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**From:** Schmalzer, Tracy (OPA)  
**To:** **Attorney General** Grindler, Gary (OAG)  
**Sent:** 10/4/2011 4:25:35 PM  
**Subject:** TPM Blog - 'Operation Wide Receiver': The Bush Administration Had Its Very Own ATF 'Gun Walking' Scandal

Raises the key points on tactics vs. investigation and notes Smith's affinity for calling for special counsel.

**TPM Muckraker**

## 'Operation Wide Receiver': The Bush Administration Had Its Very Own ATF 'Gun Walking' Scandal

Ryan J. Reilly | October 4, 2011, 3:50PM

Fmr. Attorney General Alberto Gonzales and President George W. Bush

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Know how Republicans have been blaming the Obama administration for a local ATF office's decision to let thousands of guns "walk" into Mexico? Turns out the Bush administration had a "gun walking" program of their very own.

Republicans on Tuesday called for a special prosecutor to look into whether Attorney General Eric Holder perjured himself during testimony before the House Judiciary Committee on ATF's Fast and Furious scandal.

Holder had testified on May 3 that he was "not sure of the exact date, but I probably heard about Fast and Furious for the first time over the last few weeks."

Documents have now emerged showing that the "Fast and Furious" program came up in the course of a couple of Holder's extensive weekly reports on ongoing developments in the Justice Department and its components in July 2010 and again in October 2010.

In the wake of that evidence, Judiciary Committee Chairman Rep. Lamar Smith (R-TX) -- who has left most of the investigation into "Fast and Furious" to Oversight Committee Chairman Darrell Issa (R-CA) -- sent a letter to President Barack Obama asking for a special counsel to be appointed. **This isn't Smith's first time at the requesting special counsel rodeo: he's also asked for someone to look into ACORN, the New Black Panther Party case and the White House's interaction with Rep. Joe Sestak.**

**Let's take a step back here. It's unsurprising that Holder got a couple brief updates which broadly outlined "Fast and Furious." After all, the program wasn't controversial at the time of the briefings because whistleblowers didn't come forward until early 2011. Nor would it be surprising that Holder would forget a brief mention of a case in one of his weekly updates, which include news from about 24 offices and components and weigh in at over 100 pages.**

**What *would* matter is if he had known about the controversial tactic -- instructing agents not to intercept weapons in suspicious sales and allowing them to "walk" over the border -- and did nothing about it. There's no evidence that he did, and when the complaints began emerging, he asked the DOJ's Inspector General to launch an investigation.**

"These are routine reports that provide general overviews and status updates on issues, policies, cases and investigations from offices and components across the country," a Justice Department official tells TPM and other media outlets. "None of these reports referenced the controversial tactics of that allowed guns to cross the border."

The official continued: "Chairman [Darrell] Issa, of all people, should be familiar with the difference between knowing about an investigation and being aware of questionable tactics employed in that investigation since documents provided to his committee show he was given a briefing that included the fast and furious operation in 2010 - a year before the controversy emerged."

### **'Operation Wide Receiver'**

What's also fascinating about the documents turned over to investigators is that they reference a little-known ATF operation called "Operation Wide Receiver", which just like "Fast and Furious," let guns "walk" to Mexico.

The operation, run by ATF's Tucson office and the U.S. Attorney for Arizona, started in 2006 -- when George W. Bush's Attorney General Alberto Gonzales was running the show -- and ran until the end of 2007. No charges were filed.

Fast forward to 2009, when the Obama administration took over the Justice Department. The former Gang Unit inside DOJ's Criminal Division (it later merged with the Organized Crime and Racketeering Section) reviewed the case for possible prosecution. At that time, a federal prosecutor in the unit "learned the ATF Arizona had permitted guns to be transferred to suspected gun traffickers and had not interdicted them," according to a DOJ official.

DOJ eventually issued two indictments that grew out of the Bush-era "Wide Receiver" investigation, which were unsealed towards the end of 2010.

Before the indictments were unsealed, however, deputy assistant attorney general Jason Weinstein raised concerns about investigative methods used in the Wide Receiver case. That's what comes up in the email.

"Do you think we should try to have Lanny [Breuer] participate in press when Fast and Furious and Laura's Tucson [the Wide Receiver investigation] are unsealed?" Weinstein wrote in an email. "It's a tricky case given the number of guns that have walked but is a significant set of prosecutions."

Deputy Chief of the National Gang Unit James Trusty replied that he wasn't sure "how much grief we get for 'guns walking.' It may be more like, "Finally they're going after people who sent guns down there."

The DOJ official said that Weinstein's reference to the "tricky case" in which the questionable tactics were used referenced the Wide Receiver case, not Fast and Furious. "He mentioned Fast and Furious only because of his belief at the time that the cases would be announced in close proximity," the official said.

There's still the question of why -- given how "tricky" the "Wide Receiver" case was -- DOJ didn't take any steps to ensure that ATF officials weren't using the same types of methods. But the Republican contention that Holder or other high-level DOJ officials knew about the controversial tactics being used before the beginning of 2011? That still hasn't been proven.