

From: Trusty, James
Sent: Monday, April 12, 2010 8:19 AM
To: Weinstein, Jason; Carwile, Kevin
Subject: RE: My airplane reading, Part II

Makes sense - just let us know, Frenchie.

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

From: Weinstein, Jason
Sent: Monday, April 12, 2010 5:30 AM
To: Carwile, Kevin; Trusty, James
Subject: My airplane reading, Part II

Been thinking more about "Wide Receiver I." ATF HQ should/will be embarrassed that they let this many guns walk - I'm stunned, based on what we've had to do to make sure not even a single operable weapon walked in UC operations I've been involved in planning - and there will be press about that. In addition, this diary that casts aspersions on one of the agents is a challenge for the case but also something that is likely to embarrass ATF publicly. For those reasons, I think we need to make sure we go over these issues with our front office and with Billy Hoover before we charge the case. Of course we should still go forward, but we owe it to ATF HQ to preview these issues before anything gets filed.

I'm not suggesting we need to send the memo further up the chain - it would take you or me a really long time to convert what Laura wrote into something we could send to Lanny - but **we should schedule a time to brief Lanny and Mythili on the case next week** (end of the week, bc he testifies on Wed and is jammed up before then) and then to brief Billy after that.

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Office: RC-1
Cell: RC-1

From: Carwile, Kevin
Sent: Monday, April 19, 2010 6:42 PM
To: Trusty, James
Subject: Re: How did the

No problem. See you around noon.

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

From: Trusty, James
To: Carwile, Kevin
Sent: Mon Apr 19 18:40:08 2010
Subject: Re: How did the

Went fine. You know how he is. Wants us to meet with Ken and Billy at some point so they know the bad stuff that could come out. I'm going to come in late tomorrow - probably near noon -- work from home in the am and then work til around 6.

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

From: Carwile, Kevin
To: Trusty, James
Sent: Mon Apr 19 18:23:42 2010
Subject: How did the

Meeting go with lanny?

RC-1

From: Weinstein, Jason
Sent: Tuesday, April 20, 2010 9:11 AM
To: Beard, Jane
Subject: Re: 3 things to schedule

Particular case - Operation Wide Receiver - I gave Hoover a heads-up

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Office: RC-1
Cell: ()

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

From: Beard, Jane
To: Weinstein, Jason
Sent: Tue Apr 20 08:26:35 2010
Subject: RE: 3 things to schedule

For number 3 below, I will need to call ATF re Ken Melson's availability. Is the subject a particular gun trafficking case or gun trafficking cases in general? Thank you.

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

From: Weinstein, Jason
Sent: Tuesday, April 20, 2010 7:30 AM
To: Beard, Jane
Cc: Breuer, Lanny A.; Fagell, Steven; Raman, Mythili
Subject: 3 things to schedule

RC-2

3. Monday, April 26 or Tuesday, April 27 - briefing for ATF on gun trafficking case - Lanny, me, Mythili, Steve, Kevin Carwile, Jim Trusty, Ken Melson, Billy Hoover, Laura Sweeney - 45 minutes to an hour.

Thanks!

Jason M. Weinstein

Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Office RC-1
Cell: ([REDACTED]

RC-1

From: Weinstein, Jason
Sent: Friday, April 30, 2010 7:03 PM
To: Breuer, Lanny A.
Subject: Re: Operation Wide Receiver

As you'll recall from Jim's briefing, ATF let a bunch of guns walk in effort to get upstream conspirators but only got straws, and didn't recover many guns. Some were recovered in MX after being used in crimes. Billy, Jim, Laura, Alisa and I all think the best way to announce the case without highlighting the negative part of the story and risking embarrassing ATF is as part of Deliverance.

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Office: RC-1
Cell: RC-1

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

From: Breuer, Lanny A.
To: Weinstein, Jason
Sent: Fri Apr 30 18:39:45 2010
Subject: Re: Operation Wide Receiver

Anything I should know about thos?

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

From: Weinstein, Jason
To: Breuer, Lanny A.; Raman, Mythili; Fagell, Steven
Sent: Wed Apr 28 18:59:27 2010
Subject: Operation Wide Receiver

Jim T and I met with Billy Hoover and with Laura and Alisa to talk about this gun trafficking case with the issues about the guns being allowed to walk for investigative purposes. Can fill you in tomorrow in more detail but we all think the best move is to indict both Wide Receiver I and Wide Receiver II under seal and then unseal as part of Project Deliverance, where focus will be on aggregate seizures and not on particulars of any one indictment.

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW

Washington, D.C. 20530

Office RC-1

Cell RC-1

RC-1

From: Trusty, James
Sent: Monday, October 18, 2010 9:21 AM
To: Weinstein, Jason
Subject: RE: OCGS Weekly Report

I think so, but the timing will be tricky, too. Looks like we'll be able to unseal the Tucson case sooner than the Fast and Furious (although this may be just the difference between Nov and Dec). It's not clear how much we're involved in the main F and F case, but we have Tucson and now a new, related case with RC-5 targets. It's not going to be any big surprise that a bunch of US guns are being used in MX, so I'm not 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..."

From: Weinstein, Jason
Sent: Sunday, October 17, 2010 11:07 PM
To: Trusty, James
Subject: FW: OCGS Weekly Report

Do you think we should try to have Lanny participate in press when Fast and Furious and Laura's Tucson case are unsealed? It's a tricky case given the number of guns that have walked but it is a significant set of prosecutions

From: Ott, Thomas
Sent: Thursday, October 14, 2010 5:56 PM
To: Ohr, Bruce; Crow, Douglas; Duvall, Deborah; Gray, Laurie; Henry, Wakeya; Keeney, John; Raman, Mythili; Tinsley, Mary; Mulkern, Patrice; Toner, Gerald; Weinstein, Jason; Andres, Greg; Trusty, James; Pope, Amy; Buretta, John
Cc: Metz, Thomas R. (FBI); Stewart, Robert M. (FBI); LaPlante, Michael J. (FBI); Plichta, Michael F. (FBI); Phillips, Dean (FBI)
Subject: OCGS Weekly Report

See attached. Thanks

Thomas P. Ott
Deputy Chief
Organized Crime & Racketeering Section
Criminal Division
U.S. Department of Justice
Washington, D.C.

RC-1 (desk)
(cell)

From: Weinstein, Jason
To: Breuer, Lanny A.
CC: Raman, Mythili
Sent: 1/31/2011 9:43:28 PM
Subject: Re: ATF GunRunner

He suggests that ATF only prosecuted straws in the Fast and Furious case as opposed to higher-level members of the organization; he said that ATF "sanctioned" sales to straw purchasers in that case; and he asserts that one of the weapons from that case was used to kill CBP agent Brian Terry.

The best briefer on Fast and Furious really is the AUSA on the case, who is very sharp. Otherwise it should be someone like Bill Newell, the Phx SAC and soon-to-be Mexico Attache, who is fantastic and knows the case really well, or Billy Hoover.

As a mitzvah for ATF, I was going to suggest that you might send a brief email to Ken, offering any assistance they need in preparing for the Grassley briefing.

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Office: ([REDACTED] RC-1)
Cell: [REDACTED] RC-1

From: Breuer, Lanny A.
To: Weinstein, Jason
Cc: Raman, Mythili
Sent: Mon Jan 31 21:29:09 2011
Subject: Re: ATF GunRunner

What's this about? What did Grassley say?

From: Weinstein, Jason
To: Burke, Dennis (USAAZ); 'APings' [REDACTED] RC-1 'Deborah.A.Johnston@[REDACTED] RC-1'
[REDACTED] RC-1 Breuer, Lanny A.
Cc: Raman, Mythili
Sent: Mon Jan 31 21:14:16 2011
Subject: Re: ATF GunRunner

I agree completely. This is a really important briefing for ATF - they need to nail it. Since I won't be in Mexico this week after all, I'd be happy to work with ATF on the prep for this if it would be helpful.

