

C. AGENTE DEL MINISTERIO PÚBLICO ADSCRITO
A LA FISCALÍA ESPECIAL NO. 3 DE LA UNIDAD
ESPECIALIZADA EN INVESTIGACIÓN DE
TERRORISMO, ACOPIO Y TRÁFICO DE ARMAS DE
LA SUBPROCURADURÍA ESPECIALIZADA EN
INVESTIGACIÓN DE DELINCUENCIA ORGANIZADA.
P R E S E N T E.

OFICINA DE PARTES

220 JUN 10 PM 11 17

PROCURADURÍA GENERAL DE LA REPÚBLICA
SUBPROCURADURÍA ESPECIALIZADA EN
INVESTIGACIÓN DE DELINCUENCIA ORGANIZADA

Gen
Anexo
C/H


014928

JAVIER SCHÜTTE RICAUD, con el carácter que tengo dentro de la
Averiguación Previa al rubro citada, y con fundamento en lo
dispuesto por los artículos 1, 8, 17, 20, apartado B), fracción
II, y 133 de la Constitución Política de los Estados Unidos
Mexicanos; 1, 2, 5, 6, incisos a), b), c), d), e), y 8 de la
Declaración sobre los Principios Fundamentales de Justicia para
Víctimas de Delito y del Abuso de Poder; 10 de la Declaración
Universal de Derechos Humanos; 14.1 del Pacto Internacional de
Derechos Civiles y Políticos; 1, 4, 7, fracciones III, V, VI,
VIII, IX, XIV, XX, XXII, XXIII, XXV y XXX, 10, 11, 12,
fracciones III, IV, XI, XIV, XV, 17, 22, 24 y 30 de la Ley
General de Víctimas, así como 2, fracciones I, II, III, VI y
XI, 16, 123, 125, 141 y 206 del Código Federal de Procedimientos
Penales, y demás relativos y aplicables, ante Usted, de manera
respetuosa, comparezco y expongo:

En primer lugar es necesario recordar que en la denuncia
presentada el día 23 de septiembre de 2014 por el suscrito y
otros ante la entonces **Procuraduría (hoy Fiscalía) General de
la República**, aportamos indicios de que funcionarios adscritos

a la **Subprocuraduría Especializada en Investigación de Delincuencia Organizada (SEIDO)** tuvieron participación y/o conocimiento de los hechos denunciados, por lo que pudieran tener responsabilidad penal derivada del expediente de investigación en el que se actúa. Con motivo de lo anterior, sostuvimos que existía un conflicto de interés en la integración de esta **Averiguación Previa** en esta Subprocuraduría, por lo que solicitamos que no se integrara en la SEIDO. Sin embargo, a la fecha, esta solicitud no ha sido atendida debidamente.

Por ello, el suscrito reitero nuestra solicitud a esta **H. Representación Social** de que, con fundamento en el principio de imparcialidad establecido desde el **artículo 17 de la Carta Magna**, por existir el evidente conflicto de interés referido, se declare incompetente para conocer de la presente indagatoria y que, en su lugar, el expediente de investigación en que se actúa, se integre ante la **Unidad Especializada en Investigación de Delitos Cometidos por Servidores Públicos y contra la Administración de Justicia (UEIDCSPCAJ)** por tratarse, entre otros, precisamente de delitos cometidos por servidores públicos, conforme a lo previsto en el **artículo 37 del Reglamento de la Ley Orgánica de la Procuraduría (hoy Fiscalía) General de la República**.



Ahora bien, de las constancias que integran la presente **Averiguación Previa**, salvo error de apreciación, se advierte que no se ha explorado la línea de investigación concerniente a la posible participación de funcionarios públicos del **Gobierno de México** en los operativos denominados "**Gunrunner**",

"*Wide Receiver*", "*Fast and Furious*" y sus similares, y/o su conocimiento de los mismos.

Es menester que se investigue, a partir de los datos y pruebas proporcionadas desde la denuncia y posteriormente, qué funcionarios del entonces **Gobierno Federal** estuvieron vinculados directa o indirectamente en las actividades relacionadas con los operativos antes referidos, quiénes tuvieron conocimiento antes y durante su desarrollo, quién coordinó las colaboraciones entre **autoridades mexicanas y estadounidenses**, por instrucciones de qué superior jerárquico, etcétera. Hay ciertos documentos clave de cuyo contenido se desprende la absoluta conducencia de ciertas diligencias de investigación que, a la fecha, no se han practicado.

En ese orden de ideas, por medio del presente escrito, me permito aportar a la Averiguación Previa citada al rubro los siguientes:

M E D I O S D E P R U E B A

1. **Documental** consistente en impresión de comunicación enviada vía correo electrónico por **CARSON W. CARROLL** a **WILLIAM J. HOOVER** el 28 de septiembre de 2007, la cual obra como **anexo 220** del documento "*Fast and Furious: The Anatomy of a Failed Operation*" de la **Comisión de Supervisión y Reforma del Gobierno de la Cámara de Representantes y la Comisión de Asuntos Judiciales del Senado de los Estados Unidos de América.**

Destaca que, conforme a dicha comunicación, el 26 de septiembre de 2007 agentes estadounidenses de la **Agencia de Alcohol, Tabaco, Armas de Fuego y Explosivos ("ATF")** se comunicaron con **autoridades mexicanas** para organizar una entrega controlada de armas. El plan presentado por las **autoridades estadounidenses** consistía en que las **mexicanas** vigilaran y siguieran a los traficantes desde el cruce fronterizo hasta el punto de entrega de las armas, sin embargo, tras el cruce de los traficantes con 19 armas de fuego de uso militar, las autoridades mexicanas les perdieron la pista, perdiendo así armas a manos de la delincuencia organizada (**ANEXO UNO**).


2. **Documental** consistente en impresión de las páginas 140 a la 146 del documento "**Fast and Furious: The Anatomy of a Failed Operation. Part I of III**", en cuya página 144 refiere específicamente que, el "contacto" de la **ATF** en la Ciudad de México discutió respecto al intento de la operación antes referida con **EDUARDO MEDINA MORA**, lo cual hicieron saber a **MICHAEL MUKASEY**, entonces **Fiscal General de Estados Unidos** en preparación para una reunión que éste tendría el 16 de noviembre de 2007, precisamente con su contraparte mexicana, **EDUARDO MEDINA MORA (ANEXO DOS)**.

3. **Documental** consistente en impresión del "Exhibit 230" del mismo documento, el cual contiene un extracto del memorándum referido en el párrafo anterior en el que refiere que la **ATF** ha trabajado con **autoridades mexicanas** en lograr la entrega controlada de armas, reconoce el fallo en esta labor y refiere nuevamente que el agregado de la **ATF** en la Ciudad

de México informó al **Procurador Medina Mora** de esta situación (**ANEXO TRES**).

4. **Documental** consistente en impresión de comunicación vía correo electrónico enviada por **JOSH PARECKI** a **KARINE M. TAXMAN** el 31 de enero de 2011, la cual obra como **anexo 187** del mismo documento del Congreso estadounidense "**Fast and Furious: The Anatomy of a Failed Operation**".

En dicho medio de prueba es posible notar el conocimiento de **autoridades mexicanas** respecto al operativo "**Rápido y Furioso**", específicamente funcionarios de la **Procuraduría General de la República (PGR)**, la **Subprocuraduría de Investigación Especializada en Delincuencia Organizada (SIEDO, hoy SEIDO)**, la **Unidad Especializada en Investigación de Terrorismo, Acopio y Tráfico de Armas (UEITA)** y la **Secretaría de Seguridad Pública (SSP)**; destacando principalmente que "*Se informó detalladamente a representantes de la PGR SEIDO sobre la planeación y operación de Rápido y Furioso [...] Se les permitió estar en el centro de comando durante la mayoría del desarrollo de la operación.*" (**ANEXO CUATRO**).



