

Congress of the United States
Washington, DC 20510

July 12, 2011

VIA ELECTRONIC TRANSMISSION

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

Dear Attorney General Holder:

There has been public speculation that gun control politics may have been a motivating factor behind approving the risky strategy used in Operation Fast and Furious. In other words, by allowing straw purchasers to continue to operate and by encouraging gun dealers to go through with what were obviously suspicious sales, the ATF helped create a “big case” in order to justify additional regulatory authorities. Unfortunately, yesterday’s announcement, requiring firearms dealers in border states to alert officials anytime they sell more than two semi-automatic rifles to someone in a five-day period, only serves to fuel such speculation.

While we have seen no evidence that this was the initial aim of Operation Fast and Furious, senior ATF officials did contemplate using the case to justify imposing additional requirements on gun dealers as early as July 2010, when straw buyers were still purchasing weapons with the approval of ATF and DOJ.¹ E-mails also indicate that six months later, after Border Patrol Agent Brian Terry was killed, senior ATF officials again discussed using the case to justify the long gun sale reporting requirement.²

There were about 93 multiple handgun purchases by Fast and Furious suspects, averaging nearly five handguns per purchase. Even if gun dealers had not been cooperating, each of these sales did trigger reporting requirements under existing regulations. Yet ATF did not use this information to interdict the flow of firearms to the

¹ E-mail from Mark R. Chait to William D. Newell, cc William G. McMahon (July 14, 2010, 10:25 AM).

² E-mail from William D. Newell to William G. McMahon (Jan. 4, 2011, 6:19 PM); e-mail from William D. Newell to William G. McMahon (Jan. 5, 2011, 1:10 PM) (talking points attached); e-mail from Mark Chait to William D. Newell, cc William G. McMahon (Jan. 26, 2011, 09:30:54).

cartels. There were about 148 multiple long gun purchases by Fast and Furious suspects, averaging over nine long guns per purchase, mostly by just a few straw purchasers. Cooperating gun dealers reported the vast majority of these sales to the ATF contemporaneously even in the absence of a reporting requirement because they were suspicious sales to known straw purchasers. Yet ATF did not use this information to interdict the flow of firearms to the cartels.

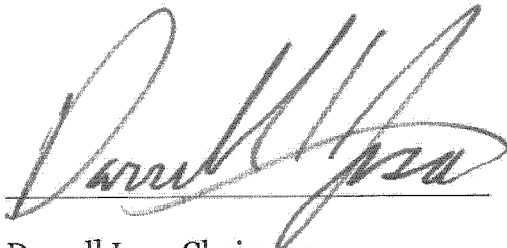
The problem with Operation Fast and Furious was not the failure to collect enough information. It was the failure to act on information that the government had already collected.

In light of this information, please answer the following questions:

1. Is there any other evidence suggesting that ATF or DOJ officials discussed how Operation Fast and Furious could be used to justify additional regulatory authorities for the ATF? If so, are there any such indications prior to July 14, 2010?
2. Rather than collecting additional information on law-abiding gun owners, what steps have you taken to ensure that the ATF is better able to act on the information it already possesses to interdict the flow of firearms to criminals?

Thank you for cooperation and attention in this matter. We would appreciate a response by July 26, 2011. If you have any questions regarding this letter, please contact Jason Foster at (202) 224-5225 or Steve Castor at (202) 225-5074.

Sincerely,



Darrell Issa, Chairman
Committee on Oversight &
Government Reform
U.S. House of Representatives



Charles E. Grassley, Ranking Member
Committee on the Judiciary
United States Senate

Attachment

cc:

The Honorable Elijah E. Cummings, Ranking Member
U.S. House of Representatives, Committee on Oversight & Government Reform

The Honorable Patrick Leahy, Chairman
U.S. Senate, Committee on the Judiciary

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

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

From: Newell, William D.
To: McMahon, William G.; [REDACTED]; Chait, Mark R.;

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]

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----- Original Message -----
From: [REDACTED] ATF

HOGRAF - 001172

To: Needles, James R.; Newell, William D.; [redacted] ATF.; 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: [redacted] ATF
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] [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 1/4 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.

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

Categories: Yellow Category, Red Category, Green Category

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 OCDETF 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 OCDETF 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 an 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
Categories: Yellow Category, Red Category, Green Category

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

[REDACTED]

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 [ATF] 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
[REDACTED]

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