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Office: ([REDACTED] RC-1)
Cell: [REDACTED] RC-1

From: Burke, Dennis (USAAZ) [REDACTED] **RC-1**
To: Pings, Anne (USAEO) [REDACTED] **RC-1** Weinstein, Jason; Johnston, Deborah A. (ODAG) (SMO)
[REDACTED] **RC-1**
Sent: Mon Jan 31 20:29:51 2011
Subject: FW: ATF GunRunner

Grassley's assertions regarding the Arizona investigation and the weapons recovered at the BP Agent Terry murder scene are based on categorical falsehoods. I worry that ATF will take 8 months to answer this when they should be refuting its underlying accusations right now.

From: Weinstein, Jason
To: Breuer, Lanny A.
CC: Raman, Mythili
Sent: 2/2/2011 9:40:31 AM
Subject: Re: Grassley briefing

My thoughts exactly

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Office: **RC-1**
Cell:

From: Breuer, Lanny A.
To: Weinstein, Jason
Cc: Raman, Mythili
Sent: Wed Feb 02 00:34:13 2011
Subject: Re: Grassley briefing

Sure but you probably shouldn't unless absolutely necessary.

From: Weinstein, Jason
To: Breuer, Lanny A.
Cc: Raman, Mythili
Sent: Tue Feb 01 20:51:44 2011
Subject: Re: Grassley briefing

Faith drafted a letter, which I revised to make a little tougher - she's reviewing the edits - and then she will circulate to Dennis and Billy Hoover.

ATF will do a briefing on Gunrunner, without getting too much into the details of the actual case. I don't think they'll ask us to participate, but if they do, are you ok with my going?

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Office: **RC-1**
Cell:

From: Breuer, Lanny A.
To: Weinstein, Jason; Burke, Dennis (USAAZ)
Sent: Tue Feb 01 19:12:21 2011
Subject: Re: Grassley briefing

Jason, Let me know what's happening with this. Thanks for getting involved. Lan

From: Weinstein, Jason
To: Breuer, Lanny A.; Burke, Dennis (USAAZ)
Sent: Tue Feb 01 13:53:51 2011
Subject: RE: Grassley briefing

On with Faith Burton now.

From: Breuer, Lanny A.
Sent: Tuesday, February 01, 2011 1:53 PM
To: Weinstein, Jason; Burke, Dennis (USAAZ)
Subject: Fw: Grassley briefing

From: Melson, Kenneth E. RC-1
To: Breuer, Lanny A.
Sent: Tue Feb 01 11:30:56 2011
Subject: Re: Grassley briefing

Thanks, Lanny. Let's see how things develop. Ken

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

From: Breuer, Lanny A. RC-1
To: Melson, Kenneth E.
Sent: Tue Feb 01 09:22:24 2011
Subject: Grassley briefing

On Gunrunner. Ken, We support ATF 100 percent. I'm happy to have CRM lend a helping hand -- in any capacity -- as your team prepares for the briefing. Please let me know if you need anything. Best, Lanny

From: Weinstein, Jason
To: Breuer, Lanny A.; Raman, Mythili
CC: Wroblewski, Jonathan
Sent: 2/2/2011 1:34:29 PM
Subject: FW: further revisions
Attachments: grassley atf.2-1-11.weinstein edits.clean.docx

Just an update – Faith and I are going back and forth on a letter to Grassley which would go out today. I am trying to make it as strong as possible. She’s now accepted my first round of edits, but this next round is more aggressive. Later today we’re going to have a conference call with Dennis or his designee, ATF folks, OLA, ODAG, and me to hash this out.

ATF has expressed appreciation for the support CRM is providing on this.

From: Weinstein, Jason
Sent: Wednesday, February 02, 2011 1:25 PM
To: Weinstein, Jason; Burton, Faith (SMO)
Cc: Burke, Dennis (USAAZ)
Subject: RE: further revisions

Fixed typo in second paragraph

From: Weinstein, Jason
Sent: Wednesday, February 02, 2011 1:23 PM
To: Burton, Faith (SMO)
Cc: Burke, Dennis (USAAZ)
Subject: further revisions

As we discussed, the “don’t make assumptions” part doesn’t really address the Terry allegation in a satisfying way, but I understand that we don’t want to get drawn into a process where we’re being pushed to give a lot of details about a pending case, so I opted for the more direct approach, without a lot of explanation. I included tracked and clean versions – clean may be easier to follow.

I’m cc’ing Dennis to make sure he is comfortable with this.

As we discussed, we should have a conference call with the larger group from your earlier email in the interests of getting something released today. I’m available all afternoon.

Jason M. Weinstein
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Office:
Cell: **RC-1**

From: Breuer, Lanny A.
To: Weinstein, Jason; Burke, Dennis (USAAZ)
CC: Raman, Mythili
Sent: 2/2/2011 6:29:20 PM
Subject: Re: Revised Grassley letter

Burke made me laugh. Thanks, Jason. As usual, great work.

From: Weinstein, Jason
To: Burke, Dennis (USAAZ); Breuer, Lanny A.
Cc: Raman, Mythili
Sent: Wed Feb 02 18:11:57 2011
Subject: RE: Revised Grassley letter

Gracias.

From: Burke, Dennis (USAAZ) RC-1
Sent: Wednesday, February 02, 2011 5:55 PM
To: Weinstein, Jason; Breuer, Lanny A.
Cc: Raman, Mythili
Subject: Re: Revised Grassley letter

Great job by you. Never pretty when the crisis involves ATF and OLA. They suffer in a combined political coma.

From: Weinstein, Jason (CRM)
Sent: Wednesday, February 02, 2011 05:20 PM
To: Breuer, Lanny A. (CRM); Burke, Dennis (USAAZ)
Cc: Raman, Mythili (CRM)
Subject: FW: Revised Grassley letter

The Magna Carta was easier to get done than this was. Have a cerveza or two for me....

From: Weinstein, Jason
Sent: Wednesday, February 02, 2011 5:17 PM
To: Burton, Faith (SMO); Hoover, William J. (ATF); Burke, Dennis (USAAZ); Rasnake, Gregory R. (ATF); Pings, Anne (USAEO); McDermond, James E. (ATF); Melson, Kenneth E. (ATF); Johnson, Deborah (SMO); Smith, Brad (ODAG); Colborn, Paul P (SMO)
Cc: Gaston, Molly (SMO); Gonzales, Mary (OLA)
Subject: Revised Grassley letter

Attached is a revised draft of a letter to Sen. Grassley. Please take a look and let us know if this version is OK with you.

Faith is tied up in a meeting, but she asks that ATF reach out to Grassley's staff to let them know that we'll be sending a response shortly (we expect tomorrow, but shouldn't say that specifically) and that you look forward to briefing them on Gunrunner.

Thanks.

Jason

From: Breuer, Lanny A.
To: L. Breuer personal email address redacted
Sent: 2/2/2011 8:50:02 PM
Subject: Fw: Revised Grassley letter
Attachments: grassley atf clean 5pm.docx

From: Weinstein, Jason
To: Breuer, Lanny A.; Burke, Dennis (USAAZ)
Cc: Raman, Mythili
Sent: Wed Feb 02 17:20:29 2011
Subject: FW: Revised Grassley letter

The Magna Carta was easier to get done than this was. Have a cerveza or two for me....

From: Weinstein, Jason
Sent: Wednesday, February 02, 2011 5:17 PM
To: Burton, Faith (SMO); Hoover, William J. (ATF); Burke, Dennis (USAAZ); Rasnake, Gregory R. (ATF); Pings, Anne (USAEO); McDermond, James E. (ATF); Melson, Kenneth E. (ATF); Johnson, Deborah (SMO); Smith, Brad (ODAG); Colborn, Paul P (SMO)
Cc: Gaston, Molly (SMO); Gonzales, Mary (OLA)
Subject: Revised Grassley letter

Attached is a revised draft of a letter to Sen. Grassley. Please take a look and let us know if this version is OK with you.

Faith is tied up in a meeting, but she asks that ATF reach out to Grassley's staff to let them know that we'll be sending a response shortly (we expect tomorrow, but shouldn't say that specifically) and that you look forward to briefing them on Gunrunner.

Thanks.

