

**From:** Weinstein, Jason  
**To:** Gonzales, Mary (OLA) (SMO); Burton, Faith (SMO)  
**Sent:** 2/15/2011 2:52:18 PM  
**Subject:** RE: fyi: Sen. Grassley probes border agent slaying--Seeks answers about firearms smugglers were allowed to buy

DP

**From:** Gonzales, Mary (OLA) [mailto:Mary.Gonzales2@usdoj.gov]  
**Sent:** Tuesday, February 15, 2011 9:50 AM  
**To:** Burton, Faith (SMO); Gaston, Molly (SMO); Johnston, Deborah A. (ODAG); Smith, Brad (ODAG); Moran, Molly (OAG); Wilkinson, Monty (OAG); Scott-Finan, Nancy (SMO)  
**Cc:** Weich, Ron (SMO); Agrast, Mark D. (SMO); Weinstein, Jason; **ATF** (ATF); Gonzales, Mary (OLA); Aguilar, Rita C. (SMO)  
**Subject:** fyi: Sen. Grassley probes border agent slaying--Seeks answers about firearms smugglers were allowed to buy

The article tracks Senator Grassley's Feb. 9 letter to DOJ.

## Sen. Grassley probes border agent slaying

### Seeks answers about firearms smugglers were allowed to buy

By Jerry Seper

-The Washington Times

8:02 p.m., Monday, February 14, 2011

<< OLE Object: Picture (Device Independent Bitmap) >> U.S. Border Patrol agent Brian A. Terry was fatally shot north of the Arizona-Mexico border while trying to catch bandits who target illegal immigrants. (Associated Press)

The ranking Republican on the Senate Judiciary Committee wants Attorney General Eric H. Holder Jr. to explain why Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) agents allowed suspected gun smugglers to purchase and keep assault rifles that later may have been used in the fatal shooting of a U.S. Border Patrol agent.

In a letter, Sen. Charles E. Grassley of Iowa said ATF agents told his staff the agency allowed the sale to "known and suspected straw purchasers for an illegal trafficking ring near the Southwest border" and two of those weapons reportedly were recovered at the site of the Dec. 14 shootout that killed Border Patrol agent Brian A. Terry.

Terry, 40, was attempting to arrest bandits who prey on illegal immigrants when he was killed about 10 miles north of the U.S.-Mexico border. A member of the Border Patrol's elite Search Trauma and Rescue (BORSTAR) team, he was waiting with three other agents in a remote area north of Nogales, Ariz., when the gunbattle erupted. No other agent was injured.

Jaime Avila was arrested in the case a day after the shooting.

Mr. Grassley said the ATF had been tracking Avila's firearms purchases since November 2009 and while at least one

Arizona gun dealer wanted to stop participating in sales "like those to Avila," the ATF encouraged the dealer to continue selling to suspected traffickers and asked the dealer to forward information about the sales to the ATF.

He said the dealer who sold the weapons believed recovered at the scene of Terry's death met with both the ATF and federal prosecutors in December 2009 to "discuss his role as a FFL (federal firearms licensee) during this investigation."

Mr. Grassley noted that Avila bought three more weapons at the same Glendale, Ariz., gun dealer on Jan. 9, 2010, which were entered into an ATF database two days later. By Jan. 13, he said, Avila had been added by the agency to a suspected person database. He said Avila bought three AK-47 assault rifles on Jan. 16 and that over the next several months, ATF continued to track his multiple firearms purchases, including two purchases of .50-caliber rifles in June 2010.

After the fatal shooting of Terry, law enforcement officials recovered from the scene two assault rifles that were traced by ATF and matched two of the three rifles purchased by Avila "and tracked by ATF nearly a year earlier."

Mr. Grassley noted that in addition to the assault rifles, the Avila indictment refers to approximately 769 firearms, of which 103 were recovered.

"So, where are the other approximately 666 weapons referenced in the indictment?" he asked. "Why did the ATF not seize them?"

The Justice Department has denied that guns sold in purchases sanctioned by federal firearms agents were later used in the shootout that left Terry dead. Assistant U.S. Attorney General Ronald Weich said in a letter to Mr. Grassley that the claim was false.

Mr. Grassley said the Justice Department had asked that members of the Judiciary Committee staff stop speaking to law enforcement personnel about these matters.

"However, if not for the bravery and patriotism of law enforcement personnel who were willing to put their careers on the line, this committee would have been forced to rely on nothing more than rumors in the blogosphere and a Justice Department denial to resolve these allegations," he said.

"We need more than that. To be an effective check of executive branch power, we need cold, hard facts. We will seek the information from whatever source is necessary," he said.

Mr. Grassley also bristled at a Justice Department suggestion that his attempts to seek information on the shooting and weapons was politically motivated.

"I understand the department needs to 'protect ... law enforcement personnel ... from inappropriate political influence,' " he said. "However, there is a difference between inappropriate political influence and appropriately holding officials accountable to the American people."

Mr. Grassley also said the Terry family deserves answers about the shooting.

"The whistleblowers have expressed a desire to honor agent Terry's memory by disclosing this information," he said. "The Justice Department should do the same. The best way to honor his memory is to come clean."

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