5. **Documental** consiste en una impresión del sitio web **Wikileaks**¹ en el que se encuentra el cable titulado "**NORTHERN BORDER CONFERENCE FOCUSES SIGHTS ON ARMS TRAFFICKING COOPERATION**" de fecha 9 de octubre de 2009, mediante el cual es posible notar la colaboración entre autoridades estadounidenses (**FBI, DEA y ATF**) y mexicanas (**Procuraduría General de la República, Secretaría de**

¹https://wikileaks.org/plusd/cables/09MEXICO2952_a.html

Seguridad Pública, Secretaría de Relaciones Exteriores, Centro de Investigación y Seguridad Nacional, Secretaría de Marina Armada de México, Secretaría de la Defensa Nacional, Servicio de Administración Tributaria y Oficina de la Presidencia de la República) en la *Northern Border Conference*, llevada a cabo en Phoenix, Arizona del 22 al 26 de septiembre de 2009.

Destaca que, durante ella, se mencionó un *bilateral arms trafficking implementation group* (grupo de implementación de tráfico de armas bilateral) y se discutió la posibilidad de crear un grupo interinstitucional enfocado en inspecciones de armas de fuego, así como la creación de bases de datos que incluyan número de serie, modelo e información de importación del arma, fecha, lugar, naturaleza y circunstancias del aseguramiento de ésta, tales como nombre del oficial que aseguró, responsable de reunir evidencia forense del arma, calibre, fotografía, historial criminal del arrestado y contactos para localizarla (**ANEXO CINCO**).

Si en el contexto de dichos acuerdos no se discutió con las autoridades mexicanas que el objetivo de la captura de dicha información era el seguimiento a las armas que se "dejarían pasar" como parte de los operativos mencionados, entonces, se les *tomó el pelo*, se les ocultó información, se les engañó y se violó nuestra soberanía. Si, en cambio, como es nuestra tesis, autoridades mexicanas de distintos niveles sí sabían que éste era el objetivo (o por cualquier medio tuvieron conocimiento de y/o participaron en los operativos), son corresponsables del ingreso de armas de

fuego a nuestro territorio y de haberlas puesto en manos de la delincuencia organizada.

Dichos medios de prueba resultan de la mayor relevancia pues, de su contenido, se desprende la conducencia, y necesidad fundamental, de realizar diversas diligencias de investigación que permitan determinar la identidad de los probables responsables de los delitos de **Tráfico de Armas, Coalición de Servidores Públicos, Ejercicio Indebido del Servicio Público y/o lo que resulte**, objeto de esta investigación.

Es por ello que, respetuosamente, me permito solicitar a esta **H. Representación Social** sean realizadas las siguientes:

D I L I G E N C I A S D E I N V E S T I G A C I Ó N

1. Se requiera a peritos en el idioma inglés que realicen traducciones oficiales de los documentos anexos al presente escrito como medios de prueba.
2. Se emita oficio requiriendo a la **Secretaría de Relaciones Exteriores** para que, en su momento, remita copia certificada de la respuesta que envíe el **Gobierno de los Estados Unidos** a la nota diplomática que fue enviada a la Embajada de dicho país en México el pasado 11 de mayo de 2020 por el señor Canciller **MARCELO EBRARD CASAUBÓN**.
3. Sean citados a declarar, ya sea en calidad de testigos o de inculpados, aquellos servidores públicos mexicanos referidos desde la Denuncia de Hechos y en el presente

escrito, cuya probable participación se encuentra ahí narrada y sustentada, solicitando también que, dentro del interrogatorio que esta **H. Representación Social** les formule, declaren a esta autoridad qué motivó su actuación, bajo las instrucciones de qué funcionario llevaron a cabo sus actividades relacionadas con el trasiego de armas de fuego a nuestro país, quiénes conocían de los operativos mencionados, así como todas aquellas preguntas que esta **H. Autoridad** considere pertinentes. Al igual solicito les sea requerido que aporten la documentación que sustente su dicho. Esto con el fin del esclarecimiento de los hechos denunciados.

Lo anterior, se solicita respecto de:

- a. En primer lugar, **LOS TITULARES** de las dependencias que participaron en la *Northern Border Conference* durante las fechas en que tuvo lugar (del 22 al 26 de septiembre de 2009), a saber, la **Secretaría de Seguridad Pública** (**GENARO GARCÍA LUNA** se encuentra privado de su libertad en el Centro de Detención Metropolitano en Brooklyn, NY, bajo la jurisdicción del **Juez BRIAN M. COGAN** de la Corte de los Estados Unidos para el Distrito Este de Nueva York), la **Secretaría de Relaciones Exteriores**, el **Centro de Investigación y Seguridad Nacional**, la **Secretaría de Marina Armada de México**, la **Secretaría de la Defensa Nacional**, el **Servicio de Administración Tributaria** y de la **Oficina de la Presidencia de la República**.
- b. Quienes ostentaron el cargo de **Procuradores Generales de la República** en las fechas en que tuvieron lugar los operativos de trasiego de armas de fuego a nuestro país,

a saber, **EDUARDO TOMÁS MEDINA MORA ICAZA** (quien, además, aparece expresamente señalado por **autoridades estadounidenses**), **ARTURO CHÁVEZ CHÁVEZ** y **MARISELA MORALES IBÁÑEZ**.

c. Aquellos funcionarios que hayan fungido como titulares, durante los años relevantes de los operativos investigados, de la **Subprocuraduría de Investigación Especializada en Delincuencia Organizada (SIEDO, hoy SEIDO)** y, específicamente, de la **Unidad Especializada en Investigación de Terrorismo, Acopio y Tráfico de Armas (UEITA)**.

d. En su caso, una vez reunida la información respectiva, también deberán ser citados a declarar los funcionarios de niveles superiores que sean nombrados por los atestes, así como los servidores públicos de niveles inferiores que pudieren haber participado en las distintas fases de los operativos; específicamente aquellos que directamente participaron en el operativo de trasiego de armas en el año 2007 y que las "perdieron de vista" -aparentemente de la hoy extinta **Agencia Federal de Investigación (AFI)**- así como aquellos que estuvieron "en el centro de comando" en 2010 (citas textuales, con traducción propia, de los anexos al presente escrito).

e. En todo caso, directamente podría requerírsele, ya sea a las agencias estadounidenses (vía solicitud de cooperación jurídica internacional) o a los agentes que suscriben las comunicaciones y documentación aquí referidos (vía exhortos a ser diligenciados por las agregadurías correspondientes de esta **H. Fiscalía** en

los Estados Unidos), que informen los nombres y apellidos de los funcionarios mexicanos en concreto a los que hacen referencia en sus comunicaciones.

4. Sujeto al resultado de la nota diplomática enviada por la **Secretaría de Relaciones Exteriores**, en caso de ser conducente por falta de información o para efectos aclaratorios, se soliciten los informes oficiales de todas las agencias y dependencias involucradas en los operativos investigados, tanto del **Gobierno de México** como del de los **Estados Unidos**, incluyendo de éste: la propia **ATF**, el Departamento de Justicia (*U.S. Department of Justice, DOJ*), la Administración para el Control de Drogas (*Drug Enforcement Administration, DEA*), el Buró Federal de Investigaciones (*Federal Bureau of Investigation, FBI*), el Servicio de Impuestos Internos (*Internal Revenue Service, IRS*), el Servicio de Inmigración y Control de Aduanas (*U.S. Immigration and Customs Enforcement, ICE*), la Oficina de Aduanas y Control Fronterizo (*U.S. Customs and Border Protection, CPB*), el Departamento de Seguridad Nacional (*Department of Homeland Security, DHS*) y la Oficina del Fiscal Federal de Arizona (*U.S. Attorney's Office for the District of Arizona, USAO AZ*).
5. Se recaben las pruebas periciales en materia de balística y/o se solicite su realización respecto de las armas incautadas en relación con diversos hechos ilícitos cometidos en nuestro país y que fueron señalados en la Denuncia de Hechos por haberse reportado el hallazgo de armas traficadas en el marco de los operativos mencionados


(armas incautadas ya sea en el lugar de los hechos, o al haberse realizado la detención de los imputados). A saber, la **masacre de Villas de Salvarcar**, tragedia que tuvo lugar el 31 de enero de 2010; el homicidio del Agente de la Oficina de Aduanas y Control Fronterizo (*U.S. Customs and Border Protection, CPB*) **BRIAN A. TERRY** el 14 de diciembre de 2010; el homicidio por estrangulamiento de **MARIO GONZÁLEZ RODRÍGUEZ**, hermano de **PATRICIA GONZÁLEZ** entonces **Procuradora General de Justicia del Estado de Chihuahua**, hallado muerto el 4 de noviembre de 2010 (un arma fue incautada durante la detención del imputado); el homicidio de **JAIME ZAPATA**, Agente Especial del Servicio de Inmigración y Control de Aduanas (*U.S. Immigration and Customs Enforcement, ICE*); entre otros.

