

**Questions for the Record from Senator Charles Grassley
for Assistant Attorney General Lanny Breuer
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.

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

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: Breuer, Lanny A. (CRM)
To: Burke, Dennis (USAAZ)
Sent: 2/1/2011 9:42:27 AM
Subject: Fw: ATF GunRunner
Attachments: atf.pdf; melson.pdf

Dennis, I e-mailed Ken Melson and told him CRM was happy to help get ATF folks ready for their Grassley briefing. You are 100 percent right. They need to address the assertions right away. See you tonight, my friend. Best, Lanny

From: Weinstein, Jason
To: Breuer, Lanny A.; Raman, Mythili
Sent: Mon Jan 31 21:06:09 2011
Subject: Fw: ATF GunRunner

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 (USAE0) [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: 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

HOCR DOJ 004422



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

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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



The Attorney General

Washington, D.C.

October 7, 2011

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

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

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

The Honorable Elijah Cummings
Ranking Minority Member
Committee on Oversight
and Government Reform
U.S. House of Representatives
Washington, DC 20515

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

The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Messrs. Chairmen and Senator Grassley, Congressman Conyers, and
Congressman Cummings:

I have watched for some months now as the facts surrounding Operation Fast and Furious have been developed on the public record. I have not spoken at length on this subject out of deference to the review being conducted, at my request, by our Department's Inspector General. However, in the past few days, the public discourse concerning these issues has become so base and so harmful to interests that I hope we all share that I must now address these issues notwithstanding the Inspector General's ongoing review.

For example, I simply cannot sit idly by as a Majority Member of the House Committee on Oversight and Government Reform suggests, as happened this week, that law enforcement and government employees who devote their lives to protecting our citizens be considered "accessories to murder." Such irresponsible and inflammatory rhetoric must be repudiated in the strongest possible terms. Those who serve in the ranks of law enforcement are our Nation's heroes and deserve our Nation's thanks, not the disrespect that is being heaped on them by those who seek political advantage. I trust you feel similarly and I call on you to denounce these statements.

I also want to be very clear that protecting American citizens from the devastating effects of gun violence is among the most important responsibilities of the Department of Justice. Likewise, ensuring that weapons sold here do not flow south to Mexico is of paramount importance. We are committed to disrupting and dismantling the organizations that traffic weapons across our borders and I am proud to

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stand with our brave law enforcement officers who fight every day to protect our citizens and those of Mexico from the effects of gun violence and illegal gun trafficking.

A. Fast and Furious was a Flawed Response to a Serious Problem on the Southwest Border

According to ATF, it took into evidence nationwide approximately 35,000 firearms in FY 2011. In FY 2010, the number was approximately 37,500. During that same period, ATF reports that it took into evidence nationwide over 5 million rounds of ammunition. Still, the Southwest Border remains the front line in the battle against illegal gun trafficking. ATF and our prosecutors struggle mightily to make cases against gun smugglers and do outstanding work on a daily basis in an effort to stop the flow of guns across our borders.

Notwithstanding the seriousness of the problem faced on the Southwest Border, there is no doubt that Operation Fast and Furious was fundamentally flawed. Regrettably, its effects will be felt for years to come as weapons that should have been interdicted but were not continue to show up at crime scenes in this country and in Mexico. This is both tragic and completely unacceptable. I want to be very clear that we must aim to disrupt and dismantle the dangerous cartels that operate south of our border. That said, in our pursuit of that goal we must take all steps possible to prevent guns from crossing our border and the desire to bring cartel leaders to justice does not and cannot justify losing track of dangerous weapons.

For that very reason, in 2011, after the controversy about this matter arose, I took decisive action to ensure that such operations are never again undertaken. First, I referred the matter to the Department's Inspector General for review so the facts underlying it could come out. Second, I instructed the Deputy Attorney General to reiterate to our prosecutors and law enforcement components that Department policy prohibits the design or conduct of undercover operations which include the uncontrolled crossing of guns across the border. In addition, new leadership is now in place both at ATF and in the United States Attorney's Office in Arizona. It has become clear that the flawed tactics employed in Fast and Furious were not limited to that operation and were actually employed in an investigation conducted during the prior Administration. Regardless, those tactics should never again be adopted in any investigation.

B. No Knowledge of Fast and Furious' Misguided Tactics

Much has been made in the past few days about my congressional testimony earlier this year regarding Fast and Furious. My testimony was truthful and accurate and I have been consistent on this point throughout. I have no recollection of knowing about Fast and Furious or of hearing its name prior to the public controversy about it. Prior to early 2011, I certainly never knew about the tactics employed in the operation and it is my understanding that the former United States Attorney for the District of Arizona and the former Acting Director and Deputy Director of ATF have told Congress that they, themselves, were unaware of the tactics employed. I understand that they have also told Congress that they never briefed me or other Department leadership on the misguided tactics that were used in Fast and Furious. Of course, that is not surprising for, as Chairman Issa made clear in an interview on CNN just this week, even the former Acting Director of ATF "has said he didn't know about" the tactics being used in the field by his agency.

In the past few days, some have pointed to documents that we provided to Congress as evidence that I was familiar with Fast and Furious earlier than I have testified. That simply is not the case and those suggestions mischaracterize the process by which I receive information concerning the activities of the Department's many components. On a weekly basis, my office typically receives over a hundred pages of so-called "weekly reports" that, while addressed to me, actually are provided to and reviewed by members of my staff and the staff of the Office of the Deputy Attorney General. The weekly reports contain short summaries of matters that the agencies deem of interest that week. Sometimes, the summaries are simply a sentence-long and other times they consist of a paragraph. In some cases, the summaries are of policy-related issues or upcoming events. In other cases, the summaries are brief, high-level reviews of pending matters or investigations. It is important to look at the documents supposedly at issue here and, for that reason, I have attached them to this letter and am making them public in the form they previously were provided by us to Congress. Please note that none of these summaries say anything about the unacceptable tactics employed by ATF.

