

OFFICE OF THE ASSISTANT ATTORNEY
GENERAL FOR LEGAL AND
INTERNATIONAL AFFAIRS.
COORDINATION OF INTERNATIONAL
AFFAIRS AND LEGAL ATTACHÉ
OFFICES.
GENERAL DIVISION OF EXTRADITIONS
AND LEGAL ASSISTANCE.
DIVISION OF INTERNATIONAL LEGAL
ASSISTANCE.
OFICIAL LETTER DGEAJ/0812/2011.

Mexico, Federal District, on April 16th, 2011

URGENT
CONFIDENTIAL
REQUIREMENTS OF ARTICLE 4

MARY ELLEN WARLOW,
DIRECTOR OF INTERNATIONAL AFFAIRS OFFICE
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C.

Dear Director:

The Office of the Attorney General of the Republic, through the General Division of Extraditions and Legal Assistance requests legal assistance from the Department of Justice of the United States of America in response to the request of the Specialized Unit for Crimes Committed Abroad, which main objective is to obtain the information and documentation to be added in the circumstantial record **UEDE/018/2011**,* which is brought for the crime of **ILLEGAL FIREARMS TRAFFIC**.

This request arises from the herein below:

FACTS

In the "online" version of the newspaper "**EL UNIVERSAL**" dated March 4, 2011, located in the website link <http://www.eluniversal.com.mx/notas/749413.html>, appears a press article titled "**GENERAL ATTORNEY ORDERS TO INVESTIGATE ATF FOR FIREARMS**".

Thereof appears that ATF special agent from ATF Office in Phoenix, Arizona, United States of America, pointed out in an interview before CBS News that by means of the operation named "**FAST AND FURIOUS**", thousand of firearms were permitted to enter deliberately into Mexican territory, with the aim of tracking them down to the drug Cartels in the Mexican Republic.

The initial aim of the so-called operation named "**FAST AND FURIOUS**" was to dismantle the structures of the organized crime and capture high profile *capos*, however, during implementation, [ATF] informed about the failure of the operation and ATF in Phoenix, Arizona lost track of such firearms.

[ATF] was one of the agents unsatisfied with the order that allowed the passing of firearms into Mexico, and he stated that ATF video filmed one drug cartel suspect carrying an assault rifle AK-47 into his vehicle, allowing him to transport those weapons through the board.

In the "online" version of the newspaper "**EXCELSIOR**" located in the website link <http://www.excelsior.com.mx/templates/Default/imprimir.php?idnota=722376>, appears the article titled **25% OF FAST AND FURIOUS WEAPONS RECOVERED**, stating that 567 guns were recovered from those 2000 that were sent into Mexican territory. In the same article, it is stated that the largest amount of firearms seized occurred in Arizona, Phoenix 136, Peoria 21, Glendale 10, Scottsdale 1, Ajo 6, Lukeville 12, Casa Grande 10, Tohono O'Dom Indian Reservation 37, Santa Rosa Mountain 2, Topawa 3, Douglas 9, Nogales 4, Rio Rico 2, New Mexico 62 guns, and 57 in San Antonio, Texas.

In the ATF website, a release dated January 25, 2011 was published with regard to the performed activity and results obtained in the firearms recovery; as a result of investigations carried out, it was spread a map where were located geographically 10 entities of the Mexican Republic where 195 firearms related to "**FAST AND FURIOUS**" operation were recovered.

On March 16, 2011, **DARREL ISSA**, Chairman of the House Committee on Oversight and Government Reform of the United States of America, informed **KENNETH E. MELSON**, Director of ATF in Washington, D.C., about the beginning of an investigation on "**FAST AND FURIOUS**" operation on behalf of the House Committee on Oversight and Government Reform, operation which was an ATF's project to prevent the transfer and traffic of guns into Mexican board, by authorizing the firearms companies to sell armament to purchasers belonging to drug cartels and such sales took place during 15 months starting from September 2009; finally, she informed about the possible use of firearms related to such operation in the homicides of **BRIAN TERRY**, Border Patrol agent, and **JAIME ZAPATA**, Immigration and Customs Enforcement (ICE) agent.

