



U.S. Department of Justice

Criminal Division

Gang Unit

Washington, D.C. 20530

October 1, 2009

MEMORANDUM

TO: Jason Weinstein, Deputy Assistant Attorney General
CC: Kevin Carwile, Chief Gang Unit
James Trusty, Deputy Chief Gang Unit
FROM: Laura Gwinn
Trial Attorney, Gang Unit
SUBJECT: Operation Wide Receiver (Tucson, AZ USAO)

During the week of September 21, 2009, I travelled to Tucson, AZ to review and evaluate a firearms trafficking case which was investigated by ATF (with ICE support) as Operation Wide Receiver. This memorandum is written to provide you with an outline of the investigation and potential charges. Given the large amount of paperwork associated with the case, an in-depth review of every transaction, target, or potential charge was not possible in such a short time. It quickly became very clear, however, that Operation Wide Receiver involves two conspiracies, with one common target.

This investigation began in March of 2006 when ATF was contacted by an FFL concerning suspicious firearms transactions. It is believed the FFL had worked with ATF in the past, although details concerning prior cases were not available. The FFL primarily sells weapons at gun shows, but the transactions at issue were conducted at his house. Over the course of the subsequent months, the FFL, under the direction of ATF, sold 322¹ firearms (primarily receivers of assault weapons) to Gregory Gonzalez, Jonathan Horowitz, Ismael Betancourt, and Daniel Olivas. Sometimes these persons filled out the 4473, other times they were the actual purchaser. It appeared to the FFL from conversations during the transactions and/or phone calls (some of which were consensually recorded) that these targets were working in conjunction with another party who was ordering the remaining firearms components from the internet. This was confirmed when a suspicious package from Betancourt to a person in California was opened by UPS and found to contain receivers. The store owner was not sure a violation had occurred and shipped the package, but notified ATF, which intercepted the package in San Diego. The serial numbers of the receivers corresponded to those purchased by Horowitz several weeks previously. Subsequent investigation revealed additional packages that had been

¹ The numbers of firearms sold is taken from a chart prepared by ATF agents. It is unclear whether there is any "double-counting": that is the firearm is counted for the person who paid the money as well as the person who completed the 4473. This caution also applies to the purchases in the second part of Wide Receiver, below.

sent to the same address from by Betancourt. Thus far, eleven of the firearms purchased by this group have been recovered in Mexico.

Gonzalez participated in two or three transactions. According to Horowitz, Gonzalez missed a deadline and was no longer trusted, therefore, Horowitz and Betancourt began dealing with the FFL. Their association with the FFL continued through approximately November 2006.

In early February 2007, Gonzalez again contacted the FFL to purchase weapons. At that time, he introduced Oscar Celaya. At that time, Gonzalez completed the 4473s for several weapons on behalf of Celaya who paid for them. Several days later, Gonzalez introduced Carlos Celaya to the FFL. Over the next several months, approximately 500 pistols and assault weapons were purchased by Gonzalez, Carlos Celaya, or other associates. Most of the transactions and telephone calls associated with them were voice-recorded, and I was able to review some of the transcripts². In several transcripts Gonzalez and Celaya speak openly of their intent to send the guns to Mexico for Celaya's uncle, Jose Celaya. In one transcript there is a brief description of smuggling methods, including placing the guns in gas tanks. All of the weapons were purchased with cash, amounting to tens of thousands over the several month period. According to a chart prepared by ATF agents, 18 of these guns have been recovered: 15 in the United States and 3 in Mexico.

At some point, Celaya began to purchase the weapons himself, and he continued to purchase weapons through September 2007. He may have discontinued when one of his associates was arrested and 15 of the guns seized. Celaya also introduced other persons who began to purchase firearms. The most important of these is Israel Egurrola. I do not believe Egurrola ever purchased firearms himself, but always through Siria Valencia, since Egurrola apparently is an illegal alien. However, during one interesting purchase, he did not have sufficient cash and had to go to another location for it. He came back with approximately \$5000 in a heat-sealed baggie marked "\$5000"; the bills were all 5s, 10s, and 20s.

