

- When transcript ready, can come & see it
- tells **ATF** & Newell to reach out - encourage direct communication
- Been yielding time to **ATF**
- Voluntary, don't have to answer Qs - d.A. from sub
- not goal to make transcript public
  - excerpts could be used
- starts to talk abt. open - **ATF** says rec

## ATF

## ATF

- Atty Gen met w/ Sen Grassley → Sen Grassley Staff
- Req to answer Qs from Congress faithfully
  - M, understands, <sup>has</sup> no reason not to
- Keep Qs confidential - don't coach future witnesses
- Don't take docs with us - obtained many from sources other than DOJ

## ATF

- Diff betw TI & Dep - are no rules re: disclosure of transcript
- Help us ID when touching on non-public info on ongoing invs

## ATF

- Don't want to interrupt, but do want to protect info harmful to ongoing invs

SC: going to try to not deal w/ spec, spec R trying to have larger scale disc

bulk of Qs rel to how that case got put together

How long? 22 yrs  
LE before: 2 years  
total: ab 24 yrs

June 2006 - SAC - May 2011  
- detail to HQ

SC: Dec. to focus not merely on straws - rolled out 2009. Is that your und?  
- yes... sev

Und initiative @ DOJ - ways to  
- Strategy to combat SW - from Dept  
late 2009 early 2010  
Reasons/rollout?

- Oct/Nov 2009 - email fr SWB coord, had to draft rel to SWB maj crimes
- focused strat on d. AF
  - human, fire

H2?  
- H2 eyes of hurricane b/c of border games  
ATF Phoenix key?  
- yes

**ATF**

- yes  
Other management di  
- Bill McMahon, w/ SUB SACS  
- conf calls on strategy  
Plan to push into field?  
- what sense

Guidance as to how on agent level?  
- ins to focus on areas

Goal to not merely focus on STRUS  
- Goal was to allow agents to see where go?  
- what do you mean allow?  
Techniques rec'd? Techniques diff at 092

- techniques been used for years  
Did agent work diff w/ITLS

- always want good relationship  
Differences that need to coop w/ New Strat?  
- not that aware of

Decision not to have agents pull over spars cases?  
- legal/ky issue - pull over if kn  
No spec guidelines pushed out?  
- no, four years

**ATF**

- how begin?  
- ~~ATF~~ Corp t - began in diff - info regarding series of activities (start seeing patterns)  
ATF trying to get handle, started relating

red

- many, half a dozen  
- know that she do w/ - spreadsheet, 49735?  
- trying to put together  
- trying to put together

When strike you - big case?

- late Nov / early Dec

Specific?

- not really - seizure - abt 40 guns Naco, linked to purchases - Nexus to big gun

Sense that on to an org?

- yeah, more cohesion than org - my imp

Fair to say <sup>at the pt</sup> agents put tog pos sus

- as progressed, more & more peop em as pos sus

Agents went bac to H-Ls?

- Yes, goes to not knowing

Grp 7 bulked up en 09?

- went from 3/4 - more in early part of 10

- got up to 7/8 agents middle 10

Goal of 7 to combat firearms trafficking?

- strike force

**ATF**

- transferred to be SF

- ton of pot a day, in it

- **ATF** reached out abt. strike force for AZ - OZDET

- SF elite, pt to focus resources on threat in area - AZ (DEA / ICE) - Sinaloa cartel territory, concept is to focus on high level decision maker & one level lower - Sinaloa cartel

- idea was to put gunrunner into OZDET

- consistent w/ Dept guidance that strike force great - resource heavy - had all agencies together to combine forces

Focus on cartels - Ds on Mex or US side?

- US side w/ connection to Mex

- take off local leaders, impact cartel in area, focus AZ

Folks on US side cartels have?

- no idea

Hundreds? Ten?

- couldn't venture guess - based on act say 100 - but ~~A~~ couldn't say

- AZ gateway

- Phoenix desirable

Straws diffuse network?

- depends on inv. some networks use handful for a while, move on.

Grp 7 case became OCDETF in Jan 2010?

What was thinking for turning?

- goes to connect w/ DEA case. whole idea of strike force is to get at network. Run info through fusion center - deconflict
- arnd Dec, rem being told info that our case pinging off DEA case in Glendale area - realized working same network

EX 1: Jan 8, 2010 Phoenix Field Div Briefing Paper

- OCDETF prop submitted week after this comes from Tab P (for our staff)

Familiar?

- During any inv, my practice to send up to HQ, where at, where going where at HQ?

- my boss, McMahon where then?

part of - I send to my sup, not sure [after] OCDETF proposal?

- don't think so

Versions

- common, reviewed, changes based on formatting - Q? ref to be prepare to be sent up to DAG?

~~over prep~~ - don't remember

Common to send up

- maybe, I don't know - don't know what used for

EX 2 Oct. 5<sup>2010</sup> email - Newell saying up to DAG BP format

- tab 30

Dep AG?

- guessing yes

ATF likely to put into?

- BP is briefing paper, I said ~~for~~ DAG most likely go

How freq?

- my exp not that frequently

Recollection if did?

- obv I wrote this, but don't recall what happ after

to whom

DAG's office rec briefing?

- don't know if used to brief DAG
  - would be people back in DC
- Melson → DAG

- my und, yes

People in Melson office → paper to DAG

- director has a staff, sure they coordinate
- all depts report to Hoover

Other docs prepped for DAG?