In this release, congresswoman **DARELL ISSA** requests specific information and documentation regarding to "**FAST AND FURIOUS**" operation, including electronic communications between agents and firearm licenses' owners or salesmen, a report of 200 pages that supposedly Group 7 showed to its ATF headquarters in Washington, D.C. in spring 2010, and finally, a report of 30 pages that **WILLIAM NEWELL**, ATF agent in field direction in Phoenix, Arizona, sent to his headquarters after [ATF] arrest in Phoenix and agent **BRIAN TERRY**'s death.

In the "online" version of Arizona's District Attorney press releases, [http://www.justice.gov/usao/az/news archive 2011.html](http://www.justice.gov/usao/az/news_archive_2011.html), dated January 25, 2011, is informed regarding five related indictments: "**Grand Juries Indict 34 Suspects in Drug and Firearms Trafficking Organization**" and "**Map of Firearms Recovered in [ATF] Investigation**". Files named **US V. [ATF] ET AL. ; US V. [ATF] ET AL. ; US V. [ATF] ET AL. ; US V. [ATF]** and **US V. [ATF]** from which is informed the following indictments:

1. **US V. [ATF]**
[ATF]

2. **US V. [ATF]**
[ATF]

3. **US V. [ATF]**
[ATF]

4. US V. [REDACTED] ATF
[REDACTED] ATF

5. US V. [REDACTED] ATF
[REDACTED] ATF

CRIME UNDER INVESTIGATION

The crime under investigation is **ILLEGAL FIREARMS TRAFFIC**, foreseen and sanctioned by articles 84, 84 Bis, 84 Ter and 85 of the Federal Law of Firearms and Explosives, which transcriptions are as follows:

Federal Law of Firearms and Explosives

Article 84. - *An imprisonment penalty from five to thirty years shall be imposed and a twenty to five hundred days fine:*

I. - Whoever illegally brings into the Republic unlicensed firearms, munitions, explosives or any other product for the exclusive use of the army or that are controlled under this Law,

II. - To the public servant, that because of his duties is responsible of impeding such bringing into, does not do it. Moreover, he shall be removed from his employment or position and shall not be able to carry out any public position or commission, and,

III. - To whoever acquires the objects mentioned in section I of this article for mercantile purposes.

“Article 84 Bis. An imprisonment of three to ten years shall be imposed upon whoever illegally brings into the Republic firearms not for the exclusive use of the army.

The foreign resident that for the first time brings a sole weapon of those described at the foregoing paragraph, shall only be imposed an administrative penalty of two hundred days fine and the weapon shall be seized after issuing the corresponding receipt. When the person leaves the country, the weapon shall be given back after showing the corresponding receipt.”

“Article 84 Ter. The penalties referred to in articles 82, 83, 83 Bis, 83 Ter, 83 Quat, 84, and 84 Bis of this law shall be raised up to a half when the perpetrator be or had been a public servant in a police force, in a private security service or a member of the Army, Navy or Air Force retired, in reserve or active.”

“Article 85. An imprisonment penalty from two to ten years and a fine from twenty to five hundred days shall be imposed upon the retailers of weapons, ammunition and explosives who acquire them without making sure of their legality”

NEED FOR ASSISTANCE

We shall appreciate that in assistance of this General Division, the following information and documents be provided, and they are under the custody of the ATF:

- 1) Background of the investigation named **“FAST AND FURIOUS”**.
- 2) Documents and communications related to the beginning of the investigation named **“FAST AND FURIOUS”**

