

Appendix III

The Whole Truth About the Fast and Furious Scandal:

Fortune's "investigation" is exposed as a hit piece full of errors and omissions.

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Special Agent John Dodson was the first to publicly blow the whistle on Operation Fast and Furious in a [March 3, 2011, interview on the CBS Evening News](#).¹ In November 2011, Agent Dodson contacted Congressional investigators to advise them that a reporter named Katherine Eban had contacted his ex-wife. Ms. Eban was inquiring about the circumstances of Dodson's divorce, apparently based on information in Agent Dodson's ATF personnel file. Eban also contacted Senator Grassley's office and the House Oversight and Government Reform Committee asking about the Congressional inquiry into Operation Fast and Furious. She offered no explanation about how Agent Dodson's divorce was relevant to an inquiry about Fast and Furious. Nevertheless, in the intervening months, Senator Grassley's office—along with staff from Chairman Issa's Committee—made repeated attempts to inform Ms. Eban of the facts uncovered in their investigation.

Rather than a fair accounting with information that contradicted her thesis, the end result was a one-sided, hit piece that attempted to discredit whistleblowers who testified to Congress and defend the supervisors responsible for overseeing the reckless operation. The criticisms of whistleblowers in the story were thinly sourced and often petty.

Below, the article is reproduced in its entirety in block quotations, with appropriate corrections, context, and other comments.

The truth about the Fast and Furious scandal

June 27, 2012

By Katherine Eban

In the annals of impossible assignments, Dave Voth's ranked high. In 2009 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives promoted Voth to lead Phoenix Group VII, one of seven new ATF groups along the Southwest border tasked with stopping guns from being trafficked into Mexico's vicious drug war.

Some call it the "parade of ants"; others the "river of iron." The Mexican government has estimated that 2,000 weapons are smuggled daily from the U.S. into Mexico. The ATF is hobbled in its effort to stop this flow. No federal statute outlaws firearms trafficking, so agents must build cases using a patchwork of often toothless laws. For six years, due to Beltway politics, the bureau has gone without permanent leadership, neutered in its fight for funding and authority. The National Rifle Association has so successfully opposed a comprehensive electronic database of gun sales that the ATF's Congressional appropriation explicitly prohibits establishing one.

¹ CBS Evening News (Mar. 3, 2011) at 4:47, available at <http://vimeo.com/album/1834393/video/36555782>.

The supposedly “toothless” laws against straw purchasing actually carry significant criminal penalties. Two statutes can be used to charge straw purchasing. The first makes it illegal to lie on the ATF form when purchasing a gun (ATF Form 4473).² The second makes it illegal to do anything that would deceive a gun dealer about any fact material to the lawfulness of the sale.³ The penalties include up to five years in prison *per offense* under the first statute and up to ten years in prison *per offense* for the second.⁴ The prison term under either statute may be in some instances stacked for each offense, so straw buying on ten separate occasions could be punished with up to 50 or 100 years in prison, depending on the statute used.

Far from “neuter[ing]” ATF’s funding, Congress actually doubled it. From FY 1999 to FY 2010, Congress increased funding, from \$541.6 million to \$1.158 billion. The number of full time equivalent positions also increased nearly 30%, from 3,969 to 5,078.⁵ Moreover, lack of permanent leadership at ATF in 2009 and 2010—the timeframe when Fast and Furious was active—is directly attributable to inaction by President Obama. After taking office, the President waited nearly two years before sending Andrew Traver’s nomination as ATF Director to the Senate on November 15, 2010.⁶

Voth, 39, was a good choice for a Sisyphean task. Strapping and sandy-haired, the former Marine is cool-headed and punctilious to a fault. In 2009 the ATF named him outstanding law-enforcement employee of the year for dismantling two violent street gangs in Minneapolis. He was the “hardest working federal agent I’ve come across,” says John Biederman, a sergeant with the Minneapolis Police Department. But as Voth left to become the group supervisor of Phoenix Group VII, a friend warned him: “You’re destined to fail.”

Voth’s mandate was to stop gun traffickers in Arizona, the state ranked by the gun-control advocacy group Legal Community Against Violence as having the nation’s “weakest gun violence prevention laws.” Just 200 miles from Mexico, which prohibits gun sales, the Phoenix area is home to 853 federally licensed firearms dealers. Billboards advertise volume discounts for multiple purchases.

Customers can legally buy as many weapons as they want in Arizona as long as they’re 18 or older and pass a criminal background check. There are no waiting periods and no need for permits, and buyers are allowed to resell the guns. “In Arizona,” says Voth, “someone buying three guns is like someone buying a sandwich.”

² 18 U.S.C. § 924(a)(1) (2006).

³ 18 U.S.C. § 922(a)(6) (2006).

⁴ 18 U.S.C. § 924(a)(1); 18 U.S.C. § 924(a)(2) (2006).

⁵ William J. Krouse, “The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): Budget and Operations for FY2011,” Congressional Research Service (Jun. 6, 2011).

⁶ “President Obama Announces More Key Administration Posts,” White House (Nov. 15, 2010), [available at http://www.whitehouse.gov/the-press-office/2010/11/15/president-obama-announces-more-key-administration-posts](http://www.whitehouse.gov/the-press-office/2010/11/15/president-obama-announces-more-key-administration-posts).

Contrary to this stereotype, data on background checks per capita by state (a rough proxy for the level of gun ownership) indicates that in 2009, Arizona actually ranked near the bottom: 41st in the nation.⁷

By 2009 the Sinaloa drug cartel had made Phoenix its gun supermarket and recruited young Americans as its designated shoppers or straw purchasers. Voth and his agents began investigating a group of buyers, some not even old enough to buy beer, whose members were plunking down as much as \$20,000 in cash to purchase up to 20 semiautomatics at a time, and then delivering the weapons to others.

The agents faced numerous obstacles in what they dubbed the Fast and Furious case. (They named it after the street-racing movie because the suspects drag raced cars together.) Their greatest difficulty by far, however, was convincing prosecutors that they had sufficient grounds to seize guns and arrest straw purchasers. By June 2010 the agents had sent the U.S. Attorney's office a list of 31 suspects they wanted to arrest, with 46 pages outlining their illegal acts. But for the next seven months prosecutors did not indict a single suspect.

The U.S. Attorney's Office for the District of Arizona definitely deserves blame alongside ATF and the Department of Justice. This point was made directly to Eban by staff for the House Oversight and Government Reform Committee, and Senator Grassley's office expressed similar concerns as early as May 11, 2011. Senator Grassley asked the Justice Department:

I understand that the U.S. Attorney's Office for the District of Arizona has been unwilling in recent history to prosecute firearm trafficking or straw purchase cases in which they did not have the possession of the firearm because of a belief that case law required it as "the *corpus* of the crime." This policy was followed even in cases where there was a signed confession from the straw purchaser or trafficker. However, I also understand that other districts, including others in the 9th Circuit, do not take that position. Is it the Justice Department's understanding possession of the firearm is required to prosecute a straw purchaser or trafficker? If not, please explain why this policy is enforced in the District of Arizona.

How many cases have been declined for prosecution by U.S. Attorney's Office in the District of Arizona on this basis? How many have been declined in each of the other districts on this basis?⁸

The Justice Department's response indicated that an informal survey of the hundreds of cases presented to the Arizona U.S. Attorney's Office between January 1, 2010, and July 11, 2011, showed that only three were declined due to concerns about having possession of the trafficked

⁷ *The Most Armed States*, The Daily Beast (Jun. 28, 2010), available at <http://www.thedailybeast.com/articles/2010/06/28/states-with-the-most-guns.html>.

⁸ Questions for the Record from Senate Committee on Judiciary Hearing, *Oversight of the Department of Justice*, 112th Congress (May 4, 2011).

firearm.⁹ Anecdotally, ATF agents have indicated to Congressional investigators that the Arizona U.S. Attorney's office was unique in their experience in requiring physical possession of the gun to bring a straw buying prosecution.

There is no doubt that the U.S. Attorney's Office in Arizona set the bar for probable cause much higher than required under the Constitution. On July 5, 2011, Senator Grassley and Chairman Issa [wrote to the Justice Department](#): "We now know [the indictments of the straw purchasers] were substantially delayed by the U.S. Attorney's Office and Main Justice."¹⁰ As Congressional investigators of Operation Fast and Furious have noted, there is plenty of blame to go around.

On Dec. 14, 2010, a tragic event rewrote the narrative of the investigation. In a remote stretch of Peck Canyon, Ariz., Mexican bandits attacked an elite U.S. Border Patrol unit and killed an agent named Brian Terry. The attackers fled, leaving behind two semiautomatic rifles. A trace of the guns' serial numbers revealed that the weapons had been purchased 11 months earlier at a Phoenix-area gun store by a Fast and Furious suspect.

Ten weeks later, an ATF agent named John Dodson, whom Voth had supervised, made startling allegations on the *CBS Evening News*.

Brian Terry's death did not re-write the narrative of the investigation as much as it fulfilled the prophecies of whistleblowers and gun dealers. Both had warned it could end in precisely that way. In May 2010, Agent Dodson openly challenged the case agent and Voth, asking if they were prepared to go to the funeral of a Border Patrol agent if their approach resulted in tragedy.¹¹ That testimony has not been denied. Moreover, in April 2010, one of the gun dealers cooperating with ATF's investigation sent an e-mail expressing the same concern, noting that he had friends in the Border Patrol.¹²

The article's narrative omits relevant context in the time between Agent Terry's death and Dodson's appearance on the *CBS Evening News*. These events are critical to understanding Dodson's decision to go public with his complaints. Almost immediately after Agent Terry's death, word spread like wildfire throughout ATF that the guns recovered were linked to an ATF case in which an enormous number of guns had ended up in Mexico.

At the January 25, 2011, press conference in Phoenix announcing the indictments in Operation Fast and Furious, when ATF Special Agent in Charge William Newell was asked by a reporter whether or not ATF had purposely allowed firearms to enter Mexico as part of an

⁹ Department of Justice Responses of Jul. 22, 2011, Questions for the Record from S. Comm. on the Judiciary Hearing, *Oversight of the Department of Justice*, 112th Congress (May 4, 2011), at 8.

¹⁰ Letter to Attorney General Eric Holder from Senator Charles Grassley and Chairman Darrell Issa (Jul. 5, 2011).

¹¹ Transcribed interview of John Dodson (Apr. 26, 2011), at 136.

¹² E-mail from [Cooperating Gun Dealer] to David Voth (Jun. 17, 2010).

investigation, Newell answered, “Hell, no!”¹³ Two days later, after hearing allegations and receiving documentation from whistleblowers, Senator Grassley [wrote to ATF Acting Director Kenneth Melson](#) inquiring about gunwalking allegations and any connection to the death of Agent Terry.¹⁴ One week after that, on February 4, 2011, the Justice Department [provided a blanket denial of the allegations](#), failing to even acknowledge any connection to the guns found at the scene of Agent Terry’s death.¹⁵ The next day, on February 5, 2011, Justice Department staff conducted a briefing on Capitol Hill for Senate Judiciary Committee staff. At that briefing, staff from the Justice Department refused to answer questions regarding the whistleblower allegations but again reiterated that ATF would never walk guns.¹⁶

These denials shocked many in ATF who believed that the Justice Department was misleading Congress and withholding information. Senator Grassley [again wrote the Justice Department on February 9, 2011](#), attaching documentation regarding the guns found at the scene of Agent Terry’s death, but by the beginning of March 2011—almost a month later—the Justice Department had failed to provide any response whatsoever to the follow-up letter. Because of the Justice Department’s blanket denial and subsequent period of silence, whistleblowers from ATF began speaking with news reporters. When several were quoted anonymously on television, many of Agent Dodson’s colleagues in ATF mistakenly assumed that Dodson was the source. He was not.

However, Dodson wanted the family of Brian Terry to get the whole truth. He was outraged at the official denial to Senator Grassley. And, he was concerned about the erroneous assumption that he was one of the anonymous sources. This combination of factors motivated Dodson to appear on the *CBS Evening News*. Senator Grassley’s staff was in direct contact with the Terry family about his inquiry, prior to Dodson’s television appearance. As the Terry family indicated recently in a public interview, they did not learn of the connection between *Fast and Furious* and the guns found at the scene of their son’s death until Congress launched its investigation and the ATF whistleblowers went to the media.¹⁷

He charged that his supervisors had intentionally allowed American firearms to be trafficked—a tactic known as “walking guns”—to Mexican drug cartels. Dodson claimed that supervisors repeatedly ordered him not to seize weapons because they wanted to track the guns into the hands of criminal ringleaders. The program showed internal e-mails from Voth, which purportedly revealed agents locked in a dispute over the deadly strategy. The guns permitted to flow to criminals, the program charged, played a role in Terry’s death.

¹³ Dennis Wagner, *Phoenix-area gun store, ATF sting may be linked to border shootout*, The Arizona Republic (Feb. 1, 2011), available at <http://www.azcentral.com/arizonarepublic/news/articles/2011/02/01/20110201phoenix-gun-store-atf-sting-border-shootout.html>.

¹⁴ Letter from Senator Charles Grassley to ATF Acting Director Kenneth Melson (Jan. 27, 2011).

¹⁵ Letter from Assistant Attorney General Ron Weich to Senator Charles Grassley (Feb. 4, 2011).

¹⁶ Department of Justice Briefing of Staff of Members of the Senate Judiciary Committee (Feb. 5, 2011).

¹⁷ Anderson Cooper 360, “Exclusive interview with Terry family,” CNN (Jul. 11, 2012), available at <http://www.cnn.com/video/#/video/bestoftv/2012/07/12/ac-fast-and-furious-exclusive-terry-family.cnn>.

After the CBS broadcast, Fast and Furious erupted as a major scandal for the Obama administration. The story has become a fixture on Fox News and the subject of numerous reports in media outlets from CNN to the *New York Times*. The furor has prompted repeated Congressional hearings—with U.S. Attorney General Eric Holder testifying multiple times—dueling reports from Congressional committees, and an ongoing investigation by the Justice Department's inspector general. It has led to the resignations of the acting ATF chief, the U.S. Attorney in Arizona, and his chief criminal prosecutor.

ATF Acting Director Kenneth Melson did not resign, but laterally transferred to the Justice Department's Office of Legal Policy. U.S. Attorney Dennis Burke *did* resign. He admitted leaking information about Agent Dodson to the press,¹⁸ and later apologized to Senator Grassley's staff for unprofessional language he used in e-mails questioning their motives.¹⁹ Moreover, he praised the Congressional investigation in August 2011: "[Q]uite frankly . . . your investigation of this is I think going to lead to better ways to do cases and that a case like this, as it was done, should never be done again like that, and that's the result of this investigation and your work."²⁰ Assistant U.S. Attorney Patrick Cunningham, the head of the Criminal Division in the Arizona U.S. Attorney's Office, [pled the Fifth Amendment](#) to avoid testifying before Congress, and shortly thereafter resigned.

Conservatives have pummeled the Obama administration, and especially Holder, for more than a year. "Who authorized this program that was so *felony* stupid that it got people killed?" Rep. Darrell Issa (R-Calif.), chairman of the House Committee on Oversight and Government Reform, demanded to know in a hearing in June 2011. He has charged the Justice Department, which oversees the ATF, with having "blood on their hands." Issa and more than 100 other Republican members of Congress have demanded Holder's resignation.

Chairman Issa has not called for the resignation of Attorney General Eric Holder.

The conflict has escalated dramatically in the past ten days. On June 20, in a day of political brinkmanship, Issa's committee voted along party lines, 23 to 17, to hold Holder in contempt of Congress for allegedly failing to turn over certain subpoenaed documents, which the Justice Department contended could not be released because they related to ongoing criminal investigations. The vote came hours after President Obama asserted executive privilege to block the release of the documents. Holder now faces a vote by the full House of Representatives this week on the contempt motion (though negotiations over the documents continue). Assuming a vote occurs, it will be the first against an attorney general in U.S. history.

¹⁸ Letter from Dennis Burke attorney Lee Stein to Cynthia Schnedar (Nov. 8, 2011).

¹⁹ Transcribed interview of Dennis Burke (Dec. 13, 2011), at pages 36-37.

²⁰ Transcribed interview of Dennis Burke (Aug. 18, 2011), at pages 9-10.

As political pressure has mounted, ATF and Justice Department officials have reversed themselves. After initially supporting Group VII agents and denying the allegations, they have since agreed that the ATF purposefully chose not to interdict guns it lawfully could have seized. Holder testified in December that "the use of this misguided tactic is inexcusable, and it must never happen again."

There's the rub.

Quite simply, there's a fundamental misconception at the heart of the Fast and Furious scandal. Nobody disputes that suspected straw purchasers under surveillance by the ATF repeatedly bought guns that eventually fell into criminal hands. Issa and others charge that the ATF intentionally allowed guns to walk as an operational tactic. But five law-enforcement agents directly involved in Fast and Furious tell *Fortune* that the ATF had no such tactic. They insist they never purposefully allowed guns to be illegally trafficked. Just the opposite: They say they seized weapons whenever they could but were hamstrung by prosecutors and weak laws, which stymied them at every turn.

Multiple whistleblowers charged that ATF allowed guns to walk. Congress did not initiate the charges, it investigated them. Other ATF agents like [Carlos Canino](#), who did not have access to the documents in Fast and Furious until after the controversy erupted, grew to share the whistleblower concerns once he read the documents.²¹ Similarly, then-Acting Director Kenneth Melson testified that once he was prompted by the Congressional investigation to read the actual case documents, he too shared the whistleblowers' concerns.²²

Indeed, a six-month *Fortune* investigation reveals that the public case alleging that Voth and his colleagues walked guns is replete with distortions, errors, partial truths, and even some outright lies. *Fortune* reviewed more than 2,000 pages of confidential ATF documents and interviewed 39 people, including seven law-enforcement agents with direct knowledge of the case. Several, including Voth, are speaking out for the first time.

Eban trumpets claims about the extent of information she reviewed. The story, however, actually relies heavily on the opinion of one agent who directly supervised the case. It closely tracks the arguments made by his second attorney, a former Capitol Hill aide for Senator Schumer, to support key claims of widespread inaccuracies in the work of other investigative journalists and the sworn Congressional testimony of more than a half-dozen witnesses.²³ Yet there is not a single "outright lie" documented in the entire 6,600 word article.

²¹ Transcribed interview of Carlos Canino (Jun. 16, 2011), at pages 11-18.

²² Transcribed interview of Kenneth Melson (Jul. 4, 2011), at page 39.

²³ Letter from David Voth attorney Joshua Levy to Chairman Darrell Issa and Ranking Member Grassley (Mar. 14, 2012).

How Fast and Furious reached the headlines is a strange and unsettling saga, one that reveals a lot about politics and media today. It's a story that starts with a grudge, specifically Dodson's anger at Voth.

Actually, it starts with the death of Brian Terry. After Terry was murdered, Agent Dodson felt guilty that he had not done more to object outside of his chain of command earlier. He was not alone. No grudge between two ATF agents accounts for the other whistleblowers who also took the risk of reporting these operational tactics outside their chain of command. They were also motivated by a desire to let the Terry family know the truth. They were also outraged when ATF would not even acknowledge at the outset that guns connected to Fast and Furious were found at the scene. The common thread among all the whistleblowers was their obvious sense of obligation to the Terry family.

After the terrible murder of agent Terry, Dodson made complaints that were then amplified, first by right-wing bloggers, then by CBS. Rep. Issa and other politicians then seized those elements to score points against the Obama administration, which, for its part, has capitulated in an apparent effort to avoid a rhetorical battle over gun control in the run-up to the presidential election. (A Justice Department spokesperson denies this and asserts that the department is not drawing conclusions until the inspector general's report is submitted.)

The article cites no evidence that the Justice Department's [December 2, 2011, withdrawal letter](#) was motivated by a cynical, political decision to admit to a charge that was untrue. The Justice Department has withheld documents about its internal deliberations in the post-February 4, 2011, period on the basis of President Obama's assertion of executive privilege. The best way to test the remarkable assertion that "the Obama administration ... capitulated in an apparent effort to avoid a rhetorical battle over gun control" would be for the President to waive his privilege claim and produce the documents. Congressional investigators did briefly see some of those documents during negotiations at the White House, just before the contempt citation against Attorney General Holder was to be considered on the floor of the House of Representatives.

From those very few documents, it appears that the Justice Department withdrew the letter to Senator Grassley because officials had admitted internally for months that it was untrue. The false statements in the letter had become so obvious to the public that it had become a serious burden on the Justice Department's credibility. According to the documents, Associate Deputy Attorney General (ADAG) Steven Reich argued for the withdrawal of the letter. ADAG Reich is the lead official handling the fallout over the Fast and Furious investigation for the Justice Department. He previously served as Senior Associate White House Counsel during the Clinton administration.

ADAG Reich's argument to withdraw the February 4, 2012, letter came several months after a key e-mail in early August from Assistant Attorney General Jason Weinstein, which was also among the documents. In that e-mail, Weinstein warned a host of senior Justice Department officials, including Attorney General Holder, that he had learned "new information" that conflicted with his previous assurances that the whistleblower allegations about gunwalking in Fast and Furious were untrue. Although those e-mails have been withheld from Congress, they

indicate that the Department's decision to reverse course, and withdraw its initial denials about gunwalking, was based on the facts.

"Republican senators are whipping up the country into a psychotic frenzy with these reports that are patently false," says Linda Wallace, a Agent with the Internal Revenue Service's criminal investigation unit who was assigned to the Fast and Furious team (and recently retired from the IRS). A self-described gun-rights supporter, Wallace has not been criticized by Issa's committee.

As of today, former IRS Agent Wallace has not contacted Congress to offer any information or perspective on what happened.

The ATF's accusers seem untroubled by evidence that the policy they have pilloried didn't actually exist. "It gets back to something basic for me," says Sen. Charles Grassley (R-Iowa). "Terry was murdered, and guns from this operation were found at his murder site."

In the midst of Senator Grassley speaking with Eban on April 5, 2012, for nearly 20 minutes, his statement refocusing the conversation on the initial death of Border Patrol Agent Terry hardly supports an assertion that Senator Grassley is "untroubled by evidence." Moreover, Congressional staff spent hours highlighting factual evidence that directly contradicted her preferred narrative. Yet, the article makes no genuine effort to account for factual evidence at odds with the narrative or even inform readers that it exists.

A spokesman for Issa denies that politics has played a role in the congressman's actions and says "multiple individuals across the Justice Department's component agencies share responsibility for the failure that occurred in Operation Fast and Furious." Issa's spokesman asserts that even if ATF agents followed prosecutors' directives, "the practice is nonetheless gun walking." Attorneys for Dodson declined to comment on the record.

Agent Dodson did not decline to comment. On the contrary, when he heard in November 2011 that Eban had talked to his ex-wife, he immediately reached out to inquire as to what she was seeking. According to Dodson, he suggested she contact ATF headquarters and schedule an interview with him and that he would be happy to answer all of her questions. He says that he also told her she should have her "sources at ATF headquarters" seek permission to go on the record as well and that he would be happy to address whatever they might have to say. Dodson communicated to ATF Deputy Director Tom Brandon that Eban would be contacting ATF headquarters about the interview, and Brandon took steps to ensure that the interview request would come through him and said he would recommend that it be approved. However, Dodson says Deputy Director Brandon told him that, as of April 25, 2012, Eban had never called ATF to request the interview.

For its part, the ATF would not answer specific questions, citing ongoing investigations. But a spokesperson for the agency provided a written statement noting that the "ATF did not exercise proper oversight, planning or judgment in executing this case. We at ATF have accepted responsibility and have taken appropriate and decisive action to insure that these errors in oversight and judgment never occur again." The statement asserted that the "ATF has clarified its firearms transfer policy to focus on interdiction or early intervention to prevent the criminal acquisition, trafficking and misuse of firearms," and it cited changes in coordination and oversight at the ATF.

Irony abounds when it comes to the Fast and Furious scandal. But the ultimate irony is this: Republicans who support the National Rifle Association and its attempts to weaken gun laws are lambasting ATF agents for not seizing *enough* weapons—ones that, in this case, prosecutors deemed to be legal.

Criticism of the failure by ATF to seize enough guns in Operation Fast and Furious is somehow ignored in the rush to claim that the investigation is politically motivated. There is nothing political or ironic about lawmakers insisting that existing gun laws be enforced and that they be enforced competently. The alleged irony cuts both ways, though. The only time some are interested in protecting Second Amendment rights seems to be when the gun buyers are criminal straw purchasers.

The investigation begins

The ATF is a bureau of judgment calls. Drug enforcement agents can confiscate cocaine and arrest anyone in possession of it. But ATF agents must distinguish constitutionally protected legal guns from illegal ones, with the NRA and other Second Amendment activists watching for missteps.

Critics have depicted the ATF as "jackbooted government thugs" trampling on the rights of law-abiding gun owners. From the deadly standoff with the Branch Davidian cult in Waco, Texas, in 1993 to allegations that ATF agents illegally seized weapons from suspected straw purchasers at a Richmond gun show in 2005, these scandals have helped cement the bureau's reputation in some quarters for law-enforcement overreach.

In part because of these notorious cases, the bureau has operated in a self-protective crouch. It has stuck to small single-defendant cases to the detriment of its effort to combat gun trafficking, the Justice Department's inspector general found in a review of ATF cases from 2007 to 2009. To refocus its efforts, the ATF established Group VII and the other Southwest border units to build big, multi-defendant conspiracy cases and target the leaders of the trafficking operations.

Of course, the ATF can be its own worst enemy. Voth arrived in Phoenix in December 2009 only to discover that his group had not been funded. The group had little equipment and no long guns, electronic devices, or binoculars, forcing Voth to scrounge for supplies.

Then there was Voth's seven-agent team, which was almost instantly at war with itself. Most of the agents were transplants, unfamiliar with Arizona or one another. Fast and Furious' lead Case Agent, Hope MacAllister, 41, was the exception—a tough, squared-away Phoenix veteran with little tolerance for complaints. Her unsmiling demeanor led Voth to give her the ironic nickname "Sunshine Bear." She declined to be interviewed.

Dodson, 41, arrived one day before Voth from a two-man outpost of ATF's Roanoke field office, where he'd worked since 2002. He had joined the ATF from the narcotics section of the Loudoun County sheriff's office in Virginia, where his blunt, even obnoxious manner did not earn him friends. He's "an asshole sometimes—there is no other way to put it," says his former partner, Ken Dondero, who served as best man at Dodson's wedding. "He's almost too honest. He believes that if he has a thought in his head, it's there to broadcast to everyone."

The article consistently uses subjective descriptions of people to make them appear more or less sympathetic. For example, it calls Voth “strapping and sandy-haired.” Here, it ascribes negative adjectives to Agent Dodson. According to Dondero, he had an hour-and-a-half conversation with Eban praising Dodson, and yet this one negative line is all she chose to quote. This biased depiction of Dodson throughout the story seems more appropriate for an opinion piece. It is entirely out of place in a story that claims to be a work of objective investigative journalism.