6. Asimismo, se tiene noticia y consta en el expediente que el 12 de enero de 2015, en Los Mochis, Sinaloa, fue asegurada un arma de fuego (rifle Barret Calibre 50) durante el operativo de detención de JOAQUÍN "EL CHAPO" GUZMÁN LOERA.

Lo anterior, según la comunicación enviada por **KEITH J. HEIZERLING**, Agregado de la ATF, con fecha 19 de enero de 2016, al entonces titular de SEIDO, **GUSTAVO SALAS CHÁVEZ**, con copia para el Encargado de Despacho en la UEITA, **JOSÉ ARTURO LÓPEZ IBARRA**, a la cual se adjuntó impresión de rastreo efectuado por el Centro Nacional de Rastreo de la ATF con información del CENAPI. Se trata de un rifle de asalto manufacturado en los Estados Unidos por *Barrett Firearms MFG*, Modelo 82 A1, Calibre 50, Matrícula 24625, rastreado por el CENAPI con el número T20160015243.

Consideramos que, tanto en este caso, como en el de cualesquiera otra armas aseguradas en relación con algún ilícito local o federal desde septiembre 2007 y a la fecha, con las herramientas y bases de datos del **CENAPI**, así como en colaboración con fiscalías y procuradurías estatales y con la propia **ATF**, debe realizarse un cruce y cotejo de marcas, modelos, matrículas y/o la huella balística que corresponda a dicho fusil y a otras armas de fuego, con los registros que se tienen de las armas objeto de los operativos mencionados.


Es importante que no pase inadvertido para esta **H. Fiscalía General de la República** que las diligencias de investigación practicadas por la entonces **Procuraduría General de la República** están viciadas no sólo por el conflicto de interés antes referido, sino también en virtud de que la información de la que se allegó, en su mayoría fue proporcionada por funcionarios públicos y/o dependencias gubernamentales directamente involucradas en los hechos investigados. Por ello, debe hacerse una investigación exhaustiva también de la posible comisión de delitos de **Falsedad, Falsificación, Ejercicio Indebido del Servicio Público, Delitos Contra la Administración de Justicia y/o lo que resulte**, tomando en consideración la posible *destrucción, sustracción, ocultamiento, utilización, inutilización o falsificación de documentos, registros o información.*



Lo anterior, en particular se menciona ante la supuesta falsedad del oficio número **S2/03200 F-37910** de fecha 9 de marzo de 2010 emitido por la **Sección 2/a de la Dirección General de**

Armas de la Secretaría de la Defensa Nacional, dirigido al C. Gral. de Brigada D.E.M. Felipe de Jesús Espitia Hernández, Comandante de la V Zona Militar, suscrito por el Subtte. A.M.G. Rigoberto Vega García, en el que se informa que se utilizaron armas provenientes de un programa de rastreo de la ATF, ingresadas por la frontera de Rodrigo M. Quevedo, Chihuahua, en los hechos ocurridos en la plaza de Juárez en la colonia Villas de Salvarcar. Dicha documental fue mostrada en un reportaje realizado por la cadena **Univisión** llamado "**Armando al Enemigo**" y está disponible en: <http://www.documentcloud.org/documents/443681-mexican-army-salvarcar-documet.html>.


El documento aparece con sellos, firmas y todos los indicios de tratarse de un documento real y auténtico, incluyendo la identidad y adscripción del personal militar ahí nombrando, por lo que nos parece inverosímil lo sostenido en su momento por **SEDENA** ante el **Ministerio Público** en el sentido de que dicho documento es apócrifo. Y si bien aparentemente no fueron aseguradas armas en el lugar de los hechos, quizás la afirmación contenida en el oficio respondió a pruebas balísticas, o bien, a armas incautadas con posterioridad. Se insiste, debe analizarse la posibilidad de que la información completa y veraz haya sido ocultada en su momento a esta **H. Representación Social**.



Una vez que el **Ministerio Público Federal** considere acreditados los elementos del Cuerpo del Delito y la Probable Responsabilidad, se solicita que, conforme a Derecho, consigne el expediente a **Juez de Distrito de Procesos Penales Federales**

en **Ejercicio de la Acción Penal** para solicitar que sean giradas las respectivas **Órdenes de Aprehensión** en contra de quién o quienes resulten responsables.

Por último, por medio del presente escrito, señalo como domicilio para oír y recibir toda clase de notificaciones y documentos, incluyendo el acuerdo que recaiga al presente, el ubicado en Colima 228, Colonia Roma, Alcaldía Cuauhtémoc, Código Postal 06700 de esta Ciudad de México, así como señalo el número telefónico (55)5207-3501 y el correo electrónico kgeorge@sdgabogados.com para efectos de cualquier comunicación remota en términos del **Protocolo y medidas de actuación en la Fiscalía General de la República por el COVID-19**. Asimismo, en alcance a los nombramientos y las autorizaciones objeto del escrito inicial de denuncia, en este momento autorizo para que en mi nombre suscriban toda clase de promociones, comparezcan ante esta Autoridad, reciban toda clase de notificaciones, y coadyuven como Asesores Jurídicos, con fundamento en los artículos citados en el exordio del presente escrito, a los **CC. JOSÉ EDUARDO DELSOL GOJON, ALAN ALEJANDRO GOJON CRUZ, ANDRÉS BENTON GASTELUM, RAÚL ALEJANDRO DOMÍNGUEZ MOTA, JUAN PABLO CAMACHO BARAJAS y KARINA IVETT GEORGE MARTÍNEZ**, de forma indistinta y sin perjuicio de las personas autorizadas con anterioridad.



Por lo anteriormente expuesto y fundado, a Usted, **C. AGENTE DEL MINISTERIO PÚBLICO FEDERAL**, atentamente pido:

PRIMERO.- Se tenga por reconocida la personalidad con la que me ostento.

SEGUNDO.- Se tengan por aportados los medios de prueba anexos al presente.

TERCERO.- Sean realizadas las diligencias ministeriales de investigación solicitadas por ser conforme a Derecho.

CUARTO.- Se tenga por señalado domicilio, teléfono y correo electrónico para notificaciones y por autorizadas a las personas mencionadas.

QUINTO.- En el momento procesal oportuno, ejercite la acción penal en contra de quién o quienes resulten responsables por los delitos mencionados y/o los que resulten.

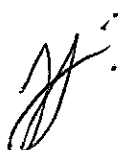
PROTESTO LO NECESARIO.

A T E N T A M E N T E

A handwritten signature in black ink, appearing to read "Juan Schutte", written over a horizontal line.

Ciudad de México, a la fecha de su presentación.

ANEXO UNO

A handwritten signature in black ink, located on the right side of the page. The signature is stylized and appears to be a cursive name.

From: Carroll, Carson W.
Sent: Friday, September 28, 2007 2:27:33 PM
To: Hoover, William J.
Subject: Phoenix FD SWB Investigation

Last night (9/27/07) from 8 PM to 1 AM this morning the ATF MCO were working closely in coordination with the ATF Phoenix AZ. Field Division and the Government of Mexico (GOM) i.e., Aduanas, PGR, CENAPI and AFI, regarding weapons going south through the US/Mexico Nogales, AZ. Border.

