
From: Siskel, Edward N. (ODAG)
To: Luck, Stacey (ODAG)
Sent: 3/11/2010 2:49:47 PM
Subject: FW: Agenda for the DAG Meeting

Here is the agenda for the ATF meeting tomorrow.

From: Hoover, William J. (ATF)
Sent: Thursday, March 11, 2010 1:59 PM
To: Siskel, Edward N. (ODAG)
Subject: FW: Agenda for the DAG Meeting

Here you go Ed. See you tomorrow.

William J. Hoover
Executive Assistant Director

O) RC-1

Agenda for ATF and ODAG Meeting, March 12, 2010

- 1.
- 2.
- 3.

RC-2

4. Phoenix Case – Update on a significant firearms trafficking case

Vivian B. Michalic
Chief of Staff
Office of the Director, ATF

w: RC-1
c: RC-1

ATF Monthly Meeting

3/12/10

RC-2

Process

3. Operation The Fast
~~Previous~~
~~Drafts~~

long visits - multiple
 role issues

Project Deliverable

seizures in Mexico
 take to predicate
 to case in US
 links to Carter

RC-2

GOCDTF STRIKE FORCE
 Primary - Phoenix WAO

(A)

RC-2

3-12-2010 ATF Monthly Meeting

RC-2

- Multiple sales for Long Guns.
- FA trafficking scheme to *MX*.

RC-2

RC-2

ATE Monthly Mtg 3/17/10

RC-2

Operation Fast + Furious Similar
RC-3

Demand letter - multiple sales of
long guns

RC-2

Next mtg at ATE

① **RC-2**

RC-2

ATF Monthly Meeting
with the Acting Deputy Attorney General
Friday, March 12, 2010

AGENDA



4. Phoenix Case - Update on a significant firearms trafficking case



ATF Monthly Meeting

3/12/10

RC-2



RC-2

3. Operation The Fast

Reviews
Drakes

Process

long vites - multiple
sale issues

RC-2



seizure in Mexico
take to predicate
to case in US
links to cartel

COCAINE STRIKE FORCE

Primary - Phoenix WAO

(A)

OPERATION THE FAST AND THE FURIOUS



HOGR DOJ 002819

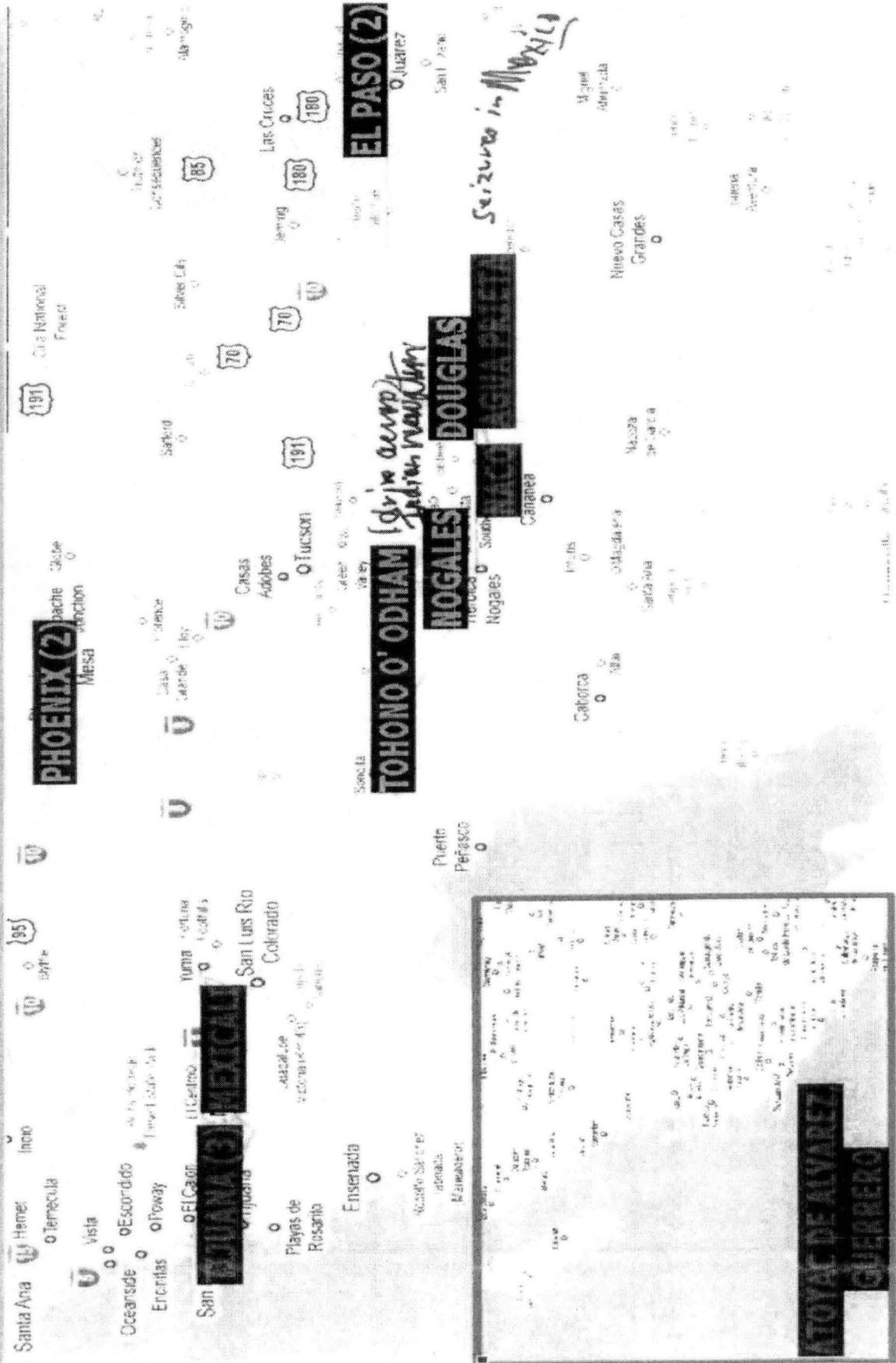
Note: Two pages have been withheld from this seven page document because they included sensitive investigative details and information about targets/subjects.