Jason

From: Breuer, Lanny A.
To: L. Breuer personal email address redacted
Sent: 2/5/2011 1:50:37 PM
Subject: Fw: Revised draft letter to Grassley per input received from all - hope this is ready. Thanks. FB
Attachments: grassley atf 2411.pdf

From: Weinstein, Jason
To: Raman, Mythili; Breuer, Lanny A.
Sent: Fri Feb 04 17:55:10 2011
Subject: FW: Revised draft letter to Grassley per input received from all - hope this is ready. Thanks. FB

From: Burton, Faith (SMO) [mailto:RC-1]
Sent: Friday, February 04, 2011 5:39 PM
To: Smith, Brad (ODAG); Burke, Dennis (USAAZ); Weich, Ron (SMO); Hoover, William J. (ATF); Weinstein, Jason; Colborn, Paul P (SMO)
Cc: Gaston, Molly (SMO); Gonzales, Mary (OLA); Monaco, Lisa (ODAG); Goldberg, Stuart (ODAG); Rasnake, Gregory R. (ATF); Kralovec, Jamie (JMD)
Subject: RE: Revised draft letter to Grassley per input received from all - hope this is ready. Thanks. FB

Enclosed please find this letter, signed by Ron, in pdf format. Greg, we may be able to have hard copy delivered tonight (checking now), but you may want to call the staffers to let them know it's coming and send it in pdf. Please call if we can assist in any other way. Thanks. FB

From: Smith, Brad (ODAG)
Sent: Friday, February 04, 2011 3:45 PM
To: Burke, Dennis (USAAZ); Burton, Faith (SMO); Weich, Ron (SMO); Hoover, William J. (ATF); Weinstein, Jason (CRM); Colborn, Paul P (SMO)
Cc: Gaston, Molly (SMO); Gonzales, Mary (OLA); Monaco, Lisa (ODAG); Goldberg, Stuart (ODAG)
Subject: RE: Revised draft letter to Grassley per input received from all - hope this is ready. Thanks. FB

All,

Please find attached a revised, ODAG-cleared draft that addresses that the issues we discussed last evening and this morning. Unless others object, I believe OLA will put the document in final format for Ron's signature.

Thanks for everyone's patience and help.

Brad

From: Monaco, Lisa (ODAG)
Sent: Thursday, February 03, 2011 7:17 PM
To: Burke, Dennis (USAAZ); Burton, Faith (SMO); Weich, Ron (SMO); Smith, Brad (ODAG); Hoover, William J. (ATF); Weinstein, Jason (CRM); Colborn, Paul P (SMO); Goldberg, Stuart (ODAG)
Cc: Gaston, Molly (SMO); Gonzales, Mary (OLA)
Subject: Re: Revised draft letter to Grassley per input received from all - hope this is ready. Thanks. FB

Dennis, Billy - I agree we need to have a strong and accurate response. Toward that end, we've got some additional questions that we just asked Brad to run down with you and Billy so we can get this out tomorrow. So he will be circling back with you guys.

Thanks
Lisa

From: Breuer, Lanny A.
To: L Breuer personal email address redacted
Sent: 2/5/2011 2:20:54 PM
Subject: Fw: PDF of Outgoing 2/3/11 Letter to Senator Grassley
Attachments: 2 3 11 Letter to Senator Grassley.pdf

From: Weinstein, Jason
To: Breuer, Lanny A.; Raman, Mythili
Sent: Fri Feb 04 13:27:40 2011
Subject: FW: PDF of Outgoing 2/3/11 Letter to Senator Grassley

signed Grassley letter

From: Kralovec, Jamie (JMD) [mailto:RC-1]
Sent: Thursday, February 03, 2011 6:47 PM
To: Hoover, William J. (ATF); Burton, Faith (SMO); Weinstein, Jason; Burke, Dennis (USAAZ); Gaston, Molly (SMO); Gonzales, Mary (OLA); Rasnake, Gregory R. (ATF)
Subject: PDF of Outgoing 2/3/11 Letter to Senator Grassley

All: The PDF is attached. Thanks, Jamie

*Jamie Kralovec
Legislative Assistant
U.S. Department of Justice*

RC-1



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D. C. 20530

February 4, 2011

The Honorable Charles E. Grassley
Ranking Minority Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senator Grassley:

This responds to your letters, dated January 27, 2011 and January 31, 2011, to Acting Director Kenneth Melson of the Department's Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), regarding Project Gunrunner. We appreciate your strong support for the Department's law enforcement mission.

At the outset, the allegation described in your January 27 letter—that ATF “sanctioned” or otherwise knowingly allowed the sale of assault weapons to a straw purchaser who then transported them into Mexico—is false. ATF makes every effort to interdict weapons that have been purchased illegally and prevent their transportation to Mexico. Indeed, an important goal of Project Gunrunner is to stop the flow of weapons from the United States to drug cartels in Mexico. Since its inception in 2006, Project Gunrunner investigations have seized in excess of 10,000 firearms and 1.1 million rounds of ammunition destined for Mexico. Hundreds of individuals have been convicted of criminal offenses arising from these investigations and many others are on-going. ATF remains committed to investigating and dismantling firearms trafficking organizations, and will continue to pursue those cases vigorously with all available investigative resources.

In this vein, the suggestion that Project Gunrunner focuses simply on straw purchasers is incorrect. The defendants named in the indictments referenced in your January 27 letter include leaders of a sophisticated gun trafficking organization. One of the goals of the investigation that led to those indictments is to dismantle the entire trafficking organization, not merely to arrest straw purchasers.

I also want to assure you that ATF has made no attempt to retaliate against any of its agents regarding this matter. We recognize the importance of protecting employees from retaliation relating to their disclosures of waste, fraud, and abuse. ATF employees receive annual training on their rights under the Whistleblower Protection Act, and those with knowledge of waste, fraud, or abuse are encouraged to communicate directly with the

The Honorable Charles E. Grassley
Page Two

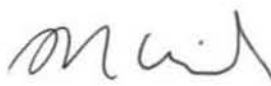
Department's Office of Inspector General. These protections do not negate the Department's legitimate interest in protecting confidential information about pending criminal investigations.

We also want to protect investigations and the law enforcement personnel who directly conduct them from inappropriate political influence. For this reason, we respectfully request that Committee staff not contact law enforcement personnel seeking information about pending criminal investigations, including the investigation into the death of Customs and Border Patrol Agent Brian Terry. Like you, we are deeply concerned by his murder, and we are actively investigating the matter. Please direct any inquiry into his killing to this office.

The Department would be pleased to provide a briefing to Committee staff about Project Gunrunner and ATF's efforts to work with its law enforcement partners to build cases that will disrupt and dismantle criminal organizations. That briefing would not address the on-going criminal investigation referenced in your letter. As you know, the Department has a long-standing policy against the disclosure of non-public information about pending criminal investigations, which protects the independence and effectiveness of our law enforcement efforts as well as the privacy and due process interests of individuals who may or may not ever be charged with criminal offenses.

We hope that this information is helpful and look forward to briefing Committee staff about Project Gunrunner. Please do not hesitate to contact this office if we may provide additional assistance about this or any other matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Ronald Weich', written in a cursive style.

Ronald Weich
Assistant Attorney General

cc: The Honorable Patrick J. Leahy
Chairman



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 2, 2011

The Honorable Charles E. Grassley
Ranking Minority Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senator Grassley:

This responds to your letter of April 13, 2011, referencing the allegations you have raised about the Bureau of Alcohol, Tobacco, Firearms, and Explosives' (ATF's) Project Gunrunner and Operation Fast and Furious, and requesting that the Senate Judiciary Committee receive access to the ATF documents reviewed by the House Committee on Oversight and Government Reform.

You have asked whether it remains our view that "ATF did not sanction or otherwise knowingly allow the sale of assault weapons to straw purchasers." In fact, my letter, dated February 4, 2011 said: "At the outset, the allegation described in your January 27 letter – that ATF 'sanctioned' or otherwise knowingly allowed the sale of assault weapons to a straw purchaser who then transported them into Mexico – is false." It remains our understanding that ATF's Operation Fast and Furious did not knowingly permit straw buyers to take guns into Mexico. You have provided to us documents, including internal ATF emails, which you believe support your allegation. As you know, we have referred these documents and all correspondence and materials received from you related to Operation Fast and Furious to the Acting Inspector General, so that she may conduct a thorough review and resolve your allegations. While we await her findings, the Attorney General has made clear to prosecutors and agents working along the Southwest Border that the Department should never knowingly permit firearms to cross the border.

