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June 14, 2012

VIA ELECTRONIC TRANSMISSION

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Holder:

Tuesday, in response to Senator Cornyn's call for your resignation, you responded, in part, with the following statement:

If you want to talk about Fast and Furious, I'm the Attorney General that put an end to the misguided tactics that were used in Fast and Furious. An Attorney General who I suppose you would hold in higher regard was briefed on these kinds of tactics in an operation called Wide Receiver and did nothing to stop them – nothing. Three hundred guns, at least, walked in that instance.

This is a serious charge. However, as far as I'm aware, the Justice Department has produced nothing to date that indicates any former Attorney General was briefed on Operation Wide Receiver.

I am aware that the Justice Department produced a memorandum to Attorney General Mukasey in preparation for a November 16, 2007, meeting with Mexican Attorney General Medina Mora.¹ At no point does this memo mention Operation Wide Receiver, in which over 300 guns were allowed to walk to Mexico. Instead, the memo appears to refer to a case called Hernandez, which involved a planned controlled delivery – not intentional gunwalking.

¹ Memo to the Attorney General, "Meeting of the Attorney General with Mexican Attorney General Medina Mora" (Nov. 16, 2007) [HOCR HRNDZ 003240].

Documents the Justice Department has produced *have* indicated that the gunwalking in Operation Wide Receiver was brought to the attention of Assistant Attorney General Lanny Breuer in April 2010 by his deputy, Jason Weinstein. Breuer's response, according to a contemporaneous e-mail from Criminal Division Gang Unit Chief James Trusty, was simply that he "want[ed] us to meet with [ATF] at some point so they know *the bad stuff that could come out.*"² Weinstein subsequently indicated to ATF Deputy Director William Hoover: "The reason we wanted to meet with you before charging is that the case has [two] aspects that could create media challenges and we wanted to talk through them first."³ I have called for Breuer's resignation in part because, the evidence so far shows that he is the highest-ranking government official who was personally informed about gunwalking in any case, and he did nothing to put a stop to it.

If the Justice Department has documentation about Operation Wide Receiver which it has not yet produced and which indicate a higher level of awareness of gunwalking than has previously been indicated, such evidence should be produced immediately. Given the gravity of these allegations, I would appreciate a response by Monday, June 18, 2012. If you have any questions concerning this matter, please contact Tristan Leavitt of my staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member

² E-mail from James Trusty, Acting Chief, Gang Unit, Criminal Division, DOJ, to Kevin Carwile, Chief, Capital Case Unit, Criminal Division, DOJ (Apr. 19, 2010) [HOCR 003451] (emphasis added).

³ E-mail from Jason Weinstein, Deputy Assistant Attorney General, Criminal Division, DOJ, to William Hoover, Deputy Director, ATF (Apr. 20, 2010) [HOCR 003452].



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 18, 2012

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 letter dated June 14, 2012, in which you asked about Attorney General Holder's recent testimony that a previous Attorney General had been briefed on misguided operational tactics and taken no action in response. Attorney General Holder's testimony referred to a briefing paper prepared for Attorney General Mukasey in advance of a November 16, 2007, meeting with the Mexican Attorney General. That briefing paper notes that "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" and that "the first attempts at this controlled delivery have not been successful." It further states that "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." (HOCR HRNDZ 003240).

As we explained in a letter to Chairman Issa on March 16, 2012, and as you note, this briefing paper concerned the case of Fidel Hernandez, not Wide Receiver as the Attorney General inadvertently stated at the hearing. Other documents produced by the Department indicated that in the Hernandez case, ATF agents observed Hernandez's vehicle cross the border on September 27, 2007 but "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." (HOCR DOJ 006348). ATF reported that it could "still pursue U.S. prosecution if necessary (the targets returned [sic] to the U.S. within 90 minutes of the crossing)." (HOCR DOJ 006347). These documents also reflect that on October 4, 2007 "ATF agents attempted to coordinate with Mexican authorities through ATF attache's [sic] to apprehend the suspects [including Hernandez] in Mexico. The attempts were unsuccessful. Case agents believe the subjects are continuing to traffick [sic] firearms to Mexico." (HOCR DOJ 006397, HOCR DOJ 006444, HOCR DOJ 6405, and HOCR DOJ 006411).

As Attorney General Holder also noted in his testimony, and as we have set forth in prior correspondence and testimony, he took measures and instituted a series of important reforms designed to ensure that the inappropriate tactics used in Fast and Furious, Wide Receiver, Hernandez, and other matters about which the Department has informed Congress are not repeated. These measures include asking the Department's Acting Inspector General to open an investigation in response to the allegations regarding inappropriate tactics in Fast and Furious,

The Honorable Charles E. Grassley

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directing the Deputy Attorney General to make clear to Department personnel that such inappropriate tactics should not be utilized, and replacing the leadership at both ATF and the Arizona U.S. Attorney's Office.

We hope this information is helpful. Please do not hesitate to contact this office if we may be of additional assistance in this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Judith C. Appelbaum", followed by a horizontal line extending to the right.

Judith C. Appelbaum
Acting Assistant Attorney General

cc: The Honorable Patrick J. Leahy
Chairman