Voth, MacAllister, and a third agent, Tonya English, were quintessential by-the-book types. By contrast, Dodson and two other new arrivals, Olindo "Lee" Casa and Lawrence Alt, seemed to chafe at ATF rules and procedures. (An attorney for Casa says that "in light of the current Congressional investigation, as well as investigations by the Department of Justice Inspector General and the Office of Special Counsel" it would be premature to comment. A lawyer for Alt says Alt could not be interviewed because he is in mediation to settle a suit he filed in which he charges that he was retaliated against for being a whistleblower.)

Dodson's faction grew antagonistic to Voth. They regularly fired off snide e-mails and seemed to delight in mocking Voth and his methodical nature. They were scornful of protocol, according to ATF agents. Dodson would show up to work in flip-flops. He came unprepared for operations—without safety equipment or back-up plans—and was pulled off at least one surveillance for his own safety, say two colleagues.

The incident referenced here has already been the subject of [testimony before Congress](#) and is cited by the whistleblowers as an example of not being allowed to interdict firearms.²⁴ On April 27, 2010, Agent Dodson and Agent Casa were out on surveillance and watched a straw purchaser transfer guns to an unknown party. They followed the unknown party to a number of places that day as he did money pickups and gun drops, when the individual eventually began doing unexplainable U-turns to try to shake the surveillance.²⁵ Casa testified that he got on the radio and asked for permission to “stop that vehicle, rip the guns, and you can do what you want, we can arrest them. We don’t have to arrest them. But we will grab the guns.”²⁶ Agent Casa continued:

And they said no. And I said this person is an unknown person. . . . [T]hat car could be registered to anybody, we don’t know who that person is, let’s at least do a vehicle stop so we can ID the person so maybe later we could get the guns back.²⁷

“No, just surveil,” he was told.²⁸ Dodson testified that this led to “a **verbal screaming match over the radio** . . . [‘W]hat are you talking about? **There is no better time or reason to pull this guy over than right now.**’”²⁹ Phoenix based ATF Agent Peter Forcelli, who was not even a part of Group VII, much less part of any faction within it, testified of overhearing the event over the radio:

A. [W]e heard a female agent . . . telling him to stand down and not do the car stop. I later found out there were guns in the car and that the agent felt distressed because they had made him on the surveillance. So to let the guns go, it doesn’t make any sense to me if you are burned.

* * *

Q. And so you specifically yourself heard him on the radio saying something to the effect I want to go get these guns now?

A. Yeah. . . . Later on I spoke with him. And he said that a car had almost come at him. That’s how aggressive they had become during the surveillance. And that’s why he was so excited on the radio. But he was told to not stop the car with the guns in it, which to me makes no sense.³⁰

It made no sense unless it was part of a strategy. Group Supervisor Voth’s own testimony of the event to Congress reveals that the case agent’s primary concern was tipping ATF’s hand:

²⁴ House Committee on Oversight and Government Reform and Senate Committee on the Judiciary Joint Staff Report, *The Department of Justice’s Operation Fast and Furious: Accounts of ATF Agents*, 112th Congress (June 14, 2011), at 30-33, available at http://oversight.house.gov/wp-content/uploads/2012/02/ATF_Report.pdf.

²⁵ Transcribed interview of John Dodson (Apr. 26, 2011), at 116; transcribed interview of Olindo Casa (Apr. 28, 2011), at 42-43.

²⁶ Agent Casa Transcript, at 43.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Transcribed interview of John Dodson (Apr. 26, 2011), at 116-117.

³⁰ Transcribed interview of Peter Forcelli (Apr. 28, 2011), at 60-62.

[T]hey had said something to her [the co-case agent] about stopping the car, and she said something to the effect of, well, **I didn't want guys in ATF vests jumping out on these guys and tipping our hand to our larger investigation.** If we possibly had some local PD in, you know, local Phoenix uniforms or something with more of a ruse-type stop, that maybe that could have been considered. And that their statement back was, well, don't worry, we don't have vests on anyway. And so her concern was, at this point, with unmarked cars, with no lights, no sirens, no tints, and no vests, to be effectuating a traffic stop was too much of a risk. And she told me that that was her call on that date, was for the officer safety issue.³¹

According to Agent Dodson, he and Agent Casa made clear to the case agent that they had a removable blue light siren and their ATF vests in the back seat. However, they were still ordered to stand down. The co-case agent only invoked safety after the agents weren't persuaded by her rationale of not wanting to tip off the case—a case in which agents had been told for six months at that point to stand idly by and watch guns flow south instead of disrupting or deterring their activity through traditional law enforcement techniques, such as confronting the purchasers.

He earned the nickname "Renegade," and soon Voth's group effectively divided into two clashing factions: the Sunshine Bears and the Renegades.

Even had they all gotten along, they faced a nearly impossible task. They were seven agents pursuing more than a dozen cases, of which Fast and Furious was just one, their efforts complicated by a lack of adequate tools. Without a real-time database of gun sales, they had to perform a laborious archaeology. Day after day, they visited local gun dealers and pored over forms called 4473s, which dealers must keep on file. These contain a buyer's personal information, a record of purchased guns and their serial numbers, and a certification that the buyer is purchasing the guns for himself.

ATF agents weren't performing "archaeology." In late October 2009, the case did start with ATF identifying historical purchases by a group of six suspicious individuals. According to ATF documents, the case may have started because one gun dealer expressed concerns to ATF that certain buyers who seemed suspicious were coming into the store and buying guns multiple times each week. Before that time, around 130 guns had been purchased by the group of straw buyers that would become the targets in Operation Fast and Furious. (The case didn't receive its flashy name until January 2010; before that, it was known simply as the "Jacob Chambers case" for one of its initial straw buyers.) However, just those six individuals identified on October 31, 2009, would go on to purchase *at least 900* guns over the next year while under ATF surveillance—almost half of the records for 1,872 guns that Congressional investigators have access to.³²

³¹ Transcribed interview of David Voth (Jun. 30, 2011), at 81-82.

³² Whistleblowers have indicated that Congressional investigators don't even have all of the gun sale records, and that there were perhaps as many as another 600 firearms involved.

Over the remainder of November 2009, ATF agents surveilled these six individuals and worked leads. On December 2, 2009, Phoenix ATF agents sent a briefing paper detailing the case to ATF headquarters describing that ATF had established a “[w]orking relationship” with four gun dealers in the Phoenix area, who were “**notifying** ATF of suspect purchases/orders.”³³ ([View the briefing paper here.](#))

For instance, Uriel Patino was one of the six straw buyers identified on October 31, 2009. As Senator Grassley recounted in his [testimony before the House Committee on Oversight and Government Reform](#) on June 15, 2011:

On November 20th, one of the 34 guns Patino bought turned up in Mexico—just 14 days after he bought it in Phoenix. ATF learned of the recovery through a hit in the suspect gun database on November 24th.

That same day, Patino brought Jaime Avila into a cooperating gun dealer and they bought five more guns. ATF had real-time notice from the dealers and agents rushed to the store to follow them, but arrived too late.³⁴

This level of cooperation persisted with multiple gun dealers throughout Operation Fast and Furious. For example, on June 15, 2010, a different cooperating gun dealer than the one mentioned above, e-mailed ATF: “[J]ust wanted to confirm . . . that Jaime Avila will be in today for a .50 Barrett 20”.”³⁵ ([View the e-mail here.](#)) By that time, ATF had installed two video cameras on either side of the counter in one gun dealer that could be accessed by ATF agents to watch purchases live.

As early as March 1, 2010, the National Instant Criminal Background Check System (NICS) also sent alert e-mails to Voth each time Fast and Furious suspects purchased weapons.³⁶ These notifications occurred regularly during Fast and Furious.³⁷ ([See examples of such alerts here.](#)) That’s hardly “laborious archeology.” It’s more like a “real time database of gun sales.”

When Deputy Assistant Attorney General Jason Weinstein of the Justice Department’s Criminal Division found out in the spring of 2010 how many guns ended up in Mexico from another ATF operation named Wide Receiver, he asked: “Did ATF allow the guns to walk, or did ATF learn about the volume of guns after the FFL [federal firearms licensee, or gun dealer] began cooperating?”³⁸ As Weinstein’s questions implied, if a gun dealer is sharing information of straw purchases in real time with ATF and ATF fails to interdict the firearms, then that is the same as ATF walking guns.

³³ CHAMBERS Trafficking Case IN#785115-10-[redacted], “INVESTIGATIVE STEPS TAKEN/INVESTIGATIVE PLAN” (Dec. 2, 2009) (emphasis added) [Attachment 1].

³⁴ Testimony of Senator Charles Grassley, House Committee on Oversight and Government Reform Hearing, *Operation Fast and Furious: Reckless Decisions, Tragic Outcomes*, 112th Congress (Jun. 15, 2011).

³⁵ E-mail from [Cooperating Gun Dealer] to [ATF Group VII Agent] (Jun. 15, 2010) [Attachment 2].

³⁶ E-mail from David Voth to Group VII (Mar. 1, 2010).

³⁷ E-mail from David Voth to Group VII (Mar. 1, 2010); e-mail from Marc Chamberlain to David Voth (Mar. 16, 2010); e-mail from David Voth to Eric Moore (Mar. 25, 2010); e-mail from Marc Chamberlain to David Voth (May 24, 2010); e-mail from James Needles to William Newell (Oct. 29, 2010) [Attachment 3].

³⁸ E-mail from Jason Weinstein to Kevin Carwile (Mar. 16, 2010).

(Lying on the forms is a felony, but with weak penalties attached.)

As noted earlier, the penalty for lying on the forms is 5 to 10 years in prison for each offense.³⁹ Individuals can be fined up to \$250,000 per offense in addition.⁴⁰

The ATF agents manually entered these serial numbers into a database of suspect guns to help them build a picture of past purchases.

As the factual example in Senator Grassley’s testimony above indicates, the Suspect Gun Database was not limited to “past purchases”—those that had taken place before ATF’s investigation started. For example, Patino purchased guns on November 6, 2009, one week *after* ATF’s investigation had begun. ATF entered the guns into ATF’s Suspect Gun Database on November 13, 2009. Those guns were recovered in Mexico on November 20, 2009, just 14 days after being purchased from a dealer cooperating with ATF and just seven days after being entered into the ATF database.

Since entering the guns into the database was an administrative task, it was not always done immediately. Even though ATF obtained the Form 4473 when agents rushed to the gun dealer to surveil Patino and Avila on November 24, 2009, they didn’t enter the information from the transaction into the Suspect Gun Database until the next day. Yet ATF had actual notice of the purchase in real time, the day before it was entered in the database.

As *Fast and Furious* progressed, purchases were usually entered within 2-3 days. However, just because ATF recorded a purchase in the Suspect Gun Database on a certain date doesn’t necessarily mean that ATF had not received a Form 4473 or other notice of that purchase much earlier. Prior notice could come through a NICS alert for those on ATF’s watch list or through a telephone call directly from the gun dealers themselves.

By January 2010 the agents had identified 20 suspects who had paid some \$350,000 in cash for more than 650 guns.

The article neglects to mention that precisely because of the volume of purchases, cooperating gun dealers expressed concern about their cooperation but were encouraged by ATF to *keep selling* the firearms. In fact, the story does not even mention that gun dealers were cooperating with ATF at all. The main gun dealer who had first brought the suspicious purchasers to ATF’s attention has testified that after there was a spike in purchases in early December 2009, he expressed concerns that the store was being asked to continue to sell to these individuals. The gun dealer also asked for some sort of assurance from ATF that what the agents had been asking the store to do wasn’t illegal.

In response, on December 17, 2009, ATF Case Agent Hope MacAllister visited the gun dealer’s premises with both Voth (her supervisor) as well as Assistant U.S. Attorney (AUSA) Emory Hurley. The gun dealer has testified that in the meeting, they assured him that the case

³⁹ 18 U.S.C. § 922(a)(6) (2006); 18 U.S.C. § 924(a) (2006).

⁴⁰ *Id.*

was a “legitimate operation” and that the guns “would be confiscated, interdicted before they would ever cross the border to Mexico.”⁴¹ This gun store owner testified that the store was also instructed to continue to stock the guns preferred by the straw buyers and to “keep working and inform the Phoenix Field Office and their agents and keep them apprised of all developments with regard to these types of purchases.”⁴²

Just hours after Voth’s December 17, 2009, meeting with the gun dealer, his direct supervisor, Assistant Special Agent in Charge George Gillett, sent Voth an e-mail that said, “Anticipatory mi amigo,”⁴³ and provided an excerpt from a 1998 ATF order (Order 3310.4(b) which says that in some cases where guns are transferred, “[i]mmediate intervention may not be needed or desirable.”⁴⁴ ([View the e-mail here.](#)) ATF supervisors would later point to the order to justify allowing the illegal transfer of firearms to take place in *Fast and Furious*, although other agents testified that they were trained to understand the order still contemplated such guns eventually being interdicted. This e-mail and its timing suggest ATF leadership in Phoenix anticipated criticism of its tactics and, in light of the gun dealer’s concerns, prepared its defense from the very beginning.

As far as Congressional investigators have been able to determine, neither the ATF agents nor AUSA Emory Hurley took notes or otherwise contemporaneously documented what took place at this meeting with the gun dealer. Voth and Hurley did later write a memo that recounted the meeting, but didn’t write it until January 28, 2011—the day after Senator Grassley’s first letter to ATF, and over a year after the meeting. Voth later claimed that he couldn’t remember whether the gun dealer had raised concerns about the number of guns flowing to straw buyers, yet he also testified: “I remember our meeting was whether or not he was doing anything illegal”⁴⁵

Other Phoenix-area dealers corroborated this testimony. Each independently described ATF similarly providing lists of suspects telling them to continue selling to those individuals and provide information to ATF. Two dealers provided Congress documentary evidence. For instance, one gun dealer stopped selling to a couple of the straw purchasers in the fall of 2009. Its store policy was to place a memo in the files to halt sales to suspicious buyers. One such memo was on file to prevent sales to Uriel Patino as of October 30, 2009. However, Case Agent Hope MacAllister contacted the dealer about Patino on November 23, 2009. She requested that the dealer resume sales to him.⁴⁶

In a July 3, 2012, follow up article to her initial piece, Eban responded to criticism that she had ignored these facts by asserting: “Until now, the alleged encouragement of gun-dealers has not been a central focus of the *Fast and Furious* scandal.”⁴⁷ **That is false.** In an April 5, 2012, interview with Senator Grassley, his staff pointed out key facts to Eban about the level of cooperation between ATF and the dealers. She seemed completely unaware of them. Although

⁴¹ Transcribed interview of [Cooperating Gun Dealer] (May 18, 2011), at pages 12-13.

⁴² *Id.* at 22.

⁴³ E-mail from George Gillett to David Voth (Dec. 17, 2009) [Attachment 4].

⁴⁴ ATF Order 3310.4(b) (148)(a)(2).

⁴⁵ Transcribed interview of David Voth (Jun. 30, 2011), at page 60.

⁴⁶ Telephone interview of [cooperating gun dealer] (May 17, 2011).

⁴⁷ Katherine Eban, *Fast and Furious follow up: The ATF and gun stores*, *Fortune* (Jul. 3, 2012).

Senator Grassley publicly and repeatedly raised the issue of cooperation between the dealers and ATF since the beginning of his inquiries, the article completely ignores it. Then, her follow-up falsely claimed that it was not a “central focus” of the scandal⁴⁸ after [the omission was criticized](#).⁴⁹

Senator Grassley’s very first letter, on [January 27, 2011, to Acting Director of the ATF Kenneth Melson](#) stated that he had “received numerous allegations that the ATF **sanctioned the sale** of hundreds of assault weapons to suspected straw purchasers”⁵⁰ A month later, his [March 3, 2011, letter to the Justice Department](#) explained further: “Several agents alleged that **ATF leadership encouraged cooperating gun dealers to engage in sales of multiple assault weapons to individuals suspected of illegally purchasing for resale to Mexican cartels.**”⁵¹ In the first public hearing on Fast and Furious on June 15, 2011, Senator Grassley [testified before the House Committee on Oversight and Government Reform](#): “ATF **encouraged** gun dealers to sell to straw buyers. E-mails prove that at least one dealer had worried prophetically about that risk. This gun dealer wrote to ATF about his concern that a Border Patrol agent might end up facing the wrong end of one of these guns. ATF supervisors told the dealer not to worry.”⁵²

These e-mails were released two months earlier, in an [April 13, 2011, letter from Senator Grassley to the Justice Department](#), which stated:

I already provided evidence contradicting [the Justice Department’s denial of gunwalking] in my February 9 and March 3 letters. In addition, attached you will find further documentation undermining the Department’s assertion. Specifically, the documents are e-mails between ATF officials and a Federal Firearms Licensee (FFL) in Arizona. **These e-mails demonstrate that ATF instructed gun dealers to engage in suspicious sales despite the dealers’ concerns.** The e-mails refer to meetings between the FFL and the U.S. Attorney’s office to address the concerns being raised by the FFL.⁵³

Senator Grassley considered these e-mails important enough that he went to the floor of the U.S. Senate the next day to give [a speech just on this issue](#), entering the e-mails into the Senate record of the floor proceedings.⁵⁴ These e-mails were also covered by the media.⁵⁵ On April 5, 2012,

⁴⁸ *Id.*

⁴⁹ “What Really Happened with Fast and Furious,” WBUR at 29:22 (Jul. 2, 2012), <http://onpoint.wbur.org/2012/07/02/fast-and-furious-fortune>.

⁵⁰ Letter from Senator Grassley to ATF Acting Director Kenneth Melson (Jan. 27, 2011) (emphasis added).

⁵¹ Letter from Senator Charles Grassley to Attorney General Eric Holder (Mar. 3, 2011) (emphasis added).

⁵² Testimony of Senator Charles Grassley, House Committee on Oversight and Government Reform Hearing, *Operation Fast and Furious: Reckless Decisions, Tragic Outcomes*, 112th Congress (Jun. 15, 2011) (emphasis in original).

⁵³ Letter from Senator Charles Grassley to Attorney General Eric Holder (Apr. 13, 2011) (emphasis added).

⁵⁴ Senator Charles Grassley, Statement on Floor of U.S. Senate (Apr. 14, 2011).

⁵⁵ For example, Kim Murphy, *U.S. urged dealer to continue gun sales despite concerns, inquiry finds*, Los Angeles Times (Apr. 15, 2011), available at <http://articles.latimes.com/2011/apr/15/nation/la-na-guns-20110415>; Ryan J. Reilly, *Gun Dealer To Feds: ATF Sting May Let Guns Go To ‘Bad Guys’*, Talking Points Memo (Apr. 15, 2011), available at http://tpmmuckraker.talkingpointsmemo.com/2011/04/dealer_worried_that_atf_would_let_guns_go_to_bad_guys.php.

Senator Grassley’s staff directed Eban to these e-mails, which had been publicly available for almost a year. Yet she completely ignored them and left them out of her article entirely.

Eban’s lack of awareness of this issue prior to her April 5, 2012, contact with Senator Grassley’s office—when she was supposedly many months into work on the piece—demonstrated a thorough lack of research. To publish the piece *after* having it brought to her attention without even referencing the fact that the gun dealers were working in close cooperation with the ATF to sell the straw buyers a virtual arsenal of weaponry is journalistic malpractice.

According to Rep. Issa's Congressional committee, Group VII had enough evidence to make arrests and close the case then.

On December 15, 2009, Voth attended a meeting in which DEA briefed ATF on overlap with a case it had with a state wiretap, providing a packet of intercepts from the wire. Contemporaneous internal DEA e-mails also suggest that even at this early stage, ATF wanted to do its own wiretap. ([View these e-mails here.](#)) One of the DEA e-mails discusses ATF’s problems with the U.S. Attorney’s Office’s willingness to bring serious charges. However, it also states: “**On the plus side, we have the conspiracy through the wire** which will help significantly with charging down the road.”⁵⁶ DEA officials told Congressional investigators that they believe it constituted probable cause for arrests by ATF.⁵⁷

Voth has claimed that DEA didn’t share critical evidence with ATF “when the information was actionable.”⁵⁸ The Case Management Log indicates otherwise. On December 21, 2009, six days after ATF’s deconfliction meeting with DEA, DEA received even more explicit intercepts over its state wiretap than before. DEA’s target arranged with one of ATF’s targets to transport guns recently-purchased in Phoenix to El Paso, Texas, and then to Mexico. These intercepts were stronger than any of the evidence on ATF’s targets gathered to date.

That same morning, a Glendale, Arizona detective assigned to the DEA Task Force and staffing the DEA wire room called Group VII, as recorded in the ATF Case Management Log: “Received a call from Glendale Det. . . . on 12/21/2009 at approximately 0930 hours that 32 firearms were scheduled to be transported to El Paso within 11/2 hours and then possibly transported to Juarez MX.”⁵⁹ ([View this section of the Case Management Log here.](#)) This was actionable information. Group VII could have at least tried to intercept the firearms transfer through El Paso, as well as connect the trafficking with evidence of intent from the DEA wire. Yet Group VII apparently failed to act on these more specific intercepts.

⁵⁶ E-mail from [DEA] to [DEA] (Dec. 16, 2009) (emphasis added) [Attachment 6].

⁵⁷ Drug Enforcement Administration Briefing (Oct. 20, 2011).

⁵⁸ Letter from David Voth attorney Joshua Levy to Chairman Darrell Issa and Ranking Member Grassley (Mar. 14, 2012), Attachment 3, Declaration of David Voth.

⁵⁹ ATF Case Management Log (Dec. 23, 2009) [Attachment 7].

Prosecutors: Transferring guns is legal in Arizona

This was not the view of federal prosecutors. In a meeting on Jan. 5, 2010, Emory Hurley, the assistant U.S. Attorney in Phoenix overseeing the Fast and Furious case, told the agents they lacked probable cause for arrests, according to ATF records.

Since Voth was out of town from December 19 to December 27, 2009, and denies receiving the more specific intercepts of December 21, 2009 when they were “actionable,”⁶⁰ it is unclear whether Voth included them with the information he presented to Emory Hurley at their January 5, 2010, meeting. AUSA Hurley’s memo summarizing the January 5, 2010, meeting ([available here](#)) read:

In this case, ATF has discovered that the central target of their investigation is linked to a state wire case being run out of the [Drug Enforcement Administration] wire room. They have reviewed a number of ‘dirty’ calls from . . . Celis Acosta [the target suspected of running the straw purchasing ring] regarding gun trafficking and believe they could pursue a federal T-III.⁶¹

However, Hurley’s reference to “dirty calls” may not have even included the best evidence available to ATF at the time. It is possible that had this information been presented to Hurley, the DEA wire may have given ATF the information it needed to make its case or take it to the state for prosecution.

Hurley's judgment reflected accepted policy at the U.S. Attorney's Office in Arizona. "[P]urchasing multiple long guns in Arizona is lawful," Patrick Cunningham, the U.S. Attorney's then-criminal chief in Arizona would later write. "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." (Arizona federal prosecutors referred requests for comment to the Justice Department, which declined to make officials available. Hurley noted in an e-mail, "I am not able to comment on what I understand to be an ongoing investigation/prosecution. I am precluded by federal regulation, DOJ policy, the rules of professional conduct, and court order from talking with you about this matter." Cunningham's attorney also declined to comment.)

As mentioned above, in the wake of the Congressional investigation of Operation Fast and Furious—both into ATF and the District of Arizona U.S. Attorney’s Office—Assistant U.S.

⁶⁰ Letter from David Voth attorney Joshua Levy to Chairman Darrell Issa and Ranking Member Grassley (Mar. 14, 2012), Attachment 3, Declaration of David Voth.

⁶¹ Memorandum from Emory Hurley to Mike Morrissey, “Manuel Celis Acosta Trafficking Investigation” (Jan. 5, 2010) [Attachment 5].

Attorney Patrick Cunningham, the head of the Criminal Division, [pled the Fifth Amendment](#) to avoid testifying before Congress, and shortly thereafter resigned.⁶²

It was nearly impossible in Arizona to bring a case against a straw purchaser. The federal prosecutors there did not consider the purchase of a huge volume of guns, or their handoff to a third party, sufficient evidence to seize them. A buyer who certified that the guns were for himself, then handed them off minutes later, hadn't necessarily lied and was free to change his mind. Even if a suspect bought 10 guns that were recovered days later at a Mexican crime scene, this didn't mean the initial purchase had been illegal. To these prosecutors, the pattern proved little. Instead, agents needed to link specific evidence of intent to commit a crime to each gun they wanted to seize.

The initial purchase *is* illegal, however, if the buyer has the intent to transfer the gun to a third party at the time of purchase and swears to the contrary.⁶³ That was the case here. Both ATF and the U.S. Attorney's Office knew it. Ring leaders recruited straw buyers, paid them to buy guns, and gave them the money to do it. Such activity is clearly criminal under current law. So, if an unemployed person on food stamps, driving a rusty old car, brings paper bags full of thousands of dollars in cash to buy 10 guns that show up days later at a Mexican crime scene—then there is *cause* to believe that the buyer *probably* had criminal intent.

Perhaps reasonable minds could differ on the first instance, but this pattern was repeated week in and week out for months on end in Fast and Furious. As each day went by, the pattern of circumstantial evidence grew stronger and more powerful. But, there was direct evidence as well from the DEA wiretap. So, there is no doubt that the U.S. Attorney's Office in Arizona had set the bar for probable cause impossibly high. On that one point, the *Fortune* article is surely correct.

None of the ATF agents doubted that the Fast and Furious guns were being purchased to commit crimes in Mexico.

Although Senator Grassley's staff discussed it with her on April 5, 2012, Eban left out the most compelling reason that none of the ATF agents doubted that the guns were being purchased to commit crimes in Mexico: they could listen to conversations about the trafficking on wiretaps, and the guns were being recovered at crime scenes in Mexico. It was not just a hunch, a gut feeling, or an assumption. It was based on evidence far more detailed and specific than the information that had initially made the gun dealers suspicious. The government's information was not shared with the gun dealers. If it had been, the dealers would have risked legal liability by going through with the sales knowing the guns were headed to Mexico. That makes it all the more unconscionable that ATF kept encouraging gun dealers to continue making sales and misleading them about being willing and able to interdict the weapons in the U.S.

⁶² Letter from Patrick Cunningham attorney Tobin Romero to Chairman Darrell Issa (Jan. 19, 2012), at 2.

⁶³ 18 U.S.C. § 922(a)(6); 18 U.S.C. § 924(a)(1)(A).

As described above, while Eban was writing her story, Senator Grassley's staff directed her to [these e-mails](#), which had been publicly available on Senator Grassley's website since April 2011. The e-mails start with an April 13, 2010, e-mail from Voth to a gun dealer (a different dealer than the one focused on in the article):

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]f 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. . . . 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.**⁶⁴

In response to Voth's e-mail, the gun dealer responded later that day:

Let me start by saying thank you for the e-mail and as always we will do what we can to work with you and the ATF on Project Gun Runner. . . . For us, we were hoping to put together something like a letter 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.**⁶⁵

The gun dealer said that it would be great to meet with Voth and the attorney (Emory Hurley), and subsequently wrote that he would **"continue handling the transactions as we have in the past until we meet."**⁶⁶

Even after that meeting, the gun dealers concerns resurfaced in June 2010 after watching a news report about firearms trafficking over the border. The dealer e-mailed Voth on June 17, 2010:

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 13 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 ever would end up south of the border or in the hands of bad guys. I guess I am looking for a bit of reassurance that the guns are not getting south or into the wrong hands.** I know this is an ongoing investigation so there is limited information you can share with me.⁶⁷

⁶⁴ E-mail from David Voth to [Cooperating Gun Dealer] (Apr. 13, 2010) (emphasis added) [Attachment 8].