All cash,
 West Virginia
 side

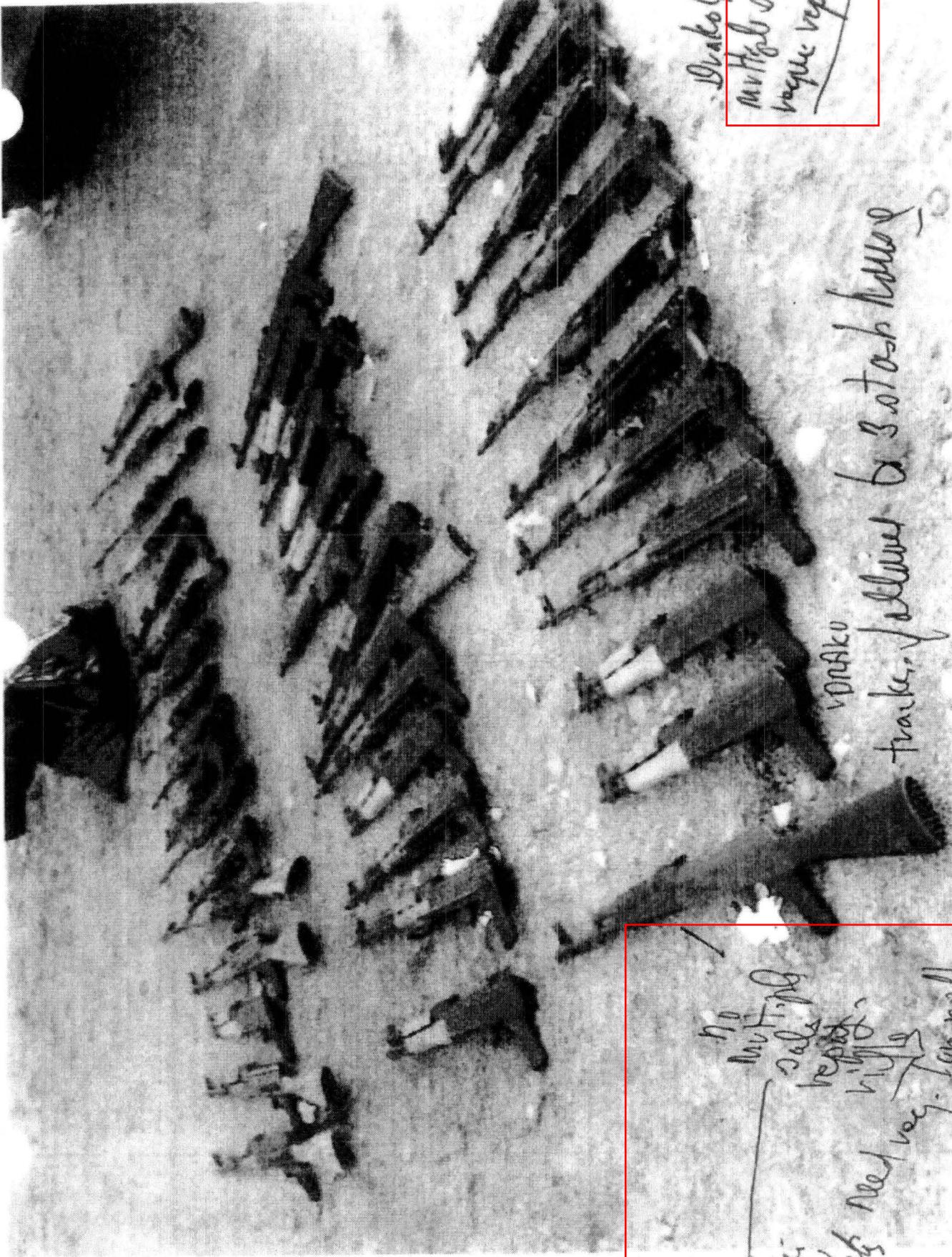
PURCHASE SUMMARY		QTR	AMOUNT	NOTES
RC-4	NAME	PURCHASE	TOTAL	
RC-4	James Avilar	11,984.00	13,002.64	
RC-4	Alfredo Celis	38,959.75	38,922.33	
RC-4	Jacob Chambers	36,541.75	39,463.98	
RC-4	Darin Mercapostak	22,716.80	23,781.91	
RC-4	Jacob Montielongo	7,446.97	7,731.27	
RC-4	Joshua Moore	89,893.40	94,929.96	
RC-4	Uriel Palomo	204,110.59	213,768.97	
RC-4	Jose Polanco	1,799.00	1,851.97	
RC-4	Sean Stevens	134,938.64	140,034.58	
TOTAL PURCHASES		\$ 916,294.08	\$ 949,745.32	

