

DOJ and Issa Fight Over Whether Document Shows Breuer Knew About Gun Probe

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The Justice Department is disputing claims that a DOJ document released by the House Oversight Committee shows that Assistant Attorney General **Lanny Breuer** of the Criminal Division knew about and played a role in a controversial Bureau of Alcohol, Tobacco, Firearms and Explosives gun smuggling program.

The panel under Chairman **Darrell Issa** (R-Calif.) on Wednesday released a March 10, 2010, [memorandum](#)^[1] from Breuer and signed by Deputy Assistant Attorney General **Kenneth Blanco** approving an application to wiretap an individual who was allegedly a suspect in "Operation Fast and Furious," which allowed guns to fall into the hands of Mexican drug cartels in an effort to track them. The committee said in a [news release](#)^[2] that the memorandum showed that Breuer had "participation in and knowledge of Operation Fast and Furious."

DOJ officials disputed that assertion. The Criminal Division Office of Enforcement Operations receives thousands of applications each year related to law enforcement investigations, they said. The applications are typically approved by Deputy Assistant Attorneys General except for roving wiretaps, which require the approval of the Assistant Attorney General.

DOJ spokeswoman **Tracy Schmalzer** said wiretap application reviews are "a narrow assessment of whether a legal basis exists to support a surveillance request that ultimately goes before a judge for decision."

"These reviews are not approval of the underlying investigations or operations," Schmalzer said.

She said the Arizona U.S. Attorney's Office and the ATF Phoenix Field Office, in addition to the multi-agency Organized Crime and Drug Enforcement Task Force, approved "Operation Fast and Furious." A Jan. 8, 2010, DOJ [briefing paper](#)^[3] obtained by Issa shows that Arizona U.S. Attorney **Dennis Burke** and ATF Phoenix chief **William Newell** had met several times to discuss the program. Newell [has been sent](#)^[4] to D.C. to help handle inquiries from Congress and the Office of Inspector General about the operation.

The ATF program allowed suspected smugglers to buy more than 1,700 firearms, almost 800 of which were recovered in Mexico and the United States after they were used in crimes. Of those crime guns, about 200 were recovered in Mexico. And two firearms traced to the program were found near the body of U.S. Border Patrol Agent **Brian Terry**, who was murdered in December.

Issa and Sen. **Charles Grassley** of Iowa, the top Republican on the Senate Judiciary Committee, have sent several letters to the Justice Department and the ATF, a DOJ agency, requesting records and documents about the program. Issa has threatened to try to hold ATF officials in contempt of Congress because they have not responded to his questions. They also deployed congressional investigators Arizona as part of their investigation.

"Two federal agents are dead," Issa said in a statement. "While Attorney General [**Eric Holder**] and other top officials at the Justice Department have refused to address the reckless decisions made in Operation Fast and Furious that have created a serious public safety hazard, investigations led by Sen. Charles Grassley and I continue to receive information from deeply concerned insiders who believe those responsible for what has occurred cannot be trusted to investigate themselves."

Testifying before the House Judiciary Committee Tuesday, Holder [said](#)^[5] he took "great exception" to the implications that DOJ officials are responsible for the deaths. The Attorney General said he did not learn about the program until just recently and the DOJ Office of Inspector General is investigating the gun smuggling operations.

The DOJ has maintained that it did not knowingly allow guns to cross into Mexico as part of "Operation Fast and Furious." In a May 3 [letter](#)^[6] to Holder from Issa and Grassley, a handwritten postscript says, "You should check to see if you are getting accurate information from your staff. You might be ill-served."

At a Senate Judiciary Committee hearing Wednesday, Grassley questioned Holder about a March 9 [memorandum](#)^[7] from Deputy Attorney General **James Cole** that advised DOJ officials not to "design or conduct undercover operations which include guns crossing the border." The senator asked the Attorney General why the memorandum was necessary if the DOJ didn't knowingly allow guns to enter Mexico.

Holder said the memorandum was issued to provide clarification that allowing guns to cross the border in an uncontrolled way is unacceptable.

"The memo was issued because the allegation had been raised and I take those allegations seriously," Holder said.