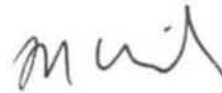
Your letter also asks whether the Department will provide the Senate Judiciary Committee with access to the documents made available to the House Committee on Oversight and Government Reform. While we appreciate your interest in this matter, the Executive Branch over many Administrations has taken the position that only a chairman can speak for a committee in conducting oversight and we work to accommodate legitimate oversight needs of congressional committees as articulated in letter requests from chairmen. The Department's responses to such requests are sent to both the chairman and the ranking minority member, and

The Honorable Charles E. Grassley
Page Two

documents made available in response to a chairman's request may be reviewed by all members and staff on that committee. As we explained in our April 18, 2011 letter to Chairman Leahy, a copy of which was provided to you, there are ongoing criminal investigations in Arizona, as well as an indicted criminal case set for trial in June in which 20 people have been charged with gun trafficking, drug trafficking and money laundering crimes. We recognize the importance of congressional oversight and have continued to be as responsive as possible to Chairman Issa without jeopardizing important law enforcement efforts that are directed at stemming the violence in the United States and Mexico emanating from the drug cartels in Mexico. We are confident you understand the critical need of the Department to protect the pending criminal trial and ongoing investigation of alleged gun traffickers, drug traffickers, and money launderers along the Southwest Border.

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

Sincerely,

A handwritten signature in dark ink, appearing to read 'm w', is positioned above the typed name of the signatory.

Ronald Weich
Assistant Attorney General

cc: The Honorable Patrick J. Leahy
Chairman

Statement of Assistant Attorney General Lanny A. Breuer
Criminal Division, Department of Justice
October 31, 2011

“Throughout my tenure as Assistant Attorney General, one of my highest priorities, and one of the central missions that I have set for the Criminal Division, has been to work with our Mexican counterparts to fight the scourge of drug trafficking and violence in Mexico, and to address the public safety crisis along the Southwest Border of the United States. That is why, among many other steps, in 2009, I offered Southwest Border U.S. Attorneys’ Offices assistance from one of the Criminal Division’s experienced prosecutors to assist in gun trafficking prosecutions.

“In response to that offer, the Arizona U.S. Attorney’s Office asked the Criminal Division prosecutor to assume responsibility for Operation Wide Receiver, and the Criminal Division’s Gang Unit agreed to do so, despite not having been involved in the underlying flawed investigation of the matter by the Tucson Field Office of the ATF’s Phoenix Field Division in 2006 and 2007.

“As that prosecutor evaluated the case in the fall of 2009, she realized that ATF’s investigation - which had concluded two years earlier - had included the use of misguided tactics that had resulted in ATF losing control of numerous guns that then crossed the border into Mexico. This information was brought to my attention in April 2010.

“When I learned of the unacceptable tactics used in Operation Wide Receiver, I instructed one of my Deputy Assistant Attorneys General to schedule a meeting with ATF’s Acting Director and Deputy Director to bring these issues to their attention. The next day, my Deputy contacted ATF leadership to arrange a meeting, and approximately one week later, my Deputy met with the ATF Deputy Director and others to discuss this matter.

“In prosecuting the defendants in Operation Wide Receiver, the Criminal Division focused on how to ensure that those responsible for illegal firearms trafficking were brought to justice, despite the flaws in the investigation.

“Knowing what I now know was a pattern of unacceptable and misguided tactics used by the ATF, I regret that I did not alert others within the leadership of the Department of Justice to the tactics used in Operation Wide Receiver when they first came to my attention.

“When the allegations related to Operation Fast and Furious became public earlier this year, the leadership of ATF and the U.S. Attorney’s Office in Arizona repeatedly assured individuals in the Criminal Division and the leadership of the Department of Justice that those allegations were not true. As a result, I did not draw a connection between the unacceptable tactics used by the ATF years earlier in Operation Wide Receiver and the allegations made about Operation Fast and Furious, and therefore did not, at that time, alert others within Department leadership of any similarities between the two. That was a mistake, and I regret not having done so.

“I remain more committed than ever to the Criminal Division’s mission to fight violence in the United States and Mexico.”

Senate Judiciary Subcommittee on Crime and Terrorism Holds Hearing on Combating International Organized Crime

LIST OF PANEL MEMBERS AND WITNESSES

WHITEHOUSE:

Good morning. The hearing will come to order. I appreciate the witnesses having taken the time to join us.

I'm not sure if any of our Republican members will be joining us, but I've been given the nod by the minority staff to go ahead and proceed. So I'll begin with my opening statement. If anybody else does arrive we can proceed to their opening statements if they care to make one.

Every day, as we know, overseas criminal networks target Americans, weakening our economic prosperity and compromising our safety. Today's hearing provides us an opportunity to evaluate our current statutory authorities, law enforcement tools and resources for protecting the American people from the serious and ever-growing threat of international organized crime.

The international organized crime networks we confront today are significantly different from La Cosa Nostra and other criminal networks we confronted in the past. Criminal groups increasingly operate internally, taking advantage of globalization, of the Internet, and of new technologies to engage in sophisticated and expansive crimes targeted at victims an ocean away.

Overseas networks of cyber criminals have hacked into the computer networks of innovative American businesses, stealing their valuable intellectual property in order to produce cheap competitors or counterfeits.

Large-scale criminal enterprises are openly engaged in the online sale of massive amounts of stolen American movies, music and software.

And an entire criminal industry has grown up around stealing and selling credit card numbers, bank account passwords and personal identification information of American consumers.

Criminal groups involved in human trafficking, or smuggling narcotics and weapons, are dangers to our communities, often engaged in kidnapping, extortion and related acts of violence along the way.

Some overseas crime networks are linked to terrorist organizations. These foreign criminals' overseas base of operations, flexible network structures and use of the Internet and other modern tools create significant challenges for U.S. law enforcement. Investigators tracking an international crime group must regularly work in and with several different countries to build a single case. The laws and practical circumstances in each country pose obstacles to uncovering evidence, to interviewing witnesses, to locating criminal suspects.

And the high-tech tools used by foreign criminals require our law enforcement experts to use complex and often costly forensics to identify those responsible for a crime.

Even once investigators have pieced together a case against a dangerous group and found their suspects, additional hurdles may stand in the way of bringing foreign criminals to justice. Criminal statutes, for example, may not apply to criminal groups based overseas, and some of our most powerful criminal laws for prosecuting organized crime may not capture the types of fraud and theft that international criminals engage in today. Our RICO statute, for instance, does not apply to computer crimes, and thus does not help combat overseas hacking rings.

Overseas criminal groups demand heightened attention and resources from many elements of our government. Investigative and law enforcement agencies must work together to detect and disrupt overseas criminal plots. They must also collaborate with our economic, diplomatic and intelligence communities to share threat information, cut off criminal networks' access to funds, and supplement criminal prosecutions with other approaches to keeping the American people safe.

GRASSLEY:

Thank you, Mr. Chairman.

Mr. Breuer, yesterday, you made a public statement saying that ATF and the U.S. Attorney's Office officials, quote, unquote, repeatedly assured officials in the criminal division and the leadership of the Department of Justice the allegations about walking guns in Fast and Furious were not true.

Please be more specific. Who exactly at ATF said that the gun walking allegations were untrue? And who exactly at the U.S. Attorney's Office said the allegations were untrue?

BREUER:

Senator Grassley, as I said yesterday, of course, it was my office that ultimately prosecuted the Wide Receiver case. And I want to be very clear to you, senator, that when I learned of this in April of 2010, and -- I learned about it and we decided to prosecute this case from 2006 and 2007. I regret that, at that point, that I -- knowing then -- knowing now what -- knowing now -- I wish that at that time that I had said clearly to the deputy attorney general and the attorney general that in this case Wide Receiver, we had determined that in 2006 and 2007, guns had walked.

