

# Bureau of Alcohol, Tobacco, Firearms and Explosives

## ATF News Summary

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## Grenades Case Hits Justice

### *Blunders After U.S. Arrest of Suspected Supplier Had a Part in High-Level Ousters*

By EVAN PEREZ

Federal authorities are probing why the U.S. in 2010 let go an Arizona man accused of supplying grenades to a Mexican drug cartel, a case that played a role in the ouster last week of the nation's top firearms regulator and the U.S. attorney in Phoenix.



Then -U.S. attorney Dennis Burke speaks in January about recovered weapons.

U.S. officials said missteps in the case, which hasn't been previously disclosed, are being investigated by the Justice Department and Congress. **Federal agents in 2009-10 at the Phoenix office of the Bureau of Alcohol, Tobacco, Firearms and Explosives led the case against the suspect, who they believed was dealing grenades to cartels in Mexico.** The case was overseen by prosecutors in the Arizona U.S. attorney's office, the U.S. officials said.

**The Arizona U.S. attorney's office and the Phoenix ATF office are the Justice Department units behind another botched**

**operation, called Fast and Furious,** which has been the subject of intense congressional interest this year. The Fast and Furious program allowed suspected smugglers to buy about 2,000 firearms, some of which later turned up at drug-related crime scenes in Mexico and the U.S.

Jean Baptiste Kingery, the suspect in the grenades case, was arrested Aug. 31 in Mexico and has been charged with violating that nation's organized-crime laws, according to U.S. officials.

Mexican police raided his home in Mazatlan and other locations nearby where they reported finding materials that could be used to construct 500 grenades, the officials said. A confidential informant told U.S. investigators last month he had provided Mr. Kingery with components for 2,000 grenades, they said. Mexican authorities, who haven't made the arrest public, didn't respond to repeated requests for comment. An attorney for Mr. Kingery couldn't be located.

U.S. prosecutors say they continue to pursue possible charges against Mr. Kingery.

**Like Fast and Furious, the grenades case has exposed severe discord between federal agents and prosecutors in Arizona over how to pursue the trafficking of drugs, weapons, people and cash between the U.S. and Mexico.**

The weapons trade is bustling along the border because of a ready market in Mexico, where legal private firearms ownership is severely restricted, and easy supplies on the U.S. side. U.S. authorities say cases are hard to prove because they must guard against infringing on legal gun-owner rights. In the case of inert grenades, the parts are legal to possess and an infraction occurs only when someone tries to export them without a license.



This account is based on interviews with three U.S. officials and others familiar with the case as well as documents describing it.

**ATF agents arrested Mr. Kingery in Arizona in June 2010 after months of surveillance and seized 116 grenade hulls and parts in his possession, the officials said.**

The suspect told investigators he helped operate a mill in Mexico manufacturing improvised explosive devices made from the U.S.-sourced grenade components, they said. Mr. Kingery allegedly said he supplied the weapons to a cartel called La Familia Michoacana and also helped the cartel convert semiautomatic rifles into military-style machine guns.

**Nonetheless, he walked free without being charged after just hours in custody, officials said. That decision is at the crux of a bitter fight between ATF agents and prosecutors at the U.S. attorney's office in Phoenix. The lead ATF agent on the grenades case, Peter Forcelli, "was horrified with the thought of releasing this individual" and "practically begged" senior prosecutor Emory Hurley "for permission to arrest the suspect on a criminal complaint," according to an Aug. 31 letter sent to a congressional committee on Mr. Forcelli's behalf by an attorney with the Federal Law Enforcement Officers Association, a group that provides legal assistance to law enforcement officers.**

**Officials from the U.S. attorney's office dispute that Mr. Hurley, who oversaw both Fast and Furious and the Kingery cases, declined to prosecute, according to officials familiar with the accounts provided to investigators. These officials said prosecutors wanted to continue following the case and possibly bring charges at a later date.**

**Officials from the U.S. attorney's office also have told investigators that the ATF agents freed Mr. Kingery because the agents wanted to make him an informant. Mr. Kingery maintained contact with agents for several weeks, then disappeared, the U.S. officials familiar with the case said.**