- No, don't remember writing this

Back to Ex. 1 -

1) last sentence - to date more than 650 firearms

Is that enough info to go talk to straws, see if are straws?

- depends on goal - here. <sup>twofold</sup> 1) network, not just straws, decision makers
- my exp - straws lack knowledge of decision-makers. Like corner boys.

Dier <sup>some resp - like</sup> in that no long rap sheet?

- can't
- have to prove each ind trans
- lack of stat that spec addresses pattern
- have to see if trans all

# 2 IDS seizures - recovered in Mex. Serious enough you would want to start knocking doors, talking straws

- Ver imp to know who network is, etc
- key info - piece of puzzle

8) involvement of USAO - when did that office bec involved

- very beginning of case

Walk us through

- Dennis got there earlier in year - I & other SACs briefed him, wardens
  - He was key on firearms tra
  - Believe he was in SWB group
  - Very passionate abt addressing trafficking
- Fair to say USAO <sup>in</sup> id - letting these purchases develop & track the weapons
- didn't have PC to pursue indictments

Agents ↔ Hurley - Dennis & you

- meeting off on 3/08,

who makes decisions on PC - ATF level, or from UNO?

- two way → ATF consults, goes through elements done in this case as well

13) "currently strat is to allow..." what's your rec of this

- allow - not condoning or sanc illegal act. We susp - not reas dbt. Context, along w 8, we felt we didn't have ev. This is talking

- we suspect part of network diff from prove. No fed firearms stat to allow pattern.

If you are agent surveil in FFL - if you notice person asking abt. AK, no flags?

- No, and that scen.

What abt 20?

- Yes, would be suspicious

What questions ask that person?

- Can't just stop that person

What if sees from ATF, sees if you have Qs

- "You must like AK-47s"

- unless I suspect illegal act

Would you want to ask what doing w?

- depends. Not illegal, and not unusuel.

- struggle to put pieces together.

Hypo - what other types of Qs

- again, never happened in 20 yrs. Fantasy.

You must have niche for AKs. Again, not illegal.

Do buyers frequently buy 20?

- not common.

If case agent told you abt 20, want them to Fu?

- of course. 4473s. put that together. In gen, when

you approach... if short of PC, want to

find out if person made other purchases. Have

to go to FFLs, etc. Research, traces.

Hypo - prof. w/ cash - susp?

- might

At what pt

- follow person. see where went - give me scenarios never

- never happened to me, that sitting there & see cash  
So you would call, tail?

- that might be possibility, he might go home.  
FFLs say non-susp, one @ time, CC, maybe two,  
say suspicious if 20, will be careful. So willing  
to ack know that ind buying 20, or 5-6 - susp?

- b/c's.

Say isn't prof dressed. Holes in jeans, old car. Change  
scenario?

- if you're not using scen, would change  
- could be perf legal sale - susp  
- you are talk abt law enf dec made on street  
Wld you hv prop if agent pulled over?

- depends on circ

Just my scen

- I wld say yes, but dep - has to be reas. Can't  
pull over b/c suspect. Ind of other info,  
that there's il act, agent has to be ver careful,  
have legal reason. When does it jump?

- When spec connection

Volume of weap ramp from RS to PC?

- No.

Is 500 enough?

- No set number. <sup>Dep.</sup> When you have enough.  
- Firearms are not contraband. legal until taken  
out of legal commerce  
- set of facts sup by ev.

Ex of what would be facts enough?

- form falsified; prohibited person receiving

Ev external to what wate

- ev that sup charge that act illegal

Unusual surveil → traffic stop?

- w/o other ev's.

- goes to lack of statute → pattern.



## ATF

Factors contributing to PC. Can you explain statutory framework for arresting a straw?

- GCA - no straw purchasing statute. Falsifying forms. "lying or buying" that fact on sale - 924(a)(1), more fact causing deals - not acc. Those are the two statutes we use.

No firearms traff statute - how does lack impact work.

- Explained well in July 2009 CRS rept - one of the challenges is multi straw purchasers, not having statute addressing pattern/scheme hinders ability to intervene early on.
- Firearm not contraband unless altered.
- ~~when taken from lawful commerce~~
- Have to evaluate each transaction. Diff. esp when non-prohibited.

Prohibited persons

- 9 categories prob from poss.
  - felons, indicted, mentally def, dishon disch, illegally in us, renounced citi, domestic vio, protective ord,
- on SWB, aliens/felons

Moving from legal/illegal?

- diff changes that address pattern of act, but no firearms traff statute
- when have enough ev have that vio - to transfer to prohib person, that's when you can pinpoint the trafficking

Lack of statute prevents agents from arresting people in hypost?

→ would be tool for stopping much earlier on

Long gun reporting req?

- and that prop that FFLs wld be req to rpt mult sales w/in time period
- req for hand guns

Belief would assist ATF?

- any tool that would help us piece tog puzzle would help

Can you discuss F&F - techniques

# ATF

What pt would you instruct to end surveil? pol?  
- tactical decision made by agents, Sup<sup>s</sup> - agent  
may have worked 24 hrs  
- rely on state/local partners  
- as SAC don't make that dec

As SAC, would you review?

