

March 1, 2011 Draft

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senator Grassley:

This responds to your letters, dated February 9, 2011 and February 16, 2011, which reiterated your concerns about gun trafficking along the Southwest border and requested documents that apparently relate to a particular ongoing investigation in Arizona.

We appreciated the opportunity to brief Committee staff on February 10, 2011, regarding the efforts by Department prosecutors and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to interdict weapons sold illegally along the southwest border and to hold accountable the leadership of criminal organizations that support this trafficking. We are working diligently to build effective cases against these individuals as reflected in the recent indictments in Arizona. Consistent with the Department Inspector General's recommendations, ATF's investigations focus on the leadership of trafficking organizations in addition to straw purchasers and other lower-level participants in the criminal enterprise. As we described during the briefing, these investigations present unique challenges because firearms are a legal commodity and Federal Firearms Licensees (FFLs) are not required by law to inform ATF of suspicious purchases. The complicated nature of these investigations should leave no doubt, however, that ATF's unequivocal mission is to stop the flow of guns to cartels.

ATF does not "sanction" the illegal sale of assault weapons to straw purchasers nor direct FFLs to engage in transactions that are known to be illegal at the time they occur. It is important to note, however, that the information necessary to determine that a purchase is in fact illegal is often unavailable at the time of the transaction. While we are encouraged by our efforts to dismantle drug trafficking cartels along the Southwest border, we are not in a position to disclose additional information about those pending matters at this time. We can advise you, however, that hundreds of weapons, beyond the 103 referenced in the [ATF] indictment, have been seized and our efforts to interdict the trafficking of weapons to Mexico are continuing. As a result of these investigations, more than 10 cases, comprising more than 50 defendants, are set for trial in Arizona in coming months. We expect that additional indictments will be forthcoming.

We also have carefully considered the document request set forth in your letter of February 16, 2011 and request that you provide additional information in order to assist us in identifying the responsive documents. We will not be in a position to disclose documents relating to any ongoing investigation, nor will we confirm or deny the existence of records in our on-going investigative files, based upon the Department's longstanding policy regarding pending matters. As you may know, pursuant to that policy, the Department declines to disclose non-public information about pending investigations. This policy is based upon our interests in

ensuring the integrity of the criminal justice process, including the privacy and due process rights of the individuals involved as well as the independence of our law enforcement efforts. We want to avoid actions that could give rise to a public perception that our investigative and prosecution decisions are subject to any outside influence, including political pressure, however unintended.

The Attorney General has asked the Acting Inspector General to evaluate the concerns that have been raised about ATF investigative actions in light of its recent review of Project Gunrunner to determine whether additional examination by her Office is appropriate. We appreciate your interest in our law enforcement efforts and again ask that you direct individuals who believe they have knowledge of misconduct by Department employees to the Inspector General.

We also must respectfully request, however, that you defer contact with employees about this or any other pending matter in order to avoid any inadvertent impact to our law enforcement efforts that might otherwise result. We do not want employees to be placed in the untenable position of being asked to disclose non-public information about on-going criminal investigations, which would be inconsistent with their responsibilities as law enforcement officers.

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

Sincerely,

Ronald Weich
Assistant Attorney General

cc: The Honorable Patrick J. Leahy
Chairman