

## Axelrod, Matthew (ODAG)

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**From:** Schmalzer, Tracy (SMO)  
**Sent:** Thursday, April 14, 2011 3:44 PM  
**To:** Grindler, Gary (OAG); Axelrod, Matthew (ODAG); Wilkinson, Monty (OAG); Goldberg, Stuart (ODAG); Delery, Stuart F. (OAG)  
**Subject:** Grassley Floor Remarks

Note his reference to holding noms if he's not satisfied with our responses.

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**From:**  
Ranking Member Grassley (Judiciary-Rep) <RankingMemberGrassley@judiciary-rep.senate.gov>Date:  
Thu, Apr 14, 2011 at 2:06 PM  
**Subject:** Time for Justice Dept., ATF to come clean  
**To:** "Ranking Member Grassley (Judiciary-Rep)" <RankingMemberGrassley@judiciary-rep.senate.gov>  
Floor Statement of Senator Chuck Grassley

Justice Department and ATF need to come clean

Thursday, April 14, 2011

Since January, I have been investigating allegations from whistleblowers at the Bureau of Alcohol, Tobacco and Firearms. The allegations that I had received are shocking, but sadly they appear to be true. And, praise the Lord for whistleblowers in this government, because we don't know where the skeletons are buried, and they help us to do our constitutional role of oversight checks and balances of government.

The ATF is supposed to stop criminals from trafficking guns to Mexican drug cartels, was actually making that trafficking of arms easier for them. That would be bad enough if it happened because of incompetence or turf battles, but it looks like the agency was doing this on purpose.

The government actually encouraged gun dealers to sell multiple firearms to known and suspected traffickers. Two of those guns ended up at the scene of a murder of U.S. Border Patrol agent in Arizona.

His name was Brian Terry, and his family deserves answers from their very own government.

I have been fighting for those answers. I have written eight letters to the justice Department. I have asked for documents. I've asked that specific questions be answered. At

first, the Justice Department simply denied the charges. Then one of the whistleblowers went on television. He risked his career to tell the truth on "CBS Evening News."

He had a sense of duty to Agent Terry's family, and in turn to the entire population of this great country. He could not believe that his own government refused to come clean and to tell the truth when questioned by this United States Senator.

And so he went public to set the record straight. Other whistleblowers confirmed what this other whistleblower had said. In fact, I received internal government documents that confirmed what he said. Anonymous patriots tried to ensure that the truth would come out.

That's about the only crime that whistleblowers commit - committing truth. Isn't that sad?

I forwarded many of those documents that I've received clandestinely to Attorney General Holder and Acting Director Melson, and I asked them how to square the denials from that department with the evidence that I have received both orally and on paper.

At Attorney General Holder's confirmation hearing, now two years ago, I told him, and I quote myself, "I expect that you will be responsive to my oversight work and that my questions and document requests will be taken seriously. I hope that I have your assurance that if you are confirmed, you will assist me with oversight activities, be responsive to my requests and help me make the Justice Department accountable."

The Attorney General, who was a nominee at that time responded, and I quote -- this is before his confirmation - "I will try to do all that I can to make sure that we respond fully and in a timely fashion to the very legitimate questions that I know that you have propounded to the department."

Now, ironically, I have provided more internal documents to the Justice Department in this investigation than the Justice Department has provided to me. Now, instead of issuing denials, do you know what happens?

It happens all the time when you're doing oversight work, with almost any agency, but in this case, the Justice Department has circled the wagons. They have clammed up. The President of the United States admitted on Spanish language television that "certain mistakes" may have been made here in this instance of this investigation.

He and Attorney General Holder say that they didn't authorize a policy change that allowed criminals to walk away with guns, but there was a change in policy that went tragically wrong.

The prophecy of a lot of whistleblowers turned out to be fact, sadly. So Congress needs to find out what did the highest senior officials know and when did they know it?

The purpose of the policy change was to go after leaders high up in the chain of command and bring down a drug cartel. Nobody can find fault with that, but prosecutors didn't want to just go after criminals that just lie on federal forums to buy guns to go after trafficking. They wanted to go after the really big fish.

The problem is this: they let so many little fish keep operating that between 1,300 and 1,700 guns got away, and that's just in this one case in Arizona that I can document. Hundreds of these guns have in turn turned up in crimes on both sides of the border, some in Mexico, some in the United States.

Federal agents often have to walk a fine line in trying to catch the bad guy. They sometimes have to allow a crime to progress to make sure that everyone involved in the conspiracy gets caught. I understand that, and that can be legitimate, but you've got to look at it this way. It's a very serious business. It's quite a gamble, you might say. There have to be careful controls in an operation like I just described.

Law enforcement should not cross the line into actually assisting criminals just for the simple process of gathering information. Operations should be carefully focused on stopping crime without risking public safety.

Seizing contraband and making arrests are the most important goals. Big headline-grabbing cases to advance some prosecutor's career should take a back seat in any of these gambles.

Yesterday, I sent a letter to Attorney General Holder with some more documents. So I'm sending the department documents that I'd like to have them send me. These are documents that maybe the Attorney General himself didn't know about. They're emails between a federally licensed firearms dealer and the supervisor in this Arizona case known as Fast and Furious. In one email, the dealer raises for a third time now his concerns about how the case is being handled. This time he was prompted by a story on Fox News about the growing firearms problem on our border with Mexico.

The dealer wrote "the segment...is disturbing to me...I shared my concerns with you guys that I wanted to make sure that none of the firearms that were sold per our conversation with you and various ATF agents could or would ever end up south of the border and in the hands of the

bad guys...I want to help ATF with its investigation, but not at the risk of agents' safety because I have some very close friends that are U.S. border patrol agents in southern Arizona."

Now, maybe one of those friends, for all I know, is Agent Terry, and he got murdered -- or at least we think he got murdered with one of these guns. These guns were at the scene, at least.

That email that I just quoted was sent to the supervisor of the case six months before guns from that case were found at the scene of Border Patrol Agent Brian Terry's murder.

The government put these firearms dealers in a completely unfair position, and let me explain that. On the one hand, these gun dealers rely upon the Bureau of Alcohol, Tobacco and Firearms for their license to even be able to be in business. So, of course, these agents (Federal Firearms Licensees) want to cooperate with the government. When you have got this big club hanging over your head, will you be licensed or not licensed.

On the other hand, the government asks these gun dealers to keep selling to the bad guys even after the dealers warned that it might end in tragedy.

Now, I'm going to do whatever it takes to get to the bottom of this. The House Oversight Committee has joined in my effort and issued a subpoena for documents. Because it might duplicate the process in the House, I have not sought any subpoenas or hearings in the Senate Judiciary Committee - yet. I have not exercised my right to object to any unanimous consent requests on nominations because of this issue - yet.

However, I want my colleagues and officials at the Justice Department to hear this loud and clear. If that's what it takes, then I will take those actions.

I hope it doesn't have to come to that. I hope that the Justice Department will decide to cooperate and provide the information we need, doing our constitutional responsibility of oversight to make sure the checks and balances of the system of government under our constitution is working.

It's been nearly three months since I first raised this issue. It's past time for the Justice Department to come clean.