

Alvarez, Greg (OIP)

From: Axelrod, Matthew (ODAG)
Sent: Tuesday, April 05, 2011 5:05 PM
To: Burke, Dennis (USAAZ); Cunningham, Patrick (USAAZ); [REDACTED] ATF (ATF); Hoover, William J. (ATF); Melson, Kenneth E. (ATF); Scheel, Ann (USAAZ); Hernandez, Rachel (USAAZ); Morrissey, Mike (USAAZ)
Subject: Final Smith response

Attached is the final response to Chairman Smith that was sent yesterday. My apologies for not distributing sooner.

Matt



Chairman Smith
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U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 4, 2011

The Honorable Lamar Smith
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This responds to your letter, dated March 9, 2011, which asked a number of questions about the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) investigation known as Operation Fast and Furious. An identical letter has been sent to all signatories of your letter.

Mexican drug cartels are a significant organized crime threat, both to the United States and to Mexico. According to the Department's 2010 National Drug Threat Assessment, these cartels present the single greatest drug trafficking threat to the United States. Mexican cartels use violence to control drug trafficking corridors, through which drugs flow north into the United States while guns and cash flow south to Mexico. For calendar year 2009, the Mexican government reported 9,635 murders in Mexico resulting from organized crime and drug trafficking – an increase of 50% from the number of murders in 2008 and three times the 2,837 killed in 2007. In part because Mexican law severely restricts gun ownership, Mexico's drug traffickers routinely smuggle weapons purchased in the United States into Mexico.

Stopping the flow of weapons across the border into Mexico is a challenging task given the resources of the cartels and the cartels' use of sophisticated trafficking organizations to move firearms across the border. These trafficking organizations typically involve the use of straw purchasers, who purchase the weapons not for themselves, but with the purpose of transferring them to others who then facilitate their movement across the border to the cartels. Among the challenges in investigating a trafficking organization is developing sufficient evidence to prove that particular firearm purchases are, in fact, unlawful straw purchases. As you know, it is legal for a non-prohibited person to purchase an unlimited number of firearms from a licensed gun dealer and then to sell or barter those firearms to another person.

Operation Fast and Furious is an ongoing criminal investigation of an extensive gun-trafficking enterprise.¹ It was opened over a year ago and approved by the ATF Phoenix Field Office and the United States Attorney's Office for the District of Arizona (USAO) in the normal

¹ Operation Fast and Furious, which is one law enforcement investigation, should not be confused with Project Gunrunner, which is the broader initiative to deal with weapons trafficking along the Southwest Border generally. As was recently noted by the Congressional Research Service, "[a]s of March 2010, Project Gunrunner had led to the arrest of 1,397 defendants – 850 of which had been convicted – and the seizure of over 6,688 firearms." Congressional Research Service Report RL32724, *Mexico-U.S. Relations: Issues for Congress*, February 15, 2011, at 19.

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course, consistent with established procedures for such matters. The investigation was subsequently approved by the multi-agency Organized Crime and Drug Enforcement Task Force (OCDETF) Program. The purpose of the investigation is to dismantle a transnational organization believed to be responsible for trafficking weapons into Mexico, in part by prosecuting its leadership. The investigation is led by a dedicated team of USAO prosecutors and ATF agents. With regard to your question about the results and status of the investigation, to date, these efforts have resulted in an indictment charging 20 defendants with federal firearms offenses and the investigation is continuing.

Allegations have been raised about how this investigation was structured and conducted. As you note, at the request of the Attorney General, the Acting Inspector General is now investigating those allegations. The Attorney General has also made it clear to the law enforcement agencies and prosecutors working along the Southwest Border that the Department should never knowingly permit firearms to cross the border.

You have also asked for information about eTrace, an important tool in ATF's work to dismantle gun trafficking. eTrace is an Internet-based system that allows participating law enforcement agencies to submit firearm traces to the ATF National Tracing Center. Authorized users can receive firearm trace results electronically, search a database of all firearm traces submitted by their individual agency, and perform analyses. In the last year, eTrace has gained strong new features. eTrace now accommodates data in Spanish, gives translations, and allows users to better sort and search additional data elements and images to improve weapons tracing. In the next 24 months, planned enhancements to eTrace will improve ATF's ability to monitor and map gun tracing data in real time and to share information with other federal agencies, as well as with state and local law enforcement.

Unfortunately, at this time, we are not in a position to answer your questions in greater detail. The Department has a long standing policy against the disclosure of non-public information about ongoing criminal investigations. This policy is based on our strong interest in protecting the independence and effectiveness of ongoing law enforcement efforts. We are, however, in the process of working with Chairman Issa to provide documents concerning this matter and would be willing to work with you and your staff in the same manner. Through this process we hope to find ways to be responsive to your needs that are consistent with the Department's need to maintain the confidentiality of ongoing investigations.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this, or any other matter.

Sincerely,



Ronald Weich
Assistant Attorney General

cc: The Honorable John Conyers, Jr.
Ranking Minority Member