- 3) Documents and communications related to the length of the operation "**FAST AND FURIOUS**"
- 4) Purposes and scope of the investigation named "**FAST AND FURIOUS**"
- 5) Documents and communications related to the modifications that the "**FAST AND FURIOUS**" investigation had suffered during its development.
- 6) The identification of the responsible ones of the authorization of the "**FAST AND FURIOUS**" operation.
- 7) The identification of those responsible of authorizing that the weapons crossed the border with Mexico, in order to reach the leaders of criminal organizations within the operation named "**FAST AND FURIOUS**"
- 8) Precise the circumstances of time, place and occasion in which the ATF lost track of the weapons involved.
- 9) Means through which the ATF became aware of the seizure of the weapons.
- 10) Personal identification of the ATF's personnel that intervned in such operation.
- 11) Identification of the Mexican authorities that collaborated with the aforementioned investigation.
- 12) Mention how the seizure of 195 weapons in states of the Mexican Republic is linked with the "**FAST AND FURIOUS**" operation.
- 13) Identification of all and every weapon that were being monitored through the aforementioned operation in order to determine their specific origin.
- 14) Specific place of origin of the firearms involved in the "**FAST AND FURIOUS**" operation.
- 15) Identification of the individuals investigated and monitored during the bringing in of the weapons to Mexican territory.

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- 16) All the information and documentation gathered up to the moment in order to know the destination of the involved firearms.
- 17) Documents that allow to determine if the firearms found at the place where the murder of **BRIAN TERRY**, officer of the Border Patrol took place, were being monitored through the "**FAST AND FURIOUS**" operation and if they crossed to Mexico.
- 18) All the documents, including the communications of any nature between the ATF and the companies in charge of providing the weapons to be used at the "**FAST AND FURIOUS**" operation.
- 19) Identification of the companies that provided the weapons that were being monitored through the "**FAST AND FURIOUS**" operation.
- 20) All the documentation related to the complaints of the ATF's officers, regarding the instruction of allowing the purchasers of firearms enter Mexican territory.
- 21) Precise the way or mechanic to track the location of the weapons which entered Mexican territory.
- 22) Precise the mean through which the ATF in Arizona, became aware of the seizure of weapons related to the "**FAST AND FURIOUS**" operation in order to mention their location in the Mexican States of Baja California, Sonora, Chihuahua, Sinaloa, Durango, Nayarit, Jalisco, Michoacan, Guerrero, and Tamaulipas.
- 23) The 200 hundred pages report that supposedly the ATF's special group in Phoenix, Arizona known as Group 7 submitted to the central offices of the ATF in Washington, D.C., Unites States of America in spring 2010.
- 24) The 30 pages report that **WILLIAM NEWELL**, Special Agent of the ATF at the Field Division in Phoenix, Arizona, submitted after the arrest of ATF in Phoenix, Arizona.
- 25) Inform if the ATF indictment that gave rise to the criminal case CR'11-126 PHX JAT (LOA) filed before the District Court of the United States of America for the district of Arizona is related with the "**FAST AND FURIOUS**" operation.

26) Gather the appearance of **ATF** officer of the ATF, whose address is unknown, in order that as a witness, renders a statement about the facts linked to the "FAST AND FURIOUS" operation. (The questionnaire to be answered by him is hereby attached)

27) Obtain a copy of the videotapes in which the suspects of criminal organizations were filmed buying firearms and the following up given to it, including the video shown by CBS News, regarding the interview of officer **ATF**

28) Obtain a certified and apostilled copy of the following information:

a) Indictment dated January 19, 2011, filed before the District Court of the United States of America for the district of Arizona, within the case CR'11-126PHX JAT (LOA) against **ATF**

ATF

b) Indictment dated December 21, 2010, filed before the District Court of the United States of America for the district of Arizona, within the case CR'10-1831PHX FJMECV, against **ATF**

ATF

c) Indictment dated August 18, 2010, filed before the District Court of the United States of America for the district of Arizona, within the criminal case CR'10-1187PHX ROSDKD against **ATF**