The agents believe that all of the money used to purchase the guns is derived from drug distribution. According to the agents, Jose Celaya, Carlos' uncle, has ties to a drug cartel headed by Nacho Paez-Soto (who was recently arrested in Mexico); Egurrola allegedly has ties to the Sinaloa cartel. I recall one transcript in which there is a reference to Nacho Paez, however, thus far, I have not seen any evidence supporting an association with drug cartels.

Some time after the agents associated the guns and money with drug cartels, ATF and ICE apparently came to an understanding that ATF would handle the firearms trafficking and ICE would continue to investigate any drug leads. It is my understanding that, since that time, there has been no sharing of information between ATF and ICE. I have spoken briefly with the OCDETF-designated AUSA handling the drug investigation and provided him with the names of our potential targets.

² As a result of several months of consensually recorded phone calls with the FFL, recorded transactions, and wiretaps on four telephones, there are over a thousand pages of transcripts. At best, I was able to scan through as many as I could to ascertain whether there was any conversation about smuggling or for whom the weapons were intended. The discussion in this memo about conversations is to the best of my recollection and may not be target-specific.

This investigation presents a number of challenges to be overcome prior to indictment: simply determining whether there is sufficient evidence against each of the possible targets (and the appropriate charges) will involve a great deal of time. RC-3

RC-3. I do not believe any type of phone analysis has been undertaken; it is unclear whether any financial analysis/study of the potential targets has been done. In addition to possible firearms offenses, I am also considering whether money laundering charges would be appropriate. It is likely that if there is evidence to support such charges, it is intertwined with the ICE-led drug investigation.

The original lead investigator has been re-assigned to Albuquerque, NM. The newly assigned lead agent has met with me about the case, but he was unable to answer most questions I had about various aspects of the investigation. Although he states a willingness to assist, it is clear he believes this investigation complete and the original agent should handle significant follow-up. In fact, there are several avenues of investigation that may not have been pursued (it is unclear from the ROIs).

In summary, this investigation is likely to lead to two sets of indictments: one for the Gonzalez-Horowitz-Betencourt transactions (and possibly one or two associates), and one for the Gonzalez-Celaya-Egurrola (and several associates) transactions. I am not in a position yet to predict when indictments might be sought.

RC-1

From: Gwinn, Laura
Sent: Friday, December 04, 2009 12:18 PM
To: Recker, David (SMO)
Subject: Tucson gun trafficking case/2778 charge

Hi, Dave,

I have spoken to you a couple of times about my gun trafficking case in Tucson and possible 2778 charges. A quick refresher for you: multiple gun sales to a variety of people by an FFL who was recording the conversations/transactions for ATF. Suspects talk freely about the guns being trafficked to Mexico. We have had about 15 guns recovered in Mexico (although we are still trying to get the necessary evidence to prove this at trial). In one instance, we were able to have CBP stop a load right at the Port of Entry, before actually getting into Mexico. In another instance, the vehicle was stopped well before the border, while still in Tucson, but we have conversation that the guns were going to Mexico and will probably have a cooperator on this.

RC-6

Laura Gwinn
US Dept of Justice Gang Unit

RC-1

(C)

RC-1

From: Trusty, James
Sent: Thursday, September 03, 2009 10:31 PM
To: Gwinn, Laura
Subject: RE: Tucson

I'm simply suggesting you ask her what would help you get up to speed, rather than waiting to learn from complete scratch when you go out there - you could ask her whether there might be a few broad ROI's or a wire affidavit or a search warrant aff or something that could help get you informed.

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

From: Gwinn, Laura
Sent: Thursday, September 03, 2009 10:22 PM
To: Trusty, James
Subject: Re: Tucson

I realize the front office is very interested in this case but wouldn't it be better for us to be able to paint a complete picture? Without knowing what docs there are other thhhan ROIs and tape transcripts I don't know how to identify for her what is significant.

