourse amongst the agents. I became aware of that when some of the documents were released that I saw. And I want to say it was probably February, early February, something like that, of this year.

Mr. Foster. I'm sorry, would you repeat that?

Mr. Newell. About what?

Mr. Foster. The last thing you just said.

Mr. Newell. To the best of my recollection, the first time I became aware that agents were being -- disagreed with the surveillance tactics was I believe the beginning of this year when the documents that I saw were released.

Mr. Foster. Okay. Disagreed with an agent?

Mr. Newell. Disagreed, yes.

Mr. Foster. That's the first time you heard that they disagreed?

Mr. Newell. The first time I disagreed with the surveillance

A Not me, but that was the FFL, right.

Q So --

A Well, not me personally.

Q Right.

A Not me personally, right.

Q But that the FFLs would slow down on future purchases?

A Right.

Q Presumably at the direction of ATF agents?

A Yes.

Q What was the basis for that decision?

A Well, it was based on the fact that this was still early on in the investigation. And we were doing everything we could because we saw that there was a lot of purchases going on and we still didn't have enough evidence to stop this legally, we felt, in conjunction with, as we read in the briefing paper earlier with the Attorney General's Office, we had minimal evidence at that point. Now, this is December 17th. The briefing paper from earlier is January 8th, so we're talking 3 weeks later. And at that point we, in conjunction with the U.S. Attorney's Office we still felt we had minimal evidence. So that's just a step that was taken to try to develop more information on these individuals.

Q I want to go into your collaboration, I understand that's my word, not yours, with the United States Attorney's Office for Arizona related to your investigations. Can you explain I guess what their basis was for, what their basis was for this strategy of working with

preventing those people from transferring the firearms to other people, as you strongly suspect, according to these talking points, that they are doing, right?

A Those are tactical decisions that are made on the street, yes. You're right, yes.

Q So you don't need probable cause to do those kind of things, there are ways you can interdict weapons, you can get the weapons out of the possession of the people who are about to transfer them to the traffickers?

A You need --

Q Short of probable cause?

A You need clear and convincing evidence if you're going to interdict and seize firearms that that firearm is going to be used in some illegal act. You have to have clear and convincing evidence supported by a series of facts to be able to go in and interdict those firearms.

Q You said several times early in the interview you suggested that probable cause was necessary in order to, for example, work with the local police department to do a traffic stop.

A I don't remember. If I said that, okay.

Q That's not accurate, though, is it?

A No. I mean you don't need probable cause, here's the thing. You need it -- to seek an indictment or a prosecution, you need to have probable cause that some illegal act has occurred.

Q Right, I'm asking you about steps short of indictment and

to identify the whole network, knowing that if we took off a group of straw purchasers this, as is the case in hundreds of firearms trafficking investigations, some that I personally worked as a case agent, you take off the low level straw purchaser, all you're doing is one of -- you're doing one of two things, one of several things. You're alerting the actual string puller that you're on to them, one, and, two, all they are going to do is go out and get more straw purchasers.

Our goal in this case is to go after the decision maker, the person at the head of the organization, knowing that if we remove that person, in the sense of prosecute that person, successfully, hopefully, that we would have much more impact than just going after the low-level straw purchaser.

Q Right, and in order to achieve that goal, if in order to not tip them, if agents wanted to be more aggressive about attempting to interdict and discourage the trafficking that was going on -- excuse me -- the straw purchasing that was going on right in front of them that that would have been not consistent with the goal of the strategy as outlined in this paper, right?

A The goal of the investigation, as I said before, is using the straw purchasers, identifying the straw purchasers, to get, using information we gleaned from them in a sense of where they're going, where they're dropping the guns off, to identify the middlemen, to identify the decision makers and seize assets when appropriate, and we have the ability to do that, identify bank accounts, identify

transporters, identify anything so that when we make the arrests, do the takedown, that we take down the whole organization.

Q In the beginning of the interview, you also talked with Steve about a recovery of 40 guns in Naco?

A I believe, I don't have that information. I believe it was 40 guns in Naco.

Q And I believe you said something to the effect of that they were, that this was the first sign that there might be a big case, that you were on to a big case?

A It was one of those times that, yes, we had a case that was, that was coming together, we had more than just a couple of straw purchasers. We had a bigger group.

Q So, in other words, the guns that were recovered, among the 40 guns recovered in Naco, Mexico, there were guns that had been purchased by whom?

A Some of the individuals that we had identified at that point in the investigation. I'm not exactly sure who it was but some of the individuals that we identified --

Q Right. I think you colloquially called them your purchasers, something to that effect, that they had been bought by our purchasers?

A Well, the purchasers had been identified in the case at that point, some of them, I'm not sure all of them.

Q So what do you mean by "our purchasers?"

A I mean our purchasers in the sense of that investigation,

Q Did that occur a lot?

A No.

Q No. Are you aware of more than one incidence?

A I'm aware of more than one instance, yes.

Q But to your knowledge, in each instance there was a -- there was a control on the delivery such that there were authorities on the other side of the border that then were responsible?

A Of the ones I'm aware of, yes.

Q And the guns were actually interdicted or seized after -- at the end of the operation of operations?

A Again, we are not talking about Fast and Furious.

Q I understand.

A We are talking about other investigations. And generally what would happen in a situation like that is the expectation is that if it all goes as planned, you being U.S. law enforcement in conjunction with your other law enforcement partners, would take it to the border and then the Mexican counterparts working in concert, not as the lead, but in conjunction with the U.S. law enforcement, take it from there and then take it to wherever the guns would go.

Q But my question was, I believe, was are you aware of that occurring in multiple other cases and that in each case, that that was successful, that the handoff to the authorities on the other side was successful and the guns were actually interdicted, is that what happened?

A In the instances I'm aware of, it was not successful.

Q And how many instances are we talking about approximately?

A I believe it was just a couple that I'm aware.

Q So 2 or 3?

A 2 or 3, yes.

Q And none of them were successful?

A To my knowledge, no. To my knowledge, there was one case where the guns actually -- we had all the way to the border and there was just communication there. The other one is a case that they did not actually cross, to the best of my knowledge.

Q Oh, but they were interdicted on this side of the border?

A There was one instance that I'm aware of where transporters took the guns to the border and got spooked somehow and then we did not interdict them as far as I remember.

Q You did not interdict them?

A Right.

Q Why not?

A As I recall, they went into a neighborhood and we lost them as far as I know on surveillance.

Q So there was every effort made?

A Every effort made, but there is -- every case -- yeah.

Q And these were straw purchasers who were doing the transfer rather than some intermediary beyond the straw purchaser?

A I don't remember enough specifics about the case to remember what their role was specifically in the case. This was several years ago as I recall.

point, we had the key pieces of evidence we need to be able to charge people for their role in this organization.

Q Was there significant new evidence related to Jaime Avila?

Mr. Serres. I don't see how that is not talking about case specifics and the evidence of the case that we are trying -- there is a protective order in the district on discovery. There is local rules about talking about the evidence in the case. I don't see how that is not getting into that. I mean, I don't want to -- like I said at the beginning, I don't want to interrupt and keep -- having you detour, but that is the area that I think we are -- goes against what we are trying to do here which is to make him able to talk about what your inquiry is.

Mr. Castor. This is pretty key to our inquiry because it has been maintained that you couldn't arrest these defendants. Agent Terry was killed, there is an immediate arrest which is different from everything else in the case. So I guess we are trying to get to -- was it just because of the tragedy that happened that -- in this particular instance?

Mr. Serres. I think you can answer that question, if that is the question.

Mr. Newell. What was the question? That was a statement. What was the question?

BY MR. CASTOR:

Q If these defendants hadn't been identified yet shortly after the Brian Terry incident, where a border patrol agent was killed,

immediately Avila was arrested and that is different than the rest of the defendants, what was unique about that? Was it the specific tragedy that changed things?

[Discussion off the record.]

Mr. Newell. I mean, what was different there was additional evidence later on in the case concerning Avila. That gave us the ability to charge him with using a false address which is what we charged him in the complaint.

BY MR. CASTOR:

Q As soon as the guns were traced to Avila, he was arrested immediately.

A He wasn't arrested immediately. He was arrested --

Q Later that night, wasn't he?

A Well, sure. To be honest with you, you're talking about a guy who changed his address and literally was a street -- as relayed to me, he was basically a transient and our agents went out with the subpoena and police department I think and found him in a matter of --

Q But you had 40 suspects at that point that you weren't going after their house. 20 of them were indicted subsequently?

A 20, right.

Q But you had 40 or so suspects. And the moment these firearms are found at the Terry scene traced back to Jaime Avila, boom, he is arrested, which is different than everything else that has been described to us with the other suspects in the case. So we are asking why.

A One of the guns was traced back to him, he was a suspect.

Q But there is guns being traced back that are found in Mexican crime scenes that are being traced back, there is guns that are found in El Paso, there are guns that are found in Naco and that arrest didn't happen.

A Well, again, at that point in time, we were still proceeding toward doing one indictment against, you know, the whole series of people. And that incident happened and then there was evidence that it was gathered later in the case to be able to arrest him on a complaint.

BY MR. FOSTER:

Q Surely you're not suggesting that you learned of the address change and the falsehood about the address on the form, you happened to learn about that on December 14th, the same night that Agent Terry was killed? That's not what you are suggesting, is it?

A No. I'm not suggesting it at all.

Q So you had the information that allowed you to make the complaint on him long before you actually did it, right?

A I don't think it was long -- as I recall, the complaint lists purchases that were made in -- it was June or July.

Q 6 months earlier, right?

A Sure. Okay.

Mr. Kerner. May I just ask? There was no precipitating event --

Mr. Serres. I am sorry. Can we go one questioner at a time here? I mean, we have gone to three now.

Mr. Castor. Sure. No problem.

Exhibit 141

Exhibit 141

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March 14, 2012

By Hand Delivery

Representative Darrell E. Issa
Chairman
U. S. House Committee on Oversight and
Government Reform
2157 Rayburn House
Washington, DC 20510

Senator Charles Grassley
Ranking Member
U. S. Senate Committee on the Judiciary
135 Hart Senate Building
Washington, DC 20510

Re: Objections to "Fast and Furious" Memorandum Issued on February 1, 2012

Chairman Issa and Senator Grassley:

I write on behalf of William D. Newell, former Special Agent in Charge of the Phoenix Field Division of the ATF, to correct the factual distortions in your staff's "memorandum." To be clear, this faulty memorandum and the conduct of the Committee's investigation to date has disserved and continues to disserve Special Agent Newell personally and economically and has disserved the hard working ATF agents, in Phoenix and elsewhere who, with great personal sacrifice, risk their lives every day to make a difference in the communities in which we live. It is, of course, now evident that the citizens of this country are far less safe today primarily as a result of the irresponsible manner in which this "outcome-determined" investigation has been conducted. For the sake of fairness and effective law enforcement, I urge you to correct the record to reflect accurately the actual events of the Fast and Furious investigation some of which are set out below.

Preliminarily, as a recently departed former Department of Justice prosecutor for over 25 years, I have learned that the ultimate success and legitimacy of any investigation depends upon the capacity of investigators to blindly follow the evidence wherever it leads and to neutrally and dispassionately evaluate that evidence before reaching a conclusion. Given your staff's tortured factual conclusions, your staff's utter disregard of any evidence that contravened or rebutted the preordained and misdirected conclusions of misconduct, speculation as to motive is unnecessary. Any objective analysis of the underpinnings of your staff's initial findings will find them lacking in both substance and truth.

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

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

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FIRST FALSE ASSERTION:

“ATF purposely failed to confront straw purchasers and interdict guns. Disrupting and deterring the illegal activity took a backseat to the lawful goal of dismantling the entire organization.”

Your staff is aware that not only were putative straw purchasers confronted by law enforcement personnel, albeit to no avail, but that the ultimate goal of the Fast and Furious investigation was to determine the scope of the organization, disrupt and deter the illegal activity and to seize guns when the agents could lawfully do so. Your staff’s assertions are demonstrably incorrect as the uncontroverted evidence that your staff has either concealed or purposely failed to consider convincingly establishes.

Special Agent Newell and others in the supervisory chain in ATF’s Phoenix Field Division have provided testimony under oath to your committee and staff on a number of occasions. It is my understanding that they have all confirmed to your staff that the investigators initially and unsuccessfully confronted several straw purchasers. You have in your possession the reports of investigation which also confirm this.¹⁷ Also, your staff is aware that the agents in this case took appropriate law enforcement steps to seize guns and did seize guns when they lawfully were permitted to do so. As outlined in more detail below, all of the objective and credible evidence convincingly establishes that the Group VII ATF Phoenix Field Division agents attempted to and did seize all guns when the United States Attorney (AUSA) assigned to the Fast and Furious matter authorized them to do so. More than 150 guns were seized in June and July 2010 as the wiretap was bearing evidentiary fruit. Of course, this confirms ATF’s effort to seize guns when they were lawfully permitted to do so.

SECOND FALSE ASSERTION:

“Intercepts from the DEA wiretap provided the probable cause necessary for ATF to make arrests at least as early as December 2009, or, at the very least, supplied the necessary predicate to use other investigative techniques to disrupt the illegal activity and seize the weapons. . . . ATF, however, did not act on this information. Agents could have arrested

¹⁷ Your staff investigation has revealed that at the inception of the Fast and Furious investigation, on December 8, 2009, Sean Steward was stopped by law enforcement and questioned about his purchase of 20 AK-47 type rifles; he was with Manuel Celis-Acosta at the time. Steward flatly denied purchasing the guns for anyone other than himself. At that time there did not exist lawful authority to seize those weapons. (See September 21, 2011 Supplemental Statement of Special Agent Newell at p.7). Also, you are aware that on December 21, 2009 putative straw-purchaser Jose Polanco was stopped and questioned by law enforcement and denied purchasing guns on behalf of another (id.). As to the memorandum’s baseless allegation that ATF purposely failed to interdict guns, see July 26, 2011 Statement of William Newell (“To be clear, ‘Fast and Furious’ was an OCDEF operation designed . . . to interdict, *when lawfully possible*, firearms presumptively destined for Mexico.”); September 21, 2011 Supplemental Statement of William Newell at p.5 (one of the objectives of the operation was “to seize firearms and arrest the criminally culpable members of the organization *when lawfully permitted to do so.*”)

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Celis-Acosta in December of 2009 and used the arrest to work their way up the ladder to the two cartel associates.”

Not only is this finding is incorrect, but the attempt to compress the future results of a complex ongoing 10 month investigation into a two week window in December 2009 completely misses the mark. First, ATF did not have real time access to the DEA wiretaps. The wiretap information that you naively describe as having “provided the probable cause” to support arrests “as early as December 2009,” was not even transmitted to the ATF until January 2010.^{2/} Your staff also knew and understood that ATF did indeed act on the information known to them; on January 5, 2010, the ATF Fast and Furious case agents met with the United States Attorney’s office (USAO) to discuss the evidence and prosecutive merit of the case and were informed by the USAO that probable cause did not yet exist to effectuate seizures and/or the arrest of Celis-Acosta and the putative straw purchasers he was believed to have recruited. These facts are not in dispute. Thus, the USAO and ATF, quite prudently, agreed that an OCDETF Operation with electronic wiretaps was the best way to gather sufficient evidence to meet the USAO’s stated evidentiary threshold for seizure and arrest in this case.

Your staff’s memorandum further evidences a lack of understanding of federal criminal laws when it states that even if the DEA wiretaps did not provide probable cause, they “at the very least provided the necessary predicate to use other investigative techniques to disrupt the illegal activity or seize the weapons.” I am sure your staff is aware that the probable cause standard for seizure and arrest are one and the same; ergo, if the probable cause standard cannot be met to arrest on individual as a “straw purchaser” it cannot be met to seize a weapon that is believed to have been straw purchased. Your staff should further know that because guns are not in and of themselves “contraband” a probable cause standard must be met before they can be lawfully seized. Your staff’s allusion to the fact that there is some lesser “predicate” necessary for “seizure” strikes me as purposefully uninformed either as to the law or as to the USAO’s legal counsel that the agents lacked probable cause to seize.

^{2/} Your staff’s conclusion that in the interest of making “it’s own big case” the ATF delayed making arrests, ensuring that the investigation would “last nearly a year longer, with 1,500 more guns being purchased, -- including the guns bought by Jamie Avila in January of 2010 that were found at the murder scene of Border Patrol Agent Brian Terry,” is at best irresponsible. Your staff is aware that this statement is incorrect for several reasons: First, your staff is aware that the DEA wiretap information which your staff maintains provides “probable cause” was not provided to the ATF until January 2010 at the earliest. Whether those transcripts, the substance of which you fail to address, actually provide sufficient evidence to arrest anyone for some unidentified crime is, of course, subject to critical debate. Second, your staff further knows as a matter of undisputed fact that Avila, unknown to the ATF, purchased those guns on January 16, 2010, and that the ATF did not learn of that gun purchase until January 19, 2010. As such, even assuming that a law enforcement agent understood that the wire taps contained “probable cause” type information, your staff knows both factually and practically, that those initial wiretaps did not mention Avila, *and* that federal law enforcement agents were powerless to prevent that sale of those guns to Avila on January 16. Your staff’s reckless recitation of these events advances no meaningful goal and serves only to irresponsibly inflame the public and Agent Terry’s family.

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You know as a matter of uncontradicted fact that until June of 2010 the position of the United States Attorney's Office in Arizona was that there did not exist probable cause to either seize guns or arrest suspected straw buyers in this case. You further know that it was not until June of 2010, when the ATF agents were able to produce to the USAO specific evidence from conversations captured by the wiretap, that ATF was permitted to seize guns from straw purchasers as supported by probable cause. You also know that the specific evidence captured on the wiretaps led the USAO to authorize the probable cause seizure of approximately 40 guns in June and more than 100 in July of 2010. The USAO's polices which distorted the probable cause determinations in this case are set out fully and unabashedly in an email from the Criminal Chief of the Arizona USAO to ATF dated March 6, 2011, which has been made available to you.

THIRD FALSE ASSERTION:

"ATF insisted that the techniques and strategies used in Operation Fast and Furious were necessary to take down a complicated gun trafficking operation. In reality, however, the network was not complex."

Sadly, your staff's analysis fails to consider the opinions of most, if not all, of the experts in criminal law enforcement and the reasoned judgments made by successful career law enforcement personnel on the ground and familiar with these cartel organizations. Your staff's reference to a "*small cadre* of about 40 straw purchasers" speaks volumes in its absurdity. First, *forty (40)* conspirators in any criminal organization could never rationally be considered a "small cadre."^{3/} I am not aware of a case in modern criminal jurisprudence where ATF dealt with an organization that involved more than 40 putative straw purchasers. The wiretap transcripts, the money trail for the purchase of guns, the methods to smuggle and transport the guns, all establish that this gun smuggling cell of an international drug smuggling cartel, was indeed a complex criminal enterprise.

Gathering this evidence proves to be especially difficult in straw purchaser cases, particularly given the USAO's communication of the evidentiary or other relevant legal standards to the agents. As Special Agent Newell explained to you in his sworn supplemental testimony:

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

^{3/} Your staff is also aware that the number of straw purchasers that the ATF has deemed to warrant prosecution in the Fast and Furious cases approaches 60.

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obvious prosecutive challenges, and the nominal sentencing guidelines associated with the falsification of information required on federal firearms transaction forms, regardless of the statutory maximums. Another disincentive for cooperation is the significant and well founded fear of violent physical retaliation by the Mexican drug cartels.

Moreover, to baldly conclude, with the benefit of 20-20 hindsight, that simply because the experienced case agents *knew* and *understood* that they were investigating an organization that was purchasing guns and shipping them to “violent criminals” in Mexico, that they somehow possessed sufficient evidence in December of 2009 to take down either the organization and/or its principals, is naïve and exposes a fundamental misunderstanding of the criminal justice system on the part of your staff. Cases are made solely on the basis of admissible evidence, not on what an agent “knows,” “understands,” or “believes.”

Your staff further is aware that the case agents working the case, despite repeated attempts, were not able to cultivate a single cooperator capable of providing them information as to the organization’s operational planning, structure or membership. Such proactive investigations are akin to building a jigsaw puzzle in a darkened room. The incredible law enforcement efforts in this case ultimately unveiled a wide ranging gun trafficking organization that utilized more than 60 straw purchasers and involved the leadership of the Sinoloa Cartel. Your staff’s characterization of this organization as consisting of “about 40 straw purchasers . . . one ringleader, and two cartel associates” is an inaccurate and a gross distortion of the evidence gathering function required to prosecute them; Your staff’s conclusions, of course, are confidently provided with the gift of 20-20 hindsight gained from the considerable investigative efforts of the dutiful agents. Furthermore, we are not aware of, and you have not cited, a single witness who has challenged the legitimacy of the law enforcement techniques utilized in this case. Second guessing for the sake of playing “gotcha” politics is uniquely and specifically harmful to continued effective law enforcement in this very important arena involving the trafficking of guns to Mexico.^{4/}

FALSE ASSERTIONS REGARDING EXISTENCE OF A “TACTIC” TO LET GUNS WALK:

Throughout the Memorandum you continuously and erroneously refer to “gun walking” as a “tactic . . . widely used in Fast and Furious,” in a disturbing attempt to cast wide blame on the ATF supervisors and agents as well as the attorneys in the Department of Justice

^{4/} Your staff is certainly aware that federal public officials, including prosecutors and law enforcement agents, are imbued with “qualified immunity” because a previous wise congress understood it was important “to allow [public] officials to act (without always erring on the side of caution) when action is required to discharge the duties of public office.”⁴ *Foy v. Holston*, 94 F.3d 1528, 1534 (11th Cir. 1996). Such protection, like the immunity Congressmen enjoy, prevents deleterious second guessing of their decisions because “when public officials do their jobs, it’s a good thing.” *Id.*

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My client, Special Agent William Newell, has assiduously advised you on multiple occasions, under oath, that no such tactic, plan or strategy ever was contemplated or existed in the Fast and Furious investigation. To our knowledge, other than the discredited and obviously false testimony of two agents,^{5/} none of the more than 50 law enforcement officers, agents or supervisors from multiple agencies directly involved in the investigation has supported your assessment. After twelve months of investigation, it is apparent that you have found no reliable testimony or evidence to support the false proposition that there was an ATF “tactic” or “program” used in the Fast and Furious OCDETF Investigation that permitted gun walking; none existed. Your harmful and callous assault on these dedicated federal agents including Special Agent Newell is particularly unwarranted and harmful here where all of the credible evidence had established that the ATF agents had no such plan, seized every gun they lawfully could, and were constrained by an unusually conservative approach to probable cause in straw purchaser cases taken by the USAO in Arizona. Such “gotcha” games, done solely for political expediency, is extremely detrimental and consequential to effective law enforcement.

THE ACTIONS OF THIS COMMITTEE WILL HAVE LASTING AND DETRIMENTAL
CONSEQUENCES ON THE ABILITY OF ATF TO ENFORCE THE LAW

As you surely must know, during the Fast and Furious Investigation, ATF Group VII agents seized almost 375 guns presumptively destined for Mexican drug cartels in 2010. That constituted 100 more guns seized than any other Southwest Border group. Since this Committee’s investigation became public in March of 2011, Group VII has seized less than 25 guns. In 2011, Group VII’s gun seizures totaled less than 55 resulting in an astounding **80% decline** in guns seizures by ATF’s Phoenix Field Division. I believe that continuing this unfair witch hunt will cause that trend intolerably to continue along the Southwest border. Such reticence by good agents makes sense, given the unfair, false and unrelenting vilification of the hard working Phoenix ATF agents involved in the Fast and Furious investigation, whose only sin was to attempt to tackle a burgeoning gun smuggling group utilizing the laws at their disposal.

^{5/} Not only is your support of the unreliable and demonstrably false testimony of these two agents suspect, your staff goes to great lengths to conceal the fact that that these two agents (Dodson and Casa) actually and purposefully sponsored a plan to *walk* multiple firearms in a separate case (Issais Fernandez) in contravention of DOJ policy. This is evidenced by the fact that your staff memorandum, in great detail, castigates the Arizona United States Attorney for “leaking” a “document” about “one of the whistleblowers in Fast and Furious.” Though your staff spends almost three single-spaced pages of the memorandum discussing this incident, your staff assiduously avoids discussing its contents: a memorandum by SA Dodson to an ATF Phoenix ASAC seeking permission to engage in “walking” multiple firearms to known criminals. Your staff is further aware, based upon your review of further email traffic that SA Dodson and another so-called “whistleblower,” Special Agent Alt, knew and understood that before they could participate in a controlled delivery of guns to known criminals they would have to obtain the approval of the United States Attorney. You are also aware that SA Dodson never obtained such approval. Given the harm that these revelations do to your “conclusions” in the Fast and Furious matter, it is not a surprise that your staff has chosen not to reveal them.

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There was once a great Republican President who understood the stark consequences of politicians unfairly criticizing those public servants who dutifully sought to make a difference under challenging circumstances:

It is not the critic who counts, not the man who points out how the strong man stumbled. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly, who errs and comes up short again and again because there is no effort without error and shortcoming; who knows great enthusiasm and great devotions, who spends himself in a worthy cause, who at best knows in the end the triumph of high achievement, and who at worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat.

Theodore Roosevelt, *Man in the Arena*

We need more, not less, public servants like Special Agent Newell and the men and women who, despite the challenges imposed by our nation's gun laws and the legal system in which they operated, strove to make a difference and tried their level best to put an end to the illegal gun trafficking the plagues the Southwest border. We need more, not less, public servants like Special Agent Newell and the men and women of Group VII who are willing to tackle the challenging and difficult investigation, like *Fast and Furious*, simply because it is an important cause worthy of their devotion. The false conclusions of this politically motivated "investigation" continue to damage these men and women individually, law enforcement generally, and this Country greatly. We deserve better.

Sincerely,

 Paul E. Pelletier

cc: Representative Elijah E. Cummings
 Minority Staff
 U.S. House Committee on Oversight and Government Reform
 2235 Rayburn House
 Washington, DC 20510

Senator Patrick J. Leahy
 Chairman
 U.S. Senate Committee on the Judiciary
 437 Russell Senate Bldg.
 Washington, DC 20510

Exhibit 142

From: Newell, William D. [REDACTED]
Sent: Sunday, March 6, 2011 8:30 PM
To: Voth, David J. [REDACTED]
Subject: Fw: Materials For Bill Newell and ATF in DC
Attach: [REDACTED] indictment.pdf; [REDACTED].pdf; [REDACTED] indictment.pdf;
[REDACTED] indictment.pdf; [REDACTED] indictment.pdf; 12 2 10 Ltr to USSC.PDF

NOTICE: This e-mail message and any attached files are intended solely for the use of the addressee(s) named above in connection with official business. This communication may contain Sensitive But Unclassified information that may be statutorily or otherwise prohibited from being released without appropriate approval. Any review, use, or dissemination of this e-mail message and any attached file(s) in any form outside of the Bureau of Alcohol, Tobacco, Firearms & Explosives or the Department of Justice without express authorization is strictly prohibited.

From: Cunningham, Patrick (USAAZ)
To: Newell, William D.; Needles, James R.
Cc: Burke, Dennis (USAAZ) ; Scheel, Ann (USAAZ) ; Hernandez, Rachel (USAAZ) ; Morrissey, Mike (USAAZ) ; Hurley, Emory (USAAZ) ; Kelly, Kristen (USAAZ) 6
Sent: Sun Mar 06 18:20:55 2011
Subject: Materials For Bill Newell and ATF in DC

Bill and Jim:

As you work in DC today to prepare with ATF Leadership, enclosed below are some issues and our answers we have compiled. Issues are in Green and proposed answers are in black.

Hope they are helpful. Thanks. PJC

A. On the Status of F and F lead indictment, Avila:

Questions: Whether Jaime Avila is in custody, what's his plea, next steps?

Answer:

Under 9th Circuit law offenses committed by "straw purchasers" are not considered crimes of violence for which a person can be detained pending trial. As to the only other basis for pretrial detention – flight risk – Avila is a US citizen and the Bail Reform Act requires the court to impose the least restrictive conditions that will reasonably assure his appearance and the safety of the community. Here, Avila was released on conditions pending Trial by the Magistrate Court. His release conditions include reporting as directed to U.S. Pretrial Services, surrendering any passport, not traveling outside the district of Arizona, having no contact with the other defendants, and not possessing a firearm or other dangerous weapon.

Regarding the treatment of "straw purchasers" by the Criminal Justice System, the five Southwest Border United States Attorneys from Arizona, Texas, California and New Mexico recently sent the enclosed letter (pdf enclosed) to the United States Sentencing Commission urging that the prison sentences for "straw purchasers" be strengthened because of their role in the trafficking and illegal export of weapons." The letter states in part:

'As the chief federal law enforcement officers in the Southwest border region, we

strongly believe the Commission must amend USSG § 2K2.1 if it is truly to address the national security implications of arms trafficking. As the Department explained during its meeting with Commission staff, straw purchasers are the primary source of firearms trafficked to Mexico from the United States. Most of the defendants prosecuted for arms export or arms trafficking offenses involving the Southwest border would not have obtained the firearms at issue were it not for the efforts of straw purchasers. Yet because straw purchasers face such low guideline ranges under § 2K2.1, and because many judges see straw purchasing as a mere "paper" violation, the sentences received by straw purchasers fail to reflect the seriousness of the crime or the critical role played by these defendants in the trafficking and illegal export of weapons. Simply put, straw purchasing and illegal arms exporting go hand in hand, and both must be addressed together."

Regarding Avila's plea and next steps, he has entered a plea of Not Guilty and the current schedule for the case is as follows:

CR-11-126-PHX-JAT (Avila et al)-

Motions Deadline -4/22/11
Jury Trial- 06/07/2011 at 09:00 AM

B. On the issue of "sanctioning" or "encouraging" gun sales:

ATF Agents and Lawyers from the US Attorney's Office did not "encourage" any FFL to "keep selling guns to known straw buyers." In the two meetings with FFLs, attorneys and agents advised the FFLs that the Government cannot advise them to sell multiple guns or advise not to sell multiple guns. The FFLs were advised that those decisions were up to FFLs as are all decisions to sell left up to the FFL to evaluate the sale and determine whether it is lawful. In short, the FFLs were advised that the Government cannot advise FFLs to halt a sale that appears lawful and we cannot authorize a sale that appears unlawful. There was no mistake as to the clarity of the Agents' and Attorneys' message.

FFLs need no encouragement to sell guns as that is their actual business, selling guns. By the time that the government met with the owners, they had made many multiple sales and the guns were gone.

The FFLs wanted to know that the information that they provided was actually useful, and that they were not unwittingly implicating themselves in some criminal activity of which they weren't aware. As we have said so many times before, they were told that ATF could not authorize illegal sales to be made any more than they could prohibit lawful sales, however, ATF appreciated their cooperation and willingness to voluntarily provide information to ATF including notice of multiple long gun purchases and notice of single gun sales of certain types of firearm or sales to particular individuals. No one discussed civil liability. The FFLs were providing information to ATF regarding transactions that the FFL must have viewed as lawful, having no knowledge or reason to know that the transfers were unlawful.]

Main Justice position on the issue of Sanctioning or encouraging arms sales, the Quote of Assistant Attorney General Ronald Weich in his February 4, 2011 letter:

"At the outset, the allegation described in your January 27 letter— that ATF "sanctioned" or otherwise knowingly allowed the sale of assault weapons to a straw purchaser who then transported them into Mexico—is false."

C. On the issue of "walking guns" or the timely seizure of guns:

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 purposes 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))

In short, the law does not permit agents to take guns away from anyone who buys ten AKs at a time solely because they bought multiple guns.

- D. When weapons sales were monitored and those guns later turned up in crime scenes, had ATF somehow “authorized” the sales that ATF could have ordered stopped, or did ATF somehow not seize the guns appropriately or in a timely fashion?:

The number one concern for DOJ is interdicting guns that are unlawfully transferred to persons in the United States and in Mexico who will then commit crimes with those guns. The purpose of this investigation was to locate those guns, interdict those guns and bring those responsible for their unlawful purchase, transfer, finance and use to justice.

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.

DOJ’s goals of the investigation were two-fold: 1. Interdiction of the weapons that were purchased or possessed in furtherance of the unlawful trafficking conspiracy; and 2. Investigation with an emphasis on discovering other members of the trafficking organization, particularly the leaders of the organization who procure the guns from straw purchasers and have them smuggled into Mexico to the Cartels. 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 unlawful, and ATF may only seize when a lawful basis for seizure can be proven under the US Constitution and statues passed by Congress.

The question seems to connote that ATF can promulgate a “No Sell” list like a “No Fly List”, under which FLLs would be prohibited from selling any guns to any person on the list. ATF has no such power and ATF cannot interfere with the operation of commerce and prohibit a gun store from making a lawful sale to lists of suspects based upon nothing more than mere suspicion. These lists might well be long and would curtail a person’s rights to purchase arms without any due process.

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 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.

- E. Regarding the question "In regards to the guns recovered in Rio Rico after the Terry shooting, when they were purchased from FFL #1 (Jan, 2010) was there surveillance going on in conjunction with Operation Fast and Furious, or did ATF only become aware after the fact and link it to FFL #1 after the fact?"

Answer: There was no surveillance going on and the ATF did not learn of the sale until three days after it took place and the weapons were gone.

- F. Regarding the LA Times and CBS News stories, they do not account for the fact, or rebut in any way, that this District is actively prosecuting unlawful weapons and ammunition traffickers.

In just two recent investigations in Phoenix, 51 defendants in 10 indictments have been charged.

In Fast and Furious announced on January 25 (Press release link below) 34 defendants in five indictments were announced. The trials are set for these dates:

Fast and Furious

CR-11-126-PHX-JAT (Avila et al)-	Motions Deadline -4/22/11 Jury Trial- 06/07/2011 at 09:00 AM
CR-11-013-PHX-SRB (Aguilar)-	Motions Deadline- 2/25/11 Jury Trial- 04/05/2011 at 09:00 AM
CR-10-1187-PHX-ROS (Broome et al.)-	Motions Deadline (dft: Johneshia Mcgraw) 2/4/11 Motions Deadline (dft: Linda Krom, Kenneth Honea, Jeffrey Broome) 2/4/11 Jury Trial(dft: Linda Krom, Kenneth Honea, Johneshia Mcgraw, Jeffrey
Broome) - 04/05/2011 at 08:30 AM	
CR-10-1607-PHX-NVW (Abarca)-	Motions Deadline- 3/11/11 Change of Plea Hearing- 3/23/11 Jury Trial- 04/05/2011 at 09:00 AM
CR-10-1831-PHX-FJM (Flores et al)-	Motions Deadline (dft: Jovanny Moraga-Escoboza, Mary Natalie Lopez, Ulises Quinonez, Pablo Sanchez Vasquez, Jr, Juan Velasquez, Fabiola Zaragoza, Luis Fernando Mendoza-Zamora, Raul Flores Lopez) - 3/18/11 Jury Trial (dft: Jovanny Moraga-Escoboza, Mary Natalie Lopez, Ulises Quinonez, Pablo Sanchez Vasquez, Jr, Juan Velasquez, Fabiola Zaragoza, Luis

Fernando Mendoza-Zamora, Raul Flores Lopez)- 05/03/2011 at 09:00 AM

Press Release at:

http://www.justice.gov/usao/az/press_releases/2011/PR_02172011_Macedo_Saucedo-Cuevas%20et%20al.pdf

Links to Indictments:

http://www.justice.gov/usao/az/news_archive_2011.html

In the Too Hot to Handle set of cases announced on February 17, 2011, 17 defendants in five indictments were announced. The trials are set for these dates:

Too Hot to Handle

CR-10-00961-PHX-NVW (U.S. v. Resa, et al.) Motions Deadline (dft: Angel Gabriel Ruiz, Alejandro Adalberto Torres, Nolberto Vasquez)- 03/07/11
 Motions Deadline (dft: Salvador Figueroa Resa, Estefany Jose-Ortiz) -3/11/11
 Jury Trial (dft: Angel Gabriel Ruiz, Alejandro Adalberto Torres, Nolberto Vasquez, Estefany Jose-Ortiz)- 04/05/2011 at 09:00 AM

CR-11-00231-PHX-JAT (U.S. v. Muela-Zapata, et al.) Motions Deadline (dft: Maria Yvonne Carbajal, Luz Martinez, Yolanda Villalobos De Zapata, Francisco Zapata, Jr, Francisco Muela Zapata) -3/7/11
 Motions Deadline (dft: Kelly Rae Hooper)- 3/16/11
 Status Conference (dft: Kelly Rae Hooper, Maria Yvonne

Carbajal, Luz Martinez, Yolanda

Villalobos De Zapata, Francisco Zapata, Jr, Francisco Muela Zapata)- 03/16/2011 at 11:15 AM Jury Trial
 (dft: Maria Yvonne Carbajal, Luz Martinez, Yolanda Villalobos De Zapata, Francisco Zapata, Jr, Francisco Muela Zapata)-
 04/05/2011 at 09:00 AM
 Jury Trial (dft: Kelly Rae Hooper)- 04/05/2011 at 09:00 AM

CR-10-01129-PHX-NVW (U.S. v. Macedo, et al.) Motions Deadline (both defendants)- 05/13/2011
 Jury Trial (both defendants)- 06/07/2011 at 09:00 AM

CR-11-00245-PHX-ROS (U.S. v. Beltran-Bermudez, et al.) Motions Deadline (both defendants)- 03/03/2011
 Jury Trial- 04/05/2011 at 09:00 AM

CR-10-01296-PHX-ROS (U.S. v. Large)- Motions Deadline-02/19/2011
 Jury Trial- 05/03/2011 at 08:30 AM

Press Release at:

http://www.justice.gov/usao/az/press_releases/2011/PR_02172011_Macedo_Saucedo-Cuevas%20et%20al.pdf

Indictments as:

http://www.justice.gov/usao/az/press_releases/2011/US_v_Resa_Indictment.pdf

In the Tucson Office alone there are currently [REDACTED] pending indictments charging [REDACTED] defendants with attempting to export thousands of rounds of ammunition to Mexico and with weapons offenses. Those indictments are enclosed in PDFs.