Total Cost of
 Firearms
 Purchased as of
 Feb 27, 2010
 785115-10-0004

785115-10-0004



AK
47



Drako (with)
MUTUAL only
vague reports

Drako
- tracks, follow to Sotash house

no
mutual
advise
report
with
need veg. 100 mls
HOGI DOJ 002823



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

1813123 ET

MAR 26 2010

Washington, DC 20226

RECEIVED
DEPT OF JUSTICE
EXECUTIVE SECRETARIAT
2010 MAR 26 PM 5:06

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

FROM: Kenneth Melson
Deputy Director, Bureau of Alcohol, Tobacco, Firearms and
Explosives

SUBJECT: Issuing demand letters to Federal firearms licensees (FFLs) in selected states requiring them to submit multiple sales information concerning certain types of rifles.

PURPOSE: Obtain concurrence for ATF to issue demand letters to FFLs requiring multiple sales information for certain rifles as a pilot project.

TIMETABLE: Concurrence is requested as soon as possible.

SYNOPSIS: ATF proposes a pilot project to issue demand letters to all FFLs in selected states requiring them to provide ATF with a report of multiple sales or other dispositions whenever the FFL sells or otherwise disposes of two or more rifles within any five consecutive business days with the following characteristics: (a) semi-automatic; (b) a caliber greater than .22; and (c) the ability to accept a detachable magazine. These reports would be submitted to ATF for a one-year period.

DISCUSSION:

ATF trace data, investigative experience and Mexican law enforcement officials indicate that a large number of certain types of rifles are being used in violent crimes in Mexico. These rifles typically include semi-automatic AR-15 variants with detachable magazines. Successful trace data from recovered rifles show they primarily come from the United States, and that many have been sold by Federal firearms licensees.

Subject: Issuing demand letters to Federal firearms licensees (FFLs) requiring multiple sales information concerning certain types of rifles

It is proposed that ATF issue demand letters to all FFLs in the top twelve source states¹ for firearms recovered in Mexico requiring the FFLs to provide ATF with an immediate report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of two or more rifles within any five consecutive business days exhibiting the following characteristics: (a) semi-automatic; (b) a caliber greater than .22; and (c) the ability to accept a detachable magazine. This pilot program would require the reports to be submitted to ATF for a one-year period.

The Gun Control Act of 1968 (GCA) at 18 U.S.C. § 923(g)(3)(A) requires licensees to submit multiple sales reports to ATF for handguns, but not rifles or shotguns. However, ATF has authority under 18 U.S.C. § 923(d)(5) to issue demand letters to licensees requiring them to submit “on a form specified by the Attorney General, for periods and at the times specified in such letter, all record information required to be kept by this chapter or such lesser record information as the Attorney General in such letter may specify.” ATF has used this “demand letter” authority to require two groups of FFLs to submit to ATF certain firearm information in their required records: licensees who failed to respond to trace requests (Demand Letter 1) and licensees who had transferred ten or more secondhand firearms that were recovered in a crime (“time-to-crime”) within a three-year period of the sale (Demand Letter 2). Demand Letter 1 required submission of the make, model, type, serial number, and caliber / gauge, and the purchaser’s names, addresses, and federal firearms license numbers (if applicable). Demand Letter 2 included only descriptions of the firearms.

Licensees unsuccessfully challenged ATF’s use of its demand letter authority in court. *RSM v. Buckles*, 254 F.3d 61 (4th Cir. 2001) upheld ATF’s issuance of Demand Letter 1, and *Blaustein & Reich v. Buckles*, 365 F.3d 281 (4th Cir. 2004), and *J&G Sales v. Truscott*, 473 F.3d 1043 (9th Cir. 2007), upheld ATF’s issuance of Demand Letter 2. In these cases, the petitioners alleged that ATF exceeded its authority because federal law, 18 U.S.C. § 926(a), and ATF’s appropriations restrictions, otherwise prohibit ATF from consolidating or maintaining a registry of firearms record information. The courts disagreed with the petitioners and upheld ATF’s use of the demand letters. The courts explained, however, that ATF’s demand letter authority was not a limitless delegation of authority to ATF to request record information. The courts declined to specify the precise limits, but noted that the information requested in those demand letters was directed to a small number of licensees, was narrowly tailored in scope, and stemmed from reasoned decision-making. However, one court cautioned that “Congress intended to prohibit a large-scale enterprise to consolidate and centralize a substantial amount of FFL record information.” *Blaustein*, 365 F.3d at 289 n.16.

The multiple-sales-reporting requirement would provide law enforcement with extremely valuable investigative information. These reports would give ATF real-time leads for the

¹ The top twelve source states for firearms seized in Mexico during CY 2009 and traced to firearms licensees in the U.S. are: Texas, California, Arizona, New Mexico, Florida, Colorado, Oklahoma, Illinois, Nevada, North Carolina, Georgia, and Washington.

Subject: Issuing demand letters to Federal firearms licensees (FFLs) requiring multiple sales information concerning certain types of rifles

investigation of gun trafficking. ATF's experience in the source states proves that multiple purchases of the described rifles are strong indicators of firearms trafficking to Mexico. By obtaining information about these multiple sales, ATF increases the likelihood of uncovering and disrupting trafficking schemes before the firearms make their way into Mexico.