- no. we have so many cases. <sup>guess</sup> Group Sup, no higher  
line agents made complaints abt. tact dec  
- became aware of that, Feb. this year

Prior to Feb 2011, you not aware

- I don't remember any time being advised - not  
until docs released.

ATF

to ref

What level of int. w/line agents?

- grp. 7 not physically in same office. Wld step  
by & say hi.

- wld go by their (DEA) office

Included

ATF

- yes. Some were out, etc.

At some pt you had interactions w **ATF**, etc.

At no pt those agents raised concerns

- no, not abt. tactics

Briefings w/ Needles, Gillette? Did they raise  
concern abt tactics?

- not that I recall. We talked abt briefing  
paper, etc, but not concerns

Did they mention line agent concerns?

- not that recall

Ex. 3 Dec. 17<sup>th</sup> Doc - Gillette email to Naell,

**ATF** concerns  
- was SWB coordinator. Draft DOJ Cartel strategy. He was coordinator.

Do you know approx # guns witnessed?

- don't know. this was month, no investigation
- they're not witnessing - these were purch

How aware of purch?

- after sale, lone wolf vol faxed 4473s, going to other FFLs

- **ATF**, et. al - Nov. 16, <sup>2009</sup> not 100% certain.  
Did you come to learn how many by ind. in case by Dec. 2009?

- don't know. Know that **ATF** was compiling  
How wld **ATF** have known large #?

- not exactly sure; guessing coming from **ATF**

Did you consider shutting down?

- recall discussing w/ Gillette
- Gillette ASAC till mid Apr 2010
- reads from Gillette email, explains "double counting"
- Network - goal; struggle w/ replacement straws

Slowing down?

- the FFL, right. Not me personally.  
Presumably @ direction of ATF?

- early in inv. Still didn't have enough ev at this pt. This is 3 wks after that briefing paper.

Collaboration w/ USAO - explain what their basis was for working w/ FFLs to secure up chain

- rel w/ FFLs around country - try to maintain good rel. In many cases, get key vol. info
- gen. we ask FFLs to work w/ us.

Allegations that ATF agents directed FFLs to sell to suspicious purchasers?

- to contrary, believe directed to follow law
- Unaware of FFLs contacting agents abt. suspicious purchasers & directed to go ahead?

- believe FFLs instructed to follow law
- not saying unaware
- don't and question

Allegations that FFLs called gip. 7 and ATF agents told them to complete sale to susp. purch

- that I'm aware of - suspicious vs. prove
- IF FFL said didn't want to make sale - policy?
- no policy. if FFL doesn't want to make sale, shouldn't make sale

Allegations ATF agents watched guns go to Mexico <sup>from</sup> F31

- from policy standpoint, no, wouldn't
- we don't do that

Is there a policy against it?

[take break]

Allegations that agents watched guns go - across border, not part of tactics of F31

- no or that agents witnessed, and if did, should have stopped

Back to Ex. 3 - familiar w/ email?

- yes

Address concerns w/ McMahon? Recall that?

- yes. I called him and talked abt convo between **ATF** is intel. I wanted to make sure intel directorate hand 1/2 hand - that's why said well done.

- reiterated a month in; we wld take down as soon as possible.

Did you find email?

- my practice just to call

Paraphrase what you conveyed

- coord w/ intel. (think working on chart)

What did you tell McMahon that **ATF** conveyed

- don't recall spec.

What did McMahon say?

- don't recall

Don't recall if he agreed w/ concerns

- he agreed w/ our goal in this case, our assessment to continue to put the pieces together

Did **ATF** ever raise again / McMahon FU?

- that that recalls

McMahon talk to you abt any other F31 concerns

- March briefing up here
- late April started discussing strat on how to wind down. exit strat - need for AcAc Data with

- gave to USAO
  - put 30/60/90 day - where be?
  - mid-to-late April
- Event precipitated that?
- no, just... reluctant to talk. Late April - realized needed to get to a point where could take network off

w/USAO?

- coordination w/ USAO
- Was case brought to conclusion after 90 days?
- end of July, end invest/early Aug
- OP F $\frac{1}{2}$ , F at end of op phase in Aug?
- yes

Arrests @ pt?

- no

What is next phase?

- moves to prosecution, get ready for indict
  - **ATF**  $\leftrightarrow$  neg w/ Turkey
  - going over evidence, what meets burd of proof
- What does end op mean?
- means we think have ev to beg. seek indictment
- Whose dec is that?
- my dec to say we think we have enough to get w/USAO  $\frac{1}{2}$  seek indict
  - coordinated call
  - OLC/ETF concept - pros led, don't just unilaterally move. we had good working rel.  $\rightarrow$  Emory, Dennis, Pat Can
  - Early aug, pt where felt ready to indict, they agree, but work still to be done - room of docs, put pieces together, gather evidence
  - hoping to get indictments in Oct/Nov

Indict wasn't issued until Jan 2011 - delay?

- workload
- AUSA might have other cases/trial/busy
- no spec. recollection

Going back to April - convo w/ McMahon, 30/60/90 Plan - what specifics give on tactic?

- he was well aware of our techniques in firearms trafficking

Was DAD McMahon aware agents not arres

- I'm assuming he was

Do you recall what told him?

- Brief in March that still trying to take susp ad-  
to arrest

## ATF

Genesis of policy Ex. 1, #13 - "currently strategy  
is..." Who wrote this?

- believe it was **ATF**

You reviewed \$, app?