Exhibit 143

Microsoft Outlook

From: Newell, William D. [REDACTED]
Sent: Wednesday, July 28, 2010 7:50 PM
To: O'Reilly, Kevin M.
Subject: RE: Wicked One
Attachments: One week in Phoenix - One ATF case.pdf

These pics are just an example of some of the guns, ammo and magazines seized within the past week in Phoenix related to the "large OCDETF case" I mentioned. When a 22 year old kid on State financial assistance walks into a gun store and plops down \$12,000 in cash to buy a tripod mounted .50 caliber rifle that's a clue (even for us) that he's involved in trafficking firearms for a Mexican DTO. Another picture shows the 225 drum magazines we seized from the same group. These are in BIG demand by the Mexican DTOs because each drum hold 75 rounds of 7.62x39mm (AK47) ammo. Each one costs about \$200, depending on where you go, so we they aren't happy we seized approx \$45,000 in merchandise from them but of course money is not a problem for them. If you have any questions, like "how in the hell....?" then feel free to call.

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

From: O'Reilly, Kevin M [REDACTED]
Sent: Wednesday, July 28, 2010 3:57 PM
To: Newell, William D.
Subject: Re: Wicked One

Well, now that Jeff Stirling is going back to the Mother Ship I expect they'll have the means to do more of that ... he's a good man & he'll be a good ally for you guys (& us).

Kevin M O'Reilly
 Director
 North American Affairs
 National Security Staff
 The White House
 [REDACTED]

From: Newell, William D. [REDACTED]
To: O'Reilly, Kevin M.
Sent: Wed Jul 28 18:53:52 2010
Subject: RE: Wicked One

Sure, just don't want ATF HQ to find out, especially since this is what **they** should be doing (briefing you)!

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

From: O'Reilly, Kevin M [REDACTED]
Sent: Wednesday, July 28, 2010 3:51 PM
To: Newell, William D.
Subject: Wicked One

Wicked One.

Even I'd remember that one.

This is great; very informative.

OK to share with Sr Director Dan Restrepo and with CT/CN Director Greg Gatjanis?

Would not leave NSS, I assure you.

Kevin O'

Kevin M O'Reilly
 Director
 North American Affairs
 National Security Staff
 The White House

From: Newell, William D. <[REDACTED]>
To: O'Reilly, Kevin M.
Sent: Wed Jul 28 18:45:51 2010
Subject: RE: GRIT Surge Phoenix

Going very well actually. I attached the most recent weekly "report card" that we send to HQ on Fridays. (Please keep to yourself). I didn't include some of the case highlights because most are on-going criminal cases including a couple of large OCDEF investigations [REDACTED]. Bottom line is that we are on-target to meet our FFL inspection goals as well as eliminate our backlog of "leads". A 'lead' is where we have solid information regarding firearms trafficking activity but not enough manpower to work it. The best part about the GRIT for me has been the influx, albeit temporary (100 days), of Special Agents, Inspectors, Support Staff, etc. They have allowed us to catch up on the backlog of leads as well as follow up on newer information. They have also been instrumental in supplying much needed ground-level support to several large-scale firearms trafficking investigations with direct links to Mexican DTOs. As an example I have had 10 Special Agents working exclusively in support of a very large OCDEF case involving firearms trafficking by the Sinaloa DTO. These agents have been so busy that they have expressed a desire to extend past the GRIT deadline due to the amount of work still needed on this case, a very good thing. One agent on detail from Miami (another hotbed of firearms trafficking activity as you well know) told me recently

"I thought Miami was crazy!". He's never seen this level of illegal firearms trafficking activity before and wants to stay another 30 days just to help out with this case. Most of this has taken place in the Phoenix area. In Tucson we have been working hand in hand with the Tucson PD and have taken off several home invasion crews. This past Friday we arrested a crew whose leader has "Wicked One" tattooed across his forehead, easy to pick out in a lineup.

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

From: O'Reilly, Kevin M [REDACTED]
Sent: Wednesday, July 28, 2010 2:56 PM
To: Newell, William D.
Subject: Re: GRIT Surge Phoenix

No rush, certainly no forcing action on this, just wondering how's it going.

Take care,

Kevin O'

Kevin M O'Reilly
 Director
 North American Affairs
 National Security Staff
 The White House

From: Newell, William D. <[REDACTED]>
To: O'Reilly, Kevin M.
Sent: Wed Jul 28 17:54:12 2010
Subject: Re: GRIT Surge Phoenix

Heading back to the office from Phoenix PD HQ, send you some info asap.

Bill Newell
 Special Agent in Charge
 ATF Phoenix Field Division (AZ and NM)

[REDACTED]

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

From: O'Reilly, Kevin M. <[REDACTED]>
 To: Newell, William D.
 Sent: Wed Jul 28 17:52:48 2010
 Subject: Fw: GRIT Surge Phoenix

Just an informal "how's it going?"

Kevin M O'Reilly
Director
North American Affairs
National Security Staff
The White House



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

From: Gatjanis, Gregory T.
To: O'Reilly, Kevin M.; Kendall, Sarah M.
Sent: Wed Jul 28 13:29:53 2010
Subject: RE: GRIT Surge Phoenix

No. I haven't

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

From: O'Reilly, Kevin M.
Sent: Wednesday, July 28, 2010 12:07 PM
To: Gatjanis, Gregory T.; Kendall, Sarah M.
Subject: GRIT Surge Phoenix

Have we gotten any readout on ATF's GRIT surge in Phoenix & in Arizona?

Regards,

Kevin O'

Kevin M O'Reilly
Director
North American Affairs
National Security Staff
The White House





(This is a TNW Firearms, Model M2HB, .50 caliber rifle. See for yourself a [REDACTED])

Remember this seizure (see below) in Sonora, Mexico from last year? It was related to the Beltran Levya DTO. This is the picture that the so-called gun experts said is ***“proof that the Mexican Army is supplying the DTOs with firearms because this is definitely a military gun”***....wrong, this gun is also a TNW and was purchased in Tucson, Arizona (part of another OCDETF case). I had two agents from Tucson travel to Hermosillo, Mexico and physically inspect this firearm and the other .50 caliber firearm seized – a Barrett, Model 82A from Tennessee.





Each drum magazine holds about 75-100 rounds of ammo – it depends on the caliber, and each retails for about \$200. Mostly sold at gun shows and they'll sell out within an hour after the doors open and mostly to “suspicious looking” individuals.....



10 AK-47 semi-auto rifles bought by two females headed south to Mexico through Nogales. We had Arizona DPS stop them in order not to compromise the bigger case and when asked about the guns their first response was “guns, what guns?”. Since they didn't claim ownership we took an abandonment until the “real owners” come to claim them, which of course we aren't expecting anytime soon.



“Bag o guns” – they had just purchased these second-hand at the Phoenix gun show. Were headed to Mexico.



4,000 rounds of 7.62x39mm and 500 rounds of .38 Super – bound for Mexico now in our custody.

Exhibit 144

Exhibit 144

From: McMahon, William G.
Sent: Tuesday, December 21, 2010 11:21 AM
To: Newell, William D.
Subject: RE: simple numbers on F&F recoveries

10-4 thanks.

William G. McMahon
 Deputy Assistant Director (West)
 Office of Field Operations
 [REDACTED]

From: Newell, William D.
Sent: Tuesday, December 21, 2010 11:21 AM
To: McMahon, William G.
Subject: Fw: simple numbers on F&F recoveries

For what it's worth and since I don't like the perception that we allowed guns to "walk", I had David Voth pull the numbers of the guns recovered in Mexico as well as those we had a direct role in taking off here in the US. Almost all of the 350 seized in the US were done based on our info and in such a way to not burn the wire or compromise the bigger case. The guns purchased early on in the case we couldn't have stopped mainly because we weren't fully aware of all the players at that time and people buying multiple firearms in Arizona is a very common thing.

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: Newell, William D.
Sent: Thu Dec 16 19:22:42 2010
Subject: simple numbers on F&F recoveries
 Sir,

I can make this more grand tomorrow if you wish but right now by my count;

- Firearms recovered in Mexico = 241
- Firearms recovered in the USA = 350

Thanks,

David Voth
 Group Supervisor
 Phoenix Group VII
 [REDACTED]

HOCR ATF - 001935

Exhibit 145

From: Nelson, Helgi P.
Sent: Thursday, May 06, 2010 10:32 AM
To: MacAllister, Hope A.
CC: Medina, Jose L.; English, Tonya A.; Medina, Jose L.; Sonnendecker, Mark; Hayes, Benjamin R.; Walsh, Daniel E.
Subject: Suspect Gun firearm recovered, RC-5

Subject: Suspect Gun firearm recovered

The National Tracing Center (NTC) has received a Trace request for the above listed firearm. To prevent the NTC from releasing information that may jeopardize your investigation, please choose one of the following. It is extremely important that if your case is still active that you state whether or not we may conduct a Trace on this firearm.

A written response (email communication is sufficient) is required within 7 days of initial notification regarding this email. If a response is not received within this time frame the NTC may be compelled to release trace summary information to the requestor.

All information regarding this and any other trace requests can be obtained by using eTrace. In the event that you do not have access, access can be requested by contacting the Law Enforcement Support Branch at 204-260-1500 or 800-738-7153.

Please advise as to whether your case is:

- a) Active - NTC may release Trace disposition history to other Requestors for only this firearm.
- b) Active - NTC may release Trace disposition history to other Requestors. (This is to be applied to all remaining firearms in this Suspect Gun file)
- c) Active - NTC may not release Trace disposition history to other Requestors.
- d) Inactive - NTC will release Trace disposition to other Requestors.

Suspect Gun Details:

ATF IN Number: 785115-10- [REDACTED]

Suspect Gun File Number: RC-5 [REDACTED]

Suspect Gun submission request date: 3/2/2010

Trace details regarding firearm recovery:

Serial Number: RC-5 [REDACTED]
 Manufacturer: RMC
 Type: RIFLE
 Caliber: 762
 Model: GP WASR

Trace Requestor: RC-1 [REDACTED]
 Requesting Agency: IMMIGRATION AND CUSTOMS ENF.
 Phone Number: RC-1 [REDACTED]

Helgi Nelson
 Program Analyst
 ATF National Tracing Center
 244 Needy Rd.
 Martinsburg, WV 25405-9431
 RC-1 [REDACTED]

HOCR ATF - 002608

Exhibit 146

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



Phone: [REDACTED] Fax: [REDACTED]

Print Date: February 25, 2011

FIREARMS TRACE SUMMARY

Trace Number: T20100191748 Request Date: August 16, 2010 Completion Date: August 17, 2010

[REDACTED]

FIREARM INFORMATION

Manufacturer: ROMARM/CUGIR
Model: GP WASR 10/63
Caliber: 762
Serial Number: 1971DB5028
Type: RIFLE
Country: ROMANIA
Importer: CENTURY ARMS INC (CAI),
ST...

Badge No: C-3
Investigation No: CENAPI

Obliterated:
Identifying Marks:
NIBIN:
Gang Name:

RECOVERY INFORMATION

Recovery Date: 08/13/2010
Time to Crime:

SANTIAGO PAPASQUIARO, DR
MEXICO
Possessor:
DOB:
POB:

ADMINISTRATIVE INFORMATION

SUMMARY OF RESULTS

THE NATIONAL TRACING CENTER (NTC) HAS EXPERIENCED A DELAY IN OBTAINING THE INFORMATION ON THE HISTORY OF THE FIREARM YOU ARE REQUESTING TO BE TRACED.

Additional Remarks:

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

Exhibit 147

LIMITED OFFICIAL USE – LAW ENFORCEMENT SENSITIVE



U.S. Department of Justice

National Drug Intelligence Center

Office of the Director

DATE: June 28, 2010

MEMORANDUM TO THE ATTORNEY GENERAL

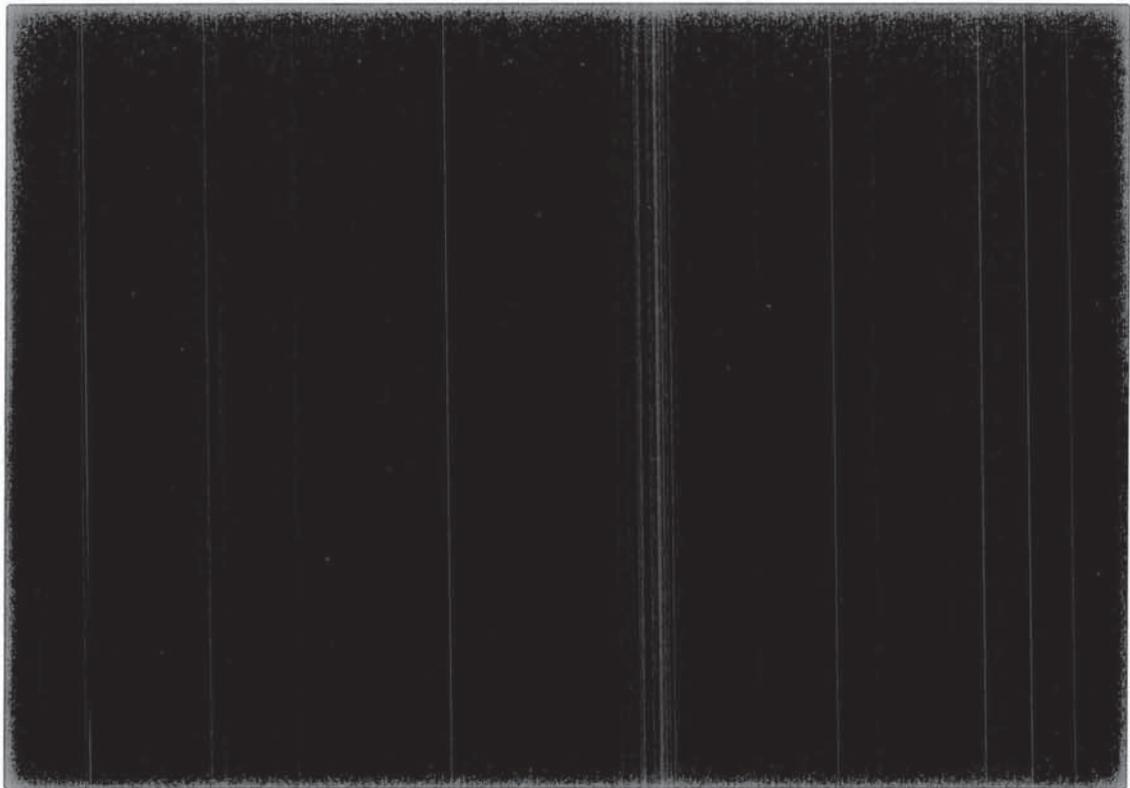
THROUGH THE ACTING DEPUTY ATTORNEY GENERAL

FROM: Michael F. Walther
Director
National Drug Intelligence Center

SUBJECT: WEEKLY REPORT FOR JUNE 28 THROUGH JULY 2, 2010

The National Drug Intelligence Center weekly report for June 28 through July 2 is as follows:

Next Week



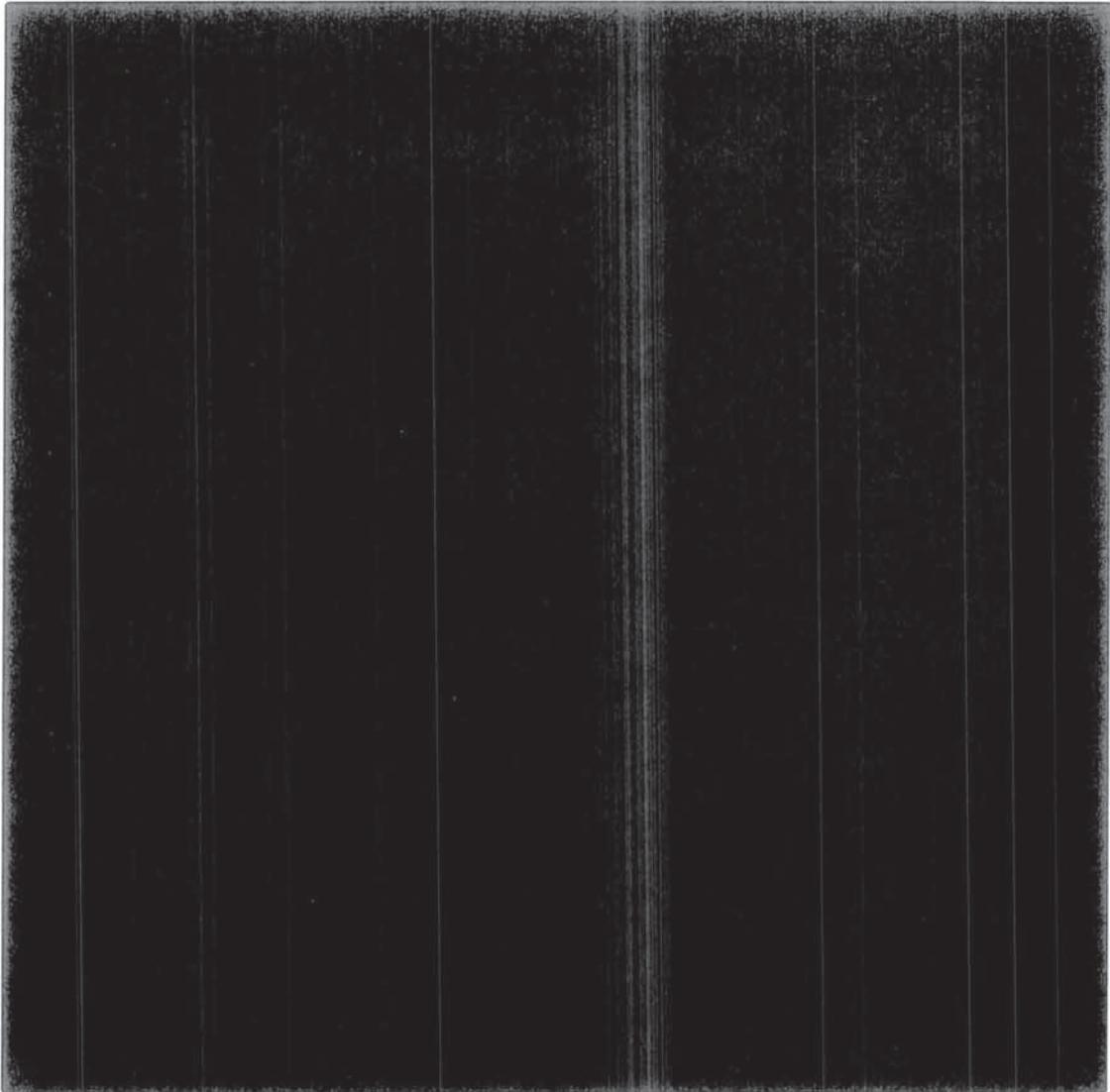
1 of 10

LIMITED OFFICIAL USE – LAW ENFORCEMENT SENSITIVE

ONDCP F&F 000134

LIMITED OFFICIAL USE – LAW ENFORCEMENT SENSITIVE

Memorandum to the Attorney General from Michael F. Walther dated June 28, 2010
Subject: Weekly Report from June 28 through July 2, 2010



- ***(LOU-LES) Document and Media Exploitation Support to the Organized Crime Drug Enforcement Task Force:***

From July 6 through July 9, the National Drug Intelligence Center Document and Media Exploitation Team at the Phoenix Organized Crime Drug Enforcement Task Force (OCDETF) Strike Force will support the Bureau of Alcohol, Tobacco, Firearms, and Explosives' Phoenix Field Division with its investigation of Manuel Celis-Acosta as part of OCDETF Operation Fast and the Furious. This investigation, initiated in September 2009 in conjunction with the Drug Enforcement Administration, Immigration and Customs Enforcement, and the Phoenix Police Department, involves a Phoenix-based firearms trafficking ring headed by Manuel

3 of 10

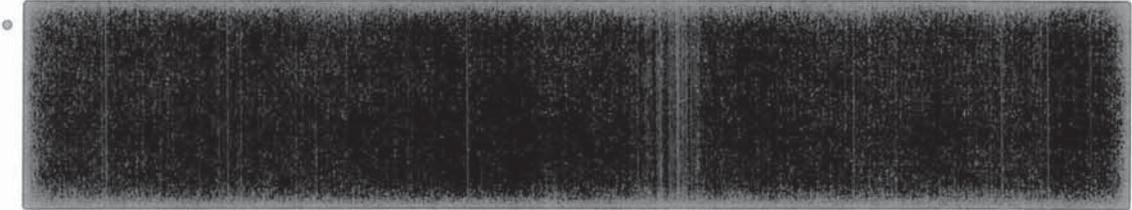
LIMITED OFFICIAL USE – LAW ENFORCEMENT SENSITIVE

ONDCP F&F 000135

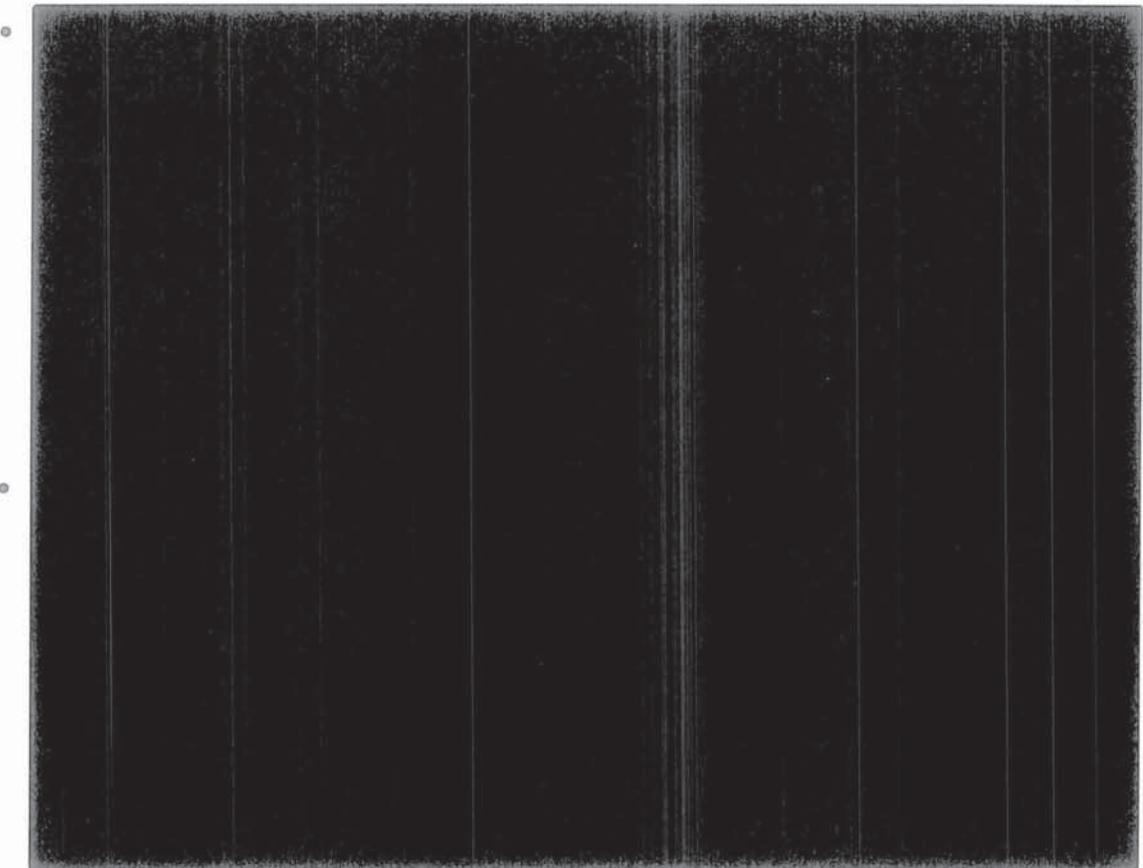
LIMITED OFFICIAL USE – LAW ENFORCEMENT SENSITIVE

Memorandum to the Attorney General from Michael F. Walther dated June 28, 2010
Subject: Weekly Report from June 28 through July 2, 2010

Celis-Acosta. Celis-Acosta and [redacted] straw purchasers are responsible for the purchase of 1,500 firearms that were then supplied to Mexican drug trafficking cartels. They also have direct ties to the Sinaloa Cartel which is suspected of providing \$1 million for the purchase of firearms in the greater Phoenix area.



This Week



LIMITED OFFICIAL USE – LAW ENFORCEMENT SENSITIVE

Memorandum to the Attorney General from Michael F. Walther dated June 28, 2010
Subject: Weekly Report from June 28 through July 2, 2010

Intelligence Studies

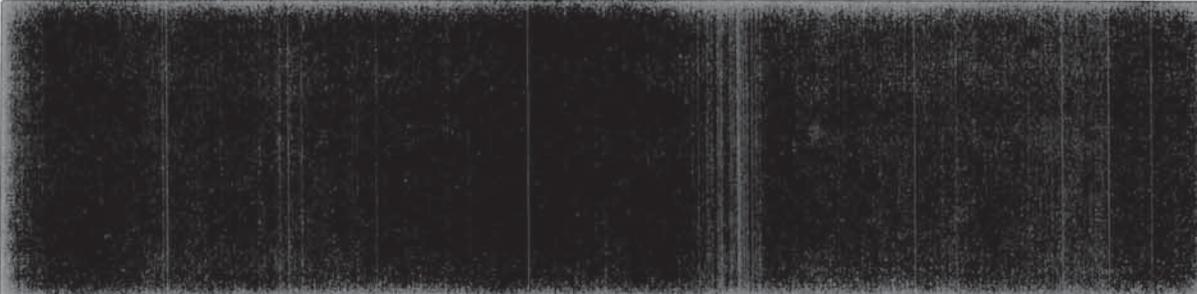
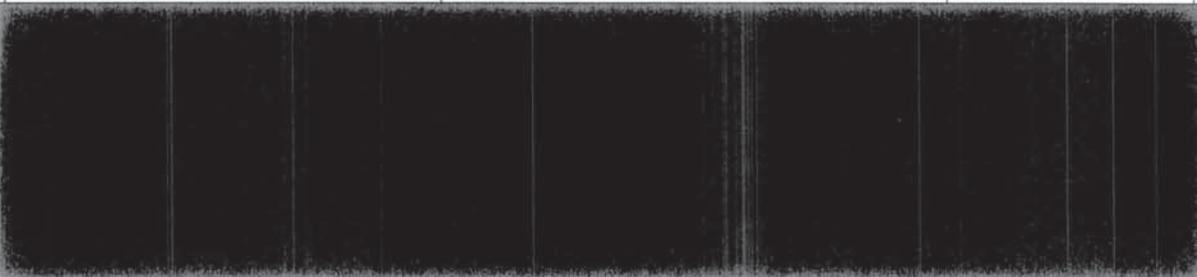
Intelligence Study	Requesting Agency	Publication Date
		
National Marijuana Threat Assessment 2010	Office of National Drug Control Policy	June 2010
		
West Central Region Gangs in Indian Country Threat Assessment	Office of National Drug Control Policy	July 2010
		

Exhibit 148

From: Newell, William D.
Sent: Wednesday, July 14, 2010 6:03 PM
To: Voth, David J.
Subject: FW:
Attachments: EL NAVAJAS.ppt

This relates to the big shootout two weeks ago in Sonora. Two rival DTOs went at it, Sinaloa and Juarez I believe. Maybe Jose Wail has more details. I told Carlos we were within 45-60 days of taking this down IF the USAO goes with our 846/924(c) conspiracy plan. Feel free to let Carlos know more details.

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 RC-1

From: Canino, Carlos A.
Sent: Wednesday, July 14, 2010 2:50 PM
To: Newell, William D.
Subject: FW:

Bill at least one gun recovered in this shootout comes back to Hopes's case. What's the status. I anticipate questions from the GOM and Ambo. I can blow off the GOM, not so much with the Ambo.

From: RC-1
Sent: Wednesday, July 14, 2010 12:10 PM
To: Canino, Carlos A.
Cc: Fasciani, Dennis C.
Subject:

Pictures on the shooting. The weapons are the ones I requested for trace on the previous e-mail.

Thanks

RC-1
 Mexico City, Attaché
 ICE Representative
 RC-1

HOGR ATF - 002454

Exhibit 149

Exhibit 149

From: Melson, Kenneth E.
 Sent: Wednesday, July 14, 2010 7:18:48 PM
 To: Chait, Mark R.; Hoover, William J.
 Subject: Re: SIR

This is great! When will we be taking Fast and Furious down? An awful lot of guns seem to be flowing south. 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).

----- Original Message -----
 From: Chait, Mark R.
 To: Melson, Kenneth E.
 Cc: Hoover, William J.
 Sent: Wed Jul 14 16:14:55 2010
 Subject: Fw: SIR

This was the second case Grit took off last night.
 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).

----- Original Message -----
 From: Significant Activity Report
 To: SAR/SIR Message Delivery
 Sent: Wed Jul 14 14:16:48 2010
 Subject: FW: SIR

 From: Voth, David J.
 Sent: Wednesday, July 14, 2010 2:16:45 PM
 To: Needles, James R.; Newell, William D.; Voth, David J.;
 Significant Activity Report
 Subject: SIR
 Auto forwarded by a Rule

DEPARTMENT OF JUSTICE - BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
 SIGNIFICANT INFORMATION REPORT

DATE: July 14, 2010
 FROM: Phoenix Field Division
 FIELD OFFICE: Phoenix VII Field Office

HOCR ATF - 002084

CASE INFORMATION

CASE NUMBER: 785115-10-
CASE TITLE: CHAMBERS, Jacob, et al
SPECIAL AGENT: Voth, David
TELEPHONE NUMBER:

SYNOPSIS OF INCIDENT/ACTIVITY:

Recovery of 73 firearms and 250 AK-47 drum magazines.

NARRATIVE OF INCIDENT/ACTIVITY:

This recovery adds to the total of 169 firearms recovered in the previous 25 days by Group VII agents and GRIT agents assigned to Group VII as part of Southwest Border Firearms Trafficking investigations.

HOGRAF - 002085

Exhibit 150

RC-1

From: Siskel, Edward N (ODAG)
Sent: Wednesday, July 14, 2010 6:38 PM
To: Chait, Mark R (ATF)
Cc: Hoover, William J (ATF)
Subject: RE: SIR

Thanks Mark. How much longer is the GRIT going to be operating in AZ? At what point after that will we know the total results of the operation and be in a position to do some public roll out along the lines of what we did in Texas?

From: Chait, Mark R. (ATF)
Sent: Wednesday, July 14, 2010 4:49 PM
To: Siskel, Edward N. (ODAG)
Cc: Hoover, William J. (ATF)
Subject: Fw: SIR

This is second significant seizure yesterday by our GRIT.
 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).

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

From: Significant Activity Report
To: SAR/SIR Message Delivery
Sent: Tue Jul 13 18:55:16 2010
Subject: FW: SIR

From: Voth, David J.
Sent: Tuesday, July 13, 2010 6:54:52 PM
To: Needles, James R.; Newell, William D.; Voth, David J.;
 Significant Activity Report
Subject: SIR
 Auto forwarded by a Rule

DEPARTMENT OF JUSTICE - BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
 SIGNIFICANT INFORMATION REPORT

DATE: July 13, 2010
FROM: Phoenix Field Division
FIELD OFFICE: Phoenix VII Field Office

CASE INFORMATION

CASE NUMBER: 785115-10 [REDACTED]
CASE TITLE: CHAMBERS, Jacoby, et al

HOCR DOJ 002847

SPECIAL AGENT: Voth, David
TELEPHONE NUMBER: RC-1

SYNOPSIS OF INCIDENT/ACTIVITY:

Recovery of 20 - 7.62 rifles as part of ongoing RC-3 investigation.

NARRATIVE OF INCIDENT/ACTIVITY:

On July 12, 2010, Federal Parolee, Kenneth Thompson was arrested and charged on Arizona state charges of Hit and Run and Felon in Possession of a Firearm after fleeing from Peoria Police Department patrol units. ATF provided Peoria Police with information that Thompson was in possession of firearms as part of an active RC-3 case; Operation Fast & Furious, 785115-10. Thompson fled from officers and crashed his vehicle into a cinder block wall after jumping the train tracks near the intersection of 67th Lane and Grand Avenue, Peoria, AZ. Both Thompson and the unidentified passenger fled the scene on foot and a short time later Peoria Police officers captured Thompson approximately 1/2 mile from the scene. Thompson suffered a broken leg and was transported to a local hospital for treatment, the passenger was never located. Thompson was released from Federal custody in September of 2009, after serving approximately 60 months after he entered a plea of guilty of 21 USC 846, Conspiracy to Possess Marijuana in February 2004.

During an inventory search of the vehicle, Peoria police officers recovered (20) ROMARM/CUGIR, 7.62x39 caliber rifles from the bed of the truck. The firearms had been purchased earlier that day by a subject identified as a straw purchaser in the coinciding ATF investigation. In addition, (2) pistols were recovered from the cab compartment of the vehicle. ATF agents took custody of the (20) ROMARM 7.62x39 caliber rifles as part of the ongoing ATF investigation. Peoria officer retained custody of the (2) pistols for further state prosecution.

This recovery adds to the total of 96 firearms recovered in the previous 24 days by Group VII agents and GRIT agents assigned to Group VII as part of Southwest Border Firearms Trafficking investigations.

HOCR DOJ 002848

Exhibit 151

From: Newell, William D.
Sent: Wednesday, July 28, 2010 7:50 PM
To: O'Reilly, Kevin M.
Subject: RE: Wicked One
Attachments: One week in Phoenix - One ATF case.pdf

These pics are just an example of some of the guns, ammo and magazines seized within the past week in Phoenix related to the "large OCDEF case" I mentioned. When a 22 year old kid on State financial assistance walks into a gun store and plops down \$12,000 in cash to buy a tripod mounted .50 caliber rifle that's a clue (even for us) that he's involved in trafficking firearms for a Mexican DTO. Another picture shows the 225 drum magazines we seized from the same group. These are in BIG demand by the Mexican DTOs because each drum hold 75 rounds of 7.62x39mm (AK47) ammo. Each one costs about \$200, depending on where you go, so we they aren't happy we seized approx \$45,000 in merchandise from them but of course money is not a problem for them. If you have any questions, like "how in the hell...?" then feel free to call.

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 RC-1

From: O'Reilly, Kevin M. RC-1
Sent: Wednesday, July 28, 2010 3:57 PM
To: Newell, William D.
Subject: Re: Wicked One

Well, now that Jeff Stirling is going back to the Mother Ship I expect they'll have the means to do more of that ... he's a good man & he'll be a good ally for you guys (& us)

Kevin M O'Reilly
 Director
 North American Affairs
 National Security Staff
 The White House

RC-1

From: Newell, William D. RC-1
To: O'Reilly, Kevin M.
Sent: Wed Jul 28 18:53:52 2010
Subject: RE: Wicked One

Sure, just don't want ATF HQ to find out, especially since this is what **they** should be doing (briefing you)!

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 RC-1

HOCR ATF - 002664

From: O'Reilly, Kevin M. RC-1
Sent: Wednesday, July 28, 2010 3:51 PM
To: Newell, William D.
Subject: Wicked One

Wicked One.

Even I'd remember that one.

This is great; very informative.

OK to share with Sr Director Dan Restrepo and with CT/CN Director Greg Galjanis?

Would not leave NSS, I assure you.

Kevin O'

Kevin M O'Reilly
 Director
 North American Affairs
 National Security Staff
 The White House

RC-1

From: Newell, William D. RC-1
To: O'Reilly, Kevin M.
Sent: Wed Jul 28 18:45:51 2010
Subject: RE: GRIT Surge Phoenix

Going very well actually. I attached the most recent weekly "report card" that we send to HQ on Fridays. (Please keep to yourself). I didn't include some of the case highlights because most are on-going criminal cases including a couple of large OCDEF investigations RC-3. Bottom line is that we are on-target to meet our FFL inspection goals as well as eliminate our backlog of "leads". A "lead" is where we have solid information regarding firearms trafficking activity but not enough manpower to work it. The best part about the GRIT for me has been the influx, albeit temporary (100 days), of Special Agents, inspectors, Support Staff, etc. They have allowed us to catch up on the backlog of leads as well as follow up on newer information. They have also been instrumental in supplying much needed ground-level support to several large-scale firearms trafficking investigations with direct links to Mexican DTOs. As an example I have had 10 Special Agents working exclusively in support of a very large OCDEF case involving firearms trafficking by the Sinaloa DTO. These agents have been so busy that they have expressed a desire to extend past the GRIT deadline due to the amount of work still needed on this case, a very good thing. One agent on detail from Miami (another hotbed of firearms trafficking activity as you well know) told me recently "I thought Miami was crazy!". He's never seen this level of illegal firearms trafficking activity before and wants to stay another 30 days just to help out with this case. Most of this has taken place in the Phoenix area. In Tucson we have been working hand in hand with the Tucson PD and have taken off several home invasion crews. This past Friday we arrested a crew whose leader has "Wicked One" tattooed across his forehead, easy to pick out in a lineup.