ATF

d) Indictment dated January 4, 2011, filed before the District Court of the United States of America for the district of Arizona, within the criminal case CR'11-013PHX RSB (MHB) against **ATF**

e) Indictment dated November 9, 2010, filed before the District Court of the United States of America for the district of Arizona, within the criminal case CR'10-1607PHX NWWLOA against **ATF**

f) The file gathered by the DA Office of the district of Arizona, in order to file the indictment dated January 19, 2011 before the District Court of the United States of America for the district of Arizona, within the criminal case CR'11-126PHX JAT (LOA), against **ATF** and others; particularly the evidence related with the activities carried out by this criminal organization regarding the illegal introduction of firearms to Mexican territory.

g) The identification cards of **ATF**

ATF

It is important to mention that the government of the United Mexican States, through the corresponding channels, shall request the government of the United States of America, to suspend and cancel the "FAST AND FURIOUS" operation, and to avoid carrying out similar operations in the Mexican State.

PROCEDURE TO BE FOLLOWED

In such regard we shall appreciate if you request the corresponding authority that at the moment **ATF** appears to answer the questionnaire, ask him to show an official identification that proves his identity, as well as inform and ask him the following:

A. That his statement has been requested by the Mexican authorities and that he shall be sworn in to tell the truth. He shall also be made aware of the contents of

article 247 of the Federal Criminal Code and 247 of the Federal Code of Criminal Procedure hereby transcribed:

FEDERAL CODE OF CRIMINAL PROCEDURE

“Article 247. - Before the witnesses start to render their statements they shall be warned of the penalties established by the Criminal Code against those who state falsely or refuse to state.

The above may be done once all the witnesses are met together.

The underage witnesses of less than eighteen years old, instead of being warned of the penalties incurred by those who state falsely, shall be advised to tell the truth.”

FEDERAL CRIMINAL CODE

“Article 247.- An imprisonment penalty ranging from four to eight years and a fine from one hundred to three hundred days of minimum wage, shall be imposed upon:

I. - Whomever fails to tell the truth upon being questioned by a public authority, other than a judicial authority, in the performance or by reason of its duties;

II. - Repealed.

III.- Whomever bribes a witness, an expert or a translator so that a false statement is produced in a trial, or forces them or commits them to do so by means of threatening them or any other manner;

IV. - Whomever is examined, according to law, in any capacity excepting that of witness, and fails to tell the truth to the harm of another either by denying as his/hers the signature with which he/she signed the document or by making a false factual affirmation or by altering or denying a true fact, or the substantive facts surrounding these.

The provisions of this section do not include those cases in which the party is examined on the estimated amount of an object, or whenever he is the accused;

V. - Whomever, in an Amparo proceeding renders information as the responsible authority, in which they affirm a false statement or partially or totally deny the truth.

B. His name, last name, date of birth, age, origin, current address, marital status, occupation, academic education, name of his parents, criminal backgrounds (if it is the case, precise the crimes and dates), if he likes alcoholic beverages and if he is prone to consume drugs or narcotics; he shall be asked to show an identification of which a copy shall be taken which shall be added to the records of the proceeding and shall be asked the questionnaire attached to this request. The deponent shall answer orally and shall be able to show any documentation to prove his saying.

Lastly, we request the original records obtained to be sent duly certified to the Office of the Legal Attaché of this Office of the Attorney General of the Republic located in Washington, D.C. for so that be later legalized and submitted to this General Division, in case you have any questions, please contact us at the telephone numbers (52) 55 53 46 01 25 and (52) 55 53 46 01 80, e-mail address: dgeaj@pgr.gob.mx and daji-pgr@pgr.gob.mx

Having nothing further to add, I send you my best regards

RESPECTFULLY

THE GENERAL DIRECTOR

(SIGNED)

LIC. LEOPOLDO VELARDE ORTIZ

QUESTIONNAIRE TO BE ANSWERED BY ATF OFFICER OF THE
ATF.

