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CC: Burton, Faith (SMO); Gaston, Molly (SMO); Thiemann, Robyn (OLP); Gross, Charles R. (SMO); Pings, Anne (USAEO); Gonzales, Mary (OLA); **ATF**; Beers, Elizabeth R. (FBI); Kennedy, Joseph R. (ATF); Hickson, Ernest E. (ATF); Lurie, Adam (CRM)
Sent: 2/9/2011 2:32:12 PM
Subject: DOJ Denies Claim About Guns Used In Border Shootout

Grassley staffer mentions that documents have been provided with the whistleblower allegations.

DOJ Denies Claim About Guns Used In Border Shootout.

AP NewsBreak: DOJ denies border shootout claim

(AP) – 18 hours ago

PHOENIX (AP) — The U.S. Justice Department denied a claim made to lawmakers that two guns sold in purchases sanctioned by federal firearms agents were later used in a shootout that left a Border Patrol agent dead near the Arizona-Mexico border.

Assistant U.S. Attorney General Ronald Weich said in a letter obtained Tuesday by The Associated Press that the claim that agents with the Bureau of Alcohol, Tobacco, Firearms and Explosives sanctioned or knowingly allowed the sale of assault weapons to straw buyers who then brought them to Mexico is false. Such a claim was made about guns used by bandits in the Dec. 14 fatal shooting of Border Patrol agent Brian A. Terry.

"ATF makes every effort to interdict weapons that have been purchased illegally and prevent their transportation to Mexico," Weich said in a letter to U.S. Sen. Charles Grassley of Iowa.

Grassley, who was examining the claim received by his fellow Senate Judiciary Committee members, had previously said that he received information that appeared to partially corroborate the claim.

Grassley spokeswoman Beth Pellett Levine said the Justice Department denied one aspect of allegations presented by whistleblowers and promised to give the senator a briefing. "However, the briefing has still not occurred, and documents provided with the allegations are not consistent with that denial," she said. "There are many specific questions that need to be answered in full by the Justice Department as soon as possible."

Terry was waiting with other agents near the Arizona border city of Nogales when a shootout with bandits erupted. Terry, who was the only person killed in the attack, was part of an elite squad similar to a police SWAT team that was sent to the canyon 13 miles north of the border known for robberies, drug smuggling and violence. No other agents were injured.

Grassley had told the Justice Department in an earlier letter that a buyer purchased three assault rifles with cash more than a year ago in the Phoenix suburb of Glendale, and two of those guns were used in the shootout that took Terry's life. His letter didn't elaborate on the possible role of federal agents in the sale of the guns, and it couldn't be determined if the purchases were part of a sting operation.

ATF spokesman **ATF** declined to comment. Calls to the FBI office in Phoenix, which is investigating Terry's death, also weren't immediately returned Tuesday afternoon.

Grassley had previously said an ATF manager in Phoenix questioned an agent who answered questions posed by Grassley staffers about the agency's initiative to reduce the flow of firearms to Mexico — and that the manager accused the agent of misconduct for his contacts with the Judiciary Committee.

Weich said ATF made no attempt to retaliate against one of its agents and asked that the committee staffers not try to contact agents about the probe into Terry's death in an effort to protect investigators from inappropriate political influence.

Weich said the Justice Department will give Grassley a briefing about ATF's initiative to reduce the flow of firearms to Mexico, but won't address pending investigations.

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ABC News (2/9, Dwyer) reports, "Whistleblowers at the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) made the allegations last month, sparking a congressional investigation of the incident and renewed scrutiny of the government programs meant to curtail the sale of hundreds of weapons to so-called straw purchasers. 'There are serious concerns that the ATF may have become careless, if not negligent, in implementing the [Project] Gunrunner strategy,'" Grassley "wrote in a letter to acting ATF Director Kenneth Melson of the agency's initiative to curtail illegal firearm trafficking."

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