Bill Newell

HOCR ATF - 002665

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

RC-1

From: O'Reilly, Kevin M. RC-1
Sent: Wednesday, July 28, 2010 2:56 PM
To: Newell, William D.
Subject: Re: GRIT Surge Phoenix

No rush, certainly no forcing action on this, just wondering how's it going.

Take care,

Kevin O'

Kevin M O'Reilly
 Director
 North American Affairs
 National Security Staff
 The White House

RC-1

From: Newell, William D. RC-1
To: O'Reilly, Kevin M.
Sent: Wed Jul 28 17:54:12 2010
Subject: Re: GRIT Surge Phoenix

Heading back to the office from Phoenix PD HQ. send you some info asap.

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).

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

From: O'Reilly, Kevin M. RC-1
To: Newell, William D.
Sent: Wed Jul 28 17:52:48 2010
Subject: Fw: GRIT Surge Phoenix

Just an informal "how's it going?"

Kevin M O'Reilly
 Director
 North American Affairs
 National Security Staff
 The White House

RC-1

HOCR ATF - 002666

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

From: Gatjanis, Gregory T.
To: O'Reilly, Kevin M.; Kendall, Sarah M.
Sent: Wed Jul 28 13:29:53 2010
Subject: RE: GRIT Surge Phoenix

No. I haven't.

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

From: O'Reilly, Kevin M.
Sent: Wednesday, July 28, 2010 12:07 PM
To: Gatjanis, Gregory T.; Kendall, Sarah M.
Subject: GRIT Surge Phoenix

Have we gotten any readout on ATF's GRIT surge in Phoenix & in Arizona?

Regards,

Kevin O'

Kevin M O'Reilly
Director
North American Affairs
National Security Staff
The White House

RC-1

HOCR ATF - 002667

Exhibit 152

Exhibit 152

From: English, Tonya A.
Sent: Wednesday, July 28, 2010 8:20 PM
To: Canino, Carlos A.
CC: MacAllister, Hope A.; Voth, David J.
Subject: RE:

Follow Up Flag: Follow up
Flag Status: Flagged

I am not sure if you are referring to firearms from the US in general or firearms related to our case. We were not aware of any firearms related to our case being used in any homicides. If this has occurred, would you please forward or send the reports because this is information that we do not have.

Thank you,

Tonya

From: Canino, Carlos A.
Sent: Wednesday, July 28, 2010 5:14 PM
To: English, Tonya A.
Subject: Re:

When r u guys taking that case down? Some of those guns have been used in homicides here.

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: English, Tonya A.
To: Canino, Carlos A.
Cc: MacAllister, Hope A.; Voth, David J.
Sent: Wed Jul 28 20:11:12 2010
Subject: RE:
 Carlos,

I spoke with Hope. She does not want any information released RC-3 Thank you for the offer though.

Thanks,

Tonya

From: Canino, Carlos A.
Sent: Wednesday, July 28, 2010 3:29 PM
To: English, Tonya A.
Subject: RE:

I will keep trying, the only way they might bring that gun here is if I tell them a little about the case

From: English, Tonya A.
Sent: Wednesday, July 28, 2010 5:21 PM
To: Canino, Carlos A.

HOGR ATF - 002448

Subject: RE:

Ha ha...I don't know about that. I got a lot of time left before that ever happens. I am still anticipating celebrating the completion of the required 3 yr probation period on August 19th. ☺ Thank you for checking though. I appreciate it.

From: Canino, Carlos A.
Sent: Wednesday, July 28, 2010 3:08 PM
To: English, Tonya A.
Subject: RE:

By the time the red tape clears to move that gun, u will be the director. The area where it's at is in the heart of Sinaloa Cartel country, nobody from the USG is going there. A picture is all we can do

From: English, Tonya A.
Sent: Wednesday, July 28, 2010 5:03 PM
To: Canino, Carlos A.
Cc: Voth, David J.; MacAllister, Hope A.; Sonnendecker, Mark
Subject: RE:

Okay. This one would be a good f/a recovery to be able to present at trial. Any possibility that they will retain it until we are able to examine it or move it to a safer location for examination?

Thanks,

Tonya

From: Canino, Carlos A.
Sent: Wednesday, July 28, 2010 2:51 PM
To: English, Tonya A.
Cc: Voth, David J.
Subject:

Tonya

The 50. Cal that was recovered is in an area of Mexico that's unsafe for USG travel. In other words it's too dangerous for us to go there and look at it. The military is sending us pictures.

Carlos A. Canino
Assistant Country Attache, Mexico City
RC-1



HOCR ATF - 002449

Exhibit 153

Exhibit 153

From: Casa, Olindo J.
Sent: Tuesday, July 27, 2010 6:01 PM
To: Besta, Terry P.
Subject: RE: Duty call

Yeah, like group VII -- been here since December and we have not arrested a soul.

OLindo J. Casa

Olindo J. Casa
 Special Agent - Bureau of ATF
 Phoenix Group VII

From: Besta, Terry P.
Sent: Tuesday, July 27, 2010 2:48 PM
To: Casa, Olindo J.
Subject: RE: Duty call

I am duty and having to deal with all this gun crime because there are groups that don't arrest anybody. No updates on softball, hopefully we have enough.

From: Casa, Olindo J.
Sent: Tuesday, July 27, 2010 12:49 PM
To: Besta, Terry P.
Subject: RE: Duty call

Hey, Stop Poaching!!!

Aren't you in the ARSON GROUP????

Any updates on Softball -- Are we going to have enough people to field a team?

OLindo J. Casa

Olindo J. Casa
 Special Agent - Bureau of ATF
 Phoenix Group VII

From: Besta, Terry P.
Sent: Tuesday, July 27, 2010 11:32 AM
To: Phoe-Group I; Phoe-Group II; Phoe-Group V; PhoenixFIG; Phoe-Group VII; Phoe-Group III (IO)
Subject: Duty call

Has anyone had any dealings, good or bad, with [REDACTED] in Tempe. Received a call from Air Force OSI who may be contacting this FFL in their investigation of an airman. Let me know.

TERRY BESTA, SPECIAL AGENT
 [REDACTED]

HOGR ATF - 001706

Exhibit 154

Exhibit 154

**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: S20100001050 Entered Date: June 25, 2010

**MARK SONNENDECKER
PHOENIX FD GROUP VII
[REDACTED]
PHOENIX, AZ 85004**

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

DEALER INFORMATION

Business Name: [REDACTED]
Licensee Name: [REDACTED]
Address: [REDACTED]
Phone: (623) [REDACTED] **Ext:** [REDACTED]
FFL Number: [REDACTED]
Invoice #: [REDACTED]

INDIVIDUAL INFORMATION

Name: ALFREDO CELIS
Address: [REDACTED]
PHOENIX, AZ 85037
DOB: [REDACTED] **Race:** HISPANIC **Sex:** Male
Height: [REDACTED] **Weight:** [REDACTED] **Date:** 06/24/2010
ID 1: [REDACTED] #: [REDACTED]
ID 2: [REDACTED] #: [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: 10

Manufacturer	Model	Caliber	Serial Number	Type	Importer
ROMARM/CUGIR	WASR-10	762	1974DR1078	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1972DL1330	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1985ZS4512	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1969BP1516	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1972DM0786	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1971DD3813	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	AH-0156-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	AF-0099-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

ROMARM/CUGIR	WASR-10	762	1968BL3656	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT 1010
ROMARM/CUGIR	WASR-10	762	AH-3715-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

Unclassified Controlled Information

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: S20100001078 Entered Date: June 30, 2010

MARK SONNENDECKER
PHOENIX FD GROUP VII
[REDACTED]
PHOENIX, AZ 85004

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

DEALER INFORMATION

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

INDIVIDUAL INFORMATION

Name: ALFREDO CELIS
Address: [REDACTED]
PHOENIX, AZ 85037
DOB: [REDACTED] Race: HISPANIC Sex: Male
Height: [REDACTED] Weight: [REDACTED] Date: 06/28/2010
ID 1: [REDACTED] #:
ID 2: [REDACTED] #:

NOTICE

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Weapon Summary

Weapon Count: 10

Manufacturer	Model	Caliber	Serial Number	Type	Importer
ROMARM/CUGIR	WASR-10	762	1985ZS2741	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	AH-8299-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1971DG2808	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1974DR0043	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	AG-9897-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1968BF0470	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1979ZE0769	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1982ZP1916	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

ROMARM/CUGIR

WASR-10

762

1969BP1047

RIFLE

CENTURY ARMS INC (CAI),
ST. ALBANS, VT 1012

ROMARM/CUGIR

WASR-10

762

AH-7643-1989

RIFLE

CENTURY ARMS INC (CAI),
ST. ALBANS, VT

Unclassified Controlled Information

**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: S20100001077 Entered Date: June 30, 2010

**MARK SONNENDECKER
PHOENIX FD GROUP VII
[REDACTED]
PHOENIX, AZ 85004**

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

DEALER INFORMATION

Business Name: [REDACTED]
Licensee Name: [REDACTED]
Address: [REDACTED]
Phone: (623) [REDACTED] **Ext:** [REDACTED]
FFL Number: [REDACTED]
Invoice #: [REDACTED]

INDIVIDUAL INFORMATION

Name: ALFREDO CELIS
Address: [REDACTED]
PHOENIX, AZ 85037
DOB: [REDACTED] **Race:** HISPANIC **Sex:** Male
Height: [REDACTED] **Weight:** [REDACTED] **Date:** 06/29/2010
ID 1: [REDACTED] #: [REDACTED]
ID 2: [REDACTED] #: [REDACTED]

NOTICE

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Weapon Summary

Weapon Count: 10

Manufacturer	Model	Caliber	Serial Number	Type	Importer
ROMARM/CUGIR	WASR-10	762	AG-2390-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	AH-2846-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	AG-3909-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1982ZP6958	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	AG-3409-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1969BR0089	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	AH-0009-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1968BG2208	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

ROMARM/CUGIR

WASR-10

762

AG-0548-1989

RIFLE

CENTURY ARMS INC (CAI),
ST. ALBANS, VT 1014

ROMARM/CUGIR

WASR-10

762

AG-7795-1989

RIFLE

CENTURY ARMS INC (CAI),
ST. ALBANS, VT

Unclassified Controlled Information

Exhibit 155

Exhibit 155

LAW ENFORCEMENT SENSITIVE

<i>DATE</i>	<i>LOCATION</i>
08/01/2010	PPD Recovery
270	ROMARM/CUGIR DRACO DR531309 Pistol 7.62 [REDACTED]

<i>DATE</i>	<i>LOCATION</i>
08/01/2010	PPD Recovery
271	DPMS INC. A15 F188275 Rifle 223 [REDACTED]
272	ROMARM/CUGIR DRACO DR950710 Pistol 7.62 [REDACTED]
273	ROMARM/CUGIR DRACO DC214510 Pistol 7.62 [REDACTED]
274	LORCIN ENGINEERING L360 124529 Pistol 380 [REDACTED]

<i>DATE</i>	<i>LOCATION</i>
08/03/2010	ATF/SPD Recovery
275	TNW AAM3 752 Rifle 50 [REDACTED]

<i>DATE</i>	<i>LOCATION</i>
08/05/2010	TX Recovery

Tuesday, December 07, 2010

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LAW ENFORCEMENT SENSITIVE

LAW ENFORCEMENT SENSITIVE

276	ROMARM/CUGIR	GP WASR-10	1974DR1078	Rifle	7.62	[REDACTED]
277	ROMARM/CUGIR	GP WASR-10	1972DL1330	Rifle	7.62	[REDACTED]
278	ROMARM/CUGIR	GP WASR-10	1985ZS4512	Rifle	7.62	[REDACTED]
279	ROMARM/CUGIR	GP WASR-10	1969BP1516	Rifle	7.62	[REDACTED]
280	ROMARM/CUGIR	GP WASR-10	1972DM0786	Rifle	7.62	[REDACTED]
281	ROMARM/CUGIR	GP WASR-10	1971DD3813	Rifle	7.62	[REDACTED]
282	ROMARM/CUGIR	GP WASR-10	AH01561989	Rifle	7.62	[REDACTED]
283	ROMARM/CUGIR	GP WASR-10	AF00991989	Rifle	7.62	[REDACTED]
284	ROMARM/CUGIR	GP WASR-10	1968BL3656	Rifle	7.62	[REDACTED]
285	ROMARM/CUGIR	GP WASR-10	AH37151989	Rifle	7.62	[REDACTED]
286	ROMARM/CUGIR	GP WASR-10	1985ZS2741	Rifle	7.62	[REDACTED]
287	ROMARM/CUGIR	GP WASR-10	AH82991989	Rifle	7.62	[REDACTED]
288	ROMARM/CUGIR	GP WASR-10	1971DG2808	Rifle	7.62	[REDACTED]
289	ROMARM/CUGIR	GP WASR-10	1974DR0043	Rifle	7.62	[REDACTED]
290	ROMARM/CUGIR	GP WASR-10	AG98971989	Rifle	7.62	[REDACTED]
291	ROMARM/CUGIR	GP WASR-10	1968BF0470	Rifle	7.62	[REDACTED]

LAW ENFORCEMENT SENSITIVE

LAW ENFORCEMENT SENSITIVE

292	ROMARM/CUGIR	GP WASR-10	1979ZE0769	Rifle	7.62	[REDACTED]
293	ROMARM/CUGIR	GP WASR-10	1982ZP1916	Rifle	7.62	[REDACTED]
294	ROMARM/CUGIR	GP WASR-10	1969BP1047	Rifle	7.62	[REDACTED]
295	ROMARM/CUGIR	GP WASR-10	AH76431989	Rifle	7.62	[REDACTED]
296	ROMARM/CUGIR	GP WASR-10	AG23901989	Rifle	7.62	[REDACTED]
297	ROMARM/CUGIR	GP WASR-10	AH28461989	Rifle	7.62	[REDACTED]
298	ROMARM/CUGIR	GP WASR-10	AG39091989	Rifle	7.62	[REDACTED]
299	ROMARM/CUGIR	GP WASR-10	1982ZP6958	Rifle	7.62	[REDACTED]
300	ROMARM/CUGIR	GP WASR-10	AG34091989	Rifle	7.62	[REDACTED]
301	ROMARM/CUGIR	GP WASR-10	1969BR0089	Rifle	7.62	[REDACTED]
302	ROMARM/CUGIR	GP WASR-10	AH00091989	Rifle	7.62	[REDACTED]
303	ROMARM/CUGIR	GP WASR-10	1968BG2208	Rifle	7.62	[REDACTED]
304	ROMARM/CUGIR	GP WASR-10	AG05481989	Rifle	7.62	[REDACTED]
305	ROMARM/CUGIR	GP WASR-10	AG77951989	Rifle	7.62	[REDACTED]
306	ROMARM/CUGIR	GP WASR-10	1972DJ4685	Rifle	7.62	[REDACTED]
307	ROMARM/CUGIR	GP WASR-10	1971DB2130	Rifle	7.62	[REDACTED]

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Tuesday, December 07, 2010

LAW ENFORCEMENT SENSITIVE

LAW ENFORCEMENT SENSITIVE

308	ROMARM/CUGIR	GP WASR-10	1982ZP8118	Rifle	7.62	[REDACTED]
309	ROMARM/CUGIR	GP WASR-10	1971DG0465	Rifle	7.62	[REDACTED]
310	ROMARM/CUGIR	GP WASR-10	1981ZL2091	Rifle	7.62	[REDACTED]
311	ROMARM/CUGIR	GP WASR-10	1971DC3061	Rifle	7.62	[REDACTED]
312	ROMARM/CUGIR	GP WASR-10	1969BR4349	Rifle	7.62	[REDACTED]
313	ROMARM/CUGIR	GP WASR-10	1981ZL4475	Rifle	7.62	[REDACTED]
314	ROMARM/CUGIR	GP WASR-10	1977ZA0038	Rifle	7.62	[REDACTED]
315	ROMARM/CUGIR	GP WASR-10	1972DL1655	Rifle	7.62	[REDACTED]
316	ROMARM/CUGIR	GP WASR-10	AF15901989	Rifle	7.62	[REDACTED]
317	ROMARM/CUGIR	GP WASR-10	1974DT1350	Rifle	7.62	[REDACTED]
318	ROMARM/CUGIR	GP WASR-10	1982ZR2477	Rifle	7.62	[REDACTED]
319	ROMARM/CUGIR	GP WASR-10	1971DG1302	Rifle	7.62	[REDACTED]
320	ROMARM/CUGIR	GP WASR-10	1971DB1142	Rifle	7.62	[REDACTED]
321	ROMARM/CUGIR	GP WASR-10	1971DD1371	Rifle	7.62	[REDACTED]
322	ROMARM/CUGIR	GP WASR-10	1974DP2896	Rifle	7.62	[REDACTED]
323	ROMARM/CUGIR	GP 1975	GPC500294	Rifle	7.62	[REDACTED]

LAW ENFORCEMENT SENSITIVE

LAW ENFORCEMENT SENSITIVE

324	ROMARM/CUGIR	GP 1975	GPC500468	Rifle	7.62	[REDACTED]
325	ROMARM/CUGIR	GP 1975	GPC501040	Rifle	7.62	[REDACTED]
326	ROMARM/CUGIR	GP 1975	GPC500162	Rifle	7.62	[REDACTED]
327	ROMARM/CUGIR	GP 1975	GPC501045	Rifle	7.62	[REDACTED]
328	ROMARM/CUGIR	GP 1975	GPC501111	Rifle	7.62	[REDACTED]
329	ROMARM/CUGIR	GP WASR-10	1969BP1531	Rifle	7.62	[REDACTED]
330	ROMARM/CUGIR	GP WASR-10	1985ZS8142	Rifle	7.62	[REDACTED]
331	ROMARM/CUGIR	GP WASR-10	1972DL3449	Rifle	7.62	[REDACTED]
332	ROMARM/CUGIR	GP WASR-10	1982ZP7936	Rifle	7.62	[REDACTED]
333	ROMARM/CUGIR	GP WASR-10	1985ZS6092	Rifle	7.62	[REDACTED]
334	ROMARM/CUGIR	GP WASR-10	AH79441989	Rifle	7.62	[REDACTED]
335	ROMARM/CUGIR	GP WASR-10	AH58181989	Rifle	7.62	[REDACTED]
336	ROMARM/CUGIR	GP WASR-10	AP80521989	Rifle	7.62	[REDACTED]
337	ROMARM/CUGIR	GP WASR-10	AO99741994	Rifle	7.62	[REDACTED]
338	ROMARM/CUGIR	GP WASR-10	1972DL4024	Rifle	7.62	[REDACTED]

Tuesday, December 07, 2010

Page 26 of 29

LAW ENFORCEMENT SENSITIVE

Exhibit 156

Exhibit 156

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: S20100001049 Entered Date: June 25, 2010

HOPE MACALLISTER
PHOENIX FD GROUP VII
[REDACTED]
PHOENIX, AZ 85004

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

DEALER INFORMATION

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

INDIVIDUAL INFORMATION

Name: SEAN CHRISTOPHER STEWARD
Address: [REDACTED]
PHOENIX, AZ 85008
DOB: [REDACTED] Race: WHITE Sex: Male
Height: [REDACTED] Weight: [REDACTED] Date: 06/23/2010
ID 1: [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: 10

Manufacturer	Model	Caliber	Serial Number	Type	Importer
ROMARM/CUGIR	WASR-10	762	1969BP1531	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1985ZS8142	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1972DL3449	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1982ZP7936	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	1985ZS6092	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	AH-7944-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	AH-5818-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT
ROMARM/CUGIR	WASR-10	762	AP-8062-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

ROMARM/CUGIR	WASR-10	762	AO-9974-1994	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT 1023
ROMARM/CUGIR	WASR-10	762	1972DL4024	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

Unclassified Controlled Information

Exhibit 157

Exhibit 157

From: Arredondo, Francisco J.
Sent: Sunday, August 15, 2010 5:22 PM
To: Voth, David J.
Subject: Re: 80 gun seizure

No. It just seems like a lot of guns are coming out of that area. Things just don't work the same in your area as they do in ours. Didn't mean to offend you.

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From: Voth, David J.
To: Arredondo, Francisco J.
Sent: Sun Aug 15 17:17:05 2010
Subject: RE: 80 gun seizure

Have I offended you in some way? Because I am very offended by your e-mail.

Define walk...? Without Probable Cause and concurrence from the USAO it is highway robbery if we take someone's property. We have conducted hundreds of hours of surveillance [REDACTED] and the idea that our suspects purchase the guns and drive them directly to the border is not the case, not even close. We have seized firearms weeks and months after they were purchased and they had not yet gone south to Mexico. If a non-prohibited person purchases firearms, puts the firearms in his/her car and drives straight home what is our PC to stop and seize the firearms? 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...any ideas on how we could not let that firearm "walk"...?

Additionally, we have stopped "some" of these guys and seized hundreds (plural) of firearms in this case to date.

From: Arredondo, Francisco J.
Sent: Sunday, August 15, 2010 1:52 PM
To: Voth, David J.; Herrera, Juan H.
Subject: Re: 80 gun seizure

Are you all planning to stop some of these guys any time soon? That's a lot of guns that have been seized. Are you just letting these guns walk?

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From: Voth, David J.
To: Herrera, Juan H.; Arredondo, Francisco J.
Sent: Sun Aug 15 16:40:20 2010
Subject: RE: 80 gun seizure

Any luck we have not heard anything here locally? Obviously we are interested as 63 of the 80 firearms were part of open/active ATF Phoenix cases, especially the 57 as part of Operation Fast and Furious.

Thanks,

HOCR ATF - 002011

From: Herrera, Juan H.
Sent: Monday, August 09, 2010 12:54 PM
To: Voth, David J.
Subject: RE: 80 gun seizure

Hello David,

I will be talking to ICE soon. I will forward any updates I get from them.

Jh Herrera

From: Voth, David J.
Sent: Monday, August 09, 2010 2:24 PM
To: Herrera, Juan H.; Arredondo, Francisco J.
Subject: 80 gun seizure

Gentlemen,

Just checking to see if there are any updates or reports that can be forwarded to us here in Phoenix. I think I forwarded a spreadsheet but like 63 out of the 80 (14 were obliterated) are from open/ongoing Phoenix ATF cases thus any information is appreciated!

Thanks,

David Voth
Group Supervisor
Phoenix Group VII
[REDACTED]

HOGRA ATF - 002012

Exhibit 158

Exhibit 158

[REDACTED] Uriel Patino

Page 1 of 3

Uriel Patino

5 messages

Wed, Aug 25, 2010 at 5:13 PM

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

Good Afternoon David,

One of our associates received a telephone inquiry from Uriel Patino today. Uriel is one of the individuals your office has interest in, and he looking to purchase 20 FN-FNX 9mm firearms. We currently have 4 of these firearms in stock. If we are to fulfill this order we would need to obtain the additional 16 specifically for this purpose.

I am requesting your guidance as to weather or not we should perform the transaction, as it is outside of the standard way we have been dealing with him.

I look forward to your advisment.

--
Thank you,
[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.

Voth, David J. <David.J.Voth@usdoj.gov>

Wed, Aug 25, 2010 at 6:09 PM

[REDACTED]

[REDACTED]

Thank you very much for contacting us regarding Mr. Patino and this order/inquiry. We (ATF) are very much interested in this transaction and would like to coordinate (with your cooperation) the delivery of these firearms to Mr. Patino under our direction; i.e. date, time, etc. Be assured no enforcement action will take place on or near the [REDACTED] property. We have other matters pressing but late next week (Thursday/Friday) would be good timing for us. Another technique to allow for greater control would be if you are willing to request a partial down payment from Mr. Patino for a "special order." This tends to increases the individual's future compliance when they are already financially invested in the situation.

[REDACTED] - Uriel Patino

Page 2 of 3

In summary our guidance is that we would like you to go through with Mr. Patino's request and order the additional firearms he is requesting, and if possible obtain a partial down payment. This will require further coordination of exact details but again we (ATF) are very much interested in this transaction and appreciate your [REDACTED] willingness to cooperate and assist us.

Special Agent Hope MacAllister (CC'd in this e-mail) is the ATF case agent for this investigation. Please coordinate this delivery of these firearms to Mr. Patino through her (cell phone for SA MacAllister; 602 [REDACTED]) or by contacting me when she is not available.

Thanks again for your cooperation and support of our joint mission.

Respectfully,

David Voth

Group Supervisor

Phoenix Group VII

Cell - 602 [REDACTED]

[REDACTED]
Sent: Wednesday, August 25, 2010 5:13 PM
To: Voth, David J.
Cc: [REDACTED]
Subject: Uriel Patino

[Quoted text hidden]

Thu, Aug 26, 2010 at 10:52 AM

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

David,

Thank you for your response. Per your email we will move forward with this transaction in accordance with your direction of having Mr. Patino provide payment prior to the transfer of the firearms.

We will suspend the transaction to meet with your ideal time frame of next week, at which point we will

[REDACTED] - Uriel Patino

Page 3 of 3

contact Hope when Mr. Patino is on his way to the store, and provide all standard documentation. If you have any other requirements or requests please let me know.

[Quoted text hidden]

Voth, David J. <[REDACTED]>

Thu, Aug 26, 2010 at 11:01 AM

[REDACTED]

Sorry for being brief in my response, I am on my Blackberry. Great thank you [REDACTED] for your assistance! Can you please coordinate with us when Patino makes his down-payment. We would like to have the money set aside for a K-9. Thanks again!

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From: [REDACTED]
To: Voth, David J.
Cc: [REDACTED]
Sent: Thu Aug 26 13:52:49 2010
Subject: Re: Uriel Patino

[Quoted text hidden]

***** 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).

[REDACTED]

Thu, Aug 26, 2010 at 11:04 AM

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

Absolutly!

We will contact your office as soon as we coordinate with Mr. Patino.

[REDACTED]

[Quoted text hidden]

Exhibit 159

Exhibit 159

From: Voth, David J. [REDACTED]
Sent: Monday, July 19, 2010 7:00 PM
To: MacAllister, Hope A. [REDACTED] Hurley, Emory (USAAZ)
[REDACTED] Needles, James R. [REDACTED]
Subject: Meeting

Hope/Emory,

The case is progressing nicely and I am very pleased with how things are turning out; thanks to you both. ASAC Jim Needles has requested that we all sit down together to discuss how we envision the indictment phase taking shape. If schedules permit are you available Monday, August 2nd, 2010 @ 3:00pm?

Thanks,

David Voth
Group Supervisor
Phoenix Group VII
602-[REDACTED]

Exhibit 160

Exhibit 160

RC-1

From: Trusty, James
 Sent: Thursday, July 29, 2010 8:50 AM
 To: Carwile, Kevin
 Subject: RE: Do you

You mean a weekly case update that's different than our usual weekly report? No, I haven't been doing that but let me know what you were doing in that regard and I can adjust.

The only things I can think of re: Mexico are Gwinn's gun stuff and the BA case. Here's Laura's info for this week:

Phoenix cross-border project: (a) RC-2 investigation: RC-2

RC-2

(b) Celis-Acosta: this is the large-scale gun trafficking case involving in excess of 1500 guns purchased to date, and RC-3. I am still trying to "learn" the case through review of wire-tap applications, a running log of overt acts and discussions with the lead attorney. A strategy session was held to determine course of action over the next couple of months. At this time, the plan is to continue to work toward RC-3

RC-3

It is hoped that we would be in a position to consider indictment approximately early to mid-fall.

Tucson gun-trafficking case: I discussed with Emory Hurley, the lead AUSA on the Celis-Acosta case, the possibility of arresting and unsealing the indictments of the two persons who were indicted in May. Since those two appear to have no connection to the Phoenix case, it was agreed that I would contact the agent to have him determine the current location of the defendants, try to determine phone #s, compare against pen registers and likely arrest/unseal once we confirm no connection.

RC-2

Hope this helps -

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

From: Carwile, Kevin
 Sent: Thursday, July 29, 2010 7:30 AM
 To: Trusty, James
 Subject: Do you

Have any mexico related updates which I can relate at the meeting this morning? Are we pushing a weekly case update to the front office?

Exhibit 161

Exhibit 161

From: McMahon, William G.
Sent: Friday, July 30, 2010 9:10:02 AM
To: Newell, William D.
Subject: RE: Fast and Furious meeting at USAO

10-4

William G. McMahon
Deputy Assistant Director (West)
Office of Field Operations
Office - [REDACTED]

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

From: Newell, William D.
Sent: Friday, July 30, 2010 7:45 AM
To: McMahon, William G.
Subject: Fast and Furious meeting at USAO

The meeting btwn the Case Agent, Jim and AUSA is the 5th. My meeting with USA Dennis Burke is the 17th. That will give the AUSA plenty of time to prepare a pros memo so Dennis and I can discuss charges in our meeting. I'll provide a case update later today, they were all out on another case yesterday afternoon and are assisting in the [REDACTED] here this morning.

Bill Newell
Special Agent in Charge
ATF Phoenix Field Division (AZ and NM)
Cell: [REDACTED]

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HOCR ATF - 002028

Exhibit 162

Exhibit 162

From: McMahon, William G.
Sent: Friday, August 06, 2010 4:40 PM
To: Newell, William D.
Subject: RE: Cases ready for indictment

We can talk next week but I might like to listen in on that brief. Thanks.

From: Newell, William D.
Sent: Friday, August 06, 2010 4:39 PM
To: McMahon, William G.
Subject: Re: Cases ready for indictment

I'm having GS Dave Voth (Phoenix Grp VII Strike Force) brief the USA ref Fast/Furious at 2pm Pacific on the 17th. You want to VTC in?

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

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From: McMahon, William G.
To: Newell, William D.
Sent: Fri Aug 06 16:19:32 2010
Subject: RE: Cases ready for indictment

10-4 Bill. That is great news about the cases regarding GRIT in Tucson and Phoenix. We can talk next week at the SAC Conference but what are our plans between now and October on Fast/Furious?

William G. McMahon
 Deputy Assistant Director (West)
 Office of Field Operations
 RC-1

From: Newell, William D.
Sent: Friday, August 06, 2010 3:40 PM
To: McMahon, William G.
Subject: Fw: Cases ready for indictment

We are putting together about 30 cases, these from Tucson plus 15 or so from Phoenix, for the proposed GRIT press conference scheduled for the 26th. We would have about 30 cases from Phoenix but roughly half of the straw purchaser cases we already have USAO approval to indict are tied directly to the Laredo case. I'm having all of these put together in one document for you. Also, as per the USAO, Fast/Furious will be ready for indictment in early October. RC-5

RC-5
 RC-5 More to follow.

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

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HOCR ATF - 002527

From: McMahon, William G.
Sent: Thursday, December 16, 2010 7:36 AM
To: Chait, Mark R.
Subject: FW: AKs
Attachments: SKMBT_C25310121518120.pdf

Info on straw involved in BP death. He was taken into custody late last night in Phoenix.

William G. McMahon
Deputy Assistant Director (West)
Office of Field Operations
RC-1 [REDACTED]

From: Newell, William D.
Sent: Wednesday, December 15, 2010 7:44 PM
To: McMahon, William G.
Subject: AKs

Two recovered near scene. Both Romarm/Cugir, Model GP WASR 10/63, 7.62x39mm, s/ns 1983AH3977 and 1971CZ3775. Both purchased by Jaime Avila Jr. on January 16, 2010 a Saturday at [REDACTED], Glendale, Arizona. He started purchasing in late November 2009 and had only bought 13 firearms total (that we know of) before he purchased these two rifles. His last known purchase was on June 15, 2010. He bought a total of **52 – 17 AKs; 11 FN's; 10 9mm pistols; 4 .45 pistols; 2 Barrett .50s; 2 AR-15s** and an mixed assortment of other pistols and rifles.

HOCR ATF - 002528

Exhibit 163

Microsoft Outlook

From: Newell, William D. [REDACTED]
Sent: Monday, August 09, 2010 9:17 AM
To: O'Reilly, Kevin M.
Subject: RE: Wicked One
Attachments: August 3rd TNW 50 cal.JPG

Got another one last week, a .50 caliber semi-auto. Headed for Sinaloa DTO. Part of the same "large OCDETF case" I mentioned previously. We should be indicting in early October.

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

From: Newell, William D.
Sent: Wednesday, July 28, 2010 4:50 PM
To: O'Reilly, Kevin M.
Subject: RE: Wicked One

These pics are just an example of some of the guns, ammo and magazines seized within the past week in Phoenix related to the "large OCDETF case" I mentioned. When a 22 year old kid on State financial assistance walks into a gun store and plops down \$12,000 in cash to buy a tripod mounted .50 caliber rifle that's a clue (even for us) that he's involved in trafficking firearms for a Mexican DTO. Another picture shows the 225 drum magazines we seized from the same group. These are in BIG demand by the Mexican DTOs because each drum hold 75 rounds of 7.62x39mm (AK47) ammo. Each one costs about \$200, depending on where you go, so we they aren't happy we seized approx \$45,000 in merchandise from them but of course money is not a problem for them. If you have any questions, like "how in the hell....?" then feel free to call.

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

From: O'Reilly, Kevin M. [REDACTED]
Sent: Wednesday, July 28, 2010 3:57 PM
To: Newell, William D.
Subject: Re: Wicked One

Well, now that Jeff Stirling is going back to the Mother Ship I expect they'll have the means to do more of that ... he's a good man & he'll be a good ally for you guys (& us).

Exhibit 164

Exhibit 164

Microsoft Outlook

From: Newell, William D. [REDACTED]
Sent: Wednesday, August 11, 2010 6:00 PM
To: O'Reilly, Kevin M.
Subject: Re: Wicked One

Timing would be good because we should indict our Phoenix case in late Sept/early Oct. We also have a press conference in late August in Phoenix announcing the arrest of approx 40 straw purchasers in a dozen separate cases.

Bill Newell

Special Agent in Charge

ATF Phoenix Field Division (AZ and NM)

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From: O'Reilly, Kevin M.
To: Newell, William D.
Sent: Wed Aug 11 17:55:14 2010
Subject: RE: Wicked One
 I'll see if you can be ...

Kevin Michael O'Reilly
 Director for North American Affairs
 National Security Staff
 The White House

From: Newell, William D. [REDACTED]
Sent: Wednesday, August 11, 2010 5:41 PM
To: O'Reilly, Kevin M.
Subject: Re: Wicked One

No
 Bill Newell
 Special Agent in Charge
 ATF Phoenix Field Division (AZ and NM)

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: O'Reilly, Kevin M.
To: Newell, William D.

Sent: Wed Aug 11 17:33:50 2010

Subject: RE: Wicked One

Have you been pulled into this discussion about an arms trafficking roundtable/conference in Mexico City sometime in late Sept/early Oct?

Kevin Michael O'Reilly
 Director for North American Affairs
 National Security Staff
 The White House

[REDACTED]

From: Newell, William D. [REDACTED]

Sent: Monday, August 09, 2010 9:17 AM

To: O'Reilly, Kevin M.

Subject: RE: Wicked One

Got another one last week, a .50 caliber semi-auto. Headed for Sinaloa DTO. Part of the same "large OCDEF case" I mentioned previously. We should be indicting in early October.

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

[REDACTED]

From: Newell, William D.

Sent: Wednesday, July 28, 2010 4:50 PM

To: O'Reilly, Kevin M.

Subject: RE: Wicked One

These pics are just an example of some of the guns, ammo and magazines seized within the past week in Phoenix related to the "large OCDEF case" I mentioned. When a 22 year old kid on State financial assistance walks into a gun store and plops down \$12,000 in cash to buy a tripod mounted .50 caliber rifle that's a clue (even for us) that he's involved in trafficking firearms for a Mexican DTO. Another picture shows the 225 drum magazines we seized from the same group. These are in BIG demand by the Mexican DTOs because each drum hold 75 rounds of 7.62x39mm (AK47) ammo. Each one costs about \$200, depending on where you go, so we they aren't happy we seized approx \$45,000 in merchandise from them but of course money is not a problem for them. If you have any questions, like "how in the hell....?" then feel free to call.

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

[REDACTED]

Exhibit 165

RC-1

From: Morrissey, Mike (USAAZ)
Sent: Monday, August 16, 2010 8:41 PM
To: Cunningham, Patrick (USAAZ)
Cc: Burke, Dennis (USAAZ); Hurley, Emory (USAAZ)
Subject: FW: memo on Fast and Furious

Emory – good job on this. Do you anticipate drug charges in the indictment? Drug charges are not listed in paragraph two of the memo but the memo also says the investigation has seized 50 pounds of marijuana. Dennis and Pat – this is quick and dirty but we thought it would help ground tomorrow's discussion. Mike

From: Hurley, Emory (USAAZ)
Sent: Monday, August 16, 2010 4:46 PM
To: Morrissey, Mike (USAAZ)
Subject: memo

It is my understanding that Dave Voth has prepared a Power Point presentation for Dennis.



emo DKB fast
and furious.wpd

Exhibit 166

Exhibit 166



United States Attorney's Office
District of Arizona

Memorandum

To: Dennis K. Burke
From: Emory Hurley
Subject: Fast and Furious Overview
Date: August 16, 2010

Fast and Furious is a T-III OCDETF investigation into gun trafficking to Mexican DTOs. In the last six months, RC-3

RC-3

RC-3

The goals of this T-III would be to identify the players in Mexico, interdict additional gun and dope shipments, and identify the players more involved in the drug trafficking side of the organization.