- Yes

What did you think was meant by "allow"

- you are talking abt allow legal sale @ gun store  
to take place, absent addl ev

It ~~to~~ goes on to talk abt. guns to DTOs - how can  
you describe as lawful

- two sep things: first you have straws - then  
deliver to someone else, then intermediary  
stores from straws. Straws purposefully  
isolated

You id'd them as lawful purchases, but ATF aware  
purchases by these folks -> Mex, cash, how is  
that a lawful purchase.

- BC it's the purchase vs. the trafficking.

We have to prove in each sep purch  
a vid occ. Goal was to ID straws, finances  
follow \$. Multi-tiered approach.

- In most cases in Phoenix, straws don't usually  
transport across board

But that purchase not legal - they have to  
swear

- but we have to prove

But not lawful if ->

- true, but we have to prove that  
Ev nec?

- we have to pick up on el sur or other  
means that intent not to purch for self  
what ev? Tax return, cash, etc -

- we have to prove in each transaction. We take all info we get to build case  
PC to do what

- indict/com  
To prosecute

- right  
But don't need PC to investigate

- right, tactical dec

Don't need PC to interdict

- need clear  $\frac{1}{2}$  conv ev to interdict

You said earlier PC necc for traff stop

- don't ~~then~~ rem saying that

- to seek pros, need PC

Steps short of pros - agent notified real time, did work w/ police, wait for traffic stop, allow agents to try to int

- right

You weren't doing that here

- we were doing to, surv, etc

In F&F, routinely?

- think so

Restrictions on agents? Allowed to work w/ local?

- give me spec. worked closely w/ police

You're saying not told not to work w/ in F&F

- one instance where that acc. agents wanted to pull over in middle intersection. Trying to get marked unit. Officer safety prevented.

Tactical decision that's made

So you're saying wasn't part of this strategy to allow to be sold, not to tip

- goal was to ID network

And that more imp than deterrent, show of force - acc?

- no. goal was org. knowing that if we took off straw, alerting string puller  $\frac{1}{2}$  they get more straws

- our goal was ID maker. Much more impact than straw

Right and if agents wanted to interdict, would not be cars, right?

- goal is using straws, IDing middlemen, seize assets, anything so that we take down the whole org  
Recovery of 40 guns in Naco - first sign might be big case?

- one of signs we had group  
Among Naco guns, who purchase?

- some of straws IDd in case  
What do mean by "our purchasers"

- came back to people IDd in case to pt  
- info, hope putting log, common recovers  
what does it mean "ID"

- means suspected straw purchasers. recovers back to them, anything else gleaned  
But already IDd?

- not nec - maybe rec showed

Our und FFLs giving info - our und that's how people IDd, and then Naco, then people you already know. Acc?

- not 100%. FFL faxed 4473s all the time. Not spec to one person. I believe he was doing that in this case.

- Have to glean what relate to our case.

True that you provided FFLs w/ names, asked them to give you info

- I believe that true

Saying Not true that those people not come up in seizures?  
- person can go to mult stores, gun shows, we may not know abt

Suspect Database - we und purchases from F&F being entered in near real time, serial #s entered. So you IDd them as suspect, have cause to enter, you get notice when recovered.

- right

Any guns in Mexico come back from suspect gun database

yes

Quite a bit? Hundred?

- don't know



So ATF had contemp knowledge of sales?

- again suspect gun might be suspect
- FPL tells after the fact
- describes how tracing works; suspect gun database links those int

~~But~~ Not aware of F<sub>2</sub>F purchasers transporting across border witnessed by agents - how abt not witnesse

- we wouldn't know that

Aware of it in other cases?

- Yes
- Generally what happens, controlled delivery, cooperation w/Mexico. Meeting w/LE partners at border. They assume control

That did occur?

- Yes

Alot?

- No

More than once?

- Yes

And interdicted

- if as goes as planned

Question was -

- in instances aware of, not successful

How many

- a couple

None successful

- one case where guns to border, common error
- other case didn't cross, got spooked

Didn't interdict, why?

- we lost them

So ev eff made?

- ev eff made

These were straws?

- Don't remember, sev. years ago 2007/08

You said you asked for pros plan/exit strategy. When asked?

- Mid-April

So if doc ind Mar/Apr, Omst?

- yes

By March/Apr, **ATF** already suspect?

**ATF** says doesn't want to impact ongoing  
says wants more on when enough to  
take action. My belief he IPd by then.  
IPd Nov 25, 2009.

Did you get exit strategy?

- yes

Reviewed recently ? yes

No logistical hurdles to DOJ producing?

- No

~~Prob~~ What is?

- ~~2-3~~ 2-3 pp

- If all goes well - in 30/60/90 days
  - toss phones left & nant hard to keep up on that. **ATF** keeping on top.
- 30/60/90 include who charged/w/what?
- 90 days, beg of Aug - poss defs w/ us AD

We know **ATF** arrested in short order after Terry death. You've maintained us don't have ev. What changed betw. April/Dec?

- we felt at that pt had key evidence

Was there sig new ev?

- **ATF** int.