Phoenix Group II, Special Agent Hope MacAllister through Multiple Sales identified several suspects ([REDACTED] ; [REDACTED] ; and [REDACTED]) purchasing numerous weapons at an FFL located in Phoenix, AZ. Border Crossing queries identified that these individuals crossed the U.S./Mexico Nogales, AZ. Border on the 21st and 24th of September, at which time they purchased 19 (nineteen) weapons.

On September 27, 2007, Phoenix Group II, were conducting surveillance on said FFL in Phoenix, AZ., and identified these same individuals purchasing additional weapons. Assistant Attaché Bazan was subsequently contacted regarding this surveillance operation and immediately contacted and notified the GOM for a possible controlled delivery of these weapons southbound to the Nogales, AZ., US/Mexico Border.

The ATF MCO, S/A MacAllister and AFI were simultaneously on the phone until the suspect vehicle crossed. Phoenix AZ. ATF agents observed this vehicle commit to the border and reach the Mexican side until it could no longer be seen. We, the ATF MCO did not get a response from the Mexican side until 20 minutes later, who then informed us that they did not see the vehicle cross.

For the first time we are working hand in hand with the GOM and providing them with what they want and this is what we get! This is what I would like to report to the GOM during the upcoming high-level US/Mexico contact (SLEP) meeting. The ATF MCO is currently obtaining names of those Mexican supervisors that were on scene and will have a meeting here in Mexico with the various different heads of agencies that participated in this joint international operation. D.



HOCR ATF - 002269

Fast and Furious: The Anatomy of a Failed Operation

Appendix I: Exhibits

ANEXO DOS





Part I of III

Fast and Furious: The Anatomy of a Failed Operation

JOINT STAFF REPORT

Prepared for

**Rep. Darrell E. Issa, Chairman
United States House of Representatives
Committee on Oversight and Government Reform
&
Senator Charles E. Grassley, Ranking Member
United States Senate
Committee on the Judiciary**

**112th Congress
July 31, 2012**

V. Assessing Culpability

This report assesses only the culpability of ATF officials. The following report will assess the culpability of Justice Department Officials including U.S. Attorney Dennis Burke, Assistant Attorney General Lanny Breuer, Deputy Assistant Attorney General Jason Weinstein, Associate Deputy Attorney General Edward Siskel, Acting Deputy Attorney General Gary Grindler, and Deputy Chief of Staff Monty Wilkinson.

1. *Special Agent in Charge of the Phoenix Field Division William Newell*

FINDING:	<u>Repeatedly risky:</u> When he became a SAC, Bill Newell consistently pushed the envelope of permissible investigative techniques. He had been reprimanded by William Hoover before for crossing the line, but under a new Administration and new Attorney General he reverted back to the use of risky gunwalking tactics.
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As Special Agent in Charge (SAC) of the ATF Phoenix Field Division, William Newell oversaw all ATF operations in both Arizona and New Mexico, including 552 miles of the U.S.-Mexico border.⁴⁴¹ Under Newell's leadership, the strategy of Operation Fast and Furious was conceived and implemented. With his approval, Operation Fast and Furious lasted over a year as hundreds of weapons flowed into Mexico and found their way into the possession of the increasingly violent Mexican drug cartels.⁴⁴²

A. Earlier Operations

Newell became SAC of ATF's Phoenix Field Division in June 2006.⁴⁴³ Around that same time, ATF began walking guns in a case in the Tucson Field Office of the Phoenix Field Division called Operation Wide Receiver. In Operation Wide Receiver, ATF agents worked with a cooperating FFL to obtain real-time data regarding weapons sales to known straw purchasers. Yet despite having the legal authority to do so, agents did not use this information to conduct arrests or interdict weapons.⁴⁴⁴ As one internal e-mail from a Resident Agent in Charge in Tucson to a Resident Agent in Charge in San Diego detailed, "[W]e believe at this point there is more value in the surveillance, identification of locations, persons, and asset[s] rather than making sight arrests."⁴⁴⁵ Later, the Phoenix Field Division discussed coordinating with the

⁴⁴¹ *Hearing Before the Subcomm. on Commerce, Justice, Science and Related Agencies of the H. Comm. on Appropriations*, 111th Cong. (2009) (statement of William Newell, Special Agent in Charge, ATF Phoenix Field Division).

⁴⁴² See *Firearms Trafficking to the United Mexican States Thorough Arizona: "Project Iron River,"* ATF Phoenix Field Division (Sept. 2005) [HOCR 001356 – 001394] (Exhibit 209).

⁴⁴³ Newell Transcript at 9 (Exhibit 140).

⁴⁴⁴ Memorandum to Jason Weinstein from Laura Gwinn, "Operation Wide Receiver (Tucson, AZ USAO)" (Oct. 1, 2009) [HOCR 003391-003393] (Exhibit 210).

⁴⁴⁵ E-mail from Chuck Higman to Shawn Hoben (Jun. 15, 2006) [HOCR 005189] (Exhibit 211).

Mexican government to arrest these straw purchasers across the U.S.-Mexican border.⁴⁴⁶ The idea was to conduct a controlled delivery in which ATF agents would follow the weapons to the border and watch them cross over into Mexico, where Mexican authorities would be waiting to pick up the surveillance.⁴⁴⁷ Once the straw purchasers crossed the border with the weapons, Mexican authorities would follow the firearms to their final destination in Mexico.⁴⁴⁸

However, a controlled delivery was apparently never attempted.⁴⁴⁹ The straw purchasers simply continued to traffic to Mexico. Only in June 2007, over a year into the case, did one ATF official finally write: "We have reached that stage where I am no longer comfortable allowing additional firearms to 'walk,' without a more defined purpose."⁴⁵⁰ Altogether, approximately 350 weapons went to Mexico.⁴⁵¹ ATF seized approximately 50 of these firearms, and 20 of them had been recovered in connection with crimes in Mexico as of early 2010.⁴⁵²

Prosecutors in the Arizona U.S. Attorney's Office refused to prosecute the straw purchasers from Wide Receiver because they believed ATF had misled them about the level of coordination among the Phoenix Field Division, the cooperating FFL, and the Mexican government. According to one e-mail: "[T]he first AUSA that was on Wide Receiver [said] the reason he chose not to prosecute it was because ATF lied to him and said that the guns were being followed/interdicted by the Mexican authorities on the other side of the border. . . . The next AUSA chose not to prosecute it for the same reason."⁴⁵³ Others within ATF also had moral objections to such tactics.⁴⁵⁴

Another fall 2007 case conducted out of Newell's Phoenix Field Division was known by its main suspect, Fidel Hernandez, and just like Operation Fast and Furious, had Special Agent Hope MacAllister as the case agent. In the Hernandez case, ATF agents actually communicated with Mexican authorities in order to try to set up a controlled delivery. The idea was for Mexican authorities to arrest straw purchasers once they crossed the border.⁴⁵⁵ One internal

⁴⁴⁶ ATF Operational Plan, Operation Wide Receiver (Oct. 7, 2006) [HOCR 003367-003368] (Exhibit 212).

⁴⁴⁷ E-mail from [ATF Tucson Office] to Chuck Higman (Apr. 10, 2007) [HOCR 5315] (Exhibit 213).

⁴⁴⁸ ATF Operational Plan, Operation Wide Receiver (May 31, 2007) [HOCR 006279-006280] (Exhibit 214).

⁴⁴⁹ Phoenix Field Division, ATF, Briefing Paper, *Operation WIDE RECEIVER #785085 06 0051* (Aug. 21, 2006) [HOCR 005243-005246] (Exhibit 215).

⁴⁵⁰ E-mail from Chuck Higman to [ATF Southwest Region OCDETF Coordinator] (Jun. 26, 2007) [HOCR 005412-005413] (Exhibit 216).

⁴⁵¹ S. Subcomm. on Crime and Terrorism Hearing, *Combating International Organized Crime*, 112th Congress (Nov. 1, 2011), at 9; *see also* e-mail from James Small to George Gillett (Aug. 3, 2009) [HOCR 005432] (Exhibit 10).