We currently anticipate taking the investigation down in October. Manuel CELIS-ACOSTA remains the primary target of the investigation. The first indictment will include the top ten or twelve players in the trafficking conspiracy and will likely charge 22:2778, Exporting Munitions; 18:922(a)(1)(A) Unlicensed Dealing, 18:924(n) Interstate/International Firearms Trafficking, and 18:371 Conspiracy.

Minor participants and straw purchasers will be dealt with through individual straw purchase indictments or offers to plead to an information.

A target known as RC-4 appears to run the drug trafficking side of this organization. If possible we may seek a RC-3 as well. We will continue to move towards indicting the firearms trafficking side of the organization even if we are able RC-3 RC-4 RC-3. Progress in any investigation against RC-4, however, may necessitate a delay in unsealing the gun trafficking indictment.

Thus far the investigation has interdicted approximately 200 firearms, including two .50 caliber rifles. Investigating agents have pursued interdiction of the firearms transferred to the conspirators where possible. Agents have not purposely let guns "walk." Interdiction in some cases has been hampered by counter-surveillance used by the targets.

Agents have interdicted approximately 50 pounds of marijuana.

HOCR USAO 003027

Exhibit 167

From: Burke, Dennis (USAAZ)
To: Hernandez, Norma (USAAZ)
Sent: 7/14/2010 5:12:59 PM
Subject: Re: Meeting w/USA Burke and SAC Newell (ATF)

Cunningham, Morrissey and Emory.

From: Hernandez, Norma (USAAZ)
Sent: Wednesday, July 14, 2010 05:11 PM
To: Burke, Dennis (USAAZ)
Subject: FW: Meeting w/USA Burke and SAC Newell (ATF)

Whom shall I include?

From: Briggs, Michele A. (ATF)
Sent: Wednesday, July 14, 2010 7:26 AM
To: Hernandez, Norma (USAAZ)
Subject: Meeting w/USA Burke and SAC Newell (ATF)

Norma

SAC Newell asked if I could set up a meeting with USA Burke the week of August 16th. The meeting will last about 2 hours and will be in regard to an OCDETF case (Fast & Furious) that one of our groups is working, as well as another case.

Any day that week will work. Please advise if you can schedule this.

Thanks

Michele

HOCR DOJ 005964

Exhibit 168

Exhibit 168

Microsoft Outlook

From: Newell, William D [REDACTED]
Sent: Wednesday, August 18, 2010 8:50 AM
To: O'Reilly, Kevin M.
Subject: Fw: Guns not viewed in Mexico

Want to give you a good example of the frustration we have in trying to assist Mexico with the firearms trafficking issue. In this judicial district (Arizona), in cases involving the "straw" purchase of firearms eventually recovered in Mexico and where we only have a confession by the "straw" and a falsified ATF F 4473 (form filled out by buyer and licensed gun dealer), the U.S. Attorney's office requests that we have a "U.S. Agent" physically inspect the firearms in Mexico in order to show the jury that the "straw" buyer was in fact part of a trafficking scheme. Other districts don't require this but hey it's Arizona, I appreciate and respect the struggles the USAO has to go through with juries in this State to convince them of the illegality of this. We routinely have "straw" purchasers tell us that "yeah, I knew what I was doing was wrong but the money was good and who cares - the guns are going to Mexico right?". A very typical attitude and until some of these folks start going to prison for violating Federal law then nothing will change. We have some "straw" purchasers who have purchased several hundred "weapons of choice" and made good money doing it but in reality may never get prosecuted. In trying to satisfy the Arizona USAO's request to have the firearms inspected in Mexico in order to be able to introduce that in US Federal court we need Mexico's help but as you can guess it's a major pain to get access to these guns. The longer the guns are in custody in Mexico (40 days+) the deeper in red tape they get buried. If it's less than 40 days since the seizure it "should be" fairly easy but as you know nothing in Mexico is easy or quick. As an example and regarding the August 4th seizure in Nogales, Sonora. Several of the firearms in that seizure are directly linked to a case we are ready to indict here in the Federal system. We had these guns entered into our "Suspect Guns" system so when they were traced in eTrace they "pinged" off this "Suspect Guns" list and our case agent was immediately notified. I then contacted the Sonora PGR "SAC" and had it all worked out to have 2 of my agents accompany 3 PGR reps to see the guns yesterday. There was an official order signed by the PGR which they can do in order to see any evidence being stored at a nearby military base during the prosecution of a case. In Mexico the military bases are used to store most evidence since they are deemed the most "secure". It was all arranged for my guys to travel to Nogales, Sonora yesterday at 9am which they did and where they met 3 very helpful PGR reps. They all then traveled to the nearby military base, order in hand, to view the 3 guns needed in our case in Arizona. Upon arriving at the military they were blocked from seeing the evidence even though the PGR had an properly executed order allowing it. The General ended up getting involved and of course nothing happened after that since it appears he was out of the loop on this which I partly blame myself for but that should have been handled by the Sonora PGR's office. In reality the PGR's "order", a legal document, should have trumped the General's objections but of course it's Mexico and once feelings get hurt all bets are off. Therefore after several unsuccessful attempts to explain our legitimate reasons for being there including our desire to prosecute those responsible for trafficking these firearms my guys came back to Phoenix. This is just one example, many more like it exist where we have repeatedly attempted to inspect firearms seized in Mexico for the specific purpose of using that as evidence in criminal proceedings. What should be a very simple process and something we should be doing all the time is not happening because the Mexicans make it impossible, even when we follow their rules. We are more than willing to address their repeated requests to hold all those involved in the trafficking of firearms accountable to the fullest extent of the law but they need to be part of the solution and not the problem. My agents desperately want to make this work because we see the damage caused by these illegal acts by "straw" purchasers and others involved in trafficking firearms to Mexico. We want to hold them accountable under US law but it won't take many more times of having doors slammed in their faces by the Mexicans before they give up and when that happens Mexico can stop complaining because we tried and they failed.

Bill Newell
 Special Agent in Charge
 ATF Phoenix Field Division (AZ and NM)
 [REDACTED]

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From: Voth, David J.
To: Newell, William D.
Sent: Fri Aug 13 17:15:23 2010
Subject: Guns not viewed in Mexico
 SAC Newell,

Below is a list of guns recovered in Mexico, straw purchased here in Phoenix, that we are submitting for charging in August 2010 as part of GRIT initiative. As you are well aware the USAO in Phoenix wants a US law enforcement officer to view the firearms prior to charging. These firearms have not been previously viewed to the best of my knowledge. This list is only in preparation for the August charging initiative and does not contain every firearms we are alleging or charging.

<u>ATF Case Number</u>	<u>Case Name</u>	<u>Recovery Date</u>	<u>Recovery Location</u>	<u>Firearm type</u>
785115-1 [REDACTED]	[REDACTED]	4-Aug-10	Nogales, Sonora	FN 5.7 pistol
785115-1 [REDACTED]	[REDACTED]	21-Apr-10	San Dimas, Durango	Romarm/Cugir 7.62 rifle
163030-1 [REDACTED]	[REDACTED]	1-Feb-10	Tepic, Nayarit	Barrett .50 caliber rifle
785071-1 [REDACTED]	[REDACTED]	15-Apr-09	San Miguel, Guerrero	Barrett .50 caliber rifle
785115-1 [REDACTED]	[REDACTED]	26-Feb-10	Culiacan, Sinaloa	FN PS90 5.7 rifle

Thanks for assistance in this matter,

David Voth
 Group Supervisor
 Phoenix Group VII
 [REDACTED]

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Exhibit 169

Exhibit 169

From: O'Reilly, Kevin M. [Kevin_M._O'Reilly RC-1]
Sent: Friday, September 03, 2010 12:13 PM
To: Newell, William D.
Subject: Re: GRIT

They'll not go beyond Dan and me.
 These are really very informative.

Thanks

Kevin O'

Kevin M O'Reilly
 Director
 North American Affairs
 National Security Staff
 The White House

RC-1

From: Newell, William D. <William.D.Newell RC-1 >
To: O'Reilly, Kevin M.
Sent: Fri Sep 03 11:28:08 2010
Subject: RE: GRIT

1 of 2 e-mails.

You didn't get these from me...

The first attachment is what we were going to hand out to the media prior to our planned August 26th press conference. We will still use this IF we ever do a press conf. It had been vetted through ATF HQ. The second Word doc is what we were going to give to ATF DD Melson as notes in case he got asked specific questions about our Industry Operations efforts during GRIT.

Also, not mentioned in these docs but VERY relevant to Mr. Brennan's meeting next week is the fact that we and the USA were going to announce the indictment of a dozen "straw purchase" case addressing firearms trafficking by 30 individuals. We finally have the USAO here on board with going after "straw" purchasers and making a statement, publically especially, that we will take action against those folks. In reality we look at "straw" purchases as the lowest ring on the firearms trafficking ladder but in many investigations we need their cooperation in order to identify the real traffickers and middlemen. Having the USAO backing our "play" when we first interact with "straw" purchases adds tremendous leverage to our efforts to get the truth from them so we can work our way up the ladder.

Bill Newell
 Special Agent in Charge
 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
 Phoenix Field Division (Arizona and New Mexico)
 RC-1

HOCR ATF - 002559

Exhibit 170

Exhibit 170

RPTS [REDACTED]

DCMN [REDACTED]

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: DENNIS K. BURKE

Thursday, August 18, 2011

Washington, D.C.

The interview in the above matter was held in Room 2247, Rayburn House Office Building, commencing at 10:07 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

STEPHEN CASTOR, COUNSEL

HENRY J. KERNER, COUNSEL

ASHOK M. PINTO, DEPUTY CHIEF COUNSEL, INVESTIGATIONS

CARLTON DAVIS, COUNSEL

SUSANNE SACHSMAN GROOMS, MINORITY CHIEF COUNSEL

H. SCOTT LINDSAY, MINORITY COUNSEL

For SENATE COMMITTEE ON THE JUDICIARY:

CHAN PARK, SENIOR COUNSEL

MAGGIE WHITNEY, INVESTIGATIVE COUNSEL

JASON A. FOSTER, MINORITY CHIEF INVESTIGATIVE COUNSEL

TRISTAN LEAVITT, MINORITY COUNSEL

JEREMY PARIS, MINORITY CHIEF COUNSEL FOR NOMINATIONS AND OVERSIGHT

BRIAN DOWNEY, MINORITY INVESTIGATOR

For U.S. DEPARTMENT OF JUSTICE

M. FAITH BURTON, SPECIAL COUNSEL, OFFICE OF LEGISLATIVE AFFAIRS

STEVEN F. REICH, ASSOCIATE DEPUTY ATTORNEY GENERAL

A No. I just want to give it more thought.

EXAMINATION

BY MR. LEAVITT:

Q You mentioned earlier having greater appreciation for ways you could have sped up the process. Can you elaborate more on that, what you would have done to speed things up?

A Yeah, although just to clarify, I think there was some testimony that the case was given to us in August. The case was actually given to us in October. We received over 3,000 documents.

Mr. Foster. I'm sorry, what year?

Mr. Leavitt. 2010.

Mr. Burke. 2010.

BY MR. FOSTER:

Q What do you mean when you say the case was given to us?

A There is a formal process when an agency gives us a case with their cover, and the actual full documentation of the case was given to us, our office in October 2010, and I believe it was represented that it was given to us in August 2010.

Q You mean today in some of the questioning?

A No, I thought there was testimony at one point.

Q Oh, at one of the hearings?

A Yeah, yeah. No, I'm sorry, I apologize, I didn't mean by anyone here. And so --

Q And why is that significant? You mean Mr. Hurley was working -- ATF, at least, has described it as a prosecutor-led strike

force case, they've pointed to documents where those words are written.

A Right.

Q And that it's specifically a prosecutor-led case, everyone talks about how Mr. Hurley was the supervising AUSA on the case, and so are you saying that there are things that you didn't know, that your office didn't know until October of 2010 because it hadn't been formally -- you hadn't formally been provided all of the case documents?

A I don't know that for an actual fact. I do know that in October 2010 our office was provided over 3,000 documents, and a lot of those documents were ROIs that our office had not seen before.

Q You mean Emory Hurley hadn't seen before?

A Correct.

Q Okay.

A He was not, it's my understanding that he was not reviewing all the ROIs, that there were -- I don't know if, of the 3,000 documents we received in October, whether there was a percentage there that he had seen, but I do know there was a huge data dump, file dump on our office in October of this case.

Q And can you explain to us why that happens when it happens, how is the timing worked out? Is that something that you work cooperatively with the ATF to determine when you want to receive that level of detailed information?

A Our perspective is the sooner the better, so the decision as to when the actual documents arrive is a decision made by the agency.

Q Was it something your office had sought earlier and were

Exhibit 171

Exhibit 171

RPTS [REDACTED]

DCMN [REDACTED]

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: DENNIS K. BURKE

Tuesday, December 13, 2011

Washington, D.C.

The interview in the above matter was held in Room 2247, Rayburn House Office Building, commencing at 8:35 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

STEPHEN CASTOR, CHIEF COUNSEL, INVESTIGATIONS

ASHOK M. PINTO, DEPUTY CHIEF COUNSEL, INVESTIGATIONS

HENRY J. KERNER, COUNSEL

CARLTON DAVIS, COUNSEL

JUSTIN KIM, PROFESSIONAL STAFF

SUSANNE SACHSMAN GROOMS, MINORITY CHIEF COUNSEL

H. SCOTT LINDSAY, MINORITY COUNSEL

DONALD K. SHERMAN, MINORITY COUNSEL

Also Present: REPRESENTATIVE PAUL GOSAR

For SENATE COMMITTEE ON THE JUDICIARY:

MAGGIE WHITNEY, SENIOR INVESTIGATIVE COUNSEL

JASON FOSTER, MINORITY CHIEF INVESTIGATIVE COUNSEL

TRISTAN LEAVITT, MINORITY COUNSEL

BRIAN M. DOWNEY, MINORITY INVESTIGATOR

ROB DONOVAN, MINORITY STAFF

PATRICK BAILEY, MINORITY STAFF

For DENNIS K. BURKE:

SARAH E. DEAN, ATTORNEY AT LAW

Hogan Lovells US LLP

[REDACTED]

[REDACTED]

Washington, D.C. 20004

LEE STEIN, ATTORNEY AT LAW

Perkins Coie LLP

[REDACTED]

Phoenix, AZ 85012-2788

Mr. Stein. In particular, the one pair --

BY MR. KERNER:

Q Let me ask you something about a little bit something else. You referred to the DAG. That was your director report?

A Correct.

Q Right? And also did you interact at all with the deputy chief of staff or Eric Holder, Mr. Monty Wilkinson?

A On occasion.

Q What was the nature of your interactions with him?

A He would be someone you would contact if the Attorney General were doing any travelling in your area. He would coordinate through him. And then I also called him first when I was informed of the Tucson shooting.

Q Okay. Did you have -- did you communicate with Mr. Holder at all, the AG himself?

A In what respect?

Q Did you communicate with him at any time?

A Have I ever had conversations with the Attorney General?

Q Yes.

A Yes.

Q What form did they take?

A I was on the AGAC, and we would meet with him every 4 to 6 weeks. And sometimes I would have a chance to talk at the meetings, and most times, I didn't.

BY MR. FOSTER:

organizational chart of who these people were and what potential charges there were and how they were all interconnected and how it worked.

Q Do you recall any -- leaving any member with any reason to believe that interdictions were not occurring?

A No.

Q Any reason to believe that ATF agents were cutting off surveillance?

A No.

Q Any reason to believe that ATF agents were not effectuating arrests when they could?

A No.

Q Now, there has been some discussion about delays in the indictment. Can you tell us what you know about that and why it took so long for Fast and Furious to reach indictment?

A Well, I think I discussed this in my first interview, that the file that was submitted to, for an indictment from ATF wasn't actually submitted until September, and then there were some other factors that led to delays, such as that IRS was involved in the case and doing some money laundering counts, and they asked for additional time to perfect those counts, and that led to some delay, too.

Q Did you have concerns about the delays?

A Yes.

Q And what did you do to address those concerns?

A I contacted Mike Morrissey a few times, asking him what is

interest in the AG coming out for it. Please send me four or five lines about it, and I can brief Monty on it, especially time window. I am going to guess that Monty here is Monty Wilkinson; is that correct?

A Correct.

Q And then there is an answer from Mr. Cunningham back to you, also cc'ing Miss Scheel and others, You bet, good opportunity to see if January 6 and 7 are still our target dates for indictment and take-down press event. The AG's office, was that Mr. Holder himself who was expressing interest in coming out?

A No, not to my knowledge. It was, I think when I said AG's office, I am indicating Monty.

Q Okay. So Monty, you indicated earlier that Monty Wilkinson sort of did travel-related things?

A Right.

Q Okay. So this would have been in his wheelhouse basically?

A Correct.

Q But who was Monty interested in having come out? It wasn't going to be Monty Wilkinson showing up at the press conference, right?

A No, it was the Attorney General.

Q Okay. So this email is specifically in regard to the Attorney General coming out to join you for the take-down of Fast and Furious?

A Correct.

Q Do you know -- and then the target dates were January 6th and 7th, but of course, that got delayed?

Exhibit 172

Exhibit 172

From: Gwinn, Laura (CRM)
To: Hurley, Emory (USAAZ)
Sent: 9/16/2010 12:10:37 PM
Subject: RE: next week

Sounds good!

Hope you are going to be out of the office for a little R&R; you work so hard, you deserve it!

From: Hurley, Emory (USAAZ) [mailto:Emory [REDACTED]]
Sent: Thursday, September 16, 2010 12:06 PM
To: Gwinn, Laura
Subject: RE: next week

I am out of the office this coming week. ATF is working on putting together binders for each defendant which will include call translations, but we don't have any of these yet. I was shooting for a late October indictment of the ten RC-6 [REDACTED] This may add a little to the time it takes them to prepare the necessary translations and for me to review everything, but I would still like to try for a late October/early November GJ date.

From: Gwinn, Laura (CRM)
Sent: Thursday, September 16, 2010 7:40 AM
To: Hurley, Emory (USAAZ)
Subject: next week

I will be in your office next week Tues afternoon (I have a sentencing in Tucson Tues AM) and Wed AM-early afternoon. So far, there just isn't enough work to keep me busy for the whole week, so will return to DC Wed PM. I'm hoping that you might have some work for me on Celis-Acosta while I am there. I would also like to discuss with you your timing on indictments for Celis-Acosta et al, so that I can plan when the Tucson indictments can be presented and returned.

Thanks.

Laura Gwinn
US Dept of Justice Gang Unit
RC-1 [REDACTED] (C)

HOCR DOJ 005979

Exhibit 173

RC-1

From: Cunningham, Patrick (USAAZ)
Sent: Monday, September 20, 2010 3:44 PM
To: Burke, Dennis (USAAZ)
Subject: RE: RC-2

Yes, excellent coverage in the Republic on Saturday and KTAR ran your sound bites today on Cartel Gun Locker and Deadly, Deadly business. I will check with Emory and Mike. PJC

From: Burke, Dennis (USAAZ)
Sent: Monday, September 20, 2010 12:35 PM
To: Cunningham, Patrick (USAAZ)
Subject: Re: SWB Wire Link

Emory ready to take down the Fast and Furious wire? Seems we should strike while the iron is hot.

From: Cunningham, Patrick (USAAZ)
Sent: Monday, September 20, 2010 03:28 PM
To: Burke, Dennis (USAAZ)
Subject: RE: RC-2

RC-2

From: Burke, Dennis (USAAZ)
Sent: Monday, September 20, 2010 12:27 PM
To: Cunningham, Patrick (USAAZ)
Subject: Re: SWB Wire Link

Awesome.

From: Cunningham, Patrick (USAAZ)
Sent: Monday, September 20, 2010 01:15 PM
To: McCormick, Glenn (USAAZ); 'Mertz Dawn N' <RC-1>
Cc: Burke, Dennis (USAAZ); Vercauteren, Keith (USAAZ); Scheel, Ann (USAAZ)
Subject: RE: RC-2

RC-2

From: McCormick, Glenn (USAAZ)
Sent: Monday, September 20, 2010 9:36 AM
To: Cunningham, Patrick (USAAZ); Mertz Dawn N
Subject: RC-2

Exhibit 174

Exhibit 174

From: Gillett, George T. Jr.
Sent: Tuesday, October 05, 2010 3:36 PM
To: Voth, David J.
Subject: FW: Document1
Attachments: briefing paper II (3).docx; Doc1.docx

Can you put it in a BP format for me?

From: Newell, William D.
Sent: Tuesday, October 05, 2010 12:11 PM
To: Gillett, George T. Jr.
Subject: Re: Document1

Have him put into a BP format, will most likely go to DAG.
Bill Newell
Special Agent in Charge
ATF Phoenix Field Division (AZ and NM)
Cell: [REDACTED]

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From: Gillett, George T. Jr.
To: Newell, William D.
Sent: Tue Oct 05 14:50:12 2010
Subject: Fw: Document1

I have not reviewed but don't want to stand in the way of progress.

George T. Gillett
ASAC, 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).

From: Voth, David J.
To: Gillett, George T. Jr.
Sent: Tue Oct 05 14:46:43 2010
Subject: Document1
Here it is...

Exhibit 175

RC-1

From: Burke, Dennis (USAAZ)
Sent: Thursday, September 30, 2010 12:28 AM
To: Morrissey, Mike (USAAZ); Hurley, Emory (USAAZ)
Cc: Cunningham, Patrick (USAAZ)
Subject: Re: Wide Receiver II indictment review

The "War and Peace" equivalent of a T--III !

From: Morrissey, Mike (USAAZ)
Sent: Thursday, September 30, 2010 12:08 AM
To: Hurley, Emory (USAAZ); Burke, Dennis (USAAZ)
Cc: Cunningham, Patrick (USAAZ)
Subject: Re: Wide Receiver II indictment review

Thanks, Emory. Dennis _ Emory briefed me earlier this week on F and F _ it is also wrapping up (down on all wires) but tons of reports to read as Emory plans the indictments.

From: Hurley, Emory (USAAZ)
Sent: Wednesday, September 29, 2010 11:53 PM
To: Burke, Dennis (USAAZ)
Cc: Morrissey, Mike (USAAZ); Cunningham, Patrick (USAAZ)
Subject: Re: Wide Receiver II indictment review

There should not be any problems for Fast and Furious if Laura goes forward with her indictment plans. We don't see close enough ties to our primary players to think that it will jeopardize our case at this point.

RC-4

From: Burke, Dennis (USAAZ)
Sent: Wednesday, September 29, 2010 08:44 PM
To: Hurley, Emory (USAAZ)
Cc: Morrissey, Mike (USAAZ); Cunningham, Patrick (USAAZ)
Subject: FW: Wide Receiver II indictment review

Fyi. We all on the same page on this? Thx.

From: Clemens, Shelley (USAAZ)
Sent: Sunday, September 26, 2010 10:14 AM
To: Burke, Dennis (USAAZ)
Subject: FW: Wide Receiver II indictment review

Status of Wide Receiver.
 Shelley Clemens

Exhibit 176

Exhibit 176

From: Hurley, Emory (USAAZ)
To: Morrissey, Mike (USAAZ)
Sent: 10/22/2010 3:14:26 PM
Subject: Fw: Newell meeting request

From: Hernandez, Norma (USAAZ)
Sent: Friday, October 22, 2010 01:49 PM
To: Hurley, Emory (USAAZ)
Subject: Newell meeting request

What do you think? Pat said to check with you.

From: Briggs, Michele A. (ATF)
Sent: Tuesday, October 19, 2010 9:29 AM
To: Hernandez, Norma (USAAZ)
Subject:

Norma

SAC Newell would like a meeting sometime the 1-3 of November, over here in our office, to discuss the Fast & Furious case and plans for indictment. He would like it here to show him the evidence, etc., etc.

Please advise if this can happen. He needs an hour of his time.

Thanks Norma!

Michele A. Briggs
Executive Assistant to the Special Agent in Charge
Phoenix Field Division
RC-1

HOCR DOJ 005986

Exhibit 177

Exhibit 177

RC-1

From: Cunningham, Patrick (USAAZ)
Sent: Friday, October 22, 2010 5:31 PM
To: Hernandez, Norma (USAAZ)
Cc: Hurley, Emory (USAAZ); Burke, Dennis (USAAZ); Morrissey, Mike (USAAZ); Scheel, Ann (USAAZ)
Subject: Fast and Furious meeting

Norma: please advise Mr. Newell's scheduler that we will be ready to meet on Fast and Furious the Week of November 30. Emory will have a good idea by then who we believe we can charge.

Emory: let us know if you can meet any sooner. Thanks! PJC

From: Morrissey, Mike (USAAZ)
Sent: Friday, October 22, 2010 1:32 PM
To: Hernandez, Norma (USAAZ)
Cc: Cunningham, Patrick (USAAZ); Hurley, Emory (USAAZ)
Subject: Fast and Furious meeting

Pat and Norma – I'm hoping we can defer Mr. Newell's request for a meeting on Nov 1,2, or 3. It is simply too early – Emory is reviewing a huge mass of information, and while we could discuss broad ideas on the indictment, I would much rather delay this a bit and have an "informed" discussion, at a later date.

Exhibit 178

Exhibit 178

Briefing Paper

Phoenix Field Division

Phoenix Group VII (OCDETF Strike Force/Gunrunner)

ATF Investigation 785115-10- [REDACTED]

Operation: Fast & Furious, OCDETF No. [REDACTED]

Case Background

The Phoenix Group VII Field Office is leading an investigation entitled "Operation Fast & Furious" in conjunction with Immigration and Customs Enforcement (ICE), Drug Enforcement Administration (DEA), Internal Revenue Service (IRS) and the Phoenix Police Department (PPD). This operation was approved as an OCDETF case by the Southwest Region as SW-AZP-0496.

Since October 2009, ATF and the other partners listed above have been investigating a firearm trafficking organization that is being funded by the Sinaloa drug trafficking organization (DTO), a narcotics trafficking organization well known for violent criminal activity in Mexico. This organization is also involved in trafficking firearms to Mexico, and smuggling cocaine and marijuana into southern Arizona to be distributed throughout the United States. The OCDETF investigation of this organization is addressing violations of Federal Laws to include Firearms, Narcotics, Money Laundering, and Conspiracy Laws.

Agents believe that the Phoenix-based firearm trafficking group is actively purchasing firearms through "straw" purchasers using narcotics proceeds. From October 2009 to October 2010 agents have documented that this organization spent approximately 1.25 million dollars in cash at various Phoenix area Federal Firearms Licensees to acquire in excess of 1,900 firearms. The firearms are then being trafficked into Mexico using false compartments in various vehicles through various international Ports of Entry in Arizona and Texas.

[REDACTED] Through these investigative techniques agents have been able to identify a large number of additional co-conspirators and disrupt the illegal activities of this firearms trafficking organization by seizing numerous firearms and narcotics. To date, over three hundred firearms and over fifty pounds of marijuana have been recovered by agents in addition to the numerous firearms and narcotic seizures in Mexico related to this investigation.

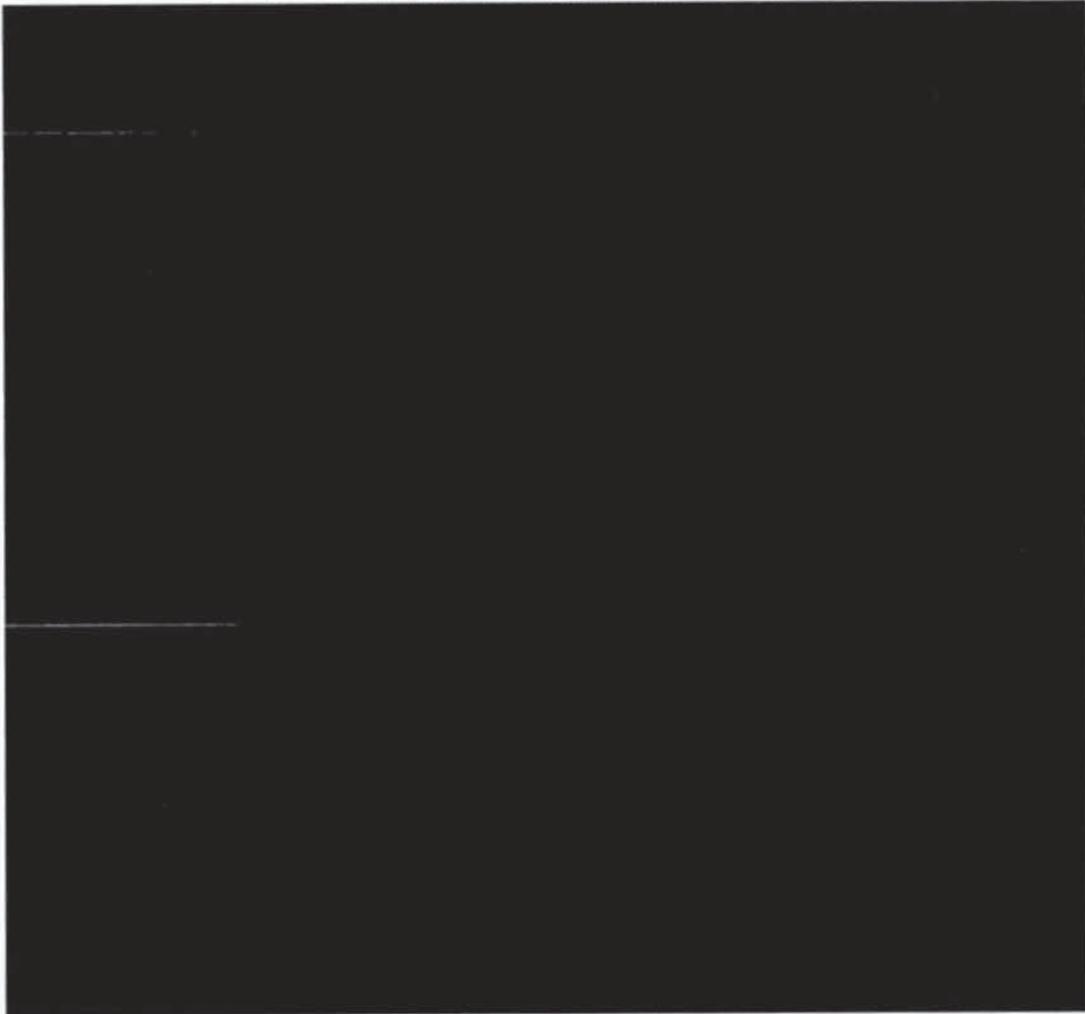
Over the past several weeks agents, in conjunction with the investigative partners and the United States Attorney's Office (USAO) have been preparing for the indictment of [REDACTED] individuals in this investigation. Agents initially anticipated a first wave of indictments on December 7, 2010. However, in light of additional evidence obtained in support of this investigation and investigative efforts on the part of IRS the first wave of approximately 20 indictments have been

pushed back another 30 days. The reasons for this include [REDACTED]
[REDACTED] In addition the USAO has agreed to approve the inclusion of five Federal search warrants. The additional preparation for the search warrants and [REDACTED] coupled with available Grand Jury time, has pushed the indictment date to the week of January 10, 2011.

On December 3rd SAC Newell and ASAC Needles met with USA Burke, Chief of Criminal Cunningham and lead the AUSA for this case and discussed all these matters.

It should be further noted that firearms purchasing and trafficking activity by this organization has subsided significantly since early October of this year. This is due to several factors not the least of which are proactive measures taken by the agents assigned to Phoenix Group VII.

List of Defendants Referred to USAO for Prosecution:





Proposed Charges:

1. Title 18, United States Code, Section 554, Smuggling Goods from the United States;
2. Title 18, United States Code, Section 922(a)(1), Dealing in Firearms without a License;
3. Title 18, United States Code, Section 922(a)(5), Transferring Firearms to a Non-Resident of the State;
4. Title 18, United States Code, Section 922(a)(6) Making a False Statement in Connection with the Acquisition of a Firearm;
5. Title 18, United States Code, Section 924(a)(1)(A) Making a False Statement in Connection with the Acquisition of a Firearm;
6. Title 18, United States Code, Section 924(n), Interstate/International Firearms Trafficking;
7. Title 18, United States Code, Sections 924(c) and 924(o), Use of a Firearm in Furtherance of a Drug Trafficking Offense/Conspiracy to Use a Firearm in Furtherance of a Drug Trafficking Offense;
8. Title 18, United States Code, Section 1343, Wire Fraud;
9. Title 18, United States Code, Section 1956, Money Laundering;
10. Title 18, United States Code, Section 371, Conspiracy to Commit any Offense Against the United States;
11. Title 21, United States Code, Sections 841 and 846, Possession/Conspiracy to Possess a Controlled Substance with Intent to Distribute;

12. Title 21, United States Code, Sections 960 and 963, Import/Conspiracy to Import a Controlled Substance;
13. Title 22, United States Code, Section 2778, Attempt/Export Munitions without a License;
14. Title 31, United States Code, Section 5324, Structuring Transactions to Evade Reporting Requirements; and
15. Title 31, United States Code, Section 5332, Bulk Cash Smuggling;

Exhibit 179

Exhibit 179

** PUBLIC ** PHOENIX POLICE DEPARTMENT REPORT ** RECORD **

ORIGINAL PAGE NUMBER: 1 DR NUMBER: 2010 01435239

REPORT DATE: 20101009 TIME: 0314

TYPE OF REPORT: ATTEMPT RESIDENTIAL BURGLARY OFFENSE: 459RX

PROSECUTION DESIRED: YES

LOCATION: [REDACTED] BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: SAT 100910 0310

REPORTING OFFICER[S]: [REDACTED] 8852 UNIT: [REDACTED]
8859

PREMISES: SINGLE FAMILY HOUSE OCCUPIED: YES

ALARM INSTALLED: UNKNOWN

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

PARTY-CREW: NO

**** SUSPECT INFORMATION ****

SUSPECT-01: NAME: UNKNOWN, [**FLED**]

SPEAKING: UNKNOWN

SUSPECTED OF USING: NOT APPLICABLE

RACE: B SEX: M AGE: 22-26 DOB: HT: 000 WT: 000
LEVEL OF FORCE : NO CONTACT WITH PERSON

CLOTHING DESC & MISC:
WHI DU RAG

SUSPECT-02: NAME: UNKNOWN, [**FLED**]

SPEAKING: UNKNOWN

SUSPECTED OF USING: NOT APPLICABLE

RACE: B SEX: M AGE: 22-26 DOB: HT: 000 WT: 000
LEVEL OF FORCE : NO CONTACT WITH PERSON

CLOTHING DESC & MISC:
MAROON SHIRT

SUSPECT-03: NAME: UNKNOWN, [**FLED**]

2010 01435239

Continued.

** PUBLIC ** PHOENIX POLICE DEPARTMENT REPORT ** RECORD **

ORIGINAL PAGE NUMBER: 2 DR NUMBER: 2010 01435239

SPEAKING: UNKNOWN

SUSPECTED OF USING: NOT APPLICABLE

RACE: B SEX: M AGE: DOB: HT: 506-600 WT: 200

SPECIAL AGE RANGE: UNKNOWN
LEVEL OF FORCE : NO CONTACT WITH PERSON

CLOTHING DESC & MISC:
WHI SHIRT

**** VICTIM INFORMATION ****

VICTIM -01:

NAME: [REDACTED] [REDACTED]

SPEAKING: ENGLISH

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]
HAIR: [REDACTED] EYES: [REDACTED] SSN: [REDACTED]

VICTIM OF:

BURGLARY/BREAKING-ENTERING - ATTEMPTED
DR. LICENSE & STATE: [REDACTED]
CAN ID SUSPECT(S): NO SUSPECT(S):
WILL TESTIFY: YES MISC.

VICTIM REQUESTS NOTIFICATION

VICTIM -02:

NAME: CELIS ACOSTA, MANUEL

SPEAKING: ENGLISH

RACE: H SEX: M AGE: 23 DOB: [REDACTED] HT: 602 WT: 230
HAIR: BLK EYES: BRO SSN: [REDACTED]

VICTIM OF:

BURGLARY/BREAKING-ENTERING - ATTEMPTED
DR. LICENSE & STATE: [REDACTED]
CAN ID SUSPECT(S): NO SUSPECT(S):
WILL TESTIFY: YES MISC.

VICTIM REQUESTS NOTIFICATION

VICTIM -03:

NAME: [REDACTED] [REDACTED]

SPEAKING: ENGLISH

2010 01435239

Continued.

** PUBLIC ** PHOENIX POLICE DEPARTMENT REPORT ** RECORD **

ORIGINAL PAGE NUMBER: 3 DR NUMBER: 2010 01435239

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]
 HAIR: [REDACTED] EYES: [REDACTED] SSN: [REDACTED]

VICTIM OF:

BURGLARY/BREAKING-ENTERING - ATTEMPTED

DR. LICENSE & STATE: [REDACTED]

CAN ID SUSPECT(S): NO

SUSPECT(S):

WILL TESTIFY: YES

MISC.