⁶⁵ E-mail from [Cooperating Gun Dealer] to David Voth (Apr. 13, 2010) (emphasis added) [Attachment 8].

⁶⁶ E-mail from [Cooperating Gun Dealer] to David Voth (Apr. 15, 2010) (emphasis added) [Attachment 8].

⁶⁷ E-mail from [Cooperating Gun Dealer] to David Voth (Jun. 17, 2010) (emphasis added) [Attachment 8].

Indeed, this gun dealer, like the other gun dealers cooperating with ATF, had no idea that ATF was continually reviewing recoveries in Mexico, that DEA wire information from as far back as December 2009 had confirmed that these straw buyers were indeed trafficking weapons to Mexico, or that by April 2010, ATF had its own wire on which it listened to these straw buyers talk about their trafficking.

But that was nearly impossible to prove to prosecutors' satisfaction. And agents could not seize guns or arrest suspects after being directed not to do so by a prosecutor.

ATF agents did not have to go through the Arizona U.S. Attorney's Office. They could have brought their case to another district, such as one in Texas, where there was a sufficient nexus to do so. They could have tried state prosecutors, who didn't require nearly as high of a threshold as the U.S. Attorney's Office. ATF supervisors could have complained to their leadership in headquarters, and sought oversight and assistance from the Justice Department headquarters. But, no evidence has surfaced to date that they did so.

ATF's Group VII could have taken other steps that did not involve the U.S. Attorney's Office. Fast and Furious straw purchaser Jaime Avila was arrested immediately after Agent Terry's death in December 2010 and was charged based on information ATF could have gathered about him months earlier. On all of his straw purchases, he had provided a false address and was thus demonstrably breaking the law.⁶⁸

When asked why Avila wasn't arrested for this violation earlier, Voth admitted that Avila could have been arrested earlier, "in theory, if somebody were to take it upon themselves to do residency checks, which is . . . resource intensive."⁶⁹ Yet, residency checks are not nearly as resource intensive as the seven federal wiretaps ATF pursued in this case.

Voth later acknowledged through his attorney that Group VII could have used more "knock-and-talks," a view that was shared by Dodson and the other whistleblowers who eventually came to Congress.⁷⁰ According to those whistleblowers, "knock-and-talks," or following suspected straw buyers to their homes and confronting them, was just one of the traditional law enforcement tactics that ATF has always used to deter and disrupt illegal gun trafficking but Group VII decided against employing.

⁶⁸ See Memorandum from Emory Hurley to Dennis K. Burke, "Jaime Avila, Jr." (Jan. 28, 2011) [Attachment 24], at 2-3.

⁶⁹ Transcribed interview of David Voth (Jun. 30, 2011), at pages 229-230.

⁷⁰ Letter from David Voth attorney Joshua Levy to Chairman Darrell Issa and Ranking Member Charles Grassley (Mar. 14, 2012), at 26.

(Agents can be sued if they seize a weapon against prosecutors' advice. In this case, the agents had a particularly strong obligation to follow the prosecutors' direction given that Fast and Furious had received a special designation under the Justice Department's Organized Crime Drug Enforcement Task Force. That designation meant more resources for the case, but it also provided that prosecutors take the lead role.)

The Jacob Chambers case didn't receive Organized Crime Drug Enforcement Task Force (OCDETF) designation until the end of January and beginning of February 2010.⁷¹ By that point, the strategy of pursuing a bigger case had already been decided.

In their Jan. 5 meeting, Hurley suggested another way to make a case: Voth's team could wiretap the phone of a suspected recruiter and capture proof of him directing straw purchasers to buy guns. This would establish sufficient proof to arrest both the leaders and the followers.

Actually, the decision to seek wiretap authority occurred at least three weeks earlier. E-mails from DEA agents on December 16, 2009, the day after ATF's meeting with DEA, indicate that Group VII wanted to "write for phones"—do its own wire—at least from that date. ([View those e-mails here.](#)) Whistleblowers said that ATF's goal was to do a wire from the very beginning, and there is evidence that Voth's boss, SAC Newell, wanted to do a federal wire because it hadn't been done before in a major firearms trafficking case.

On Jan. 8, 2010, Voth and his supervisors drafted a briefing paper in which they explained Hurley's view that "there was minimal evidence at this time to support any type of prosecution." The paper elaborated, "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."

Before the meeting with the U.S. Attorney's Office, [documents show Voth had authored a version](#) by at least January 4, 2010, that made no reference to there being "minimal evidence . . . to support any type of prosecution," but still indicated the same strategy. The article fails to quote the following portion:

Currently our strategy is to allow the transfer of firearms to continue to take place in order to further the investigation and allow for the identification of additional coconspirators **who would continue to operate and illegally traffic firearms to Mexican DTOs [Drug Trafficking Organizations] which are perpetrating armed violence along the Southwest Border.** This is all in compliance with ATF 3310.4(b) 148(a)(2). **The ultimate goal is to secure a Federal T-III audio intercept to identify and prosecute all co-conspirators of the DTO** to include the

⁷¹ See e-mail from George Gillett to William Newell (Jan. 26, 2010); see also e-mail from Chong Gee, ATF Southwest Region OCDETF Coordinator, to Tonya English and Hope MacAllister (Feb. 5, 2010).

20 identified straw purchasers, the facilitators of the distribution cell centered here in Phoenix, the transportation cells taking the firearms South, and ultimately to develop and provide prosecutable information to our Mexican law enforcement counterparts for actions.⁷²

Further, contemporaneous documentation suggests that Phoenix ATF communicated in the January 5, 2010, meeting with the U.S. Attorney's Office that it was pursuing a different strategy than ATF headquarters might want. AUSA Emory Hurley's January 5, 2010, memo summarizing his meeting with ATF read: "In the past, ATF agents have investigated cases similar to this by confronting the straw purchasers and hoping for an admission that might lead to charges."⁷³ AUSA Hurley then made a tactical case—not a legal one—for pursuing a different approach, writing such things as, "Even when the straw buyers make admissions and can be prosecuted, they are easily replaced by new straw buyers and the flow of guns remains unabated." AUSA Hurley ended his memo with the options ATF presented of breaking with accepted practice or trying a new strategy: "ATF believes that there may be pressure from ATF headquarters to immediately contact identifiable straw purchasers just to see if this develops any indictable cases **and to stem the flow of guns**. Local ATF favors pursuing a wire and surveillance to build a case against the leader of the organization. . . . I concur with **local ATF's decision to pursue a longer term investigation to target the leader of the conspiracy**."⁷⁴ ([View the memo here.](#))

Senator Grassley's staff brought this document to Eban's attention in April 2012. AUSA Hurley was presenting a choice between two different strategies. U.S. Attorney Burke would eventually weigh in with his support of the decision (["Hold out for bigger," as he indicates here](#)),⁷⁵ but this and other documents suggest that *both* ATF and the Arizona U.S. Attorney's Office shared the same goal: making a big case against a drug cartel, rather than merely deterring and disrupting straw buyers.

Rep. Issa's committee has flagged this document as proof that the agents chose to walk guns. But prosecutors had determined, Voth says, that the "transfer of firearms" was legal. Agents had no choice but to keep investigating and start a wiretap as quickly as possible to gather evidence of criminal intent.

As discussed above, it is clear that ATF Phoenix *did* have a choice: it could have utilized the traditional law enforcement techniques that ATF whistleblowers say ATF successfully used in the past. Group Supervisor Voth acknowledged that ATF chose to pursue a different strategy instead:

Q. If you're playing Whack-a-Mole with these straw buyers, trying to jam them up every time you can, asking them questions, Hey, you're on food

⁷² E-mail from David Voth to George Gillett (Jan. 4, 2010) [Attachment 9].

⁷³ Memorandum from Emory Hurley to Mike Morrissey, "Manuel Celis Acosta Trafficking Investigation" (Jan. 5, 2010) [Attachment 5].

⁷⁴ *Id.* (emphasis added).

⁷⁵ E-mail from Dennis Burke to Mike Morrissey (Jan. 7, 2010) [Attachment 10].

stamps and you're spending \$30,000 for Barrett .50s; help me understand who's giving you the money; what do you plan to do with it; are you going to go hunt some squirrels with the Barrett .50s? You could be jamming these guys up when you get information like that, right? By jamming up, I mean stopping them, asking them questions, trying to scare them out of continuing to buy guns.

A. We could stop them and ask them questions, yes.

Q. And that might be successful in getting them out of the marketplace, right?

A. I think that strategy was tried, and I think the consensus by the Department of Justice and by ATF and by the IG and by others was that that strategy was not successful, and they actually came up with a new strategy that was opposite of that strategy. And we were following the new strategy. . . . Whether that new strategy is deemed successful or not I guess will be determined by others. But we were following the orders we were given at this time.

Phoenix ATF's January 2010 briefing paper reflects that new approach.

Ten days after the meeting with Hurley, a Saturday, Jaime Avila, a transient, admitted methamphetamine user, bought three WASR-10 rifles at the Lone Wolf Trading Company in Glendale, Ariz. The next day, a helpful Lone Wolf employee faxed Avila's purchase form to ATF to flag the suspicious activity. It was the Martin Luther King Jr. holiday weekend, so the agents didn't receive the fax until Tuesday, according to a contemporaneous case report. By that time, the legally purchased guns had been gone for three days. The agents had never seen the weapons and had no chance to seize them. But they entered the serial numbers into their gun database. Two of these were later recovered at Brian Terry's murder scene.

ATF had identified Avila on November 24, 2009, when he showed up with Uriel Patino at a cooperating gun dealer's store, who immediately called ATF to tell them one of their targets was in the store. (A [November 29, 2011, press release from Senator Grassley's office](#) further details and documents Avila's history with ATF prior to the purchase referenced in the article) There is no no factual support for suggesting that the guns were "gone."

ATF agents made no attempt to go to Avila's address (listed on the Form 4473) or question him. Had ATF agents attempted to go to Avila's address, they would have discovered that he was no longer living at the address he listed on the form—the same offense for which Avila was arrested immediately after the death of Agent Terry. Moreover, if Avila was a methamphetamine user, which was determined by ATF during his post-arrest interview in December 2010, it's not hard to imagine that some intense scrutiny from law enforcement could have resulted in drug charges that would have prohibited him from purchasing additional firearms and given him an incentive to flip and inform on those higher up in the organization.

Rebuffed by the prosecutors

Voth was a logical thinker. He lived by advice he received from an early mentor in law enforcement: "There's what you think. There's what you know. There's what you can prove. And the first two don't count."

The first two would have counted a great deal for gun dealers who were kept in the dark by ATF and might have made different decisions about selling to the straw buyers if fully informed. Regardless of whether ATF could have proved in a court of law that these individuals were straw buying for trafficking to Mexico (or what prosecutors would allow them to prove), they shared none of their detailed information about the intent of the straw buyers with gun dealers.

But he was not operating in a logical world. The wiretap represented the ATF's best—perhaps only—hope of connecting the gun purchases it had been documenting to orders from the cartels, according to Hurley. In Minneapolis, the prosecutors Voth had worked with had approved wiretap applications within 24 hours. But in Phoenix, days turned into weeks, and Group VII's wiretap application languished with prosecutors in Arizona and Washington, D.C.

Evidence does suggest that ATF was frustrated with AUSA Hurley's pace in March and April 2010. On April 2, 2010, Voth sent an e-mail to Hurley as well as Gillett and Group VII with the subject line, "No pressure but perhaps an increased sense of urgency..." Voth wrote:

I hope this e-mail is well received in that it is not intended to imply anything other than that the violence in Mexico is severe and without being dramatic we have a sense of urgency with regards to this investigation. **Our subjects purchased 359 firearms during the month of March alone**, to include numerous Barrett .50 caliber rifles.⁷⁶ ([View the e-mail here.](#))

Yet even in this acknowledgement of the violence in Mexico, Voth identified the tradeoff ATF was making in waiting for the wire:

I believe we are righteous in our plan to dismantle this entire organization and **to rush in and arrest any one person without taking in to account the entire scope of the conspiracy would be ill advised to the overall good of the mission.** I acknowledge that to do so properly requires patience and planning.⁷⁷

Further, this e-mail was just 11 days before Voth reassured one gun dealer on April 13, 2010, that ATF was "continually monitoring these suspects"—implying that ATF was actually interdicting these guns. Yet the number of guns being seized was but a fraction of the 359 that had been purchased in March 2010.

⁷⁶ E-mail from David Voth to Emory Hurley and George Gillett (Apr. 2, 2011) (emphasis added) [Attachment 11].

⁷⁷ *Id.* (emphasis added).

According to an ATF document prepared after the controversy arose ([available here](#)), the number of guns recovered were much smaller than those allowed to be illegally purchased. Just 15 of the indicted straw buyers purchased 1,750 weapons from dealers cooperating with ATF. Yet only 250 of those guns were recovered in the U.S. during the *entire period* of November 2009 to March 2011.⁷⁸ Those numbers only account for sales *after* each target had been entered in the investigation, so they do not include historical purchases made before ATF was aware of the buyers and began receiving real-time notice of the sales. Many of the weapon recoveries came from other law enforcement agencies and occurred without any involvement or intelligence from ATF.

No one has yet explained this delay. Voth thinks prosecutor Hurley's inexperience in wiretapping cases may have slowed the process. Several other agents speculate that Arizona's gun culture may have led to indifference. Hurley is an avid gun enthusiast, according to two law-enforcement sources who worked with him. One of those sources says he saw Hurley behind the counter at a gun show, helping a friend who is a weapons dealer.

AUSA Hurley's apparent inexperience with wiretaps undoubtedly played a role in the delays ATF experienced. However, Elizabeth Kempshall, the head of the DEA in Phoenix during Fast and Furious, has indicated that after ATF decided to pursue a federal wiretap, she encouraged ATF Special Agent in Charge William Newell to consider pursuing a state wiretap because state wires in general were much quicker and easier to obtain than federal wires. According to Kempshall, Newell's response was that he wanted to pursue a federal wire because "it's never been done before" for a gun trafficking case.⁷⁹ On the other hand, Voth's own inexperience may have caused him to fail to see the repercussions of simply relying on the U.S. Attorney's Office and failing to disrupt straw purchasers.

William Newell, then Agent in charge of the ATF's Phoenix field division, suspected that U.S. Attorney Dennis Burke, an Obama appointee, was not being briefed adequately by deputies about the volume of guns being purchased. He wrote to colleagues in February 2010 that the prosecutor seemed "taken aback by some of the facts I informed him about"—by then, the Fast and Furious suspects had purchased 800 guns—"so I am setting up a briefing for him (alone no USAO 'posse') about this case and several other cases I feel he is being misled about."

The conflict between federal prosecutors and ATF agents had been growing for years. Pete Forcelli, who served as group supervisor of ATF's Phoenix I field division for five years, told Congress in June 2011 that he believed Arizona federal prosecutors made up excuses to decline cases. "Despite the existence [of] probable cause in many cases," he testified, "there were no indictments, no prosecutions, and criminals were allowed to walk free." Prosecutors in Los Angeles and New York were far more aggressive in pursuing gun cases, Forcelli asserted.

⁷⁸ Purchase and Recovery Chart for Indicted Operation Fast and Furious Targets (Mar. 29, 2011) [Attachment 28].

⁷⁹ Telephone Interview of Elizabeth Kempshall (Sep. 22, 2011).

Phoenix-based ATF agents became so frustrated by prosecutors' intransigence that, in a highly unusual move, they began bringing big cases to the state attorney general's office instead. Terry Goddard, Arizona's Attorney General from 2003 to 2011, says of federal prosecutors, "They demanded that every *i* be dotted, every *t* be crossed, and after a while, it got to be nonsensical."

For prosecutors, straw-purchasing cases were hard to prove and unrewarding to prosecute, with minimal penalties attached. In December 2010, five U.S. Attorneys along the Southwest border, including Burke in Arizona, wrote to the U.S. Sentencing Commission, asking that penalties for straw purchasing be increased. The commission did increase the recommended jail time by a few months. But because the straw purchasers, by definition, have no criminal record and there is no firearms-trafficking statute that would allow prosecutors to charge them with conspiracy as a group, the penalties remain low.

As noted earlier, straw purchasers can actually face serious penalties for lying to acquire firearms—5 to 10 years in prison for each offense.⁸⁰ In this case, Uriel Patino purchased more than 700 weapons over several months while his purchases were being logged and frequently surveilled by ATF. Patino was apparently never even questioned by ATF, let alone arrested, until after Agent Brian Terry was killed.

Prosecutors repeatedly rebuffed Voth's requests. After examining one suspect's garbage, agents learned he was on food stamps yet had plunked down more than \$300,000 for 476 firearms in six months. Voth asked if the ATF could arrest him for fraudulently accepting public assistance when he was spending such huge sums. Prosecutor Hurley said no.

The suspect was Uriel Patino. Notwithstanding prosecutors saying in November 2009 that there wasn't yet enough evidence to arrest Patino, a later document Voth authored sheds light on the fact that he was not simply operating under restrictions imposed by the U.S. Attorney's Office—and had changed his mind about wanting to arrest Patino.

In April 2010 Voth was asked to write an 'exit strategy' for ending Fast and Furious at the request of ATF headquarters officials concerned that too many guns were going south.⁸¹ The April 27, 2010, document he drafted ([available here](#)) acknowledges that Fast and Furious had "many competing priorities."⁸² Accordingly, Voth argued against arresting Patino at that time. At that point, Patino had purchased over 450 weapons—and at least 440 of them after he had been entered as a target in Fast and Furious.⁸³

⁸⁰ 18 U.S.C. § 922(a)(6) (2006); 18 U.S.C. § 924(a) (2006).

⁸¹ E-mail from David Voth to Douglas Palmer (Apr. 27, 2010) [Attachment 12].

⁸² Operation Fast and Furious Exit Strategy (Apr. 27, 2010) [Attachment 12].

⁸³ ATF Suspect Gun Database, Uriel Patino.

ATF's refusal to arrest Patino shows that ATF was weighing tactical and policy considerations, not just legal restrictions imposed on it by the U.S. Attorney's Office. Contrary to the narrative in the article, Voth was not actually at odds with the U.S. Attorney's office over the tactical decision not to arrest obvious straw buyers like Patino. When later asked about "arresting Uriel Patino at that point in time, April 2010," Voth acknowledged in testimony that it "was a discussion we had with the U.S. Attorney **and amongst ourselves, and that was the general consensus**, that taking him down wouldn't have brought the organization to an end or to a close."⁸⁴ However, it would have stopped Patino, who would go on to purchase at least 175 more firearms over the next four months from dealers cooperating with ATF.⁸⁵ During the entire case, ATF only recovered 99 of Patino's firearms in the U.S.—out of 720 he bought after being entered into ATF's investigation.⁸⁶

In another instance, a young jobless suspect paid more than \$10,000 for a 50-caliber tripod-mounted sniper rifle. According to Voth, Hurley told the agents they lacked proof that he *hadn't* bought the gun for himself.

Voth grew deeply frustrated. In August 2010, after the ATF in Texas confiscated 80 guns—63 of them purchased in Arizona by the Fast and Furious suspects—Voth got an e-mail from a colleague there: "Are you all planning to stop some of these guys any time soon? That's a lot of guns... Are you just letting these guns walk?"

As is indicated in Voth's e-mail chain referenced in the article ([available here](#)), ATF was *not* the agency responsible for confiscating the 80 guns—it was U.S. Immigration and Customs Enforcement (ICE).⁸⁷ ICE was working completely independent of ATF and had received no intelligence from ATF Group VII on these guns. ICE was thus surprised to discover (when it submitted the guns to ATF in Texas for tracing) that 63 of the guns were tied to ongoing Phoenix ATF cases—57 of them to Fast and Furious specifically.⁸⁸

This seizure also illustrates a key fact about recovery numbers ATF used to claim it had been making seizures all along. Voth cited 350 recovered in the United States. However, those numbers included guns recovered by other agencies, *even if ATF had no role in recovering them*. All ATF did was enter the serial number into its Suspect Gun Database.

⁸⁴ Transcribed interview of David Voth (Jun. 30, 2011), at page 233.

⁸⁵ ATF Suspect Gun Database, Uriel Patino.

⁸⁶ Purchase and Recovery Chart for Indicted Operation Fast and Furious Targets (Mar. 29, 2011) [Attachment 28].

⁸⁷ E-mails between David Voth and Francisco Arredondo (Aug. 15, 2010) [HOCR 002011-002012] [Attachment 13].

⁸⁸ U.S. Immigration and Customs Enforcement Briefing (Apr. 27, 2012).

Voth responded with barely suppressed rage: "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 [U.S. Attorney's Office] it is highway robbery if we take someone's property." He then recounted the situation with the unemployed suspect who had bought the sniper rifle. "We conducted a field interview and after calling the AUSA [assistant U.S. Attorney] he said we did not have sufficient PC [probable cause] 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'"?

Most of the weapons the Texas ATF agent was referring to were not simply purchased by a one-time buyer who purchased a sniper rifle. They were suspects who had been under investigation by ATF for eight months. ATF had been receiving real-time notice of their purchases from cooperating gun dealers. Thirty of the guns seized in Texas were purchased by Alfredo Celis, who had been a Fast and Furious target since December 2009.⁸⁹ Another ten of the guns seized were purchased by Sean Steward, who also had been a target since December 2009.⁹⁰ At the time Celis bought the guns that were later seized in Texas, he'd already bought 82 guns from dealers cooperating with ATF and was *known* to be a part of the Fast and Furious straw buying ring.⁹¹ At the time Steward bought the guns later seized in Texas, he'd already bought **243** guns from dealers cooperating with ATF and was *known* to be a part of the same straw buying ring.⁹²

Even if these facts did fall short of probable cause, the flow of weapons could have been stemmed if ATF sent different signals to the gun dealers who were cooperating with them. ATF could have encouraged dealers to follow the guidance that ATF and the firearms industry generally gives in the "don't lie for the other guy" public relations campaign—avoid the potential liability and decline to participate in suspicious sales. This campaign has been a project of the firearms industry's trade association and ATF since 2000.⁹³ It was revamped and released in six cities in 2008-2009.⁹⁴ As of 2009, the Justice Department provided half of the \$4.3 million cost of the program since 2000. The industry provided the other half.⁹⁵

⁸⁹ ATF Suspect Gun Summary, Alfredo Celis (Jun. 24, 2010); ATF Suspect Gun Summary, Alfredo Celis (Jun. 28, 2010); ATF Suspect Gun Summary, Alfredo Celis (Jun. 29, 2010); Operation Fast and Furious Recoveries, 08/05/2010, ICE Case File (Dec. 7, 2010) [DHS OGR FF 000220-000224] [Exhibit 14].

⁹⁰ ATF Suspect Gun Summary, Sean Steward (Jun. 23, 2010); Operation Fast and Furious Recoveries, 08/05/2010, ICE Case File (Dec. 7, 2010) [DHS OGR FF 000220-000224] [Exhibit 14].

⁹¹ ATF Suspect Gun Database, Alfredo Celis.

⁹² ATF Suspect Gun Database, Sean Christopher Steward.

⁹³ "History of the Don't Lie Program," <http://www.dontlie.org/history.cfm>.

⁹⁴ ATF Fact Sheet, "'Don't Lie for the Other Guy' Campaign," June 2008, <http://www.atf.gov/publications/factsheets/factsheet-dont-lie-campaign.html>.

⁹⁵ Brady McCombs, 'Straw purchases' targeted, Arizona Daily Star (Aug. 14, 2009), available at http://azstarnet.com/news/local/border/article_2d65893e-b6d0-541c-a950-65acc530245e.html.

Voth believed the wiretap could help bring the case to a swift and successful close. On March 5, 2010, ten days before their first wiretap was set to begin, Voth was in Washington, D.C., to brief ATF brass and Justice Department officials on Fast and Furious. The response was overwhelmingly positive. A senior ATF attorney wrote Voth, "This is exactly the types of cases ATF should be doing with a wire, it is fantastic."

The schism inside Phoenix Group VII

Voth returned to Phoenix fully expecting his team to unite for the work that lay ahead. But instead he found a minor mutiny—over the schedule for the wire, which needed to be monitored around the clock. Dodson didn't want to work weekends. Casa felt his seniority should exclude him from the effort.

Agents were getting pulled from other field offices to assist, and on March 11, one wrote to ask Voth, "You're not going to give the out-of-towners the crappy shifts, are you?" Voth responded, "I am attempting to split the weekends so everyone has to work one of the two days that way no one gets screwed too hard and everybody gets screwed a little bit."

The article actually cites no evidence that the whistleblowers complained about “the schedule for the wire.” Instead, it misleads the casual reader into believing that the e-mail cited is Agent Dodson, Agent Casa, or another whistleblower expressing the gripe about “crappy shifts.” **That is false.**

The e-mail is actually from an entirely different agent, an ATF supervisor from Las Cruces, New Mexico. Although the article relies on that e-mail as proof of arguments over the schedule for the wire room, the Las Cruces supervisor was in fact asking about on-the-ground surveillance shifts, not shifts in the wire room.⁹⁶ The full text of the exchange is [available here](#).

The next day, March 12, Voth sent out the wire schedule at 5:15 p.m. but got such a blizzard of complaints about the shifts that, two hours later, he sent another e-mail to the group. It read in part: "[T]here may be a schism developing amongst the group. This is the time we all need to pull together not drift apart. We are all entitled to our respective (albeit different) opinions however we all need to get along and realize we have a mission to accomplish. I am thrilled and proud that our Group is the first ATF Southwest Border Group in the country to be going up on [a] wire...I will be damned if this case is going to suffer due to petty arguing, rumors or other adolescent behavior...I don't know what all the issues are but we are all adults, we are all professionals, and we have an exciting opportunity to use the biggest tool in our law enforcement tool box. If you don't think this is fun you're in the wrong line of work—period! This is the pinnacle of domestic U.S. law-enforcement techniques. After this the tool box is empty."

⁹⁶ E-mail from Brent Quinn to David Voth (Mar. 11, 2010) [Attachment 15].

The wire turned out to be short lived. Within days, the agents realized that their suspect was phasing out use of the phone they were monitoring. Group VII would have to reapply, all over again, for permission to tap the new phone number.

But Voth's so-called "schism e-mail" would live in infamy. Today it is held up as proof that the group was desperately divided over the tactic of gun walking and that Voth belittled those who opposed it. But there is no documentary evidence that agents Dodson, Casa, or Alt complained to their supervisors about the alleged gun walking, had confrontations about it, or were retaliated against because of their complaints, as they all later claimed.

The article actually provides no documentary evidence that the “schism” e-mail was over gripes about shifts. The schism e-mail was addressed to all members of Phoenix’s Group VII, not to the Las Cruces supervisor who asked about the shifts.