The following cases involving the multiple sale of rifles illustrate the potential benefit of ATF collecting information regarding firearms trafficking using the demand letter program. ATF believes these cases represent a very small portion of the overall trafficking activity of these firearms that is occurring, and that multiple sales reports of the specified rifles will enable ATF to uncover more illegal activity and develop better intelligence about trafficking patterns:

- **Phoenix Field Division:** On or about November 1, 2009, individuals in the Phoenix, Arizona area began to illegally purchase firearms, firearm magazines and/or ammunition to be transported to Mexico. Case agents identified 25 individuals that purchased in excess of 1130 firearms in the Phoenix area with over-the-counter cash transactions. Twenty-two of these individuals purchased firearms that were recovered in Mexico in the possession of drug traffickers affiliated with the Sinaloa Cartel. Over 50 firearms purchased by two of these individuals were recovered in stash locations or during a crossing along the border in Arizona and Texas and were destined for delivery to DTO's in Mexico. There was an extremely short time span, ranging from one (1) day to less than a month, between all the purchases of all these firearms and the recoveries. The majority of the firearms were purchased at a FFL involving transactions of five to ten rifles at a time.
- **McAllen Field Office:** The target of this investigation purchased several hundred pistols, rifles and lower receivers. Scores of these firearms were recovered in Mexico. The majority of the target's purchases were rifles and lower receivers acquired through multiple sale transactions. Of these, the target purchased mostly lower receivers (which are designated firearms by law) and upper receivers. He combined the receivers and parts kits to make complete rifles. The target was in turn selling the firearms at gun shows and other secondary market venues.
- **Las Cruces Field Office:** The target of this investigation purchased 19 AK47 rifles through multiple sale transactions. The investigation shows that the firearms are being transported to El Paso Texas for entry into Mexico.
- **Phoenix Field Division:** In this case, three rifles were recovered in Mexico and traced to the target of this investigation. At this point, it has been determined that the target has purchased five rifles. There were two multiple sale transactions of two rifles from two FFLs.
- **McAllen Field Office:** In this case, the target purchased 69 firearms. He acquired 50 rifles through multiple sale purchases. Sixteen of these rifles were recovered and traced.

Subject: Issuing demand letters to Federal firearms licensees (FFLs) requiring multiple sales information concerning certain types of rifles

- McAllen Field Office: The target of this investigation purchased a rifle that was recovered in Mexico. To date, he has been identified as purchasing seven rifles, several of which were purchased in multiple sale transactions of two (2) rifles.
- Corpus Christi Field Office: The targets of this investigation are purchasing rifles and handguns for a drug trafficking organization in Mexico. The targets are purchasing several of the rifles through multiple sale transactions of two or more rifles.

In addition to the real-time intelligence the multiple sales forms provide, many of these reports would be for secondhand sales of the specified rifles. Firearms sold in secondhand sales cannot be traced from the manufacturer to the secondhand purchaser. Traces of firearms typically end after new firearms are manufactured and sold by licensees to their first retail purchasers. Multiple sales reports concerning secondhand sales of qualifying rifles by retail dealers would allow ATF to trace those firearms from secondhand retail dealers to purchasers because ATF would be able to search the multiple sales records, as it does with multiple sales records for handguns.

Although ATF clearly has authority to issue demand letters for FFL record information, there may be litigation risks in requiring these reports. The demand letters would be limited to all FFLs in the top twelve source states, and would be further limited to a one-year pilot program and to certain types of rifles. Nevertheless, there is a possibility, however unlikely, that a court could rule that the proposed demand letter would constitute "a large-scale enterprise to consolidate and centralize a substantial amount of FFL record information."

Also, as can be expected, there may be resistance from the firearms industry to any increased reporting requirement. They would argue that the requirement would impose too great a burden on FFLs who, among other obligations, already have the burden of reporting multiple sales of handguns (particularly when multiple employees handle such transactions), and responding to trace requests.

ATF believes that the benefit to law enforcement and the enhanced ability to trace these firearms to combat violence along the Southwest Border are worth the litigation risks and the displeasure of the firearms industry. Moreover, ATF may be able to refine the scope of the letter in the future based on the information learned in response to the initial demand letter.

Subject: Issuing demand letters to Federal firearms licensees (FFLs) requiring multiple sales information concerning certain types of rifles

RECOMMENDATION:

That you concur in ATF's issuance of a demand letter to all FFLs in twelve selected states, requiring them to provide ATF with reports of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of two or more rifles within any five consecutive business days with the following characteristics: (a) semi-automatic; (b) a caliber greater than .22; and (c) the ability to accept a detachable magazine. These reports would be submitted to ATF for a one-year period.

APPROVE: _____

Concurring Components:

OLP _____

OLC _____

DISAPPROVE: _____

Nonconcurring Components:

None

OTHER: _____

Chait, Mark R.

From: Chait, Mark R.
Sent: Wednesday, July 14, 2010 10:25 AM
To: Newell, William D.
Cc: McMahon, William G.
Subject: Re: SIR

Bill - can you see if these guns were all purchased from same FFL and at one time. We are looking at anecdotal cases to support a demand letter on long gun multiple sales. Thanks Mark R. Chait Assistant Director Field Operations

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

----- Original Message -----

From: Newell, William D.
To: McMahon, William G.; [REDACTED]; Chait, Mark R.;
[REDACTED]
Sent: Tue Jul 13 19:37:57 2010
Subject: Fw: SIR

Another SIR coming. Same Group just discovered another load, related to same case, of 73 guns and about 220 drum magazines. (75 round each of 7.62). At the same time same Group out on another deal related to same case regarding straw purchase of a \$10,000 .50 caliber firearm. Bill Newell

Special Agent in Charge
ATF Phoenix Field Division (AZ and NM)
[REDACTED]

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

----- Original Message -----
From: Voth, David J.

