

PATRICK J. LEAHY, VERMONT, CHAIRMAN

HERB KOHL, WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
CHARLES E. SCHUMER, NEW YORK
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
AL FRANKEN, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT

CHARLES E. GRASSLEY, IOWA
ORRIN G. HATCH, UTAH
JON KYL, ARIZONA
JEFF SESSIONS, ALABAMA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TOM COBURN, OKLAHOMA

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

March 28, 2011

Via Electronic Transmission

Kenneth E. Melson
Acting Director
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue, NE
Washington, DC 20226

Dear Acting Director Melson:

On March 4, 2011, I wrote you regarding questions surrounding the February 15 murder of U.S. Immigration and Customs Enforcement (ICE) Agent Jaime Zapata in Mexico. I have yet to receive a reply.

In my last letter, I referenced the March 1 DOJ press release regarding the Osorio brothers and their next-door neighbor Kelvin Morrison. They were arrested on charges related to trafficking firearms to a Mexican drug cartel and indicted on March 23. According to the release, all three defendants had been suspects in an ATF undercover operation in early November 2010. In that operation, the Osorio brothers and Morrison provided 40 firearms to an ATF informant. The press release indicates, "The meeting [between the informant and the suspected traffickers] was arranged related to an investigation of Los Zetas," a Mexican drug trafficking cartel.¹

The DOJ's press release appears to be the first public acknowledgement that one of the firearms used in the murder of Agent Zapata had been traced back to Otilio Osorio. Specifically, the press release stated:

[A]ccording to one affidavit filed in the case, one of the three firearms used in the Feb. 15, 2011, deadly assault of ICE Special Agent Jaime Zapata that was seized by Mexican officials has been traced by ATF to Otilio Osorio. Otilio Osorio allegedly purchased that firearm on Oct. 10, 2010, in the Dallas/Fort Worth metroplex, prior to law enforcement's awareness of the purchase. Ballistic testing

¹ Press Release, Department of Justice, March 1, 2011, available at <http://dallas.fbi.gov/dojpressrel/pressrel11/dl030111.htm>.

conducted by Mexican authorities on this firearm indicated it was one of the three firearms used during the deadly assault on Special Agent Zapata's vehicle.²

The DOJ's press release gives the impression that law enforcement officials were unaware of Osorio's activities in October 2010 when he allegedly purchased the weapon that was later used to kill Agent Zapata.

The press release leads the reader to believe that law enforcement had no reason to suspect Osorio was a straw purchaser until sometime between October 10 and early November, when he was the subject of the undercover operation. According to the release:

The investigation *now has also revealed* that on Aug. 7, 2010, a Romarm, model WASR, 7.62 caliber rifle was discovered by law enforcement officers in LaPryor, Texas, near the U.S./Mexico border. Trace results indicated that Morrison purchased this firearm on July 30, 2010, from a FFL [federal firearms licensee]. According to the affidavit, between July 10, 2010, and Nov. 4, 2010, Morrison purchased 24 firearms from FFLs.³

This portion of the DOJ's press release appears designed to give the impression that the August 7 discovery by unspecified "law enforcement officers" and subsequent trace results linking the weapon to Morrison became known only after the October 10 purchase of the murder weapon.

However, I have learned that ATF agents actually observed a cache of weapons being loaded into a suspect vehicle on July 29, 2010, but did not maintain surveillance on that vehicle.⁴ The very next day, Morrison purchased the firearm that was later "discovered," in August.⁵ In fact, it was actually seized along with 22 other AK-style firearms in the very suspect vehicle that ATF agents had witnessed being loaded with weapons on July 29.⁶ When the vehicle was stopped en route to Eagle Pass, Texas on August 7, the weapon purchased by Morrison on July 30 was recovered, *along with two weapons purchased by Ranferi Osorio.*⁷ All of these facts were apparently known to federal authorities contemporaneously, and yet none of them are included in the Justice Department's craftily-worded press release.

The March 8 letter I received from Department of Justice (DOJ) Assistant Attorney General Ronald Weich is not an adequate response to my March 4 letter, which was addressed specifically to you. Therefore, please provide your direct response to the questions in my letter, along with the documents previously requested. In particular, please prioritize any documents responsive to paragraph (5), which called for all records relating to when law enforcement first became aware of the trafficking activities of Otilio and Ranferi Osorio and Kelvin Morrison.

² *Id.*

³ *Id.* (Emphasis added.)

⁴ ATF Management Log, Case 785096-10-[redacted], Case Title "[redacted] Firearm Traffickers (SWB Gunrunner)." (Attachment 1)

⁵ ATF Firearms Trace Summary, Sep. 17, 2010. (Attachment 2)

⁶ *Supra* note 4.