**ATF** says pretty key to inquiry b/c maintained that not enough evidence, but then imm. arrest after Terry death.

- diff: add 1 ev in order to trace

Arrested imm? Later that night

- yes

- b/c when guns traced back, he was suspect

- at that pt in time

Surely not suggesting you learned abt. add. complaint earlier? yes

You said ATF has no way to know abt long guns  
- meant in context of req - does not exist for  
long guns

So wouldn't be fair to say you didn't know  
abt long guns here  
- not from all dealers

Does ATF expect FFLs to ask questions of buyers?  
- we have training videos - encourages them to  
ask questions

And if get wrong answers, encouraged not to sell,  
that's what's sup to happen?

- Sure

We have ev. etc. that opp happened here - despite  
indicia, that certain FFLs suggested won't  
sell

- aware of allegations, but not aware that  
happened here - clearly art. to FFLs  
meeting w/ ATF & Emory?

- yes

Were you present

- No.

How aware?

- report written. I believe case agent(s)

This in tracking system? Reviewed rec?

- Yes. Not recently

When reviewed?

- Month ago

Describe?

- ATF Emory, ATF, another AVSA met w/ FFL,  
weren't asking him to do anything illegal  
etc.

- all vol

Aware of other records?

- not that aware of

Recorded?

- audio? don't know.

Several FFLs told that would ask ATF if should  
~~not~~ deny and told not to  
- unaware of it

Reason to believe didn't happen?

- unaware

Taken Steps to find out?

- OIG, we are cooperating

Detailled to HQ? since April?

Duties?

- compiling docs, other field docs

Prepping for today?

- most of time for F & F → indictments

- read emails

Aware of any ev that occurred?

- don't recall reading a doz abt that

Aware of FFLs being asked to stock spec. weapons?  
- not aware of us asking them to stock spec type  
of firearm

"Albeit at slower pace"

- Gillette told me **ATF** was willing to say  
he didn't have enough - to put off sale  
to give time to get ready  
- very limited, and Nov/Dec

If FFL expresses liability concerns, is told  
it's your decision. Do you think fair for FFL  
to presume ATF surveilling & going through  
not unlawful, though would be in another?

- don't und question? FFL needs to do what

Did ATF lead FFL to believe interdicting?

- not aware

A gun w/obliterated serial # is contraband?

- yes

If stop someone w/obliterated serial - ~~consent~~  
cld dev PC?

- yes, need consent, though

**ATF**

**Ex. 1**

PB - determination that min ev. for pros  
What was your ind law enf judg at that pt w/rt  
the ev? Did your judgment differ from USAO?  
- no, not at that time

At what pt did you think there was snff ev?

- **ATF** objects - qs abt judgments abt case  
Been told widespread frustration abt. willingness of  
USAO to pros gun's

- aware of frustration. when I became SAC Jun 06,  
briefed that there was strained rel w USAO - Black  
Biscuit case. Tense, strained relationship.

- Resp. need for resources, when **ATF** funding  
for USAOs, she committed pros for trafficking

- great rel w/ Burice. Admiant<sup>guy</sup> abt addressing  
issues facing AZ

- Much better today than was

Is there still frustration abt. willingness of USAO to  
pros gun cases?

- maybe - I have great rel w/ Dennis/Pat

Did you have frustrations?

- Sure. Ev wants all their cases prosecuted.

- course of doing bus

Is Phoenix or AZ part d. ff to pros?

- bench has not viewed firearms cases  
favorably - they'd rather see hierarchy  
vs. straw purchasers

- conservative junes

Practically speaking, what mean?

- judges ~~at~~ weren't high on one def straw  
purchaser cases, USAO told him

Concerns raised abt. USAO application of  
doctrine - want gun present or ATF agent  
to sign affidavit at final location

- in corpus delicti issue?

Yes.

- when first got there 2006 - corpus delecti (sp)  
be: was using to not pros some cases  
Did any other of your states use?  
- not to that ext

- some concern in NM  
Emory Hurley responsible - did you ever have  
issues w/his willingness

- early on, concern that might be issue  
How resolved?

- abt year/two years, new div counsel, **ATF** (?)  
got at all evidence, research
- had meetings where they agreed, year  
and half ago, w/Denn. S - w/in first months  
of his arrival - early 2009

were your concerns resolved after that?

- met **ATF** needles (?) - felt taking more  
aggressive app, so we felt good abt  
that

Wld like to talk abt. closed case - Iknadosian  
FFL, Excalibur Arms. Hurley declined to take,  
taken to State AG

- don't recollect that way - recall may have  
been an FFL that selling guns to a group
- walked up
- state AG office working that case. Came pt  
that felt FFL involved orchestrating deals.
- ~~usao ag~~ Don't recall USAO declining that  
case ... we had conv later

wouldn't it make sense for USAO to prosecute  
your cases

depends on circumstances.

you don't recall why

Fair to say you were satisfied by USAO  
willingness to pros?

- yes

When finished or

- we continued to investigate  
Betw. July/Aug/Jan - large timeframe. Work  $\frac{1}{2}$ ,  
workload of AUSA Hurley. Did you press

- sure I talked to them. - talked reg. Their resp  
was striving to get it  
For 6 mo per?

- yes  
Given mag, was 6 mo delay reasonable?  
- took a lot of time to get first 20 ready for  
indictment. Question best directed to USAO.  
Can't speak to wh

Characterize level of pressure  
- that we wanted these indictments, and PC  
advised me we were working hard on it

Did anyone ask why USAO taking so long?  
- yes - McMahon

And you relayed convo w/ PC?  
- yes

Was there a sense of urgency in ATF

- ~~yes~~ we wanted indictments

Complaints from ATF abt this

- don't remember receiving compl.