**The prosecutors involved also accuse the ATF agents of a misstep at an earlier stage. In January and February 2010, U.S. and Mexican agents devised a sting that allowed Mr. Kingery to take delivery of hundreds of grenade parts in the U.S. and cross the border into Mexico, officials said. U.S. agents lost Mr. Kingery on the highway to the border and**

**Mexican authorities failed to stop him at the crossing, they said.**

The Kingery case is now under scrutiny by investigators from the Justice Department inspector general's office. **Lawyers from the office of Deputy Attorney General James Cole in recent weeks gathered information on the case. The findings helped decide the fates of Kenneth Melson, acting director of the ATF, and Dennis Burke, the U.S. attorney in Arizona, who were ousted from their posts last week, people familiar with the matter said. Mr. Hurley, who didn't respond to requests for comment, was reassigned.**

Mr. Burke said in a statement released to employees last week that he resigned to pursue other opportunities. Mr. Melson said in a statement that he was taking a new post in another division of the Justice Department.

Messrs Burke and Melson didn't respond to requests for comment on the Kingery matter.

Investigators from the House Oversight and Government Affairs Committee, led by Rep. Darrell Issa (R., Calif.), and the office of Sen. Chuck Grassley (R., Iowa), are also probing the Kingery case as an extension of their Fast and Furious probe. "Information suggesting that a prosecutor, who exercised dubious judgment in Operation Fast and Furious, also made similar decisions in a separate case is certainly disconcerting," a committee spokesman said.

**Mr. Forcelli is among ATF agents who provided testimony earlier this year about missteps in the Fast and Furious operation.** The officers association's letter alleges that he is the victim of "whistleblower retaliation" because of that testimony.

**A key point of contention is whether Mr. Forcelli and his team got proper clearance for the operation that led to the botched sting in February 2010. In October 2009, a prosecutor in the Kingery case told ATF agents that "We cannot approve [allowing] the illegal export to be accomplished," according to an email read to The Wall Street Journal. Prosecutors and Justice Department officials have cited the email to investigators to contend that the ATF agents failed to get clearance.**

**But the ATF agents disagree and cite a January 2010 email exchange that appears to show high-level approval.** The latter email described the operation in detail, including a plan to let Mexican authorities track the suspect in hopes of finding a grenade-manufacturing facility in Mexico.

Mr. Burke, then the U.S. attorney in Arizona, is among the officials in the email exchange and responds to the summary of tactics: "Agree [with] the course of action as the variables play out." The email exchange was reviewed by The Wall Street Journal.

**Mr. Forcelli said in a statement, "I am very proud of the work the ATF did in this case and I can assure you that at no point did we ever endanger the safety of the public with our actions."** The statement said he described aspects of the case in a deposition with congressional staffers and the Justice Department inspector general's office.

## **Fear of 'urban terrorism' has faded for East Hills neighborhood residents**

By John Tunison | The Grand Rapids Press

GRAND RAPIDS -- These days, the East Hills neighborhood bustles with Cherry Street foot traffic, shoppers and people coming and going from new townhouses.

The mood in the neighborhood shows little hint of the worry that permeated residents six months ago.

Then, an arson fire consumed a Blodgett Street SE townhouse, with supposed anti-gentrification militants claiming responsibility. In a **letter signed "The Old Neighbors,"** they promised more damage and chaos if residents in new housing on the street did not leave and restore low-income housing.

### **But so far -- quiet.**

"They are obviously idiots," said Marc Savage, a Hollister Avenue SE resident. "They obviously have not seen actual gentrification. Really this is a neighborhood that could benefit from a lot of gentrification."

Savage and others said they have little concern about more acts of "urban terrorism," particularly with stepped-up police enforcement that came after the arson.

"I wasn't really concerned," said another Hollister Avenue resident who did not want to be named. "I never felt not safe."

"The whole thing just kind of gradually fizzled out after the fire," she said. "It's not like we were all just going to move out anyway."

"Maybe (The Old Neighbors) got the attention they needed," she said. "I pretty much grew up around here, so I feel comfortable living here."

Grand Rapids police Capt. Jeff Hertel said police are still **working to solve the arson** and discover who wrote the letter.

"It's still on our radar screen. We still have people working on it," he said.