VICTIM REQUESTS NOTIFICATION

**** WITNESS INFORMATION ****

WITNESS -01:

NAME: [REDACTED] [REDACTED]

SPEAKING: ENGLISH

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]
 HAIR: [REDACTED] EYES: [REDACTED] SSN: [REDACTED]
 DR. LICENSE & STATE: [REDACTED]
 CAN ID SUSPECT(S): NO SUSPECT(S):
 WILL TESTIFY: YES MISC.

WITNESS -02:

NAME: [REDACTED] [REDACTED]

SPEAKING: ENGLISH

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]
 CAN ID SUSPECT(S): NO SUSPECT(S):
 WILL TESTIFY: NO MISC.

**** SUSPECT VEHICLE ****

VEHICLE NUMBER: 01 INVOLVED PERSON: SP-01 UNKNOWN

LAST KNOWN DIRECTION OF TRAVEL: SOUTH BOUND

VEHICLE YEAR: MAKE: CHEV MODEL: TAHOE STYLE: PC
 COLOR: TOP/SOLID-BLK BOTTOM-MAR

FURTHER DESC.: EITHER BLACK OR MAROON

**** VEHICLE ****

VEHICLE NUMBER: 02 INVOLVED PERSON: IL-01 IS NOT ON THIS REPORT

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Continued.

** PUBLIC ** PHOENIX POLICE DEPARTMENT REPORT ** RECORD **

ORIGINAL PAGE NUMBER: 4 DR NUMBER: 2010 01435239

VEHICLE YEAR: MAKE: MODEL: STYLE:
VIN: OAN:
COLOR:
LICENSE PLATE: STATE: TYPE: YEAR:

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000000

0001 PKG 000 CODE:CIW UK01
LAB/FIELD:N ITEM: *MISC BRAND: MODEL: COLOR: WHI
SIZE: QUANTITY: 0004 SERIAL/ACCT/ID:
DESCRIPTION: 4 HEAVY GAGE ZIP TIES SET INTO LOOPS FOUND ON GROU
ND IN FRONT OF AV ON THE NORTH SIDE OF THE PROPERTY. TIES FOUN
D IN GENERAL AREA SUSPECTS WERE SEEN RUNNING FROM.
PROCESS FOR DNA

0002 PKG 000 CODE:D V 01
ITEM: YDOOR BRAND: MODEL: COLOR:
SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
OAN: VALUE: \$500.00
DESCRIPTION: REAR SLIDING DOOR TO HOUSE DAMAGED WHEN V2 FIRED S
HOTS THROUGH IT TO SCARE AWAY SUSPECT/S.

TOTAL DAMAGE VALUE: \$500.00 TOTAL LOST ITEM VALUE:

**** CRIME SCENE \ CRIME AGAINST PROPERTY ****

SCENE NUMBER : 01

ENTRY POINT: WINDOW UNUSUAL/SEE NARRATIVE
LOCATION: REAR
METHOD: N/A

EXIT POINT: NOT APPLICABLE

SUSPECT ACTIONS:
CRIME NOT COMPLETE

VICTIM WAS: AT HOME

**** NARRATIVE ****

SERIAL NUMBER: 8852

ON 100910 AT 0310 HOURS THE LISTED SUSPECTS ATTEMPTED TO COMMIT
RESIDENTIAL BURGLARY WHEN THEY WERE OBSERVED AT THE REAR BEDROOM WINDOW TO
V1'S ROOM INSIDE OF THE FENCED RESIDENTIAL BACK YARD.

ON 100910 AT 0314 HOURS OFFICER AND I RESPONDED TO AN EMERGENCY

2010 01435239

Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

ORIGINAL

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DR NUMBER: 2010 01435239

RADIO CALL OF SHOTS AT [REDACTED] LANE. UPON ARRIVAL OFFICER [REDACTED] #7984 WAS ALREADY ON SCENE WITH W1 [REDACTED]. I SPOKE WITH [REDACTED] WHO STATED THAT HE HEARD A LOUD NOISE, AND DOGS BARKING. [REDACTED] STATED HE WOKE UP AND OPENED THE FRONT DOOR AND AS HE DID HE SAW TWO BLACK MALES IN THEIR MID TO LATE 20'S RUNNING SOUTH BOUND ON 75TH LANE. [REDACTED] SAID THAT ONE WAS WEARING A WHITE DU-RAG AND THE OTHER WAS WEARING A RED SHIRT. [REDACTED] HAD NO FURTHER DESCRIPTION. JUAN POINTED OUT THE LISTED 4 WHITE HEAVY GAGE ZIP TIES LAYING ON THE NORTH SIDE OF HIS PROPERTY BY THE SIDEWALK. [REDACTED] STATED HE HAS NOT SEEN THEM THERE BEFORE AND BELIEVED THE SUSPECTS MAY HAVE DROPPED THEM.

OFFICER [REDACTED] AND I MADE CONTACT WITH V1 [REDACTED]. [REDACTED] STATED HE WAS IN HIS ROOM AND HEARD A NOISE. [REDACTED] SAID HE LOOKED OUT HIS BEDROOM WINDOW AND SAW A BLACK MALE IN THE BACK YARD BY HIS WINDOW [REDACTED] DESCRIBED HIM AS A BLACK MALE 506-600 TALL WEIGHING APPROXIMATELY 200 LBS AND WEARING A WHITE T-SHIRT. [REDACTED] HAD NO OTHER DESCRIPTION AND WAS NOT SURE IF THERE WAS ANYONE ELSE IN THE BACK YARD WITH HIM.

OFFICER [REDACTED] WENT AROUND THE BACK OF THE HOUSE AND NOTICED THAT THE SLIDER DOOR WAS SHATTERED. I SPOKE WITH V2 MANUEL CELIS ACOSTA WHO STATED THAT HE HAD HEARD [REDACTED] YELL THAT SOMEONE WAS TRYING TO GET INTO THE HOUSE AND GOT HIS TAURUS .45 HAND GUN AND FIRED TWO ROUNDS THROUGH THE SLIDER DOOR IN AN ATTEMPT TO SCARE OFF THE SUSPECTS. MANUEL STATED [REDACTED] CAME INTO THE KITCHEN WITH HIS KAHR 9MM HAND GUN AND WAS STRUGGLING TO LOAD IT. MANUEL SAID [REDACTED] ASKED HIM HOW TO LOAD IT AND TURN THE SAFETY OFF. MANUEL SAID HE TOOK THE GUN LOADED IT AND SHOT 1 ROUND THROUGH THE SLIDER AND TOLD [REDACTED] IT WAS ALL SET TO GO AND IF ANYONE CAME IN THE HOUSE HE COULD SHOOT THEM. MANUEL STATED HE NEVER SAW ANYONE, ONLY FIRED THE GUN TO SCARE THEM OFF.

KAHR 9MM HAND GUN SERIAL NUMBER [REDACTED]
TAURUS .45 CAL HAND GUN SERIAL NUMBER [REDACTED]

NEXT I SPOKE WITH V3 [REDACTED] WHO IS [REDACTED]. V3 STATED THAT HE DID NOT SEE ANY OF THE SUSPECTS BUT WAS AWOKEN BY THE COMMOTION. I ASKED V3 IF HE KNEW ANY REASON WHY SOMEONE WOULD WANT TO BREAK IN AND HE SAID IT WAS BECAUSE THEY HAVE NICE THINGS LIKE THE TRUCKS IN THE FRONT YARD AND THE QUADS IN THE BACKYARD. V3 STATED THEY DRIVE THE QUADS AROUND THE NEIGHBORHOOD AND BELIEVED THE SUSPECTS MAY LIVE IN THE ARE AND KNOW ABOUT THE QUADS AND THINK THAT THEY HAVE MONEY.

OFFICER [REDACTED] SPOKE TO W2 [REDACTED] WHO [REDACTED]. [REDACTED] SAID THAT HE HEARD THE COMMOTION AND LOOKED OUT THE WINDOW AND SAW A BLACK MALE JUMP THE FENCE BY THE SHED INTO THE YARD. [REDACTED] SAID THAT HE THEN HEARD THE SHOTS AND SAW A BLACK OR BURGUNDY TAHOE TAKE OFF EAST AND THEN SOUTH BOUND.

IT SHOULD BE NOTED THAT NONE OF THE VICTIMS OR WITNESSES ARE ABLE TO IDENTIFY THE SUSPECTS.

V2 MANUEL STATED THAT APPROXIMATELY A WEEK AGO THERE WAS A SUSPICIOUS CAR

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

ORIGINAL

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DR NUMBER: 2010 01435239

THAT PULLED UP TO THE HOUSE. MANUEL DESCRIBED IT AS A RED BUICK AND GAVE THE ARIZONA LICENSE PLATE OF [REDACTED]. THE VEHICLE IS LISTED IN THIS REPORT ON THE VEHICLE PAGE. MANUEL SAID THAT A HISPANIC MALE WITH "SLEEVES" WAS DRIVING THE CAR AND CAME TO THE FRONT DOOR ASKING TO USE SOME JUMPER CABLES. MANUEL SAID THEY GAVE HIM SOME CABLES, BUT DID NOT LET HIM IN THE HOUSE. MANUEL SAID THAT THE CAR CAME BY THE HOUSE AGAIN LATER AND HAD 4 LARGE BLACK MALES WITH HIM AS WELL. MANUEL SAID THEY WERE SUSPICIOUS IN AREA FOR A WHILE THEN DISAPPEARED. MANUEL STATED HE DID NOT CALL POLICE ON THAT DAY.

ALL VICTIMS STATED THAT THEY DESIRE PROSECUTION. THE ZIP TIES WERE COLLECTED AND IMPOUNDED AT ESTRELLA MOUNTAIN PRECINCT AS EVIDENCE TO BE PROCESSED FOR DNA. I GAVE VICTIMS RIGHTS INFORMATION TO THE VICTIMS.

END REPORT.

VICTIM RECEIVED RIGHTS INFORMATION: YES

MAIL-IN SUPPLEMENT:

INVOICES: 3955023

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01435239

** PUBLIC ** PHOENIX POLICE DEPARTMENT REPORT ** RECORD **

SUPPLEMENT PAGE NUMBER: 1 DR NUMBER: 2010 01435239 1

REPORT DATE: 20101012 TIME: 0718

TYPE OF REPORT: ATTEMPT RESIDENTIAL BURGLARY OFFENSE: 459RX

LOCATION: [REDACTED] LANE BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: SAT 100910 0310

REPORTING OFFICER[S]: [REDACTED] UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

REPORT STATUS AT PRESENT: PENDING

=====
= *** REQUEST FOR LAB ANALYSIS *** =
=====

CURRENT DR IS: 2010 01435239 001 BIOLOGICAL EVID (BLOOD,SEMEN,TISSUE): Y
NAM: UNK UNK
NAM:
LOCATION: [REDACTED] LA OFF:ATTEMPTED BURGLARY
OFCR REQ OF ANALYSIS [REDACTED] JAILED: N
(LAST,FIRST,MIDDLE) FIRM NAME USE BUS. DATE OCC:100910 TIME:0310
VIC: [REDACTED] DATE REQ:101210 TIME:0720
BUS: [REDACTED] DUI RELATED:N

INVOICE	ITEM #	SFX	TYPE	TYPE OF REQUEST
0003955023	0001		*MISC	FORENSIC BIOLOGY (SERO/DNA)

BLOOD DRAWN BY: 1.DATE/TIME DRAW:000000 / 0000
LOC OF DRAWING: 2.DATE/TIME DRAW:000000 / 0000

***** NARRATIVE *****
SERIAL NUMBER: 7991

PLEASE PROCESS ITEMS FOR PRESENCE OF DNA. IF DNA IS FOUND PLEASE ATTEMPT TO LOCATE POSSIBLE SUSPECTS.

NFI/7991.

VICTIM RECEIVED RIGHTS INFORMATION: NO MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED] DR FINALIZED BY : [REDACTED]

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 2

DR NUMBER: 2010 01435239 1

END OF REPORT

DR NO: 2010 01435239 001

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

ORIGINAL

PAGE NUMBER: 1

DR NUMBER: 2010 01466578

REPORT DATE: 20101014 TIME: 2315

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

PROSECUTION DESIRED: YES

SUSPECT[S]: BOOKED DETAINED

LOCATION: [REDACTED] LANE

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

PREMISES: SINGLE FAMILY HOUSE

STREET/ROADWAY/ALLEY

OFFENSE INVOLVED: BIAS - UNKNOWN BIAS

PARTY-CREW: NO

PHOTOGRAPHS TAKEN: YES BY: [REDACTED]

SCENE PROCESSED FOR LATENTS: NO BY:

LATENTS SUBMITTED TO CRIME LAB: NO

CALL PERSON: WITNESS 03

REPORT DISPOSITION: FIELD CLEARED BY ARREST

OVER AGE 18: YES

**** SUSPECT INFORMATION ****

ARRESTED PERSON-01:

NAME: CELIS ACOSTA, MANUEL

SPEAKING: [REDACTED]

SUSPECTED OF USING: NOT APPLICABLE

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]

HAIR: [REDACTED] EYES: [REDACTED] SSN: [REDACTED]

GANG/AFFILIATION: UNKNOWN

LEVEL OF FORCE : RESTRAINT, JOINT LOCKS, PRESSURE PTS, OR CUFFS

IN U.S. LEGALLY: CONSUL NOTIF: NO REG'N DOCS: NO

EMOTIONAL CONDITIONS: CALM

COOPERATIVE

ARREST:

DATE: 101510 TIME: 0140

DAY: FRI

GRID: BI10

LOC: [REDACTED]

PHOENIX AZ

PHX.P.D. BOOKING NO: [REDACTED]

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

ORIGINAL

PAGE NUMBER: 2

DR NUMBER: 2010 01466578

CLOTHING DESC & MISC:
GREY SHIRT, RED PANTS

PHYSICAL DESCRIPTION:BUILD: MEDIUM HEAVY

HAIR LENGTH: SHORT

HAIR STYLE: STRAIGHT

FACIAL HAIR: UNSHAVEN

SPEECH MANNER: ARTICULATE POLITE

APPEARANCE: GROOMED CASUAL CLOTHES

TEETH: UNKNOWN

EYE FEATURES: NORMAL

EYEBROWS: AVERAGE

COMPLEXION: MEDIUM

INJURY/CONDITION: NONE OBSERVED

ARRESTED PERSON-02:

NAME: [REDACTED]

SPEAKING: ENGLISH

SUSPECTED OF USING: NOT APPLICABLE

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]
HAIR: [REDACTED] EYES: [REDACTED] SSN: [REDACTED]

LEVEL OF FORCE : RESTRAINT, JOINT LOCKS, PRESSURE PTS, OR CUFFS
IN U.S. LEGALLY: CONSUL NOTIF: YES REG'N DOCS: NO

EMOTIONAL CONDITIONS: CALM COOPERATIVE

ARREST:
DATE: 101510 TIME: 0140 DAY: FRI GRID: BI10
LOC: [REDACTED] PHOENIX AZ
PHX.P.D. BOOKING NO: [REDACTED]

CLOTHING DESC & MISC:
BLACK SHIRT, GREEN SHORTS

PHYSICAL DESCRIPTION:BUILD: THIN MEDIUM

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

ORIGINAL

PAGE NUMBER: 3

DR NUMBER: 2010 01466578

HAIR LENGTH: CONSERVATIVE

HAIR STYLE: STRAIGHT

FACIAL HAIR: CLEAN SHAVEN

SPEECH MANNER: UNKNOWN/NOT HEARD NOT UNUSUAL

SPEECH CHARACTERISTICS: ACCENT SOFT

APPEARANCE: GROOMED CASUAL CLOTHES

TEETH: NORMAL

EYE FEATURES: NORMAL

EYEBROWS: AVERAGE

COMPLEXION: MEDIUM

INJURY/CONDITION: NONE OBSERVED

ARRESTED PERSON-03:

NAME: [REDACTED]

SPEAKING: [REDACTED]

SUSPECTED OF USING: NOT APPLICABLE

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]

HAIR: [REDACTED] EYES: [REDACTED] SSN: [REDACTED]

LEVEL OF FORCE : RESTRAINT, JOINT LOCKS, PRESSURE PTS, OR CUFFS

EMOTIONAL CONDITIONS: CALM

COOPERATIVE

ARREST:

DATE: 101510 TIME: 0140

DAY: FRI

GRID: B110

LOC: [REDACTED]

PHOENIX

AZ

PHX.P.D. BOOKING NO: [REDACTED]

CLOTHING DESC & MISC:

NO SHIRT, RED AND BLACK STRIPPED PANTS

PHYSICAL DESCRIPTION: BUILD: MEDIUM

HAIR LENGTH: SHORT

HAIR STYLE: STRAIGHT

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

ORIGINAL

PAGE NUMBER: 4

DR NUMBER: 2010 01466578

FACIAL HAIR: UNKNOWN

SPEECH MANNER: POLITE

SPEECH CHARACTERISTICS: NONENGLISH

APPEARANCE: GROOMED

TEETH: NORMAL

EYEBROWS: AVERAGE

COMPLEXION: MEDIUM

INJURY/CONDITION: NONE OBSERVED

**** WITNESS INFORMATION ****

WITNESS -01:

NAME: [REDACTED] [REDACTED]

SPEAKING: [REDACTED]

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]
HAIR: BLK EYES: [REDACTED] SSN: [REDACTED]

EMOTIONAL CONDITIONS: FEARFUL COOPERATIVE
NERVOUS

CLOTHING DESC & MISC: [REDACTED]
GREY SHIRT, BLACK PANTS
CAN ID SUSPECT(S): NO SUSPECT(S):

WITNESS -02:

NAME: [REDACTED] [REDACTED]

SPEAKING: ENGLISH

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]
HAIR: [REDACTED] EYES: [REDACTED] SSN: [REDACTED]

EMOTIONAL CONDITIONS: CALM COOPERATIVE

CLOTHING DESC & MISC: [REDACTED]
WHITE SHIRT, BLACK SHORTS

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

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DR NUMBER: 2010 01466578

WITNESS -03:

NAME: [REDACTED] [REDACTED]

SPEAKING: ENGLISH

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]
HAIR: [REDACTED] EYES: [REDACTED] SSN: [REDACTED]

CLOTHING DESC & MISC:
GREY SHIRT, BLACK PANTS

WITNESS -04:

NAME: [REDACTED] [REDACTED]

SPEAKING: ENGLISH

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]
HAIR: [REDACTED] EYES: [REDACTED] SSN: [REDACTED]

EMOTIONAL CONDITIONS: CALM COOPERATIVE

CLOTHING DESC & MISC:
GREY TANKTOP, BLUE JEANS

WITNESS -05:

NAME: [REDACTED] [REDACTED]

SPEAKING: ENGLISH

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]
HAIR: [REDACTED] EYES: [REDACTED] SSN: [REDACTED]

EMOTIONAL CONDITIONS: CALM COOPERATIVE

CLOTHING DESC & MISC:
PINK SHIRT, SHORTS

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

OFFICERS INVOLVED

OFFICER [REDACTED] ORIGINAL REPORT, INTERVIEWED W4 AND W5

OFFICER [REDACTED] COLLECTED AND IMPOUNDED EVIDENCE

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

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- OFFICER [REDACTED] INTERVIEWED AP2
- OFFICER [REDACTED] INTERVIEWED AP1, PHOTOGRAPHED SCENE
- OFFICER [REDACTED] INTERVIEWED AP3
- OFFICER [REDACTED] INTERVIEWED W1
- OFFICER [REDACTED] CRIME SCENE DIAGRAM
- OFFICER [REDACTED] SCENE SECURITY
- SGT. [REDACTED] ON SCENE SERGEANT
- LT. [REDACTED] ON SCENE LIEUTENANT

ON 101410 AT APPROXIMATELY 2303 HOURS AP1 MANUEL ACOSTA, AP2 [REDACTED] AND AP3 [REDACTED] USING THE LISTED FIREARMS UNLAWFULLY DISCHARGED THEM WITHIN CITY LIMITS FIRING MULTIPLE ROUNDS OUTSIDE THEIR RESIDENCE AT [REDACTED]

ON 101410 AT 2304 HOURS I RESPONDED TO AN EMERGENCY RADIO CALL OF SHOTS FIRED AT THE RESIDENCE LOCATED AT [REDACTED] THE CALL STATED THAT THE RESIDENCE HAD BEEN SHOT AT AND THAT SOMEONE WAS POSSIBLY SHOT. THE CALLER A RESIDENT ADVISED [REDACTED] HEARD APPROX 10 SHOTS AND BELIEVED SOMEONE SHOT.

UPON ARRIVAL ON SCENE I PARKED MY PATROL VEHICLE SEVERAL HOUSES SOUTH THE OF THE RESIDENCE AND MYSELF ALONG WITH OFFICER [REDACTED] AND OFFICER [REDACTED] APPROACHED THE RESIDENCE ON FOOT. APPROACHING THE RESIDENCE I OBSERVED SEVERAL SPENT SHELL CASINGS IN THE ROADWAY AND OBSERVED SEVERAL [REDACTED] IN THE FRONT YARD. CONTACTING THEM I ASKED THE GROUP IF ANY ONE HAD ANY FIREARMS WITH ONE HISPANIC MALE LATER IDENTIFIED AS AP1 MANUEL ACOSTA STATING "WE PUT THEM INSIDE ALREADY". I ASKED MANUEL WHAT HAD HAPPENED HE TURNED TO [REDACTED] WHOM BEGAN SPEAKING QUICKLY IN SPANISH. I ADVISED MANUEL THAT I DIDN'T UNDERSTAND WITH HIM STATING [REDACTED] WAS ADVISING SHE SAW 2 VEHICLES IN FRONT OF HER HOUSE ONE BEING GREEN AND THE OTHER POSSIBLY BLUE IN COLOR OF WHICH LEFT SOUTH. LEARNING THIS I ADVISED OTHER PATROL UNITS ARRIVING ON SCENE OF THE INFORMATION VIA RADIO AND RETURNED TO SPEAKING WITH MANUEL. MANUEL QUICKLY EXPLAINED THAT SEVERAL DAYS PRIOR SOMEONE ATTEMPTED TO BREAK INTO HIS RESIDENCE AND THAT HE HAD FIRED SEVERAL ROUNDS AT THEM USING HIS HAND GUN. HE SAID THAT TONIGHT [REDACTED] HAD GONE OUTSIDE AND THAT [REDACTED] SCREAMED. HE STATED HE GRABBED HIS GUN AND HIMSELF [REDACTED] ALL WITH HANDGUNS RAN OUT TO THE ROADWAY AND FIRED SEVERAL TIMES AT TWO VEHICLES AS THEY LEFT SOUTH BOUND ON [REDACTED] SGT. [REDACTED] ARRIVED ON SCENE AND ADVISED US TO DIRECT ALL RESIDENTS TO SIT ON THE SIDEWALK JUST NORTH OF THE FRONT DRIVEWAY. HAVING ALL THE RESIDENTS SEATED ON THE CURB OFFICER [REDACTED] OFFICER [REDACTED] AND MYSELF ANNOUNCED OUR POLICE PRESENCE

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AT THE FRONT DOOR OF THE RESIDENCE AND CONTINUED INTO THE RESIDENCE TO ENSURE NO ONE ELSE INSIDE AND THAT NO ONE ELSE HAD FIREARMS. WHILE INSIDE THE RESIDENCE I OBSERVED 3 HANDGUNS WITH THE MAGAZINES SEPARATED FROM THEM LAYING ON THE DINING ROOM TABLE. THE FIREARMS I OBSERVED WERE FOUND TO BE TWO 9MM SEMIAUTOMATIC HANDGUNS AND ONE .45CAL SEMIAUTOMATIC HANDGUN. SEVERAL BULLETS HAD FALLEN FROM THE MAGAZINES AND WHILE WEARING LATEX GLOVES NOTED THE MARKINGS ON THE BOTTOM OF EACH SHELL CASING WITH THE FIRST BEING STAMPED WITH "LUGER 9MM" SECOND "LUGER WIN 9MM" AND THE THIRD BEING "HORNADY 45AUTO". NOTING STAMPED MARKINGS I PROCEEDED OUT THE ROADWAY WHERE I DID COUNT APPROXIMATELY 15 SHELL CASINGS WITH ALL THOSE OBSERVED HAVING STAMPING MATCHING THAT OF WHICH WERE FOUND WITH THE HANDGUNS ON THE DINING ROOM TABLE. AFTER OBSERVING THIS I ADVISED SGT. [REDACTED] WHOM ADVISED TO RE CONTACT AND INTERVIEW THE INDIVIDUALS WHOM HAD FIRED THE HANDGUNS. WHILE SPEAKING TO SGT. [REDACTED], W2 [REDACTED] ARRIVED ON SCENE DRIVING INTO THE DRIVEWAY OF THE RESIDENCE. UPON HIS ARRIVAL HE WAS CONTACTED BY MYSELF AND OFFICER [REDACTED] WITH HIM ADVISING HE LIVED AT THE RESIDENCE AND WAS JUST RETURNING HOME. HE WAS ADVISED BRIEFLY OF THE INCIDENT AND SAT NEXT TO THE OTHER RESIDENTS ON THE SIDEWALK.

WHILE I WAS CONTACTING [REDACTED] OFFICER [REDACTED] RECONTACTED AP1 MANUEL ACOSTA, OFFICER [REDACTED] CONTACTED AP2 [REDACTED] WHILE OFFICER [REDACTED] SPOKE TO AP3 [REDACTED] FOR DETAILS OF THE INTERVIEWS REFER TO THEIR ATTACHED SUPPLEMENTS. DUE TO AP3 [REDACTED] BEING [REDACTED] OFFICER [REDACTED] A [REDACTED] RESPONDED TO THE SCENE AND SPOKE WITH AP3 [REDACTED] HE ALSO CONTACTED AND INTERVIEWED W1 [REDACTED] DUE TO [REDACTED] FOR DETAILS OF THIS INTERVIEW SEE HIS ATTACHED SUPPLEMENT

WITH THE OTHER SUBJECTS BEING CONTACTED I SPOKE BRIEFLY WITH BOTH W4 [REDACTED] AND W5 [REDACTED] BOTH OF WHOM STATED THAT THEY HAD BEEN IN THE BACK BEDROOMS OF THE RESIDENCE WHEN THEY HEARD W1 [REDACTED] SCREAM AND THEN MULTIPLE SHOTS BEING FIRED. BOTH STATED THAT THEY STAYED IN THE RESIDENCE UNTIL THE AP'S CAME BACK INSIDE AND THAT THEY DID NOT SEE ANYTHING THAT OCCURRED OUTSIDE. IT SHOULD BE NOTED THAT W5 [REDACTED] WAS CONTACTED WHILE [REDACTED] WHOM WAS ALSO INSIDE THE RESIDENCE DURING THE INCIDENT.

AFTER SPEAKING WITH [REDACTED], I OBTAINED A CONSENT TO SEARCH FORM AND UPON FILLING IT OUT CONTACTED AP3 [REDACTED] BELIEVING HIM TO BE THE PRIMARY OF THE RESIDENCE. AP3 [REDACTED] ADVISED THAT THE RESIDENCE WAS NOT HIS BUT [REDACTED]. LEARNING THIS I CONTACTED [REDACTED] ADVISED HIM OF THE CONSENT TO SEARCH EXPLAINING THAT THE FORM WAS NEEDED SIGNED TO ENTER HIS RESIDENCE AND OBTAIN ITEMS INVOLVED IN THE INCIDENT. UPON READING THE CONSENT TO SEARCH [REDACTED] INITIALLY REFUSED TO SIGN THE FORM. I ADVISED HIM A SEARCH WARRANT WAS GOING TO BE OBTAINED ANYWAY HOWEVER IT COULD POSSIBLY TAKE SEVERAL HOURS. UPON EXPLAINING THIS TO [REDACTED] SEVERAL OF THE OTHER RESIDENCE OVERHEARD AND SPOKE TO [REDACTED] WHOM AGREED WITH THEM AND DECIDED TO SIGN THE CONSENT TO SEARCH FORM. TO FURTHER EVALUATE THAT [REDACTED] SIGNED THE FORM WILLINGLY SGT. [REDACTED] SPOKE TO [REDACTED] AND AGAIN EXPLAINED THE FORM WITH [REDACTED] AGREEING FULLY WITH THE SEARCH. AUDIO RECORDING OF THE EXPLANATION OF THE SEARCH FORM WAS TAKEN BY SGT. [REDACTED].

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AFTER OBTAINING THE CONSENT TO SEARCH, PHOTOS OF THE INTERIOR OF THE HOUSE WERE TAKEN BY OFFICER [REDACTED] AS WELL AS THE 3 HANDGUNS FOUND ON THE DINING ROOM TABLE. EACH HANDGUN WAS REMOVED ALONG WITH ALL AMMUNITION AND MAGAZINES AND IMPOUNDED AS EVIDENCE BY OFFICER [REDACTED].

THE SHELL CASINGS FOUND IN THE STREET WERE ALSO PHOTOGRAPHED BY OFFICER [REDACTED] WITH OFFICER [REDACTED] COLLECTING THEM AS EVIDENCE. EACH SHELL CASINGS LOCATION WAS MEASURED AND THE CRIME SCENE DIAGRAM WAS COMPLETED BY OFFICER [REDACTED] AND OFFICER [REDACTED].

UPON COMPLETION OF THE INVESTIGATION MANUEL, [REDACTED] AND [REDACTED] WERE THEN TAKEN INTO CUSTODY PLACING EACH IN HANDCUFFS AT APPROXIMATELY 0140 HOURS AND TRANSPORTED TO ESTRELLA MOUNTAIN PRECINCT WHERE THEY WERE BOOKED FOR A SHANNON'S LAW VIOLATION OF ARS 13-3107 A DISCHARGING A FIREARM WITHIN A LIMITS OF A MUNICIPALITY.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

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REPORT DATE: 20101015 TIME: 2316

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED]

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: FRI 101510 2304

REPORTING OFFICER(S): [REDACTED]

UNIT: [REDACTED]

PREMISES: SINGLE FAMILY HOUSE

OCCUPIED: YES

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

PARTY-CREW: NO

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000000

DATE: 000000

SEARCH WARRANT INVOLVED:

0001 PKG 001 CODE:EI AP03

ITEM: YAMMUNI BRAND: LUGER MODEL: 9MM

COLOR: COM

SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:

DESCRIPTION: CHROME COLORED LUGER 9MM SHELL CASING FIRED FROM A
P3'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE.

0002 PKG 002 CODE:EI AP03

ITEM: YAMMUNI BRAND: LUGER MODEL: 9MM

COLOR: COM

SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:

DESCRIPTION: CHROME COLORED LUGER 9MM SHELL CASING FIRED FROM A
P3'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE.

0003 PKG 003 CODE:EI AP01

ITEM: YAMMUNI BRAND: HORNAD MODEL: .45 AUTO

COLOR: YEL

SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:

DESCRIPTION: BRASS COLORED HORNADY .45 AUTO SHELL CASING FIRED
FROM AP1'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE

0004 PKG 004 CODE:EI AP01

ITEM: YAMMUNI BRAND: HORNAD MODEL: .45 AUTO

COLOR: YEL

SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:

DESCRIPTION: BRASS COLORED HORNADY .45 AUTO SHELL CASING FIRED
FROM AP1'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE

0005 PKG 005 CODE:EI AP01

ITEM: YAMMUNI BRAND: HORNID MODEL: .45 AUTO

COLOR: YEL

SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:

DESCRIPTION: BRASS COLORED HORNADY .45 AUTO SHELL CASING FIRED
FROM AP1'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE

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0006 PKG 006 CODE:EI AP01
 ITEM: YAMMUNI BRAND: HORNAD MODEL: .45 AUTO COLOR: YEL
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
 DESCRIPTION: BRASS COLORED HORNADY .45 AUTO SHELL CASING FIRED
 FROM AP1'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE

0007 PKG 007 CODE:EI AP01
 ITEM: YAMMUNI BRAND: HORNAD MODEL: .45 AUTO COLOR: YEL
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
 DESCRIPTION: BRASS COLORED HORNADY .45 AUTO SHELL CASING FIRED
 FROM AP1'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE

0008 PKG 008 CODE:EI AP01
 ITEM: YAMMUNI BRAND: HORNAD MODEL: .45 AUTO COLOR: YEL
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
 DESCRIPTION: BRASS COLORED HORNADY .45 AUTO SHELL CASING FIRED
 FROM AP1'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE

0009 PKG 009 CODE:EI AP02
 ITEM: YAMMUNI BRAND: LUGER MODEL: 9MM COLOR: YEL
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
 DESCRIPTION: BRASS COLORED LUGER 9MM SHELL CASING FIRED FROM AP
 2'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE.

0010 PKG 010 CODE:EI AP02
 ITEM: YAMMUNI BRAND: LUGER MODEL: 9MM COLOR: YEL
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
 DESCRIPTION: BRASS COLORED LUGER 9MM SHELL CASING FIRED FROM AP
 2'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE.

0011 PKG 011 CODE:EI AP02
 ITEM: YAMMUNI BRAND: LUGER MODEL: 9MM COLOR: YEL
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
 DESCRIPTION: BRASS COLORED LUGER 9MM SHELL CASING FIRED FROM AP
 2'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE.

0012 PKG 000 CODE:EI AP02
 ITEM: YAMMUNI BRAND: LUGER MODEL: 9MM COLOR: YEL
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
 DESCRIPTION: BRASS COLORED LUGER 9MM SHELL CASING FIRED FROM AP
 2'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE.

0013 PKG 013 CODE:EI AP02
 ITEM: YAMMUNI BRAND: LUGER MODEL: 9MM COLOR: YEL
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
 DESCRIPTION: BRASS COLORED LUGER 9MM SHELL CASING FIRED FROM AP
 2'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE.

0014 PKG 014 CODE:EI AP02
 ITEM: YAMMUNI BRAND: LUGER MODEL: 9MM COLOR: YEL
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:

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DESCRIPTION: BRASS COLORED LUGER 9MM SHELL CASING FIRED FROM AP
 2'S GUN FOUND IN ROADWAY ON N [REDACTED] IMPOUND AT EMP AS EVIDENCE.

0015 PKG 015 CODE:EI AP02
 ITEM: YAMMUNI BRAND: LUGER MODEL: 9MM COLOR: YEL
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
 DESCRIPTION: BRASS COLORED LUGER 9MM SHELL CASING FIRED FROM AP
 2'S GUN FOUND IN ROADWAY ON [REDACTED] IMPOUND AT EMP AS EVIDENCE.

0016 PKG 016 CODE:EI AP01
 ITEM: ACZG BRAND: TAURUS MODEL: 1911 .45ACP COLOR: BLK BRO
 SIZE: .45 QUANTITY: 0001 SERIAL/ACCT/ID: NAX76576
 DESCRIPTION: BLK TAURUS 1911 .45ACP HAND GUN WITH BRO GRIPS FIR
 ED BY AP1 IN THE CRIME, IMPOUNDED AT EMP AS EVIDENCE.

0017 PKG 017 CODE:EI AP01
 ITEM: YAMMUNI BRAND: HORNAD MODEL: .45 AUTO COLOR: YEL
 SIZE: QUANTITY: 0004 SERIAL/ACCT/ID:
 DESCRIPTION: 4 BRASS COLORED HORNADY .45 AUTO BULLETS AND 1 BLK
 AND CHROME MAGAZINE USED BY AP1 IN CRIME. BULLETS ARE HOLLOW POINT. ALL I
 TEMS IMPOUNDED AT EMP AS EVIDENCE.

0018 PKG 018 CODE:EI AP03
 ITEM: ACZG BRAND: KAHR MODEL: CW9 COLOR: BLK COM
 SIZE: 9MM QUANTITY: 0001 SERIAL/ACCT/ID: ED7917
 DESCRIPTION: BLK AND CHROME KAHR CW9 9MM HAND GUN USED BY AP3 I
 N THE CRIME IMPOUNDED AT EMP AS EVIDENCE.

0019 PKG 019 CODE:EI AP03
 ITEM: YAMMUNI BRAND: LUGER MODEL: 9MM COLOR: YEL
 SIZE: QUANTITY: 0003 SERIAL/ACCT/ID:
 DESCRIPTION: 3 BRASS COLORED LUGER 9MM HOLLOW POINT BULLETS AND
 1 BLK AND CHROME MAGAZINE USED BY AP3 IN THE CRIME IMPOUNDED AT EMP AS EV
 IDENCE.

0020 PKG 020 CODE:EI AP02
 ITEM: ACZG BRAND: LORCIN MODEL: L9MM COLOR: BLK
 SIZE: 9MM QUANTITY: 0001 SERIAL/ACCT/ID: L091708
 DESCRIPTION: BLK LORCIN L9MM 9MM HAND GUN USED BY AP2 IN THE CR
 IME IMPOUNDED AT EMP AS EVIDENCE.

0021 PKG 021 CODE:EI AP02
 ITEM: YAMMUNI BRAND: LUGER MODEL: 9MM COLOR: YEL
 SIZE: QUANTITY: 0010 SERIAL/ACCT/ID:
 DESCRIPTION: 10 BRASS COLORED LUGER 9MM BULLETS AND 1 ALL BLK M
 AGAZINE USED BY AP2 IN THE CRIME IMPOUNDED AT EMP AS EVIDENCE.

