

Congress of the United States
Washington, DC 20515

September 27, 2011

Via Electronic Transmission

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

Dear Attorney General Holder:

As our investigation into the Bureau of Alcohol, Tobacco, Firearms, and Explosives' (ATF) Operation Fast and Furious continues, it is becoming increasingly apparent that there was a serious lack of information-sharing among the major law enforcement agency components of the Department of Justice. With supervisory authority over two principal members of the nation's intelligence community, including the nation's primary federal criminal investigation and enforcement agency, the Department must ensure that all of its components have effective information-sharing procedures in place. Since it appears that critical information may not have been shared with regard to Operation Fast and Furious, serious questions have arisen as to why such procedures did not exist or failed to work properly.

Organized Crime Drug Enforcement Task Force (OCDETF) Strike Force

The Department of Justice's web site states that "OCDETF is the centerpiece of the Attorney General's drug supply reduction strategy."¹ OCDETF cases are reserved for cases of highest importance to the Department. The original Fast and Furious OCDETF proposal from January 26, 2010, states that the "focus of the proposed investigation will be on . . . Manuel CELIS-ACOSTA."² The proposal further states that "CELIS-ACOSTA [is] believed to be supplying firearms to [drug cartel 1], a documented RPOT [Regional Priority Organized Target], and [drug cartel 2], a documented CPOT [Consolidate Priority Organized Target]."³ Given that Acosta was believed to be supplying firearms to an RPOT and a CPOT, it is difficult to understand how the agencies that comprise OCDETF could have failed to share essential information about the main target of an OCDETF Strike Force case.

As Attorney General, you are responsible for ensuring that proper information-sharing takes place, at a minimum, among Department components. Additionally, the Department should share vital, sensitive information with those outside the Department in a responsible manner.

¹ORGANIZED CRIME AND DRUG ENFORCEMENT TASK FORCES (OCDETF), <http://www.justice.gov/dea/programs/ocdetf.htm> (last visited Sept. 26, 2011).

² OPERATION: THE FAST AND THE FURIOUS at 4 (Jan. 26, 2010).

³ *Id.*

Information Sharing

Operation Fast and Furious evolved from a lead on a DEA intercept to an ATF investigation to an OCDETF Strike Force case. Due to this OCDETF Strike Force case designation, multiple federal agencies were supposed to pool resources, share information, and coordinate strategy for the investigation. Certain reporting requirements are also mandatory for OCDETF cases to ensure that designated funds are being properly spent and inter-agency coordination is being properly utilized. Unfortunately, despite this structured coordination among the various agencies, in Fast and Furious, it appears that vital information may not have been shared with those agencies that needed it the most.

The main target in Operation Fast and Furious from its inception as an OCDETF Strike Force case in January 2010 was Manuel Celis-Acosta (Acosta). Acosta was the “biggest fish” of the Fast and Furious January 19, 2011 indictments. We have obtained detailed information from confidential sources that the Drug Enforcement Administration (DEA) was aware of Acosta’s arms trafficking activity as early as late 2009. It is our understanding that DEA knew Acosta was providing hundreds of firearms to members of Mexican drug cartels. We believe DEA shared this information about Acosta with the Federal Bureau of Investigation (FBI) before the OCDETF Strike Force case officially began in January 2010. The FBI and DEA both apparently knew by January 2010 that Acosta was trafficking guns from Phoenix to Juarez, Mexico but that he was uneasy about taking the guns across the border himself.

Moreover, FBI personnel in its Las Cruces, New Mexico office apparently knew that the subject of a separate DEA investigation was ordering weapons from Acosta in January 2010. Yet around the same time, the subject of that investigation received more than \$3,500 in official law enforcement funds as payment for illegal narcotics. That subject—apparently the financier for Acosta’s firearms trafficking ring—later began cooperating with the FBI and may have received additional government payments as a confidential informant (CI #1).

These facts raise some important questions:

1. Why was a transfer of more than \$3,500 in official law enforcement funds authorized to CI #1 around the same time that Acosta was known to be selling weapons to CI #1?
2. Was CI #1 ever charged with any violation in connection with the sale of illegal narcotics to another government informant? If not, why not?
3. What is the total amount in official law enforcement funds transferred to CI #1 before that individual became a confidential informant? What is the total amount afterward?
4. When was the first payment transmitted?

5. Approximately how much money did CI #1 spend ordering weapons from Acosta and his straw purchasing ring in Phoenix from January 2010 to August 2010?
6. Was the information about Acosta supplying weapons to CI #1 shared with the ATF sometime between January 2010 and August 2010? If so, when and in what manner was it shared? If not, why not?
7. Was this information shared with DEA or FBI personnel assigned to the OCDETF strike force handling Operation Fast and Furious? If so, when and in what manner was it shared? If not, why not?
8. Was this information shared with the DEA or FBI representative on the OCDETF Southwest Border Regional Committee, which oversaw and approved Operation Fast and Furious? If so, when and in what manner was it shared? If not, why not?
9. What information regarding CI #1 was shared with ATF and when?
10. What information about CI #1 was shared with the FBI representative to the OCDETF Southwest Border Regional Committee and when?
11. What processes are in place for information sharing within the Department of Justice among ATF, FBI, and DEA for OCDETF cases?
12. Was information properly shared in Operation Fast and Furious according to these processes?
13. What is the purpose of an OCDETF Strike Force if information-sharing between agencies does not occur regarding targets of the OCDETF investigation?
14. What is the purpose of a multi-agency OCDETF Strike Force if the representatives to the Strike Force are unable to use the information at the full disposal of their particular agency?

