

**Statement of William Newell, former Special Agent in Charge
Phoenix Field Division
Bureau of Alcohol, Tobacco, Firearms and Explosives
Before the United States House of Representatives
Committee on Oversight and Government Reform
July 26, 2011**

Chairman Issa, Representative Cummings and distinguished Members of the Committee, I am William Newell of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). As the former Special Agent in Charge (SAC) of the Bureau's Phoenix field division from June of 2006 to May of this year, I oversaw ATF operations in the States of Arizona and New Mexico, which includes 552 miles of the U.S.-Mexico border. I appear before you today to discuss ATF's Operation "Fast and Furious," an ongoing and active OCADETF Strike Force investigation of a large scale firearms trafficking organization.

For the past twenty-three years I have fully dedicated myself to confronting violent crime especially firearms related violent crime along the Southwest Border. Having served fifteen of these years along the Southwest Border combating firearms trafficking I am keenly aware that this violence, fueled largely by Mexico's drug cartels, poses a serious challenge for U.S. and Mexican law enforcement and threatens the safety of innocent citizens and law enforcement personnel on both sides of the border.

At the conclusion of every investigation of this magnitude a thorough review is appropriate in order to determine whether changes in tactics and strategy are in order. With that in mind I recognize that in this case and future large scale investigations it is imperative that there exists an effective flow of information between the field and headquarters elements to ensure that critical investigative information is being shared

timely. Second, in retrospect, in a case of this magnitude it was incumbent upon me to communicate a greater sense of urgency to my staff and the U.S. Attorney's Office as to the need for the return of expeditious charges. Finally, I now recognize that in these types of investigations more frequent risk assessments would be prudent.

Firearms trafficking investigations are not always easy to conduct for a variety of reasons including the lack of a Federal statute that specifically prohibits firearms trafficking related activity;¹ the fact that firearms unless altered in some way are not, in and of themselves, contraband; the lack of adequate punishment for "straw" purchasers thus impacting our ability to identify the leadership of the criminal organization; and the limited resources at our disposal. These types of investigations are made even more challenging when none of the individuals in the firearms trafficking chain are presumptively prohibited by law of possessing firearms. Consequently, in order to identify and investigate the responsible higher-level individuals, agents must use a wide variety of investigative techniques; this can take time and considerable effort. What we know now about the complexity of the firearms trafficking organization in the "Fast and Furious" investigation is much different than what our agents knew when they began this case in November of 2009. Throughout this case conscientious and dedicated agents pursued numerous leads in order to determine who the decision makers of this organization were in an effort to get beyond the "straw" purchasers and thus potentially disrupt and dismantle the entire organization. Through experience we have learned that the arrest and prosecution of "straw" purchasers alone does little to frustrate the capacity

^{1/} In reporting on "Gun Trafficking and the Southwest Border" to Congress, the Congressional Research Service specifically identified the lack of a federal firearms trafficking statute as hampering prosecution of "wider criminal conspiracies [that are] often involved in gun trafficking schemes that include multiple straw purchasers." CRS Report for Congress, July 29, 2009.

of the Mexican cartels to continuously obtain firearms as new straw purchasers are easily recruited to replace those arrested and continue the cycle of purchasing firearms.^{2/} Finally, our conduct of this investigation, as with any large scale OCDETF investigation, was coordinated with ATF Supervisors at Headquarters in Washington, D.C. and with federal firearms prosecutors at the Phoenix United States Attorney's Office.

In October 2009 the Department of Justice proposed a Southwest Border strategy to combat Mexican Cartels, which was finalized in January of 2010, and which outlined successful strategies related to the identification, disruption, and dismantlement of Mexican cartels through comprehensive, multi-agency criminal enforcement operations with an emphasis on impacting the leadership and command structure of such organizations in order to have a substantial and sustained impact.^{3/} The DOJ Strategy recognized the ineffectiveness of merely interdicting weapons absent identifying and eliminating the sources and networks responsible for transporting them^{4/}. It was this guidance in mind that Operation "Fast and Furious" originated.^{5/}

To be clear, "Fast and Furious" was an OCDETF operation designed: (1) to identify the purchasers, financiers, transporters and decision makers in a Mexican Cartel based firearms trafficking organization; (2) to interdict, when lawfully possible, firearms presumptively destined for Mexico; (3) to share, when appropriate, relevant information

^{2/} See ATF Memorandum: *Project Gunrunner, A Cartel Focused Strategy, September 2010* at pp. 11-12.