I did not do that. And I regret not doing that.

GRASSLEY:

Thank you for that statement. Not who told you at ATF and the Attorney General's Office that these allegations were untrue?

BREUER:

Well, Mr. Senator, at the time, as I recall, my -- we first spoke to the -- to the ATF back in April of 2010. My front office did. And based on what I understood, we had an understanding from the ATF that this practice of 2006 and 2007, that the ATF understood the seriousness of that.

GRASSLEY:

What is that individual's name?

BREUER:

Well, there's clearly, as far as I know, Senator Grassley, at the time, Mr. Hoover, who was the deputy, was one of the people who would have been involved in that discussion.

Of course, I wasn't there for it. So I can only tell you my understanding.

GRASSLEY:

That's all I want, is your understanding of it.

BREUER:

That's my understanding, senator. Then, of course, senator, in early this year, when this matter came to life and the ATF agents made the claims that they did, I recall that both the leadership of ATF and the leadership of the United States Attorney's Offices in Arizona, those, of course, who were closest and were handling the matter, were adamant about the fact that this was not, in fact, a condoned practice.

I'm sure you recall that as well.

GRASSLEY:

The word leadership applies then to the people that were head of the U.S. Attorney's Office and the head of ATF? Even though you didn't give me their names, that's who you're talking about, right?

BREUER:

That's exactly right, as I recall.

GRASSLEY:

Let me go on then.

BREUER:

Yes, senator.

GRASSLEY:

On February 4th, 2011, the department sent me a letter also assuring me that allegations of gun walking were untrue. It reads, quote, "ATF makes every effort to interdict weapons that have been purchased illegally, and prevent their transportation to Mexico," end of quote.

That statement is absolutely false. And you admitted as much last night, that you knew by April, 2010, that ATF walked guns in Operation Wide Receiver. That is that correct, yes?

BREUER:

Yes, senator. What I...

GRASSLEY:

That's all I need to know, if that's correct. Did you review that letter before it was sent to me?

BREUER:

Senator, again, I just want to be clear that, as I told you a moment ago, I regret that in April of 2010 that I did not draw the connection between Wide Receiver and Fast and Furious. Moreover, I regret that -- that even in earlier this year that I didn't draw that connection.

In direct answer to your question, senator, I can say -- I cannot say for sure whether I saw a draft of the letter that was sent to you. What I can tell you, senator, is at that time, I was in Mexico dealing with a very real issues that we are all so committed to.

But I also regret, as I've said, that I didn't draw that connection earlier.

GRASSLEY:

After learning of gun walking in Wide Receiver, did you ever inform the Attorney General Holder or deputy attorney general about it? And if so, when? And if not, why not?

BREUER:

Senator, I can't be more clear. I've said to you, and I will continue to, I regret the fact that in April of 2010, I did not. At the time, I thought that we -- dealing with the leadership of ATF was sufficient and reasonable.

And frankly, given the amount of work I do, at the time, I thought that that was the appropriate way of dealing with it. But I cannot be more clear that knowing now -- if I had known then what I know now, I, of course, would have told the deputy and the attorney general.

GRASSLEY:

Did you ever tell anybody else in the Justice Department leadership the same thing? And if so, who and when?

BREUER:

Senator, I thought we had dealt with it by talking to the ATF leadership.

GRASSLEY:

OK. How many guns were walked in Wide Receiver?

BREUER:

Senator, I can probably try to look at that. Of course, that was in 2006 and 2007. Just to be clear, if I may, senator, that was a case that had been abandoned and languished. It was my division that decided to take a case where guns had been permitted to go to Mexico years earlier, and at least make sure that the criminals who were responsible for purchasing those guns were held to account.

As a result of that, senator, we prosecuted 11 different people. I think to answer your question, in total, probably about -- if my math is good, probably about 350 or so. But, senator, I will have to double check that number.

GRASSLEY:

I think you are very close. So you don't have to check that number. According to my information, just five straw buyers -- I will refer to the chart here and then I'll quit and let you go on to another member. And I'll do some more on a second round.

According to my information, just five of the straw buyers in Fast and Furious were allowed to buy nearly 1,000 weapons. When did you first know that guns were walked in Fast and Furious?

BREUER:

Senator, I found out first when the public disclosure was made by the ATF agents early this year. When they started making those public statements, of course, at that point, as you know, both the leadership of ATF and the leadership of the U.S. Attorney's Offices adamantly said that those allegations were wrong.

But as those allegations became clear, that is when I first learned that guns that could -- that ATF had both the ability to interdict and the legal authority to interdict, that they failed to do so. That is when I first learned that, senator.

GRASSLEY:

Thank you, Mr. Breuer.

BREUER:

Thank you, sir.

GRASSLEY:

Thank you, Mr. Chairman.

WHITEHOUSE:

I will next call on Senator Feinstein, who not only brings to this concern her distinguished service on this committee, but her service as chair of the Senate Intelligence Committee.

Senator Feinstein?

FEINSTEIN:

Thank you very much, Mr. Chairman. I appreciate that.

Mr. Breuer, in June of this year, I received a letter from the ATF. This was in response to a letter I had asked them from Acting Director Melson, stating that 29,284 firearms recovered in Mexico in '09 and 2010, and submitted to the ATF tracing center.

With those weapons, 20,504, or 70 percent, were United States sourced. A country of origin for the remaining firearms apparently could not be determined by ATF, meaning that the number could be much higher.

What info -- what actually is the number? Now this was back in June. Is that the most current number? Is it fair to some that 70 percent of the firearms showing up in Mexico are from the United States?

BREUER:

Thank you, Senator, for the question, and for your leadership on this issue.

You have, of course, identified the paramount issue that we have to face as we deal with transnational organized crime from the Mexican cartels.

From my understanding, 94,000 weapons have been recovered in the last five years in Mexico. Those are just the ones recovered, not the ones that are in Mexico. Of the 94,000 weapons that have been recovered in Mexico, 64,000 of those are traced to the United States.

We have to do something to prevent criminals from getting those guns, Senator.

That is my understanding of the most accurate numbers.

FEINSTEIN:

Well, you see, this is a deep concern for me. And I know others disagree, but we have very lax laws when it comes to guns. I think this, to some extent, influences the ATF in how they approach the problem, as to whether they have political support or not.

But I think these numbers are shocking. And I think when you know the number of deaths these guns have caused, used by cartels against victims, it's in -- literally up in the tens of thousands.

So the question comes, what can we do? And I'd really rather concentrate on the constructive rather than other things. And so the question comes, do you believe that if there were some form of registration when you purchase these firearms that that would make a difference?

**Questions for the Records for
Lanny A. Breuer
Assistant Attorney General
Criminal Division
U.S. Department of Justice**

**Subcommittee on Crime and Terrorism
Committee on the Judiciary
United States Senate**

**“Combating International Organized Crime: Evaluating Current Authorities, Tools and
Resources”
November 1, 2011**

Questions from Senator Patrick Leahy

Question 1:

During the hearing, you were interrupted as you attempted to answer a question from Senator Grassley. Would you like to complete your answer? The question is below:

Senator Grassley. On February 4, 2011, the Department sent me a letter also assuring me that allegations of gun walking were untrue. It reads, “ATF makes every effort to interdict weapons that have been purchased illegally and prevent their transportation to Mexico.” That statement is absolutely false, and you admitted as much last night, that you knew by April 2010 that ATF walked guns in Operation Wide Receiver. That is correct, yes?

Mr. Breuer. Yes, Senator. What I—

Senator Grassley. That is all I need to know, if that is correct.

Response:

Thank you for the opportunity to complete my response.

In April 2010, one of my Deputy Assistant Attorneys General (DAAG), Jason Weinstein, informed me about certain misguided tactics that had been used in Operation Wide Receiver in 2006 and 2007, which had resulted in the ATF losing control of guns that then crossed the border into Mexico. DAAG Weinstein became aware of these misguided tactics in the course of his supervision of the Criminal Division’s Gang Unit, which had agreed, in September 2009, to assume responsibility from the United States Attorney’s Office in Arizona for prosecuting Operation Wide Receiver.