To: Needles, James R.; Newell, William D.; Voth, David J.; Significant Activity Report

Sent: Tue Jul 13 18:54:52 2010

Subject: SIR

DEPARTMENT OF JUSTICE - BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES SIGNIFICANT INFORMATION REPORT

DATE: July 13, 2010
FROM: Phoenix Field Division
FIELD OFFICE: Phoenix VII Field Office

CASE INFORMATION

CASE NUMBER: 785115-10-[REDACTED]
CASE TITLE: [REDACTED] et al
SPECIAL AGENT: Voth, David
TELEPHONE NUMBER: [REDACTED]

SYNOPSIS OF INCIDENT/ACTIVITY:

Recovery of 20 - 7.62 rifles as part of ongoing [REDACTED] investigation.

NARRATIVE OF INCIDENT/ACTIVITY:

On July 12, 2010, Federal Parolee, [REDACTED] was arrested and charged on Arizona state charges of Hit and Run and Felon in Possession of a Firearm after fleeing from Peoria Police Department patrol units. ATF provided Peoria Police with information that [REDACTED] was in possession of firearms as part of an active ongoing [REDACTED] case; Operation Fast & Furious, 785115-10-[REDACTED] [REDACTED] fled from officers and crashed his vehicle into a cinder block wall after jumping the train tracks near the intersection of 67th Lane and Grand

Avenue, Peoria, AZ. Both [REDACTED] and the unidentified passenger fled the scene on foot and a short time later Peoria Police officers captured [REDACTED] approximately 1/4 mile from the scene. [REDACTED] suffered a broken leg and was transported to a local hospital for treatment, the passenger was never located. [REDACTED] was released from Federal custody in September of 2009, after serving approximately 60 months after he entered a plea of guilty of 21 USC 846, Conspiracy to Possess Marijuana in February 2004.

During an inventory search of the vehicle, Peoria police officers recovered ~~(20) ROMARM/CUGIR, 7.62x39 caliber rifles from the bed of the truck.~~ The firearms had been purchased earlier that day by a subject identified as a straw purchaser in the coinciding ATF investigation. In addition, (2) pistols were recovered from the cab compartment of the vehicle. ATF agents took custody of the (20) ROMARM 7.62x39 caliber rifles as part of the ongoing ATF investigation. Peoria officer retained custody of the (2) pistols for further state prosecution.

This recovery adds to the total of 96 firearms recovered in the previous 24 days by Group VII agents and GRIT agents assigned to Group VII as part of Southwest Border Firearms Trafficking investigations.



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

DEC 6 2010

Washington, DC 20226

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

FROM: Kenneth Melson
Deputy Director, Bureau of Alcohol, Tobacco, Firearms and
Explosives

SUBJECT: Issuing demand letters to Federal firearms licensees (FFLs) in selected states requiring them to submit multiple sales information concerning certain types of rifles.

PURPOSE: Obtain concurrence for ATF to issue demand letters to FFLs requiring multiple sales information for certain rifles as a project.

TIMETABLE: Concurrence is requested as soon as possible.

SYNOPSIS: ATF proposes a project to issue demand letters to all FFLs in selected states requiring them to provide ATF with a report of multiple sales or other dispositions whenever the FFL sells or otherwise disposes of, within any five consecutive business days, two or more rifles having the following characteristics: (1) semi-automatic; (2) a caliber greater than .22; and (3) ability to accept a detachable magazine. These reports would be submitted to ATF for a one-year period.

DISCUSSION:

ATF trace data, investigative experience and Mexican law enforcement officials indicate that a large number of certain types of rifles are being used in violent crimes in Mexico. These rifles typically include semi-automatic AR-15 variants with detachable magazines. Successful trace data from recovered rifles show they primarily come from the United States, and many have been sold by Federal firearms licensees.

Subject: Issuing demand letters to Federal firearms licensees (FFLs)
requiring multiple sales information for certain types of rifles

It is proposed that ATF issue demand letters to all FFLs in the top four source states¹ for firearms recovered in Mexico requiring the FFLs to provide ATF with an immediate report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, within any five consecutive business days, two or more rifles having the following characteristics: (1) semi-automatic; (2) a caliber greater than .22; and (3) ability to accept a detachable magazine. The reporting requirement would apply to the disposition of all rifles in the inventory of the FFLs, both new and used. This program would require the reports to be submitted to ATF for a one-year period. It is estimated that this proposal would apply to 8525 FFLs.

The Gun Control Act of 1968 (GCA) at 18 U.S.C. § 923(g)(3)(A) requires licensees to submit multiple sales reports to ATF for handguns, but not rifles or shotguns. However, ATF has authority under 18 U.S.C. § 923(d)(5) to issue demand letters to licensees requiring them to submit "on a form specified by the Attorney General, for periods and at the times specified in such letter, all record information required to be kept by this chapter or such lesser record information as the Attorney General in such letter may specify." ATF has used this "demand letter" authority to require two groups of FFLs to submit to ATF certain firearm information in their required records: licensees who failed to respond to trace requests (Demand Letter 1) and licensees who had transferred ten or more firearms that were recovered in a crime ("time-to-crime") within a three-year period of the sale (Demand Letter 2). Demand Letter 2 requires the affected FFLs to submit limited information regarding secondhand firearms they acquired the previous year, including the manufacturer/importer, model, caliber or gauge, and serial number along with the acquisition date.