^{3/} DOJ Strategy for Combating Mexican Cartels (January 7, 2010).

^{4/} In a section entitled "Attacking the Southbound Flow of Firearm" the DOJ Strategy emphasizes that "merely seizing firearms through interdiction will not stop firearms trafficking to Mexico. We must identify, investigate, and eliminate the sources of illegally trafficked firearms and the networks that transport them". It further states that "OCDETF co-located Strike Forces, ensure[] that scant ATF resources are directed at the most important targets".

^{5/} This DOJ and ATF Strategies were not the exclusive strategies relied upon in the conduct of this investigation. For example, in June of 2009 the Office of National Drug Policy also issued a *National Southwest Border Counternarcotics Strategy* which strongly supported the effectiveness of building firearms cases against the criminal organizations in order to bring their leaders to justice.

with U.S. and Mexican law enforcement authorities; (4) to develop intelligence on other firearms trafficking organizations; and (5) to charge, arrest and dismantle the entire organization. In this regard, there are some key points I would like to make. One, it was not the purpose of the investigation to permit the transportation of firearms into Mexico and to the best of my knowledge none of the suspects in this case was ever witnessed by our agents crossing the border with firearms. Two, our agents, in compliance with ATF policy, were engaged in a strategic effort to determine who the decision makers and actual purchasers of the firearms were in order to disrupt the entire criminal organization. The effectiveness of this strategy has been recognized by the Department of Justice Office of Inspector General in their review of Project Gunrunner.^{6/} Three, we attempted to be innovative in tracking and seizing firearms purchased by the suspected “straw” buyers. Four, when appropriate, during the investigation we made reasonable efforts to share and coordinate relevant investigative details with our Mexican law enforcement counterparts.^{7/} Again, the DOJ OIG Report specifically identified the Border Liaison Program as a “key element of Project Gunrunner’s information sharing strategy” and recognized the Phoenix Field Division as unique in having effective guidelines.^{8/}

I would also like to further detail our unique efforts to cooperate with Mexico in this investigation which I understand to be the focus of this hearing. During my five years as Phoenix SAC I focused much of my efforts on establishing a much closer working relationship with my U.S. and Mexican law enforcement peers in order to address this

^{6/} See November 2010, DOJ OIG Review of Project Gunrunner, Parts I and III; *see also* DOJ OIG Report at p. 53. It should be noted that the report specifically acknowledges the Phoenix Field Division’s effective use of the OCDETF Program. *See* p. 57.

^{7/} On March 2, 2011 I received a Certificate of Appreciation from the Mexican Consular General in Phoenix in recognition of my cooperation and assistance in stemming the flow of firearms into Mexico.

^{8/} *See* OIG Report at pp. 48-50.

very serious issue. This included but is not limited to hosting in Phoenix several joint U.S./Mexico law enforcement meetings and training sessions, the assignment of a Mexican PGR liaison representative in the field division, conducting countless training sessions for our U.S. local, State, Tribal and Federal partners, and attendance at numerous bi-lateral meetings with our U.S. and Mexican State and Federal peers to advance a more effective joint working relationship. During this time I was also asked by my superiors to represent ATF at numerous high-level meetings in both the U.S. and Mexico on our efforts to combat firearms trafficking as well as steps that could be taken to work more effectively toward this common goal. My efforts over these past several years to forge more effective working relationships with my U.S. and Mexican peers to combat firearms trafficking is not only based on a professional desire to do so but also a very personal one. Born and raised in Latin America as well as married into a Mexican-American family for the past fifteen years, I have a deep personal interest in seeing that we in ATF do everything possible to assist Mexico with their continuing struggle to combat the drug cartels that plague their great nation. That is why I volunteered for and was selected for the assignment in Mexico as the Country Attaché.