⁴⁵² "Project Gunrunner Investigations with a Nexus to Mexico Cartels," Phoenix Field Division (Feb. 25, 2010) [HOCR 004993-004997] (Exhibit 217).

⁴⁵³ E-mail from [FFL4] to Laura Gwinn (Sep. 22, 2011) [HOCR 006278] (Exhibit 218).

⁴⁵⁴ *See* Memo from Jennifer Maldonado to U.S. Att'y Paul Charlton (July 13, 2006) [HOCR 003365] (Exhibit 219).

⁴⁵⁵ ATF Operational Plan, Case Number 785045-07-[redacted] (Sep. 26, 2007) [HOCR 006330-006331] (Exhibit 220).

Phoenix Field Division briefing paper characterized the operation as “part of an experimental effort to prosecute firearms trafficking cases in Mexico through an International agreement.”⁴⁵⁶

All did not go according to plan, however. When traffickers crossed the border with 19 firearms,⁴⁵⁷ Mexican authorities, waiting on the other side of the border, missed the surveillance handoff.⁴⁵⁸ The next week, Newell reported:

We are potentially going to give it another shot They have already purchased another dozen or so firearms since returning from Mexico last weekend. They are up to about 250 of the “weapons of choice” so **if this goes we’ll be able to cement our role as the lead firearms trafficking agency on this side of the border** and score some major points with the Mexicans, thus ensuring that they clearly understand we are willing and able to do these very sorts of things to address their very vocal concerns.⁴⁵⁹

Upon learning about this case and the missed surveillance handoffs, Newell’s supervisors at ATF headquarters were worried. Then-Assistant Director for Field Operations William Hoover had many questions for Newell:

Have we discussed the strategy with the US Attorney’s Office re letting the guns walk? Do we have this approval in writing? Have we discussed and thought thru the consequences of same? Are we tracking south of the border? Same re US Attorney’s Office. Did we find out why they missed the hand off of the vehicle? What are our expected outcomes?⁴⁶⁰

Hoover continued: “Also, did the Mexico Country Office speak to anyone in Field Op’s prior to briefing the Ambassador? What exactly did we tell him? Why was this necessary at this time in the Inv?”⁴⁶¹

Twenty minutes after receiving these questions from Hoover, Newell responded: “[J]ust got notified that the subjects are heading south with another load of guns—right now.”⁴⁶² In an effort to placate Hoover and allow his operation to continue, Newell responded:

⁴⁵⁶ Weekly Activity Report for the Phoenix II Field Office, August 25-August 31, 2007 [HOGR 006303] (Exhibit 221).

⁴⁵⁷ E-mail from Carson Carroll to Robert Champion (Sept. 28, 2007) [HOGR 006350-006352] (Exhibit 222).

⁴⁵⁸ E-mail from Carson Carroll to William Hoover (Sep. 28, 2007) [HOGR 002269] (Exhibit 223).

⁴⁵⁹ E-mail from William Newell to Carson Carroll, et al. (Oct. 2, 2007) [HOGR 006364-006368] (emphasis added) (Exhibit 224).

⁴⁶⁰ E-mail from William Hoover to William Newell and Carson Carroll (Oct. 4, 2007) [HOGR 002243-002246] (Exhibit 225).

⁴⁶¹ E-mail from William Hoover to William Newell and Carson Carroll (Oct. 4, 2007) [HOGR 002253-002256] (Exhibit 226).


⁴⁶² E-mail from William Newell to William Hoover (Oct. 4, 2007) [HOGR 002253-002256] (Exhibit 226).

I know you have reservations but please rest assured that this will go down as planned . . . and will have big payoffs for us and the Department in addressing Mexico's concerns that we (US) aren't doing enough to address their concerns. Trust me, I'm with Gov't.⁴⁶³

However, the operation did not go down as planned. Newell summarized the next morning:

As you might know this deal did not go down last night. Unfortunately the Mex Feds overreacted to their embarrassing loss of the vehicle last week at the border by sending way too many people last night and word must have gotten out that crossing the border last night with contraband was not a good idea. This caused the subjects to drop off a large portion of their load of firearms at a previously unknown residence in Nogales (U.S. side) and then head back to Phoenix. . . . Lessons learned.⁴⁶⁴

Ironically, Newell also suggested to another colleague, "It might be worth our while to prepare a [sic] 'International Firearms Trafficking 101' briefing paper outlining the ins and outs of working a case to Mexico, focusing on the legalities."⁴⁶⁵



That day, Hoover made it clear to then-Deputy Assistant Director Carson Carroll that he did "not want any firearms to go South until further notice."⁴⁶⁶ He also stated, "I expect a full briefing paper on my desk Tuesday morning from SAC Newell with every question answered."⁴⁶⁷ Newell's briefing paper for Hoover again laid out his rationale for the case:

Taking off this "straw purchasing" ring would only create a situation in which another ring would need to be put together by the . . . drug trafficking organization. Doing this would never give us the opportunity to find out who the middle-men in Mexico are

[W]e in the division started discussions about using this investigation as a "test case" to pursue something we had never tried before but something that would be in line with one of the key elements of "Gunrunner" which is establishing a closer working and trusting relationship with our Mexican law enforcement counterparts.⁴⁶⁸

Even if Hoover did not accept Newell's argument for not "taking off" the straw purchasing ring was not accepted, Hoover must have accepted the merits of coordinating with Mexico, because

⁴⁶³ E-mail from William Newell to William Hoover (Oct. 4, 2007) [HOGR 002243-002244] (Exhibit 225).

⁴⁶⁴ E-mail from William Newell to Anne Marie Paskalis (Oct. 5, 2007) [HOGR 006777] (Exhibit 227).

⁴⁶⁵ E-mail from William Newell to Davy Aguilera (Oct. 5, 2007) [HOGR 006777] (Exhibit 227).

⁴⁶⁶ E-mail from William Hoover to Carson Carroll (Oct. 5, 2007) [HOGR 001907] (Exhibit 228).

⁴⁶⁷ *Id.*

⁴⁶⁸ *Responses to Questions by ADFO Hoover RE: Phoenix to Mexico Firearms Trafficking Case*, at 2-3 (Oct. 9, 2007) [HOGR 002759-002763] (Exhibit 229).

in preparation for a November 16, 2007, meeting between brand new Attorney General Michael Mukasey and Mexican Attorney General Medina Mora, ATF contributed to a portion of the memo to the Attorney General which read:

ATF has recently worked jointly with Mexico on the first-ever attempt to have a controlled delivery of weapons being smuggled into Mexico by a major arms trafficker. . . . [T]he first attempts at this controlled delivery have not been successful **To that end, it is essential that a Mexican vetted unit be assigned to work with ATF in this regard. ATF's attaché in Mexico City has briefed Attorney General Medina Mora on this attempted controlled delivery, and stressed the importance of a vetted unit being assigned.**⁴⁶⁹

The targets in Hernandez were arrested in the U.S. on November 26, 2007.⁴⁷⁰ Ultimately, the case appears to have lasted only a few months, and the cooperation issues raised by the Attorney General with Mexico seem to be an example of fruitful collaboration with Mexico.

Hoover had been given notice that Bill Newell was willing to push the envelope. At one point, Newell indicated to Deputy Assistant Director Carroll that he was done taking such approaches:

I think we both understand the extremely positive potential for a case such as this but at this point I'm so frustrated with this whole mess I'm shutting the case down and any further attempts to do something similar. **We're done trying to pursue new and innovative initiatives** – it's not worth the hassle.⁴⁷¹

However, just a few months later, on January 2, 2008, Carroll e-mailed Newell with a request: "I was wondering if you could have someone do a powerpoint [sic] on the recent case where you tried to walk the guns to Mexico."⁴⁷² Newell forwarded the e-mail to his ASACs, writing: **"We're back in business."**⁴⁷³

Later that year, Newell again attempted a similar approach to Wide Receiver and Hernandez in a case involving a straw purchasing network led by Alejandro Medrano.⁴⁷⁴ According to one description of the case, Medrano involved a "plan to let firearms walk to Mexico with the agreement that the Mexican authorities would conduct surveillance of the

⁴⁶⁹ Meeting of the Attorney General with Mexican Attorney General Medina Mora (Nov. 16, 2007) [HOCR 003239-003240] (Exhibit 230).

