

ATF, DP

From: **ATF, DP**
Sent: Monday, May 24, 2010 2:13 PM
To: **ATF, DP**
Subject: RE: 785115-10-0020 Isaias Fernandez

ATF, DP

I too believe this to be a great case with a tremendous amount of potential. Although we have discussed much of this, I wanted to take the time to ensure that it was all addressed.

I apologize for the NFORCE issues. Unfortunately, I allowed the quick pace at which the investigation took off, compiled with the hurdles of often having GRIT members utilizing my station, to leave me playing catch-up. Again, my apologies and trust that I will do all that I can to prevent it from happening again. In such an attempt, now that direct contact has been made

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“an AUSA won't be able to approve of letting firearms "walk" in furtherance of your investigation without first briefing the US Attorney and Criminal Chief.”

I appreciate your help and guidance on this,

ATF, DP

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/ Special Agent / ATF - Phoenix Group VII
3010 N 2nd ST, Suite #301

Phoenix, AZ 85012

ATF, DP

/ Fax: (602) 605-6500 /

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From: **ATF, DP**

Sent: Wednesday, May 19, 2010 3:47 PM

To: **ATF, DP**

Subject: 785115-10-0020 Isaias Fernandez

ATF, DP

First let me say that this is great case and worthy of your investigative efforts. However, at your earliest convenience we need to speak regarding this case. In reviewing the case in N-Force there are several concerns I have. Additionally, I note that there are several well written reports that have not been generated. Please generate, print, sign, and turn into me these reports ASAP. Also I note there is a audio recording that was made, yet under "Property in ATF Custody" there is nothing listed. Which

brings up the "Electronic Surveillance" issue. Please see the below cut-n-pasted order regarding approval/notification and entry of Electronic Surveillance.

ELECTRONIC SURVEILLANCE. The Electronic Surveillance folder keeps a record of each subject monitored during an ATF investigation. This critical information is used not only for investigative purposes, but also so that ATF can respond to Freedom of Information Act (FOIA) requests as required by law. Multiple surveillance subjects can be entered into one Electronic Surveillance Event using the relationship tab feature. Identify the primary subject of the intercept and then choose additional subjects from the Persons folder to relate to the event as a person under surveillance.

- a. The ATF approval authority for consensual monitoring is delegated to the respective RAC/GS. The approval may be made verbally and remains in effect for the life of the investigation. RAC/GS approval of electronic surveillance must be noted in the Management Log and should be entered by the supervisor.
- b. Notification of consensual monitoring should be made to the United States (U.S.) Attorney's Office for the Federal judicial district having jurisdiction over the investigation prior to monitoring any subject. The notification may be made verbally and remains in effect for the life of the investigation.
- c. Non-consensual monitoring shall be handled in accordance with ATF orders and Federal laws governing such conduct. Non-consensual monitoring is also required to be reported in the Electronic Surveillance folder.
- d. The RAC/GS shall ensure that all electronic interceptions are entered into N-Force within 5 business days. An ROI is also required to document the event in which the electronic monitoring occurred. All tapes, disks, or other media used to monitor the surveillance shall be entered as Electronic Intercept property into the Property in ATF Custody folder.

I appreciate your efforts on this case but we need to comply with the ATF Orders and Regulations as well. ATF Orders; 3530.2 Electronic Surveillance, 3400.1B Property Taken into Bureau Custody, 3111.1 Use of N-Force, and 3270.10C Law Enforcement Investigative Reports.

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Group Supervisor
Phoenix Group VII

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