If ATF had known in January 2010, as the DEA and FBI apparently knew, that the straw purchasing ring was procuring weapons for CI #1, then Operation Fast and Furious may have ended as many as ten months sooner than it did. This would have prevented hundreds of assault-type weapons from being illegally straw purchased on behalf of Mexican drug cartels.

According to confidential sources, over a two-year period CI #1 had contacted several DEA Agents, including Juarez, Mexico Resident Agent-in-Charge Jim Roberts, and passed information to these agents about Mexican drug cartels. If the information we have obtained is accurate, DEA had knowledge of CI # 1's activities going back to at least early 2009. Apparently, CI #1 was initially frustrated with the United States government because he could not get its full attention when he was providing good information.

Due to the failure to exploit this source of information earlier and the apparent failure to share information about the source, ATF was allegedly unaware that DEA and FBI knew CI #1 was ordering weapons from Acosta, the target of its Operation Fast and Furious. This failure to share vital information may have extended the use of gunwalking during Operation Fast and Furious, which sought to identify the higher-ups, like CI #1, who were paying for the weapons being obtained through straw purchasers.

We have also learned from confidential sources that ATF knew Acosta was orchestrating both narcotics and firearms transactions with the intent to sell narcotics, purchase firearms with the proceeds, and transport the firearms from the United States into Mexico. It is our understanding that as of February 2010, it was well known within the Department that Acosta intended to acquire heavy-duty firearms for the purpose of supplying them to the Mexican cartels. Sources have indicated that this information was communicated to numerous senior people in the Criminal Division, including Assistant Attorney General Lanny Breuer and several of his top deputies, including Jason Weinstein, Kenneth Blanco, and John Keeney.

Confidential sources have also indicated that law enforcement officers pulled over a vehicle in which Acosta was a passenger in early April 2010. One of the weapons recovered from this vehicle was bought by Acosta's most prolific straw purchaser, Uriel Patino, less than one week earlier. Yet Acosta was not arrested. He was allowed to leave the scene. We believe that ATF also knew that by July 1, 2010, Acosta made *fifteen* documented crossings into the United States from Mexico. These activities surely constituted the probable cause necessary to apprehend Acosta. Still, he was not arrested until late January 2011.

Cooperation with the Committees

Moreover, as we seek to learn who at the senior levels of the Department knew what and when regarding Operation Fast and Furious, the Department's recent lack of cooperation is distressing. Since the House Committee's last hearing on July 26, 2011, the Department has produced only 221 pages of documents pursuant to the March 31, 2011 subpoena. Of these 221 pages, several are in Spanish, several contain full redactions of the text, many contain nothing more than pictures from a presentation, and dozens are duplicates of material that had already been provided.

Further, we wrote to you on July 11, 2011 requesting communications regarding Operation Fast and Furious between and among twelve current and former senior-level Department employees, including Senate-confirmed presidential appointees. According to Department staff, the failure to produce these documents is due to technical difficulties. However, since it has been 11 weeks since our initial request and we have yet to receive any such documents, we now reiterate that request.

We also wrote to FBI Director Robert Mueller on that same date, requesting documents and communications of specific FBI officials, requesting information about possible paid FBI informants in contact with Operation Fast and Furious targets, and requesting information about the murder of Immigration and Customs Enforcement (ICE) Agent Jaime Zapata. On July 15,

2011, we wrote to DEA Administrator Michele Leonhart requesting documents and communications of specific DEA officials and information about Manuel Celis-Acosta and possible informants from other agencies. While we have yet to receive any documents from FBI or DEA pursuant to these requests, the Bureau has offered a confidential staff briefing with FBI, DEA, and ATF officials. We have scheduled the briefing and hope it will be productive.

FBI 302s

In a transcribed interview, ATF Deputy Director William Hoover discussed certain Reports of Investigation, commonly known as 302s, that relate to Operation Fast and Furious. We asked the FBI for these documents in our July 11, 2011 letter to Director Mueller. As Deputy Director Hoover recalled:

Q: [The ATF Special Agent] sent some 302s. Do you remember how many, how many pages it was?

A: Ultimately that she sent? I believe five 302s. I don't remember how many pages, but I believe there were a total of five 302s.

Q: And did you read them?

A: I did.⁴

* * *

Q: In your evaluation of the 302s, do you think the FBI has problems of their own?

A: I would just hope -- a different word than hope -- I would just suggest that everyone completely gather the facts before they cast judgments and just make sure you understand what folks knew. when they knew, that kind of thing, that's all I'm asking.⁵

Multiple agencies are reportedly in possession of these 302s, but the Department has yet to produce them to the Committees, despite a request to the FBI more than two months ago.

Without full cooperation from all Department components, we are left to draw conclusions from incomplete information. We lack confidence that these components are cooperating with us fully. This lack of cooperation is not fair to the DOJ employees who are caught in the crosshairs of this investigation, or to the American public, which has a right to know how this operation was conceived and authorized. Therefore, please direct these components to comply with our document requests in addition to providing briefings on these serious issues.

⁴ Transcribed Interview of ATF Deputy Director William Hoover at 31-32.

⁵ *Id.* at 32-33.

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Please provide the requested documents and information as soon as possible, but no later than noon on October 4, 2011. If you have any questions regarding these requests, please contact Tristan Leavitt in Ranking Member Grassley's office at (202) 224-5225 or Henry Kerner of Chairman Issa's Committee staff at (202) 225-5074. We look forward to receiving your response.

Sincerely,



Darrell Issa, Chairman
Committee on Oversight and
Government Reform
United States House of Representatives



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

cc: The Honorable Elijah E. Cummings, Ranking Member
Committee on Oversight and Government Reform
United States House of Representatives

The Honorable Patrick Leahy, Chairman
Committee on the Judiciary
United States Senate