⁴⁷⁰ Phoenix Field Division, ATF, *After Action Report* (Nov. 26, 2007) [HOCR 006494] (Exhibit 231).

⁴⁷¹ E-mail from William Newell to Carson Carroll (Oct. 6, 2007) [HOCR 001906] (Exhibit 228).

⁴⁷² E-mail from Carson Carroll to William Newell (Jan. 2, 2008) [HOCR 001895] (Exhibit 232).


⁴⁷³ E-mail from William Newell to James Needles and Thomas Mangan (Jan. 2, 2008) [HOCR 001895] (emphasis added) (Exhibit 232).

⁴⁷⁴ ATF Operational Plan, Case Number 785085-08-[redacted] (Aug. 9, 2008) [HOCR 006600-006602] (Exhibit 233).

subjects once they crossed into Mexico in an attempt to locate the 'drop house' and possibly the 'money guy' in Agua Prieta Mexico [sic]."⁴⁷⁵ The Phoenix Field Division again received complaints that the tactics used by ATF agents in the Medrano case were unacceptable. The Resident Agent in Charge of the Tucson field office, who had also been involved in Operation Wide Receiver, informed ASAC George Gillett on August 12, 2008 that "ICE would not support the concept of letting guns 'walk' to Mexico."⁴⁷⁶ That same day, a SAC at ICE e-mailed Newell:

[O]ur agents left that meeting with the understanding that any weapons that were followed to the border would be seized. On Friday night, however, **our agents got an op plan that stated that weapons would be allowed to go into Mexico for further surveillance** by LEAs there.

This would be a very sensitive undertaking if this were to be done. **Since this hadn't been discussed in advance** and we had not had an opportunity to coordinate with our Attache in Mexico, **we balked at the plan.**⁴⁷⁷

Newell responded that the ICE SAC "was told that your folks were aware of the plan to allow the guns to cross, in close cooperation with both our offices in Mexico as well as the Mexico Feds."⁴⁷⁸ This defiance by Newell in the face of opposition to his plan typified Newell's attitude as SAC of the Phoenix Field Division. 

Newell later admitted that his attempt to use controlled deliveries in the Medrano and Hernandez cases had not been successful:

Q. But to your knowledge, in each instance there was a -- there was a control on the delivery such that there were authorities on the other side of the border that then were responsible?

A. Of the ones I'm aware of, yes.

Q. And the guns were actually interdicted or seized after -- at the end of the operation of operations?

* * *

[A]re you aware of that occurring in multiple other cases and that in each case, that that was successful, that the handoff to the

⁴⁷⁵ E-mail from Brandon Garcia to George Gillett (Aug. 12, 2008) [HOCR 006656-006660] (Exhibit 234).

⁴⁷⁶ E-mail from Chuck Higman to George Gillett (Aug. 12, 2008) [HOCR 006656] (Exhibit 234).

⁴⁷⁷ E-mail from Matthew Allen to William Newell (Aug. 12, 2008) [HOCR 001195-001196] (emphasis added) (Exhibit 235).

⁴⁷⁸ E-mail from William Newell to Matthew Allen (Aug. 12, 2008) [HOCR 001195] (Exhibit 235).

authorities on the other side was successful and the guns were actually interdicted, is that what happened?

A. In the instances I'm aware of, **it was not successful.**

Q. And how many instances are we talking about approximately?

A. I believe it was just a couple that I'm aware.

Q. So 2 or 3?

A. 2 or 3, yes.

Q. And none of them were successful?

A. To my knowledge, no.⁴⁷⁹

When others raised concerns about Newell's strategy, he sought to assuage their worries about these dangerous operations by assuring them that he had obtained the necessary approvals and insisting appropriate safeguards were in place. Though Newell genuinely believed his use of innovative techniques would yield strong results, his superiors within ATF and peers outside of ATF were well aware of the dangers of such tactics.

B. Cartel-Based Strategy

Newell apparently began to believe that the new political leadership in the Justice Department in 2009 might welcome the use of the previously eschewed investigative tactics. Two early efforts by the new Department leadership sent such signals. One was that Assistant Attorney General Lanny Breuer, head of the Criminal Division at Justice Department headquarters, assigned a prosecutor to Arizona to resurrect and prosecute the Wide Receiver case despite its use of gunwalking tactics. The U.S. Attorney's Office had not previously prosecuted Wide Receiver because ATF had not been forthcoming about the use of these controversial tactics. As one individual in ATF's Phoenix Field Division summarized on August 3, 2009, when proposing that the Criminal Division consider the case, the "AUSA was . . . pushing back w/ moral dilemma w/ the G[overnment] allowing the targets to traffic 300+ firearms to Mexico."⁴⁸⁰ Breuer's Criminal Division found no problems with prosecuting the case and formally accepted it at the end of September 2009.⁴⁸¹ It may have appeared to Newell that gunwalking tactics were no longer a bar from prosecution.

⁴⁷⁹ Newell Transcript at 103-104 (Exhibit 140).

⁴⁸⁰ E-mail from James Small to George Gillett (Aug. 3, 2009) [HOCR 005432] (Exhibit 10).

⁴⁸¹ E-mail from George Gillett to William Newell (Sep. 26, 2009) [HOCR 005441]; e-mail from Kevin Carwile to William Newell (Sep. 30, 2009) [HOCR 003389] (Exhibit 13).

ANEXO TRES

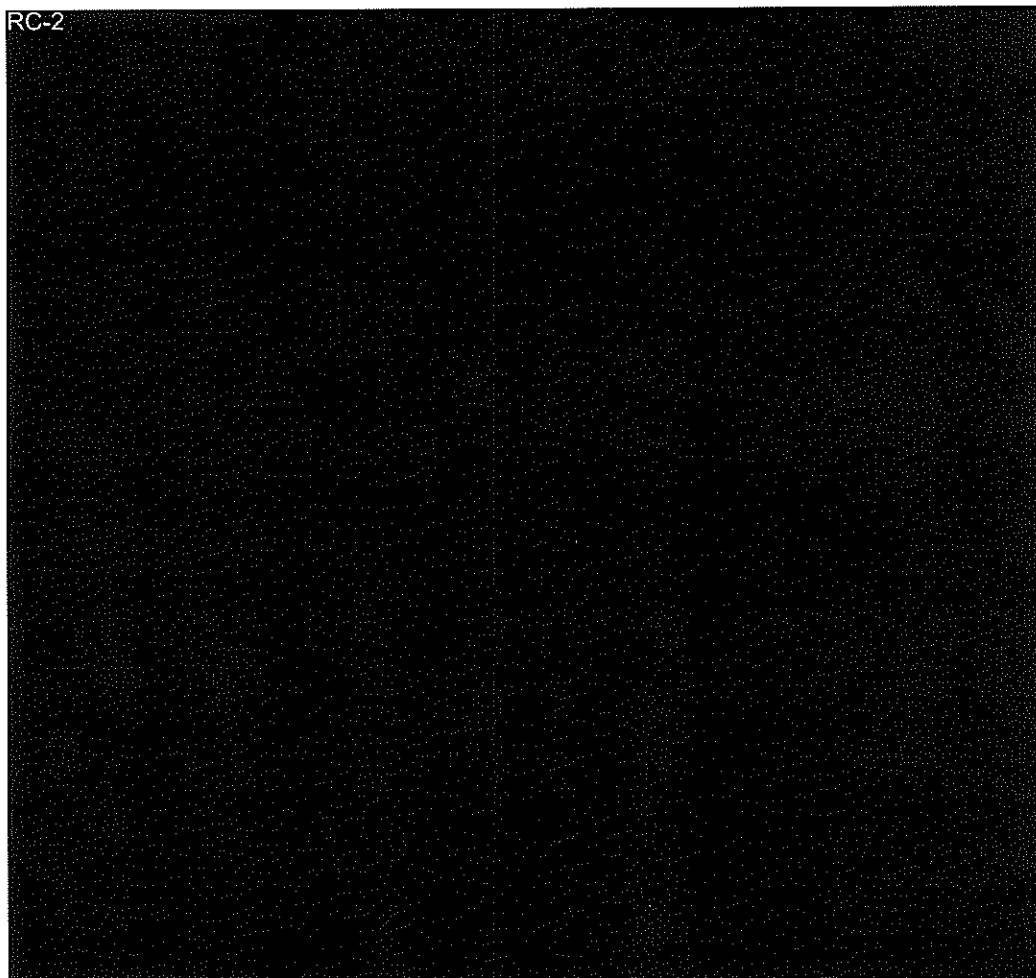


MEETING OF THE ATTORNEY GENERAL
WITH MEXICAN ATTORNEY GENERAL MEDINA MORA
Attorney General's Conference Room
November 16, 2007
(Friedrich, O'Connor/Roth, Swartz)