When I learned of these misguided tactics in April 2010, the operative phase of the Wide Receiver investigation was approximately four years old and had been complete for well over two years; the Acting Directors of the ATF in 2006 and 2007 – when Operation Wide Receiver was investigated – were no longer leading the ATF; and the U.S. Attorneys in Arizona in 2006 and 2007 – whose Office handled Operation Wide Receiver until the Gang Unit became involved in 2009 – were no longer leading the U.S. Attorney's Office. Once I became aware of the inappropriate tactics that had resulted in the ATF losing control of guns that then crossed the border into Mexico, I directed DAAG Weinstein to meet with the leadership of the ATF to convey my concerns about the investigation. Based on the meeting DAAG Weinstein subsequently had with the ATF's Deputy Director, I had no reason to believe that the new leadership of the ATF approved of, or that it would ever continue to endorse, the tactics that had been used years earlier in Operation Wide Receiver. In addition, after the allegations regarding Operation Fast and Furious became public, the leadership of both the ATF and the U.S. Attorney's Office in Arizona – who held supervisory responsibility for the investigation – repeatedly and vigorously assured individuals throughout the Justice Department that those allegations were false.

Based on the information I had at the time the Department sent its February 4, 2011 letter, I had no reason to believe that the leadership of the ATF approved of, or that it would ever continue to endorse, the misguided tactics that had been used years earlier in Operation Wide Receiver, which had resulted in the ATF losing control of guns that then crossed the border into Mexico. In recent weeks, I have seen reports suggesting that, during my November 1, 2011 testimony, I acknowledged knowing that the February 4 letter was inaccurate at the time it was submitted. I want to make clear that such an interpretation of my testimony is absolutely incorrect. I testified that, at the time the Department sent its February 4 letter, I did not make a connection between Operation Wide Receiver and the allegations being made about Operation Fast and Furious. But, as I have stated, knowing what I now know was a pattern of unacceptable and misguided tactics used by the ATF, I regret not having drawn a connection between the allegations relating to Operation Fast and Furious and the inappropriate tactics used years earlier in Operation Wide Receiver.

Question 2:

You testified that you regretted not alerting others in the Justice Department after you became aware, in April of 2010, of investigative tactics that were used in a previous ATF investigation entitled Operation Wide Receiver, which occurred in 2006 and 2007. That testimony has been misconstrued by some as if about Operation Fast and Furious. When did you become aware of the unacceptable tactics being used in Operation Fast and Furious?

Response:

I first became aware of allegations regarding the use of unacceptable tactics in Operation Fast and Furious when those allegations became public earlier this year. Before that time, I was unaware of any such tactics in connection with Operation Fast and Furious.

Questions from Senator Charles Grassley

Department Letter of February 4, 201[1]

Last week when asked whether you saw a draft of the February 4 letter sent to me that contained the false statement, “ATF makes every effort to interdict weapons that have been purchased illegally, and prevent their transportation to Mexico,” you responded: “I cannot say for sure whether I saw a draft of the letter that was sent to you. What I can tell you, senator, is at that time, I was in Mexico dealing with the very real issues that we are all so committed to.”

Question 3(a):

Did your Deputy Assistant Attorney General (DAAG) Jason Weinstein review the Department’s February 4, 201[1] letter to me?

Response:

Yes, DAAG Weinstein reviewed the letter; he also participated in its drafting.

I understand from documents being produced by the Justice Department, and from conversations I have had with DAAG Weinstein, that he offered to assist in drafting the February 4 letter because, having been unable to go on his planned trip to Mexico with me and other Department officials, he had the time to do so. I further understand that during the drafting process, he relied on the unequivocal assertions of the leadership of the ATF and the Arizona U.S. Attorney’s Office – officials who held supervisory responsibility for Operation Fast and Furious and who were therefore in the best position to know the actual facts concerning the operation.

DAAG Weinstein has expressed to me that, in hindsight, he wishes he had not relied on those assertions and that, because he did rely so heavily on them, he viewed, incorrectly, the misguided tactics used in Operation Wide Receiver – which resulted in the ATF losing control of guns that then crossed the border into Mexico – as having no relation to the allegations that were being made about Operation Fast and Furious.

Before joining the Criminal Division in 2009, DAAG Weinstein had been an Assistant United States Attorney (AUSA) for ten years, prosecuting violent and other criminals in Manhattan and Baltimore. He rose to become Assistant Criminal Chief and Violent Crime Chief in the Baltimore U.S. Attorney’s Office, where he prosecuted some of Baltimore’s most violent offenders and created the Maryland Exile program, which contributed to a significant reduction in murders and shootings in the Baltimore area. In 2007, he and others received an award from the Justice Department for having built the nation’s best violent crime task force. In 2009, I selected Mr. Weinstein for his position as Deputy Assistant Attorney General overseeing the Gang Unit and other Criminal Division sections because of his years of experience in fighting violent crime and because

of his stellar reputation in the law enforcement community. He has made enormous contributions to the Division and to the Department over the past two-and-a-half years and during his long career with the Department. I consider him to be an extremely talented, ethical, and devoted prosecutor.

Question 3(b):

Who else in the Criminal Division reviewed the letter?

Response:

Based on the documents being produced by the Justice Department, it is my understanding that several individuals within the Criminal Division received drafts of the February 4 letter. However, I am not aware of anyone in the Division apart from DAAG Weinstein who participated in any meaningful way in drafting or reviewing it.

Question 3(c):

What were the dates you were in Mexico in late January and early February 20[1]?

Response:

I was in Mexico on an official visit from February 1-3, 2011.

Question 3(d):

When did you first become aware that the Department denied in its February 4 letter allegations that guns had been walked?

Response:

Like many others in the Department, I was aware, at the time, that the Department was drafting a response to your January 2011 letters and that officials at the ATF and the U.S. Attorney's Office in Arizona felt strongly that the allegations being made were untrue. I was also aware, like many others in the Department, that based on the unequivocal statements of the ATF and the Arizona U.S. Attorney's Office, the Department intended to deny the allegations. I did not, however, participate in drafting or editing the Department's February 4, 2011 letter.

Based on the documents being produced by the Justice Department, I understand that two emails attaching drafts of the letter were sent to me by DAAG Weinstein on February 2, while I was in Mexico, and that I forwarded one of those emails to my personal email account on that day; I also understand that on February 4, after I had returned from Mexico, I received two emails attaching signed versions of the letter, including the final version, and that on February 5, I forwarded both emails to my personal email account. However, as I testified, I cannot say for sure whether I saw a draft of the letter before it

was sent to you. I have no recollection of having done so and, given that I was on official travel that week and given the scope of my duties as Assistant Attorney General, I think it is exceedingly unlikely that I did so.

In recent weeks, I have seen erroneous reports suggesting that, during my November 1, 2011 testimony, I acknowledged knowing that the February 4 letter was inaccurate at the time it was submitted. I want to make clear that such an interpretation of my testimony is absolutely incorrect. I testified that, at the time the Department sent its February 4 letter, I did not make a connection between Operation Wide Receiver and the allegations being made about Operation Fast and Furious. As I explain more fully in response to Senator Leahy's Questions for the Record, based on the information I had at the time the Department sent its February 4, 2011 letter, I had no reason to believe that the leadership of the ATF approved of, or that it would ever continue to endorse, the misguided tactics that had been used years earlier in Operation Wide Receiver, which resulted in the ATF losing control of guns that then crossed the border into Mexico. But, as I have also stated, knowing what I now know was a pattern of unacceptable and misguided tactics used by the ATF, I regret not having drawn a connection between the allegations relating to Operation Fast and Furious and the inappropriate tactics used years earlier in Operation Wide Receiver.

Connection Between Operation Wide Receiver and Operation Fast and Furious

In your testimony of November 1, you stated: "I regret that in April of 2010 that I did not draw the connection between Wide Receiver and Fast and Furious." However, it is clear that at that time, your own staff considered them related components of the same case.

On February 22, 2010, Gang Unit prosecutors Laura Gwinn and Joe Cooley, assigned respectively to Wide Receiver and Fast and Furious, emailed back and forth with each other about the connection between the two cases when some of the guns being trafficked in Fast and Furious were tracked to a stash house of one of the targets in Wide Receiver. HOCR WR 003422.