Licensees unsuccessfully challenged ATF's use of its demand letter authority in court. *RSM v. Buckles*, 254 F.3d 61 (4th Cir. 2001) upheld ATF's issuance of Demand Letter 1, and *Blaustein & Reich v. Buckles*, 365 F.3d 281 (4th Cir. 2004), and *J&G Sales v. Truscott*, 473 F.3d 1043 (9th Cir. 2007), upheld ATF's issuance of Demand Letter 2. In these cases, the petitioners alleged that ATF exceeded its authority because federal law, 18 U.S.C. § 926(a), and ATF's appropriations restrictions, otherwise prohibit ATF from consolidating or maintaining a registry of firearms record information. The courts disagreed with the petitioners and upheld ATF's use of the demand letters. The courts explained, however, that ATF's demand letter authority was not a limitless delegation of authority to ATF to request record information. The courts declined to specify the precise limits, but noted that the information requested in those demand letters was directed to a small number of licensees, was narrowly tailored in scope, and stemmed from reasoned decision-making. However, one court cautioned that "Congress intended to prohibit a large-scale enterprise to consolidate and centralize a substantial amount of FFL record information." *Blaustein*, 365 F.3d at 289 n.16.

The multiple sales reporting requirement would provide law enforcement with extremely valuable investigative information. These reports would give ATF real-time leads for the investigation of gun trafficking. ATF's experience in the source states proves that multiple

¹ The top four source states for firearms seized in Mexico during CY 2009 and traced to firearms licensees in the U.S. are: Texas, California, Arizona, and New Mexico.

Subject: Issuing demand letters to Federal firearms licensees (FFLs) requiring multiple sales information for certain types of rifles

purchases of the described rifles are strong indicators of firearms trafficking to Mexico. By obtaining information about these multiple sales, ATF increases the likelihood of uncovering and disrupting trafficking schemes before the firearms make their way into Mexico.

The following cases involving the multiple sale of rifles illustrate the potential benefit of ATF collecting information regarding firearms trafficking using the demand letter program. ATF believes these cases represent a very small portion of the overall trafficking activity of these firearms that is occurring, and that multiple sales reports of the specified rifles will enable ATF to uncover more illegal activity and develop better intelligence about trafficking patterns:

- **Phoenix Field Division:** On or about November 1, 2009, individuals in the Phoenix, Arizona area began to illegally purchase firearms, firearm magazines and/or ammunition to be transported to Mexico. Case agents identified 25 individuals who purchased in excess of 1130 firearms in the Phoenix area with over-the-counter cash transactions. Twenty-two of these individuals purchased firearms that were recovered in Mexico in the possession of drug traffickers affiliated with the Sinaloa Cartel. Over 50 firearms purchased by two of these individuals were recovered in stash locations or during a crossing along the border in Arizona and Texas and were destined for delivery to drug trafficking organizations in Mexico. There was an extremely short time span, ranging from one (1) day to less than a month, between the purchases of all firearms and the recoveries. The majority of the firearms were purchased at an FFL involving transactions of five to ten rifles at a time.
- **McAllen Field Office:** The target of this investigation purchased several hundred pistols, rifles and lower receivers. Scores of these firearms were recovered in Mexico. The majority of the target's purchases were rifles and lower receivers acquired through multiple sale transactions. Of these, the target purchased mostly lower receivers (which are designated firearms by law) and upper receivers. He combined the receivers and parts kits to make complete rifles. The target was in turn selling the firearms at gun shows and other secondary market venues.
- **Las Cruces Field Office:** The target of this investigation purchased 19 AK47 rifles through multiple sale transactions. The investigation shows that the firearms are being transported to El Paso Texas for entry into Mexico.
- **Phoenix Field Division:** In this case, three rifles were recovered in Mexico and traced to the target of this investigation. At this point, it has been determined that the target has purchased five rifles. There were two multiple sale transactions of two rifles from two FFLs.
- **McAllen Field Office:** In this case, the target purchased 69 firearms. He acquired 50 rifles through multiple sale purchases. Eighteen of these rifles were recovered in Mexico and traced.

Subject: Issuing demand letters to Federal firearms licensees (FFLs) requiring multiple sales information for certain types of rifles

- McAllen Field Office: The target of this investigation purchased a rifle that was recovered in Mexico. To date, he has been identified as purchasing seven rifles, several of which were purchased in multiple sale transactions of two (2) rifles.
- Corpus Christi Field Office: The targets of this investigation are purchasing rifles and handguns for a drug trafficking organization in Mexico. The targets are purchasing several of the rifles through multiple sale transactions of two or more rifles.

In addition to the real-time intelligence the multiple sales forms provide, a number of these reports would be for secondhand sales of the specified rifles. Firearms sold in secondhand sales cannot be traced from the manufacturer to the secondhand purchaser. Traces of firearms typically end after new firearms are manufactured and sold by licensees to their first retail purchasers. Multiple sales reports concerning secondhand sales of qualifying rifles by retail dealers would allow ATF to trace those firearms from retail dealers to purchasers, because ATF would be able to search the multiple sales records, as it does with multiple sales records for handguns.

