
From: Schmaler, Tracy (SMO)
To: Axelrod, Matthew (ODAG)
Sent: 3/28/2011 9:06:05 PM
Subject: Fw:

From: Miller, Matthew A (SMO)
Sent: Monday, March 28, 2011 04:59 PM
To: Schmaler, Tracy (SMO); Sweeney, Laura (SMO)
Subject: FW:

About that press release...

From: Ranking Member Grassley (Judiciary-Rep)
To: Ranking Member Grassley (Judiciary-Rep)
Sent: Mon Mar 28 16:46:05 2011
Subject: Did ATF Strategy to Let Guns Walk Go Beyond Fast and Furious?

For Immediate Release
Monday, March 28, 2011

Grassley Concerned that ATF'S Risky Strategy of Letting Guns Walk
May Have Been Used Beyond Fast and Furious

WASHINGTON – In a letter to the director of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Senator Chuck Grassley pressed for additional details about the bureau's knowledge of the straw purchasers of the guns involved in the killing of Immigration and Customs Enforcement Agent Jaime Zapata.

Today's letter follows a March 4 letter where Grassley cited press reports and a Justice Department press release that raised the prospect that the ATF strategy of allowing straw purchasers to continue to operate in hopes of making bigger cases may have contributed to the shooting of Zapata. The Justice Department responded to Grassley's letter on behalf of the ATF but refused to provide any substantive information, citing an investigation by the department's inspector general.

A copy of Grassley's [March 4, 2011 letter to the ATF](#) can be found here. A copy of the [Justice Department's response](#) can be found here.

Here is a copy of the text of today's letter to ATF Director Kenneth Melson. A copy of the [signed letter](#) can be found here.

March 28, 2011

Via Electronic Transmission

Kenneth E. Melson
Acting Director
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue, NE
Washington, DC 20226

Dear Acting Director Melson:

On March 4, 2011, I wrote you regarding questions surrounding the February 15 murder of U.S. Immigration and Customs Enforcement (ICE) Agent Jaime Zapata in Mexico. I have yet to receive a reply.

In my last letter, I referenced the March 1 DOJ press release regarding the Osorio brothers and their next-door neighbor Kelvin Morrison. They were arrested on charges related to trafficking firearms to a Mexican drug cartel and indicted on March 23. According to the release, all three defendants had been suspects in an ATF undercover operation in early November 2010. In that operation, the Osorio brothers and Morrison provided 40 firearms to an ATF informant. The press release indicates, “The meeting [between the informant and the suspected traffickers] was arranged related to an investigation of Los Zetas,” a Mexican drug trafficking cartel.^[1]

The DOJ’s press release appears to be the first public acknowledgement that one of the firearms used in the murder of Agent Zapata had been traced back to Otilio Osorio. Specifically, the press release stated:

[A]ccording to one affidavit filed in the case, one of the three firearms used in the Feb. 15, 2011, deadly assault of ICE Special Agent Jaime Zapata that was seized by Mexican officials has been traced by ATF to Otilio Osorio. Otilio Osorio allegedly purchased that firearm on Oct. 10, 2010, in the Dallas/Fort Worth metroplex, prior to law enforcement’s awareness of the purchase. Ballistic testing conducted by Mexican authorities on this firearm indicated it was one of the three firearms used during the deadly assault on Special Agent Zapata’s vehicle.^[2]

The DOJ’s press release gives the impression that law enforcement officials were unaware of Osorio’s activities in October 2010 when he allegedly purchased the weapon that was later used to kill Agent Zapata.

The press release leads the reader to believe that law enforcement had no reason to suspect Osorio was a straw purchaser until sometime between October 10 and early November, when he was the subject of the undercover operation. According to the release:

The investigation *now has also revealed* that on Aug. 7, 2010, a Romarm, model WASR, 7.62 caliber rifle was discovered by law enforcement officers in LaPryor, Texas, near the U.S./Mexico border. Trace results indicated that Morrison purchased this firearm on July 30, 2010, from a FFL [federal firearms licensee]. According to the affidavit, between July 10, 2010, and Nov. 4, 2010, Morrison purchased 24 firearms from FFLs.^[3]

This portion of the DOJ’s press release appears designed to give the impression that the August 7 discovery by unspecified “law enforcement officers” and subsequent trace results linking the weapon to Morrison became known only after the October 10 purchase of the murder weapon.

However, I have learned that ATF agents actually observed a cache of weapons being loaded into a suspect vehicle on July 29, 2010, but did not maintain surveillance on that vehicle.^[4] The very next day, Morrison purchased the firearm that was later “discovered,” in August.^[5] In fact, it was actually seized along with 22 other AK-style firearms in the very suspect vehicle that ATF agents had witnessed being loaded with weapons on July 29.^[6] When the vehicle was stopped en route to Eagle Pass, Texas on August 7, the weapon purchased by Morrison on July 30 was recovered, *along with two weapons purchased by Ranferi Osorio.*^[7] All of these facts were apparently known to federal authorities contemporaneously, and yet none of them are included in the Justice Department’s craftily-worded press release.

The March 8 letter I received from Department of Justice (DOJ) Assistant Attorney General Ronald Weich is not an adequate response to my March 4 letter, which was addressed specifically to you. Therefore, please provide your direct response to the questions in my letter, along with the documents previously requested. In particular, please prioritize any documents responsive to paragraph (5), which called for all records relating to when law enforcement first became aware of the trafficking activities of Otilio and Ranferi Osorio and Kelvin Morrison.

Should you have any questions regarding this letter, please contact Tristan Leavitt at (202) 224-5225.

Sincerely,

Chuck Grassley

[1] Press Release, Department of Justice, March 1, 2011, available at <http://dallas.fbi.gov/dojpressrel/pressrel11/dl030111.htm>.

[2] *Id.*

[3] *Id.* (Emphasis added.)

[4] ATF Management Log, Case 785096-10-[redacted], Case Title “[redacted] Firearm Traffickers (SWB Gunrunner).” (Attachment 1)

[5] ATF Firearms Trace Summary, Sep. 17, 2010. (Attachment 2)

[6] *Supra* note 4.

[7] ATF Firearms Trace Summary, Sep. 15, 2010; ATF Firearms Trace Summary, Sep. 17, 2010. (Attachment 3)

[1] Press Release, Department of Justice, March 1, 2011, available at <http://dallas.fbi.gov/dojpressrel/pressrel11/dl030111.htm>.

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