Aware of whether anyone @ ATF reached out  
to DOJ for pressure?

- not that I recall; may have been, but  
not aware

- there is no fed firearms trafficking statute.  
No statute that looks @ pattern. July 2005  
CRS rept

Legislation?

- hypothetically, given report, would aid us.

- Then instead of ind. counts, cld look @  
pattern  $\frac{1}{2}$ , make it a violation

- again, there aren't trafficking cases - it's  
paperwork violations

your exp that judges & juries don't like prior?

- it's also the sentences.  
- most straws doing for money - single moms, etc.  
- my feeling that that's what we should best  
- exert power of US gov?

using streets hypo  
- have to prove intent

Legislation that would mean pattern → PC helpful  
to ATF's mission in AZ?

- yes  
Lead in AZ for five years - what is scope/scale  
there?

- Phoenix esp., Tahona (?) reservation, highways  
traffickers' looking to mix in Phoenix

- Home invasions, kidnapping, etc → linked to drugs/gun  
- Hub for crim act in SW

- DEA: 80% drugs come in through AZ  
- Tucson border - 4000 agents

Guns

- USAO website - indictments on trafficking rel.  
issues - Stinger missile case

Does ATF have resources to eff confront this  
challenge?

- No

Explain  
- Look at this case - three, four agents unhl  
OCDETF

- Throughout SWB

has Project Gunrunner assisted?

- yes! Phoenix 7, Tucson, 4, Las Cruces  
etc. all pic support from Gunrunner

- GRIT teams - able to bring in 10 agents  
spec. to assist w/ ATF and other

- details left mid-Sept. '10

Heart of allegations are that ATF/Grp. 7  
let hundreds/thousands of guns go to

Max, knowingly, didn't interfere. Purpose  
to bring down

- ongoing  
- let me know - my frustration - SH11 in 3rd





Have you int agents since in DC? gotten info  
- sure b/c working to get indictment  
By surprise you if agents going to FLS  
w/ lists?

Briefed DOJ?  
- once in Feb, since here, 3-4

DC?  
- one  
phenix?  
- a couple  
How many briefs

I don't know what his

Did you know he's int in spec tech: ques?

- don  
All along

- now  
Dir well aware?

- yes  
This is big case for ATF?

ATF

ATF

You can get fairly easily? Not asking you  
to, but you can?  
- yes

Are you willing to provide # guns straw  
purchased?  
- is knowable, but there may be some we  
- don't know abt  
- don't know what is

Sounds like you feel being judged prematurely  
- in a way, agree - agree, should be oversight,  
but let case be over. Then I stand  
ready to be judged.

- Judging outcome of game (Serious bus)  
- wild feel much more conf after adjudication

**ATF**

exp that FFL initial reaction was not  
to sell

- not my understanding, we don't do no sell lists.  
Don't know whether agents instructed to complete sales?

- don't remember knowing that occurred  
Aware of dialogue betw. agent & FFL

- aware of conv to effect of, follow law  
The 4473s faxed to Gp 7 - populating spreadsheet  
suspect gun database

- not all faxed went into database - just  
those that might be ppl and inv  
- just one FFL, as I recall

when traces started coming back in rel high vol,  
did you talk w/ DC abt shut d

- I don't remember high vol early in case  
You started to get hits?

- yes, domestically too  
Ever convo abt shut down & indict?

- goes to 30/60/90  
who were you talking w in DC abt shut  
- boss, Mc

Chait?

- don't recall, think McMahon  
- kept apps

Ever have communications abt what to do if  
guns show up at vio crime scenes?

- always concerned abt what guns  
old be used for

Ever convo, Apr, abt gotta go get straws  
- goes to 30/60/90

- dependent on things already in motion

What happened @ 30 days (wrong)  
- no, it's tiered.

- hoping to wrap case in 90

You wanted to wrap BAP? why?

- b/c suspects

↑ #s growing? dang?

- we're dealing w/ Sinaloa cartel

You had 40 suspects - was there ever convo abt. knocking on doors?

- convo was to take them all down, head of snake

- and it continues

Some acq really big #s - 60 before susp, 600 after - isn't there point someone needs to say we have to get off street

- when we had ev, we did

Why didn't you take down 1 at time?

- Straux wld have limited know & we wld tip our hand

Press Conf - you said took top to pt - std by?

- at time, strongly believed

- since time, more info

If gave PC today -

- wld say same of Phoenix crew

Phoenix crew sep?

- they're related

Coordinated network?

- yes thanks for saying

- proffers, statements

You're sayin now, not top to bolt

- for Phoenix, yes. outside Phoenix

Is this biggest cases @ ATF? Top 5?

- sure I wld

Think it's a good case?

- yes

If you had to do all over again?

- sure wld do things diff I ask me

to make judgment now w/o

- still going

But people buying, 20 + 15 + 5 -

- burden of proof has not changed

But going back - dec not to knock, traffic stop

- you're asking me to judge

Going fwd?

- depends ATF etc

ATF agents have resp to take guns away -  
- sure, when legal basis  
Based on PC, etc. USAO other stds. Do you  
think conflated?