0022 PKG 022 CODE:EI AP03
 ITEM: RATAPE BRAND: MODEL: COLOR:
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
 DESCRIPTION: AUDIOTAPE CONTAINING INTERVIEW WITH AP3 IMPOUNDED

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AT EMP AS EVIDENCE.

0023 PKG 023 CODE:EI AP03
 ITEM: *MISC BRAND: MODEL: COLOR:
 SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:
 DESCRIPTION: PHOENIX POLICE DEPARTMENT CONSENT TO SEARCH FORM S
 SIGNED BY AP3 FOR CONSENT TO SEARCH [REDACTED] RESIDENCE AT [REDACTED] LANE, IMPO
 UNDED AT EMP AS EVIDENCE.

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

ON 101510 AT 2316 HOURS I RESPONDED TO [REDACTED] LANE REFERENCE A
 SHOOTING CALL. UPON ARRIVAL I CONDUCTED SEARCH OF THE STREET SOUTH OF THE
 SCENE TO LOCATE ANY FURTHER SHELL CASINGS AND FOUND NONE.

I STOOD BY AND DID SCENE SECURITY UP UNTIL THE TIME THAT OFFICER R. [REDACTED]
 # [REDACTED] TOOK DIGITAL PHOTOGRAPHS OF THE SCENE. AFTER OFFICER [REDACTED] COMPLETED
 HIS PHOTOGRAPHS I COLLECTED THE LISTED 15 SHELL CASINGS FROM THE STREET
 NEAR THE HOUSE. FOR MORE INFORMATION ON THE SHELL CASINGS SEE THE PROPERTY
 SECTION OF THIS REPORT, AND THE CRIME SCENE DIAGRAM.

AP3 [REDACTED] SIGNED A PHOENIX POLICE DEPARTMENT CONSENT TO
 SEARCH FORM FOR HIS RESIDENCE AT [REDACTED] I ASSISTED IN THE
 SEARCH OF THE HOUSE AND RECOVERED THE THREE LISTED HANDGUNS AND IMPOUNDED
 THEM AT ESTRELLA MOUNTAIN PRECINCT AS EVIDENCE. I ALSO IMPOUNDED ALL OF
 THE SHELL CASINGS, THE TAPE OF THE INTERVIEW WITH AP3 [REDACTED] AND THE
 CONSENT TO SEARCH FORM.

FOR MORE DETAILS ON THE INCIDENT SEE ORIGINAL REPORT AND ALL OTHER
 SUPPLEMENTS AS WELL AS THE CRIME SCENE DIAGRAM.

END REPORT.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES: 3956568

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

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REPORT DATE: 20101015 TIME: 0512

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED]

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: FRI 101510 2304

REPORTING OFFICER(S): [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: 8925

ON 10/14/10 AT APPROXIMATELY 2320 HOURS I RESPONDED TO [REDACTED] AS AN ADDITIONAL BACKUP UNIT REFERENCE A SHOTS FIRED CALL. UPON MY ARRIVAL OFFICERS HAD SECURED THE CRIME SCENE AND LOCATED SEVERAL INVOLVED PARTIES.

I BEGAN INTERVIEWING AP2, [REDACTED], WHO RELATED THE FOLLOWING:

[REDACTED] STATED THAT HE WAS SITTING IN THE LIVING ROOM READING WHEN HE HEARD A VEHICLE PULL UP TO HIS HOUSE. IT WAS APPROXIMATELY THE TIME THAT HIS BROTHER, W3 [REDACTED], USUALLY RETURNS HOME FROM SCHOOL AND [REDACTED] ASSUMED IT WAS [REDACTED] W1, [REDACTED], WENT TO THE FRONT DOOR AND UNLOCKED IT THEN STEPPED OUTSIDE TO SEE WHO HAD ARRIVED. [REDACTED] STATED THAT [REDACTED] HAD BEEN OUTSIDE FOR A WHILE AND HE GOT UP TO CHECK ON [REDACTED] [REDACTED] WAS LOOKING OUT THE FRONT WINDOW OF THE HOUSE WHEN [REDACTED] HEARD [REDACTED] SCREAM IN SPANISH. [REDACTED] COULD NOT RECALL EXACTLY WHAT SHE HAD YELLED BUT RELATED THAT [REDACTED] WAS CALLING FOR HELP.

[REDACTED] THEN RELATED THAT LAST WEEKEND THERE HAD BEEN AN ATTEMPTED RESIDENTIAL BURGLARY AT [REDACTED] HOUSE WHICH ENDED WITH [REDACTED] SHOOTING AT A SUBJECT WHO WAS IN THEIR BACKYARD. AFTER THE ATTEMPTED BURGLARY [REDACTED] PURCHASED A 9 MM LORCIN HANDGUN. [REDACTED] RELATED THAT THE HANDGUN HAS A 10 ROUND MAGAZINE.

[REDACTED] STATED THAT [REDACTED] RAN TO HIS BEDROOM WHICH IS AT THE VERY END OF THE HALLWAY IN THE HOUSE TO RETRIEVE [REDACTED] 9 MM LORCIN HANDGUN BECAUSE [REDACTED] DID NOT WANT TO GO OUTSIDE, "EMPTY HANDED." [REDACTED] YELLED FOR [REDACTED] [REDACTED] TO GRAB [REDACTED] GUNS THEN RAN BACK TO THE FRONT DOOR OF THE HOUSE. BEFORE [REDACTED] EXITED THE HOUSE [REDACTED] RACKED HIS HANDGUN WHICH CAUSED A MALFUNCTION. [REDACTED] RACKED IT A SECOND TIME AND A LIVE ROUND FELL OUT OF THE GUN ONTO THE GROUND.

AS [REDACTED] EXITED THE FRONT DOOR OF THE HOUSE [REDACTED] PASSED [REDACTED] WHO WAS RUNNING INTO THE HOUSE. [REDACTED] STATED THAT [REDACTED] OBSERVED A DARK COLORED PASSENGER CAR FACING SOUTHBOUND ON N 75TH LANE. THE CAR WAS EITHER STOPPED IN THE ROADWAY OR TRAVELING VERY SLOWLY SOUTHBOUND. [REDACTED] SAID THE VEHICLE WAS TOO FAR AWAY AND IT WAS TOO DARK OUTSIDE FOR [REDACTED] TO

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DISTINGUISH EXACTLY WHAT COLOR OR WHAT MAKE AND MODEL THE CAR WAS. [REDACTED] FURTHER STATED THAT HE COULDN'T TELL IF THE CAR WAS NEW OR OLD. [REDACTED] COULD NOT TELL ME EXACTLY WHERE THE CAR WAS WHEN [REDACTED] FIRST SAW IT BUT STATED THAT IT WAS SOMEWHERE IN BETWEEN HAZELWOOD AND THE NEXT STREET THAT TURNS RIGHT WHEN YOU ARE FACING SOUTH ON 75TH LANE (MINNEZONA).

[REDACTED] RELATED THAT HE SAW WHAT [REDACTED] BELIEVED TO BE A "LARGE CALIBER GUN, POSSIBLY AN AK-47 OR AR-15" BEING HELD OUT THE REAR DRIVERS SIDE WINDOW OF THE CAR. [REDACTED] BELIEVED THE RIFLE WAS BEING POINTED BACK AT HIM AND [REDACTED] STATED THAT [REDACTED] FIRED 2 ROUNDS TOWARDS THE CAR. THE VEHICLE DROVE TO MINNEZONA AND BEGAN TURNING RIGHT (WEST) BUT THEN MADE A U-TURN SO THAT IT WAS FACING EAST ON MINNEZONA. [REDACTED] STATED THAT THE CAR THEN STOPPED AND [REDACTED] BELIEVED THAT THEY WERE GOING TO BEGIN DRIVING NORTH TOWARDS THE HOUSE. [REDACTED] THEN SHOT THE REMAINING ROUNDS IN [REDACTED] MAGAZINE TILL [REDACTED] HANDGUN WAS EMPTY AS THE VEHICLE TURNED SOUTH ON 75TH LANE THEN EAST ON SELLS DRIVE.

[REDACTED] STATED THAT WHILE [REDACTED] WAS SHOOTING [REDACTED] AP3, [REDACTED] AND AP1, MANUEL, WERE ALSO OUTSIDE. HE SAID THAT [REDACTED] HEARD ANOTHER GUN FIRING WHILE [REDACTED] WAS SHOOTING BUT [REDACTED] DID NOT KNOW WHO BESIDES [REDACTED] HAD FIRED ROUNDS. [REDACTED] DID RELATED TO ME THAT NO ROUNDS WERE FIRED BACK AT [REDACTED] FROM THE CAR AT ANY TIME AS IT DROVE AWAY.

AFTER MY INITIAL INTERVIEW WITH [REDACTED] I STOOD BY WITH THE INVOLVED PARTIES AS OTHER OFFICERS PROCESSED THE CRIME SCENE. IT WAS LATER DETERMINED THAT [REDACTED] WAS A SUSPECT IN A SHANNON'S LAW VIOLATION.

AT THAT TIME I READ [REDACTED] HIS MIRANDA RIGHTS FROM A STANDARD MIRANDA CARD. WHEN ASKED IF [REDACTED] UNDERSTOOD [REDACTED] RIGHTS [REDACTED] STATED, YES. I THEN REINTERVIEWED [REDACTED] STORY AND STATEMENTS DID NOT VARY EVEN SLIGHTLY FROM THE FIRST TIME THAT I INTERVIEWED [REDACTED] I AGAIN STOOD BY WITH THE INVOLVED PARTIES UNTIL THE INVESTIGATION WAS COMPLETED.

AT THAT TIME MYSELF AND OFFICER [REDACTED] TRANSPORTED [REDACTED] AND [REDACTED] TO ESTRELLA MOUNTAIN PRECINCT. AFTER THE BOOKING PAPERWORK WAS COMPLETED WE TRANSPORTED MANUEL, [REDACTED] [REDACTED] TO 4TH AVENUE JAIL.

THAT COMPLETED MY INVOLVEMENT IN THIS INVESTIGATION. FOR FURTHER INFORMATION PLEASE SEE THE ORIGINAL AND ALL SUPPLEMENTAL REPORTS.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED] DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 002

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PAGE NUMBER: 1

DR NUMBER: 2010 01466578 3

REPORT DATE: 20101015 TIME: 0513

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

PROSECUTION DESIRED: YES

SUSPECT[S]: BOOKED

BOOKING VICTIM NOTIFIED: NO

LOCATION: [REDACTED]

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: FRI 101510 2304

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

PREMISES: STREET/ROADWAY/ALLEY

OCCUPIED: NO

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

PARTY-CREW: NO

PHOTOGRAPHS TAKEN: YES BY: [REDACTED]

SCENE PROCESSED FOR LATENTS: NO BY:

LATENTS SUBMITTED TO CRIME LAB: NO

**** NARRATIVE ****

SERIAL NUMBER: 8859

SYNOPSIS

THIS SUPPLEMENT IS BEING GENERATED TO DOCUMENT MY INVOLVEMENT IN THIS MISCONDUCT INVOLVING WEAPONS INVESTIGATION. THIS INVOLVEMENT INCLUDES: AN INTERVIEW WITH AP1 MANUAL ACOSTA, WHO RECKLESSLY FIRED SHOTS FROM A .45 CALIBER HANDGUN IN THE DIRECTION OF AN UNKNOWN FLEEING VEHICLE; AN INTERVIEW WITH W2 [REDACTED], WHO OBSERVED [REDACTED] RETRIEVE [REDACTED] HANDGUNS JUST PRIOR TO SHOTS BEING FIRED; TAKING DIGITAL PHOTOGRAPHS OF THE SCENE; AND BOOKING AP1, AP2 AND AP3.

NARRATIVE

AT APPROXIMATELY 2320 HOURS ON 10-14-2010, OFFICER [REDACTED] AND I RESPONDED TO A RADIO REQUEST FOR ADDITIONAL UNITS TO RESPOND TO AN EMERGENCY RADIO CALL OF SHOTS FIRED AT [REDACTED]. UPON ARRIVAL, I IMMEDIATELY RECOGNIZED THE HOUSE AS THE SAME RESIDENCE WHICH OFFICER [REDACTED] AND I HAD RESPONDED TO APPROXIMATELY ONE WEEK EARLIER REFERENCE A POSSIBLE HOME INVASION ATTEMPT (SEE DR 2010-01435239). UPON ARRIVAL, I FIRST CONTACTED W2 [REDACTED].

INTERVIEW WITH W2 [REDACTED]:

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 2

DR NUMBER: 2010 01466578

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W2 [REDACTED] WAS SLEEPING INSIDE HIS ROOM WHEN [REDACTED] WAS AWAKENED BY THE SOUND OF [REDACTED] SCREAMING. W2 [REDACTED] OBSERVED [REDACTED], AP3 [REDACTED] IN POSSESSION OF A "CHROME GUN", [REDACTED], AP1 MANUEL IN POSSESSION OF A GUN WITH A BROWN HANDLE, AND [REDACTED], AP2 [REDACTED] IN POSSESSION OF AN ALL BLACK GUN. HE OBSERVED AP1 [REDACTED], AP2 [REDACTED] AND AP3 [REDACTED] WALK OUTSIDE AND HEARD APPROXIMATELY 3-4 SHOTS. ALL THREE [REDACTED] THEN RETURNED INSIDE, ARGUING. W2 [REDACTED] DID NOT DIRECTLY OBSERVE THE SHOTS BEING FIRED.

INTERVIEW WITH AP1 MANUEL ACOSTA (DIGITALLY-RECORDED):

AT APPROXIMATELY 0010 HOURS ON 10-15-2010, I READ AP1 MANUEL HIS CONSTITUTIONAL RIGHTS DIRECTLY FROM A DEPARTMENT-ISSUED CARD. WHEN ASKED IF HE UNDERSTOOD HIS RIGHTS, HE REPLIED, "YES".

AP1 MANUEL ADVISED THAT NOTHING OUT OF THE ORDINARY HAD OCCURRED SINCE THE INCIDENT ON 10-09-2010. SHORTLY BEFORE THE SHOTS WERE FIRED, AP1 MANUEL WAS IN HIS BEDROOM, WHICH IS LOCATED ON THE SOUTHWEST SECTION OF THE RESIDENCE. [REDACTED] STARTED TO SCREAM SOMETHING ABOUT MEN WITH GUNS AND AP1 MANUEL IMMEDIATELY TOLD [REDACTED], TO CALL THE POLICE.

AP1 MANUEL BEGAN LOOKING FOR HIS TAURUS .45 CALIBER 1911 MODEL HANDGUN, WHICH HE NORMALLY KEEPS IN THE TOP OF HIS CLOSET. HE ADVISED THIS WAS THE SAME HANDGUN THAT OFFICER [REDACTED] AND I HAD TEMPORARILY SEIZED DURING THE INCIDENT ON 10-09-2010. I RECALL THIS HANDGUN BEING A BLACK, .45-CALIBER, TAURUS-BRAND 1911-STYLE HANDGUN WITH BROWN, WOOD-GRAIN HANDGRIPS. AFTER SEARCHING FOR THE HANDGUN, HE EVENTUALLY FOUND IT IN THE BOTTOM OF HIS CLOSET. HE TYPICALLY KEEPS THE HANDGUN WITH A MAGAZINE INSERTED, BUT NO ROUND IN THE CHAMBER.

AP1 MANUEL THEN MADE HIS WAY TOWARDS THE FRONT DOOR OF THE HOUSE. RIGHT BEFORE HE REACHED THE FRONT DOOR, HE HEARD GUNSHOTS, CAUSING HIM TO IMMEDIATELY CROUCH DOWN LOW TO THE GROUND. HE COULD NOT ESTIMATE HOW MANY GUNSHOTS HE HEARD, ONLY THAT THEY WERE "CONSTANT". HE THEN MOVED A FEW STEPS FORWARD INTO A BREEZEWAY AREA JUST OUTSIDE THE FRONT DOOR WHICH IS SEPARATED FROM THE FRONT YARD OF THE HOUSE BY A ROD IRON FENCE THAT RUNS ALONG THE FRONT OF THE HOUSE.

AP1 MANUEL SAW [REDACTED] CROUCHED DOWN IN THE FRONT YARD, CLUTCHING [REDACTED] CHEST AREA AND CRYING AND HE IMMEDIATELY THOUGHT [REDACTED] HAD BEEN SHOT. HE WAS INITIALLY TOO AFRAID TO GO OUT ANY FURTHER INTO THE FRONT YARD, BUT THEN HE OBSERVED AP2 [REDACTED] AND AP3 [REDACTED] FIRING SHOTS SOUTHBOUND, SO HE RAN OVER TO ASSIST THEM BECAUSE HE WAS AFRAID FOR THEIR LIVES AND THOUGHT THEY WERE IN A "SHOOTOUT". AP3 [REDACTED] WAS STANDING NEAR THE STREETLIGHT JUST SOUTHWEST OF THEIR HOUSE AND AP2 [REDACTED] WAS STANDING IN THE MIDDLE OF [REDACTED].

AP1 MANUEL BEGAN RUNNING TOWARDS THE STREET AND AS SOON AS HE CLEARED A SMALL GROUP OF PALM TREES WHICH WERE GROWING IN THE NEIGHBOR'S YARD, HE CLOSED HIS EYES AND BEGAN FIRING HIS HANDGUN ONE-HANDED IN THE SAME DIRECTION THAT AP2 [REDACTED] AND AP3 [REDACTED] WERE FIRING. WHEN I ASKED AP1 MANUEL WHAT HE WAS AIMING AT, HE STATED, "NOTHING", AND THAT HE JUST CLOSED HIS EYES AND BEGAN SHOOTING. AP1 MANUEL ADVISED THAT HE DOES NOT KNOW HOW MANY SHOTS HE FIRED. WHEN HE OPENED HIS EYES, HE OBSERVED THAT WHAT THEY WERE ALL FIRING AT WAS A DARK-COLORED VEHICLE OF UNKNOWN YEAR, MAKE OR MODEL WHICH WAS DRIVING SOUTHBOUND ON [REDACTED] PASSING A FIRE

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 3

DR NUMBER: 2010 01466578

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HYDRANT AT APPROXIMATELY [REDACTED]. AP1 MANUAL ADVISED THAT HE KNOWS CARS VERY WELL AND THAT IF IT HAD BEEN CLOSE ENOUGH, HE WOULD HAVE BEEN ABLE TO MAKE OUT WHAT TYPE OF CAR IT WAS.

REALIZING THAT THE VEHICLE WAS FAR AWAY, AP1 MANUAL TOLD AP2 [REDACTED] AND AP3 [REDACTED] TO STOP FIRING. [REDACTED] THEN WENT INSIDE AND HE TOLD HIS [REDACTED] TO UNLOAD THE WEAPONS AND PLACE THEM ON THE TABLE SO THAT POLICE COULD SEE THEM.

MY INTERVIEW WITH AP1 MANUAL WAS LATER UPLOADED TO THE SERVER.

OFFICER OBSERVATIONS:

IN THE ROADWAY IN FRONT OF [REDACTED] WERE APPROXIMATELY 15 SHELL CASINGS OF MIXED CALIBER.

I TOOK DIGITAL PHOTOGRAPHS OF THE ENTIRE SCENE, INCLUDING THE LOCATIONS OF THE SHELL CASINGS, WHICH HAD BEEN MARKED WITH SMALL ORANGE CONES. I ALSO TOOK PHOTOGRAPHS OF THE PATH WE TOOK ENTERING THE HOME TO RETRIEVE THE THREE HANDGUNS FROM THE KITCHEN TABLE.

CONCLUSION

AP1 MANUAL, AP2 [REDACTED] AND AP3 [REDACTED] WERE TRANSPORTED TO ESTRELLA MOUNTAIN PRECINCT FOR PROCESSING AND LATER BOOKED INTO MARICOPA COUNTY JAIL ON ONE COUNT EACH OF UNLAWFUL DISCHARGE OF FIREARMS PER ARS 13-3107A. I HAVE NO FURTHER INFORMATION REGARDING THIS INCIDENT.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT: NO

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 003

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 01466578 4

REPORT DATE: 20101014 TIME: 2314

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED]

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

PREMISES: STREET/ROADWAY/ALLEY

OCCUPIED:

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

ON 101410, AT APPROXIMATELY 2308 HOURS, I RESPONDED TO [REDACTED] TO ASSIST OTHER UNITS WITH A SHOTS FIRED CALL AT THIS LOCATION.

I ARRIVED ON SCENE AT APPROXIMATELY 2314 HOURS. UPON EXITING MY PATROL VEHICLE, I NOTICED SEVERAL SHELL CASINGS LAYING ON THE STREET IN FRONT OF [REDACTED]. I WAS THEN DIRECTED TO A GROUP OF [REDACTED] AND [REDACTED] SUBJECTS WHO WERE SITTING AND STANDING ON THE PUBLIC SIDEWALK IN FRONT OF [REDACTED].

AS I STOOD BY THESE SUBJECTS, I BEGAN BRIEF INTERVIEWS WITH THE FEW SUBJECTS:

I FIRST SPOKE WITH [REDACTED], DATE OF BIRTH [REDACTED] STATED THAT HE GOT HOME THIS EVENING A FEW MINUTES AFTER 11:00 P.M. [REDACTED] STATED WHEN HE GOT HOME, HE WAS TOLD BY HIS FAMILY MEMBERS THAT SOME SUBJECTS HAD TRIED TO BREAK INTO THEIR HOME AND SHOTS WERE FIRED. [REDACTED] STATED THAT HE ARRIVED HOME AFTER THE INCIDENT AND COULD OFFER NO DETAILS ABOUT WHAT HAD OCCURRED REFERENCE THIS INCIDENT.

I NEXT SPOKE WITH [REDACTED] S, DATE OF BIRTH [REDACTED] STATED THAT HE IS [REDACTED] AND RESIDES AT [REDACTED] LANE. [REDACTED] STATED THAT ON 101410, AT APPROXIMATELY 2300 HOURS, [REDACTED] WAS IN [REDACTED] BEDROOM WATCHING TV. [REDACTED] STATED THAT AROUND THAT TIME [REDACTED] HEARD [REDACTED] SCREAM FROM THE FRONT LIVING ROOM AREA OF THE HOME. [REDACTED] STATED [REDACTED] WAS SCREAMING THAT SOMEBODY WAS TRYING TO BREAK IN.

[REDACTED] STATED THAT [REDACTED] THEN GRABBED HIS 9 MILLIMETER SEMIAUTOMATIC BLACK HANDGUN AND WENT OUT TO SEE WHAT WAS GOING ON. [REDACTED] STATED THAT [REDACTED] WHO WAS ALSO IN THE HOUSE, ALSO GRABBED A HANDGUN. [REDACTED] SAID THAT [REDACTED] LEARNED THE SUBJECTS HAD ATTEMPTED TO ENTER [REDACTED] HOUSE AND THAT SUBJECTS WERE ARMED WITH GUNS. [REDACTED] STATED THAT [REDACTED] THEN WENT OUTSIDE IN FRONT OF HIS RESIDENCE ALONG WITH [REDACTED]. [REDACTED] STATED THAT [REDACTED] SAW A VEHICLE TRAVELING SOUTHBOUND ON 75TH LANE FROM [REDACTED] RESIDENCE. [REDACTED] CELIS STATED THAT [REDACTED] THOUGHT THE VEHICLE WAS A MUSTANG

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

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DR NUMBER: 2010 01466578 4

SINCE IT HAD THREE VERTICAL RED TAILLIGHTS ON EACH SIDE OF THE BACK OF THE VEHICLE. [REDACTED] STATED [REDACTED] BELIEVED THE VEHICLE WAS GREEN; HOWEVER, [REDACTED] COULD NOT BE SURE OF THE VEHICLE COLOR OR MAKE. [REDACTED] STATED THAT [REDACTED] HEARD TWO SHOTS BEING FIRED FROM A WEAPON. [REDACTED] STATED [REDACTED] WAS UNSURE WHERE THE SHOTS WERE COMING FROM SO [REDACTED] FIRED [REDACTED] HANDGUN TWICE AT THE VEHICLE THAT [REDACTED] SAW LEAVING WHICH IS BELIEVED TO BE A MUSTANG. [REDACTED] STATED THAT [REDACTED] DID NOT ACTUALLY SEE THE SUSPECTS BUT WAS ONLY TOLD THAT THE SUSPECTS WERE ARMED FROM [REDACTED]. [REDACTED] STATED TO ME THAT [REDACTED] FIRED TWO SHOTS TOWARDS THE VEHICLE AS IT WAS CONTINUING SOUTHBOUND ON [REDACTED] LANE. [REDACTED] STATED THAT [REDACTED] BELIEVES [REDACTED] HEARD ONLY FOUR SHOTS TOTAL OF BEING FIRED INCLUDING [REDACTED]. [REDACTED] ALSO STATED THAT ONLY [REDACTED], FIRED ROUNDS.

[REDACTED] STATED [REDACTED] COULD NOT IDENTIFY ANY OF THE SUBJECTS INVOLVED BUT STATED [REDACTED] BELIEVED THAT THEY MIGHT BE THE SAME SUBJECTS WHO HAD ATTEMPTED TO BURGLARIZE [REDACTED] HOME ABOUT A WEEK AGO. [REDACTED] STATED THAT [REDACTED] HAD SHOT AT THOSE SUSPECTS AT THAT TIME.

I ASKED [REDACTED] IF HE HAD ANY MILITARY OR FIREARMS TRAINING, AND [REDACTED] STATED [REDACTED] DID NOT. I ASKED [REDACTED] IF [REDACTED] HAD A CONCEALED WEAPONS PERMIT. [REDACTED] STATED THAT [REDACTED] DID NOT.

I THEN ASKED [REDACTED] [REDACTED] KNEW WHY THESE SUBJECTS IF THEY WERE THE SAME ONES WHO HAD ATTEMPTED TO BURGLARIZE THEIR HOME A WEEK AGO THEN WHY DO THEY KEEP RETURNING. [REDACTED] STATED THAT [REDACTED] DID NOT KNOW. [REDACTED] STATED THAT [REDACTED] BELIEVES [REDACTED] ARE GANG MEMBERS AND HAS NO IDEA WHY THESE SUBJECTS APPEAR TO KEEP RETURNING TO [REDACTED] HOME. [REDACTED] [REDACTED] COULD OFFER NO FURTHER INFORMATION AT THIS TIME.

AS WE CONTINUED OUR INVESTIGATION, I ATTEMPTED TO REINTERVIEW [REDACTED] AGAIN; AND UPON ATTEMPTING TO MIRANDIZE [REDACTED] HE STATED HE WOULD PREFER TO SPEAK WITH [REDACTED]. OFFICER [REDACTED], A CERTIFIED [REDACTED], THEN ARRIVED ON SCENE AND ALSO CONDUCTED A TAPE-RECORDED INTERVIEW WITH [REDACTED]. PLEASE SEE HIS SUPPLEMENT FOR FURTHER INFORMATION.

I THEN STOOD BY THE SUBJECTS UNTIL THE INVESTIGATION WAS COMPLETED. SEE THE ORIGINAL REPORT AND ANY FOLLOWING SUPPLEMENTS FOR FURTHER INFORMATION.

THIS CONCLUDES MY INVOLVEMENT IN THIS INVESTIGATION.

PAGE A4091/7431/101510/0837/761/VW 71413
 DICTATED ON 101510/0510/1

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED] DR FINALIZED BY : [REDACTED]

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

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PAGE NUMBER: 3

DR NUMBER: 2010 01466578 4

END OF REPORT

DR NO: 2010 01466578 004

** PUBLIC **

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** RECORD **

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 01466578 5

REPORT DATE: 20101018 TIME: 1144

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED] LANE

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

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=          *** REQUEST FOR LAB ANALYSIS ***          =
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CURRENT DR IS: 2010 01466578 005 BIOLOGICAL EVID (BLOOD, SEMEN, TISSUE): N
 NAM: CELIS ACOSTA MANUEL
 NAM: CELIS ACOSTA DANIEL OFF:MIW
 LOCATION: [REDACTED] LA JAILED: Y
 OFCR REQ OF ANALYSIS: [REDACTED] DATE OCC:101410 TIME:2304
 (LAST, FIRST, MIDDLE) FIRM NAME USE BUS. DATE REQ:101810 TIME:1145
 VIC: STATE OF ARIZONA DUI RELATED:N
 BUS:

INVOICE	ITEM #	SFX	TYPE	TYPE OF REQUEST
0003956568	0001		YAMMUNI	FIREARMS
0003956568	0002		YAMMUNI	FIREARMS
0003956568	0003		YAMMUNI	FIREARMS
0003956568	0004		YAMMUNI	FIREARMS
0003956568	0005		YAMMUNI	FIREARMS
0003956568	0006		YAMMUNI	FIREARMS
0003956568	0007		YAMMUNI	FIREARMS
0003956568	0008		YAMMUNI	FIREARMS
0003956568	0008		YAMMUNI	FIREARMS
0003956568	0009		YAMMUNI	FIREARMS
0003956568	0010		YAMMUNI	FIREARMS

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

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PAGE NUMBER: 2

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0003956568	0011	YAMMUNI	FIREARMS
0003956568	0012	YAMMUNI	FIREARMS
0003956568	0013	YAMMUNI	FIREARMS
0003956568	0014	YAMMUNI	FIREARMS
0003956568	0015	YAMMUNI	FIREARMS
0003956568	0016	ACZG	LATENT PRINT FIREARMS
0003956568	0017	YAMMUNI	LATENT PRINT FIREARMS
0003956568	0018	ACZG	LATENT PRINT FIREARMS
0003956568	0019	YAMMUNI	LATENT PRINT FIREARMS
0003956568	0020	ACZG	LATENT PRINT FIREARMS
0003956568	0021	YAMMUNI	LATENT PRINT FIREARMS

BLOOD DRAWN BY:
LOC OF DRAWING:

1.DATE/TIME DRAW:000000 / 0000
2.DATE/TIME DRAW:000000 / 0000

**** NARRATIVE ****

SERIAL NUMBER: 7525

PLEASE SWAB ALL HANDGUNS, MAGAZINES AND LIVE AMMUNITION FOR DNA.

PLEASE PROCESS ALL HANDGUNS, MAGAZINES AND LIVE AMMUNITION FOR LATENT PRINTS.

PLEASE TEST FIRE ALL HANDGUNS AND COMPARE TO RECOVERED CARTRIDGES AND ENTER INTO NIBIN.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED] DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 005

** PUBLIC ** PHOENIX POLICE DEPARTMENT REPORT ** RECORD **

SUPPLEMENT PAGE NUMBER: 1 DR NUMBER: 2010 01466578 6

REPORT DATE: 20101021 TIME: 0553

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS OFFENSE: 415W

LOCATION: [REDACTED] LANE BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED] UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000000

DATE: 000000 SEARCH WARRANT INVOLVED:

0001. PKG 001 CODE:EI UK01
ITEM: DDOCSYS BRAND: MODEL: COLOR:
SIZE: QUANTITY: 0003 SERIAL/ACCT/ID:
DESCRIPTION: CRIME SCENE DIAGRAM 3 PAGES, OVERALL, EVIDENCE AND
EVIDENCE SKID MARKS.

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

PURPOSE OF THIS SUPPLEMENT

THIS SUPPLEMENT WAS GENERATED TO DOCUMENT MY INVOLVEMENT REGARDING AN
EMERGENCY CALL OF SHOTS FIRED AT 4637 N. 75TH LANE.

NARRATIVE:

ON 101410 AT APPROXIMATELY 2304 HOURS, I RESPONDED TO AN EMERGENCY SHOTS
FIRED CALL AT [REDACTED] LANE. UPON MY ARRIVAL, I PARKED MY FULLY
MARKED PATROL UNIT ONE HOUSE SOUTH OF THE LISTED ADDRESS. I WAS BEHIND
ANOTHER UNIT THAT WAS ALSO FULLY MARKED PATROL VEHICLE (CHEVY TAHOE). AS
I APPROACHED THE LISTED RESIDENCE, I NOTICED SEVERAL MALE AND FEMALE
SUBJECTS STANDING ON THE FRONT YARD AND SIDE WALK JUST IN FRONT OF THE
RESIDENCE. OTHER MALE SUBJECTS WALKED BACK INTO THE RESIDENCE AND CAME
BACK OUT RIGHT AWAY. OTHER UNITS WERE ALREADY CONTACTING THESE SUBJECTS.
I PROCEEDED TO CANVAS THE NEIGHBORS FOR POSSIBLE SUSPECT VEHICLE
INFORMATION. ACCORDING TO THE NEIGHBORS, THEY DID NOT SEE ANYTHING BUT
THEY COULD ACCOUNT FOR SEVERAL SHOTS HEARD APPROXIMATELY 10 SHOTS AND
NOTHING FURTHER.

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Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 2

DR NUMBER: 2010 01466578

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WHILE CONDUCTING SCENE SECURITY WITH OFFICER [REDACTED], SERGEANT [REDACTED] APPROACHED ME AND ASKED ME IF I COULD DO THE CRIME SCENE DIAGRAM FOR THIS INCIDENT.

CRIME SCENE DIAGRAM INFORMATION:

REFERENCE POINT (RP) - SOUTH EAST CORNER (SEC) OF N. 75TH LANE AND W. COOLIDGE STREET.

EVIDENTIARY ITEMS COLLECTED FROM THE SCENE:

- 1. 9MM LUGER SPENT SHELL CASING 77'S,0'W
- 2. 9MM LUGER SPENT SHELL CASING 79'S,1'W
- 3. 45 CALIBER HORNADY SPENT SHELL CASING 90'S,16'W
- 4. 45 CALIBER HORNADY SPENT SHELL CASING 95'S,17'W
- 5. 45 CALIBER HORNADY SPENT SHELL CASING 102'S,16'W
- 6. 45 CALIBER HORNADY SPENT SHELL CASING 103'S,17'W
- 7. 45 CALIBER HORNADY SPENT SHELL CASING 104'S,9'W
- 8. 45 CALIBER HORNADY SPENT SHELL CASING 110'S,13'W
- 9. 9MM LUGER SPENT SHELL CASING 122'S,22'W
- 10. 9MM LUGER SPENT SHELL CASING 122'S,16'W
- 11. 9MM LUGER SPENT SHELL CASING 126'S,23'W
- 12. 9MM LUGER SPENT SHELL CASING 126'S,23'W
- 13. 9MM LUGER SPENT SHELL CASING 129'S,16'W
- 14. 9MM LUGER SPENT SHELL CASING 132'S,15'W
- 15. 9MM LUGER SPENT SHELL CASING 129'S,31'W

THE LOCATION OF THESE ITEMS ARE DEPECTED IN DIAGRAM LABELED EVIDENCE BY EACH ITEM NUMBER.

EVIDENTIARY ITEMS COLLECTED FROM THE SCENE:

- 1. SKID MARK 1 APPROXIMATELY 33' IN LENGTH 64'S,15'W
- 2. SKID MARK 2 APPROXIMATELY 42' IN LENGTH 89'S,19'W

THE LOCATION OF THESE ITEMS ARE DEPECTED IN DIAGRAM LABELED EVIDENCE SKID MARKS (TIRES) BY ITEM NUMBER.

THE ORIGINAL DIAGRAMS WERE IMPOUNDED VIA ESTRELLA MOUNTAIN PRECINCT FOR FUTURE REFERENCE. A COPY WAS SENT TO THE CASE AGENT, DETECTIVE [REDACTED] # [REDACTED] THROUGH INTER OFFICE MAIL.

REFER TO THE ORIGINAL REPORT AND CORRESPONDING SUPPLEMENT FOR MORE INFORMATION.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

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Continued.

** PUBLIC **
SUPPLEMENT

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

PAGE NUMBER: 3

DR NUMBER: 2010 01466578 6

INVOICES: 3958176

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 006

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 01466578 7

REPORT DATE: 20101101 TIME: 1357

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED] LANE

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

ORIGINATING DR: 201001466578 005

THE FOLLOWING IS A SUMMARY OF THE LABORATORY EXAMINATION RESULTS.
CONTACT THE LABORATORY BUREAU FOR THE OFFICIAL REPORT.

ANALYST: [REDACTED]

FRICITION RIDGE DETAIL WAS PRESERVED FROM ITEMS 3956568-0017.01 (GUN MAGAZINE) AND 3956568-0018 (HANDGUN). THE IMAGES WERE STORED IN THE MIDEO IMAGING DATABASE UNDER INVOICE 3956568. IF A LATENT PRINT COMPARATIVE ANALYSIS IS REQUIRED, AND KNOWN PRINTS OF THE SUBJECT ARE AVAILABLE, PLEASE SUBMIT A LATENT PRINT COMPARATIVE REQUEST VIA PACE.

SWABS WERE COLLECTED, PRESERVED AND RETAINED FROM ITEMS 3956568-0016 (HANDGUN), 3956568-0017.01 (GUN MAGAZINE), 3956568-0018 (HANDGUN), 3956568-0019.01 (GUN MAGAZINE), 3956568-0020 (HANDGUN), AND 3956568-0021.01 (GUN MAGAZINE). THESE SWABS WILL BE CONSUMED DURING DNA ANALYSIS. IF DNA ANALYSIS IS REQUESTED, PLEASE CONTACT THE FORENSIC BIOLOGY SECTION AT 602-262-6197.