Another agent in Group VII corroborates the whistleblower testimony about the context of the schism e-mail and the dispute over the wire: Mark Sonnendecker. Other agents testified that Agent Sonnendecker was generally considered to be neutral, taking neither side of the schism within the group. According to him, around the time of the wire, Dodson and Casa asked Voth and Case Agent Hope MacAllister, “When are we going to start seizing these guns?”⁹⁷

Agent Dodson later told Congressional investigators, “You can’t go up on a wire and sit back and push the TiVo button and have your case solved for you. You need to be out there and do these bread and butter things that as cops, as Case Agents, as law enforcement, we have to do.”⁹⁸ The run-up to the federal wire sparked a debate over the value of using intercepts, given that supervisors prevented Group VII agents from first trying traditional law enforcement techniques, such as “knock-and-talks.”

Voth and others were of the view that confronting purchasers would compromise the investigation, and that the only way to proceed was by pursuing the federal wiretap. Voth’s “schism” e-mail ([available here](#)) also indicates that he believed ATF headquarters agreed with him: “Whether you care or not people of rank and authority at HQ are paying close attention to this case and they also believe we are doing what they envisioned the Southwest Border Groups doing.”⁹⁹ Voth indicated that he considered the wiretap “the biggest tool in our law enforcement toolbox” and “the pinnacle of domestic U.S.-law enforcement techniques.”

Voth asked Assistant Special Agent in Charge George Gillett to address Group VII’s Monday meeting, just three days after the “schism” e-mail. According to testimony, Gillett called Fast and Furious “a good investigation” and told Agents Dodson and Casa, “You don’t know what walking is, we are not walking guns.”¹⁰⁰ The narrative in the article fails to account for this testimony. When interviewed by Congressional investigators, Voth did not deny that

⁹⁷ Telephone interview of Mark Sonnendecker (Mar. 1, 2012).

⁹⁸ Transcribed interview of John Dodson (Apr. 26, 2011), at page 110.

⁹⁹ E-mail from David Voth to Phoenix Group VII (Mar. 12, 2010) [Attachment 16].

¹⁰⁰ Transcribed interview of John Dodson (Apr. 26, 2011), at page 92.

Dodson had expressed concerns about how the case was handled. The fact of Dodson's complaints and concerns about how the case was handled was implicit, for example, in Voth's acknowledgement that Agent Dodson did not have a "comfort factor" with the case. When Dodson had the opportunity to get out of Group VII, he did:

I know at some point Mr. Dodson kind of gravitated [toward] Phoenix Group 2 [A]t some point, although it wasn't ever anything official on paper, you know, it was kind of just an agreement . . . and Agent John Dodson kind of started working on the storefront operation with Group 2, **I think to try to find, you know, a niche or a case or a comfort factor that he was more interested in.**¹⁰¹

This stands in contrast to the position now taken by his lawyer and repeated in the article.

Who's opposed to gun walking?

The atmosphere inside Voth's group had become toxic. The subjects of dispute were often trivial. For example, when Voth asked Casa to turn off his computer's Godzilla sound effect, which roared each time he got an e-mail, Casa replied, "I have done some limited research and have found no ATF order or internal division memo addressing this issue."

Voth remained even-tempered but did take a stand after one incident. Alt taped to Voth's door an eight-point takedown of agent MacAllister, sarcastically stating that she was in charge of *everything*. Voth reported the note to an ATF attorney, and Alt apologized. It's unclear what drove the men's anger, but it seems unlikely that it was caused by disagreements over alleged gun walking.

How is it possible to deduce that? Because Dodson then proceeded to walk guns intentionally, with Casa and Alt's help. On April 13, 2010, one month after Voth wrote his schism e-mail, Dodson opened a case into a suspected gun trafficker named Isaiah Fernandez. He had gotten Casa to approve the case when Voth was on leave.

Agent Dodson says that the case actually began when Voth sent him to a particular gun dealer to investigate some issues, and strongly disputes that in April 2010, Voth was unaware of the case.¹⁰²

Dodson had directed a cooperating straw purchaser to give three guns to Fernandez and had taped their conversations without a prosecutor's approval.

According to Agent Dodson, the cooperating straw purchaser asked Dodson what to do when Fernandez wanted to buy the guns, and that when Dodson asked Voth, the latter told Dodson to

¹⁰¹ Transcribed interview of David Voth (Jun. 30, 2011), at pages 220-221.

¹⁰² Interview of Michael Chapman (Apr. 3, 2012).

direct the cooperating straw purchaser to sell the guns to Fernandez and then put the 4473 from the sale into ATF's Suspect Gun Database.¹⁰³

Voth first learned these details a month into the case. He demanded that Dodson meet with him and get approval from prosecutors to tape conversations.

Five days later, Dodson sent an uncharacteristically diplomatic response. (He and Alt had revised repeated drafts in that time, with Alt pushing to make the reply "less abrasive." Dodson e-mailed back: "Less abrasive? I felt sick from kissing all that ass as it was.") Dodson wrote that he succeeded in posing undercover as a straw purchaser and claimed that prosecutor Hurley—who he had just belatedly contacted—had raised "new concerns." The prosecutor had told Dodson that an assistant U.S. Attorney "won't be able to approve of letting firearms 'walk' in furtherance of your investigation without first briefing the U.S. Attorney and Criminal Chief."

It was the first time Voth learned that Dodson intended to walk guns. Voth says he refused to approve the plan and instead consulted his supervisor, who asked for a proposal from Dodson in writing. Dodson then drafted one, which Voth forwarded to his supervisor, who approved it on May 28.

According to Agent Dodson, he was ordered to draft the proposal and given some of the initial language by Voth.¹⁰⁴ As Dodson's supervisor, Voth was responsible for making changes to the plan if needed—and did. Documents show that at 11:12 am on May 27, Dodson sent Voth a proposal.¹⁰⁵ According to Dodson, Voth printed it out, made edits to it in red marker, and brought it back to Dodson. Accordingly, documents show that Dodson e-mailed Voth a second version at 11:48 am with the subject, "Change of last paragraph."¹⁰⁶ Agent Dodson says the same thing happened with the second version, with Voth writing his changes in red marker and walking it over to Agent Dodson. At 12:14 pm, Voth also sent Agent Dodson an e-mail with the subject, "the Order we need to include."¹⁰⁷ The order was ATF Order 3310.4(b)—the same order Voth received from Assistant Special Agent in Charge George Gillett back in December 2009 to authorize the strategy in *Fast and Furious*. Subsequently, at 12:51 pm, documents show that Dodson e-mailed Voth a third version of the undercover proposal.¹⁰⁸ The proposal now reflected Voth's changes. ([View these transmittal e-mails here.](#))

When Voth was interviewed by Congressional investigators on July 1, 2011, he did not testify that he objected to the plan. Instead, Voth simply testified to Congressional investigators that he had believed the proposal would require a higher level of approval.¹⁰⁹ Accordingly, when

¹⁰³ *Id.*

¹⁰⁴ Telephone interview of John Dodson (Jun. 29, 2011).

¹⁰⁵ E-mail from John Dodson to David Voth (May 27, 2010) [Attachment 17].

¹⁰⁶ E-mail from John Dodson to David Voth (May 27, 2010) [Attachment 17].

¹⁰⁷ E-mail from David Voth to John Dodson (May 27, 2010) [Attachment 17] (emphasis added).

¹⁰⁸ E-mail from John Dodson to David Voth (May 27, 2010) [Attachment 17].

¹⁰⁹ Transcribed interview of David Voth (Jul. 1, 2011), at page 6.

Voth was satisfied with the proposal, Voth submitted it to his own supervisor.¹¹⁰ Voth admitted that he had been the one to pass the proposal up the chain of command:

Q. So are you responsible for passing this [the Fernandez proposal] up the chain of command?

A. I passed it up the chain of command, yes.

* * *

Q. And so what happened after the proposal was passed up the chain of command?

A. [Assistant Special Agent in Charge, James] Needles approved the proposal, and Mr. Dodson engaged in some activity he outlined.¹¹¹

On June 1, Dodson used \$2,500 in ATF funds to purchase six AK Draco pistols from local gun dealers, and gave these to Fernandez, who reimbursed him and gave him \$700 for his efforts.

After the proposal was approved by both Voth and Needles, Dodson said Voth directed him to purchase the firearms using his undercover identification, which didn't require documentation.¹¹² Precisely so that Voth couldn't later try to deny his own involvement, Dodson refused. Instead, Dodson obtained a "dealer letter" from Voth ([available here](#)).¹¹³

Two days later, according to case records, Dodson—who would later testify that in his previous experience, "if even one [gun] got away from us, nobody went home until we found it"—left on a scheduled vacation without interdicting the guns.

Agent Dodson's understanding before the guns were transferred to Fernandez was that Voth would provide Dodson with surveillance support following the transfer of firearms.¹¹⁴ Indeed, as the undercover transferring the guns, Dodson could not physically have been the one to conduct surveillance. Voth explicitly acknowledged as much:

Q. Was there a plan for surveillance? Was there, in fact, surveillance conducted after the handoff of the firearms?

A. I believe so. As I remember being related to the sequence of events, they forwarded them to a storage locker.

¹¹⁰ Telephone interview of John Dodson (Jun. 29, 2011).

¹¹¹ Transcribed interview of David Voth (Jul. 1, 2011), at page 8.

¹¹² Telephone interview of Michael Chapman (Apr. 3, 2012).

¹¹³ Letter from David Voth to [Gun Dealer] (Jun. 1, 2010) [Attachment 19].

¹¹⁴ Telephone interview of John Dodson (Jun. 29, 2011).

Q. So if Mr. Dodson is the undercover, and he's actually interacting with the suspect, then normally he couldn't do the surveillance, right?

A. Correct.

Q. So normally the undercover would have to withdraw from the situation, and then someone else would have to continue surveillance; is that correct?

A. Correct.¹¹⁵

When Dodson requested surveillance support from Voth, it was denied.¹¹⁶ Instead, Dodson himself returned to the area and then spent several days conducting surveillance on a storage facility where the guns were being stored.

Q. Do you have a general idea of what he was doing in the days and weeks after this incident?

A. I know that he discussed trying to set surveillance out there and the difficulties. I remember a conversation where he was trying to figure out -- I think there's a parking structure or something nearby -- if he could get up near the parking structure and be able to look down. I know there was periods where he was trying to conduct surveillance out there, but I don't know the frequency or duration.

Q. By himself?

A. I'm unaware if he had anybody with him. I don't remember anybody being with him or him discussing anybody being with him.¹¹⁷

As Dodson's supervisor, Voth had responsibility for the Fernandez case. Still, Dodson did not hide from what he did. In fact, he expressed remorse for it.

In his very first [public appearance](#) on *CBS Evening News*, Dodson told the world in a powerful interview that he had walked guns: "Here I am. Tell me I didn't do the things that I did. Tell me you didn't order me to do the things I did."¹¹⁸ He also apologized to the Terry family: "First of all, I'd tell [Agent Terry's family] that I'm sorry."¹¹⁹

¹¹⁵ Transcribed interview of David Voth (Jul. 1, 2011), at page 9.

¹¹⁶ Telephone interview of John Dodson (Jun. 29, 2011).

¹¹⁷ *Id.* at pages 12-13.

¹¹⁸ CBS Evening News (Mar. 3, 2011) at 5:32, available at <http://vimeo.com/album/1834393/video/36555782>.

¹¹⁹ *Id.*

That day, Voth wrote to remind him that money collected as evidence needed to be vouchered within five days. Dodson e-mailed back, his sarcasm fully restored: "Do the orders define a 'day'? Is it; a calendar day? A business day or work day....? An Earth day (because a day on Venus takes 243 Earth days which would mean that I have plenty of time)?"

The guns were never recovered, the case was later closed, and Fernandez was never charged. By any definition, it was gun walking of the most egregious sort: a government agent using taxpayer money to deliver guns to bad guys and then failing to intercept them.

In the end, the case was closed and Fernandez was not charged because it turned out that he was not trafficking weapons to Mexico after all.¹²⁰

On Feb. 4, 2011, the Justice Department sent a letter to Sen. Grassley saying that the allegations of gun walking in Fast and Furious were false and that ATF always tried to interdict weapons. A month later, Grassley countered with what appeared to be slam-dunk proof that ATF had indeed walked guns. "[P]lease explain how the denials in the Justice Department's Feb. 4, 2011 letter to me can be squared with the evidence," Grassley wrote, attaching damning case reports that he contended "proved that ATF allowed guns to 'walk.'" The case and agent names were redacted, but the reports were not from Fast and Furious. They came entirely from Dodson's Fernandez case.

In Senator Grassley's [first letter to ATF of January 27, 2011](#), he *does not* reference the case Operation Fast and Furious, but rather the much broader "Project Gunrunner," which was the name ATF and the Justice Department used in funding requests for all of their anti-gun trafficking efforts along the Southwest border.

The Justice Department's [February 4 response](#) did not say that allegations of gunwalking *in Fast and Furious* were false; instead, the Justice Department issued a blanket statement: "ATF makes every effort to interdict weapons that have been purchased illegally and prevent their transportation to Mexico."¹²¹ Accordingly, any evidence of ATF gunwalking *in any case* would contradict that statement. The scope of the whistleblower allegations was not limited to Fast and Furious. There were early indications that the Phoenix Field Division may have done it before. Thus, Senator Grassley was interested in learning more about the use of such tactics *in any case*.

On February 9, 2011, Senator Grassley [wrote to the Justice Department](#) attaching documents that supported the whistleblower allegations about the guns found at the scene of

¹²⁰ Telephone interview of John Dodson (Jun. 29, 2011).

¹²¹ Letter from Assistant Attorney General Ron Weich to Senator Charles Grassley (Feb. 4, 2011).

Agent Terry's death.¹²² When the Justice Department failed to respond to that letter, Senator Grassley sent [another letter on March 3, 2011](#). The Justice Department had given Senator Grassley a blanket denial in its February 4 letter, and he had obtained documents contradicting that denial *both* from the Fernandez case and from *Fast and Furious*.

Thus, the letter provided, at Attachment 1, documents from the Fernandez case. Contrary to the implication in the article, Senator Grassley *did not* claim those documents were part of *Fast and Furious*. Because Fernandez himself had never been charged and his name had not publicly been released by the Justice Department, the footnote to the Fernandez documents in Senator Grassley's letter referred to them as merely as "ATF Reports of Investigation (ROIs) detailing ATF Phoenix Field Operations from May 8-June 1, 2010" rather than releasing Fernandez's name.¹²³

This is how the letter describes the documents: "My office continues to receive mounting evidence in support of the whistleblower allegations. For example, attached are detailed accounts of three specific instances where ATF allowed firearms to 'walk.'"¹²⁴ The documents were not offered for the proposition that ATF allowed firearms to walk *in Fast and Furious*. They were offered for the proposition that ATF allowed firearms to walk, period. And, the documents prove exactly that. The proposal that Voth ordered Dodson to write and helped him edit was approved by the Assistant Special Agent in Charge.

Agent Dodson was upfront about the Fernandez case throughout his interactions with Congressional investigators, and Senator Grassley's letter attaching the Fernandez documents came out the same day Dodson went on the *CBS Evening News* and publicly expressed remorse for his admitted role in walking guns.

The article's assertion that the documents attached to the March 3, 2011, letter "came entirely from Dodson's Fernandez case" is false. Attachment 2 to that letter is the schism email from David Voth.¹²⁵ Attachment 3 to that letter is an email from Voth that explicitly endorses the strategy of not "rush[ing] in to arrest any one person..."¹²⁶ Other attachments to the letter included evidence of seizures in Mexico of guns purchased by ATF's suspects and evidence that ATF headquarters was aware of the size and strategy of the case. As the dates on those documents make clear, Dodson's participation in walking guns in the Fernandez case came just weeks after Voth's schism email, which warned dissenters to fall in line or find another job.

¹²² Letter from Senator Charles Grassley to Attorney General Eric Holder (Feb. 9, 2011).

¹²³ Letter from Senator Charles Grassley to Attorney General Eric Holder (Feb. 9, 2011), footnote 3.

¹²⁴ Letter from Ranking Member Grassley to Attorney General Kenneth Melson and Acting ATF Director Kenneth Melson (Mar. 3, 2011), available at <http://www.grassley.senate.gov/judiciary/upload/ATF-03-03-11-letter-to-DOJ-ATF.pdf>.

¹²⁵ E-mail from David Voth to Phoenix Group VII (Mar. 12, 2010).

¹²⁶ E-mail from David Voth to Emory Hurley and George Gillett (Apr. 2, 2010).

An unusual alliance

By the end of July 2010, the Fast and Furious investigation was largely complete. The agents had sent prosecutors 20 names for immediate indictment, Jaime Avila's among them. His purchase of the three WASR-10s were listed among his criminal acts.

Voth has testified that it wasn't just that the investigation was complete, but that the case essentially ended because Group VII realized its goal was unattainable. Voth said of this period: "[I]t seemed we had given it a good try and gotten where we had gotten. And, certainly, we were going to charge people. Maybe not the ultimate goal that we had started with."¹²⁷ However, according to the U.S. Attorney's Office, ATF did not formally send the names for indictment until late September.¹²⁸

On Aug. 17, 2010, ATF agents met in Phoenix with prosecutors, including U.S. Attorney Dennis Burke. According to two people present, the ATF presented detailed evidence, including the fact that their suspects had purchased almost 2,000 guns, and pushed for indictments. A month later, on Sept. 17, an ATF team—this time including ATF director Kenneth Melson—met with prosecutors again and again pushed for action. The sides agreed to aim for indictments by October, according to one person in attendance.

But as weeks and then months passed, prosecutors did not issue indictments. The ATF agents grew increasingly concerned. By December, prosecutors had dropped Avila's name from the indictment list for what they deemed a lack of evidence.

Nothing in these weeks and months prevented ATF from stopping these individuals. At this point, ATF's concerns about "compromising the case" should have been irrelevant, since they had already provided the USAO with the evidence prosecutors were seeking.

Only when Terry, the U.S. Border Patrol agent, was murdered in December 2010 did the prosecutors act. Voth's agents arrested Avila within 24 hours of Terry's death. On Jan. 19, 2011, a federal grand jury indicted him and 19 other suspects. (Avila has since pleaded guilty to dealing guns without a license).

At this point, ATF's concerns about "compromising the case" should have been irrelevant, since they had already provided the USAO with the evidence prosecutors were seeking. ATF could have disrupted Jaime Avila's purchasing activity at any time in the 11 months since he was first known to be part of the straw buying ring. Avila later admitted that it had been 2-3 years since

¹²⁷ Transcribed interview of David Voth (Jun. 30, 2011), at pages 235-236.

¹²⁸ Transcribed interview of Dennis Burke (Aug. 18, 2011), at 91-92; transcribed interview of Dennis Burke (Dec. 13, 2011), at 75.

he had lived at the address he was swearing to on the 4473s in late 2009 and into 2010.¹²⁹ Further, his driver's license had been updated in August 2010 to reflect the new address.¹³⁰

Upon hearing about Border Patrol Agent Brian Terry's death, Voth appreciated the significance immediately. He sent an e-mail to the Fast and Furious Case Agent with the subject "no more rose colored glasses." The e-mail read: "If you have not heard a Border Patrol agent was sho[]t and killed here in Arizona. The trace came back to Fast and Furious, Jamie [sic] Avila, January 2010, LWTC... Ugh...! Call as soon as you can, things will most likely get ugly!"¹³¹ Fifteen minutes later Voth again e-mailed MacAllister, this time with a blank e-mail that simply said in the subject line: "GAG order in place per Division! Don't talk outside of Group VII or SAC/ASAC. Emory knows[.]"¹³² ([View the e-mails here.](#))

Later that night, Voth e-mailed his supervisors in Phoenix:

We (ATF) have Jaime Avila in our custody. . . . We are charging Avila with a standalone June 2010 firearms purchase where he used a bad (old) address on the 4473. . . . This way we do not divulge our current case (Fast & Furious) or the Border Patrol shooting case.¹³³

In a subsequent e-mail the next morning that has never been produced by the Justice Department and which Congressional investigators only obtained through other sources, Voth again wrote his supervisors: "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."¹³⁴ ([View both of these e-mails here.](#)) Hurley and Voth seemed to recognize immediately that they didn't want public attention brought to the connection between Fast and Furious and the guns found at the scene of Agent Terry's death.

Also, the very day after Terry's death, Newell asked Voth to compile numbers on Fast and Furious recoveries. Voth's numbers included recoveries by other agencies inside of U.S. regardless of whether ATF had any role in the firearms being recovered. Voth initially responded that the number was 350.¹³⁵ ([View the e-mails here.](#)) Then, in a follow-up e-mail, Voth added the Terry guns: "For what it's worth our numbers did not reflect the guns recovered yesterday so actually the USA recovered are 352."¹³⁶

¹²⁹ See Memorandum from Emory Hurley to Dennis K. Burke, "Jaime Avila, Jr." (Jan. 28, 2011) [Attachment 24], at 2-3.

¹³⁰ *Id.*

¹³¹ E-mail from David Voth to Hope MacAllister (Dec. 15, 2010) [Attachment 19].

¹³² E-mail from David Voth to Hope MacAllister (Dec. 15, 2010) [Attachment 19].

¹³³ E-mail from David Voth to William Newell, et al. (Dec. 15, 2010) [Attachment 20].

¹³⁴ E-mail from David Voth to William Newell and George Gillett (Dec. 16, 2010) [Attachment 20].

¹³⁵ E-mail from David Voth to William Newell (Dec. 16, 2010) [Attachment 21].

¹³⁶ E-mail from David Voth to William Newell (Dec. 16, 2010) [Attachment 21].

Meanwhile, a crucial part of the Fast and Furious scandal—an unusual alliance that would prod politicians and spread word of the failure to stop guns from making their way to Mexican drug cartels—was waiting in the wings. Little more than a week after Terry's murder, a small item about the possible connection between his death and the Fast and Furious case appeared on a website, CleanUpATF.org.

The site was the work of a disgruntled ATF agent-turned-whistleblower, Vince Cefalu, who is suing the bureau for alleged mistreatment in an unrelated case. His website has served as a clearinghouse for grievances and a magnet for other ATF whistleblowers.

It had also attracted gun-rights activists loosely organized around a blog called the Sipsey Street Irregulars, run by a former militia member, Mike Vanderboegh, who has advocated armed insurrection against the U.S. government. It was an incendiary combination: the disgruntled ATF agents wanted to punish and reform the bureau; the gun-rights activists wanted to disable it. After the item about Terry appeared, the bloggers funneled the allegations through a "desert telegraph" of sorts to Republican lawmakers, who began asking questions.

Senator Grassley began asking questions because of first-hand whistleblower accounts corroborated by documents—not because of contact from bloggers.

In January 2011, Senator Grassley had just stepped into his new role as Ranking Member of the Judiciary Committee. Other Senators on the Committee contacted him to inquire about the allegations because of a large number of constituent contacts about it. The other offices sought his help. His office set up a special email account to receive whistleblower contacts and asked the other offices to distribute that information and to encourage anyone with first-hand information to contact his staff.

News of the connection between Fast and Furious and Agent Terry's death was already spreading within ATF before being posted on public blogs. For instance, on December 17, 2010, a Texas ATF supervisor wrote to another ATF agent: "[M]aybe Phoenix should start preparing their explanation 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 a Border Patrol Agent."¹³⁷ ([View the e-mail here.](#))

The day that the allegations became public on the Internet, agents who had formerly had access to the Fast and Furious case file were suddenly denied access.¹³⁸ An e-mail chain later brought to the attention of Congressional investigators, but withheld by the Justice Department,

¹³⁷ E-mail from Glen Cook to Charles Smith (Dec. 17, 2010) [Attachment 22].

¹³⁸ Telephone interview of Michael Chapman (Apr. 3, 2012).

indicated that access to the Fast and Furious file was to be allowed only to a select list of personnel.¹³⁹

By January 11, 2011, ATF was already preparing talking points about whether guns had been walked and whether Fast and Furious guns were connected with Agent Terry's death. The ATF press document anticipated that the following "sample questions" might come from journalists at the January 25, 2011, press conference for the takedown of Fast and Furious:

Some media reports, referencing an anonymous ATF official, claim that ATF knowingly "walked" about 1,900 firearms across the U.S.-Mexico border as part of this operation. What can you tell me about that?

...

We understand that a firearm bought in connection with this ATF investigation was used to murder Border Patrol Agent Brian A. Terry. Can you please comment on this information?¹⁴⁰

[\(View the full talking points here.\)](#)

In light of all this evidence, it is clear that no "desert telegraph" or a cabal of anti-ATF activists was necessary to "funnel" information to Congress. The key question was asked publicly at the takedown press conference. Did ATF walk guns? The official government answer in Phoenix was, "Hell, no!"

Naturally, it was only a matter of time before someone asked the same question in Washington. When Senator Grassley did, he got essentially the same answer. Then the evidence contradicting that answer began to pour in.

A week after the initial Fast and Furious press conference in January 2011, Dodson dropped a small bombshell. He told a supervisor that he had been contacted by Congressional staff.

The day before Dodson contacted his supervisor, Senator Grassley had sent his January 27, 2011, letter to ATF inquiring about gunwalking. The Assistant Agent (ASAC) in Charge of the Phoenix Field Division, Jim Needles, testified that after Senator Grassley sent the letter, AUSA Hurley asked ATF to create a Report of Investigation (ROI) regarding the December 17, 2009, meeting with the dealer who sold the guns found at the scene of Brian Terry's death. This key meeting was initially the focus of the dispute over whether ATF sanctioned or encouraged illegal gun sales.

¹³⁹ Telephone interview with Jose Medina (Apr. 17, 2012).

¹⁴⁰ ATF Official Statements, "Operation: Fast and Furious and Corresponding Investigations," (Jan. 12, 2011) [Attachment 23].

ASAC Needles told Hurley that ATF would refuse to create the ROI because it would not be a contemporaneous record.¹⁴¹ Instead, Hurley went to ATF's headquarters and composed a memo with Voth's assistance. The January 28, 2011, memo ([available here](#)), was written more than a year after the events it purports to memorialize.¹⁴² By that time, Hurley and Voth both had obvious incentives to minimize their role in encouraging gun dealers to make these sales.

That same morning, Hurley was in Voth's office at ATF when Agent Dodson contacted his supervisors to let them know of his contact with congressional investigators. Later that day, Dodson was called on the carpet to a supervisor's office.

Dodson met that day with two ATF supervisors. According to their written contemporaneous accounts, Dodson was vague but claimed that Voth had always "treated him like shit" and that it "felt good" to speak with someone outside ATF.