Because of those overlapping targets, Wide Receiver and Fast and Furious were considered associated cases. When the ATF Phoenix Field Division assembled a PowerPoint presentation on Fast and Furious in March 2010, one of the slides listing "Associated Cases" with Fast and Furious listed Operation Wide Receiver. This same PowerPoint was presented at ATF headquarters on March 5, 2010. HOCR ATF 002091. According to a March 11, 2010, memo from Gang Unit Chief Kevin Carwile, Gang Unit member Joe Cooley attended that briefing. HOCR DOJ 003311.

Concerns about those overlapping targets also led to delay in unsealing the indictments in Wide Receiver, as the U.S. Attorney's Office in Arizona had concerns that when the Wide Receiver indictments were unsealed it would tip off targets in

Fast and Furious. As the Department wrote in its October 31, 2011, letter to Senator Leahy: “The documents produced today reflect that the Gang Unit prosecutor was ready to indict the Wide Receiver cases and unseal them beginning in the spring of 2010, but that the Assistant U.S. Attorney in the U.S. Attorney’s Office in Arizona handling Fast and Furious believed that if the Wide Receiver indictments became public at that time they would negatively impact his case. The Assistant U.S. Attorney therefore requested that the indictments and/or the unsealing of the indictments in Wide Receiver be delayed. HOCR WR 003480, 003489. As a result of that request, Wide Receiver 1 was indicted under seal in May 2010, Wide Receiver 2 was indicted under seal in October 2010, and both cases were unsealed in November 2010. HOCR DOJ 003260, 63.”

In a July 1, 2010, memo to DAAG Weinstein, Principal DAAG and Criminal Division Chief of Staff Mythili Raman, and Criminal Division Deputy Chief of Staff Steven Fagell, the connection between Fast and Furious and Wide Receiver was referenced when Gang Unit Chief Kevin Carwile described “a gun trafficking case with apparent ties to the Tucson case already indicted by [the Gang Unit].” HOCR DOJ 003327.

Finally, an October 18, 2010, memo under your name that is addressed to the Attorney General and Acting Deputy Attorney General reads: “On October 27, the Organized Crime and Gang Section (OCGS) plans to indict eight individuals under seal relating to the trafficking of hundreds of firearms into Mexico. The sealing will likely last until another investigation, Phoenix-based Operation Fast and Furious, “is ready for takedown.” HOCR DOJ 003263.

Question 4(a):

In light of all of these connections, how is it credible for you to claim that you “did not draw the connection between Wide Receiver and Fast and Furious”?

Response:

None of the documents cited in your question indicates a connection between the misguided tactics used by the ATF in 2006 and 2007 in Operation Wide Receiver – which resulted in the ATF losing control of guns that then crossed the border into Mexico – and any inappropriate investigative tactics being used in Operation Fast and Furious, and I was not aware of any such connection.

Indeed, the fact that I did not connect what I knew about Operation Wide Receiver with the allegations relating to Operation Fast and Furious is perhaps best reflected in the reaction I had when I learned, in April 2010, of the unacceptable tactics used years earlier in Operation Wide Receiver that had resulted in the ATF losing control of guns that then crossed the border into Mexico – namely, to ensure that the leadership of the ATF was promptly apprised of the misguided tactics used in the investigation, which had been conducted long before I became Assistant Attorney General and long before the Criminal

Division assumed responsibility for prosecuting the Wide Receiver defendants. I am confident that had I drawn a connection between what I knew about Operation Wide Receiver and the allegations relating to Operation Fast and Furious, I would have taken action.

As I testified, knowing what I now know was a pattern of unacceptable and misguided tactics used by the ATF, I regret not having drawn a connection between the allegations relating to Operation Fast and Furious and the inappropriate tactics used years earlier in Operation Wide Receiver.

Additionally, as I have explained more fully in response to Senator Leahy's Questions for the Record, based on the information I had at the time the Department sent its February 4, 2011 letter – including the information that senior officials at the ATF and the U.S. Attorney's Office in Arizona, who held supervisory responsibility for Operation Fast and Furious, provided to the Department at the time – I had no reason to believe that the leadership of the ATF approved of, or that it would ever continue to endorse, the misguided tactics that had been used years earlier in Operation Wide Receiver, which had resulted in the ATF losing control of guns that then crossed the border into Mexico.

Question 4(b):

Since the Criminal Division believed in the spring of 2010 that both Wide Receiver and Fast and Furious involved overlapping targets, when you learned in April 2010 that guns were walked in Wide Receiver, did you ask whether they were also walked in Fast and Furious? If not, why not?

Response:

Please see response to Question 4(a) above.



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 6, 2011

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman and Senator Grassley:

This responds to the requests set forth in your letter dated September 1, 2011, for transcribed interviews of three prosecutors in the United States Attorney's Office for the District of Arizona (the "USAO") and the requests communicated to us by Committee staff for transcribed interviews of eight additional Department of Justice attorneys concerning ongoing firearms trafficking investigations and related pending prosecutions. Although we are prepared to make several attorneys available for interviews, your request for interviews of some line and lower level supervisory prosecutors raises grave concerns for the Department. In addition, the Committee's need for interviews of several others is unclear because of their limited connection with the firearms trafficking investigations.

The Committee's request for interviews of Department prosecutors is part of a review in which the Committee has already had extraordinary access to Department personnel and documents. As you know, the Department has voluntarily made six ATF employees available for transcribed interviews, and the Committee has conducted interviews of additional ATF personnel, including then-Acting Director Melson. We likewise have made senior Department officials available for public testimony. The Department has cooperated in the scheduling and conduct of those interviews notwithstanding the fact that the Committee sought to inquire about matters related to open investigations and pending prosecutions. The Department has sought to accommodate the Committee's interests regarding the strategy adopted in this law enforcement effort because it recognizes the legitimate questions about whether illegally purchased firearms were knowingly permitted to cross the border to Mexico.

For these same reasons, the Department has made more than 5,000 pages of documents available to the Committee, and it continues to search for and review documents responsive to the Committee's requests, including but not limited to its subpoenas. Indeed, as you are well aware, the Department has dedicated substantial resources to accommodating the Committee's information requests related to the strategy adopted in connection with Operation Fast and Furious. At the same time, however, we have attempted to accommodate the Committee's requests without harming pending investigations and prosecutions, and without impairing other values that are central to the Department's mission.

As we have advised your staff, we are prepared to make Patrick Cunningham, Chief of the Criminal Division in the United States Attorney's Office for the District of Arizona, available for an interview. However, the Department expects to be present to protect its law enforcement interests during the interview. We understand that Mr. Cunningham has retained private counsel and we will defer to him with regard to scheduling, as long as we can attend. We also will make available Gary Grindler, formerly the Acting Deputy Attorney General and now Chief of Staff to the Attorney General, in accordance with our conversations with Committee staff, on December 14, 2011. In addition, we are prepared to make available Jason Weinstein, Deputy Assistant Attorney General in the Department's Criminal Division, but we need to be present to protect the Department's interests, regardless of whether Mr. Weinstein also chooses to be accompanied by any private counsel. We understand that you would like to continue the interview of now former United States Attorney Dennis K. Burke, whom we understand has retained private counsel. The Department has no objection to this further interview so long as we are permitted to attend. We are currently preparing to provide documents to Mr. Burke and his attorney to assist his preparation for this resumed interview.

It is particularly important that the Department attend the interviews of these current and former employees in order to protect its own interests, especially those pertaining to the ongoing criminal investigations and prosecutions. It is standard Executive Branch practice for agency counsel or other agency representatives to attend congressional staff interviews of agency personnel, and a witness's personal counsel does not represent the agency. Indeed, we understand that the Committee has informed another agency that both private counsel and agency counsel may be present at a Committee staff interview. We expect that Messrs. Cunningham, Burke, Grindler and Weinstein may answer questions at their interviews about their knowledge of the strategy adopted in Operation Fast and Furious. For the reasons discussed below, however, and consistent with limitations applicable in prior interviews, they will not discuss the details of pending investigations or prosecutions, including prosecutorial decisions about particular individuals. These limitations are essential to protect the integrity and independence of the criminal justice process as well as the public's confidence that such decisions are made without regard to political considerations. It is the responsibility of the Department's counsel to identify these limitations as needed and any other Department equities that may be implicated during the course of the interviews.