- OCDETF mission - AusA assigned to guide  
as per mission

But there was a decision not to pull over  
suspects leaving FFL

- we did that on num occ

But not as matter of course

- we did on # of occasions

How many arrests from TS

- handful I know of - felon, guys ran,  
not sure how many

**ATF**

emails - CEO saying wow,  
a lot of guns. Do you know of new ppl  
saying wow?

- might have been

usual run?

- amt of guns was concern. We dismissed  
not true

- we were working extremely hard  
sense of urgency?

- there was we had to get to pt of imp

**ATF**

Thru pros?

- yes

Other ways?

- yes, OCDETF pros led

Fair to say strat to allow # of guns to  
mount?

- don't think that's fair

- "allow"

If you add guns in indictment, most from  
Lone Wolf. Robbie Sherwood - small #  
of FFLs

- don't remember by reading

By time you got OCDETF funding, why  
didn't you decide to sink resources  
into LW?

- we did

**ATF**

- LW gives good price, location  
Would it surprise you if call w/ ATF then D,  
then ATF?

- no

And you think that's good strat?

- I know he cooperated, which is app. Three  
Jan 2011 - cld have gone & taken them out  
- if had PC

Do you think at trial it's going to show that  
ev before

- ATF intercepts

Do you have ballpark for #s from Max?

- not off top of head

Would SVD surprise you?

- not really - inv was on Sinaloa, in Mex

How does trading work?

- 2 trace - PGR (POJ) and mex pol - when  
gun seized

Fair to say a lot of these guns come from v  
serious crime scenes?

- all kinds. don't -

Gill in Spring '10 concerned from very serious  
scenes?

- believe Gillett may have told me

Did you talk to up chain?

- don't recall

CBS clip of Gil - talks abt trying to reach  
out to Phoenix, DC (ATF) Did anyone  
raise those concerns

- Gill didn't don't recall if Gillett, did  
it was  
envoy w/ McMahon?

- don't recall

Can rec that someone raised w/ you?

- can't remember. cld have bn  
thing

2010, have OZDETF funding, at what pt  
become top 5? when Dir int in?

- first couple months, when became strike  
force case

Did your ATF Sups hold you out as in charge to DOJ?

- don't remember talking to DOJ

Brief DAG's office?

- don't remember

Wiretap - did anyone reach out to you for more info?

- local office - USAO - up chain for approval

- goes to OEO

- I don't remember call from DAG office

Anyone else in DOJ? CRM?

- No. Don't remember calls w/ DAG's office.

Conversations? OEO

- No. ATF's DC lawyers, **ATF** Emory

ATF lawyer in Phoenix?

- don't think part of it

But wouldn't surprise you on email

↳ no, always enc

lawyers in Illinois?

- **ATF**, ATF atty

Don't recall anyone reaching out to you? **ATF**

- Don't recall. If call from DAG, [think rem?]

During your time, # wiretaps?

- is a big deal, this #

Assuming another agency had wiretap - what is deconfliction process?

- Great thing abt strike force. OEDETF fusion center. If agency agrees will open case file electronically - names of suspects, etc.

Think worked well in this case?

- Yeah. But in place like Phoenix, might be lots of angles

If dog hits on money, how loop DEA?

- process wld be to gain ev to get gun - civ forfeiture

- use as supp ev that

- w/ strike force, ev agency comes, OEDETF proposal

- local committee - goes thru fusion center
- You wd agree volumes grew
- up & down
- Your hunch from Sinaloa?
- part of ongoing in
- Then, where did you think?
- didn't know
- Surprised?
- yes we are

- EX 4** - Brief Pagni - Osorio
- Produced to us this morning by DOJ, represented as resp to req. from Grassley - 30 p memo
- no 30 p memo I'm aware of
  - No longer one?
  - no longer one I'm aware of.
  - Any attachments at any point?
  - not recall, had prep
  - Had prepared by whom
  - don't recall
  - think **ATF**
  - Routing
  - day or two after
  - believe requested by Bill McMahon
  - had pretty much whole Tucson office
  - Been asked to locate doc requested?
  - yeah. we're working on prod. know all email ez been scanned
  - So someone asked
  - remember Bill asking when first came out
  - This is your best guess at what resp?
  - yes. There is no memo.
  - Aware of any cover emails?
  - might be. Sure there's email, prob from me to Bill

## Ex. 5

Familiar w/ doc

- Best of know, supp doc for affidavit for civil forfeiture
- That, supp by aff, civil side of USAO - mag approval

So template?

- yeah, or draft.

Who drafted?

- don't know

You've seen mult times?

- 2 or 3

Approve it?

- not up to me - judge approved

Did you approve going out?

- no

Who wld?

- supervisor w/ USAO off

Worked out w/ USAO?

- could have been

Who in ATF

- guessing wld have been **ATF**

Case study of various orgs F&F

- would have been of various orgs. Not of case - study of inv. in Grp A

Mentions T-III - were there other cases w/ T-III?

- no -

So doesn't ID this as F&F?

- no - strike force

Is this a written study?

- don't think so - think this is ref. No pub case study

So not aware #s come from some other larger doc?

- no

Example - successful trace from Mex wld ID purchaser of FFL talks abt when ind int by ATF, zero firearms. Portrays cases as beg is 'when trace comes back. Is that fair charac?

- not always



Is that how most F<sub>3</sub>F suspects ID'd?