Sent from Blackberry

Laura Gwinn

US Dept of Justice Gang Unit

RC-1 (c)

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

From: Trusty, James
To: Gwinn, Laura
Sent: Thu Sep 03 22:19:10 2009
Subject: RE: Tucson

Maybe she could scan some significant doc's?

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

From: Gwinn, Laura
Sent: Thursday, September 03, 2009 10:18 PM
To: Trusty, James
Subject: Re: Tucson

No there was nothing to send. No pros memo no online ROIs only hard copies.

Sent from Blackberry

Laura Gwinn

US Dept of Justice Gang Unit

RC-1 (c)

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

From: Trusty, James
To: Gwinn, Laura
Sent: Thu Sep 03 22:16:24 2009
Subject: RE: Tucson

Has the AUSA sent you anything? It would definitely be better to get some more details before submitting this info to Lanny. Mythili mentioned the case again today, so there is clearly great attention/interest from the front office. If she sent you materials, maybe we should wait until Tuesday for a more detailed report from you.

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

From: Gwinn, Laura

Sent: Thursday, September 03, 2009 11:51 AM

To: Trusty, James

Subject: Tucson

I will try to pound this out before yet another disaster arises this morning. As you know it has been several weeks since I spoke to the aUSA so I am going off limited memory.

I believe the investigation of this case wrapped up about a year ago. It is an ATF led case
RC-5

[REDACTED] . I believe the ffl has a business but was selling the guns to the targets from his house. There are tapes which I am told have been translated. Cas involves 300 to 500 guns (unclear to me why we have such a wide range; doesn't someone know exact numbers?). It is my understanding that a lot of those guns "walked". Whether some or all of that was intentional is not known. The aUSA seemed to think ATF screwed up by not having a mechanism in place to seize weapons once they crossed the border. In any event I believe a small number of the guns have been recovered in connection with police action in Mexico. I do not know if they have been traced to crimes. If you have other specific Qs I will try to answer but I think I have told you everything I know.

Sent from Blackberry

Laura Gwinn

US Dept of Justice Gang Unit

RC-1 [REDACTED] (c)

RC-1

From: Carwile, Kevin
Sent: Tuesday, September 22, 2009 7:32 PM
To: Trusty, James; Gwinn, Laura
Subject: Re: Tucson

Remember, there is no gun trafficking statute. Laura will need to check to see if any of the lying and buying offenses are SUA's

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

From: Trusty, James
To: Gwinn, Laura; Carwile, Kevin
Sent: Tue Sep 22 19:30:02 2009
Subject: RE: Tucson

If guns getting across is the only problem (and the AUSAs are too busy) we're in good shape. Drug cases learn that hundreds of kilos have gone across into the US, so I don't think missing some seizures is anything fatal. Is gun trafficking a specified unlawful activity (or whatever predicates are called) for money laundering? I honestly don't recall, it's been so long since I dabbled in money laundering cases.

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

From: Gwinn, Laura
Sent: Tuesday, September 22, 2009 7:23 PM
To: Trusty, James; Carwile, Kevin
Subject: Re: Tucson

Not sure I'll be able to figure out what's wrong with it in the time I have. The story line is that they are very busy. I just found a sort of pros memo that starts out saying the internal procedure is sort of convoluted and should be memorialized. The case agent is no longer here so I will meet with the replacement Thurs. Will see if I can figure out what the problems are (other than ATF letting 300 or 400 guns get across the border). BTW no one appears to have considered money laundering charges. All transactions done in cash: gotta be over 250K.

Sent from Blackberry

Laura Gwinn

US Dept of Justice Gang Unit

RC-1 (c)

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

From: Trusty, James
To: Gwinn, Laura; Carwile, Kevin
Sent: Tue Sep 22 19:15:27 2009
Subject: RE: Tucson

Big question is what's wrong with it, basically. Why wasn't it charged earlier if there are various identified guys getting tons of guns. I'm not really sure how to answer your question - can people out there give you disks to take home?