Attorneys in my office and in the Office of the Deputy Attorney General review these weekly reports and bring to my attention only those matters deemed to require my consideration or action; given the volume of material to which I must devote my attention, I do not and cannot read them cover-to-cover. Here, no issues concerning Fast and Furious were brought to my attention because the information presented in the reports did not suggest a problem. Rather, the entries suggest active law enforcement action being taken to combat a firearms-trafficking organization that was moving weapons to Mexico. For example, the ATF weekly report for July 19-23, 2010 briefly described the seizure in Phoenix of 73 firearms and 250 AK-47 drum magazines from a local business as part of Operation Fast and Furious, again with no mention of any unacceptable tactics.

If a component of the Department has concerns about a particular matter, there are established avenues for raising them with my office or that of the Deputy Attorney General and a weekly report is not one of them. As Attorney General, I am not and cannot be familiar with the operational details of any particular investigation being conducted in an ATF field office unless those details are brought to my attention. That did not happen with Fast and Furious until the public controversy arose in 2011.

Senator Grassley has suggested that I was aware of Operation Fast and Furious from letters he provided to me on or about January 31, 2011 that were addressed to the former Acting Director of ATF. However, those letters referred only to an ATF umbrella initiative on the Southwest Border that started under the prior Administration -- Project Gunrunner -- and not to Operation Fast and Furious.

To be sure, during 2010 I knew generally that ATF was conducting gun trafficking operations along the Southwest Border and elsewhere in the country since that is a core part of its mission given the large number of firearms flowing to Mexico each year from the United States. I also was aware of the existence of Project Gunrunner. More specifically, however, I now understand some senior officials within the Department were aware at the time that there was an operation called Fast and Furious although they were not advised of the unacceptable operational tactics being used in it. For example, I understand that we have provided to Congress materials from a March 2010 monthly meeting between the then-Acting Deputy Attorney General and senior ATF officials that included discussion of Fast and

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Furious. That meeting, of course, occurred shortly before Chairman Issa received his own briefing regarding Fast and Furious from some of the same ATF officials. I am aware that Chairman Issa has said that he was not briefed on the unacceptable details of Fast and Furious. Like Chairman Issa, the then-Acting Deputy Attorney General was not told of the unacceptable tactics employed in the operation in his regular monthly meetings with ATF to discuss its activities throughout the United States and abroad.

C. Congress Has Failed to Consider Whether Additional Tools Are Needed to Stem the Flow of Guns into Mexico

ATF witnesses testified before the House Committee on Oversight and Government Reform that the agency's ability to stem the flow of guns from the United States into Mexico is severely impaired by a lack of effective law enforcement tools. For example, a number of witnesses indicated that current penalties for illegal straw purchases are inadequate to deter such activity or to induce cooperation with law enforcement authorities after a violation is detected. Likewise, the lack of reporting requirements for multiple long gun purchases in a short period of time hindered law enforcement efforts to combat gun trafficking. Yet, the House of Representatives has voted to block a rule that requires such reporting on the Southwest Border.

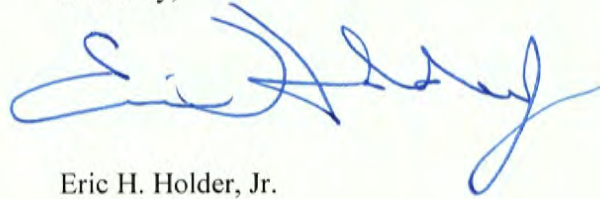
As I have said, the fact that even a single gun was not interdicted in this operation and found its way to Mexico is unacceptable. Equally unacceptable, however, is the fact that too many in Congress are opposed to any discussion of fixing loopholes in our laws that facilitate the staggering flow of guns each year across our border to the south. I cannot help but note that at the same time that some members of Congress understandably criticize the Fast and Furious operation, they vehemently refuse to consider whether ATF has the resources and legal tools it needs to do its job -- tools that would be entirely consistent with the constitutional rights of law-abiding citizens.

A telling moment in this regard came during one of the Fast and Furious hearings held by the House Committee on Oversight and Government Reform when Representative Maloney sought to question an ATF witness about potential reforms to our laws that would help stem the flow of illegal weapons. Representative Maloney was cut-off in mid-sentence by Chairman Issa, who then "cautioned" the witness that it would not be "valid testimony" to respond to such questions because the Committee was not interested in "proposed legislation and the like[.]" While failing to interdict weapons is an unacceptable tactic to stop the flow of illegal weapons, it seems clear that some in Congress are more interested in using this regrettable incident to score political points than in addressing the underlying problem. Even in the face of an unprecedented flow of guns across the border, too many in Congress still oppose every effort to reform our gun laws in ways that would make the United States and our Mexican neighbors safer.

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Until we move beyond the current political climate -- where real solutions take a back seat to both political posturing and making headlines on cable news programs, and is deemed more important than actually solving our country's difficult challenges -- nothing is going to change. I hope we can engage in a more responsible dialogue on this subject in the future. There is much we all need to do together to stop gun violence on both sides of the border and make our Nation safer.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Holder", with a stylized flourish at the end.

Eric H. Holder, Jr.

Enclosures