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January 30, 2012

Dear Members of the Committee on Oversight and Government Reform:

On December 15, 2010, Brian Terry, an Agent in an elite Customs and Border Protection tactical unit, was killed in a gunfight 18 miles from the Mexican border. Two AK-47 variant assault rifles found at the scene were traced back to purchases by one of the targets of an investigation called Operation Fast and Furious being conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). When he purchased these weapons, the target had already been identified as a suspected straw purchaser involved with a large network of firearms traffickers illegally smuggling guns to deadly Mexican drug cartels. Despite knowing about hundreds of similar purchases over a year-long period, ATF interdicted only a small number of firearms and delayed making arrests.

Last June, I pledged to Agent Terry's family that I would try to find out what led to this operation that allowed hundreds of firearms to be released into communities on both sides of the border. Following the Committee's year-long investigation of this matter, I directed my staff to compile this report to provide some of those answers. I instructed them to focus on the facts we have discovered rather than the heated and sometimes inaccurate rhetoric that has characterized much of this investigation.

As a result, this report tells the story of how misguided gunwalking operations originated in 2006 as ATF's Phoenix Field Division devised a strategy to forgo prosecutions against low-level straw purchasers while they attempted to build bigger charges against higher-level cartel members. Unfortunately, this strategy failed to include sufficient operational controls to stop these dangerous weapons from getting into the hands of violent criminals, creating a danger to public safety on both sides of the border.

The report describes how, rather than halting this operation after its flaws became evident, ATF's Phoenix Field Division launched several similarly reckless operations over the course of several years, also with tragic results. Operation Fast and Furious was the fourth in a series of operations in which gunwalking—the non-interdiction of illegally purchased firearms that could and should be seized by law enforcement—occurred since 2006.

This report also details complaints by ATF line agents and senior officials in Washington, who told the Committee that these failures were aggravated and compounded by the Arizona

U.S. Attorney's Office, which failed to aggressively prosecute firearms trafficking cases, and Federal courts in Arizona, which showed leniency toward the trafficking networks that fuel armed violence in Mexico.

This report debunks many unsubstantiated conspiracy theories. Contrary to repeated claims by some, the Committee has obtained no evidence that Operation Fast and Furious was a politically-motivated operation conceived and directed by high-level Obama Administration political appointees at the Department of Justice. The documents obtained and interviews conducted by the Committee indicate that it was the latest in a series of reckless and fatally flawed operations run by ATF's Phoenix Field Division during both the previous and current administrations.

Although this report provides a great amount of detail about what we have learned to date, it has several shortcomings. Despite requests from me and others, the Committee never held a hearing or even conducted an interview with former Attorney General Michael Mukasey. The Committee obtained documents indicating that in 2007 he was personally informed about the failure of previous law enforcement operations involving the illegal smuggling of weapons into Mexico, and that he received a proposal to expand these operations. Since the Committee failed to speak with Mr. Mukasey, we do not have the benefit of his input about why these operations were allowed to continue after he was given this information.

The Committee also rejected my request to hold a public hearing with Kenneth Melson, the former Acting Director of ATF, the agency primarily responsible for these operations. Although Committee staff conducted an interview with Mr. Melson, the public has not had an opportunity to hear his explanations for why these operations continued for so many years without adequate oversight from ATF headquarters.

As its title indicates, the Committee on Oversight and Government Reform has two primary missions. Not only are we charged with conducting oversight of programs to root out waste, fraud, and abuse, but we are also responsible for reforming these programs to ensure that government works more effectively and efficiently for the American people. For these reasons, this report sets forth constructive recommendations intended to address specific problems identified during the course of this investigation.

Above all, in offering this report and these recommendations, I recognize and commend the contributions of hundreds of thousands of law enforcement agents across our government who risk their lives on a daily basis in the pursuit of public safety and in defense of this nation.

Sincerely,


Elijah E. Cummings
Ranking Member