The article omits important parts of the "written contemporaneous account" of that meeting. It actually says: "SA Dodson had spoken with GS Voth about his concerns regarding the 'Fast and Furious' investigation and potential problems. SA Dodson stated that GS Voth wasn't receptive to SA Dodson's concerns. . . . Dodson then stated that he 'spoke with the staffers and felt good about it.'"¹⁴³ The document also stated: "SA Dodson continued that 'there are about 50 Gunrunner Impact Team (GRIT) members as well as multiple Drug Enforcement Administration (DEA) Agents that could attest that ATF GS David Voth treated SA Dodson 'like shit.'"¹⁴⁴ The other supervisor's account (which Eban has presumably seen, since the article references two supervisor accounts) gives a more full account of what Dodson said:

SA Dodson then stated that there are "at least 50 people over at the DEA office (GRIT agents, ICE, DEA, etc[.]) that can affirm that **GS Voth treated me poorly" over statements made by SA Dodson concerning the Fast & Furious investigation.** SA Dodson further stated that "he had been called on the carpet several times by GS Voth" **because of his objections to how the Fast & Furious investigation was being managed.** SA Dodson stated he had confronted the Case Agent (SA Hope MacAllister) and voiced his objections and did not receive a positive response from SA MacAllister (emphasis added).¹⁴⁵

Agent Dodson was subsequently told by his supervisors to write up a memo detailing his contact with Congressional investigators and admitting that he had "lied" to his supervisor in his initial disclosure of those contacts. Dodson refused, since he believed he had been honest and forthcoming about his contacts with Congress. He asked for a delay until he had an opportunity

¹⁴¹ Transcribed interview of James Needles (Nov. 4, 2011), at pages 23-24.

¹⁴² Memorandum from Emory Hurley to Dennis K. Burke, "Jaime Avila, Jr." (Jan. 28, 2011) [Attachment 24], at 1-2.

¹⁴³ Account of George Gillett (Jan. 29, 2010), at 1.

¹⁴⁴ *Id.*

¹⁴⁵ Account of Marjorie Zicha (Jan. 29, 2010), at 2-3.

to consult with legal counsel. Senator Grassley sent [a letter on January 31, 2011](#), making clear that ATF whistleblowers had the right to talk to Congress.¹⁴⁶

In late January and early February 2011, Senator Grassley's staff contacted as many other members of Group VII as possible in an attempt to verify allegations whistleblowers were making. On February 3, 2011, an agent that had been in Group VII before being transferred back to Texas informed his supervisors that he had been contacted by Senator Grassley's office, and the agent subsequently wrote a memo documenting his contact. The February 3, 2011, memo, which can be viewed in full [here](#), stated:

[O]ne of the operations was a suspected transaction that was to occur at a gas station and detailed agents were asked to cover the transaction. While positioning to observe the suspects, Agent Styers and other detailed agents were told by Agent McAllister that agents were too close and would burn the operation. **Agent McAllister told all the agents to leave the immediate area. While the agents were repositioning, the transaction between the suspects took place and the vehicle that took possession of the firearms eventually left the area without agents following it.**

* * *

Agent Styers was . . . asked about his general impression of the Fast and Furious case. Agent Styers stated that the case had **systematically divided and isolated agents from the group**. The Case Agent had solicited the advice of numerous experienced agents, including Agent Styers, regarding how to conduct and end the wiretap operations and case overall. Agent Styers gave the Case Agent his honest opinion and advice since Agent Styers had worked two wiretap investigations in his career. Agent Styers felt that his advice and opinions, as well as other agents' advice and opinions were widely disregarded.

[Congressional investigators] asked Agent Styers what he felt was incorrect about the way the Fast and Furious case was conducted. Agent Styers explained that first and foremost, **it is unheard of to have an active wiretap investigation without full time dedicated surveillance units on the ground**. Agent Styers relayed that **no other agents in the group were assigned to surveillance** on the Fast and Furious case. Agent Styers said that other agencies or task force officers may have been used to conduct surveillance and respond to calls of FFLs, but it seemed that either the Case Agent or Group Supervisor would poll the office for agents who were available to respond at short notice.

Secondly, Agent Styers said that it appeared odd to have a majority of ATF Agents working on a wiretap investigation who had never worked such a case (emphasis added).¹⁴⁷

¹⁴⁶ Letter from Senator Charles Grassley to ATF Acting Director Kenneth Melson (Jan. 31, 2010).

¹⁴⁷ Memorandum from Gary M. Styers to Agent in Charge, ATF Dallas Field Division (Feb. 3, 2011), at 2-3 (emphasis added) [Attachment 25].

Before the “schism” e-mail ever became public, Styers indicated that Fast and Furious had divided Group VII over the tactics of the case, such as whether or not surveillance should be a priority. Styers also corroborated other whistleblowers who had said that the “schism” e-mail was in relation to the tactics of the case.

Dodson appeared on the *CBS Evening News* a week later.

Once again, the article is incorrect. The extensive “investigation” on which it claims to be based apparently failed to discover even the most basic facts of the story. It was more than a month later—not a week later. Dodson didn’t appear on the *CBS Evening News* until March 3, 2011. This is not an insignificant error in the narrative. Skipping over what happened in that month, denies the reader a complete understanding of Dodson’s motives for going on television.

During that time, the Justice Department issued a categorical denial of the whistleblower allegations to Senator Grassley. The Justice Department had failed to even publicly acknowledge the basic fact that Fast and Furious guns were recovered at the scene of Agent Terry’s death. Other anonymous sources had been quoted on television and many within ATF mistakenly believed that Dodson had been the source. The fact that Dodson’s colleagues in Group VII suspected him as being the source of the anonymous quotes about gunwalking is yet more evidence that Dodson had protested the practice prior to that time.

As Voth watched the program from his living room, he says, he wanted to vomit. He saw sentences from his “schism” e-mail reproduced on the TV screen. But CBS didn’t quote the portions of Voth’s e-mail that described how the group was divided by “petty arguing” and “adolescent behavior.” Instead, CBS claimed the schism had been caused by opposition to gun walking (such alleged opposition is not discussed anywhere in the e-mail, which is below). CBS asserted that Dodson and others had protested the tactic “over and over,” and then quoted portions of Voth’s e-mail in a way that left the impression that gun walking was endorsed at headquarters. CBS contacted the ATF (but not Voth directly). The result was a report that incorrectly painted Voth as zealously promoting gun walking. (A CBS spokeswoman, Sonya McNair, says CBS does not publicly discuss its editorial process but notes, “The White House has already acknowledged the truth of our report.”)

The “Witch Hunt”

Less than 36 hours after the CBS report, Voth was jolted awake at dawn by the blaring of his burglar alarm. With his wife and children still in bed, he crept down the stairs of his desert home, his ATF-issued .40 caliber Sig Sauer extended before him. In the garage, he saw a door ajar and a massive kettle bell he used for workouts knocked from its place. Outside, the fleeing intruder had left behind a partial footprint in the sand.

As Voth waited for the police, he checked his e-mail and found an anonymous threat, sent minutes earlier: "You God-damned stupid 'Yes-Man' who does not have either the morals, or the intelligence, to realize that allowing this 'Fast and Furious' operation would result in unnecessary, unjustified deaths: MAY YOU EAT SHIT AND DIE." Later his wife found a strange car outside their house and an angry post on the Internet listing their home address. Voth confidentially shared his concern about that post in a meeting with two senior ATF officials, only to find an account of the meeting on the Sipsey Street blog within 24 hours.

The ATF's office of operations security investigated the threats to Voth. A confidential report on March 29, 2011, concluded, "ATF 'insiders' are the number one threat to GS Voth and his family." The report cited "at least six individuals," whom it did not name, who had "personal agendas to undermine the credibility of ATF supervisors and members of management as retribution for [Voth's] operational shortcomings." The report cited the two blogs and concluded that "the malicious intent of insiders" had led directly to Voth's becoming the target of a "nation-wide...libel campaign."

Politicians soon got involved, and the situation grew worse for the ATF. In June, Republican staffers for the House Oversight and Government Reform Committee and the Senate Judiciary Committee released a joint report that leaned heavily on interviews with Dodson, Casa, and Alt and identified Voth as a central figure in the scandal. It quoted Dodson describing Voth as "giddy" over the slaughter in Mexico—Voth says he was deeply upset by the violence—but didn't reflect Voth's perspective.

Agent Dodson did not state that Voth was giddy over the slaughter in Mexico, but referred to Voth's desire to connect firearms recoveries to cartels in Mexico. The statement from Agent Dodson quoted in the staff report read:

Whenever he would get a trace report back . . . he was jovial, if not, not giddy, but just delighted about that, hey, 20 of our guns were recovered with 350 pounds of dope in Mexico last night. And it was exciting. To them it proved the nexus to the drug cartels. It validated that . . . we were really working the cartel case here.¹⁴⁸

Voth made no secret of the desire to find the nexus with cartels. On March 14, 2010, he wrote to Group VII:

I read a lot of good reports tonight on individuals who purchased firearms that have been recovered in Mexico. I must insist that we not forget to run those numbers through DEA! You never know when/where one of these numbers is

¹⁴⁸ House Committee on Oversight and Government Reform and Senate Committee on the Judiciary Joint Staff Report, *The Department of Justice's Operation Fast and Furious: Accounts of ATF Agents*, 112th Congress (June 14, 2011), at 38, available at http://oversight.house.gov/wp-content/uploads/2012/02/ATF_Report.pdf.

going to pop up and then our straw purchasers are suddenly related to a Cartel or DTO which is exactly where we want to be.¹⁴⁹ ([View the e-mail here.](#))

Similarly, on May 21, 2010, Voth wrote to Group VII:

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[s] 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.¹⁵⁰ ([View the e-mail here.](#))

The report was released two weeks before Voth was scheduled to be questioned for the first time by Congressional investigators. (A spokesman for Issa says the committee attempted to interview Voth earlier.)

The report was released on June 14, 2011, in conjunction with the first public hearing on Fast and Furious. Well before then, Congressional investigators made multiple attempts to interview Voth in order to obtain his perspective on Fast and Furious. When Congressional investigators visited Phoenix in April 2011, they made a face-to-face request to Voth for an interview. Voth stated “not at this time.” Over the next two months, Voth declined multiple other such requests before finally agreeing to be interviewed. By that point, a hearing date had already been set which was in advance of the scheduled interview date.

As the allegations mounted, pressure intensified. In early July the ATF's once supportive acting director, Melson—who according to e-mails had been briefed weekly on the case—went to Congress and threw his own people under the bus. Melson told Grassley that he had read the case reports only after the scandal broke, and had been “sick to his stomach,” according to press accounts of the meeting. In August, Melson resigned, as did Arizona's U.S. Attorney, Burke. (Melson's lawyer, Richard Cullen, says the Justice Department's inspector general will likely answer many of the continuing questions.) In December 2011, the Justice Department retracted its Feb. 4 letter, in which it had denied walking guns in the Fast and Furious case.

For Voth, steeped in military loyalty, Melson's betrayal was the blow he couldn't fathom. Voth began losing weight, losing sleep. As he puts it, “You barely remember your own name, your mind is going 100 miles an hour.” He no longer knew what to do or who could be trusted. “There would be no way,” he says, “to foreshadow *this*.”

¹⁴⁹ E-mail from David Voth to Phoenix Group VII (Mar. 14, 2010) [Attachment 26].

¹⁵⁰ E-mail from David Voth to Ali Berisha, et al. (May 21, 2010) [Attachment 27].

Since the scandal erupted, almost everyone associated with Fast and Furious has been reassigned. Dodson, Casa, and Alt have been transferred to other field offices. Voth, who has now been interviewed by Congressional investigators and the Justice Department's inspector general, has been reassigned to a desk job in Washington.

New facts are still coming to light—and will likely continue to do so with the Justice Department inspector general's report expected in coming months. Among the discoveries: Fast and Furious' top suspects—Sinaloa Cartel operatives and Mexican nationals who were providing the money, ordering the guns, and directing the recruitment of the straw purchasers—turned out to be FBI informants who were receiving money from the bureau. That came as news to the ATF agents in Group VII.

Today, with Attorney General Holder now squarely in the cross hairs of Congress, Democrats and Republicans are accusing each other of political machinations. Rep. Elijah Cummings, a Maryland Democrat and ranking member of the oversight committee, has accused Issa of targeting Holder as part of an "election-year witch hunt." Issa has alleged on Fox News that Fast and Furious is part of a liberal conspiracy to restrict gun rights: "Very clearly, [the ATF] made a crisis and they are using this crisis to somehow take away or limit people's Second Amendment rights." (Issa has a personal history on this issue: In 1972, at age 19, he was arrested for having a concealed, loaded .25-caliber automatic in his car; he ultimately pleaded guilty to possession of an unregistered gun.)

Issa's claim that the ATF is using the Fast and Furious scandal to limit gun rights seems, to put it charitably, far-fetched.

In writing her story, Eban did not ask Chairman Issa's staff for evidence behind the statement she describes as "far-fetched" that ATF tried to use Operation Fast and Furious to limit gun rights. If she had, she would have been shown the documents from Fast and Furious. These documents indicate that information about specific purchases from the case were supplied in an effort to buttress the case for new reporting requirements.¹⁵¹ ([View those documents here.](#)) This was particularly outrageous as guns that ATF agents had encouraged gun dealers to sell to known straw buyers were being used as examples of why new rules for sales needed to be put in place.

Meanwhile, Issa and other lawmakers say they want ATF to stanch the deadly tide of guns, widely implicated in the killing of 47,000 Mexicans in the drug-war violence of the past five years. But the public bludgeoning of the ATF has had the opposite effect. From 2010, when Congress began investigating, to 2011, gun seizures by Group VII and the ATF's three other groups in Phoenix dropped by more than 90%.

¹⁵¹ For example, Memorandum for the Attorney General from Kenneth Melson, "Issuing demand letters to Federal firearms licensees (FFLs) in selected states requiring them to submit multiple sales information concerning certain types of rifles" (Mar. 26, 2010) (Attachment 29).

During media appearances, Eban has also claimed that Group VII seized more guns than any other ATF group in the country. Both statistics merely echo the apparently coordinated defense launched by attorneys for both Voth and Phoenix Special Agent in Charge William Newell.¹⁵² Yet both statistics take on a different meaning in light of the context about cooperating gun dealers, which Eban left out of her article entirely.

Operation Fast and Furious reached the size and proportions it did in 2010 precisely *because* Group VII was encouraging gun dealers to make the sales, yet avoiding contact with the straw buyers. For over a year straw buyers found that they could buy and transfer guns for trafficking to Mexico with impunity. From November 2009 until the end of 2010, they were not confronted and questioned by the ATF while dealers were assured they were helping the government by going through with the sales. Gun seizures dropped after the case was over only because Phoenix ATF finally rounded up the straw buyers when Border Patrol Agent Brian Terry was murdered. This is hardly a laudable achievement.

Gunwalking was exposed because of courageous whistleblowers like Agent John Dodson and others. The President and the Attorney General have both criticized the practice and pledged to hold people accountable. The United States Attorney for the District of Arizona resigned, and another senior official in his office relied on his Fifth Amendment rights against self-incrimination to avoid answering questions from Congress about his role. The article's thesis that it was all manufactured because one agent had a grudge against his boss is utterly incompatible with even a cursory review of the facts. Unfortunately, the numerous errors and omissions in the article left such a misleading impression, that it was necessary to set the record straight.

¹⁵² Letter from David Voth attorney Joshua Levy to Chairman Darrell Issa and Ranking Member Charles Grassley (Mar. 14, 2012), at 26; letter from William Newell attorney Paul Pelletier to Chairman Darrell Issa and Ranking Member Charles Grassley (Mar. 14, 2012), at 6.

Attachment 1

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

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

INVESTIGATIVE STEPS TAKEN/INVESTIGATIVE PLAN

Investigate Steps Taken

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

Investigative Plan

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

Attachment 2

Page 1 of 2 (2)

Fwd: Project Gunrunner

2 messages

Tue, Jun 15, 2010 at 9:30 AM

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

From: [REDACTED]
 Date: Mon, Jun 14, 2010 at 3:35 PM
 Subject: Project Gunrunner
 To: [REDACTED] <[REDACTED]@atf.gov>

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

[REDACTED]

[REDACTED]

Tue, Jun 15, 2010 at 3:59 PM

To: [REDACTED] <[REDACTED]@usdoj.gov>
 Cc: [REDACTED]

I sent them yesterday. I will send them again, also I just wanted to confirm that Jaime Avila Jr purchased a Barrett .50 20" and all the paperwork was faxed this morning.

On Tue, Jun 15, 2010 at 10:38 AM, [REDACTED] <[REDACTED]@usdoj.gov> wrote:

Can you send those receipts for [REDACTED] and [REDACTED] from June 8, 2010?

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

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

(3)

[REDACTED]

today for a .50 Barrett 20".

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Quoted text hidden]

Attachment 3

From: Voth, David J.
Sent: Monday, March 01, 2010 9:00 AM
To: Phoe-Group VII
Subject: keeping up with Patino

Patino, Uriel	2/24/2010	19:36	986013012L02353 Sale of a Long Gun
Tatino, Uriel	2/25/2010	18:14	986013012L02353 Sale of a Long Gun
Patino, Uriel	2/26/2010	17:11	986013012L02353 Sale of a Long Gun
Patino, Uriel	2/27/2010	16:38	986013012L02353 Sale of a Handgun
Patino, Uriel	2/27/2010	17:34	986013102J01053 Sale of a Handgun

I know people were off on Friday due to working the Gun Show on Saturday (thanks) but we need to make sure we stay up to date on Patino's firearms purchases; he bought on Wednesday, Thursday, Friday, and twice on Saturday.

David Voth
 Group Supervisor
 Phoenix Group VII
 602- [REDACTED]

[REDACTED]

From: Voth, David J.
Sent: Thursday, March 11, 2010 9:11 AM
To: Phoe-Group VII
Subject: FW: another hit
Attachments: AZ SWB Tracking.xlsx

Patino bought handgun at hand gun At [REDACTED] last night @ 6:30ish. You probably know this but if not FYI...

From: [REDACTED]
Sent: Thursday, March 11, 2010 5:36 AM
To: Voth, David J.
Subject: another hit

David,
Here is the updated list. Patino again.

Eric M. Moore
ATF NICS Liaison Specialist
[REDACTED] phone
[REDACTED] fax
[REDACTED] cell

[REDACTED]

From: Voth, David J.
Sent: Tuesday, March 16, 2010 9:03 AM
To: Phoe-Group VII
Subject: FW: Investigations

Patino, Montelongo, and Celis all bought guns on 03/15/2010...

From: [REDACTED] [\[REDACTED\]@eo.gov](mailto:[REDACTED]@eo.gov)
Sent: Tuesday, March 16, 2010 8:15 AM
To: Voth, David J.
Subject: Investigations

David,

Here are three more (all from the same FFL):

Name: Uriel Patino
DOB: [REDACTED]
SS# [REDACTED]
Create Date: 3/15/2010
Time: 4:29 PM Eastern Time
Type: Long gun
NTN: 1JPP-0LY

Name: Jacob Montelongo
DOB: [REDACTED]
SS# [REDACTED]
Create Date: 3/15/2010
Time: 7:23 PM Eastern Time
Type: Handgun
NTN: 1JPT-GSH

Name: Alfredo Celis
DOB: [REDACTED]
SS# not provided
Create Date: 3/15/2010
Time: 4:59 PM Eastern Time
Type: Long gun
NTN: 1JPP-LWW

FFL Number (RDS key): [REDACTED]
FFL Name: [REDACTED]
Address:
 [REDACTED]
 Glendale, AZ 85302

Let me know if you need anything else.

Thanks,
Marc

Marc Chamberlain
NICS Liaison Specialist
FBI NICS Section


[REDACTED]

From: Voth, David J.
Sent: Thursday, March 25, 2010 4:27 PM
To: Gillett, George T. Jr.
Subject: FW: Updating the NICS watch list for our case

From: Voth, David J.
Sent: Thursday, March 25, 2010 1:01 PM
To: Finch, William L. (FBI)
Cc: Gillett, George T. Jr.
Subject: RE: Updating the NICS watch list for our case

Mr. Finch,

Sorry to confuse you with "pronouns" I know how hard they can be to grasp.

Our case is being run out of the USAO for the District of Arizona and we have Grand Jury (i.e. "6e") material, we have a Court Authorized T-III Audio Intercept which was vetted through the local USAO, DOJ Office of Enforcement Operation (OEO), signed off by the Deputy Attorney General (DAG), and then lastly the Chief Federal Judge for the District of Arizona, not to mention the oversight of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). If our word as Federal Agents is not good enough or too confusing for you then we will forgo any further inquiries into this matter.

Respectfully,

David Voth
 Group Supervisor
 Phoenix Group VII
 602 [REDACTED]

From: Finch, William L. [mailto:[REDACTED]]
Sent: Thursday, March 25, 2010 12:36 PM
To: Voth, David J.
Subject: RE: Updating the NICS watch list for our case

Eric - the information that links the three newly identified ATF targets must be in writing from the ATF (email is fine). The use of **pronouns in the second paragraph is confusing**. "They" refers to which group? The original conspirators?

Also, if there are "others" (targets?) who are "falling off," then what are they falling off of? If they are no longer actively purchasing for this conspiracy, then any records NICS generates regarding them would not indicate ... a violation or potential violation of law or regulation. Correct? If that is correct, then can we stop monitoring for those individuals who have fallen off? Whatever they fell off of?

William L. Finch
 Assistant General Counsel
 Office of the General Counsel
 Federal Bureau of Investigation

304- [REDACTED] phn
 304- [REDACTED] fax

From: Voth, David J. [REDACTED]
Sent: Thursday, March 25, 2010 13:55
To: eric.m.moore@[REDACTED]
Subject: Updating the NICS watch list for our case

Eric,

We appreciate all the work you have done on this case and it has proven very helpful. After receiving your NICS watch list the other day we queried our end and found few minor discrepancies. The ones highlighted below in yellow are on your list but with slightly different DOB or SSN. This is the correct information here.

Celis, Alfredo; [REDACTED]; [REDACTED] (Correct SS# [REDACTED])
 Chambers, Jacob; [REDACTED]; [REDACTED] (Correct SS# [REDACTED])
 Collins, Gerald; [REDACTED]; [REDACTED] (Correct DOB [REDACTED])
 Moore, Joshua; [REDACTED]; [REDACTED] (Correct SS# [REDACTED])

Can we add the individuals listed below to the NICS watch list for our investigation? They are continually recruiting new Straw Purchasers and other are obviously falling off. These individuals have purchased firearms recently with our crew (Patino, Moore, etc) and have been connected through surveillance and Pen Register data.

[REDACTED]
 [REDACTED]
 [REDACTED]

Thanks again for all your help,

David Voth
 Group Supervisor
 Phoenix Group VII
 602- [REDACTED]

From: Voth, David J.
Sent: Monday, May 24, 2010 1:06 PM
To: MacAllister, Hope A.; English, Tonya A.; Sonnendecker, Mark
Subject: FW: Investigations
Attachments: Voth Tracking.xlsx

RC-5	Avila, Jaime	5/21/2010	19:00	RC-5	Sale of a Handgun
	Montelongo, Jacob	5/21/2010	21:11		Sale of a Long Gun
	Patino, Uriel	5/22/2010	19:45		Sale of a Long Gun
	Patino, Uriel	5/22/2010	20:25		Sale of a Handgun and Long Gun

Wouldn't be great if we were up on RC-3 ...anyway 4 transactions, the only one I knew of was Montelongo.

From: Chamberlain RC-1
Sent: Monday, May 24, 2010 10:02 AM
To: Voth, David J.
Subject: Investigations

David,

There were four more transactions over the weekend. The updated spreadsheet is attached. Let me know if you need anything else.

Thanks,
 Marc

Marc Chamberlain
 NICS Liaison Specialist
 FBI NICS Section

RC-1

HOCR ATF - 002691

From: Newell, William D.
 Sent: Friday, October 29, 2010 1:22:00 PM
 To: McMahon, William G.
 Subject: Fw: Fast and Furi.

FYI - before I left Orlando I asked Jim to verify what I told you and Mark earlier was correct, that being the purchases have slowed significantly. Several reasons for this main one being [REDACTED] (Acosta) is in some trouble with the Glendale PD [REDACTED]

[REDACTED] Also, we have been very successfully over the past several months in seizing guns before they head south by quickly responding to calls from cooperating FFLs as well as "flagging" our known straw purchasers via NICS.

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

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

From: Needles, James R.
 To: Newell, William D.
 Sent: Fri Oct 29 12:46:19 2010
 Subject: RE: Fast and Furi.

Of the [REDACTED] individuals we know of who are supplying firearms to the organization, in the last 30 days one individual (Patino) purchased 5 firearms which we immediately seized, that was on Oct. 8. We have flagged these individuals in NICS and are notified if they make a purchase.

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

From: Newell, William D.
 Sent: Friday, October 29, 2010 4:46 AM
 To: Needles, James R.
 Subject: Fw: Fast and Furi.

Get with Voth since you're together and give me a status on firearms purchase activity over the past 30 days of the suspects in this case. An e-mail will suffice.

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

From: Chait, Mark R.
 To: Newell, William D.
 Cc: McMahon, William G.
 Sent: Fri Oct 29 07:39:08 2010
 Subject: Re: Fast and Furi.

I'm concerned that we are not shutting down the activity waiting on an indictment. Thanks
 Mark R. Chait
 Assistant Director

HOCR ATF - 001912

Field Operations

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

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

From: Newell, William D.
 To: Chait, Mark R.
 Cc: McMahon, William G.
 Sent: Fri Oct 29 07:29:16 2010
 Subject: Re: Fast and Furi.

No, they pushed it to December 7. I was supposed to meet with the USA this coming week to discuss the delay but he canceled due to an "unexpected" DC trip. I'm going to call him today.

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

From: Chait, Mark R.
 To: Newell, William D.
 Cc: McMahon, William G.
 Sent: Fri Oct 29 07:27:17 2010
 Subject: Fast and Furi.

Any news on a quicker indictment?
 Mark R. Chait
 Assistant Director
 Field Operations

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

HOCR ATF - 001913

Attachment 4

From: Gillett, George T. Jr.
Sent: Thursday, December 17, 2009 1:39 PM
To: Voth, David J.
Subject: RE:

Anticipatory mi amigo. Let me know when "the eagle is in the nest."

Below is an excerpt from ATF Order 3310.4B

Please see 148 (a)(1) and (2).

148. "WEAPONS TRANSFERS".

- a. Considerations. During the course of illegal firearms trafficking investigations, special agents may become aware of, observe, or encounter situations where an individual(s) will take delivery of firearms, or transfer firearm(s) to others. In these instances, the special agent may exercise the following options:
 - (1) In cases where probable cause exists to believe a violation of law has occurred and the special agent determines there is a need to intervene in the weapons transfer (e.g., the recipient of the firearms is a known felon; it is known the firearms will be used in crime of violence), the special agent shall do so but should place concerns for public safety and the safety of the involved special agents as the primary determining factor in exercising this option.
 - (2) In other cases, immediate intervention may not be needed or desirable, and the special agent may choose to allow the transfer of firearms to take place in order to further an investigation and allow for the identification of additional coconspirators who would have continued to operate and illegally traffic firearms in the future, potentially producing more armed crime.
- b. Alternative Intervention Methods. In the event it is determined by the special agent that a weapons transfer should not take place, the special agent may consider alternative methods of intervention other than arrest and/or search warrants that will prevent the culmination of the weapons transfer but allow the investigation to continue undetected. These alternative methods are considered to be a course of action that must be approved by the RAC/GS or SAC as previously noted. These alternative interventions may include, but are not limited to:
 - (1) A traffic stop (supported by probable cause to search or supported by a traffic violation allowing for plain view observations) by a State or local marked law enforcement vehicle that would culminate in the discovery and retention of the firearms. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. Should

the occupants of the vehicle be new/unknown participants in the organization under investigation, they may be fully identified which in turn will yield additional information for followup investigation. Should the occupants of the vehicle be known participants in the investigation, requesting telephone tolls for these individuals (or if a Penn Register/T-III interception order is in use) for the period shortly after the traffic stop may show calls and yield identifying information relating to the intended receivers of the firearms.