NO FRICTION RIDGE DETAIL WAS PRESERVED FOR ITEMS 3956568-0016 (HANDGUN), 3956568-0017.02 (FOUR CARTRIDGES), 3956568-0019.01 (GUN MAGAZINE), 3956568-0020 (HANDGUN), AND 3956568-0021.01 (GUN MAGAZINE).

NO FRICTION RIDGE DETAIL WAS PRESERVED FOR ITEMS 3956568-0019.02 (THREE CARTRIDGES) AND 3956568-0021.02 (TEN CARTRIDGES) UPON VISUAL EXAMINATION.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 007

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 01466578 8

REPORT DATE: 20101103 TIME: 0842

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED] LANE

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED] UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

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=      *** REQUEST FOR LATENT PRINT COMPARISON ***
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CURRENT DR IS: 2010 01466578 008 DATE OF REP: 110310 TIME OF REP: 0853
 LOCATION OF OCC: [REDACTED] LA
 OFFENSE: MIW

OFFICER REQUESTING ANALYSIS: [REDACTED]
 DIVISION OR SECTION: [REDACTED] EXTENTION: [REDACTED]

COMPARE PRINTS OF THE FOLLOWING PEOPLE WITH LATENT IMPRESSIONS OBTAINED IN DR

SCN	FP	LAST NAME	FIRST	MIDDLE	DOB	SEX
-----	----	-----------	-------	--------	-----	-----

0412040040		CELIS-ACOSTA	DANIEL			M
0006301498		[REDACTED]	[REDACTED]			[REDACTED]
9906220394		[REDACTED]	[REDACTED]			[REDACTED]

**** SPECIAL INSTRUCTIONS ****

PLEASE COMPARE PRINTS

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED] DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 008

** PUBLIC ** PHOENIX POLICE DEPARTMENT REPORT ** RECORD **

SUPPLEMENT PAGE NUMBER: 1 DR NUMBER: 2010 01466578 9

REPORT DATE: 20101103 TIME: 1205

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS OFFENSE: 415W

LOCATION: [REDACTED] LANE BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED] UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

**** WITNESS INFORMATION ****

WITNESS -05:

NAME:

SPEAKING: [REDACTED]

RACE: [REDACTED] SEX: [REDACTED] AGE: [REDACTED] DOB: [REDACTED] HT: [REDACTED] WT: [REDACTED]
HAIR: [REDACTED] EYES: [REDACTED] SSN: [REDACTED]
WILL TESTIFY: YES MISC. [REDACTED]

**** NARRATIVE ****

SERIAL NUMBER: 7525

ON 10-28-10 AT APPROXIMATELY 1330 HOURS I, DETECTIVE [REDACTED] WENT TO [REDACTED] REFERENCE THIS REPORT. OFFICER [REDACTED] AND OFFICER [REDACTED] ALSO RESPONDED AS WELL. I KNOCKED ON THE METAL GATE OF THIS RESIDENCE TO CONTACT THE OCCUPANTS LOOKING FOR [REDACTED]

IT SHOULD BE NOTED THE FRONT OF THE RESIDENCE IS FORTIFIED WITH METAL BARS AND THE FRONT PATIO AREA IS ENCLOSED WITH A METAL GATE AND FENCE. AFTER APPROXIMATELY 3-5 MINUTES OF KNOCKING A [REDACTED] OPENED THE FRONT DOOR AND IDENTIFIED [REDACTED] AS [REDACTED]

[REDACTED] SPOKE [REDACTED]. [REDACTED] COMMUNICATED THAT [REDACTED] COULD NOT OPEN THE GATE AND WAS WAITING FOR [REDACTED] FAMILY TO ARRIVE AND UNLOCK THE LOCK. [REDACTED] APPEARED UPSET AND CONFUSED BY US BEING THERE. APPROXIMATELY 5-10 MINUTES LATER [REDACTED] ARRIVED AND OPENED THE GATE. [REDACTED] INVITED US INSIDE HER RESIDENCE.

I REQUESTED A SPANISH SPEAKING OFFICER TO ASSIST IN THIS INTERVIEW. WHILE WAITING FOR A SPANISH TRANSLATOR A NEIGHBOR LATER IDENTIFIED AS [REDACTED] STOPPED BY [REDACTED] RESIDENCE. I ASKED [REDACTED] IF [REDACTED] WITNESSED ANY OF THE EVENTS REGARDING THIS INVESTIGATIONS. [REDACTED] STATED [REDACTED] DID.

AND I WENT OUTSIDE TO THE SIDEWALK AREA AND I CONDUCTED AN INTERVIEW WITH [REDACTED]

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TOLD ME THE FOLLOWING:

STATED [REDACTED] HEARD SQUEALING TIRES OUTSIDE [REDACTED] HOUSE. IT SHOULD BE NOTED [REDACTED] HOUSE IS LOCATED [REDACTED] FRONT OF [REDACTED] RESIDENCE [REDACTED] SAID ON THE NIGHT OF THE SHOOTING [REDACTED] WAS INSIDE [REDACTED] HOUSE AND HEARD THE SQUEALING OF VEHICLE TIRES. [REDACTED] SAID [REDACTED] WENT INTO [REDACTED] GARAGE AND LOOKED OUT A SMALL WINDOW ON THE GARAGE DOOR AND SAW 3 [REDACTED] VEHICLES.

1) CONVERTIBLE MUSTANG PARKED ON THE NORTH SIDE OF [REDACTED] HOUSE NEAR THE BACK YARD.

2) ONE GREEN/BLUE OLDER TYPE HONDA PARKED ON THE SIDEWALK JUST SOUTH OF [REDACTED] HOUSE FACING NORTH ON [REDACTED].

3) ONE BROWN/GOLD OLDER HONDA PARKED IN THE STREET NEXT TO VEHICLE #2 FACING NORTH ON [REDACTED].

[REDACTED] SAID [REDACTED] HE HEARD APPROXIMATELY 15 GUN SHOTS IN A ROW WITHOUT ANY BREAKS. [REDACTED] SAW VEHICLE 1 DRIVE AWAY FORM THE HOUSE HEADING NORTH. VEHICLE 2 AND 3 WERE DRIVING BACKWARDS AT A FAST PACE SOUTHBOUND ON [REDACTED]. AT FIRST [REDACTED] SAID [REDACTED] SAW THE DRIVER OF THE GREEN VEHICLE HOLDING A RIFLE OUT THE DRIVERS SIDE WINDOW.

LATER [REDACTED] CHANGED [REDACTED] STATEMENT AND SAID THE DRIVER HAD SOMETHING SHINY CHECKING OUT THE WINDOW. [REDACTED] SAID [REDACTED] DID NOT KNOW IF IT WAS A FIREARM. [REDACTED] SAID [REDACTED] DID NOT SEE ANY FIREARMS OR ANYONE SHOOTING AT EACH OTHER. WHEN [REDACTED] COULD SEE WHAT WAS HAPPENING [REDACTED] SAW THE MALES FROM [REDACTED] HOUSE WALKING FROM THE STREET BACK TOWARDS THEIR HOUSE.

AT APPROXIMATELY 1408 HOURS OFFICER [REDACTED] ARRIVED TO ASSIST WITH [REDACTED] SPANISH/ENGLISH TRANSLATION. I CONTACTED [REDACTED] OUTSIDE AWAY FROM [REDACTED] IT SHOULD BE NOTED IT APPEARED [REDACTED] WAS VISUALLY UPSET AT THE FACT I WAS REQUESTING AN INTERVIEW WITH [REDACTED] ALONE.

[REDACTED] COMMUNICATED TO ME THE FOLLOWING:

[REDACTED] STATED AT APPROXIMATELY 2245 HOURS SHE WAS AWAKE WAITING FOR [REDACTED] TO ARRIVE HOME FROM SCHOOL. [REDACTED] WAS AWAKE AT THIS TIME WITH [REDACTED]. LATER [REDACTED] TURNED OUT THE LIGHT AND CAME OUTSIDE TO WAIT. [REDACTED] WALKED BY THE RED TRUCK PARKED IN FRONT BY OLEANDERS AND SAW 2 HISPANIC MALES CROUCHING BY THE GARAGE AND FENCE IN FRONT OF THE HOUSE. THE 2 MALES WERE HOLDING SHOTGUNS IN THEIR HANDS.

WHEN [REDACTED] SAW THEM [REDACTED] YELLED TOWARDS [REDACTED] HOUSE THAT SOMETHING WAS

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HAPPENING. THE 2 MALES TURNED AWAY AND BEGAN TO RUN TOWARD 2 VEHICLES THAT WERE PARKED NEXT TO [REDACTED] HOUSE JUST SOUTH ON 75TH LANE. [REDACTED] SAID BOTH CARS WERE FACING NORTH. ONE WAS BLACK AND THE OTHER ONE WAS GREEN.

[REDACTED] SAID [REDACTED] CALLED FOR MANUEL AS [REDACTED] WENT INSIDE THE HOUSE. AS [REDACTED] MADE IT TO THE GATE MANUEL CAME RUNNING OUTSIDE. I ASKED [REDACTED] IF THE SUBJECTS POINTED THE FIREARMS AT [REDACTED] [REDACTED] STATED THEY DID NOT. [REDACTED] BELIEVES THAT [REDACTED] SCARED THE SUBJECT AND THEY RAN AWAY TO THEIR CARS. [REDACTED] SAID [REDACTED] HEARD GUN SHOTS BUT DID NOT SEE WHO WAS SHOOTING. [REDACTED] SAID [REDACTED] KNOWS THAT MANUEL, [REDACTED] FIRED THE GUNS BECAUSE THEY TOLD THEY DID.

I ASKED [REDACTED] IF [REDACTED] HAD ANY IDEA WHY SOMEONE WOULD COME TO [REDACTED] HOUSE WITH GUNS. [REDACTED] STATED [REDACTED] DID NOT KNOW WHY. I ASKED [REDACTED] IF [REDACTED] CONSIDERS [REDACTED] AN HONEST PERSON AND [REDACTED] STATED [REDACTED] DID.

I CONCLUDED MY INTERVIEW WITH [REDACTED]

I THEN WALKED ON THE SIDEWALK SOUTH BOUND FROM [REDACTED] HOUSE. I DID NOT SEE ANY APPARENT DAMAGE TO THE BLOCK WALLS OR HOUSES IN THIS DIRECTION. I MEASURED THE DISTANCE FROM THE SOUTH WEST CORNER OF THE RESIDENCE USING THE STREET/SIGN LAMP AS A POINT OF REFERENCE.

BY USING A ROLLER TAPE I MEASURED THE DISTANCE TO THE NORTH/EAST CORNER OF THE FOLLOWING STREETS:

- [REDACTED] STREET
=====
- APPROXIMATELY 205 FEET
- HAZELWOOD STREET
=====
- APPROXIMATELY 425 FEET
- MINNEZONA AVENUE
=====
- APPROXIMATELY 709 FEET

IT SHOULD BE NOTED I AM ASSIGNED TO THE PHOENIX POLICE GUN ENFORCEMENT SQUAD WHICH IS ON A TASK FORCE WITH THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES. I OBTAINED INFORMATION THAT THERE WAS SURVEILLANCE VIDEO FOOTAGE INVOLVED IN AN UNRELATED INVESTIGATION OF THE FRONT OF THIS RESIDENCE.

I REVIEWED THE SURVEILLANCE VIDEO AND OBSERVED THE FOLLOWING:

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THE VIDEO WAS MOSTLY GRAINY AND IN BLACK AND WHITE. THE FOLLOWING TIMES ARE APPROXIMATE.

23:02:47 HOURS

=====
2 SUBJECTS WITH DARK CLOTHES WALK FROM THE SOUTH AND STOOD IN FRONT OF THE GARAGE DOOR.

23:03:40 HOURS

=====
1 SUBJECT CAME OUT FROM THE FRONT DOOR AND THE 2 SUBJECT LEFT HEADING SOUTH.

23:04:03 HOURS

=====
1 SUBJECT CAME OUT OF THE HOUSE AND STOOD IN THE AREA OF THE SIDEWALK OR ON THE STREET AND LIFTED WHAT LOOKED LIKE THEIR RIGHT ARM AND HELD IT OUT. IT APPEARED TO BE A FIREARM. IT ALSO APPEARED TO HAVE A PLUME OF SMOKE AROUND THE POSSIBLE FIREARM IN THE SUBJECTS RIGHT HAND AS HE/OR SHE WAS HOLDING IT OUT TOWARDS THE SOUTH PORTION OF THE STREET.

23:04:14 HOURS

=====
2 MORE SUBJECTS CAME OUT FROM THE HOUSE AND ONE SUBJECT ALSO HELD HIS/HER ARM OUT TOWARDS THE SAME AREA AS THE FIRST SUBJECT. IT ALSO APPEARED THE SUBJECT WAS HOLDING A HANDGUN. THE 3 THEN STOOD THERE AND THEN TURNED TO GO TOWARDS THE HOUSE.

23:05:04 HOURS

=====
1 VEHICLE DRIVES INTO THE SOUTH OPEN PORTION OF THE FRONT DRIVEWAY AT THE RESIDENCE. THE DRIVER EXITS THE VEHICLE AND STANDS NEXT TO THE OTHER SUBJECT IN FRONT OF THE DRIVE WAY. SEVERAL MORE SUBJECTS BEGAN TO STAND TOGETHER IN THE FRONT YARD AREA OF THE RESIDENCE.

23:08:01 HOURS

=====
THE VEHICLE THAT JUST PARKED LEAVES HEADING WEST.

23:09:05 HOURS

=====
IT APPEARS THE PHOENIX POLICE HELICOPTER IS OVERHEAD WITH ITS SPOT LIGHT SHINING ON THE RESIDENCE.

23:10:52 HOURS

=====
IT APPEARS THE FIRST RESPONDING OFFICERS ARRIVE AND APPROACHED FROM THE SOUTH ON FOOT AND CONTACT THE RESIDENCE.

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ON 01-06-11 I CONTACTED [REDACTED] [REDACTED] VIA THE TELEPHONE. I INFORMED [REDACTED] THAT I WISHED TO SPEAK WITH HIM REFERENCE THIS CASE. [REDACTED] MET ME AT THE AVONDALE POLICE DEPARTMENT. I TOLD [REDACTED] THAT I WAS STILL INVESTIGATING THE SHOOTING INCIDENT THAT OCCURED AT [REDACTED] HOUSE AT [REDACTED] ON 10-14-2010. BOTH [REDACTED] STATED 2 WEEKS AFTER THE INCIDENT THEY MOVED TO A NEW HOUSE LOCATED AT

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] RESIDE AT THIS NEW LOCATION. I ASKED WERE MANUEL IS RESIDING. I WAS INFORMED THEY DID NOT KNOW. [REDACTED] EXPLAINED THAT [REDACTED] DID NOT WITNESS ANY OF THE INCIDENT BECAUSE [REDACTED] WAS NOT THERE AT THE TIME. [REDACTED] STATED [REDACTED] WAS THERE BUT DID NOT SEE ANY OF THE VEHICLES LEAVING THE AREA DURING THE SHOOTING.

THEY BOTH SPOKE ABOUT THE INCIDENT THAT HAPPENED A WEEK PRIOR WHERE SEVERAL UNKNOWN SUBJECTS TRIED TO BREAK INTO [REDACTED] HOUSE FROM THE BACK YARD. [REDACTED] EXPLAINED HOW [REDACTED] WAS AFRAID AFTER THAT INCIDENT. I PROVIDED [REDACTED] WITH MY BUSINESS CARD AND ASKED IF [REDACTED] COULD PASS IT ALONG TO MANUEL. I WAS REQUESTING HIS CURRENT RESIDENTIAL ADDRESS.

THIS CONCLUDED MY CONVERSATION WITH [REDACTED].

ON 01-11-2011 SPECIAL AGENT ENGLISH WITH THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES PROVIDED ME WITH A COMPACT DISK CONTAINING A COPY OF THE LISTED VIDEO SURVEILLANCE AT [REDACTED] LANE ON 10-14-2010 AT 2300 2315 HOURS.

IT SHOULD BE NOTED THERE WERE 3 OTHER 911 CALLS FOR SERVICE REFERENCE THIS SHOOTING INCIDENT. I CONTACTED 2 OF THE 3 CALLERS AND OBTAINED THE FOLLOWING INFORMATION:

INCIDENT 10001466585
=====

2305 HOURS
I SPOKE [REDACTED] WHO STATED [REDACTED] HEARD THE SEVERAL SHOTS FIRED AND CALLED THE POLICE TO ADVISE. NO DAMAGE REPORTED TO HER RESIDENCE AND SHE DID NOT WITNESS THE SHOOTING.

INCIDENT 10001466587
=====

2305 HOURS
I SPOKE TO [REDACTED] WHO STATED [REDACTED] HEARD APPROXIMATELY 10 SHOTS

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FIRED AND CALLED THE POLICE TO ADVISE. NO DAMAGE REPORTED TO [REDACTED] RESIDENCE AND [REDACTED] DID NOT WITNESS THE SHOOTING.

INCIDENT 10001466583

2304 HOURS

I CALLED THE NUMBER LISTED ON CALL AND LEFT A MESSAGE. NO RESPONSE AT THIS TIME.

IT SHOULD ALSO BE NOTED ONLY 9MM AND 45 CALIBER HANDGUN SPENT SHELL CASINGS WERE LOCATED DURING THE INITIAL OFFICERS INVESTIGATION. NO OTHER CALIBER CASINGS WERE LOCATED DURING THIS INVESTIGATION.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 009

** PUBLIC ** PHOENIX POLICE DEPARTMENT REPORT ** RECORD **
 SUPPLEMENT PAGE NUMBER: 1 DR NUMBER: 2010 01466578 10

REPORT DATE: 20101209 TIME: 1454

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS OFFENSE: 415W

LOCATION: [REDACTED] LANE BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED] [REDACTED] UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

SERIAL NUMBER: [REDACTED] **** NARRATIVE ****

ORIGINATING DR: 201001466578 008
 THE FOLLOWING IS A SUMMARY OF THE LABORATORY EXAMINATION RESULTS.
 CONTACT THE LABORATORY BUREAU FOR THE OFFICIAL REPORT.

ANALYST: [REDACTED]
 3956568-0017.01 THE DIGITAL IMAGING MANAGEMENT SYSTEM CONTAINS 2 LATENTS
 FROM THIS ITEM.

LATENT #P2 WAS DETERMINED TO BE OF NO COMPARATIVE VALUE.

LATENT #P1 HAS BEEN PREVIOUSLY IDENTIFIED. 3956568-0018 THE DIGITAL IMAGING
 MANAGEMENT SYSTEM CONTAINS 1 LATENT FROM THIS ITEM.

ALL LATENTS WERE DETERMINED TO BE OF NO COMPARATIVE VALUE.

THEREFORE, NO COMPARISON WAS CONDUCTED.

VICTIM RECEIVED RIGHTS INFORMATION: NO MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED] DR FINALIZED BY : [REDACTED]

END OF REPORT DR NO: 2010 01466578 010

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

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SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 01466578 11

REPORT DATE: 20101221 TIME: 1606

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED] LANE

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

ORIGINATING DR: 201001466578 005

THE FOLLOWING IS A SUMMARY OF THE LABORATORY EXAMINATION RESULTS.
CONTACT THE LABORATORY BUREAU FOR THE OFFICIAL REPORT.

ANALYST: [REDACTED]

3956568-0017.01 THE DIGITAL IMAGING MANAGEMENT SYSTEM CONTAINS 2 LATENTS FROM THIS ITEM.

THIS IS AN AZAFIS GENERATED COMPARISON.

LATENT #P1 WAS COMPARED TO MANUEL CELIS-ACOSTA, DOB: [REDACTED] SID #AZ2045 5900, WITH THE FOLLOWING RESULTS:

LATENT #P1 FROM "GUN MAGAZINE" HAS BEEN IDENTIFIED TO THE LEFT THUMB OF MANUEL CELIS-ACOSTA.

3956568-0018 THE DIGITAL IMAGING MANAGEMENT SYSTEM CONTAINS 1 LATENT FROM THIS ITEM.

AN EVALUATION FOR AFIS QUALITY HAS BEEN CONDUCTED. NO LATENTS WERE ENTERED INTO AZAFIS.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 011

** PUBLIC **

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PAGE NUMBER: 1

DR NUMBER: 2010 01466578 12

REPORT DATE: 20110111 TIME: 1446

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED] LANE

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: [REDACTED] ST

DATE: 011111

SEARCH WARRANT INVOLVED:

0001 PKG 000 CODE:EI AP01

ITEM: RVDISK BRAND:

MODEL:

COLOR:

SIZE: QUANTITY: 0001 SERIAL/ACCT/ID:

DESCRIPTION: ONE COMPACT DISK CONTAINING VIDEO SURVEILLANCE

10-14-2010 FOR [REDACTED] LANE (2300 - 2315 HOURS)

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

SUPPLEMENT GENERATED TO IMPOUND VIDEO SURVEILLANCE ON 4637 N 75TH LANE 10-14-10 2300-2315 HOURS.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES: 3979703

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 012

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SUPPLEMENT

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DR NUMBER: 2010 01466578

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REPORT DATE: 20110525 TIME: 0616

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED] LANE

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE (NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

THIS SUPPLEMENT WAS INADVERTENTLY GENERATED. PLEASE REFER TO SUPPLEMENT # 14 FOR THE RESULTS.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 013

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SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 01466578 14

REPORT DATE: 20110525 TIME: 0657

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED] LANE

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

ORIGINATING DR: 201001466578 005

THE FOLLOWING IS A SUMMARY OF THE LABORATORY EXAMINATION RESULTS.
CONTACT THE LABORATORY BUREAU FOR THE OFFICIAL REPORT.

ANALYST: [REDACTED]

3956568-0001 THE SWABS (3956568-0016) WERE PREVIOUSLY SUB-ITEMED AS -0016.01.

THE MAGAZINE, SWABS AND AMMUNITION (3956568-0017) WERE PREVIOUSLY SUB-ITEMED AS MAGAZINE (-0017.01), SWABS (-0017.01A) AND AMMUNITION (-0017.02).CRLF

THE SWABS (3956568-0018) WERE PREVIOUSLY SUB-ITEMED AS -0018.01.

THE MAGAZINE, SWABS AND AMMUNITION (3956568-0019) WERE PREVIOUSLY SUB-ITEMED AS MAGAZINE (-0019.01), SWABS (-0019.01A) AND AMMUNITION (-0019.02).CRLF

THE SWABS (3956568-0020) WERE PREVIOUSLY SUB-ITEMED AS -0020.01.

THE MAGAZINE, SWABS AND AMMUNITION (3956568-0021) WERE PREVIOUSLY SUB-ITEMED AS MAGAZINE (-0021.01), SWABS (-0021.01A) AND AMMUNITION (-0021.02).CRLF

THE TAURUS PT 1911 AR 45 AUTO PISTOL (3956568-0016, SERIAL NUMBER NAX76576) WAS DETERMINED TO BE OPERATIONAL. THE MAGAZINE (-0017.01) WAS USED TO TEST FIRE THE PISTOL. A TEST FIRE SAMPLE WAS ENTERED INTO NIBIN.

THE KAHR CW9 9MM LUGER PISTOL (3956568-0018, SERIAL NUMBER ED7917) WAS DETERMINED TO BE OPERATIONAL. THE MAGAZINE (-0019.01) WAS USED TO TEST FIRE THE PISTOL. A TEST FIRE SAMPLE WAS ENTERED INTO NIBIN.

THE LORCIN L9MM 9MM LUGER PISTOL (3956568-0020, SERIAL NUMBER L091708) WAS DETERMINED TO BE OPERATIONAL. THE MAGAZINE (-0021.01) WAS USED TO TEST FIRE THE PISTOL. A TEST FIRE SAMPLE WAS ENTERED INTO NIBIN.

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THE STARLINE BRASS 9MM LUGER CARTRIDGE CASINGS (3956568-0001 & -0002) WERE IDENTIFIED AS HAVING BEEN FIRED IN THE KAHR CW9 9MM LUGER PISTOL (3956568-0018). AGREEMENT OF THE CHARACTERISTICS IS SUFFICIENT TO DETERMINE THAT THE FIREARM IS THE SOURCE OF THE CASING.

THE HORNADY 45 AUTO CARTRIDGE CASINGS (3956568-0003, -0004, -0005, 0006, -0007 AND -0008) WERE IDENTIFIED AS HAVING BEEN FIRED IN THE TAURUS PT 1911 AR 45 AUTO PISTOL (3956568-0016). AGREEMENT OF THE CHARACTERISTICS IS SUFFICIENT TO DETERMINE THAT THE FIREARM IS THE SOURCE OF THE CASING.

THE WIN 9MM LUGER CARTRIDGE CASINGS (3956568-0011 AND -0012) COULD NOT BE CONCLUSIVELY IDENTIFIED OR EXCLUDED AS HAVING BEEN FIRED IN THE LORCIN L9M M 9MM LUGER PISTOL (3956568-0020). HOWEVER, IT IS LIKELY THE CASINGS WERE FIRED IN THE FIREARM. THERE WAS AGREEMENT OF ALL DISCERNIBLE CLASS CHARACTERISTICS AND SOME INDIVIDUAL CHARACTERISTICS, BUT THE AGREEMENT WAS NOT SUFFICIENT FOR IDENTIFICATION.

THE WIN 9MM LUGER CARTRIDGE CASINGS (3956568-0009, -0010, -0013, -0014 AND -0015) COULD NOT BE CONCLUSIVELY IDENTIFIED OR EXCLUDED AS HAVING BEEN FIRED IN THE LORCIN L9MM 9MM LUGER PISTOL (3956568-0020). THERE WAS AGREEMENT OF ALL DISCERNIBLE CLASS CHARACTERISTICS, BUT NO SIGNIFICANT AGREEMENT OR DISAGREEMENT OF THE INDIVIDUAL CHARACTERISTICS WAS NOTED. THE CASINGS COULD HAVE BEEN FIRED IN THE FIREARM, OR ANY OTHER FIREARM WITH SIMILAR CHARACTERISTICS.

THE SWABS (3956568-0016.01) WERE RECEIVED, BUT NOT ANALYZED.

THE SWABS (3956568-0017.01A) AND AMMUNITION (3956568-0017.02) WERE RECEIVED, BUT NOT ANALYZED.

THE SWABS (3956568-0018.01) WERE RECEIVED, BUT NOT ANALYZED.

THE SWABS (3956568-0019.01A) AND AMMUNITION (3956568-0019.02) WERE RECEIVED, BUT NOT ANALYZED.

THE SWABS (3956568-0020.01) WERE RECEIVED, BUT NOT ANALYZED.

THE SWABS (3956568-0021.01A) AND AMMUNITION (3956568-0021.02) WERE RECEIVED, BUT NOT ANALYZED.

FURTHER TESTING ON THE SWABS (3956568-0016.01, -0017.01A, -0017.02, -0018.01, -0019.01A, -0019.02, -0020.01, -0021.01A AND -0021.02) MAY BE POSSIBLE USING SCREENING OR DNA ANALYSIS. PLEASE CONTACT THE FORENSIC BIOLOGY SECTION.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED] DR FINALIZED BY : [REDACTED]

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PHOENIX POLICE DEPARTMENT REPORT

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DR NO: 2010 01466578 014

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PAGE NUMBER: 1

DR NUMBER: 2010 01466578 15

REPORT DATE: 20110706 TIME: 1456

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED] LANE

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

PROPERTY DUPLICATION

ON JUNE 06, 2011, DETECTIVE [REDACTED] OF THE PHOENIX POLICE DEPARTMENTS GUN ENFORCEMENT SQUAD SENT AN EMAIL REQUESTING THAT THE FORENSIC IMAGING UNIT MAKE TWO COPIES OF THE FOLLOWING IMPOUNDED ITEM:

INVOICE NUMBER 3979703 ITEM 1 "ONE COMPACT DISK CONTAINING VIDEO SURVEILLANCE"

DETECTIVE [REDACTED] REQUESTED THAT THE COPIES BE FORWARDED TO [REDACTED] OF THE MARICOPA COUNTY ATTORNEY'S OFFICE.

ON JUNE 14, 2011, FORENSIC PHOTO SPECIALIST [REDACTED] REQUESTED THE ITEM FROM THE PROPERTY MANAGEMENT BUREAU.

ON JUNE 17, 2011, FORENSIC PHOTO SPECIALIST [REDACTED] RECEIVED THE ITEM OF EVIDENCE FROM THE PROPERTY MANAGEMENT BUREAU AND STORED IT IN THE FORENSIC IMAGING UNITS SECURED STORAGE.

ON JUNE 22, 2011, I FORENSIC PHOTO SPECIALIST [REDACTED] WAS ASSIGNED THIS REQUEST BY FORENSIC PHOTO SPECIALIST SUPERVISOR [REDACTED].

ON JUNE 30, 2011 AT APPROXIMATELY 1318 HOURS, I REMOVED THE ITEM OF EVIDENCE FROM THE FORENSIC IMAGING UNITS SECURED STORAGE. I OPENED THE SEALED EVIDENCE BAG AND FOUND ONE DISC. I MADE TWO COPIES OF THE DISC USING A DUPLICATING TOWER. I VERIFIED THE DISC COPIED SUCCESSFULLY.

ON JUNE 30, 2011 AT APPROXIMATELY 1446 HOURS, I RESEALED THE ITEM OF EVIDENCE BACK IN THE EVIDENCE BAG. AT APPROXIMATELY 1544 HOURS, I SECURED THE ITEM OF EVIDENCE BACK IN THE FORENSIC IMAGING UNITS SECURED STORAGE. I FORWARDED THE COPIES TO D. PATRICK JOHNSON OF THE MARICOPA COUNTY ATTORNEY'S OFFICE.

2010 01466578 15

Continued.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 2

DR NUMBER: 2010 01466578 15

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 015

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 2010 01466578 16

REPORT DATE: 20111006 TIME: 1638

TYPE OF REPORT: MISCONDUCT INVOLVING WEAPONS

OFFENSE: 415W

LOCATION: [REDACTED] LANE

BEAT: 0315 GRID: BI10

DATE/TIME OF OCCURRENCE: THU 101410 2304

REPORTING OFFICER[S]: [REDACTED]

UNIT: [REDACTED]

OFFENSE INVOLVED: BIAS - NONE(NO BIAS)

**** NARRATIVE ****

SERIAL NUMBER: [REDACTED]

DISC DUPLICATION

ON AUGUST 26, 2011, DETECTIVE [REDACTED] WITH THE PHOENIX POLICE DEPARTMENT'S GUN ENFORCEMENT SQUAD SENT AN EMAIL REQUESTING THE FORENSIC IMAGING UNIT MAKE TWO COPIES OF THE FOLLOWING ITEM:

INVOICE 3979703 ITEM 1 "ONE COMPACT DISK CONTAINING VIDEO SURVEILLANCE"

DETECTIVE [REDACTED] REQUESTED THAT WE FORWARD THE COPIES TO [REDACTED] AT THE MARICOPA COUNTY ATTORNEY'S OFFICE.

ON AUGUST 30, 2011, FORENSIC PHOTO SPECIALIST [REDACTED] REQUESTED THE ITEM FROM THE PROPERTY MANAGEMENT BUREAU.

ON SEPTEMBER 2, 2011, FORENSIC PHOTO SPECIALIST [REDACTED] RECEIVED THE ITEM AND STORED IT IN THE FORENSIC IMAGING UNIT'S SECURED STORAGE.

ON SEPTEMBER 9, 2011, I, FORENSIC PHOTO SPECIALIST [REDACTED] WAS ASSIGNED THIS REQUEST.

ON SEPTEMBER 21, 2011, AT APPROXIMATELY 1140 HOURS, I REMOVED THE ITEM FROM THE FORENSIC IMAGING UNIT'S SECURED STORAGE. I OPENED THE SEALED EVIDENCE BAG AND FOUND ONE DISC. I MADE TWO COPIES OF THE DISC USING A DUPLICATION TOWER AND CONFIRMED THAT THE CONTENTS COPIED SUCCESSFULLY.

ON SEPTEMBER 21, 2011, AT APPROXIMATELY 1305 HOURS, I RESEALED THE ITEM IN THE EVIDENCE BAG AND SECURED IT IN THE FORENSIC IMAGING UNIT'S SECURED STORAGE TO BE RETURNED TO THE PROPERTY ANNEX.

I FORWARDED THE TWO COPIES TO [REDACTED] AT THE MARICOPA COUNTY ATTORNEY'S OFFICE.

** PUBLIC **

PHOENIX POLICE DEPARTMENT REPORT

** RECORD **

SUPPLEMENT

PAGE NUMBER: 2

DR NUMBER: 2010 01466578 16

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : [REDACTED]

DR FINALIZED BY : [REDACTED]

END OF REPORT

DR NO: 2010 01466578 016

Exhibit 180

**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: S20100000887 Entered Date: June 03, 2010

[REDACTED]
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: SEAN CHRISTOPHER STEWARD

Address: [REDACTED]
PHOENIX, AZ 85008

DOB: [REDACTED] Race: WHITE Sex: Male
Height: [REDACTED] Weight: [REDACTED] Date: 06/02/2010

ID 1: [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: 21

Manufacturer	Model	Caliber	Serial Number	Type	Importer
HS PRODUCTS (IM METAL)	XDM	9	MG964035	PISTOL	SPRINGFIELD INC (SI), GENESEO IL
GLOCK GMBH	19	9	PED789	PISTOL	GLOCK INC, SMYRNA GA
GLOCK GMBH	19	9	PHU288	PISTOL	GLOCK INC, SMYRNA GA
GLOCK GMBH	19	9	PPT643	PISTOL	GLOCK INC, SMYRNA GA
GLOCK GMBH	19	9	PPT641	PISTOL	GLOCK INC, SMYRNA GA
GLOCK GMBH	17	9	PKV031	PISTOL	GLOCK INC, SMYRNA GA
GLOCK GMBH	17	9	NLM169	PISTOL	GLOCK INC, SMYRNA GA
GLOCK GMBH	17	9	NSP410	PISTOL	GLOCK INC, SMYRNA GA
GLOCK GMBH	19	9	NSP412	PISTOL	GLOCK INC, SMYRNA GA
GLOCK GMBH	34	9	NZC771	PISTOL	GLOCK INC, SMYRNA GA
RUGER	P95	9	317-36369	PISTOL	
RUGER	P95	9	317-36735	PISTOL	
RUGER	P95	9	317-40927	PISTOL	

Suspect Gun: S20100000887

RUGER	P95	9	317-36391	PISTOL	
RUGER	P95	9	317-36744	PISTOL	1141
RUGER	P95	9	317-40932	PISTOL	
RUGER	P95	9	317-40736	PISTOL	
TAURUS	PT1911	45	NAX76576	PISTOL	UNKNOWN IMPORTER
TAURUS	PT24/7	9	TCV80815	PISTOL	UNKNOWN IMPORTER
TAURUS	PT92	9	TCV92420	PISTOL	UNKNOWN IMPORTER
SMITH & WESSON	M&P	9	DTY4885	PISTOL	

Unclassified Controlled Information

Suspect Gun: S20100000887

Exhibit 181

Exhibit 181



United States Attorney's Office
District of Arizona

Memorandum

To: Carol Stachan-Noonan
From: Emory Hurley
Subject: Fast and Furious
Date: October 21, 2010

Operation Name: the Fast and Furious
Status: Active investigation, no lines currently up.
Case Agents: Primary Case Agent: Hope MacAllister, ATF
Co-Case Agents: Tonya English, ATF
Layne France, ICE

This is a T-III investigation into a large scale firearm trafficking organization supplying firearms to Mexican cartels. It was spun off of a state authorized RC-3 investigating drug trafficking. This investigation has included RC-3.

The gun trafficking conspiracy under investigation involves more than RC-5 participants. Many of the participants are "straw purchasers" who buy firearms from licensed gun dealers for the trafficking organization. Other participants direct the flow of firearms out of the United States. The organization appears to compartmentalize the acquisition and transportation of firearms. The two primary targets of the investigation have been the primary organizer of the conspiracy (who appears to have the greatest control over the flow of firearms) and the primary purchaser of firearms (who both purchases himself, as well as recruits others to purchase).

Investigating agents have pursued interdiction of the firearms transferred to the conspirators where possible. Agents have not purposely let guns "walk." Interdiction in some cases has been hampered by counter-surveillance used by the targets. By looking at firearms transaction records historically, it is believed that the organization has acquired more than 1800 firearms. Since the inception of this investigation, more than 200 firearms have been recovered. ATF has undertaken a very aggressive approach to seizing firearms tied to this conspiracy whenever a legal theory allowing for seizure can be developed. Agents are working closely with the asset forfeiture unit within the USAO to deprive the organization of many of the firearms it has purchased. Approximately 50 lbs of marijuana have been seized in connection with this investigation. The value of firearms recovered/seized exceeds \$100,000.

The case is currently moving towards indictment and agents continue to interdict firearms purchased by members of the conspiracy.

