

United States Senate

WASHINGTON, DC 20510

March 8, 2011

VIA ELECTRONIC TRANSMISSION

Kevin L. Perkins, Chair
Integrity Committee
Council of Inspectors General on Integrity and Efficiency
935 Pennsylvania Ave., NW, Room 3973
Washington, DC 20535-0001

Re: Whistleblower allegations involving Operation Fast and Furious, a Project Gunrunner case at the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)

Dear Mr. Perkins:

Agent John Dodson and other whistleblowers have alleged that the ATF intentionally allowed thousands of weapons to be illegally trafficked to Mexico.¹ ATF appears to have acted with the full knowledge and approval of the Justice Department. Hundreds of these firearms later turned up at crime scenes on both sides of the border, including at the murder scene of Customs and Border Protection Agent Brian Terry.

At first, ATF and the Justice Department repeatedly denied the allegations, asserting that they were “false.” However, now that I have presented extensive documentary evidence supporting the claims, Attorney General Holder has asked the Justice Department’s Office of Inspector General (DOJ-OIG) to conduct a review. Unfortunately, there are three reasons that the public may be unable to trust that the DOJ-OIG is completely disinterested and independent.

First, the position of Justice Department Inspector General is currently vacant. The Acting Inspector General just recently took over for Glenn Fine. Thus, the office is without a Presidentially-appointed and Senate-confirmed leader. In my experience, acting inspectors general tend to function as caretakers of the office. They are not necessarily equipped to take on an entrenched bureaucracy and challenge senior officials with the tough questions necessary to get to the bottom of a controversy as

¹ John Solomon, David Heath, and Gordon Whitkin, “ATF Let Hundreds of U.S. Weapons Fall into Hands of Suspected Mexican Gunrunner,” *The Center for Public Integrity* (Mar 3, 2011), <http://www.publicintegrity.org/articles/entry/2976>.

serious and far-reaching as this one. That would be especially true if the acting inspector general is seeking the nomination to fill the position on a long-term basis.

Second, the DOJ-OIG was aware of the allegations long before the Attorney General's request and did nothing. Agent Dodson had already contacted the DOJ-OIG in December, just after Agent Terry's death. He received no reply. After contacting my office, Agent Dodson contacted DOJ-OIG again, and still received no reply. No one from the office contacted him to gather information about his allegations until after my staff contacted the Acting Inspector General directly on February 1, 2011. Given that the DOJ-OIG initially failed to follow-up, it might have an incentive to minimize the significance of the allegations in order to avoid the appearance that its own inaction contributed to the problem in the last few months.

Third, I understand that ATF officials have cited a DOJ-OIG report critical of Project Gunrunner² as one of the factors that prompted the shift to a riskier strategy of letting guns be trafficked rather than arresting straw buyers. DOJ-OIG may be sensitive to the appearance that its previous criticism created the conditions under which ATF and DOJ felt pressured to take risks in order to make a "big case" against the cartels. Again, that could create an incentive to minimize the significance of the allegations.

For these reasons, the DOJ-OIG does not appear to be completely disinterested in the outcome of its review. Without a greater level of independence, it will be difficult for the public to have faith in the impartiality and integrity of the result. Therefore, I request that the Acting Inspector General recuse her office and that a disinterested inspector general's office be selected to conduct the review.

In addition, I request that the scope of the inquiry be expanded beyond the underlying decision to allow guns to "walk." The investigation should also carefully examine the circumstances surrounding false and misleading statements to Senate Judiciary Committee staff and to me in response to questions about these allegations over the past several weeks.

² Department of Justice Office of Inspector General, *Review of ATF's Project Gunrunner, Evaluation and Inspections Report I-2011-001* (November 2010), <http://www.justice.gov/oig/reports/ATF/e1101.pdf>. ("ATF's focus remains largely on inspections of gun dealers and investigations of straw purchasers, rather than on higher-level traffickers, smugglers, and the ultimate recipients of the trafficked guns.")

Attached for your reference are copies of my correspondence with the ATF and the Justice Department, beginning on January 27, 2011. Please provide a written reply no later than March 15, 2011. Thank you for your prompt attention to this extremely important matter.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

cc: Attorney General Eric Holder
U.S. Department of Justice

Acting Inspector General Cynthia A. Schnedar
U.S. Department of Justice

Acting Director Kenneth Melson
Bureau of Alcohol, Tobacco, Firearms, and Explosives

Attachments