

To: Pelak, Steven (NSD)[Steven.Pelak2@usdoj.gov]
Cc: Fayhee, Ryan (NSD)[Ryan.Fayhee@usdoj.gov]
From: Reilly, Thomas P. (NSD)
Sent: Tue 8/2/2011 6:21:01 PM
Subject: RE: **ATF** AECA Violation --- SW for phones, flash drives, etc.

Thanks Steve.

From: Pelak, Steven (NSD)
Sent: Tuesday, August 02, 2011 2:20 PM
To: Reilly, Thomas P. (NSD)
Cc: Fayhee, Ryan (NSD)
Subject: RE: **ATF** AECA Violation --- SW for phones, flash drives, etc.

Tom,

Attached are a couple email chains which I've located.

One includes reference to the Criminal Division/OIA stating that it had informed the ODAG. We have calls in to the USAO to determine whether any written updates or the like were forwarded from the USAO to ODAG. At this stage, it appears that OIA took the lead on that score. The second attached email chains include reference to Section 960a which we raised previously for internal pondering and with George and Todd. Nothing progressed on that issue apart from internal discussion about any factual predicate. With regard to the search warrant reference, as seen in the attached emails, that appears to be a reference to a search warrant for items seized and obtained at a border search.

As we currently understand the situation, the USAO is undertaking investigation and not in a position to recommend a particular course of action quite yet. The assigned AUSA is relatively new to the case, as only coming to the matter in early May 2011 and doing a good job of tracking down information surrounding the offenses and investigation. He is to forward a prosecution memo on the matter and any potential ATF issues in connection with his and his Office's recommendation to the AAG. In short, all understand that nothing should occur without those steps taking place.

Please yell my way if anything else is needed on this score.

Thanks, Steve

From: Reilly, Thomas P. (NSD)
Sent: Tuesday, August 02, 2011 1:20 PM
To: Pelak, Steven (NSD)
Subject: FW: **ATF** AECA Violation --- SW for phones, flash drives, etc.
Importance: High

Hi Steve,

Just following up on our call - the email below is all I can find on **ATF**. The original email refernces a search warrant. If you get hold of Ryan can you see if he has emails regarding that. Can you also send my way the 960a stuff? Basically I need all the emails on this case so I can help George get back to ODAG. Let me know if I can help. Thanks.

Tom

From: Pelak, Steven (NSD)
Sent: Tuesday, July 26, 2011 6:48 PM
To: Toscas, George (NSD); Dion, John J. (NSD); Boyd, Dean (NSD); Reilly, Thomas P. (NSD)
Subject: FW: **ATF** AECA Violation --- SW for phones, flash drives, etc.
Importance: High

George,

FYI – Below concerns a potential SW Border grenades to Mexico case. No indictment has been returned as yet in this matter, although we previously forwarded some information on that score when a preliminary question arose concerning 21 USC Section 960a.

The attached draft indictment is an old draft and is limited to the Arms Export Control Act. At this stage, there is no pending question or issue. The USAO is still considering whether it wants to propose going forward. The defendant is apparently in Mexico. In any event, any indictment would be limited to Arms Export Control Act offenses and related charges as in the attached draft.

Given that the ATF apparently allowed grenade hulls and parts to be exported to Mexico in 2009 and, according to the AUSA's message below, the DAG is "aware" of the matter, this matter may raise some issues if the USAO determines to go forward. Stay tuned for further information. Ryan is in contact with the AUSA to determine next planned steps.

Thanks, Steve

From: Fayhee, Ryan (NSD)
Sent: Tuesday, July 26, 2011 3:52 PM
To: Dion, John J. (NSD); Pelak, Steven (NSD)
Subject: FW: **ATF** AECA Violation --- SW for phones, flash drives, etc.
Importance: High

FYI, Let's chat.

From: Parecki, Josh (USAAZ)
Sent: Tuesday, July 26, 2011 3:47 PM
To: Fayhee, Ryan (NSD)
Subject: RE: **ATF** AECA Violation --- SW for phones, flash drives, etc.
Importance: High

Hey, Ryan-

No problem. The basic gist of what's going on is that during the course of the **ATF** investigation, ATF interceded an order **ATF** made to "Old Serge's Dron Zone" and made the call to **ATF** **ATF** **AUSA** Hurley---the AUSA I "inherited" the case from---indicated that he did not have a problem with the plan to **ATF** **ATF** **ATF** ATF proceeded with their investigation, conducted continuous surveillance **ATF** and began coordinating with Mexican authorities (I am heading down to MXC to confirm interaction with GOM, and seek more interaction with GOM per our legat's and OIA's advice). Despite surveillance efforts, ATF was unable to account for the **ATF** and suspected they made their way to Mexico. This process all took

place in November 2009. In April 2011, ATF was allowed to inspect a Mexican military crime scene and recovered remanufactured grenades. The GOM allowed ATF to send 10 of these devices to their labs near DC. Ultimately, the remanufactured grenades contained markings and indicators consistent with markings made to the [ATF] grenades. To date, ATF has been making numerous remanufactured grenade recoveries in MEXICO and they suspect, based on the construction of these grenades and the cartel affiliations, that these remanufactured grenades are related to [ATF]

I am planning a "fact finding" mission to MXC for the 9-11 of August. OIA and the U.S. Embassy in Mexico concurs with this trip. During the trip, I will meet with ATF personnel at the Embassy and attempt to acquire all documentation and/or records of their interaction with GOM. Additionally, I will look at whatever evidence they have that purportedly ties the most recent remanufactured grenade recoveries to [ATF]. I will also be meeting with two principal deputies at PGR (Mexican Attorney General), SIEDO (Organized Crime Component). One person used to be the head of their Terrorism and Weapons Stockpile Unit (and has familiarity with the [ATF] case), but he has since moved to head up their Kidnapping unit. The other person is now the head of Terrorism and Stockpile Unit. The meetings have been confirmed by the Embassy for the 10th.

Our initial indictment (the one you looked at) will be placed on hold until I am able to conduct these meetings. Also, I believe that we should conduct a prudential search and should probably discuss a CIPA discovery plan.

Please feel free to call. Also, you are more than welcome to head down to Mexico.

Unfortunately, the DOJ legat to Mexico (Chris Snyder) has indicated that [ATF] has now become a case of "Departmental importance," and has indicated that the DAG is "aware" of the case. It is also my understanding that the IG has asked questions about the case to my criminal chief, Pat Cunningham. All this is to say, as it turns out, I have been assigned into a pretty controversial case pretty late into the investigation. Ultimately, my main concern at this point is that justice is done and that [ATF] is prosecuted and brought to justice. Given the above information, however, you may want to staff the case up your chain. I want to ensure that CES and/or NSD is placed in the best possible position to make informed decisions.

Sincerely,

Josh

From: Fayhee, Ryan (NSD) (JMD)

Sent: Friday, July 22, 2011 8:46 PM
To: Parecki, Josh (USAAZ)
Subject: Re: **ATF** AECA Violation --- SW for phones, flash drives, etc.

Ok. Thanks for the heads up.

From: Parecki, Josh (USAAZ)
Sent: Friday, July 22, 2011 08:41 PM
To: Fayhee, Ryan (NSD)
Subject: RE: **ATF** AECA Violation --- SW for phones, flash drives, etc.

Hey, Ryan-

ATF may reach out to you reference **ATF** There is some additional information relative to ATF that we need to share with you.

I hope all is well.

Cheers,

Josh