We also note that the Office of the Inspector General (OIG), Department of Justice, recently issued a report on ATF's Southwest Border program titled "Review of ATF's Project Gunrunner" that included a recommendation relating to multiple sales reports. One of the 15 recommendations the OIG makes is the following:

2. Work with the Department to explore options for seeking a requirement for reporting multiple sales of long guns.

The report noted that review of tracing data of crime guns recovered from Mexico from FY2004-FY2009 confirmed the increase in the use of long guns by Mexican drug cartels. The OIG report goes on to state that the percentage of crime guns recovered in Mexico that were long guns steadily increased each year from 20 percent in FY2004 to 48 percent in FY2009. The OIG's analysis also found that long guns tend to have a shorter time-to-crime than handguns, and shorter time-to-crime intervals generate more valuable leads for ATF. Finally, the report stated that evidence indicates that Mexican drug cartels are obtaining long guns in multiple sales. OIG review and ATF's own internal data indicate there are a significant number of Southwest Border-related criminal investigations involving the multiple purchase of long guns. Accordingly, the OIG report concludes that mandatory reporting of multiple sales of long guns would assist ATF in identifying firearms trafficking suspects as part of its Southwest Border enforcement efforts.

Although ATF clearly has authority to issue demand letters for FFL record information, there may be litigation risks in requiring these reports. The demand letters would be limited to all FFLs in the four Southwest border states, and would be further limited to a one-year program and to certain types of rifles. Nevertheless, there is a possibility that a court could rule that the proposed demand letter would constitute "a large-scale enterprise to consolidate and centralize a substantial amount of FFL record information." As stated above, ATF would defend the use of demand letters as described herein by arguing that demand letter authority is given to the agency

Subject: Issuing demand letters to Federal firearms licensees (FFLs) requiring multiple sales information for certain types of rifles

by statute and that the reporting requirement is narrowly tailored to obtain information about firearms that may be illegally trafficked to Mexico. We also believe the well-reported violence along the Southwest border will give added credibility to our need for the information sought by the demand letters.

Also, as can be expected, there may be resistance from the firearms industry to any increased reporting requirement. They would argue that the requirement would impose too great a burden on FFLs who, among other obligations, already have the burden of reporting multiple sales of handguns and responding to trace requests. Members of the firearms industry may also argue that this program is overbroad because it imposes a reporting requirement on all FFLs in particular states. This is in contrast to the Demand Letter 2 program, which imposes a reporting obligation only on specified FFLs with 15 or more (formerly 10 or more) firearms traces within a three-year period of the sale.

ATF believes that the benefit to law enforcement and the enhanced ability to trace these firearms to combat violence along the Southwest Border are worth the litigation risks and complaints from the firearms industry. Moreover, ATF may be able to refine the scope of the letter in the future based on the information learned in response to the initial demand letter.

RECOMMENDATION:

That you concur in ATF's issuance of a demand letter to all FFLs in four selected states, requiring them to provide ATF with reports of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, within any five consecutive business days, two or more rifles having the following characteristics: (1) semi-automatic; (2) a caliber greater than .22; and (3) ability to accept a detachable magazine. These reports would be submitted to ATF for a one-year period.

APPROVE: _____

Concurring Components:

OLP _____
OLC _____

Nonconcurring Components:

None

DISAPPROVE: _____

OTHER: _____

From: Newell, William D.
Sent: Tuesday, January 04, 2011 6:19 PM
To: McMahon, William G.
Subject: FW: Tentative indictments for Group VII
Attachments: Fast and Furious Talking Points for DAD.doc.docx; PHX GRIT Briefing - Sept 15th.pdf; Strike Force examples.pptx

[REDACTED] [REDACTED]

We plan on discussing all the cases below at the press conference. In all of them the main ATF charge is 18 USC 924(a)(1)(A) but also include 371, Dealing w/o a License, etc.

Since we just had the GRIT press conf in August and most if not all of the very same reporters will be coming I plan on creating a nexus between that last press conference and our most recent efforts to show the constant and ongoing efforts on our part to address the illegal trafficking of firearms to Mexico. We are also finalizing a handout very similar to the one we used for the GRIT (which Melson liked). (Copy attached of GRIT example as a reminder of what it looked like).

For Fast and Furious and a couple of the below cases we are going to plug the OCADETF Strike Force and the Gunrunner Group's role on the Strike Force, basically using the Arizona Strike Force's mission statement which is "focus investigations on the command and control elements of the Sinaloa Cartel and Arizona-based cells associated with the Cartel". The Strike Force's 5 investigative strategies include "#1 – Intelligence driven investigations that target CPOT-level members of the Sinaloa Cartel", "#2 - Identification and investigation of not only the northern transportation routes for narcotics, but a strict focus on the methods of operation used by the subordinate cartel cells in Arizona to transport drug related proceeds and weapons back to Mexico from and through Arizona", and [REDACTED]

[REDACTED]. We did these very things in the Fast and Furious so I feel strongly we lived up to our commitment to the OCADETF Strike Force concept as do our partners.

Also, the case listed under #4 below highlights very well the intermingling of [REDACTED], drug trafficking and firearms trafficking the Phoenix metro area. This case had it all and is a great example of how we work well with a local PD in quickly addressing not only [REDACTED] but also **the associated firearms trafficking of 49 AKs that were purchased in very short order by a diverse group of straws (another reason to mention the long gun reporting issue)**. The short PowerPoint attachment highlights this case as well as an example of a map we used for GRIT that we are going to redo to include info on the seizure info of these cases. Use "ATF" to open.