1. Let the deponent state his position within the ATF.
2. Let the deponent precise how long he has collaborated as officer of the ATF.
3. Let the deponent describe his main activities as officer of the ATF.
4. Let the deponent state if he is aware of the **"FAST AND FURIOUS"** operation.
5. Let the deponent state the date in which he became aware of the existence of the **"FAST AND FURIOUS"** operation.
6. Let the deponent describe the **"FAST AND FURIOUS"** operation.
7. Let the deponent describe in detail how he became aware of the **"FAST AND FURIOUS"** operation
8. Let the deponent state through whom he became aware of the **"FAST AND FURIOUS"** operation.
9. Let the deponent state who was in charge of the development and control of the **"FAST AND FURIOUS"** operation.
10. Let the deponent state who ordered him to participate in this operation.

11. Let the deponent state the names of those officers that participated in the **"FAST AND FURIOUS"** operation.
12. Let the deponent state if he knows how many and what kind of weapons were monitored during the **"FAST AND FURIOUS"** operation.
13. Let the deponent state the names of the companies devoted to sell firearms which provided the weapons to be monitored through the **"FAST AND FURIOUS"** operation.
14. Let the deponent state which his activity was as officer of the ATF during the development of the **"FAST AND FURIOUS"** operation.
15. Let the deponent state which the investigation procedure was within the **"FAST AND FURIOUS"** operation.
16. Let the deponent state when he became aware and when he was instructed to allow the purchasers of firearms to cross the Mexican border, with the alleged purpose of reaching the leaders of criminal organizations.
17. Let the deponent precise who ordered him to carry out the operation by allowing the purchasers of firearms cross the Mexican border.
18. Let the deponent state if he knows which Mexican authorities deliberately permitted, in agreement with the ATF, the illegal introduction of firearms within the **"FAST AND FURIOUS"** operation.
19. If so, let the deponent state which Mexican authorities did so.
20. Let the deponent describe in detail the way the firearms were monitored, since their purchase up to the arrests or introduction to Mexico.

21. Regarding the firearms that entered Mexican territory, let the deponent state if he knows how or the procedure to track their location.
22. Let the deponent state if he knows that the firearms used in the homicides of BRIAN TERRY, officer of the Border Patrol and JAIME ZAPATA, officer of the ICE, were part of those monitored during the time span of the "FAST AND FURIOUS" operation.
23. Let the deponent state if the weapons related to the case CR'11-126PHX JAT (LOA) which gave pace to the indictment against ATF and others, were part of those monitored during the time span of the "FAST AND FURIOUS" operation.
24. Let the deponent state if the weapons related to the case CR'10-1831PHX FJMECV which gave pace to the indictment against ATF and others, were part of those monitored during the time span of the "FAST AND FURIOUS" operation.
25. Let the deponent state if the weapons related to the case CR'10-1187PHX ROSDKD which gave pace to the indictment against ATF and others, were part of those monitored during the time span of the "FAST AND FURIOUS" operation.
26. Let the deponent state if the weapons related to the case CR'11-013PHX RSB (MHB) which gave pace to the indictment against ATF ATF were part of those monitored during the time span of the "FAST AND FURIOUS" operation.
27. Let the deponent state if the weapons related to the case CR'10-1607PHX NVWLOA which gave pace to the indictment against ATF ATF were part of those monitored during the time span of the "FAST AND FURIOUS" operation.

28. Let the deponent state if he made someone know his dissatisfaction regarding the activity carried out within the **"FAST AND FURIOUS"** operation, in the sense of allowing the entrance of firearms to Mexican territory.
29. If so, let the deponent state how he made his dissatisfaction known regarding the way the aforementioned operation was being carried out.
30. If it is the case, let the deponent state who he informed about his dissatisfaction.
31. Let the deponent state if he knows if up to the date, the activities linked to the **"FAST AND FURIOUS"** operation have been stopped.
32. Let the deponent state any other information he could consider important to add regarding the facts.

THE FOREGOING QUESTIONNAIRE IS NOT LIMITATIVE; THEREFORE THE AUTHORITY IN CHARGE IS EMPOWERED TO ASK ANY QUESTIONS DERIVED FROM THE ANSWERS OF THE DEPONENT, AS WELL AS THOSE THAT HELP SOLVING THE FACTS UNDER INVESTIGATION.