⁷ ATF Firearms Trace Summary, Sep. 15, 2010; ATF Firearms Trace Summary, Sep. 17, 2010. (Attachment 3)

Should you have any questions regarding this letter, please contact [REDACTED] (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member

Attachment

Attachment 1

Management Log for Case: 785096-10- [REDACTED]

Case Title: [REDACTED] Firearm Traffickers (SWB GUNRUNNER)

Date: [REDACTED]

User: [REDACTED]

<u>Log Date</u>	<u>Log Type</u>	<u>Mgmt Log Text</u>
07/28/2010	CASE OPENED	Investigation opened on [REDACTED] for alleged firearms trafficking.
07/28/2010	[REDACTED] AUTHORIZED	[REDACTED]
07/28/2010	INVESTIGATIVE ACTIVITY	[REDACTED] receives four AK-47 surv. on subject
07/28/2010	INVESTIGATIVE ACTIVITY	[REDACTED]
07/29/2010	INVESTIGATIVE ACTIVITY	[REDACTED] receives four AK-47's surv. on subject.
07/29/2010	INVESTIGATIVE ACTIVITY	[REDACTED] attempts to purchase 2 handguns and is denied.
07/29/2010	INVESTIGATIVE ACTIVITY	[REDACTED] load guns in white Saturn and drive off. [REDACTED] is driving vehicle.
07/29/2010	INVESTIGATIVE ACTIVITY	BOLO placed in white Saturn with US CBP Eagle pass, Texas for illegal exportation of firearms
07/30/2010	INVESTIGATIVE ACTIVITY	[REDACTED] attempts to purchase SKS rifle and is delayed. Does not receive firearm.
08/07/2010	INVESTIGATIVE ACTIVITY	White Saturn is apprehended in La Pryor, Texas with 23 AK-47's with serial numbers ground off. Vehicle was enroute to POE at Eagle Pass, Texas
11/09/2010	INVESTIGATIVE ACTIVITY	Attempted to introduce an undercover [REDACTED] [REDACTED] [REDACTED] insisted on changing the meeting location and the deal was canceled.
01/14/2011	INVESTIGATIVE ACTIVITY	Spoke to FFL today and learned that [REDACTED] attempted to purchase a .45 caliber pistol on 01/13/2011 and was denied. The FFL stated that [REDACTED] said that he was interested in making a large purchase of AK-47 rifles later this month.
03/01/2011	DIVISION REVIEW	SAC Newell file review.

Attachment 2

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER



Phone:(800) [REDACTED] Fax:(800) [REDACTED]

Print Date: [REDACTED]

FIREARMS TRACE SUMMARY

Trace Number: T20100213104 Request Date: September 09, 2010 Completion Date: September 17, 2010

[REDACTED]
LAS CRUCES SATELLITE OFFICE

[REDACTED]
LAS CRUCES, NM 88011

PHONE: (505) [REDACTED] Ext:

FAX (575) [REDACTED]

Badge No: [REDACTED]

Investigation No: 785096-10-[REDACTED]

FIREARM INFORMATION

Manufacturer: ROMARM/CUGIR

Model: GP WASR 10/63

Caliber: 762

Serial Number: 1973FA1408

Type: RIFLE

Country: ROMANIA

Importer: CENTURY ARMS INC (CAI),
ST...

Obliterated: Y

Identifying Marks:

NIBIN:

Gang Name:

RECOVERY INFORMATION

Recovery Date: 08/07/2010

Time to Crime: 8 days

LA PRYOR, TX 78872

Possessor: [REDACTED]

DOB: [REDACTED]

POB: TX UNITED STATES

DEALER INFORMATION

FFL: [REDACTED]

[REDACTED]
[REDACTED]
MESQUITE, TX [REDACTED]

Phone: (214) [REDACTED]
Ext: [REDACTED]

Ship-To-Date: 07/13/2010

PURCHASER INFORMATION

Purchase Date: 07/30/2010

KELVIN LEON MORRISON JR

[REDACTED]
FERRIS, TX 75125

DOB: [REDACTED]

POB: PALESTINE, TX UNITED STATES

Race: BLACK

Sex: Male

Height: 5 ft 4 in

Weight: 200 lbs

ID 1: TX DRIVER'S LICENSE: [REDACTED]

ID 2: SOCIAL SECURITY: [REDACTED]

Contact the local ATF office for additional information.

ADMINISTRATIVE INFORMATION

SUMMARY OF RESULTS

THIS FIREARM WAS TRACED TO AN INDIVIDUAL PURCHASER.

Additional Remarks:

The information in this report must be validated prior to use in any criminal proceedings.

