

April 1, 2014

Honorable B. Todd Jones
Director, Bureau of Alcohol, Tobacco and Firearms
99 New York Avenue, N.E.
Washington, D.C. 20002

Dear Director Jones:

As you are probably aware, the family of slain U.S. Border Patrol Agent Brian Terry continues to be extremely frustrated with what we consider as the Department of Justice's failure to hold members of ATF's Phoenix Field Division and the U.S. Attorney's Office of Arizona fully accountable for their mistakes in the ill-conceived and flawed gun trafficking investigation known as Operation Fast and Furious. Although this investigation occurred before your tenure as Director, you do bear responsibility for its aftermath and how ATF ensures that the mistakes made in that operation are never repeated. No one has been watching your actions more closely than the Terry family. We are concerned that you have not followed through with appropriate disciplinary measures or other administrative actions for ATF employees as it relates to their roles in Operation Fast and Furious and outlined in the Inspector General's report.

It has been eighteen months since Department of Justice Inspector General Michael E. Horowitz made the following statement to the House Committee on Oversight and Government Reform on September 20, 2012:

"Our review of Operation Fast and Furious and related matters revealed a series of misguided strategies, tactics, errors in judgment, and management failures that permeated ATF Headquarters and the Phoenix Field Division, as well as the U.S. Attorney's Office for the District of Arizona and at the Headquarters of the Department of Justice. In this report, we described deficiencies in two operations conducted in ATF's Phoenix Field Division between 2006 and 2010 – Operation Wide Receiver and Operation Fast and Furious. In the course of our review we identified individuals ranging from line agents and prosecutors in Phoenix and Tucson to senior ATF officials in Washington, D.C., who bore a share of responsibility for ATF's knowing failure in both these operations to interdict firearms illegally destined for Mexico, and for pursuing this risky strategy without adequately taking into account the significant danger to public safety that it created. We also found failures by Department officials related to these matters, including failing to respond accurately to a Congressional inquiry about them.

Based on our findings, we made six recommendations designed to increase the Department's involvement in and oversight of ATF operations, improve coordination among the Department's law enforcement components, and enhance the Department's wiretap application review and authorization process. The OIG intends to closely monitor the Department's progress in implementing these recommendations. Finally, we recommend that the Department review the conduct and performance of the Department personnel as described in this report and determine whether discipline or other administrative action with regard to each of them is appropriate."

Moreover, Inspector General Michael E. Horowitz's comprehensive report on Operation Fast and Furious, A Review of ATF's Operation Fast and Furious and Related Matters identified several current Department of Justice and ATF employees who bore particular responsibility for the many mistakes made in Operation Fast and Furious. These employees included ATF agents Hope MacAllister, David Voth, George Gillett, William Newell and AUSA's Emory Hurley, and Michael Morrissey. We understand that these individuals have continued in their employment with the Department of Justice despite the findings of the Inspector General's report. Furthermore, it has come to our attention that ATF's Professional Review Board had previously recommended termination for at least some of these individuals. If this is true, the Terry family would like to understand why the recommendations were not followed.

Recently, the Terry family had an opportunity to meet and speak with Special Agent Michelle Terwilliger, the lead FBI special agent investigating the murder of Brian Terry. During our conversation, we learned that Terwilliger had never been informed by ATF agents that the weapons recovered from the scene of the murder had been traced to Operation Fast and Furious. Imagine our shock in learning that members of ATF Phoenix Field Division and the U.S. Attorney's Office in Arizona had chosen to keep this important piece of information not only from the Terry family but from the lead investigator in a federal agent's murder. Agent Terwilliger went on to say that she finally learned of this connection when the news media began to report it almost two months later. The Terry family has long suspected that members of the ATF Phoenix Field Division and the U.S. Attorney's Office of Arizona had worked to keep the connection between Operation Fast and Furious and its connection to the murder of Brian Terry from being known outside of the Division's Group VII and a few individuals within the U.S. Attorney's Office. This information seems to validate that suspicion.

We know through the review of official emails that ATF agents in the Phoenix Field Division associated with Operation Fast and Furious and members of the U.S. Attorney's Office in Arizona knew on the same day Brian was killed that the two weapons found at the murder scene were in fact connected to the gun trafficking investigation by means of weapons trace data. Despite this knowledge, this critical information was never passed on to the lead FBI investigator. This failure to notify the FBI constitutes at the very least, another serious lapse of judgment not previously identified and may have impeded the homicide investigation. It should be noted that the Terry family has requested that Inspector General Michael E. Horowitz initiate a new

investigation to determine if criminal charges against those individuals involved in withholding this information from the FBI are appropriate.

It has been three years since my son was murdered by a group of individuals working as a rip-crew for the Sinaloa Drug Cartel and carrying weapons supplied to them through ATF's Operation Fast and Furious. The criminal case continues to move forward, but it appears that the accountability aspect of Operation Fast and Furious has failed to fully occur. While speaking about the DOJ employees involved in Operation Fast and Furious, President Obama once said, "Those folks who were responsible have been held accountable". It appears to the Terry family that this is not entirely the case. The Terry's are unaware of any ATF employee who has been held fully accountable and disciplined accordingly for the deadly mistakes made in the operation. This fact is extremely disheartening to the Terry family and continues to be a source of great consternation.

The Terry family asks that you review the conduct and performance of ATF personnel as it relates to Operation Fast and Furious as described in the Inspector General's report to determine whether ATF's subsequent disciplinary measures or other administrative actions assigned to each employee were appropriate. In addition, if ATF's Professional Review Board did in fact recommend certain disciplinary measures such as termination for certain employees then please explain why these terminations have not occurred. Finally, the Terry family is extremely alarmed to learn that important evidentiary information was kept from the FBI's lead investigator by members of ATF's Phoenix Field Division's Group VII and the U.S. Attorney's Office for the District of Arizona during the initial investigative phase of Agent Brian Terry's murder. As you know, the failure of these individuals to report immediately to the FBI that the weapons found at the murder scene were in fact linked to Operation Fast and Furious demonstrates another major error in judgment by all those involved and is completely unacceptable by anyone employed as a federal law enforcement officer or government attorney. The Terry family looks forward to hearing back from you regarding our concerns.

Sincerely,

A handwritten signature in cursive script that reads "Josephine Terry". The signature is written in black ink and is positioned above the typed name.

Josephine Terry

Proud Mother of slain U. S. Border Patrol Agent Brian Terry