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**From:** Agrast, Mark D. (SMO)  
**To:** Weich, Ron (SMO)  
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**Subject:** ATF; Exculpatory evidence standards

Wanted to be sure you saw these (from today's clips).

- Mark

## **ATF Promotes Fast And Furious Supervisors (LAT)**

**The three, who have been criticized for pushing on with the controversial border weapons sting even as it came apart, received new management jobs in Washington.**

By Richard A. Serrano

Los Angeles Times, August 16, 2011

The ATF has promoted three key supervisors of a controversial sting operation that allowed firearms to be illegally trafficked across the U.S. border with Mexico.

All three have been heavily criticized for pushing the program forward even as it became apparent that it was out of control. At least 2,000 guns were lost and many turned up at crime scenes in Mexico and two at the slaying of a U.S. Border Patrol agent in Arizona.

The three supervisors have been given new management positions at the agency's headquarters in Washington. They are William G. McMahon, who was the ATF's deputy director of operations in the West where the illegal trafficking program was focused, and William D. Newell and David Voth, both field supervisors who oversaw the program out of the agency's Phoenix office.

McMahon and Newell have publicly acknowledged making serious mistakes in the program, which was dubbed Operation Fast and Furious.

"I share responsibility for mistakes that were made," McMahon testified to a House committee three weeks ago. "The advantage of hindsight, the benefit of a thorough review of the case, clearly points me to things that I would have done differently."

Three Bureau of Alcohol, Tobacco, Firearms and Explosives spokesmen did not return phone calls Monday asking about the promotions. But several agents said they found the timing of the promotions surprising, given the turmoil at the agency over the failed program.

McMahon was promoted Sunday to deputy assistant director of the ATF's Office of Professional Responsibility and Security Operations — the division that investigates misconduct by ATF employees and other problems.

Kenneth E. Melson, the ATF's acting director, said in an agency-wide confidential email announcing the promotion that McMahon was among ATF employees being rewarded because of "the skills and abilities they have demonstrated throughout their careers."

Newell was the special agent in charge of the ATF's field office for Arizona and New Mexico, where Fast and Furious was conducted. On Aug. 1, the ATF announced he would become special assistant to the assistant director of the agency's Office of Management in Washington.

Voth was an on-the-ground team supervisor for Fast and Furious, and last month he was moved to Washington to become branch chief for the ATF's tobacco division.

The program ran from November 2009 to January 2011, with the aim of identifying Mexican drug cartel leaders by allowing illegal purchases of firearms and then tracking those weapons. Nearly 200 were recovered at crime scenes in Mexico, and in December, two semiautomatics were found at the scene of Border Patrol Agent Brian Terry's slaying in Arizona. No cartel leaders were arrested.

Rep. Darrell Issa (R-Vista), chairman of the House Oversight and Government Reform Committee, and Sen. Charles E. Grassley of Iowa, the top Republican on the Senate Judiciary Committee, are reviewing Fast and Furious.

Steve Martin, an ATF deputy assistant director, said he urged McMahon as far back as January 2010 to close the operation, and was met with silence. "I asked Mr. McMahon, I said, what's your plan?" Martin told the committee. "Hearing none, I don't know if they had one."

Newell spent a decade on the border, including as ATF's special agent in charge in Arizona and New Mexico. As Fast and Furious was unraveling, he insisted that his agents never allowed guns to "walk."

The statement angered many agents. "Literally, my mouth fell open," recalled Agent Larry Alt, who worked under Newell. "I am not being figurative about this. I couldn't believe it."

Newell has since acknowledged that "frequent risk assessments would be prudent" for operations like Fast and Furious. He also said the slaying of Agent Terry "is one I will mourn for the rest of my life."

Voth supervised the crew of ATF agents under Fast and Furious. As they questioned the wisdom of allowing illegal purchases, he countered that because the weapons were turning up at Mexico crime scenes, cartel leaders had to be involved. He told his crew they were "watching the right people."

His agents did not buy it. "Whenever we would get a trace report back," recalled Agent John Dodson, Voth "was jovial, if not giddy, just delighted about that: Hey, 20 of our guns were recovered with 350 pounds of dope in Mexico last night.... To them it proved the nexus to the drug cartels. It validated that were really working a cartel case here."

**ABA Delegates Pass Resolution Urging Stricter Standards For Exculpatory Evidence.** Reuters (8/16) reports that the American Bar Association's House of Delegates passed a resolution last week that calls on state and federal officials to adopt stricter standards for exculpatory evidence. Reuters notes that the Justice Department has signaled opposition to the resolution, noting that it has already issued prosecutorial guidelines and provided training on the issue in the aftermath of the reversal of former Sen. Ted Stevens' corruption conviction.

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