From the beginning of this investigation in late 2009 to the first indictments in January of 2011 I made every reasonable effort to keep the Phoenix PGR representative and my ATF colleagues in Mexico briefed on this investigation. I am also aware of numerous discussions throughout this investigation between the agents working this case with their ATF peers in Mexico, dialogue which I encouraged. In addition, and in conjunction with our Mexico Country Office, I extended an invitation for Mexican Federal prosecutors to participate in briefings in order to provide them with essential

facts of the case. I was determined that if and when we ever identified the key decision makers of the criminal organization, most likely cartel members in Mexico, that we would be fully supportive of providing this information to our Mexican counterparts in order for them to pursue criminal charges there.

Finally, throughout my past twenty-three years in law enforcement I have lost some very good friends to firearms related violent crime. I have witnessed first-hand the grief and despair suffered by families who have lost loved ones in the law enforcement profession. That is why I take very seriously my responsibility and have dedicated myself to doing everything within my authority to confront and curtail those criminal organizations that would seek to do harm to my peers and innocent civilians. I did not discard that responsibility in the conduct of this investigation. The death of Border Patrol Agent Brian Terry is one I will mourn for the rest of my life, as I do for all those brave heroes who have taken up the badge to serve and protect and then made the ultimate sacrifice. I express my deepest condolences to the Terry family and may our Heavenly Father bless him and the Terry family through these very difficult times.

Distinguished Members, I now stand ready to answer your questions. Thank you for the opportunity to make this opening statement.



**U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives**

**William D. Newell
Country Attaché for Mexico
Bureau of Alcohol, Tobacco, Firearms and Explosives**



William D. Newell was appointed to his current position of Country Attaché for Mexico on May 8, 2011. Prior to this he served as the Phoenix Field Division Special Agent in Charge for five years. As Special Agent in Charge, he had operational oversight responsibilities for all ATF activities, both criminal and regulatory, in the states of Arizona and New Mexico.

Mr. Newell began his law enforcement career in El Paso, Texas, as a special agent with the INS. In 1989, he became a special agent with ATF and was assigned to the McAllen, Texas Field Office. While there he was the case agent for numerous large-scale firearms trafficking cases involving firearms being illegally trafficked into Mexico and other areas of Central and South America. Over the course of his career, Mr. Newell has held several positions in which he was responsible for oversight of ATF's international and domestic firearms and explosives trafficking jurisdiction. These included a four-year tour as the ATF Attaché in Bogotá, Colombia, during which he was responsible for all firearms and explosives trafficking issues in the region and represented ATF at numerous international conventions on the subject. He traveled throughout the region addressing firearms and explosives trafficking concerns of countries such as Colombia, Brazil, Argentina, Peru, Panama, Bolivia, Venezuela, and Paraguay. Following his foreign service, he was assigned as Supervisory Special Agent of the Firearms Trafficking and Violent Crime Task Force in Miami, Florida. Mr. Newell was then assigned to ATF headquarters, serving as the Chief, Major Case Branch; Chief of Staff to the Assistant Director; and Chief, International Programs Branch. As Chief of International Programs he dealt with all of ATF's international issues, but particularly firearms trafficking issues to countries such as Mexico, Colombia and Canada. Prior to his present appointment, Mr. Newell was the Assistant Special Agent in Charge of the Dallas Field Division for three and a half years. As the Special Agent in Charge of the Phoenix Field Division Mr. Newell was involved in the initial implementation of Project Gunrunner, a comprehensive ATF response to the increased violence along the Southwest Border. This includes being designated as ATF SWB SAC representing ATF at high-level meetings between the U.S. and Mexico regarding firearms and explosives trafficking issues. He has traveled to Mexico on numerous occasions to brief U.S. and Mexican officials on ATF efforts and successes in combating firearms trafficking to Mexico as well as the increasing use by Mexican DTOs of military grade and improvised grenades and other ordnance.