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

From: Gwinn, Laura
Sent: Tuesday, September 22, 2009 6:29 PM
To: Trusty, James; Carwile, Kevin
Subject: Tucson

If one of you could let me know what specific info you will want re: this case it would be helpful. There is WAY more paperwork than I expected; I have been reviewing all day and am maybe thru a third of it. There are potentially 12 or so targets but maybe only 6 or 7 good ones; looks like there were RC-3 (I'm just starting on that). The only ppwk I'll bring back is ROIs; its too voluminous.

Sent from Blackberry

Laura Gwinn

US Dept of Justice Gang Unit

RC-1 (c)

RC-1

From: Carwile, Kevin
Sent: Wednesday, September 23, 2009 6:09 PM
To: Gwinn, Laura; Trusty, James
Subject: Re: Tucson case

Great!

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

From: Gwinn, Laura
To: Carwile, Kevin; Trusty, James
Sent: Wed Sep 23 18:01:33 2009
Subject: Re: Tucson case

FYI: I'm also supposed to meet with an agent re Arizona MexMafia.
Sent from Blackberry
Laura Gwinn
US Dept of Justice Gang Unit

RC-1 (c)

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

From: Carwile, Kevin
To: Gwinn, Laura; Trusty, James
Sent: Wed Sep 23 17:49:31 2009
Subject: Re: Tucson case

I am with the AYF SAC currently. He also promises he will get me an assessment of the case, pros and cons, by the end of the week. We can talk monday.

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

From: Gwinn, Laura
To: Carwile, Kevin; Trusty, James
Sent: Wed Sep 23 17:46:07 2009
Subject: Tucson case

I still, obviously, haven't reviewed everything (there are simply tons of transcripts) but I can give you an analysis of the case generally so you can make a decision about whether we will take it.

Altho the case is presented as one there would probably be two indictments: there were a series of transactions that occurred in 2006 where it appears the guns were shipped to San Diego. From there they probably went to Mexico but not sure you could ever prove that. Possibly 3 people could be indicted on a variety of straw purchase type charges. One of the suspects, Gonzales, was cut out after one or two transactions but completely confesses on tape about a year later.

The 2d series of transactions starts in 2007 when Gonzales introduces some more friends to the FFL and initially buys for those friends. FFL consensually records and there is some conversation early on about the guns going to Mexico.

RC-3

RC-3 Up to 10 people including the guy in Mexico the guns were going to could be indicted but needs a thorough analysis. Not sure of ties to cartel. Was hoping to speak to aUSA who has the related drug case but not sure if that got arranged (the aUSA currently assigned to the gun case hasn't got back to me on it as well as on a couple other things).

In short it appears that the biggest problem with the case is its old should have been taken down last year AND a lot of guns seem to have gone to Mexico. I recommend we get our feet wet and take the case. I don't know how those discussions go but I guess you would be

talking to the crim chief Bob Miskell. If so I would ask that I be assured of the following (during the course of your negotiations/talks): an office with a computer that I can remote access (a window would be super nice but I won't push it!), an experienced legal assistant/paralegal who can help me with discovery pleadings etc, a criminal code and sent guidelines (so I don't have to schlep mine back and forth) a specific aUSA that would assist me procedurally (how do they do things in Tucson) and substantively if necessary while in trial in GB. Finally, in chatting with Bob he seems to think they have lots of cases we might be interested in so you might want to chat him up on that.

Until you let me know for sure that we will take the case I will continue to review/ask for info vs directing agents in gathering additional info taking further investigative steps, or breaking case down by suspect to figure out what charges might be appropriate (if that makes sense).

Sent from Blackberry

Laura Gwinn

US Dept of Justice Gang Unit

RC-1 [REDACTED] (c)

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

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
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