Attachment 3

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER



Phone:(800) [REDACTED] Fax:(800) [REDACTED]

Print Date: [REDACTED]

FIREARMS TRACE SUMMARY

Trace Number: T20100213089 Request Date: September 09, 2010 Completion Date: September 17, 2010

[REDACTED]
LAS CRUCES SATELLITE OFFICE

[REDACTED]
LAS CRUCES, NM 88011
PHONE: (505) [REDACTED] Ext:
FAX (575) [REDACTED]

Badge No: [REDACTED]
Investigation No: 785096-10-[REDACTED]

FIREARM INFORMATION

Manufacturer: ROMARM/CUGIR
Model: GP WASR 10/63
Caliber: 762
Serial Number: 1963BC0163
Type: RIFLE
Country: ROMANIA
Importer: CENTURY ARMS INC (CAI),
ST...
Obliterated: Y
Identifying Marks:
NIBIN:
Gang Name:

RECOVERY INFORMATION

Recovery Date: 08/07/2010
Time to Crime: 14 days

LA PRYOR, TX 78872

Possessor: [REDACTED]
DOB: [REDACTED]
POB: TX UNITED STATES

DEALER INFORMATION

FFL: [REDACTED]

[REDACTED]
[REDACTED]
MESQUITE, TX [REDACTED]
Phone: (214) [REDACTED] Ext:
Ship-To-Date: 07/20/2010

PURCHASER INFORMATION

Purchase Date: 07/24/2010

RANFERI OSORIO
[REDACTED]
LANCASTER, TX 75134

DOB: [REDACTED]
POB: MEXICO
Race: HISPANIC
Sex: Male
ID 1: TX STATE CARD ID: [REDACTED]
ID 2: SOCIAL SECURITY: [REDACTED]

Height: 5 ft 9 in
Weight: 180 lbs

Contact the local ATF office for additional information.

ADMINISTRATIVE INFORMATION

SUMMARY OF RESULTS

THIS FIREARM WAS TRACED TO AN INDIVIDUAL PURCHASER.

Additional Remarks:

The information in this report must be validated prior to use in any criminal proceedings.

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER



Phone:(800) [REDACTED] Fax:(800) [REDACTED]

Print Date: [REDACTED]

FIREARMS TRACE SUMMARY

Trace Number: T20100213071 Request Date: September 09, 2010 Completion Date: September 15, 2010

[REDACTED]
LAS CRUCES SATELLITE OFFICE

[REDACTED]
LAS CRUCES, NM 88011
PHONE: (505) [REDACTED] Ext:
FAX (575) [REDACTED]

Badge No: [REDACTED]
Investigation No: 785096-10-[REDACTED]

FIREARM INFORMATION

Manufacturer: ROMARM/CUGIR
Model: DRACO
Caliber: 762
Serial Number: DC-2784-10
Type: PISTOL
Country: ROMANIA
Importer: CENTURY ARMS INC (CAI),
ST...
Obliterated: Y
Identifying Marks:
NIBIN:
Gang Name:

RECOVERY INFORMATION

Recovery Date: 08/07/2010
Time to Crime: 8 days

LA PRYOR, TX 78872

Possessor: [REDACTED]
DOB: [REDACTED]
POB: TX UNITED STATES

DEALER INFORMATION

FFL: [REDACTED]

[REDACTED]
[REDACTED]
MESQUITE, TX [REDACTED]
Phone: (214) [REDACTED] Ship-To-Date:
Ext: [REDACTED]

PURCHASER INFORMATION

Purchase Date: 07/30/2010

RANFERI NMN OSORIO
[REDACTED]
LANCASTER, TX 75134

DOB: [REDACTED]
POB: MEXICO
Race: HISPANIC
Sex: Male
ID 1: TX DRIVER'S LICENSE: [REDACTED]
ID 2: :

Height: ft in
Weight: lbs

Contact the local ATF office for additional information.

ADMINISTRATIVE INFORMATION

SUMMARY OF RESULTS

THE DESCRIBED FIREARM WAS DETERMINED TO HAVE BEEN SOLD AS PART OF A MULTIPLE HANDGUN SALE AND REPORTED TO ATF BY A FEDERAL FIREARMS LICENSEE (FFL). THE TRANSACTION DATE NOTED IN THIS TRACE SUMMARY IS THE DATE THE MULTIPLE SALE WAS GENERATED BY THE FFL AND MAY NOT REPRESENT THE ACTUAL TRANSACTION DATE OF THE TRACED FIREARM. TO VERIFY THE ACTUAL TRANSACTION DATE OF THE TRACED FIREARM, PLEASE CONTACT THE FFL.

Additional Remarks:

ACCORDING TO [REDACTED] THE FIREAM TYPE CHANGED FROM RIFLE TO PISTOL AND MODEL FROM WASR TO DRACO.

The information in this report must be validated prior to use in any criminal proceedings.