- (2) If the firearms are being shipped out of the United States via a common carrier via checked luggage or freight, the firearms may be seized/or recovered by the special agents, in coordination with the U.S. Customs Service under border search authority, without detection by the traffickers. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. The investigation may then continue with the traffickers led to believe the shipment of firearms was stolen in transit. Requesting telephone tolls for these individuals (or if a Penn Register/T-III interception order is in use) for the period shortly after the recovery of the firearms may show calls and yield identifying information relating to the intended receivers of the firearms.
- (3) If the firearms are being shipped via the U.S. mail, coordination with the U.S. postal inspectors will assist the special agents in recovery of the firearms without detection by the traffickers. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. The investigation may then continue with the traffickers led to believe the shipment of firearms was stolen in transit. Requesting telephone tolls for these individuals (or if a Penn Register/T-III interception order is in use) for the period shortly after the recovery of the firearms may show calls and yield identifying information relating to the intended receivers of the firearms.
- (4) If the special agent chooses to arrest the individual(s) with the firearm(s), the possibility exists that a debriefing of this individual will yield other members of the organization, or the individual(s) will agree to participate in a controlled delivery of the firearm(s) to the original intended receivers.

From: Voth, David J.
Sent: Thursday, December 17, 2009 11:37 AM
To: Gillett, George T. Jr.
Subject: RE:

Not yet...?

From: Gillett, George T. Jr.
Sent: Thursday, December 17, 2009 11:28 AM
To: Newell, William D.
Cc: Voth, David J.
Subject:

Bill-

OSII has not yet finished a link diagram on this investigation. Therefore, there is no "chart" in existence diagramming this investigation. Lorren Leadmon and crew are currently working on such a link-diagram chart, but it is not yet complete. Mr. Leadmon did have a power point that gave an overview of the case and that has been forwarded to GS Voth. However, that power point is about 1 week old, so the info is already a bit dated. GS Voth and Mr. Leadmon are speaking on a regular basis, so the lines of communication are now the equivalent of the proverbial fire hose. During one of their conversations, Lorren told Voth that Ray Rowley received a briefing on the investigation this week and mentioned the possibility of needing to shut the investigation down due to the large number of guns that have already been trafficked. Therefore, I spoke with Ray Rowley today and explained that even though the identified straw-purchasers bought approximately 175 guns last week alone, we have slowed down the FFL on future purchases and are obtaining intelligence directly related to this investigation [REDACTED]. Ray did express some concern regarding the total number of guns that have been purchased by this straw-purchase scheme. I cautioned Ray on not doing any type of informal calculations on purchase numbers as that likely will result in double counting of firearms (counting purchased guns as well as recovered guns). I have also advised that we will slow the purchasers down as much as possible, but we have not identified the network yet. The result will be that the responsible conspirators will have new straw-purchasers operational before we complete the booking paperwork. I have asked Ray to consider me his direct point of contact on any future questions and/or concerns and I will do the same with him. I have also spoken with Kevin O'Keefe today and maintain those lines of communication.

As for plans to proceed, I have asked Mr. Voth to begin preparing a white paper that outlines progress to date as well as a plans for proceeding with the investigation. I know that he wants to take the information [REDACTED] involving these subjects. I have also asked Mr. Voth to prepare a list of resources that HQ can provide (personnel and equipment) to support this investigation. I will keep you posted as things arise.

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

Attachment 5



United States Attorney's Office
District of Arizona

Memorandum

To: Mike Morrissey
From: Emory Hurley
Subject: Manuel Celis Acosta Trafficking Investigation
Date: January 5, 2010

Today I met with ATF regarding their investigation centered around Manuel Celis Acosta, suspected of trafficking firearms to Mexico. He is the center of a hub-and-spokes conspiracy involving [REDACTED] or more straw purchasers. Based upon inspection of 4473s, the case involves more than 600 firearms purchased to date. There have been recoveries of approximately 100 firearms in both the US and Mexico, including a seizure of nine firearms in Douglas, Arizona, and the Naco seizure of forty-one AK variants.

We have reviewed the available evidence thus far and agree that we do not have any chargeable offenses against any of the players. In the past, ATF agents have investigated cases similar to this by confronting the straw purchasers and hoping for an admission that might lead to charges. This carries a substantial risk of letting the members of the conspiracy know that they are the subject of an investigation and not gain any useful admissions from the straw buyer. In the last couple of years, straw buyers appear to be well coached in how to avoid answering question about firearms questions. Even when the straw buyers make admissions and can be prosecuted, they are easily replaced by new straw buyers and the flow of guns remains unabated.

In this case, ATF has discovered that the central target of their investigation is linked to a state wire case being run out of the DEA wire room. They have reviewed a number of "dirty" calls from the Celis Acosta regarding gun trafficking and believe that they could pursue a federal T-III. They are also pursuing pole cams and other surveillance. It is believed that the guns are beings stored at a number of locations, including an auto-body shop. We currently have RC-3 [REDACTED] to link the various players in this investigation.

ATF believes that there may be pressure from ATF headquarters to immediately contact identifiable straw purchasers just to see if this develops any indictable cases and to stem the flow of guns. Local ATF favors pursuing a wire and surveillance to build a case against the leader of the organization. If a case cannot be developed against the hub of the conspiracy, he will be able to replace the spokes as needed and continue to traffic firearms. I am familiar with the difficulties of building a case only upon the interviews of a few straw purchasers and have seen many such investigations falter at the first interview. I concur with Local ATF's decision to pursue a longer term investigation to target the leader of the conspiracy.

Please let me know if you need additional information on this matter. Thank you.

HOCR USAO 002961

Attachment 6

[REDACTED]

From: [REDACTED]
 Sent: Wednesday, December 16, 2009 9:14 AM
 To: [REDACTED]
 Subject: Re: Tuesday Night Wire Update

They should just use our case# - they need the drug nexus.

[REDACTED]

From: [REDACTED]
 To: [REDACTED]
 Sent: Wed Dec 16 11:12:37 2009
 Subject: RE: Tuesday Night Wire Update

Yeah, that was the impression I got from their ATF GS. They seem excited to work up the case and one of the case agents seems pretty sharp. They are going to OCDETF the case and work with us if a gun load moves. They said that the best way is to try to stop the load as it goes across into Mexico which adds in a whole bunch of charges. They said that they have experience coordinating outbound inspections and have taken gun loads off in the past that way. They mentioned that a wall-off results in basically nothing. Because no one is a prohibited possessor, there aren't any good charges to stick to anyone, even if a confession is made by the driver. She said that the AUSA typically will not charge anyone and probation is the typical sentence. One the plus side, we have the conspiracy through the wire which will help significantly with charging down the road.

From: [REDACTED]
 Sent: Wednesday, December 16, 2009 8:09 AM
 To: [REDACTED]
 Subject: Re: Tuesday Night Wire Update

[REDACTED] said ATF wants to write for phones.

[REDACTED]

From: [REDACTED]
 To: [REDACTED]
 Cc: [REDACTED]
 Sent: Wed Dec 16 00:50:29 2009
 Subject: Tuesday Night Wire Update

Pretty quiet on the phones this evening. According to calls, [REDACTED] may be turning himself in to law enforcement. I'm assuming it is for his warrant in Texas regarding his role in harboring a fugitive. As a result, [REDACTED] may begin speaking directly to [REDACTED] the dispatcher in Nuevo Leon. We'll see how this unfolds once [REDACTED] listens to the calls.

Attachment 7

Management Log for Case: 785115-10- [REDACTED]

Case Title: CHAMBERS, Jacob, et al

[illegible]

Attachment 8

Ongoing ATF investigation

6 messages

Voth, David J.

Tue, Apr 13, 2010 at 9:24 AM

To:

Cc:

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-

Tue, Apr 13, 2010 at 1:29 PM

To: "Voth, David J."

Cc:

<To

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,

[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:

To: "Vonn, David J."

Cc: [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,

Page 4 of 5

[REDACTED]

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

From: [REDACTED]
 Date: Tue, Apr 13, 2010 at 1:29 PM
 Subject: Re: Ongoing ATF investigation
 To: "Voth, David J." [REDACTED]
 Cc: [REDACTED]
 <[REDACTED]>

[REDACTED]

Tue, Apr 13, 2010 at 1:31 PM

[REDACTED]

Voth, David J. [REDACTED]

To: [REDACTED]
 Cc: [REDACTED]

Thu, Apr 15, 2010 at 9:23 AM

[REDACTED]

We at ATF consider the [REDACTED] 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-

From: [REDACTED]
Sent: Tuesday, April 13, 2010 1:30 PM
To: Voth, David J.
Cc: [REDACTED]
Subject: Re: Ongoing ATF investigation

David,

[REDACTED]

To: "Voth, David J." [REDACTED]
Cc: [REDACTED]

Thu, Apr 15, 2010 at 10:39 AM

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,

[REDACTED]

[REDACTED]

2/14/2011

Fox News report

3 messages

Thu, Jun 17, 2010 at 11:56 AM

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

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,

[REDACTED]

[REDACTED]

Voth, David J. [REDACTED]

Fri, Jun 18, 2010 at 2:25 PM

To: [REDACTED]

[REDACTED]

[REDACTED]

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] next Tuesday, June 22, 2010. Any chance you are available that day around 10:00-10:30 am?

Thanks,

Dave Voth

From: [REDACTED]
Sent: Thursday, June 17, 2010 11:56 AM
To: Voth, David J.
Subject: Fox News report

[REDACTED]

Reply-To: [REDACTED]
To: "Voth, David J." [REDACTED]

Mon, Jun 21, 2010 at 9:34 PM

David,

I am back intown. If you are still free to meet on the 22nd I will be [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]

Sent from my Verizon Wireless BlackBerry

From: "Voth, David J." <[REDACTED]>
Date: Fri, 18 Jun 2010 17:25:25 -0400
To: [REDACTED]
Subject: RE: Fox News report

[REDACTED]

Attachment 9

From: Gillett, George T. Jr.
Sent: Monday, January 04, 2010 4:09 PM
To: Voth, David J.
Subject: FW: briefing paper II
Attachments: briefing paper II.docx

From: Voth, David J.
Sent: Monday, January 04, 2010 10:29 AM
To: Gillett, George T. Jr.
Subject: briefing paper II

Phoenix Field Division
Phoenix Group VII (SWB Group)
Briefing Paper on: 785115-10-0004

Background

1. This investigation has currently identified more than 20 individual connected straw purchasers. More suspects are being identified as the scope of the investigation expands. The straw-purchase suspects currently identified are associated with one another through

[REDACTED] To date (September 2009 – present) this group has purchased in excess of 650 firearms (mainly AK-47 variants) for which they have paid cash totaling more than \$350,000.00.

2. To date there have been five (5) notable seizure events connected with this group, and approximately 53 firearms originally purchased by this group have been recovered. Three of these seizures have been in the Country of Mexico, one recovery in Douglas, AZ, and one recovery in Nogales, AZ. The U.S. recoveries were both believed to be destined for Mexico.
3. The seizures referenced above were not from any member of the targeted group of straw purchasers identified in this investigation. Rather, they were from Hispanic individuals (both male and female) whose association with our target group is currently unknown. [REDACTED] straw-purchase suspects delivering recently purchased firearms to Hispanic males. Two such transactions were observed to take place at auto shops/auto auctions.
4. At one of the Mexico seizures there were 45 firearms recovered in addition to 500 kilograms of cocaine, 85 pounds of methamphetamine, and over \$2,000,000.00 in U.S. currency. Of the 45 firearms recovered, 14 of those firearms (all AK-47 variants) were originally purchased by this target group. Our investigation has not produced any indication of drug trafficking or financial resources consistent with the seizures listed above.

5. [REDACTED]

HOCR ATF - 001183

Investigative Techniques Used to Date

6. To date in this investigation we have utilized numerous proactive, advanced investigative techniques:

[REDACTED]

Strategy

7. This investigation is currently being conducted in conjunction with the Phoenix DEA OCDETF strike force. ATF Phoenix VII is the lead investigating enforcement group. A formal OCDETF proposal is completed and will be presented on January 26, 2009, in furtherance of this investigation. It is unknown at this time what connection exists between these straw-purchasers and the drug trafficking organizations (DTOs) of Mexico.
8. Currently our strategy is to allow the transfer of firearms to continue to take place in order to further the investigation and allow for the identification of additional coconspirators who would continue to operate and illegally traffic firearms to Mexican DTOs which are perpetrating armed violence along the Southwest Border. This all in compliance with ATF 3310.4(b) 148(a)(2).

HOCR ATF - 001184

9. The ultimate goal is to [REDACTED] identify and prosecute all co-conspirators of the DTO to include the 20 identified straw purchasers, the facilitators of the distribution cell centered here in Phoenix, the transportation cells taking firearms South, and ultimately to develop and provide prosecutable information to our Mexican law enforcement counterparts for actions.

Additional Resources

10. This investigation is a Southwest Border "Gunner" investigation initiated by Phoenix Group VII. Group VII did not exist in FY'09 and was newly formed FY'10 under the Southwest Border Strategy to focus on investigations involving the trafficking of firearms to Mexico. As such, Group VII currently is comprised of four Special Agents; two of which are journeymen grade, two of which are still in the OJT program and one Group Supervisor.

11. In order to conduct [REDACTED] Group VII is totally reliant on other groups and TFO to provide additional bodies. If those agents or TFO have other investigative priorities, [REDACTED] If one or more of the agents in Group VII is on leave or training we have 2-3 agents [REDACTED]

12. It is hereby respectfully requested that additional bodies be brought in for the purpose of aiding/assisting in this investigation. [REDACTED] The [REDACTED] (especially of the Barrett .50 caliber rifles which have been requested/ordered by targets of this investigation.) [REDACTED]

Attachment 10

RC-[REDACTED]

From: Burke, Dennis (USAAZ)
Sent: Thursday, January 07, 2010 5:08 PM
To: Morrissey, Mike (USAAZ)
Cc: Lodge, Joe (USAAZ); Hurley, Emory (USAAZ)
Subject: RE: heads up on gun trafficking case

Hold out for bigger. Let me know whenever and w/ whomever I need to weigh-in.

From: Morrissey, Mike (USAAZ)
Sent: Tuesday, January 05, 2010 5:13 PM
To: Burke, Dennis (USAAZ)
Cc: Lodge, Joe (USAAZ); Hurley, Emory (USAAZ)
Subject: heads up on gun trafficking case

Dennis – Joe Lodge has been briefed on this but wanted to get you a memo for your review. Bottom line – we have a promising guns to Mexico case (some weapons already seized and accounted for), local ATF is on board with our strategy but ATF headquarters may want to do a smaller straw purchaser case. We should hold out for the bigger case, try to get a wire, and if it fails, we can always do the straw buyers. Emory's memo references that this is the "Naco, Mexico seizure case" -- you may have seen photos of that a few months ago. << File: Emory trafficking case.wpd >>



United States Attorney's Office
District of Arizona

Memorandum

To: Mike Morrissey
From: Emory Hurley
Subject: Manuel Celis Acosta Trafficking Investigation
Date: January 5, 2010

Today I met with ATF regarding their investigation centered around Manuel Celis Acosta, suspected of trafficking firearms to Mexico. He is the center of a hub-and-spokes conspiracy involving [REDACTED] or more straw purchasers. Based upon inspection of 4473s, the case involves more than 600 firearms purchased to date. There have been recoveries of approximately 100 firearms in both the US and Mexico, including a seizure of nine firearms in Douglas, Arizona, and the Naco seizure of forty-one AK variants.

We have reviewed the available evidence thus far and agree that we do not have any chargeable offenses against any of the players. In the past, ATF agents have investigated cases similar to this by confronting the straw purchasers and hoping for an admission that might lead to charges. This carries a substantial risk of letting the members of the conspiracy know that they are the subject of an investigation and not gain any useful admissions from the straw buyer. In the last couple of years, straw buyers appear to be well coached in how to avoid answering question about firearms questions. Even when the straw buyers make admissions and can be prosecuted, they are easily replaced by new straw buyers and the flow of guns remains unabated.

In this case, ATF has discovered that the central target of their investigation is linked to a state wire case being run out of the DEA wire room. They have reviewed a number of "dirty" calls from the Celis Acosta regarding gun trafficking and believe that they could pursue a federal T-III. They are also pursuing pole cams and other surveillance. It is believed that the guns are beings stored at a number of locations, including an auto-body shop. We currently have RC-3 [REDACTED] to link the various players in this investigation.

ATF believes that there may be pressure from ATF headquarters to immediately contact identifiable straw purchasers just to see if this develops any indictable cases and to stem the flow of guns. Local ATF favors pursuing a wire and surveillance to build a case against the leader of the organization. If a case cannot be developed against the hub of the conspiracy, he will be able to replace the spokes as needed and continue to traffic firearms. I am familiar with the difficulties of building a case only upon the interviews of a few straw purchasers and have seen many such investigations falter at the first interview. I concur with Local ATF's decision to pursue a longer term investigation to target the leader of the conspiracy.

Please let me know if you need additional information on this matter. Thank you.

HOCR USAO 002961

Attachment 11

From: Voth, David J.
Sent: Friday, April 02, 2010 1:31 PM
To: Hurley, Emory (USAAZ); Gillett, George T. Jr.
Cc: Phoe-Group VII
Subject: No pressure but perhaps an increased sense of urgency...

MEXICO STATS

958 killed in March 2010 (Most violent month since 2005)

937 killed in January 2010

842 killed in December 2009

SINALOA - MARCH STATISTICS

187 murders in March, including 11 policemen

I hope this e-mail is well received in that it is not intended to imply anything other than that the violence in Mexico is severe and without being dramatic we have a sense of urgency with regards to this investigation. Our subjects purchased 359 firearms during the month of March alone, to include numerous Barrett .50 caliber rifles. I believe we are righteous in our plan to dismantle this entire organization and to rush in to arrest any one person without taking in to account the entire scope of the conspiracy would be ill advised to the overall good of the mission. I acknowledge that we are all in agreement that to do so properly requires patience and planning. In the event however that there is anything we can do to facilitate a timely response or turnaround by others we should communicate our sense of urgency with regard to this matter.

Thanks for everyone's continued support in this endeavor,

David Voth
 Group Supervisor
 Phoenix Group VII
 [REDACTED]

Attachment 12

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.

Attachment 13

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.

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: 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?

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: 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

Attachment 14

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

Suspect Gun: S20100001049

Page 1 of 2

ROMARM/CUGIR	WASR-10	762	AO-9974-1994	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT 2271
ROMARM/CUGIR	WASR-10	762	1972DL4024	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

Uncontrolled
Unclassified 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: S20100001050

Entered Date: June 25, 2010

MAR [REDACTED] SONNENDEC [REDACTED] ER
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: HISPAN
IC

Sex: Male

Height:

Weight:

Date: 06/24/2010

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: 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

Suspect Gun: S20100001050

Page 1 of 2

ROMARM/CUGIR	WASR-10	762	1968BL3656	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT 2273
ROMARM/CUGIR	WASR-10	762	AH-3715-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

Uncontrolled
Unclassified 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 0, 2010

MARSONNENDECER
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: #:

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: 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

Suspect Gun: S20100001078

Page 1 of 2

ROMARM/CUGIR	WASR-10	762	1969BP1047	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT 2275
ROMARM/CUGIR	WASR-10	762	AH-7643-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

Uncontrolled
Unclassified 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 0, 2010

MAR [REDACTED] SONNENDEC [REDACTED] ER
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: 06/29/2010

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: 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

Suspect Gun: S20100001077

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ROMARM/CUGIR	WASR-10	762	AG-0548-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT 2277
ROMARM/CUGIR	WASR-10	762	AG-7795-1989	RIFLE	CENTURY ARMS INC (CAI), ST. ALBANS, VT

Unclassified Controlled Information

LAW ENFORCEMENT SENSITIVE

DATE	LOCATION				
08/01/2010	PPD Recovery				
270	ROMARM/CUGIR	DRACO	DR531309	Pistol	7.62
DATE	LOCATION				
09/01/2010	PPD Recovery				
271	DPMS INC.	A15	F188275	Rifle	223
272	ROMARM/CUGIR	DRACO	DR950710	Pistol	7.62
273	ROMARM/CUGIR	DRACO	DC214510	Pistol	7.62
274	LORCIN ENGINEERING	L360	124929	Pistol	380
DATE	LOCATION				
08/03/2010	ATF/SPD Recovery				
275	TNW	AAM3	752	Rifle	50
DATE	LOCATION				
08/05/2010	TX Recovery				

Tuesday, December 07, 2010

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LAW ENFORCEMENT SENSITIVE

DHS OGR FF 000220

LAW ENFORCEMENT SENSITIVE

276	ROMARM/CUGIR	GP WASR-10	1974DR1078	Rifle	7.62	
277	ROMARM/CUGIR	GP WASR-10	1972DL1330	Rifle	7.62	
278	ROMARM/CUGIR	GP WASR-10	1985ZS4512	Rifle	7.62	
279	ROMARM/CUGIR	GP WASR-10	1969BP1516	Rifle	7.62	
280	ROMARM/CUGIR	GP WASR-10	1972DM0786	Rifle	7.62	
281	ROMARM/CUGIR	GP WASR-10	1971DD3813	Rifle	7.62	
282	ROMARM/CUGIR	GP WASR-10	AH01561989	Rifle	7.62	
283	ROMARM/CUGIR	GP WASR-10	AF00991989	Rifle	7.62	
284	ROMARM/CUGIR	GP WASR-10	1968BL3656	Rifle	7.62	
285	ROMARM/CUGIR	GP WASR-10	AH37151989	Rifle	7.62	
286	ROMARM/CUGIR	GP WASR-10	1985ZS2741	Rifle	7.62	
287	ROMARM/CUGIR	GP WASR-10	AH82991989	Rifle	7.62	
288	ROMARM/CUGIR	GP WASR-10	1971DG2808	Rifle	7.62	
289	ROMARM/CUGIR	GP WASR-10	1974DR0043	Rifle	7.62	
290	ROMARM/CUGIR	GP WASR-10	AG98971989	Rifle	7.62	
291	ROMARM/CUGIR	GP WASR-10	1968BF0470	Rifle	7.62	

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LAW ENFORCEMENT SENSITIVE

DHS OGR FF 000221

LAW ENFORCEMENT SENSITIVE

292	ROMARM/CUGIR	GP WASR-10	1979ZE0769	Rifle	7.62	
293	ROMARM/CUGIR	GP WASR-10	1982ZP1916	Rifle	7.62	
294	ROMARM/CUGIR	GP WASR-10	1969BP1047	Rifle	7.62	
295	ROMARM/CUGIR	GP WASR-10	AH76431989	Rifle	7.62	
296	ROMARM/CUGIR	GP WASR-10	AG23901989	Rifle	7.62	
297	ROMARM/CUGIR	GP WASR-10	AH28461989	Rifle	7.62	
298	ROMARM/CUGIR	GP WASR-10	AG39091989	Rifle	7.62	
299	ROMARM/CUGIR	GP WASR-10	1982ZP6958	Rifle	7.62	
300	ROMARM/CUGIR	GP WASR-10	AG34091989	Rifle	7.62	
301	ROMARM/CUGIR	GP WASR-10	1969BR0089	Rifle	7.62	
302	ROMARM/CUGIR	GP WASR-10	AH00091989	Rifle	7.62	
303	ROMARM/CUGIR	GP WASR-10	1968BG2208	Rifle	7.62	
304	ROMARM/CUGIR	GP WASR-10	AG05481989	Rifle	7.62	
305	ROMARM/CUGIR	GP WASR-10	AG77951989	Rifle	7.62	
306	ROMARM/CUGIR	GP WASR-10	1972DJ4685	Rifle	7.62	
307	ROMARM/CUGIR	GP WASR-10	1971DB2130	Rifle	7.62	

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LAW ENFORCEMENT SENSITIVE

DHS OGR FF 000222

LAW ENFORCEMENT SENSITIVE

308	ROMARM/CUGIR	GP WASR-10	1982P8118	Rifle	7.62	
309	ROMARM/CUGIR	GP WASR-10	1971DG0465	Rifle	7.62	
310	ROMARM/CUGIR	GP WASR-10	1981ZL2091	Rifle	7.62	
311	ROMARM/CUGIR	GP WASR-10	1971DC3061	Rifle	7.62	
312	ROMARM/CUGIR	GP WASR-10	1969BR4349	Rifle	7.62	
313	ROMARM/CUGIR	GP WASR-10	1981ZL4475	Rifle	7.62	
314	ROMARM/CUGIR	GP WASR-10	1977ZA0038	Rifle	7.62	
315	ROMARM/CUGIR	GP WASR-10	1972DL1655	Rifle	7.62	
316	ROMARM/CUGIR	GP WASR-10	AF15901989	Rifle	7.62	
317	ROMARM/CUGIR	GP WASR-10	1974DT1350	Rifle	7.62	
318	ROMARM/CUGIR	GP WASR-10	1982ZR2477	Rifle	7.62	
319	ROMARM/CUGIR	GP WASR-10	1971DG1302	Rifle	7.62	
320	ROMARM/CUGIR	GP WASR-10	1971DB1142	Rifle	7.62	
321	ROMARM/CUGIR	GP WASR-10	1971DD1371	Rifle	7.62	
322	ROMARM/CUGIR	GP WASR-10	1974DP2896	Rifle	7.62	
323	ROMARM/CUGIR	GP 1975	GPC500294	Rifle	7.62	

Tuesday, December 07, 2010

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LAW ENFORCEMENT SENSITIVE

DHS OGR FF 000223

LAW ENFORCEMENT SENSITIVE

324	ROMARM/CUGIR	GP 1975	GPC500468	Rifle	7.62	
325	ROMARM/CUGIR	GP 1975	GPC501040	Rifle	7.62	
326	ROMARM/CUGIR	GP 1975	GPC500162	Rifle	7.62	
327	ROMARM/CUGIR	GP 1975	GPC501045	Rifle	7.62	
328	ROMARM/CUGIR	GP 1975	GPC501111	Rifle	7.62	
329	ROMARM/CUGIR	GP WASR-10	1969BP1531	Rifle	7.62	
330	ROMARM/CUGIR	GP WASR-10	1985ZS8142	Rifle	7.62	
331	ROMARM/CUGIR	GP WASR-10	1972DL3449	Rifle	7.62	
332	ROMARM/CUGIR	GP WASR-10	1982ZP7936	Rifle	7.62	
333	ROMARM/CUGIR	GP WASR-10	1985ZS6092	Rifle	7.62	
334	ROMARM/CUGIR	GP WASR-10	AH79441989	Rifle	7.62	
335	ROMARM/CUGIR	GP WASR-10	AH58181989	Rifle	7.62	
336	ROMARM/CUGIR	GP WASR-10	AP80621989	Rifle	7.62	
337	ROMARM/CUGIR	GP WASR-10	AO99741994	Rifle	7.62	
338	ROMARM/CUGIR	GP WASR-10	1972DL4024	Rifle	7.62	

Tuesday, December 07, 2010

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LAW ENFORCEMENT SENSITIVE

DHS OGR FF 000224

Attachment 15

From: Voth, David J. <[REDACTED]>
Sent: Thursday, March 11, 2010 3:20 PM
To: Quinn, Brent <[REDACTED]>
Subject: RE: Phoenix VII wire

It really is first come first serve. Because of the building access issues with the DEA wire room it will be manned by Group VII agents. Therefore what is left is 5 day shifts, 5 nights shifts on surveillance. I am attempting to split the weekends so everyone has to work one of the two days that way no one get screwed too hard and everybody gets screwed a little bit...I guess I am open to the possibility if someone works the entire weekend they could have the entire next weekend off...?