PURPOSE

Mexican Attorney General Eduardo Medina Mora wishes to meet with you to reaffirm the high importance he places on continuing the close bilateral law enforcement relationship he established with Attorney General Gonzales. Attorney General Medina Mora's visit coincides with the fall meeting of the US/Mexico Senior Law Enforcement Plenary ("SLEP"), chaired by DOJ/CRM, which brings together a number of working groups that focus on US/Mexico law enforcement issues.

BACKGROUND



HOCR HRNDZ 003239

RC-2

G. Arms Trafficking

Mexico has repeatedly expressed concern regarding the smuggling of weapons from the US into Mexico, which the Government of Mexico asserts has fueled the violence of Mexican drug cartels. See, e.g., "US Guns Behind Cartel Killings in Mexico," *Washington Post*, 10/29/07, A01 (noting the 9/24 assassination of a Mexican state police officer, and an attack on the same day on a federal police office in Tijuana, and stating: "The high-powered guns used in both incidents on the evening of Sept. 24 undoubtedly came from the United States, say police here [in Mexico], who estimate that 100 percent of drug-related killings are committed with smuggled US weapons.")

In response to these concerns, DOJ's ATF has committed significant resources to address the issue of gun smuggling into Mexico. ATF has three attaches in Mexico City, and two TDY agents in Monterrey. During this past week, more than 30 ATF agents and analysts have been meeting at the El Paso Intelligence Center ("EPIC") as part of the Southwest Border Initiative's "Project Gunrunner." ATF's goals are to coordinate Federal law enforcement activities on the U.S. side of the border involving gun smuggling, and to work cooperatively with its counterparts in Mexico to improve information sharing, assist them in improving their training and technological capacity, and increase the number and quality of firearms trace requests from Mexico. One critical part of this effort is to for the USG to fund Spanish E-trace, which would allow Mexican law enforcement submit firearms trace requests to ATF's National Tracing Center.

Of particular importance, ATF has recently worked jointly with Mexico on the first-ever attempt to have a controlled delivery of weapons being smuggled into Mexico by a major arms trafficker. While the first attempts at this controlled delivery have not been successful, the investigation is ongoing, and ATF would like to expand the possibility of such joint investigations and controlled deliveries - since only then will it be possible to investigate an entire smuggling network, rather than arresting simply a single smuggler. To that end, it is essential that a Mexican vetted unit be assigned to work with ATF in this regard. ATF's attache in Mexico City has briefed Attorney General Medina Mora on this attempted controlled delivery, and stressed the importance of such a vetted unit being assigned.

H. Asset Forfeiture/ Money Laundering

HOCR HRNDZ 003240

ANEXO CUATRO



SBU

This email is UNCLASSIFIED.

From: Parecki, Josh (USAAZ) [RC-1]
Sent: Monday, January 31, 2011 4:30 PM
To: Taxman, Karine M (Mexico City)
Cc: [RC-1] (Mexico City)
Subject: RE: Acusación contra 34 Sospechosos de Tráfico Organizado de Drogas y Armas

Something like this?

In an effort to encourage further bilateral relations with the GoM/PGR, and to advance the possibility of joint major weapons trafficking law enforcement operations and prosecutions, the USAO (D. Ariz.), DOJ Attaché (Mexican Embassy), DOJ OPDAT, ATF SAC/PHX and ATF Mexico City invited both a representative of PGR SIEDO (Unit in Terrorism Stockpile and Trafficking of Firearms), and a representative of PGR SSP to observe and participate in the take down of a major southbound weapons trafficking organization (Operation Fast and Furious). The initial reason for this invitation related to USAO (D. Ariz.), DOJ Attaché (Mexico City), and the ATF SAC/PHX past work with SIEDO

[RC-7]
 [RC-7]

This invitation represented an opportunity for us to let the GoM know that we would be willing to arrange similar accessibility, and an opportunity to provide some firsthand exposure to the U.S. Federal criminal justice system.

USAO (D. Ariz.) and OPDAT also used Operation Fast and Furious as a case study during a December 15, 2010 weapons trafficking seminar sponsored by OPDAT and held at PGR. We used the general facts and circumstances of this Operation as a starting point for discussion on how the U.S. could work with the GoM to dismantle international weapons trafficking networks jointly. We also used this operation to explain why access to certain GoM controlled evidence is so essential to U.S. prosecutions.

While in the District of Arizona, PGR SIEDO representatives were fully briefed on the operation and planning of the Fast and Furious take down. They were allowed to be present at the command center for the majority of the Operation's unfolding. Additionally, they were given access to certain arrestees under certain operational and Constitutional parameters (vetted through Embassy, DOJ OIA, and ATF). With the information they obtained, SIEDO hopes to initial an investigation targeting Mexican conspirators. SIEDO representatives met with me and a colleague (Walter Perkel) (USAO, D. Ariz.) the day after the take down was complete and we discussed any questions they had based on what they observed. We then explained the various future courtroom possibilities that would occur in the Fast and Furious case, discussed future access to potential cooperating defendants, and discussed the potential for future unrelated operations wherein PGR and DOJ can work jointly from inception of an investigation. Finally, we took the SIEDO representative to the Sandra Day O'Connor Federal Courthouse to observe several hearings.

Cheers,
 Josh Patrick Parecki
 Assistant United States Attorney
 National Security and Border Security Section
 District of Arizona
 Desk: [RC-1]

From: Taxman, Karine M (Mexico City) [RC-1]
Sent: Monday, January 31, 2011 1:18 PM
To: Parecki, Josh (USAAZ)
Cc: [RC-1] Mexico City
Subject: FW: Acusación contra 34 Sospechosos de Tráfico Organizado de Drogas y Armas

Hi Josh,

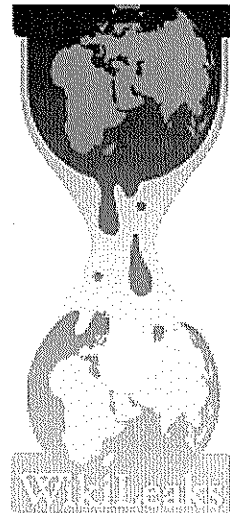
HOCR DOJ 006755

Fast and Furious: The Anatomy of a Failed Operation

Appendix I: Exhibits

ANEXO CINCO

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Canonical ID: 09MEXICO2952_a

Subject: NORTHERN BORDER CONFERENCE FOCUSES SIGHTS ON ARMS
TRAFFICKING COOPERATION

From: Mexico Mexico City

To: Department of Commerce, Department of Homeland Security,
Department of Justice, Department of Labor, Department of the
Treasury, Drug Enforcement Administration Washington, Mexico All posts
in Mexico, National Security Council, Secretary of State, United
States Southern Command (Miami)

Original Classification: UNCLASSIFIED

Current Classification: UNCLASSIFIED

Previous Handling Restrictions: -- Not Assigned --

Archive Status: -- Not Assigned --

Type: TE

Locator: TEXT ONLINE

Reference(s): -- N/A or Blank --

Executive Order (E.O.): -- Not Assigned --

Markings: -- Not Assigned --

Enclosure: -- Not Assigned --

Concepts: -- Not Assigned --

TAGS: Criminal Activity [KCRM]

