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March 21, 2011

The Honorable Charles E. Grassley  
Ranking Member, Committee on the Judiciary  
United States Senate  
135 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Grassley:

The Department of Justice (DOJ or Department) Office of the Inspector General (OIG) recently initiated a review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) firearms trafficking investigation known as Operation Fast and Furious, and other investigations with similar objectives, methods, and strategies. I am writing to inform you of the scope and preliminary objectives of our review, and to respond to the request in your March 8, 2011 letter to the Integrity Committee of the Council of Inspector General on Integrity and Efficiency (CIGIE) that the DOJ OIG be recused from this review.

The preliminary objectives of our review are to examine the development and implementation of Operation Fast and Furious and other firearms trafficking investigations; the involvement of the Department (including ATF, the Criminal Division, and U.S. Attorneys' Offices) and other law enforcement or government entities in the investigations; the guidelines and other internal controls in place and compliance with those controls during the investigations; and the investigative outcomes. We believe our review will address many of the important issues you have raised about Operation Fast and Furious.

In your letter to the CIGIE Integrity Committee, you requested that the OIG be recused from conducting this review and that another Inspector General's office handle the investigation. I have carefully considered your letter, but firmly believe there is no basis for the DOJ OIG to recuse itself from this review. The DOJ OIG is the most appropriate Inspector General's office to conduct this review. Our investigative team is composed of senior attorneys, including former prosecutors, law enforcement agents, and analysts. The OIG's significant investigative experience and extensive knowledge of Department components and operations makes it uniquely capable of conducting a review of Operation Fast and Furious and similar operations.

You expressed three concerns in requesting our recusal. The first is that the OIG does not have a Presidentially-appointed and Senate-confirmed leader. However, my status as an Acting Inspector General does not in any way compromise the independence of the OIG or otherwise impede our capability to conduct this or any other review. Acting Inspectors General have often been called upon to conduct high profile reviews and investigations, and have responded with tough, independent reports containing significant findings and recommendations for the affected agencies.<sup>1</sup> I can assure you that under my leadership the OIG will continue to conduct hard-hitting and vigilant investigations in carrying out our important oversight responsibilities.

The second concern you raised is that the OIG was “aware of the allegations long before the Attorney General’s request and did nothing.” I first learned of the allegations about Operation Fast and Furious when a member of your staff contacted me on January 27, 2011. I immediately looked into the concerns raised by your staff member and found that the OIG had no record of receiving a complaint on this matter. I gave your staff member the contact information for an individual in the OIG front office to convey to any complainant who wanted to contact us about this matter. We subsequently were contacted by an ATF Special Agent and promptly followed up by interviewing the agent regarding the agent’s concerns about Operation Fast and Furious.<sup>2</sup>

The third concern you raised as a basis for the OIG’s recusal is your understanding that ATF officials have cited an OIG report on Project Gunrunner as one of the factors that prompted the ATF to “shift to a riskier strategy of letting guns be trafficked rather than arresting straw buyers.” The report you reference, *A Review of Project Gunrunner*, was issued by our office in November 2010. We did not recommend in that report that ATF shift its strategy to “letting guns be trafficked rather than arresting straw buyers.”

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<sup>1</sup> For example, our previous Inspector General, Glenn Fine, served as Acting Inspector General prior to his confirmation as the Inspector General and issued several important reports during his tenure as Acting Inspector General. *See, e.g., An Investigation of the Immigration and Naturalization Service’s Citizenship USA Initiative*, July 2000; *An Investigation of Misconduct and Mismanagement at ICITAP, OPDAT, and the Criminal Divisions Office of Administration*, September 2000.

<sup>2</sup> The OIG’s public webpage at <http://www.justice.gov/oig/> provides several means of reporting allegations of waste, fraud, abuse, or misconduct, including a hotline number, an e-mail address, an on-line submission form, and a fax number. We discussed with the ATF Special Agent the efforts made to contact our office so that we could identify and correct any deficiencies in our intake process.



Rather, the OIG made a total of 15 recommendations in that report to help ATF improve its implementation of Project Gunrunner, including a recommendation that ATF focus on developing more complex conspiracy cases against higher level gun traffickers and gun trafficking conspirators. Our report also recommended that ATF send guidance to field management, agents, and intelligence staff encouraging them to participate in and exploit the resources and tools of the Organized Crime Drug Enforcement Task Force, as directed in the Deputy Attorney General's cartel strategy.

Our report, however, did not review what strategies ATF should employ in pursuing more complex cases, nor did it address what internal controls the ATF should have in place to minimize the risk associated with its investigative strategies. Thus, while our prior work gives us familiarity with Project Gunrunner that we will draw upon, it did not address the issues that we will examine in our review of Operation Fast and Furious.

In addition, ATF first became aware of our findings and recommendations in the Project Gunrunner review on September 3, 2010, when we provided a draft of the report to ATF for factual accuracy and sensitivity review prior to publication. Our understanding is that Operation Fast and Furious was initiated in late 2009 and that the investigative strategy employed in this operation was implemented shortly thereafter, well before the OIG began to formulate any recommendations relating to Project Gunrunner.

For all of these reasons, I believe the DOJ OIG is best situated to conduct a thorough, objective, and independent review of Operation Fast and Furious. I expect that we will address many of the important issues you have raised, and at the same time provide guidance to the Department about the conduct of this operation and how to address any deficiencies we identify.

If you have any questions about this letter or these issues, please contact me or Senior Counsel Jay Lerner at (202) 514-3435.

Sincerely,



Cynthia A. Schnedar  
Acting Inspector General