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Congress of the United States

House of Representatives

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2157 RAYBURN HOUSE OFFICE BUILDING

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October 31, 2013

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Mr. Attorney General:

Earlier this month, a gun battle between members of a deadly drug cartel and Mexican law enforcement agents in Guadalajara, Mexico, resulted in the recovery of a so-called Kingery grenade, named after Jean-Baptiste Kingery, who built the grenade for the Mexican cartel.¹ According to news reports, cartel members used “at least nine firearms and ten hand grenades” in the battle with Mexican police.² If one of the grenades was in fact a “Kingery grenade,” then, according to *CBS News*, “it adds to the toll of lives taken with weapons trafficked by suspects U.S. officials watched but did not stop.”³

Officials in the U.S. Attorney’s Office for the District of Arizona and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) – the two offices that also conducted the Department’s botched gun-running sting known as Operation Fast and Furious – were well aware of Jean-Baptiste Kingery. In October 2009, ATF received a tip that Kingery had ordered hand grenade parts online. In the ensuing months, ATF began surveillance of Kingery, and watched as he began acquiring additional parts that allowed him to build fully operational hand grenades. By January 2010, ATF believed that Kingery’s purchases posed a threat to public safety and considered interdicting Kingery’s hand grenades and arresting him. One ATF official wrote to the U.S. Attorney’s Office that Kingery “seems out of control” and that ATF needed to “have the ability to indict and arrest him in the United States.”⁴

A January 6, 2010, e-mail among officials in the U.S. Attorney’s Office discusses a bilateral cross-border operation involving ATF, Immigration and Customs Enforcement, the

¹ William LaJeunesse & Laura Prabucki, *DOJ faces questions over grenade linked to US smuggler, murder in Mexico*, FOXNEWS, Oct. 22, 2013, available at: <http://www.foxnews.com/politics/2013/10/22/doj-faces-questions-over-grenade-linked-to-us-smuggler-murder-in-mexico/>.

² Sharyl Attkisson, *Deadly drug cartel shootout with Mexico police linked to “grenade-walking” scandal*, CBS NEWS, Oct. 17, 2013, available at: http://www.cbsnews.com/8301-505263_162-57607918/deadly-drug-cartel-shootout-with-mexico-police-linked-to-grenade-walking-scandal/.

³ *Id.*

⁴ E-mail from Karl Johnson to Tracy Van Buskirk (Jan. 7, 2010).

principal investigative arm of the Department of Homeland Security, and Mexican authorities.⁵ The U.S. Attorney at the time, Dennis Burke, authorized this risky cross-border operation in an attempt to arrest Kingery.⁶ When the operation took place, however, Kingery succeeded in evading Mexican officials and disappeared into Mexico.

Five months later, ATF and other American law enforcement organizations caught a break. In a briefing with Committee staff, Justice Department officials stated that Kingery was detained and Mirandized as he attempted to cross the U.S.-Mexico border on June 15, 2010. According to Department officials at the briefing, Kingery made a lengthy statement and admitted to smuggling hand grenades to supply the Mexican drug cartels. Kingery also said that he helped build machine guns for the cartels, turning semi-automatic weapons into automatic weapons at his factory in Mexico. ATF agents prepared a Special Incident Report about this Kingery development and sent it to a top official in the Office of the Deputy Attorney General (ODAG).

According to Justice Department officials at the briefing, in the following days after his initial detention, ATF pushed to arrest Kingery and charge him. The U.S. Attorney's Office, however, disagreed with this approach, and refused to press charges. Astonishingly, even though ATF had informed ODAG about Kingery's confession, Kingery was never charged and allowed to travel to Mexico. For the next fifteen months Kingery continued his deadly activities working for the Mexican drug cartels, unabated and untracked by United States law enforcement.

On August 31, 2011, Mexican police raided Kingery's home in Mazatlan, Mexico, and arrested him. *CBS News* reported that, at the time of Kingery's arrest, police found enough parts to build 1,000 hand grenades. Kingery also confessed to teaching cartels how to make these grenades, as well as helping them convert semi-automatic weapons to fully-automatic.⁷ In other words, Kingery confessed to the same dangerous activities he had told U.S. authorities about in June 2010—just before the Department let him travel to Mexico to continue such activities.

To help the Committee better understand the facts surrounding the Kingery case, the level of involvement among various components of the Justice Department, and the reason why Kingery was released from federal custody on or about June 16, 2010, please provide the following documents to the Committee as soon as possible, but by no later than noon on November 15, 2013:

1. All documents, including e-mails, sent to and from Justice Department officials relating to the Kingery case, specifically pertaining to the Arms Control Export Act.
2. The Significant Information Report, generated on or about June 15, 2010, about Jean-Baptiste Kingery, as well as all subsequent communications to and from Justice

⁵ E-mail from Howard Sukenic to Dennis Burke, et al. (Jan. 6, 2010).

⁶ E-mail from Dennis Burke to Howard Sukenic, et al. (Jan 6, 2010).

⁷ Sharyl Attkisson, *ATF's mysterious grenade smuggler case: new photos, documents turned over to Congress*, CBS NEWS, Apr. 25, 2012, available at: http://www.cbsnews.com/8301-31727_162-57421072-10391695/atfs-mysterious-grenade-smuggler-case-new-photos-documents-turned-over-to-congress/.

Department officials about that Report, including, but not limited to, officials in the Office of the Deputy Attorney General.

3. The ATF Report of Investigation, approximately eight pages in length, regarding the interview of Jean-Baptiste Kingery on June 16, 2010.
4. All documents, including emails, sent to and from Justice Department officials relating to the June 15-16, 2010, temporary detention of Jean-Baptiste Kingery.
5. All documents, including e-mails, sent to and from all Justice Department officials relating to the January-February 2010, cross-border operation involving U.S. and Mexican law enforcement officials pertaining to Jean-Baptiste Kingery.
6. The Significant Information Report generated by the recovery of the "Kingery grenade" in Guadalajara, Mexico, in October 10, 2013, and all subsequent communications sent to and from all Justice Department officials about that report.
7. The Significant Information Report generated by the arrest of Jean-Baptiste Kingery on August 31, 2011, as well as all subsequent communications sent to and from all Justice Department officials about that report.
8. All documents, including e-mails, sent to and from any official in the Office of the Deputy Attorney General regarding Jean-Baptiste Kingery.
9. All documents, including e-mails, sent to and from former U.S. Attorney Dennis Burke and Assistant U.S. Attorney Emory Hurley regarding Jean-Baptiste Kingery.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers to receive all documents in electronic format.

The Honorable Eric H. Holder, Jr.

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If you have any questions about this request, please contact Carlton Davis or Jessica Donlon of the Committee staff at (202) 225-5074. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darrell Issa". The signature is fluid and cursive, with a large loop at the end.

Darrell Issa
Chairman

Enclosure

cc: The Honorable Elijah E. Cumming, Ranking Minority Member

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Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.