Mexico [MX]

Political Affairs--External Political Relations [PREL]

Political Affairs--Government; Internal Governmental Affairs [PGOV]

Political Affairs--Intelligence [PINR]

Social Affairs--Narcotics [SNAR]

Office: -- N/A or Blank --

Document Character Count: 7659

Date: 2009 October 9, 22:31 (Friday)

UNCLAS SECTION 01 OF 02 MEXICO 002952

SIPDIS

E.O. 12958: N/A

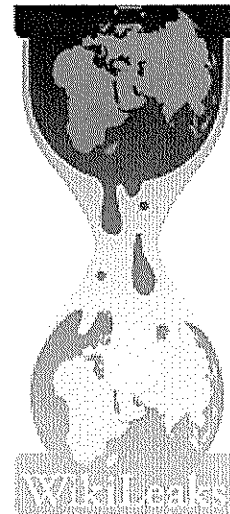
TAGS: PGOV, PREL, PINR, KCRM, SNAR, MX

SUBJECT: NORTHERN BORDER CONFERENCE FOCUSES SIGHTS ON ARMS

TRAFFICKING COOPERATION

1. (SBU) Summary: GOM and USG law enforcement officials huddled September 22-26 in Phoenix at the Northern Border Conference to discuss expanding cooperation on combating arms trafficking. Both sides support a greater exchange of information on firearms sales as well as relevant legislation on firearms, including statutes that speak to prosecuting arms traffickers. Future progress will rely on progress by sub-working groups on a wide range of action items in advance of a follow-on conference in Tapachula, Mexico at the end of October. End Summary.

Participants



2. (SBU) Officials from the Mexican Army (SEDENA), Navy (SEMAR), the Attorney General's Office (PGR), the Federal Police (SSP), Tax Collection (SAT), Intelligence (CISEN), the President's Office, and Foreign Affairs (SRE) represented Mexico at the meeting. The PGR representatives included prosecutors, forensic experts and intelligence analysts. The U.S. delegation included representatives of the Arizona Attorney General's Office, ATF, CBP, DEA, the Defense Attach's Office, DOJ, ICE, FBI, ONDCP, the Phoenix Police Department, ONDCP and NAS. The DOJ representatives included prosecutors from Arizona, California, Colorado, New Mexico, Texas, Utah and the DOJ Criminal Division. All of the U.S. representatives invited to the conference participate in firearms trafficking interdiction and/or prosecution that includes operational or programmatic functions.

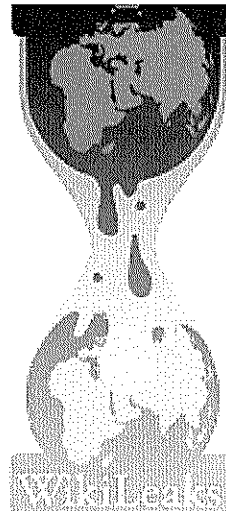
Seeing is Understanding

3. (SBU) The conference was tailored to requests by the Mexican side. Off-site tours included a firearm licensee establishment, a gun show, the Phoenix Police department, and the ATF headquarters and firing range. These off-site tours highlighted vendor security and compliance, forensic processing of actual cases, and maintenance of firearm forensic evidence. In their classroom sessions, participants learned how U.S. officials detect and track straw purchasers of firearms (individuals who purchase multiple weapons for others or willingly allow their identity to be used by others to purchase firearms) using databases and E-trace (a program designed to trace weapons sales to the last vendor) to support investigations. PGR requested additional E-trace accounts to facilitate future tracing efforts, and ATF immediately granted five accounts.

4. (SBU) The conference also pinpointed several follow-up issues for the bilateral arms trafficking implementation group (GC Armas). Vetted units, such as the ICE BEST (Border Enforcement Security Task-force) unit, assume a key role in the investigation of information on arms movements between the two sides. Both sides agree on the need to establish guidelines for strengthening these vetted units. In addition, the U.S. and Mexican representatives discussed the creation of an inter-institutional group dedicated to firearm inspection and database information mining. This matter will require follow-up as GC Armas seeks to enhance the collection and utilization of intelligence from existing cases as well as current arms seizure forensics in order to connect the dots on trafficking patterns and traffickers.

Can We All Just Share More?

5. (SBU) Conference participants agreed that effective



prosecutions in each country rely on consistent data from firearm seizures on both sides of the border. At the very least, they need the following firearm data: (1) serial number (including obliteration information), (2) make and model, (3) importer information found on the weapon, (4) date of seizure, (5) location of seizure, (6) nature and circumstances of the seizure, (7) finder, seizing official, and forensic processor of the firearm, (8) caliber and action, (9) photograph and criminal history of individuals arrested, and (10) point of contacts for locating seized weapon.

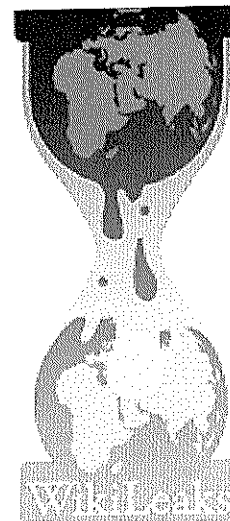
6. (SBU) The two sides then need to share more information with each other. Septel will discuss the GOM desire to create a single database of all seized firearms -- which may

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or may not be a realizable objective. In the meantime, though, the GOM and USG agreed to explore the potential for sharing existing databases, with the USG on the hook to explore its international protocols in order to allow PGR CENAPI (the investigative branch of the Mexican Attorney General) greater access to E-trace. Once the sides embrace a structure and guidelines for sharing information, each country will need to develop a consistent statistical method for measuring fruitful investigations and successful prosecutions. Such statistics will lend themselves to tracking trends, developing targets for in-bound and outbound port interdiction, creating "lookouts" in targeting systems, and focusing attention on arms trafficking danger spots in each country.

7. (SBU) The complexity of U.S. laws, in particular, the differences between individual states and U.S. federal law, is a source of immense confusion to Mexican Officials. Both countries pledged to share translations of federal firearms laws with an aim to foster greater GOM appreciation for the kind of information required for bilateral case development and the strict rules that U.S. law enforcement faces in the apprehension and prosecution of offenders. Inasmuch as laws dictate the forensic requirements needed for crime scene management and evidence handling, each country will develop training programs tailored to established guidelines.

8. (SBU) USG representatives agreed to explore creative prosecution strategies to attack firearms trafficking, including possible reliance on statutes involving conspiracy to distribute and possession with intent to distribute, and RICO (Racketeering Influenced Corrupt Institutions). The U.S. conveyed its readiness to train prosecutors on both sides of the border on using these possible tools more effectively. In addition, the U.S. side said that it would explore expanding the use of Article IV of the U.S. and



Mexico Extradition Treaty, which allows the extradition of Mexican nationals from the U.S. to Mexico to be prosecuted for trafficking weapons that fall into the hands of organized criminals in Mexico.

9. (SBU) Comment: The Phoenix Bilateral Arms Trafficking Conference opened the eyes of participants to the immense amount of work that needs to occur on both sides of the border to abate the flow of illegal weapons across the border. The Mexicans acquired a better appreciation of the challenges facing U.S. law enforcement in the investigation and prosecution of individuals or entities involved in firearm crimes. The USG pledged to provide Mexican officials with training, as appropriate, to facilitate compliance with U.S. legal requirements. Meanwhile, both sides agreed on the need for greater information sharing on arms trafficked and seized. Each side will need to continue to engage aggressively on the issues raised at this conference as well as the programs identified in the GC Armas sub-working groups in order to demonstrate adequate progress in the run-up to the Tapachula Arms Conference scheduled for the end of October. End Comment

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A handwritten signature in black ink is located on the right side of the page, below the URL. The signature is stylized and appears to be the name 'J. J.' followed by a flourish.

PASCUAL