- no, series of ways
- Primarily FFL
- FFLs as well as DEA

Were there lots of ind ind of suspects?

- in F<sub>3</sub>F, int after arrest
- int conducted, don't get int prior to ind
- You ind <sup>desire</sup> not to tip off?
- not desire, strategy that we took

## ATF

Cartel Focused Strat - Fall 09 - from DOJ

- I got draft from **ATF**, think all SACs did
- provide input Oct/Nov 09
- Strat w/ cover from DAG - Jan 10
- Also indicated Phoenix 7 sim time
- Oct 09

You were SAC beg in '06

- June 06

Strategy in Ph FD betw '06 & '09 involved arrest of straws?

- had gunrunner strategy abt that time. we did that.

So you had case focused on straws / interdict

- yes

Successful in halting flow to Mex?

- well, since issue that continges, guess no
- **ATF** agreed needed bigger strat

GAO rept?

- yes

Did you agree w/ **ATF** that strat untl then not eff in dism orgs?

- not eff v orgs, took 1 or 2 straws
- shared op not succs to orgs
- **ATF** did good job at looking hist at cases we'd done. He was good sup.

Did you see Gp. 7 as process of beg?

- not so much beginning...

- my intent to put 7 in strike force - married up focus from DOJ, married up perf.
- Was that perf. marriage consistent w/ USAO on successful prosecutions?
- Dennis new, but part of starting strike force
- DB taking info from bench?
- we had convos abt bench

## ATF

Ex. 7, AP - slowing down w/ FFL cooperation. Was that limited?

- at beg of Inv, Nov. - Dec
- So at some pt you stopped trying to slow?
- we got addl resources for surveillance
- Guess would have thought always good idea to slow?
- no - idea was to get handle on what going on
- mid-Dec was meeting w/ FFLs telling them can't tell them how to run business

Ex 6 Feb. 14 email - series of emails abt op plan w/ tracking device

Rel to F & F

- SRT op sep operation, and then I ref something in F & F
- What were you doing w/ tracker?

ATF

ATF

What mean by "loosely the truth"

- Sure. were working on getting more res
- Would you go fwd if didn't have enough
- normally end up calling another SRT, etc
- So usually shortage gets solved? Try to go ahead
- we want photos to get addl info

told HQ had plenty surveillance loosely the truth

Do you know if this gun recovered?

- don't kn abt this part can  
As part of FAF did you let ASAC auth agents to forge  
arresting straws or interdicting when had legally  
suff ev?

- No, don't think we had legally suff ev...

~~the~~ auth agents to forge arresting straw  
purch when you had ev & legal basis to do  
so?

- again, goal from day 1 was to go after  
whole org

In the process of gain evidence for that goal,  
did you have enough for straw?

- rather, a matter of what had when in con!

- w/ us to <sup>we thought abt</sup> the 10, but us to has input,  
can ask us to share up. respect that  
process.

Do you think indictment of 20 took down org?  
- ongoing. we knew part of continuing case  
- those ind were leads as we knew there in  
Phoenix

- ongoing, more suspects  
Has our ind. had input?

Describe

**ATF**

- case agent not foc on inv  
to questions, esp. case agent, sup.  
- we have ongoing inv were trying to finish  
- we respect process, been hard for us  
then abt. public release of docs  
- when docs released, agents have to step  
and answer OS

Impact on cooperation?

- was it has. for years good  
- ~~changed~~ rel. w/ FLS - now that's changed

# ATF

Have you conducted a search to determine whether F&F weapon involved in F&F was assoc w/ Zapata?

- I was in Mexico when happened; Tues afternoon noticed
- DCM made announcement that there had been a shooting
- All LE people left to go back to Emb
- That weekend SSP conducted... did he been following weekend - warrants. Seized 6 guns felt rel. Assisted <sup>GOM</sup> w/ ballistics
- Traced (SSP) and as far as I know, none linked to F&F

You made effort to look into?

- might have been

ATF

Case log - SAZ Newell file review

- agents write reports, sup yes in an approves  
Aware of helicopter in Mex shot down?  
- forced landing?

Yes. Make eff to see if F&F guns inv?

- not we

Did someone?

- yes, Phoenix Field Br or  
- yes, Mex

- Three ~~F&F~~ guns linked to F&F

You didn't make eff?

- we're working on it; getting file from Mex

Juarez recovery in late April? F&F guns

- Yes, made eff - believe... think 4 or 5,

Are associated w/ purchasers?

- yes

Do you know if guns purchased before or after?

- No

Trying to find out?

- Don't know off tip head

After controversy, guidance went out -  
- all USAOs to get w/ SACs

And say what?

- don't have in front of me

Something to effect of shouldn't let walk

- don't recall

Do you recall rxn? Change in policy?

- Yes. It was guidance in an investigation.

Change in policy? Viewed that way?

- I viewed as change in policy

Pres said "maybe serious mistakes made" - Do you agree

- Pres ent to his op. We are still cont inv. Strategy from beg was solid

Do you bel mis made?

- every inv

Ser mist?

- sound strategy. Easy to look back. Made decisions based on ~~fact~~ what new at time

Which more imp as goal in your view: interrupting cartel or coming up w/ successful pros. Willing to trade off?

- Both imp goals. <sup>put reg</sup> Make biggest int of succ pros. Can't sep the two.

**ATF**

helicopter  
- believe all guns linked back