**The Bureau of Alcohol, Tobacco, Firearms and Explosives continues to help Grand Rapids police, and a task force is still going.**

Police have paid attention to new condominiums going up on Blodgett Street SE, right next to the unit destroyed by arson. It has been rebuilt.

“I’m sure it’s still on the minds of the officers patrolling that area,” Hertel said.

Police are also getting reports on graffiti that might have been ignored by residents in the past. One detective investigates all reports of graffiti or property destruction in the area. Police – as well as the public – are on the lookout for anything suspicious.

No arrests have been made, but Hertel said people recently have been interviewed about the case.

Hertel credited residents, the neighborhood association and business community with keeping eye on the area.

“I think their vigilance is still helping over there,” he said.

Kara Apodaca, another Hollister Avenue resident and a college student, said she has lived in East Hills about two years.

She does not think threats in the letter will be acted upon.

"I think it was kids trying to scare people," she said. "This is a really safe neighborhood and it's cool that everything is developing."

## **Blasts part of class Wednesday in Sykesville**

By Ryan Marshall, Times Staff Writer

Sykesville residents may hear explosions Wednesday afternoon as part of a training class at the Maryland Police and Correctional Training Commissions facility on Slacks Road in Sykesville.

The blasts are part of an Introduction to Explosives and Recognition of I.E.D.'s, conducted by the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network. **The class will be taught by instructors from the Baltimore office of the Bureau of Alcohol, Tobacco, Firearms and Explosives.**

The training will include classroom work as well as a live explosives demonstration to provide basic knowledge of explosive compounds and the substances used to create homemade bombs and explosives.

The explosions are scheduled to take place at approximately 1:30 p.m. Wednesday.

## **Wolf's Den: Botched gun sting raising questions**

David Wolf

*Who was Brian Terry?* He is the U.S. Border Patrol agent killed in Rio Rico last December. Why should you remember his name? You should remember him because he served his country and all of us. You should remember him because he was killed by Mexico's drug runners using guns provided to them by the U.S. government.

**Operation Fast and Furious was designed to track the flow of illegal guns into Mexico. Under the auspices of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), straw buyers, some with felony records, went to buy thousands of guns in the U.S. and take them to Mexico. The guns stores involved were encouraged and authorized by ATF to sell these guns to known gang members even when their criminal backgrounds would have normally prevented such sales.**

*What was the outcome of Operation Fast and Furious?*

According to the Justice Department and an Aug. 11 article in the Los Angeles Times, by January 2010 some of the ATF guns had turned up at the sites of 11 violent crimes in Arizona and Texas, including the cities of Phoenix, Nogales, Douglas and Glendale, and more than 40 Fast and Furious guns have been recovered near El Paso, Texas.

**The government of Mexico states hundreds of their citizens have been killed by the ATF guns.**

**And two ATF guns were recovered where Agent Brian Terry was killed.**

**After Agent Terry was killed the ATF shut down Operation Fast and Furious and arrested 14 of the straw buyers that the ATF had allowed to buy 659 assault rifles. In total, as of July 22, ATF stated 1,048 rifles allowed into Mexico under Fast and Furious are unaccounted for. They have no idea where these rifles are other than in the hands of violent criminals, somewhere. Assistant Attorney General Ronald Weich stated 1,418 guns were circulated under the program. Yet other authorities, according to the L.A. Times article, have stated at least 2,000 guns have vanished.**

Remember when Secretary of State Hillary Clinton and U.S. Attorney General Holder were complaining about the "river of Iron" flowing into Mexico from U.S. gun dealers? **There are those who are beginning to believe another goal of Fast and Furious was to fuel the fire for more gun control. This may be pure speculation, but the idea is gaining steam as the Department of Justice refuses to cooperate and disclose Fast and Furious documents to Congressional investigators.**

**Statements before Congress by acting ATF Director Kevin Melson (now reassigned) that the operation, "made him sick to his stomach" and that Operation Fast and Furious had been taken over by the Department of Justice further clouds the issue.**

## **Fatal flaw: Firings are justified as a result of ill-conceived federal gun investigation**

It's taken the better part of a year, but a week ago today, the Obama administration made its most direct admission yet that an operation allowing hundreds of U.S. weapons to go to a brutal Mexican drug cartel while government agents did nothing but watch was, perhaps, a bad idea.