From: Quinn, Brent
Sent: Thursday, March 11, 2010 1:14 PM
To: Voth, David J.
Subject: RE: Phoenix VII wire

I guess, you're not going to give the out of towners the crappy shifts are you?

Brent Quinn
 Resident Agent in Charge
 Las Cruces I Field Office
 Bureau of Alcohol, Tobacco, Firearms and Explosives
 [REDACTED] - Office
 [REDACTED] - Fax
 [REDACTED] - Cell



From: Voth, David J.
Sent: Thursday, March 11, 2010 1:13 PM
To: Quinn, Brent
Subject: RE: Phoenix VII wire

He must want day shift, mon-fri...?

From: Quinn, Brent
Sent: Thursday, March 11, 2010 12:55 PM
To: Voth, David J.
Subject: RE: Phoenix VII wire

King-man said in that case he'll see you tomorrow. ☺

Brent Quinn
 Resident Agent in Charge
 Las Cruces I Field Office
 Bureau of Alcohol, Tobacco, Firearms and Explosives



[REDACTED] - Office
[REDACTED] - Fax
[REDACTED] - Cell



From: Voth, David J.
Sent: Thursday, March 11, 2010 12:53 PM
To: Quinn, Brent
Subject: RE: Phoenix VII wire

That would be ideal. In some respect it will be first come first pick with regard to shifts. They are all surveillance shifts but days/nights/weekends etc...Also we need to have minimization meeting with everyone involved which we are planning for Monday morning...

From: Quinn, Brent
Sent: Thursday, March 11, 2010 12:25 PM
To: Voth, David J.
Subject: RE: Phoenix VII wire

Travelling 03/14?



Brent Quinn
Resident Agent in Charge
Las Cruces I Field Office
Bureau of Alcohol, Tobacco, Firearms and Explosives

[REDACTED] - Office
[REDACTED] - Fax
[REDACTED] - Cell



From: Voth, David J.
Sent: Thursday, March 11, 2010 11:50 AM
To: Quinn, Brent
Subject: RE: Phoenix VII wire

Copy that, thank you sir!

From: Quinn, Brent
Sent: Thursday, March 11, 2010 11:26 AM
To: Voth, David J.
Subject: Re: Phoenix VII wire



Dennis King

Brent Quinn - RAC
ATF Las Cruces Field Office

- Cell
- Office
- Fax

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

From: Voth, David J.
To: Quinn, Brent
Cc: Gillett, George T. Jr.
Sent: Thu Mar 11 13:13:01 2010
Subject: RE: Phoenix VII wire
Brent,

It was my understanding that Mr. Gillett intended for each group to forward a name; thus two names from Las Cruces. Sorry for any confusion on your end or my end...?

Thanks,

Dave

From: Quinn, Brent
Sent: Thursday, March 11, 2010 10:22 AM
To: Voth, David J.
Subject: FW: Phoenix VII wire

As I understand it, ARAC Jorgensen forwarded [REDACTED]'s name to cover the below listed requirement for Las Cruces. Thanks.

Brent Quinn
Resident Agent in Charge
Las Cruces I Field Office
Bureau of Alcohol, Tobacco, Firearms and Explosives

- Office
- Fax
- Cell



From: Gillett, George T. Jr.
Sent: Thursday, March 11, 2010 9:56 AM
To: Forcelli, Peter; Ratliff, Mark D.; Palmer, Douglas R.; Arellano, Bernardo; Nallin, Michael T.; Quinn, Brent; Jorgensen, Karl A.; Gonzales, Jake A.
Cc: Newell, William D.; Needles, James R.; Voth, David J.; Simpson, Kevin; Perez, Carmelo

Subject: Phoenix VII wire

Gentlemen –

Phoenix VII is going to be activating a T-III intercept beginning Monday, March 15, 2010. I will need to have one (1) special agent nominee from each of the Phoenix groups, one (1) special agent nominee from Albuquerque and Las Cruces groups, and two (2) special agent nominees from each of the Tucson groups. The actual intercept will be handled at the Phoenix DEA office by contract monitors supported by special agents and Intel personnel. However, special agents will be required for surveillance and any enforcement operations.

Special agents will be required for two (2) week rotations to support this T-III intercept beginning at 9:00 AM, Monday, March 15, 2010.

Please forward the names to Group Supervisor David Voth by close of business today, March 11, 2010.

If you have any questions regarding the personnel issues, please contact me. If you have questions regarding the assignments, please contact GS Voth.

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

Attachment 16

[REDACTED]

From: Voth, David J.
Sent: Friday, March 12, 2010 7:34 PM
To: Phoe-Group VII
Subject: Monday Morning Meeting, Strike force 9:30am

To all;

It has been brought to my attention that there may be a schism developing amongst the group. This is the time we all need to pull together not drift apart. We are all entitled to our respective (albeit different) opinions however we all need to get along and realize that we have a mission to accomplish.

(I am thrilled and proud that our Group is the first ATF Southwest Border Group in the country to be going up on wire. On that note I thank everyone for their efforts thus far and applaud the results we have achieved in a short amount of time.

Whether you care or not people of rank and authority at HQ are paying close attention to this case and they also believe we (Phoenix Group VII) are doing what they envisioned the Southwest Border Groups doing. It may sound cheesy but we are "The tip of the ATF spear" when it comes to Southwest Border Firearms Trafficking.

We need to resolve our issues at this meeting. I will be damned if this case is going to suffer due to petty arguing, rumors or other adolescent behavior.

I don't know what all the issues are but we are all adults, we are all professionals, and we have a exciting opportunity to use the biggest tool in our law enforcement tool box. If you don't think this is fun you're in the wrong line of work – period! This is the pinnacle of domestic U.S. law enforcement techniques. After this the tool box is empty. Maybe the Maricopa County Jail is hiring detention officers and you can get paid \$30,000 (instead of \$100,000) to serve lunch to inmates all day.

One last point is that we have many of our brother and sister ATF agents coming into town to assist us on this case. We have to put our best effort forward and lead by example. No one wants to leave their families behind, or leave their case work behind to come help someone who does even appreciate their sacrifice.

We need to get over this bump in the road once and for all and get on with the mission at hand. This can be the most fun you have with ATF, the only one limiting the amount of fun we have is you!

David Voth
 Group Supervisor
 Phoenix Group VII
 [REDACTED]

Attachment 17

From [REDACTED]
Sent [REDACTED]
To [REDACTED]
Subject [REDACTED]
Attachments [REDACTED]

Dodson, John W.
 Thursday, May 27, 2010 11:12 AM
 Voth, David J.
 Proposal
 PROPOSED UNDERCOVER.docx

John W. Dodson / Special Agent / ATF - Phoenix Group VII

[REDACTED]
Phoenix, AZ 85012

"We few, we happy few, we band of brothers; For he to-day that sheds his blood with me shall be my brother; be he ne'er so vile, this day shall gentle his condition; and gentlemen in England now-a-bed shall think themselves accurs'd they were not here, and hold their manhoods cheap whiles any speaks that fought with us upon Saint Crispin's day." -- William Shakespeare, *Henry V*

From [REDACTED]
Sent [REDACTED]
To [REDACTED]
Subject [REDACTED]
Attachments [REDACTED]

Dodson, John W.
 Thursday, May 27, 2010 11:48 AM
 Voth, David J.
 Change of last paragraph.
 PROPOSED UNDERCOVER.docx

John W. Dodson / Special Agent / ATF - Phoenix Group VII

[REDACTED]
Phoenix, AZ 85012

"We few, we happy few, we band of brothers; For he to-day that sheds his blood with me shall be my brother; be he ne'er so vile, this day shall gentle his condition; and gentlemen in England now-a-bed shall think themselves accurs'd they were not here, and hold their manhoods cheap whiles any speaks that fought with us upon Saint Crispin's day." -- William Shakespeare, *Henry V*

From Voth, David J.
Sent Thursday, May 27, 2010 12:14 PM
To Dodson, John W.
Subject the Order we need to include
Attachments Doc2.docx

ATF ████████████████████a██████

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 could be continued to operate and illegally traffic firearms in the future potentially producing more armed crime.
- b. Alternative Intervention Methods. In the event it is determined by the special agent that a weapons transfer should not take place, the special agent may consider alternative methods of intervention other than arrest and/or search warrants that will prevent the culmination of the weapons transfer but allow the investigation to continue undetected. These alternative methods are considered to be a course of action that must be approved by the RAC/GS or SAC as previously noted. These alternative interventions may include, but are not limited to:
 - (1) A traffic stop (supported by probable cause to search or supported by a traffic violation allowing for plain view observations) by a State or local marked law enforcement vehicle that would culminate in the discovery and retention of the firearms. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. Should the occupants of the vehicle be new/unknown participants in the organization under investigation, they may be fully identified which in turn will yield additional information for followup investigation. Should the occupants

of the vehicle be known participants in the investigation, requesting telephone tolls for these individuals (or if a Penn Register/T-III interception order is in use) for the period shortly after the traffic stop may show calls and yield identifying information relating to the intended receivers of the firearms.

- (2) If the firearms are being shipped out of the United States via a common carrier via checked luggage or freight, the firearms may be seized/or recovered by the special agents, in coordination with the U.S. Customs Service under border search authority, without detection by the traffickers. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. The investigation may then continue with the traffickers led to believe the shipment of firearms was stolen in transit. Requesting telephone tolls for these individuals (or if a Pen Register/T-III interception order is in use) for the period shortly after the recovery of the firearms may show calls and yield identifying information relating to the intended receivers of the firearms.
- (3) If the firearms are being shipped via the U.S. mail, coordination with the U.S. postal inspectors will assist the special agents in recovery of the firearms without detection by the traffickers. This would prevent the weapons transfer from fully occurring and may in turn produce new investigative leads. The investigation may then continue with the traffickers led to believe the shipment of firearms was stolen in transit. Requesting telephone tolls for these individuals (or if a Penn Register/T-III interception order is in use) for the period shortly after the recovery of the firearms may show calls and yield identifying information relating to the intended receivers of the firearms.
- (4) If the special agent chooses to arrest the individual(s) with the firearm(s), the possibility exists that a debriefing of this individual will yield other members of the organization, or the individual(s) will agree to participate in a controlled delivery of the firearm(s) to the original intended receivers.

[REDACTED]

From [REDACTED] Dodson, John W.
Sent [REDACTED] Thursday, May 27, 2010 12:51 PM
To [REDACTED] Voth, David J.
Subject [REDACTED] Vers - 3.0
Attachments [REDACTED] PROPOSED UNDERCOVER.docx

John W. Dodson / Special Agent / ATF - Phoenix Group VII
[REDACTED]
Phoenix, AZ 85012
[REDACTED]

"We few, we happy few, we band of brothers; For he to-day that sheds his blood with me shall be my brother; be he ne'er so vile, this day shall gentle his condition; and gentlemen in England now-a-bed shall think themselves accurs'd they were not here, and hold their manhoods cheap whiles any speaks that fought with us upon Saint Crispin's day." -- William Shakespeare, *Henry V*

Attachment 18

**U.S. Department of Justice**

Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

June 01, 2010

[REDACTED]

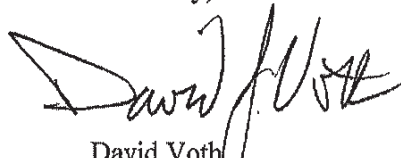
FFL #: [REDACTED]

Dear Sir,

Section 925(a)(1) of the Gun Control Act (GCA) exempts law enforcement agencies from the transportation, shipment, receipt, or importation controls of the GCA when firearms are to be used for the official business of the agency.

Please accept this letter in lieu of completing an ATF Form 4473 for the purchase of two (2) CAI, Model Draco, 7.62 x 39 mm pistols, by ATF Special Agent John Dodson. These aforementioned pistols will be used by Special Agent Dodson in furtherance of his performance of his official duties. In addition, Special Agent Dodson has not been convicted of a misdemeanor crime of domestic violence. If you have any questions, you may contact me at telephone number 602-[REDACTED].

Sincerely,


David Voth
ATF Group Supervisor
Phoenix Group VII

Attachment 19

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

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

Attachment 20

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


HOGRA ATF - 002017

[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]

Attachment 21

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

Attachment 22

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

HOGRA ATF - 001941

Attachment 23



Operation: Fast and Furious and Corresponding Investigations
(1/12/11)

Proposed Opening Statement

- The violence inflicted by the cartels on the citizens of Mexico has reached epidemic proportions. To think that this violence does not affect the United States is naïve; and Agent Terry's murder is a painful reminder of that fact. Illegally obtained firearms are the tools of the trade used by the cartels to protect their criminal enterprise and terrorize the public. Unlike the drugs that they supply, these illegal firearms can stay in circulation indefinitely and cause death and destruction for decades. It is the responsibility of the men and women of ATF to disrupt the flow of firearms to these criminals and protect the public from violent crime.

Statements

- In October 2009, ATF, in partnership with DEA, ICE, IRS, and the Phoenix Police Department, began an OCDETF investigation into a firearms trafficking organization funded by the violent Sinaloa Drug Trafficking Organization (DTO).
- This criminal organization is responsible for trafficking hundreds of firearms into Mexico, using firearms in furtherance of drug trafficking, drug smuggling, wire fraud, and bulk currency smuggling.
- From October 2009 through October 2010, this organization, through the use of numerous straw buyers, purchased approximately \$1.25 million in firearms from FFLs in the Phoenix area and trafficked the firearms into Mexico and other locations within the United States.
- During the course of this investigation, ATF and our law enforcement partners utilized a variety of investigative techniques to identify a large number of co-conspirators and disrupt the illegal activities of this criminal enterprise by seizing hundreds of firearms and narcotics.

HOCR DOJ 005543

Questions and Answers

- **Some media reports, referencing an anonymous ATF official, claim that ATF knowingly “walked” about 1,900 firearms across the U.S.-Mexico border as part of this operation. What can you tell me about that?**

Or

- **The news release/indictment indicates that ATF waited until nearly 2,000 guns were illegally purchased before arresting the straw buyers in this case. Why did ATF wait so long?**

ANSWER: It’s not against the law for an individual to purchase 10, 20 or 50 or even 100 guns at one time. It’s not illegal to own or possess hundreds of guns; however, it is illegal to straw purchase firearms for those who cannot possess them legally. Operation Fast and Furious became a long-term investigation because of the amount of time it took to gather enough evidence against those who were supplying these violent criminals with the tools of their trade. We needed to ensure that when we did arrest these individuals, justice would be served.

ANSWER: Knowing what it takes to prosecute these types of federal violations is the best way to understand why this investigation took as long as it did and utilized so many resources. Investigations of this type are often long and complicated due to the fact that firearms are a legal commodity being diverted for illegal use. When conducting these investigations we have found that the end user of often shrouded by many layers of straw purchasers and middlemen whose sole purpose is to hide the connection between the first retail purchaser and the violent criminal. Determining when the firearm leaves legal commerce can be extremely difficult and therefore hard to prove.

- **Border Patrol Agent Brian A. Terry was shot and killed after he and his team encountered several suspects near Rio Rico, Ariz. At least four suspects are in custody while one is still being pursued. Was a gun trafficked in this case used in the murder?**

Or

- **We understand that a firearm bought in connection with this ATF investigation was used to murder Border Patrol Agent Brian A. Terry. Can you please comment on this information?**

ANSWER: The death of Agent Terry is tragic and is a sad and dark day for all of law enforcement. We’ve lost one of our own. This is another example of the dangers faced by law enforcement every day across this country when pursuing these violent criminals.

HOCR DOJ 005544

ANSWER: Agent Terry's death is the exact reason why we must continue going after those who are determined to destroy the lives of so many innocent individuals in our communities by plying their illicit trade. For those who would say it is Mexico's problem, I say Agent Terry's death and all of those who have perished because of this violence prove that this challenge belongs to everyone.

ANSWER: The investigation into the murder of Agent Terry is active and ongoing. ATF has pledged its support and resources to bring to justice the perpetrators who are guilty of that crime. I won't say anything here today to jeopardize that investigation or the subsequent prosecution of those responsible for this terrible crime.

ANSWER: The murder of Agent Terry is a tragic loss that has been felt throughout the United States and underscores the dangers that law enforcement officers face every day. As the investigation continues into this heinous crime, our hearts go out to Agent Terry's family and his fellow Border Patrol Agents who continue to risk their lives to protect the citizens of our great Country.

- **Today ATF agents arrested 20 individuals in this investigation. What kind of impact will that make on the Sinaloa Cartel?**

ANSWER: We hope the arrests have a crippling effect on the cartel's supply line for guns. The Project Gunrunner initiative is designed to stem the flow of firearms to Mexico drug trafficking organizations.

ANSWER: This complex source of firearms has dried up thanks to the work of ATF and our law enforcement partners, unfortunately there are many more firearms trafficking rings and we are in the process of identifying and investigating other organizations employed by cartels in America.

ANSWER: The hard work of all the people involved in this investigation has denied the tools of trade to this violent criminal organization, minimizing their ability to terrorize communities on both sides of the border.

- **Historically, straw buyers who are prosecuted rarely get time. If they do, it's only a year or two. What impact do you expect to have by indicting these 20 straw buyers?**

ANSWER: Criminals who want guns or traffic in guns seek people with clean criminal records to purchase firearms on their behalf. That is against the law. With convictions, these 20 individuals will no longer be able to supply tools of the trade to criminals.

ANSWER: To deter would-be criminals and to send a message that trafficking firearms is a crime that will impact them for the rest of their lives. Simply put, crime doesn't pay.

HOCR DOJ 005545

ANSWER: To send a message to drug cartels that ATF and its law enforcement partners will use all enforcement methods available to disrupt and dismantle their criminal activities.

###

HOCR DOJ 005546

Attachment 24

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

Jim,

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

Thanks,

Dave

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

<<Memo DKB Avila Purchases.wpd>>

Here is the draft of the memo from this morning.

Thank you for all of your help.

HOCR ATF - 002348

United States Attorney's Office
District of Arizona



Memorandum

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

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

Jaime AVILA, Jr.'s first known firearms purchase occurred on November 24, 2009, at FFL [REDACTED]. On that day he was in the company of another Fast and Furious suspect, Uriel PATINO. On November 24, 2009, AVILA purchased five (5) FN Herstal Five-Seven pistols, and PATINO purchased five (5) AK-47 type rifles. On the ATF Form 4473, AVILA listed his address as [REDACTED], Phoenix, Arizona, 85035. At the time of the purchase, AVILA and PATINO were traveling in a 2000 Isuzu Rodeo registered to [REDACTED], Phoenix, Arizona, 85035. This is documented in **ATF ROI # 12**. As of this date, the five (5) FN pistols purchased by AVILA on November 24, 2009, have not been recovered.

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

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

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

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

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Memo to DKB
January 28, 2011
Page - 2

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

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

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

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

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

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

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

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Memo to DKB
January 28, 2011
Page - 3

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

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

HOCR ATF - 002351

Attachment 25



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

February 3, 2011

MEMORANDUM TO: Special Agent in Charge
Dallas Field Division

THRU: Resident Agent in Charge ^{TL}
Lubbock Field Office 2-3-2011

FROM: Gary M. Styers
Special Agent
Lubbock Field Office

SUBJECT: Contact with Congressional Investigators

On February 2, 2011, at approximately 1500 hours, ATF Special Agent Gary Styers was contacted telephonically by Robert Donovan and Brian Downey, representing United States Senator Chuck Grassley and the Senate Judiciary Committee. Downey and Donovan after identifying themselves asked Special Agent Styers if he would be willing to answer some questions regarding the time Special Agent Styers spent on a detail to the Phoenix Field Division, Phoenix Group VII Office. Special Agent Styers said he would be willing to answer questions to the best of his knowledge.

Special Agent Styers was asked if he was familiar with the large firearms trafficking case in Phoenix Group VII and Special Agent Styers said he was. Downey and Donovan asked if Special Agent Styers knew the name of the case and he responded that it was "Fast and Furious". Downey and Donovan then asked if Special Agent Styers knew who the case agent was and Special Agent Styers said it was Special Agent Hope McAllister. Special Agent Styers was also asked who the supervisor of the group was and Special Agent Styers said it was Group Supervisor David Voth. Downey and Donovan also asked who helped Special Agent McAllister, Special Agent Styers said that Special Agent McAllister had a Co-Case Agent from Immigration and Customs Enforcement (ICE) as well as an agent from Group VII. Downey and Donovan asked who was the Agent from ICE and Special Agent Styers told them it was Lane France.

Downey and Donovan asked Special Agent Styers if he knew what the agents were assigned to do on the investigation. Special Agent Styers explained that a group of agents were assigned to the case and that since the case was in the stage of an active wiretap, some agents were working within the group and

others were working at various functions related to the wire. Special Agent Styers further said that he did not specifically know the role of each individual agent.

Downey and Donovan inquired as to the role that Special Agent Styers had in this case and Special Agent Styers advised that he had assisted with some surveillance operations with the case. Special Agent Styers was asked to describe the operations and relayed that one of the operations was a suspected transaction that was to occur at a gas station and detailed agents were asked to cover the transaction. While positioning to observe the suspects, Special Agent Styers and other detailed agents were told by Special Agent McAllister that agents were too close and would burn the operation. Special Agent McAllister told all the agents to leave the immediate area. While the agents were repositioning, the transaction between the suspects took place and the vehicle that took possession of the firearms eventually left the area without agents following it.

Downey and Donovan asked Special Agent Styers if he ever saw guns actually go into Mexico. Special Agent Styers said he did not see any firearms cross the border to Mexico. They also asked if Special Agent Styers had worked with any agencies in Mexico, Special Agent Styers relayed that he had not, but had knowledge that other agents within Group VII spoke of communication with other ATF Special Agents assigned in Mexico.

Downey and Donovan then asked if Special Agent Styers had any knowledge that Federal Firearms Licensees (FFLs) were reporting suspected straw purchasers. Special Agent Styers explained that FFLs were indeed reporting such situations and that Special Agent Styers had numerous contacts with FFLs in the Phoenix area and had also worked inside of an FFL in an undercover capacity, while an individual attempted a large scale straw purchase. Special Agent Styers told Downey and Donovan that in speaking with the FFL holder and owner of the gun shop, he told Special Agent Styers that he had asked ATF to install cameras inside his shop and to have an undercover agent inside on a more regular basis.

Downey and Donovan inquired as to what the procedures were and who handled the calls from the FFLs when they reported such suspected transactions. Special Agent Styers told them that he had no knowledge of any special procedures. If the FFLs called during normal business hours, Special Agent Styers assumed that, if they called the office number, their call was handled by the Group Supervisor. Special Agent Styers also told Downey and Donovan that if the FFLs were calling individual agents within the group, he had no direct knowledge of those calls and what the ATF response was to those reports. However, Special Agent Styers did tell Downey and Donovan that he had heard from within the group that FFLs were calling case agents.

With regards to statistics and reporting, Downey and Donovan, questioned Special Agent Styers as to whether he had any knowledge of "padding of statistics or inconsistent reporting". Special Agent Styers advised them that he had no knowledge of a wide scale effort to skew statistics. However, Special Agent Styers relayed that he did question the Group Supervisor as to why he wanted Special Agent Styers to trace firearms that had not been recovered. Special Agent Styers was assigned to the investigation and provided the ATF Form 4473s, the Firearms Transaction Record, and told to trace said firearms. Special Agent Styers asked as to why, when ATF has the Suspect Gun Database, which is designed for such firearms that have yet to be recovered by law enforcement. Group Supervisor Voth said he wanted them traced so that if someone else traced the firearms, they would know the firearms were connected to the case Special Agent Styers was assigned. Special Agent Styers relayed that even though he disagreed with the requested procedures, he follow the request of Group Supervisor Voth. Special Agent Styers also informed Donovan and Downey that he asked several agents also assigned to Group VII if they had to submit similar firearms traces and they replied that they in fact also were told to trace all firearms in a similar fashion.

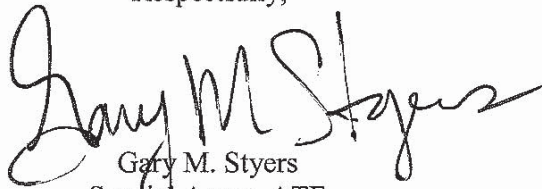
Special Agent Styers was then asked about his general impression of the Fast and Furious case. Special Agent Styers stated that the case had systematically divided and isolated agents from the group. The case agent had solicited the advice of numerous experienced agents, including Special Agent Styers, regarding how to conduct and end the wiretap operations and case overall. Special Agent Styers gave the case agent his honest opinion and advice since Special Agent Styers had worked two wiretap investigations in his career. Special Agent Styers felt that his advice and opinions, as well as other agents' advice and opinions were widely disregarded. Along with other agents within the group, Special Agent Styers explained that he was no longer asked to assist with Fast and Furious and concentrated on his assigned cases and provided necessary assistance to fellow agents within the detail and group.

Downey and Donovan asked Special Agent Styers what he felt was incorrect about the way the Fast and Furious case was conducted. Special Agent Styers explained that first and foremost, it is unheard of to have an active wiretap investigation without full time dedicated surveillance units on the ground. Special Agent Styers relayed that no agents in the group were assigned to surveillance on the Fast and Furious case. Special Agent Styers said that other agencies or task force officers may have been used to conduct surveillance and respond to calls of FFLs, but it seemed that either the case agent or Group Supervisor would poll the office for agents who were available to respond at short notice.

Secondly, Special Agent Styers said that it appeared odd to have a majority of ATF Agents working on a wiretap investigation, who had never worked such a case. Especially, when numerous, permanent Group VII agents and detailers had previous wiretap experience.

Special Agent Styers was provided with contact information for Downey and Donovan and the conversation was ended. Special Agent Styers contacted the Lubbock Resident Agent in Charge, Jim Luera at 1545 hours after the conversation with Downey and Donovan ended, to inform him of the contact. Special Agent Styers was later asked to document the conversation herein and attempted to do so to the fullest extent possible.

Respectfully,



Gary M. Styers
Special Agent, ATF

Attachment 26

From: Voth, David J.
Sent: Sunday, March 14, 2010 11:02 PM
To: Phoe-Group VII
Subject: Lots of good work

To all,

I read a lot of good reports tonight on individuals who purchased firearms that have been recovered in Mexico. I must insist that we not forget to run those numbers through DEA! You never know when/where one of these numbers is going to pop up and then our straw purchasers are suddenly related to a Cartel or DTO which is exactly where we what to be.