Bill Newell
Special Agent in Charge
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
Phoenix Field Division (Arizona and New Mexico)
[REDACTED]

Phoenix Press Conference Key Messages and Talking Points:

(Some will be specific to Fast and Furious and some will address all the cases)

Key Messages:

Since the second GRIT initiative ended in August, 2009 the Phoenix Field Division has continued to proactively address firearms trafficking to Mexico in support of ATF's Project Gun Runner

These investigations demonstrate the commitment on the part of ATF and its Federal, State, Local, Tribal and International partners to address the criminal activity involved in the trafficking of firearms to Mexico

These investigations address the key goals of ATF's Southwest border firearms trafficking strategy which are:

- Prevent violent crime
- Ensure the safety of the communities situated along the Southwest Border
- Disrupt and dismantle the firearms trafficking networks responsible for the diversion of firearms from lawful commerce and into the hands of the Mexican Drug Trafficking Organizations (DTOs)

These investigations all involved tireless effort on the part of ATF employees using a wide variety of investigative methods to fully identify those responsible for trafficking firearms to Mexico

ATF's firearms tracing system, eTrace, played a key role in assisting in identifying the individuals involved in violating Federal firearms laws in these investigations

In all of these cases a large number of certain types of rifles, such as AR and AK variants with detachable magazines were purchased by straw purchasers as part of complex firearms trafficking organizations and then recovered in violent crimes in Mexico, according to ATF trace data, investigative experience, and Mexican law enforcement official reports

Substantiates the fact that Mexican DTOs and other associated criminal groups operating along the SWB are actively pursuing "weapons of choice" in U.S. commercial firearms market

These cases demonstrate the ongoing trafficking of firearms by Mexican DTOs and other associated groups operating in Arizona and the need for the reporting of multiple sales for certain types of rifles in order to ferret out those intent on providing firearms to these criminal groups

Talking Points:

(Using the "Ws" method – you can change if you desire)

What:

- Proactive investigations focused on eliminating the entire firearms trafficking network, not just the straw purchasers
- ATF led firearms trafficking investigations into several firearms trafficking networks based in metro Phoenix
- Some initiated as early as October, 2009
- OCDETF Strike Force effort.
- Multi-agency (ICE, IRS, DEA, Phoenix PD)
- Almost exclusively "weapons of choice" which we have openly discussed many times before
- Alleged violations of Federal firearms laws by individuals involved in the illegal acquisition and transfer of firearms, money laundering, etc (the USAO will cover specific charges per case in more detail). Thus we should only state what is in the indictment when it comes to numbers of firearms. The indictment for Fast and Furious will not have the total number of firearms trafficked. Note: We have seized 352 firearms here in the U.S. in our effort to stop the trafficking while still making the larger case, and about 250 have been seized in Mexico. We will update the numbers again next week.

Who:

- Metro Phoenix area based complex firearms trafficking organizations

For Fast and Furious:

- [REDACTED]
- Firearms primarily destined for Sinaloa DTO (based on traces, seizures in Mexico and other investigative data gathered during investigations)
- A large group of straw purchasers [REDACTED] were used extensively to spread out purchases and evade detection (another time to address Multiple Sale on Long Guns issue)

How:

- Trafficking organizations used a large number of straw purchasers to spread out sales
- Shows straw purchases and the use of straw purchasers is still a major issue (lack of criminal history, need money, unlimited resource, etc)
- Firearms were purchased at numerous FFLs in the metro area

- Firearms were trafficked to Mexico in a variety of ways but mainly in small loads using vehicles crossing into Mexico via POEs

For Internal ATF Use Only:

At no time during the Fast and Furious investigation, or ANY investigation conducted by the Phoenix Field Division highlighted above, did ATF personnel knowingly allow firearms to be trafficked. Every available resource as well as every possible investigative and judicial process was used to prevent this from taking place. As a result of these efforts in the Fast and Furious case and as of October of 2010 to the best of our knowledge all firearms purchasing and trafficking activity by this organization has ended. This is due to several factors not the least of which are the many proactive measures taken by the agents assigned to Phoenix Group VII. It should also be noted that throughout the course of the investigation numerous seizures were made by other State, local and Federal law enforcement agencies at the direction of Phoenix Group VII in order to ensure the seized firearms did not reach their intended destination but also to ensure the leadership of this firearms trafficking organization was not "tipped off" to the proactive measures taken while the larger conspiracy case was being prepared for the USAO. To date 350 firearms have been taken into ATF custody as a result of these combined efforts.

[REDACTED]

From: Newell, William D.
Sent: Wednesday, January 26, 2011 7:45 AM
To: Needles, James R.; Gillett, George T. Jr.
Subject: Fw: F & F

I think Intel already did an analysis on the 2000+ guns involved in all the cases we discussed yesterday. Please check and advise. I recall a document that Marge or Voth had which outlined the amount, type and sales info on all the guns to include the fact that 95% were AKs.

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From: Chait, Mark R.
To: Newell, William D.
Cc: McMahon, William G.
Sent: Wed Jan 26 09:30:54 2011
Subject: F & F

Bill – well done yesterday on the F & F takedown and press conference...in light of our request for Demand letter 3, this case could be a strong supporting factor if we can determine how many multiple sales of long guns occurred during the course of this case. Could you have this information pulled for us to see if this may provide concrete info of a recent case. Thanks again..

Mark R. Chait
Assistant Director
Field Operations
[REDACTED]

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