HOGR USAO 003047

Exhibit 182

Exhibit 182

RC-1

From: Weinstein, Jason
Sent: Monday, November 08, 2010 10:41 PM
To: Pope, Amy
Cc: Trusty, James; Raman, Mythili
Subject: RE: are you pulling together any materials

Based on my conversations with Billy, here is what the meeting with Ken and Mark Chait appears to be about:

1. Briefing on the follow-up to our Mexico trip

RC-2

2. Drop-off in U.S. prosecutions for firearms trafficking

- Ken apparently wants to discuss an apparent reduction in the number of straw purchaser/gun trafficking cases being pursued in certain USAOs (including at least SDTX) and the reluctance on the part of some offices (again, including at least SDTX) to be aggressive in charging conspiracies in such cases; he will apparently ask if we have any suggestions about how to get the numbers up
- What we can do here depends on whether the drop in cases/less aggressive approach is based on a lack of priority placed on such cases by the USAOs, a good faith concern about the quality of the evidence, or a lack of resources
 - If it's a lack of will/priority (unlikely), the only thing we can do is encourage the offices to pursue these cases vigorously

- If it's a good faith disagreement with the agents about the strength of a particular case, there's nothing we can or should do
- If it's a lack of resources, perhaps we can offer to provide assistance in the form of a Gang Unit prosecutor, as with Laura Gwinn in AZ
- Ken is also frustrated by the pace of the USAO in AZ in bringing charges in the "Fast and Furious" gun-trafficking case (multiple wires, huge # of guns) – the AUSA has apparently told the agents that it will take a couple of months to draft the indictment; it appears that the AUSA on the case is not the fastest worker, and Laura Gwinn, our prosecutor on the case, is going to try to push things along, including by offering to draft the indictment
- Ken is apparently going to address the USAs at the US Atty conference to emphasize the importance of pursuing gun trafficking, particularly with a SWB nexus – he may ask Lanny to help him get that message across

From: Pope, Amy
Sent: Monday, November 08, 2010 4:51 PM
To: Weinstein, Jason
Subject: are you pulling together any materials

On ATF mtg for tomorrow?

Amy E. Pope | U.S. Department of Justice | Deputy Chief of Staff and Counselor to the Assistant Attorney General | Criminal Division | 23

RC-1

Exhibit 183

From: Hurley, Emory (USAAZ)
To: English, Tonya A. (ATF)
Sent: 11/29/2010 3:44:07 PM
Subject: RE: Ref Federal Firearms License searches

Thank you.

From: English, Tonya A. (ATF)
Sent: Monday, November 29, 2010 1:20 PM
To: Hurley, Emory (USAAZ)
Cc: MacAllister, Hope A. (ATF)
Subject: Ref Federal Firearms License searches

Emory,

Ref Federal Firearms License searches on the first round of subjects. Results came back negative for licenses on all 20 individuals.

RC-4	
AVILA Jr., Jaime NMN	
CARLON, Hector Rolando	
CELIS, Alfredo	
CELIS - ACOSTA, Manuel Fabian	
CHAMBERS, Jacob Wayne	
FERNANDEZ, Jonathan Earvin	
RC-4	
IRELAND, Kristi Gail	
MARQUEZ, Manuel	
MARTINEZ GONZALEZ, Juan Jose	
MONTELONGO, Jacob Anthony	
MOORE, Joshua David	
MORONES, Danny Cruz	
PATINO, Uriel NMN	
PONCE, Francisco Javier	
ROWLAND, John William	
STEWART, Sean Christopher	
THOMPSON, Kenneth	

Thanks,

Tonya

Special Agent Tonya English
Bureau of Alcohol, Tobacco, Firearms and Explosives
Phoenix - Group VII

RC-1 (Desk)
 RC-1 (Fax)

HOCR DOJ 005987

From: Hurley, Emory (USAAZ)
To: Koehler, Joe (USAAZ)
Sent: 12/6/2010 11:27:46 AM
Subject: RE: Operation [REDACTED] - IRS Meeting?

I'm very happy to have IRS involved in my case. One theory we are working up is that in Arizona, most gun shops have a pawn or "used dealer license" so that they can take in used guns in trade or for resale as part of their business. Although most do not make loans collateralized by used property, their license would allow them to do it. If they can be considered pawn brokers, they are a "financial institution" within the meaning of 18:1956.

From: Koehler, Joe (USAAZ)
Sent: Friday, December 03, 2010 12:57 PM
To: Hurley, Emory (USAAZ)
Subject: Fw: Operation [REDACTED] - IRS Meeting?

What do you think of how IRS' role is working out in your case? Thanks.

From: Johnston Keith C [REDACTED]
Sent: Friday, December 03, 2010 02:18 PM
To: Koehler, Joe (USAAZ)
Subject: RE: Operation [REDACTED] - IRS Meeting?

Hello Joseph Koehler,

Do you had a few minutes during the week of December 13th through December 17th to discuss [REDACTED] case? (I'm out of town all next week). I've received some of the receipts from the purchases made by the straw buyers from ATF Agents Lee Casa and Christi Van Werden. After receiving the receipts from ATF, I spoke with fellow IRS Special Agent Linda Wallace concerning a similar OCDETF investigation (Fast and Furious) she is working on with AUSA Emory Hurley. I wanted to touch base with you and see if you would like me to pursue something similar to what Agent Wallace is doing in the Fast and Furious investigation or wanted me to assist in a different way with the [REDACTED] Investigation. Please let me know if you have an available time during that week to discuss how I can best assist in the investigation.

Thank you,

IRS-CI Special Agent KC Johnston
[REDACTED]

HOCR DOJ 005988

Exhibit 184

Exhibit 184

From: English, Tonya A.
Sent: Monday, November 15, 2010 2:42 PM
To: Voth, David J.
CC: MacAllister, Hope A.
Subject: FW: seizure

Ref this seizure. Alex called me to let me know that at least 2 of the 16 firearms recovered are Fast and Furious f/a's. He wanted to know if any of the firearms were purchased or associated with the guns recovered in El Paso. I thought this was interesting that in light of the recent communication with the El Paso office. One of the guns was purchased by Steward on 12-14-09. Ten days later he bought the 40 that were recovered in El Paso. My thought is not to release any information on the f/a's including the highlighted info. above. I was going to simply email him and say not part of that purchase. Please advise if you have an alternate idea or suggestion.

Thanks,

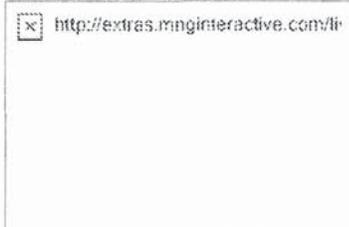
Tonya

From: Kruthaupt, Alex J.
Sent: Monday, November 15, 2010 12:16 PM
To: English, Tonya A.
Subject: seizure

8 held in death of ex-Chihuahua AG's brother

By Maggie Ybarra \ El Paso Times
Posted: 11/06/2010 12:00:00 AM MDT

Click photo to enlarge



Federal police present five suspects, arrested in connection with the slaying of Mario... (AP Photo)

- «
- 1
- 2
- »



HOCR ATF - 001792

Exhibit 185

Exhibit 185

To: MacAllister, Hope A. [RC-1]
Cc: Voth, David J. [RC-1]
From: English, Tonya A.
Sent: Mon 11/15/2010 7:23:47 PM
Subject: FW: seizure

[RC-5] - Patino

[RC-5] - Steward

From: English, Tonya A.
Sent: Monday, November 15, 2010 12:17 PM
To: MacAllister, Hope A.
Subject: FW: seizure

At least 2 of the 16 guns recovered are related to Fast and Furious.

From: Kruthaupt, Alex J.
Sent: Monday, November 15, 2010 12:16 PM
To: English, Tonya A.
Subject: seizure

8 held in death of ex-Chihuahua AG's brother

By Maggie Ybarra \ El Paso Times

Posted: 11/06/2010 12:00:00 AM MDT

[Click photo to enlarge](#)

HOCR DOJ 006700

Exhibit 186

Exhibit 186

RC-1

From: Weinstein, Jason
Sent: Thursday, December 16, 2010 8:42 PM
To: Lurie, Adam
Subject: FW: December 15 Workshop regarding Arms Trafficking and Explosives

FYI

From: Trusty, James
Sent: Thursday, December 16, 2010 2:21 PM
To: Weinstein, Jason
Subject: Fw: December 15 Workshop regarding Arms Trafficking and Explosives

From: Gwinn, Laura
To: Jaffe, David; Trusty, James; Ohr, Bruce
Sent: Thu Dec 16 14:12:17 2010
Subject: Fw: December 15 Workshop regarding Arms Trafficking and Explosives

Karine sent a good summary on the Mexico meeting. Thought you might be interested or have a need to pass on to Jason.

Sent from Blackberry
 Laura Gwinn
 US Dept of Justice Gang Unit
 RC-1 (c)

From: Taxman, Karine M (Mexico City) <RC-1@state.gov>
To: Higgins, Eileen T (Mexico City) <RC-1@state.gov>
Cc: Perez, Jose O (Mexico City) <RC-1@state.gov>; Garcia, Anthony P (Mexico City) <RC-1@state.gov>; Snyder, Christopher A (Mexico City) <RC-1@state.gov>; Feeley, John D (Mexico City) <RC-1@state.gov>; Carlos Canino <RC-1>; Larson, Brian (USAAZ) <RC-1>; Gwinn, Laura; JParek <RC-1@doj.gov>; FBattista <RC-1@doj.gov>
Sent: Thu Dec 16 14:05:55 2010
Subject: December 15 Workshop regarding Arms Trafficking and Explosives

Yesterday, December 15, 2010, US prosecutors, and ATF & ICE agents met with their Mexican counterparts at PGR as part of the first Arms Trafficking and Explosives working group meeting. The amount of US representatives matched the Mexican representatives (approximately 12 from each) and the level was equally matched.

The meeting started with a lively discussion regarding E-Trace.

RC-2

HOGH DOJ 006722

RC-2

RC-2

Next, the US presented two cases. The first case was presented by Josh Patecki and Brian Larson, both from the Phoenix, Arizona US Attorney's office. Their case was a case that has already progressed significantly and has already received significant Mexican PGR support. However, drawing from the enthusiasm in the room, the conversation quickly went to potential new areas of cooperation to be explored.

The second US case was new to our Mexican counterparts, and involved the illegal shipment of approximately 250 firearms into Mexico. The case was presented by Laura Gwinn, an attorney with the DOJ Criminal Gang Unit. Again, the discussion was very interactive, and involved exploring areas where we could work together. Both the US and Mexican representatives exchanged names, contact information, and identified areas that could benefit from joint cooperation.

Also training needs were identified by PGR to include:

- 1- RC-2
- 2-
- 3-
- 4-
- 5-
- 6-

In addition, the entire working group decided to meet again as a working group on March 8, 2011 to discuss developments and advances in each of the cases.

Please let me know if you have any questions or need additional information.

Karine Moreno-Taxman

RIA- DOJ/OPDAT

x RC-1

This email is UNCLASSIFIED

Exhibit 187

SBU

This email is UNCLASSIFIED.

From: Parecki, Josh (USAAZ) [RC-1]
Sent: Monday, January 31, 2011 4:30 PM
To: Taxman, Karine M (Mexico City)
Cc: [RC-1] (Mexico City)
Subject: RE: Acusación contra 34 Sospechosos de Tráfico Organizado de Drogas y Armas

Something like this?

In an effort to encourage further bilateral relations with the GoM/PGR, and to advance the possibility of joint major weapons trafficking law enforcement operations and prosecutions, the USAO (D. Ariz.), DOJ Attaché (Mexican Embassy), DOJ OPDAT, ATF SAC/PHX and ATF Mexico City invited both a representative of PGR SIEDO (Unit in Terrorism Stockpile and Trafficking of Firearms), and a representative of PGR SSP to observe and participate in the take down of a major southbound weapons trafficking organization (Operation Fast and Furious). The initial reason for this invitation related to USAO (D. Ariz.), DOJ Attaché (Mexico City), and the ATF SAC/PHX past work with SIEDO

[RC-7]
 [RC-7]

This invitation represented an opportunity for us to let the GoM know that we would be willing to arrange similar accessibility, and an opportunity to provide some firsthand exposure to the U.S. Federal criminal justice system.

USAO (D. Ariz.) and OPDAT also used Operation Fast and Furious as a case study during a December 15, 2010 weapons trafficking seminar sponsored by OPDAT and held at PGR. We used the general facts and circumstances of this Operation as a starting point for discussion on how the U.S. could work with the GoM to dismantle international weapons trafficking networks jointly. We also used this operation to explain why access to certain GoM controlled evidence is so essential to U.S. prosecutions.

While in the District of Arizona, PGR SIEDO representatives were fully briefed on the operation and planning of the Fast and Furious take down. They were allowed to be present at the command center for the majority of the Operation's unfolding. Additionally, they were given access to certain arrestees under certain operational and Constitutional parameters (vetted through Embassy, DOJ OIA, and ATF). With the information they obtained, SIEDO hopes to initial an investigation targeting Mexican conspirators. SIEDO representatives met with me and a colleague (Walter Perkel) (USAO, D. Ariz.) the day after the take down was complete and we discussed any questions they had based on what they observed. We then explained the various future courtroom possibilities that would occur in the Fast and Furious case, discussed future access to potential cooperating defendants, and discussed the potential for future unrelated operations wherein PGR and DOJ can work jointly from inception of an investigation. Finally, we took the SIEDO representative to the Sandra Day O'Connor Federal Courthouse to observe several hearings.

Cheers,
 Josh Patrick Parecki
 Assistant United States Attorney
 National Security and Border Security Section
 District of Arizona
 Desk: [RC-1]

From: Taxman, Karine M (Mexico City) [RC-1]
Sent: Monday, January 31, 2011 1:18 PM
To: Parecki, Josh (USAAZ)
Cc: [RC-1] (Mexico City)
Subject: FW: Acusación contra 34 Sospechosos de Tráfico Organizado de Drogas y Armas

Hi Josh,

HOGR DOJ 006755

Exhibit 188

Exhibit 188

RC-1

m: Cunningham, Patrick (USAAZ)
t: Tuesday, December 14, 2010 1:21 PM
to: Burke, Dennis (USAAZ)
Cc: Scheel, Ann (USAAZ); Hernandez, Norma (USAAZ); Morrissey, Mike (USAAZ); Hurley, Emory (USAAZ)
Subject: Re: Fast and Furious

You bet. Good opportunity to see if January 6 and 7 are still our target dates for indictment and takedown-press event. Pjc

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

From: Burke, Dennis (USAAZ)
Sent: Tuesday, December 14, 2010 12:28 PM
To: Cunningham, Patrick (USAAZ)
Cc: Scheel, Ann (USAAZ); Hernandez, Norma (USAAZ)
Subject: Fast and Furious

AG' office is now expressing interest in the AG coming out for it. Will you send me 4 or 5 lines abt it that I can brief Monty on it -- esp time window. Thx.

Exhibit 189

Exhibit 189

RC-1

m: Morrissey, Mike (USAAZ)
t: Wednesday, December 15, 2010 3:15 PM
o: Cunningham, Patrick (USAAZ); Burke, Dennis (USAAZ); Scheel, Ann (USAAZ)
Cc: Tarango, Manuel (USAAZ)
Subject: RE: Fast and Furious: You available for a call today?

I'd like to make Jan 19 the "set in stone" date for an indictment, so that this comes to pass and we can make definite plans for searches and arrests. I agree with Pat that we should have a back up date but I do not want to use it. Mike

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

From: Cunningham, Patrick (USAAZ)
 Sent: Wednesday, December 15, 2010 1:05 PM
 To: Burke, Dennis (USAAZ); Scheel, Ann (USAAZ)
 Cc: Morrissey, Mike (USAAZ); Tarango, Manuel (USAAZ)
 Subject: Fast and Furious: You available for a call today?

After speaking to Morrissey and Emory, here are some possible dates for Fast and Furious:

Indictment of about 20 defendants on January 19, a Wednesday, to include Conspiracy to falsely purchase weapons (straw purchasing) and to sell firearms without a license, unlawful export of weapons to Mexico which requires Pelak's (sp?) approval in Washington, and money laundering. IRS is doing the money laundering investigation.

January 26, a Wednesday--reserve GJ date if we are not ready on Jan 19

January 27, three search warrants, some civil seizure warrants, arrests of the 20 defendants, and Press Event that day after the take down.

See you about 3pm. PJC

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

From: Burke, Dennis (USAAZ)
 Sent: Wednesday, December 15, 2010 12:15 AM
 To: Cunningham, Patrick (USAAZ); Scheel, Ann (USAAZ)
 Subject: Fw: You available for a call today?

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

From: Burke, Dennis (USAAZ)
 Sent: Wednesday, December 15, 2010 02:14 AM
 To: Wilkinson, Monty (OAG) (SMO)
 Subject: Re: You available for a call today?

Sorry for going dark on you. I was at Navajo and Hopi all day and coverage was weak at best. I did get your vm. We have a major gun trafficking case connected to Mexico we are taking down in January. 20+ defendants. Will call today to explain in detail.

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

Exhibit 190

From: Wilkinson, Monty (OAG) (SMO)
To: Burke, Dennis (USAAZ)
Sent: 12/15/2010 10:04:52 AM
Subject: RE: INITIAL TELEPHONIC - SHOT FIRED - Nogales, AZ

Tragic. I've alerted the AG, the Acting DAG, Lisa, etc.

From: Burke, Dennis (USAAZ)
Sent: Wednesday, December 15, 2010 9:41 AM
To: Wilkinson, Monty (OAG)
Subject: Fw: INITIAL TELEPHONIC - SHOT FIRED - Nogales, AZ

Not good.

18 miles w/in.

From: LOPEZ, MARCO A (HQ) [RC-1]
Sent: Wednesday, December 15, 2010 03:31 AM
To: Burke, Dennis (USAAZ)
Subject: Fw: INITIAL TELEPHONIC - SHOT FIRED - Nogales, AZ

Our agent has passed away.

From: JAIGOBIND, CARL
To: OIOC-SIT SHOTS FIRED INJURY-DEATH
Cc: SITROOM
Sent: Wed Dec 15 02:31:32 2010
Subject: INITIAL TELEPHONIC - SHOT FIRED - Nogales, AZ

INITIAL TELEPHONIC

On December 14, 2010, a BORTAC agent working in the Nogales, AZ AOR was shot. The agent was conducting Border Patrol operations 18 miles north of the international boundary when he encountered RC-5 unidentified subjects. Shots were exchanged resulting in the agent being shot. At this time, the agent is being transported to an area where he can be air lifted to an emergency medical center. RC-5

Updates to follow.

HOCR DOJ 005872

From: Wilkinson, Monty (OAG) (SMO)
To: Burke, Dennis (USAAZ)
Sent: 12/15/2010 11:15:51 AM
Subject: RE: INITIAL TELEPHONIC - SHOT FIRED - Nogales, AZ

Please provide any additional details as they become available to you.

Thanks,

Monty

From: Burke, Dennis (USAAZ)
Sent: Wednesday, December 15, 2010 9:41 AM
To: Wilkinson, Monty (OAG)
Subject: Fw: INITIAL TELEPHONIC - SHOT FIRED - Nogales, AZ

Not good.

18 miles w/in.

From: LOPEZ, MARCO A (HQ) [RC-1]
Sent: Wednesday, December 15, 2010 03:31 AM
To: Burke, Dennis (USAAZ)
Subject: Fw: INITIAL TELEPHONIC - SHOT FIRED - Nogales, AZ

Our agent has passed away.

From: JAIGOBIND, CARL
To: OIOC-SIT SHOTS FIRED INJURY-DEATH
Cc: SITROOM
Sent: Wed Dec 15 02:31:32 2010
Subject: INITIAL TELEPHONIC - SHOT FIRED - Nogales, AZ

INITIAL TELEPHONIC

On December 14, 2010, a BORTAC agent working in the Nogales, AZ AOR was shot. The agent was conducting Border Patrol operations 18 miles north of the international boundary when he encountered RC-5 unidentified subjects. Shots were exchanged resulting in the agent being shot. At this time, the agent is being transported to an area where he can be air lifted to an emergency medical center. RC-5

Updates to follow.

HOCR DOJ 005876

From: Wilkinson, Monty (OAG) (SMO)
To: Burke, Dennis (USAAZ)
Sent: 12/15/2010 1:55:07 PM
Subject: RE: Incident involving the Bortac Agent this morning

Thanks, Dennis. Terrible situation.

From: Burke, Dennis (USAAZ)
Sent: Wednesday, December 15, 2010 1:21 PM
To: Wilkinson, Monty (OAG)
Subject: Fw: Incident involving the Bortac Agent this morning

From: Evans, John (USAAZ) 3
Sent: Wednesday, December 15, 2010 11:45 AM
To: Hernandez, Rachel (USAAZ); Ruiz, Carol (USAAZ); Scheel, Ann (USAAZ); USAAZ-TUCADMIN; USAAZ-TUCAFU; USAAZ-TUCAUSA; USAAZ-TUCFLU; USAAZ-TUCLawclerks; USAAZ-TUCPARA; USAAZ-TUCSAUSA; USAAZ-TUCSECY; USAAZ-TUCStudents; USAAZ-TUCSupport; USAAZ-TUCVW
Subject: Incident involving the Bortac Agent this morning

Deputy Chief Richard A. Barlow provided the following information regarding the incident this morning that resulted in the death of an agent.

All Tucson Sector Employees,

It is with a heavy heart that I inform you of the death of Border Patrol Agent Brian A. Terry who was shot and killed during an encounter with armed subjects. Agent Terry was working in the "Peck Well" area near Rio Rico, Arizona when he was fatally injured.

During the encounter, one assailant was wounded and immediately taken into custody. Three additional suspects were apprehended shortly thereafter. Border Patrol agents are currently tracking a fifth suspect and I assure you that every effort will be expended to bring this remaining suspect into custody.

Agent Terry entered on duty with Academy Class 699 on July 23, 2007. He is survived by his parents and sister in Detroit, Michigan. Please keep Agent Terry and his family in your thoughts and prayers as they have made the ultimate sacrifice in service to our country.

This is a stark reminder of the realities we face in our mission to protect our borders and our communities. We will continue to stand firm in our commitment to that mission.

In difficult times like these it is important that we turn to and support one another. Peer Support members, the Tucson Sector Chaplaincy Program, and the Employee Assistance Program are all available to any employee who may need them. Updates will be provided about this tragic situation as soon as information becomes available.

Jesse will be the lead AUSA on any prosecution and is in contact with the investigators. Please forward any inquiries you receive to Jesse.

HOCR DOJ 005888

Exhibit 191

Exhibit 191

RC-1

From: Scheel, Ann (USAAZ)
Sent: Wednesday, December 15, 2010 7:24 PM
To: Burke, Dennis (USAAZ); Clemens, Shelley (USAAZ)
Subject: Re: FBI/CBP Presser

Wow! Timely.

From: Burke, Dennis (USAAZ)
Sent: Wednesday, December 15, 2010 07:21 PM
To: Clemens, Shelley (USAAZ); Scheel, Ann (USAAZ)
Subject: RE: FBI/CBP Presser

Thanks. I just talked to Bill Newell about it. The guns tie back to Emory's Fast and Furious case.

From: Clemens, Shelley (USAAZ)
Sent: Wednesday, December 15, 2010 5:19 PM
To: Burke, Dennis (USAAZ); Scheel, Ann (USAAZ)
Subject: Fw: FBI/CBP Presser

BP decided to make a statement and not allow questions. RC-5 Based on that, we chose not to make a formal statement. RC-5
 RC-5 They referenced that John and I were there for the USAO and to support their
 office.

Nate Grey was here and advised that the 2 guns are tied to an on-going Phoenix ATF inv. You will probably get a call from Bill Newell.
 Shelley

From: Chandler, Matthew (DHS)
Sent: Wednesday, December 15, 2010 06:12 PM
To: Clemens, Shelley (USAAZ); ROE, MELANIE N. <RC-1@dhs.gov>
Subject: RE: FBI/CBP Presser

No worries at all. We really appreciate your support and assistance with this.

From: Clemens, Shelley (USAAZ) RC-1
Sent: Wednesday, December 15, 2010 6:11 PM
To: Chandler, Matthew (DHS); ROE, MELANIE N.
Subject: RE: FBI/CBP Presser

Sorry for the faux pas. I spoke with Agent Cantu, and was told 5:00 at Sector Headquarters on Swan.

From: Chandler, Matthew (DHS)
Sent: Wednesday, December 15, 2010 4:09 PM
To: Clemens, Shelley (USAAZ); ROE, MELANIE N.
Subject: RE: FBI/CBP Presser

Hi Shelley –

Exhibit 192

Exhibit 192

From: Wilkinson, Monty (OAG) (SMO)
To: Burke, Dennis (USAAZ)
Sent: 12/15/2010 7:27:01 PM
Subject: Re: FBI/CBP Presser

I'll call tomorrow.

From: Burke, Dennis (USAAZ)
To: Wilkinson, Monty (OAG)
Sent: Wed Dec 15 19:22:26 2010
Subject: FW: FBI/CBP Presser

The guns found in the desert near the murder BP officer connect back to the investigation we were going to talk about – they were AK-47s purchased at a Phoenix gun store.

From: Clemens, Shelley (USAAZ)
Sent: Wednesday, December 15, 2010 5:19 PM
To: Burke, Dennis (USAAZ); Scheel, Ann (USAAZ)
Subject: Fw: FBI/CBP Presser

BP decided to make a statement and not allow questions. RC-5 [REDACTED] Based on that, we chose not to make a formal statement. RC-6 [REDACTED] RC-6 [REDACTED] They referenced that John and I were there for the USAO and to support their office.

Nate Grey was here and advised that the 2 guns are tied to an on-going Phoenix ATF inv. You will probably get a call from Bill Newell.
Shelley

HOCR DOJ 005917

Exhibit 193

From: Voth, David J.
Sent: Wednesday, December 15, 2010 6:49 PM
To: MacAllister, Hope A.
Subject: no more rose colored glasses

If you have not heard a Border Patrol agent was shoot and killed here in Arizona. The trace came back to Fast and Furious, Jamie Avila, January 2010, LWTC...

Ugh...! Call as soon as you can, things will most likely get ugly!

David Voth
Group Supervisor
Phoenix Group VII
[REDACTED]

HOCR ATF - 002346

Exhibit 194

From: Voth, David J.
Sent: Wednesday, December 15, 2010 7:04 PM
To: MacAllister, Hope A.
Subject: GAG order in place per Division! Don't talk outside of Group VII or SAC/ASAC. Emory knows

David Voth
Group Supervisor
Phoenix Group VII
RC-1

HOCR ATF - 002783

Exhibit 195

From: Newell, William D.
Sent: Wednesday, December 15, 2010 11:43 PM
To: Voth, David J.; Needles, James R.; Gillett, George T. Jr.
CC: Zicha, Marjorie L.; Serrano, Ricardo
Subject: Re: Avila in custody

Great job.

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: Newell, William D.; Needles, James R.; Gillett, George T. Jr.
Cc: Zicha, Marjorie L.; Serrano, Ricardo
Sent: Wed Dec 15 23:41:30 2010
Subject: Avila in custody

We (ATF) have Jaime Avila in our custody. We are coordinating with the USAO to charge him in the morning via Complaint. We are holding him overnight in custody.

We are charging Avila with a standalone June 2010 firearms purchase where he used a bad (old) address on the 4473. [924(a)(1)(A) – False records required to be kept by dealer.] This way we do not divulge our current case (Fast & Furious) or the Border Patrol shooting case.

Thanks,

David Voth
Group Supervisor
Phoenix Group VII
[REDACTED]

HOGR ATF - 002017

Exhibit 196

[REDACTED]

From: Voth, David J.
Sent: Thursday, December 16, 2010 10:11 AM
To: Newell, William D.; Gillett, George T. Jr.
Subject: change in charging

Gentlemen,

After speaking with Emory he saw the wisdom in not charging the AK-47 rifles in question so as to not complicate the FBI's investigation. As such we are back to our original plan to charge the June guns purchased by Jaime AVILA.

David Voth
Group Supervisor
Phoenix Group VII
[REDACTED]

Exhibit 197

From: Voth, David J.
To: Newell, William D.
Sent: 12/16/2010 7:32:53 PM
Subject: Re: simple numbers on F&F recoveries

For what it is worth our numbers did not reflect the guns recovered yesterday so actually the USA recoveries are 352.

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: Voth, David J.
Sent: Thu Dec 16 19:23:15 2010
Subject: Re: simple numbers on F&F recoveries

This will work. Thank you

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: Newell, William D.
Sent: Thu Dec 16 19:22:42 2010
Subject: simple numbers on F&F recoveries

Sir,

I can make this more grand tomorrow if you wish but right now by my count;

- Firearms recovered in Mexico = 241
- Firearms recovered in the USA = 350

Thanks,

David Voth
Group Supervisor
Phoenix Group VII
RC-1

HOCR DOJ 005471

Exhibit 198

Exhibit 198

From: Smith, Charles E.
Sent: Friday, December 17, 2010 7:01 PM
To: Needles, James R.
Subject: FW:

FYI

Charlie Smith
ASAC
Dallas Field Division

From: Cook, Glen W.
Sent: Friday, December 17, 2010 2:14 PM
To: Smith, Charles E.
Cc: Cook, Glen W.
Subject:

Charlie,

I advised AUSA Russ Leachman through SAs Steve Hall and Curtis Williams to provide me with a Grand Jury Subpoena for RAC David Roth and Holly in Phoenix to obtain the required evidence needed in our investigation here. AUSA Leachman has now advised the AUSA in Phoenix that the ATF agents here need access to the case in Phoenix since the ATF Phoenix office refuses to provide us with the evidence.

I wish that Leachman would have given those subpoenas to me but if the AUSA in Phoenix refuses to comply then maybe Phoenix should start preparing their explanations for the way that they conducted their straw purchase cases there. They should probably hire a media expert anyway to assist them in explaining the 2000 firearms and the possible connection in the murder of the Border Patrol Agent.

Thanks,

Glen

HOCR ATF - 001941

Exhibit 199

From: Wilkinson, Monty (OAG) (SMO)
To: Burke, Dennis (USAAZ)
Sent: 12/21/2010 7:47:02 PM
Subject: Re: Gun Trafficking case in Az

Ok. Family obligation tonight. I'll call tomorrow. Thanks.

From: Burke, Dennis (USAAZ)
To: Wilkinson, Monty (OAG)
Sent: Tue Dec 21 19:43:19 2010
Subject: Gun Trafficking case in Az

I would not recommend the AG announce this case. I can explain in detail at your convenience. Thx.

HOCR DOJ 006614

Exhibit 200

Exhibit 200

RPTS [REDACTED]

DCMN [REDACTED]

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: ROBERT MONTAGUE WILKINSON

Friday, April 13, 2012

Washington, D.C.

The interview in the above matter was held in 2247 Rayburn House
Office Building, commencing at 10:00 a.m.

Appearances:

For the COMMITTEE ON HOUSE OVERSIGHT AND GOVERNMENT REFORM:

HENRY J. KERNER, SENIOR COUNSEL FOR INVESTIGATIONS

CARLTON DAVIS, OFFICE OF CHAIRMAN ISSA

JESSICA LAUX DONLON, COUNSEL, OFFICE OF CHAIRMAN ISSA

SUSANNE SACHSMAN GROOMS, MINORITY CHIEF COUNSEL

DONALD K. SHERMAN, MINORITY COUNSEL

CARLOS FELIPE URIARTE, MINORITY COUNSEL

JEROME JORDAN, MINORITY INTERN

For the SENATE COMMITTEE OF THE JUDICIARY:

MAGGIE WHITNEY, SENIOR INVESTIGATIVE COUNSEL

JASON A. FOSTER, CHIEF INVESTIGATIVE COUNSEL

TRISTAN L. LEAVITT, MINORITY INVESTIGATIVE COUNSEL

ROB DONOVAN, COUNSEL, OFFICE OF SENATOR GRASSLEY

BRIAN DOWNEY, INVESTIGATOR, OFFICE OF SENATOR GRASSLEY

For the DEPARTMENT OF JUSTICE:

MOLLY GASTON, ATTORNEY ADVISER, OFFICE OF LEGISLATIVE AFFAIRS

STEVEN F. REICH, ASSOCIATE DEPUTY ATTORNEY GENERAL

DANIEL J. LENERZ, ATTORNEY, APPELLATE STAFF

on?

A I mean, it really would vary, I think. Typically it would, you know, he would need -- sometimes you have to plan things quickly, but, I mean, something like this -- it really varied.

Q Right. I mean, is it fair to say that ideally it would have been more than 2 weeks in many circumstances?

A Yes.

Q And you don't have any recollection as to whether in the conversation that you do recall with Burke, whether there was any nature of rushing for an event so that there would have been a shorter time window, as opposed to just a normal request that would have come?

A No, I don't recall that.

BY MR. DAVIS:

Q Going back to Exhibit 4, turn to the last page of Exhibit 4. Dennis Burke emails you, "I would not recommend the AG announce this case. I can explain in detail at your convenience." And then you respond, "Okay, I will call tomorrow."

A Correct.

Q And again you have no recollection of having a phone conversation with Mr. Burke on this topic?

A No. I am sorry, I didn't mean to interrupt. No, I don't recall having a conversation with Mr. Burke on this.

Q Do you ever recall having a phone conversation with Dennis Burke in this time period in mid-December 2010?

A As I said, I don't recall when the conversation occurred that

I have indicated I have a vague recollection of, but other than that conversation, I don't recall having any conversations with Mr. Burke about this.

Q Okay. On the third page, flip up one page --

Mr. Reich. Which exhibit?

BY MR. DAVIS:

Q Exhibit 4. Right there at the very top, when Dennis Burke informs you that the guns found in the desert near the Border Patrol officer are traced back to the investigation we are going to talk about, again you say "I will call tomorrow." So these are two, at least in my mind, these are two pretty important events. Certainly this is a very important point.

A Yes.

Q The guns traced back to the investigation. And then on page 4 recommending the Attorney General would not announce the case. You say on both occasions you will call tomorrow.

A Right.

Q I presume if you told him you would call tomorrow, that you did call tomorrow.

A Correct.

Q But you only have recollection of one phone conversation?

A Well, I mean, when people call me and leave messages, I make it a practice to return their calls. If I tell somebody that I am going to call them, I am very good about following up. So I can't say that I didn't attempt to reach Mr. Burke and just wasn't able to connect

Q At least from the documents that we have been given, this is the first time right there in Exhibit 7 that we see any reference to guns being walked in the investigation. Did Dennis Burke mention anything to you about guns being walked in Fast and Furious or around this timeframe? Does that ring a bell at all?

A No, it doesn't, and I have no recollection of having any conversations with Mr. Burke at any time regarding the tactics that were used in this operation.

Q Let's flip over to Exhibit 5. You can put the other three aside.

BY MR. FOSTER:

Q Carlton, you asked an open-ended question here. So do you recall having any conversations with Mr. Burke at any time about why he did not believe that it was a good idea for the Attorney General to announce the investigation?

A I did not -- I am sorry, I did not mean to interrupt you. I do not have any recollection of having any such conversation with Mr. Burke.

Q So other than the email where he says he doesn't think it is a good idea, you never had any indication from any source as to why he thought it wasn't a good idea?

A I don't have any recollection of having any conversation with him. The problems with the investigation came to light I guess in late January 2011, and that is when I became aware of the tactics that were used.

Q Right. I understand you don't recall any specific conversations with him. I asked you a slightly different question and my second question was slightly different. I asked if you had any idea or any indication from any source as to why Mr. Burke communicated to you his view that he didn't think the Attorney General should announce the investigation?

A Not that I recall, no.

Q From any source?

A No.

BY MR. DAVIS:

Q Let's go to Exhibit 5. You can put the other three away.
Mr. Reich. Give us a second. Take a minute and look at it.
Mr. Wilkinson. Okay.

BY MR. DAVIS:

Q These are emails that Dennis Burke forwarded to you regarding Brian Terry's death and that a Border Patrol agent had been shot. Just essentially keeping you in the loop I presume is what he is doing, right?

A Correct.

Q And you said, "Please provide any additional details as they become available," on page two.

A Right.

Q Do you have any specific recollection of any phone calls that you had with Dennis Burke about this particular topic, about the Border Patrol agent being shot?

A No.

Q Okay. When Dennis Burke sent you these emails, was this the first you had heard about a Border Patrol agent being shot?

A To the best of my recollection, yes.

Q So there was no type of urgent notice or anything that was sent out within the Department about an agent being shot?

A Not that I recall.

Q Okay. And when was the first time, to the best of your recollection, that you can remember that the guns being found at the scene where the Border Patrol agent was shot actually traced back to a current investigation? Did that come from Dennis Burke as well in

the emails that we had looked at earlier?

A My only knowledge of that is what is contained in these emails.

Q Okay. ATF conducted a trace of the weapons and they knew that day that the weapons had traced back. They sent a six-page memorandum to the Deputy Attorney General 2 days later, and the first you heard of it was from Dennis Burke, that the weapons traced back to the investigation that you were planning on announcing, you had discussed announcing?

A I am sorry, could you repeat the question?

Q Sure. So you are saying that the first time that you heard about this, the weapons being traced back to the investigation was from Dennis Burke?

A Correct.

Q Okay. Did you alert the Attorney General about that at all?

A I don't recall sharing that information with the Attorney General.

Q Should the information have been provided to you or to the Attorney General from Dennis Burke, or should it have occurred through a different mechanism within the Department, like an urgent alert that something had happened, that these weapons had traced back to an ongoing investigation?

A I don't -- I can't say how it should have -- I mean, Dennis Burke alerted me to the fact. But, I mean, information comes into the Department through a variety of sources.