Good job by all, keep it up, thanks!

David Voth
Group Supervisor
Phoenix Group VII
[REDACTED]

HOGRA ATF - 001681

Attachment 27

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

HOCR ATF 005007

Attachment 28

Indicted targets (Purchasers)		Date identified (entered) in investigation	Firearms purchased before target was identified (entered) in investigation	Firearms purchased after target was identified (entered) in investigation	TOTALS	Firearms recovered in U.S. after target was identified (entered) in investigation
Jaime	AVILA	11/25/09	5	47	52	5
Erik	AVILA DAVILA	06/28/10	10	2	12	2
Julio Jose	CARRILLO	03/24/10	35	6	41	3
Alfredo	CELIS	12/10/09	35	99	134	52
Manuel	CELIS-ACOSTA	12/18/09	1	0	1	1
Jacob	CHAMBERS	11/16/09	36	37	73	0
Jonathan	FERNANDEZ	08/10/10	20	29	49	9
Dejan	HERCEGOVAC	11/25/09	26	6	32	1
Jacob	MONTELONGO	01/28/10	8	101	109	2
Josh	MOORE	11/19/09	39	102	141	5
Danny	MORONES	08/04/10	27	0	27	17
Uriel	PATINO	11/20/09	59	661	720	99
Jose	POLANCO	11/25/09	3	0	3	0
Francisco	PONCE	07/21/10	41	0	41	0
Sean	STEWART	12/09/09	62	228	290	54
			407	1318	1725	250

Attachment 29

From: Siskel, Edward N. (ODAG)
To: Luck, Stacey (ODAG)
Sent: 3/11/2010 2:49:47 PM
Subject: FW: Agenda for the DAG Meeting

Here is the agenda for the ATF meeting tomorrow.

From: Hoover, William J. (ATF)
Sent: Thursday, March 11, 2010 1:59 PM
To: Siskel, Edward N. (ODAG)
Subject: FW: Agenda for the DAG Meeting

Here you go Ed. See you tomorrow.

William J. Hoover
 Executive Assistant Director

O) RC-1

Agenda for ATF and ODAG Meeting, March 12, 2010

- 1.
- 2.
- 3.

RC-2

4. Phoenix Case – Update on a significant firearms trafficking case

Vivian B. Michalic
 Chief of Staff
 Office of the Director, ATF

w: RC-1
 c: RC-1

ATF Monthly Meeting

3/12/10

RC-2

3. ~~Operation The Fast~~
~~Previous~~
~~Drafts~~
 long vibs. multiple
 sales issues

Process

Project Delivance

seizure in Mexico
 take to predicate
 to see in US
 link to cartel

RC-2

GOVT STRIKE FORCE
 Primary - Phoenix WAO

(A)

RC-2

3-12-2010 ATF Monthly Meeting

RC-2

- Multiple Sales for Long Guns.
- FA the picking scheme to MX.

RC-2

RC-2

ATF Monthly Mtg 3/17/10

RC-2

Operation Fast & Furious Simulator
RC-3

Demand letter - multiple sales of
Long guns

RC-2

Next Mtg at ATF

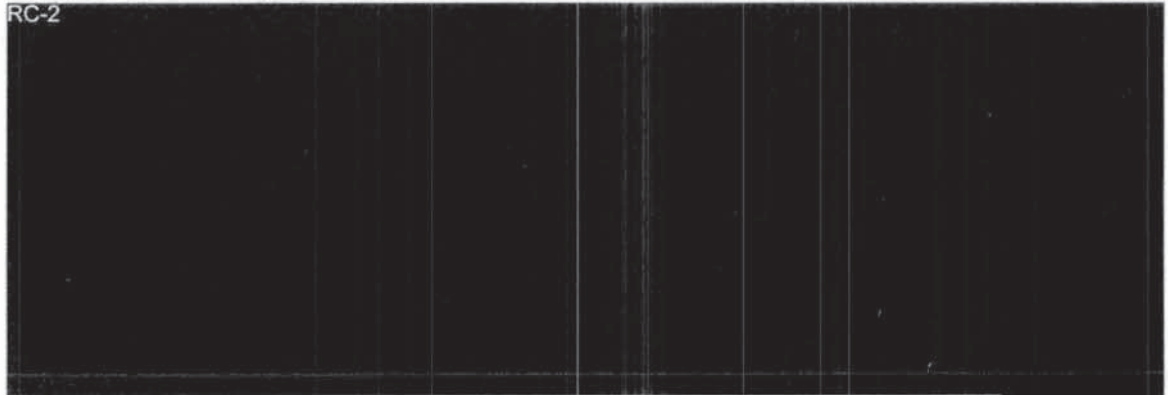
RC-2

RC-2

ATF Monthly Meeting
with the Acting Deputy Attorney General
Friday, March 12, 2010

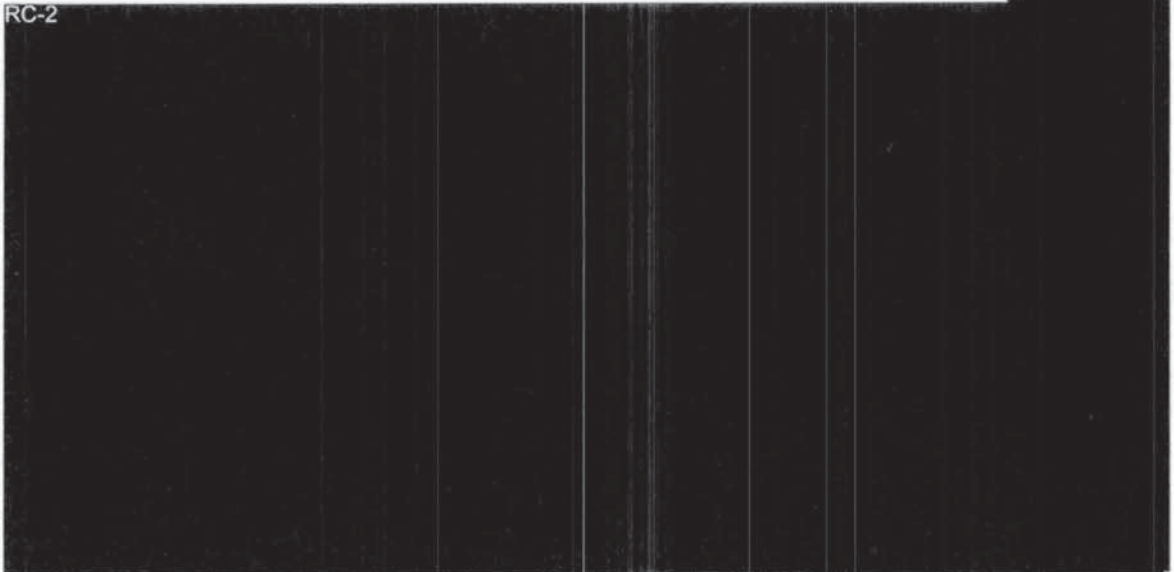
AGENDA

RC-2



Phoenix Case - Update on a significant firearms trafficking case

RC-2



HOCR DOJ 002817

ATF Monthly Meeting

3/12/10

RC-2

RC-2

3. Operation The Fast
~~Previous~~
~~Drafts~~
 long vits. multiple
 cable issues

RC-2

seizure in Mexico
 take 10 predicate
 to case in US
 link to cartel

GOA/TF STRIKE FORCE

Primary - Phoenix WAO

①

HOCR DOJ 002818

OPERATION THE FAST AND THE FURIOUS



HOCR DOJ 002819

Note: Two pages have been withheld from this seven page document because they included sensitive investigative details and information about targets/subjects.

Total Firearms
Purchased as of
Feb 27, 2010
785115-10-0004

Pattino	Uriel	313
Steward	Sean	241
Moore	Joshua	116
Chambers	Jacob	68
Cellis	Alfredo	55
Herczogovac	Dejan	30
RC-4		
Montalongo	Jacob	18
Avila Jr	Jamie	17
RC-4		
Polanco	Jose	3
RC-4		
Cellis-Acosta	Manuel	1
RC-4		
TOTAL		1026

HOCR DOJ 002820

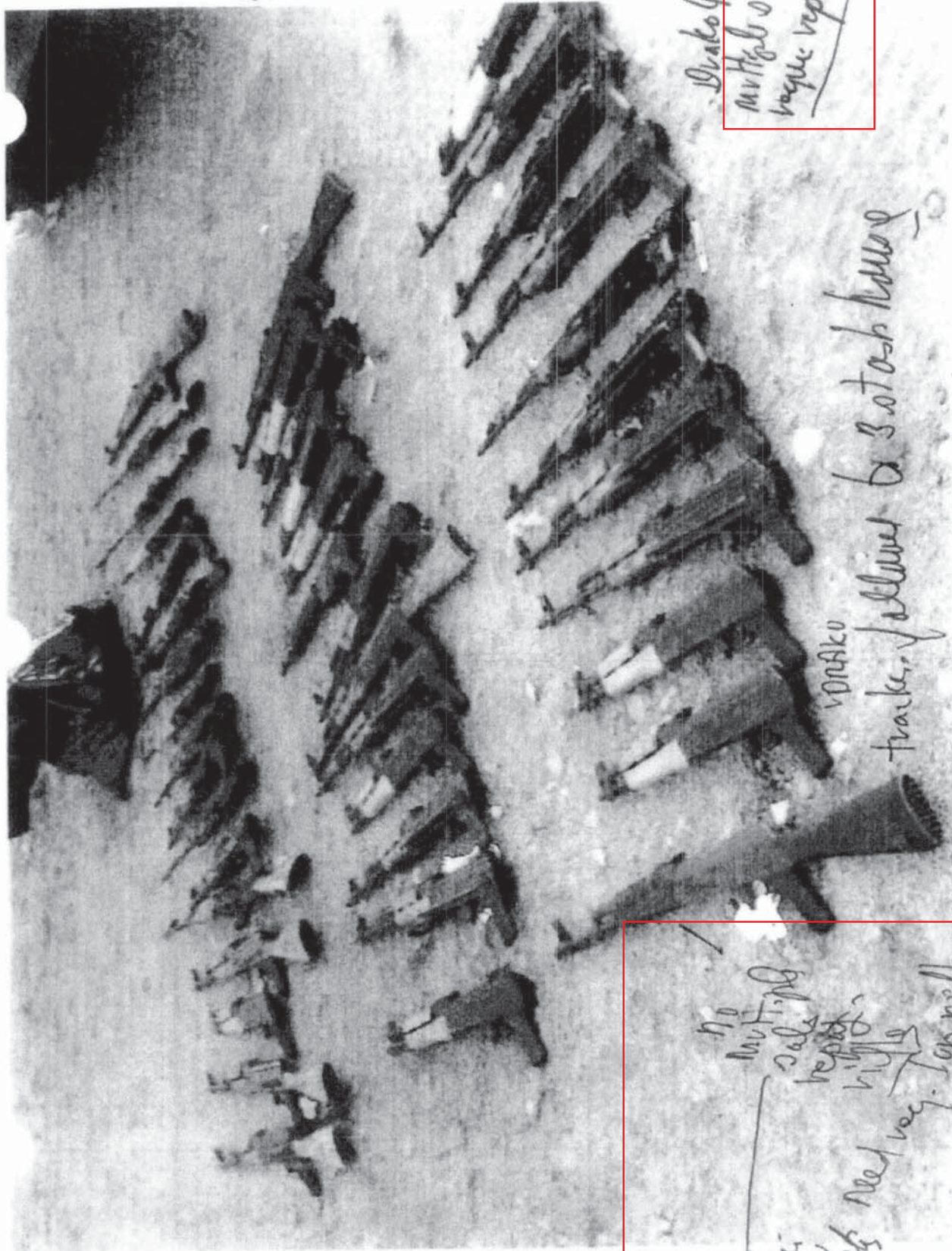
*All cash -
Western Union
only*

PURCHASE SUMMARY				INVOICE		TOTAL	TOTAL
RC-4	NAME	DEBIT	PAYABLE	DATE	AMOUNT		
	James Avilar		11,094.00			13,002.64	
RC-4							
	Alfredo Celis		36,950.75			38,923.33	
	Jacob Chambers		36,541.76			38,903.96	
RC-4							
	Dejan Murcubabik		22,716.80			23,781.91	
RC-4							
	Jacob Montelongo		7,446.97			7,751.27	
	Joshua Moore		59,853.40			64,929.96	
RC-4							
	Uriel Pabino		204,110.59			213,768.87	
RC-4							
	Jose Pollanco		1,729.00			1,851.82	
RC-4							
	Man Esward		734,538.84			1,407,034.36	
RC-4							
	TOTAL PURCHASES		\$ 816,394.03			\$ 849,745.32	

Total Cost of
Firearms
Purchased as of
Feb 27, 2010
785115-10-0004

HOCR DOJ 002821

Fast and Furious: The Anatomy of a Failed Operation

AK
47

Drake's path
 multiple only
 vague reports

Drake
 tracks followed to 300 ash line

no
 multi-
 sale
 reports
 need very large
 HOCR DOJ 002823



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

1813123 ET

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.

HOCR DOJ 004972

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

Page 4

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: _____

Chait, Mark R.

From: Chait, Mark R.
 Sent: Wednesday, July 14, 2010 10:25 AM
 To: Newell, William D.
 Cc: McMahon, William G.
 Subject: Re: SIR

Bill - can you see if these guns were all purchased from same FFL and at one time. We are looking at anecdotal cases to support a demand letter on long gun multiple sales. Thanks 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: Newell, William D.
 To: McMahon, William G.; [REDACTED]; Chait, Mark R.; [REDACTED]
 Sent: Tue Jul 13 19:37:57 2010
 Subject: Fw: SIR

Another SIR coming. Same Group just discovered another load, related to same case, of 73 guns and about 220 drum magazines (75 round each of 7.62). At the same time same Group out on another deal related to same case regarding straw purchase of a \$10,000 .50 caliber firearm. Bill Newell

Special Agent in Charge
 ATF Phoenix Field Division (AZ and NM)
 [REDACTED]

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

----- Original Message -----
 From: Voth, David J.

HOGRAF - 001172

To: Needles, James R.; Newell, William D.; Voth, David J.; Significant Activity Report

Sent: Tue Jul 13 18:54:52 2010

Subject: SIR

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: [REDACTED] et al
SPECIAL AGENT: Voth, David
TELEPHONE NUMBER: [REDACTED]

SYNOPSIS OF INCIDENT/ACTIVITY:

Recovery of 20 - 7.62 rifles as part of ongoing [REDACTED] investigation.

NARRATIVE OF INCIDENT/ACTIVITY:

On July 12, 2010, Federal Parolee, [REDACTED] 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 [REDACTED] was in possession of firearms as part of an active ongoing [REDACTED] case; Operation Fast & Furious, 785115-10-[REDACTED] 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 [REDACTED] and the unidentified passenger fled the scene on foot and a short time later Peoria Police officers captured [REDACTED] approximately ¼ mile from the scene. [REDACTED] suffered a broken leg and was transported to a local hospital for treatment, the passenger was never located. [REDACTED] 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.



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

DEC 6 2010

Washington, DC 20226

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 project.

TIMETABLE: Concurrence is requested as soon as possible.

SYNOPSIS: ATF proposes a 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, within any five consecutive business days, two or more rifles having the following characteristics: (1) semi-automatic; (2) a caliber greater than .22; and (3) 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 many have been sold by Federal firearms licensees.

HOCR DOJ 004982

Memorandum for the Attorney General

Page 2

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

It is proposed that ATF issue demand letters to all FFLs in the top four 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, within any five consecutive business days, two or more rifles having the following characteristics: (1) semi-automatic; (2) a caliber greater than .22; and (3) ability to accept a detachable magazine. The reporting requirement would apply to the disposition of all rifles in the inventory of the FFLs, both new and used. This program would require the reports to be submitted to ATF for a one-year period. It is estimated that this proposal would apply to 8525 FFLs.

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 firearms that were recovered in a crime ("time-to-crime") within a three-year period of the sale (Demand Letter 2). Demand Letter 2 requires the affected FFLs to submit limited information regarding secondhand firearms they acquired the previous year, including the manufacturer/importer, model, caliber or gauge, and serial number along with the acquisition date.

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 investigation of gun trafficking. ATF's experience in the source states proves that multiple

¹ The top four source states for firearms seized in Mexico during CY 2009 and traced to firearms licensees in the U.S. are: Texas, California, Arizona, and New Mexico.

Memorandum for the Attorney General

Page 3

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

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 who 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 drug trafficking organizations in Mexico. There was an extremely short time span, ranging from one (1) day to less than a month, between the purchases of all firearms and the recoveries. The majority of the firearms were purchased at an 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. Eighteen of these rifles were recovered in Mexico and traced.

Memorandum for the Attorney General

Page 4

Subject: Issuing demand letters to Federal firearms licensees (FFLs)
requiring multiple sales information for 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, a number 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 retail dealers to purchasers, because ATF would be able to search the multiple sales records, as it does with multiple sales records for handguns.

We also note that the Office of the Inspector General (OIG), Department of Justice, recently issued a report on ATF's Southwest Border program titled "Review of ATF's Project Gunrunner" that included a recommendation relating to multiple sales reports. One of the 15 recommendations the OIG makes is the following:

2. Work with the Department to explore options for seeking a requirement for reporting multiple sales of long guns.

The report noted that review of tracing data of crime guns recovered from Mexico from FY2004-FY2009 confirmed the increase in the use of long guns by Mexican drug cartels. The OIG report goes on to state that the percentage of crime guns recovered in Mexico that were long guns steadily increased each year from 20 percent in FY2004 to 48 percent in FY2009. The OIG's analysis also found that long guns tend to have a shorter time-to-crime than handguns, and shorter time-to-crime intervals generate more valuable leads for ATF. Finally, the report stated that evidence indicates that Mexican drug cartels are obtaining long guns in multiple sales. OIG review and ATF's own internal data indicate there are a significant number of Southwest Border-related criminal investigations involving the multiple purchase of long guns. Accordingly, the OIG report concludes that mandatory reporting of multiple sales of long guns would assist ATF in identifying firearms trafficking suspects as part of its Southwest Border enforcement efforts.

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 four Southwest border states, and would be further limited to a one-year program and to certain types of rifles. Nevertheless, there is a possibility 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." As stated above, ATF would defend the use of demand letters as described herein by arguing that demand letter authority is given to the agency

Memorandum for the Attorney General

Page 5

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

by statute and that the reporting requirement is narrowly tailored to obtain information about firearms that may be illegally trafficked to Mexico. We also believe the well-reported violence along the Southwest border will give added credibility to our need for the information sought by the demand letters.

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 and responding to trace requests. Members of the firearms industry may also argue that this program is overbroad because it imposes a reporting requirement on all FFLs in particular states. This is in contrast to the Demand Letter 2 program, which imposes a reporting obligation only on specified FFLs with 15 or more (formerly 10 or more) firearms traces within a three-year period of the sale.

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 complaints from 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.

RECOMMENDATION:

That you concur in ATF's issuance of a demand letter to all FFLs in four selected states, requiring them to provide ATF with reports of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, within any five consecutive business days, two or more rifles having the following characteristics: (1) semi-automatic; (2) a caliber greater than .22; and (3) ability to accept a detachable magazine. These reports would be submitted to ATF for a one-year period.

APPROVE: _____

Concurring Components:

OLP _____
OLC _____

Nonconcurring Components:

None

DISAPPROVE: _____

OTHER: _____

From: Newell, William D.
Sent: Tuesday, January 04, 2011 6:19 PM
To: McMahon, William G.
Subject: FW: Tentative indictments for Group VII
Attachments: Fast and Furious Talking Points for DAD.doc.docx; PHX GRIT Briefing - Sept 15th.pdf; Strike Force examples.pptx

[REDACTED] [REDACTED]

We plan on discussing all the cases below at the press conference. In all of them the main ATF charge is 18 USC 924(a)(1)(A) but also include 371, Dealing w/o a License, etc.

Since we just had the GRIT press conf in August and most if not all of the very same reporters will be coming I plan on creating a nexus between that last press conference and our most recent efforts to show the constant and ongoing efforts on our part to address the illegal trafficking of firearms to Mexico. We are also finalizing a handout very similar to the one we used for the GRIT (which Melson liked). (Copy attached of GRIT example as a reminder of what it looked like).

For Fast and Furious and a couple of the below cases we are going to plug the OCADETF Strike Force and the Gunrunner Group's role on the Strike Force, basically using the Arizona Strike Force's mission statement which is "focus investigations on the command and control elements of the Sinaloa Cartel and Arizona-based cells associated with the Cartel". The Strike Force's 5 investigative strategies include "#1 – Intelligence driven investigations that target CPOT-level members of the Sinaloa Cartel", "#2 - Identification and investigation of not only the northern transportation routes for narcotics, but a strict focus on the methods of operation used by the subordinate cartel cells in Arizona to transport drug related proceeds and weapons back to Mexico from and through Arizona", and [REDACTED]

[REDACTED]. We did these very things in the Fast and Furious so I feel strongly we lived up to our commitment to the OCADETF Strike Force concept as do our partners.

Also, the case listed under #4 below highlights very well the intermingling of [REDACTED], drug trafficking and firearms trafficking the Phoenix metro area. This case had it all and is a great example of how we work well with a local PD in quickly addressing not only [REDACTED] but also **the associated firearms trafficking of 49 AKs that were purchased in very short order by a diverse group of straws (another reason to mention the long gun reporting issue)**. The short PowerPoint attachment highlights this case as well as a example of a map we used for GRIT that we are going to redo to include info on the seizure info of these cases. Use "ATF" to open.

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, January 05, 2011 1:10 PM
To: McMahon, William G.
Subject: Fast and Furious Talking Points for DAD doc
Attachments: Fast and Furious Talking Points for DAD doc.docx

[REDACTED]

[REDACTED]

Revised.

Phoenix Press Conference Key Messages and Talking Points:
(Some will be specific to Fast and Furious and some will address all the cases)

Key Messages:

Since the second GRIT initiative ended in August, 2009 the Phoenix Field Division has continued to proactively address firearms trafficking to Mexico in support of ATF's Project Gun Runner

These investigations demonstrate the commitment on the part of ATF and its Federal, State, Local, Tribal and International partners to address the criminal activity involved in the trafficking of firearms to Mexico

These investigations address the key goals of ATF's Southwest border firearms trafficking strategy which are:

- Prevent violent crime
- Ensure the safety of the communities situated along the Southwest Border
- Disrupt and dismantle the firearms trafficking networks responsible for the diversion of firearms from lawful commerce and into the hands of the Mexican Drug Trafficking Organizations (DTOs)

These investigations all involved tireless effort on the part of ATF employees using a wide variety of investigative methods to fully identify those responsible for trafficking firearms to Mexico

ATF's firearms tracing system, eTrace, played a key role in assisting in identifying the individuals involved in violating Federal firearms laws in these investigations

In all of these cases a large number of certain types of rifles, such as AR and AK variants with detachable magazines were purchased by straw purchasers as part of complex firearms trafficking organizations and then recovered in violent crimes in Mexico, according to ATF trace data, investigative experience, and Mexican law enforcement official reports

Substantiates the fact that Mexican DTOs and other associated criminal groups operating along the SWB are actively pursuing "weapons of choice" in U.S. commercial firearms market

These cases demonstrate the ongoing trafficking of firearms by Mexican DTOs and other associated groups operating in Arizona and the need for the reporting of multiple sales for certain types of rifles in order to ferret out those intent on providing firearms to these criminal groups

HOCR ATF 000833

Talking Points:

(Using the “Ws” method – you can change if you desire)

What:

- Proactive investigations focused on eliminating the entire firearms trafficking network, not just the straw purchasers
- ATF led firearms trafficking investigations into several firearms trafficking networks based in metro Phoenix
- Some initiated as early as October, 2009
- OCDETF Strike Force effort.
- Multi-agency (ICE, IRS, DEA, Phoenix PD)
- Almost exclusively "weapons of choice" which we have openly discussed many times before
- Alleged violations of Federal firearms laws by individuals involved in the illegal acquisition and transfer of firearms, money laundering, etc (the USAO will cover specific charges per case in more detail). Thus we should only state what is in the indictment when it comes to numbers of firearms. The indictment for Fast and Furious will not have the total number of firearms trafficked. Note: We have seized 352 firearms here in the U.S. in our effort to stop the trafficking while still making the larger case, and about 250 have been seized in Mexico. We will update the numbers again next week.

Who:

- Metro Phoenix area based complex firearms trafficking organizations

For Fast and Furious:

- [REDACTED]
- Firearms primarily destined for Sinaloa DTO (based on traces, seizures in Mexico and other investigative data gathered during investigations)
- A large group of straw purchasers [REDACTED] were used extensively to spread out purchases and evade detection (another time to address Multiple Sale on Long Guns issue)

How:

- Trafficking organizations used a large number of straw purchasers to spread out sales
- Shows straw purchases and the use of straw purchasers is still a major issue (lack of criminal history, need money, unlimited resource, etc)
- Firearms were purchased at numerous FFLs in the metro area

HOCR ATF 000834

- Firearms were trafficked to Mexico in a variety of ways but mainly in small loads using vehicles crossing into Mexico via POEs

For Internal ATF Use Only:

At no time during the Fast and Furious investigation, or ANY investigation conducted by the Phoenix Field Division highlighted above, did ATF personnel knowingly allow firearms to be trafficked. Every available resource as well as every possible investigative and judicial process was used to prevent this from taking place. As a result of these efforts in the Fast and Furious case and as of October of 2010 to the best of our knowledge all firearms purchasing and trafficking activity by this organization has ended. This is due to several factors not the least of which are the many proactive measures taken by the agents assigned to Phoenix Group VII. It should also be noted that throughout the course of the investigation numerous seizures were made by other State, local and Federal law enforcement agencies at the direction of Phoenix Group VII in order to ensure the seized firearms did not reach their intended destination but also to ensure the leadership of this firearms trafficking organization was not "tipped off" to the proactive measures taken while the larger conspiracy case was being prepared for the USAO. To date 350 firearms have been taken into ATF custody as a result of these combined efforts.

HOCR ATF 000835

From: Newell, William D.
Sent: Wednesday, January 26, 2011 7:45 AM
To: Needles, James R.; Gillett, George T. Jr.
Subject: Fw: F & F

I think Intel already did an analysis on the 2000+ guns involved in all the cases we discussed yesterday. Please check and advise. I recall a document that Marge or Voth had which outlined the amount, type and sales info on all the guns to include the fact that 95% were AKs.

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From: Chait, Mark R.
To: Newell, William D.
Cc: McMahon, William G.
Sent: Wed Jan 26 09:30:54 2011
Subject: F & F

Bill – well done yesterday on the F & F takedown and press conference...in light of our request for Demand letter 3, this case could be a strong supporting factor if we can determine how many multiple sales of long guns occurred during the course of this case. Could you have this information pulled for us to see if this may provide concrete info of a recent case. Thanks again..

Mark R. Chait
 Assistant Director
 Field Operations

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