**The Justice Department made some changes in key personnel at the Bureau of Alcohol, Tobacco, Firearms and Explosives and the U.S. attorney's office in Phoenix, both of which were heavily involved in the reckless Operation Fast and Furious. In doing so, though, Attorney General Eric Holder did not mention Fast and Furious by name.**

**ATF acting Director Kenneth Melson was reassigned to advise on forensic science elsewhere in the department. U.S. Attorney Dennis Burke of the Phoenix office resigned. An assistant prosecutor in that office, Emory Hurley, was reassigned to civil work.**

**The objective of the top-secret Fast and Furious, which started in November 2009, was for ATF agents to watch "straw buyers" buy guns in Southwestern gun shops and pass them off to middlemen. Then the ATF agents were to follow the guns as they were smuggled across the border and made their way up the hierarchy of the Mexican drug cartel. Then ATF agents were to bust the bad guys and take down the whole drug ring.**

**But by March 2010, it became clear to some higher-ups in the ATF that they had a problem. Hundreds of guns had been sold and then vanished, sometimes right after the purchase. Officials talked about stopping the program then, but according to documents and testimony, they kept it going. They wanted to see results first.**

**Officials announced 20 indictments in January 2011, but in the meantime, those Fast and Furious guns were found in at least a dozen violent-crime scenes. One of those scenes is where U.S. Border Patrol Agent Brian Terry was shot and killed in Arizona on the night of Dec. 14.**

**The operation was shut down soon after that. An ATF whistleblower, perhaps angry at the fact this operation perverted the traditional role of the ATF in preventing the proliferation of illegal guns, slipped the news to Iowa Sen. Charles Grassley, ranking Republican on the Senate Judiciary Committee. The story broke publicly in February.**

**In July, the Justice Department told the Senate that of the 2,000 guns that were allowed to leak into Mexico, more than 1,000 still are unaccounted for. How many people have died or will as a result might never be known.**

The operation didn't affect just one country but two. Mexico, which has grave problems with lawlessness, violence and drugs, can justifiably point an accusing finger at the U.S. for contributing to the carnage.

Heads needed to roll. The investigation will continue in Congress and within the Justice Department, as it should.

## **Serious questions remain**

Published By Times Herald

**No one should think the reassignment of the head of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives will quiet questions about a dangerous federal gun trafficking investigation gone awry.**

**Though the move of Kenneth Melson to another division within the Justice Department may capture headlines for a day or two, there remain serious questions about the ATF's so-called Fast and Furious firearms probe.**

The Obama administration must act quickly and responsibly to fully explain how the debacle came to pass.

The administration has yet to reveal how far up the chain of command knowledge of this botched operation went, and how long the investigation was allowed to continue once it was known that it had gone badly off track.

**The removal of Melson, who had been acting ATF chief since April 2009, wasn't the only development Tuesday.** The Arizona U.S. attorney, Dennis Burke, also resigned.

Burke's office had overseen the investigation, which allowed suspected illegal gun purchasers to acquire about 2,000 firearms.

The operation had targeted gun buyers who were funneling weapons to Mexican drug traffickers, in particular the Sinaloa cartel, the largest and most powerful such organization in Mexico.

The retail buyers weren't busted on the spot, even though federal agents watched them make suspected illegal purchases.

The goal, and it was a laudable one, was to gather critical intelligence about the big-money interests behind the operations.

But unleashing this sea of weapons had detrimental effects. Fast and Furious weapons have been found at crime scenes both in the U.S. and Mexico.

And some of these guns were found at the site of a shootout in the Arizona desert last December that left a U.S. Border Patrol agent dead.

**The 15-month operation, which began in the fall of 2009, went so badly wrong that agents involved in carrying it out began to voice strong concerns both inside and outside the ATF. Members of Congress added their voices to those asking questions, many of which are still**

**unanswered.**

**On July 4, Melson told a closed- door meeting of congressional investigators that the ATF had made mistakes. Guns should have been interdicted in some circumstances.**

He said he was frustrated that Justice officials hadn't allowed him to talk to Congress months earlier. And he said he thought Justice officials were more concerned about protecting top political appointees within the department.

**Shuffling Melson from the top of the ATF to another post within Justice doesn't come close to closing the book on this disturbing case.**

-- The Denver Post