We expect that Messrs. Burke and Cunningham will be in a position to address the topics that Assistant Attorney General Weich identified on page 3 of his prepared statement for the

Committee hearing on June 15 as being at the “core of the Committee’s oversight interests” and which the Department has been and is willing to accommodate: “the decisionmaking and responsibility for strategic decisions, if any, regarding the timing of arrests in connection with the alleged sale of firearms to individuals suspected of being straw purchasers, the legal basis to seize such firearms, and any efforts to track the firearms to those higher up the chain of command in firearms and drug trafficking interests.” We are concerned about your request for interviews of Kenneth Blanco, also a Deputy Assistant Attorney General in the Criminal Division, because his only connection with Operation Fast and Furious arose from his role in reviewing applications for Title III surveillance, a technique that the Department has acknowledged was used in this investigation. That acknowledgement will not, however, relieve Mr. Blanco of his obligation to protect the confidentiality of information pertaining to particular applications. Moreover, to the extent that you are interested in eliciting from Mr. Blanco any information about the general process for reviewing Title III applications, Mr. Weinstein could provide that information during his interview. Additionally, we have previously agreed to provide a briefing on the Title III procedures in response to a request from Committee staff. Under these circumstances, we would seek to defer the interview of Mr. Blanco and, following Mr. Weinstein’s interview, proceed with a briefing if you feel you still need additional information about the general procedures for reviewing Title III applications.

We are also unclear about the Committee’s interest in interviewing Bruce Swartz, another Deputy Assistant Attorney General in the Criminal Division, whom the Committee has not indicated had any connection with Operation Fast and Furious. As noted above, we are in the process of searching for documents responsive to the Committee’s subpoena, including categories that mention Mr. Swartz. We would like to defer any final decisions about the Committee’s request for Mr. Swartz’s interview until we have identified any responsive documents, some of which may implicate equities of another agency. We will supplement this response when that process is completed.

The remaining employees you have asked to interview are all career employees who are either line prosecutors or first- or second-level supervisors. James Trusty and Michael Morrissey were first-level supervisors during the time period covered by the Fast and Furious investigation, and Kevin Carwile was a second-level supervisor. The remaining three employees you have asked to interview – Emory Hurley, Serra Tsethlikai, and Joseph Cooley – are line prosecutors. We are not prepared to make any of these attorneys available for interviews. We believe that, in addition to the staff interviews of Department employees that have already occurred and the documents we have and will provide, the transcribed interviews offered above should provide sufficient information to satisfy the Committee’s legitimate oversight interests. Committee staff questioning of lower level supervisors and line prosecutors poses significant risks, however unintended, to the Department’s discharge of its law enforcement responsibilities and in particular would have a substantial chilling and intimidating effect on Department prosecutors across the country, as we discuss more fully below.

I. Respected Governmental Officials on a Bipartisan Basis Have Opposed Subjecting Line Prosecutors to Congressional Inquiry

Subjecting line prosecutors to congressional scrutiny concerning decisions they have made in particular cases raises very grave concerns for the Department and similarly has troubled an array of respected Congressional leaders and Department officials across the ideological spectrum. In the enclosed September 21, 1993 letter to Attorney General Janet Reno, Senator Orrin Hatch wrote:

I have been troubled to learn recently that consideration is apparently being given to having career line attorneys of the Department of Justice interrogated by, and appear before, Congressional committees for the purpose of defending or otherwise explaining their conduct of particular cases. My initial impression is that this is a very disturbing idea. It could chill career Department of Justice lawyers in the exercise of their daily duties. . . .

Beyond practical concerns of case management, constitutional concerns are, of course, also raised by the contemplated plan.

Similarly, in the enclosed September 7, 1993 letter to Attorney General Reno on the same topic, Representative Henry J. Hyde criticized the notion that line prosecutors might appear before Congress, calling the idea “misguided” and urging the Attorney General to “thwart this outrageous politicizing of law enforcement” because “[w]e should not open the door to congressional micromanagement of prosecutions.” Such a result, Representative Hyde wrote, “would threaten the integrity of the Justice Department and undermine public respect for our entire judicial system.”

The views expressed by Senator Hatch and Representative Hyde were shared by the Department during the Administration of George W. Bush. In the enclosed letter dated March 23, 2005, William E. Moschella, Assistant Attorney General for Legislative Affairs, wrote to Senator Susan Collins that:

[t]he Department has a strong institutional interest in ensuring that appropriate supervisory personnel, rather than line attorneys and agents, answer Congressional inquiries about Department actions. This is based in part upon our view that supervisory personnel, not line employees, make the decisions that are the subjects of Congressional review, and therefore they should be the ones to explain their decisions. More fundamentally, however, the Department needs to ensure that our line attorneys and agents can exercise the independent judgment essential to the integrity of our law enforcement activities and to public confidence in those activities.

Stuart M. Gerson, an Assistant Attorney General during the Administration of George H.W. Bush, has observed that congressional efforts to subpoena line prosecutors “pose a long-term constitutional threat by impinging upon the core, judicially-unreviewable, Executive Branch function of rendering independent decisions concerning the undertaking or forbearance of criminal prosecutions.” Stuart Gerson, “The Legislative Politicization of the U.S. Department of Justice,” Legal Backgrounder for the Washington Legal Foundation, at 1 (Nov. 18, 1994) (copy enclosed).

In the enclosed January 5, 1994 response to the letter from Senator Hatch, Attorney General Reno wrote that:

A prosecutor’s discretion to investigate or indict a particular individual is an awesome power, with irreparable impact on the life of that individual and on the integrity of our system of justice. It must be exercised with the greatest of care and in a manner guaranteed to ensure that only objective, non-political considerations bear on its determination. Permitting Congressional examination of line prosecutors carries substantial danger of chilling the objective exercise of that discretion and of generating the appearance of political influence on prosecutorial decisions.

And, for similar reasons, the American Bar Association in 1996 adopted recommendations that “[c]ongressional committees should not seek . . . compelled testimony of . . . line attorneys regarding discretionary decisions being made in pending cases” and that, as a general matter, “congressional committees should not seek the compelled testimony of line attorneys about adjudicated cases.” ABA Resolution 104A (AM 96-104A) *available at* http://www.americanbar.org/groups/criminal_justice/policy/index_aba_criminal_justice_policies_by_meeting.html#am96104a.

II. Requiring These Prosecutors in the Instant Matter to Provide Information to the Committee Would Imperil Pending and Future Prosecutions Arising Out of the Criminal Investigations Under Review

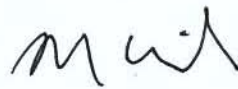
We take as a given that the Committee seeks to give no aid to those who either have been or will be charged with serious crimes arising out of the Fast and Furious matter. However, requiring an appearance by these prosecutors about the prosecution of already-charged defendants, and the oversight of investigations that may lead to charges against others is certain to lead to significant legal attacks in court by counsel for these individuals. Requiring these prosecutors to explain why certain facts did or did not give rise to legal rights on behalf of the government, or requiring them to explain in exacting detail the government’s investigative actions, can give rise to motions by counsel for criminal defendants that may, at the least, complicate the government’s ability to bring dangerous individuals to justice. Such results are not in the interests of the criminal justice system or the public generally.

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The Honorable Charles E. Grassley
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Similarly, requiring these prosecutors to provide information to Congress can trigger additional discovery obligations in favor of criminal defendants that can undermine the government's case. We recognize that such outcomes are not intended consequences of the Committee's request for information, but they may well be unavoidable consequences.

We hope this information is helpful and appreciate your consideration of our views in this matter. Please do not hesitate to contact this office if we may provide additional assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Weich', with a stylized flourish at the end.

Ronald Weich
Assistant Attorney General

Enclosures

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

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives