

# ATF

# ATF

## ATF

Thank for app voluntarily.

Intros

## ATF

Also see

- JF

- Susanne, Minority HOCR

## ATF

I will ask Qs for hr - trying to keep questioners to two/hr. At end of hr, will switch to minority.  
Breaks every hour.

Comp  $\frac{1}{2}$  truthful - und?

- Yes

If don't recall, tell us what you do. Feel free to ask for clarification.

Req to answer long Qs truthfully - und?

- Yes

If class info, answer as much can w/o giving. We'll ask ev to leave docs here.

## ATF

To ext possible, alert us to when going into sens CE info, spec crim investigations

## ATF

LE career?

- D US Marsh - 1996
- ATF - Feb 2001

GS-14? GSup?

- Yes

Phoenix?

- Dec 6 2009

Rep to Gillett?

- Yes

When arrived, big case?

- Yes

## ATF

- She was LAgent

Who else?

- Grp 7 - started Oct 1, 2009, funded under  
GKanner

- Mac acting BS, CA

- **ATF**

- I came in Dec to tell you dates, but

**ATF**

- 7 agents plus me

New grp?

- Yes

Initiative on SWB?

- Yes, docs from ATF, DOJ; IG critique,  
all '08, '09 - Time w/ all these docs -  
prov instr. to dism org, leaders, &  
not to go aft org Straws

D 1 -- -- 1:00 -- 1:17

Ex 1 BP, Jan. 8 - we und. used for  
OCDETF funding process. Fam?

- I'm fam, yes.

Iterations find up chain?

- Yes, diff vers

Used for OCDETF pres?

- No, those have

who prep?

- I did some, not all. Don't know who else -

✓ I find was page shorter. Once I sent,  
can't say who received.

Who to?

- Gillett

New?

- rec copy. don't know w if <sup>we</sup> added to it. Don't know  
who else received.

- **ATF** Did they help prepare it?

- I <sup>not</sup> wd say they waked, I may have asked Q5,  
wd say they prepared it.

PP 1 - (figures of guns/\$)

- No reason to dbt that

At some pt - susp. @ 40?

- As org prog, they ~~would~~ switch straws

Big ones? **ATF**

- Yes

Of 20, fair 3-5 purch bulk?

- possibly

1850 - 2k F/A purch by org?

- ok

P8 - USAO - Jan 5, 2010 meeting w/Hurley

- I rem meet w/Sm on #000

Was USA in meet?

- I was new in meet w/DBurke

USAO comp in loop?

- Yes abs

Did you draft P8?

- Don't think wld have - didnt meet w/DB

- Don't know who did

P13 - "curr our strat..." Did you work on <sup>ms</sup> sent <sup>copy</sup>?

- I bet so

Did you insert lang?

- I don't remember

What does "allow..." mean?

- taken out of ATF order, maybe poor choice of words. Transfer of F/A prot by 2<sup>nd</sup> Amd To step in req leg std, USAO said hadn't met. To imp we did disallow ~~app~~ imply we did step in - most F/A laws on prohib. persons, w/o that cat, diff std needs to be met,

Until indict, can't do much, can't give FPL list, not like no-fly

Maybe "allow" poor choice, but to imply disallow imp we did intercede

[San]

But if fishy can Q?

- we can investigate

ATF

ATF

150K on F/A -

- w/o us knowing - keep playing catch-up
- low sentences, not obl. to answer questions.
- he doesn't have to exp. funds
- obst. of not having tool, not seizing F/A, hard to prove w/cash from
- CIV, civil forfeiture - we knew these people didn't supp purch → **ATF** civil forfeiture. Diff. burdens of proof - put on them to prove source of income.

Could ask where got \$, for guns?

- Some people wld say they sold car rec, excuses endless

**ATF**

buying lots - in Mex - 28 in Mex <sup>by</sup> <sub>Jul 2</sub>

- wldnt sur

All rep to C-A?

- for most part, that's our theory

Also inv. in drugs?

- Yes

DeA at his network?

- Don't know if his net, Dea inv. **ATF**

adj, pled guilty. Crossover betw. C-A and others in El Paso. Some we find out after fact. ~~A~~

DEA on OJDETF team?

- Yes, strike force.

Part of pt to share info?

- Yes

Drugs ↔ F/A?

- Yes

... C-A C-M?

How?

- **ATF** - MX to C-A, poss someone from MX wld come up

- Also, provisional arrest warrant - DEA does

CA working w/ **ATF**

- Yes

How?

**ATF**

**ATF**

*infer... saying can't talk abt*

I'm trying to und. Sin. Cartel in US

Think **ATF** going to be ind?

Know who working w/ in Mex? **ATF**

Do you know if they were dep?

- At one time. Int. on DEA wire in El Paso LC, they had contact, deported, FBI brought back on imm parole

When?

- Sept. 2010

When DEA learned?

- don't know

**ATF**

FBI inv?

- for Imm parole - need sponsoring agency.  
- kind of like a confidential source

So prev. dep b/c o DEA?

- Yes

FBI brought back

- My und.

**ATF** funneling \$ to GA?

- As inv. continued, knowing what know now, that's my understanding

It's poss DEA/FBI had info help to your inv?

- yes, if we knew then what know now, diff avenues of inv wld be pursued

Time when they knew?

- DEA, J/F 2010 - Their calls wld have been before that
- Also DEA **ATF**

- I think if we had known sooner, wld have proc. in diff. direction... or, sooner

At what point was that info knowable?

- **ATF**
- FBI component
- Don't think all known at same time,

FBI emp. @ SF?

- Yes

When?

- When I got there till Spring, Spring 2011, maybe Apr.

After this became contr?

- Don't kn if has anything to do w/cont.

Circ of depot?

- Been told they (DEA) attempted to conv. bros to coop, didnt think they were truthful, maybe polygraph failed, DEA dec. not to use

Poss to be PI by DEA/FBI?

- depends

Was **ATF** PI?

Pr... 15... ..7

You were working dangerous matter - more info, heart of net earl?

- in perf world

Did DEA have helped more?

- easy to 2<sup>nd</sup> guess now, hindsight's 20/20, don't know right as to ask, dropped phones,

**ATF**

Plaza boss / Manuf?

**ATF**

I'm trying to ask about plaza boss

G: were not going to talk abt

**ATF** says trying to help

I ask to go off rec, ask not too specifics

show ATF not only involved agency

They claim und w/ Man was just to flag specifics, we say not out und.

**Ex. 2** Emails from **ATF** to FFL

You recognize ind. on email chain?

- Yes

How freq. exch emails w/ FFLs

- SEC only one, to my rec

- I think few inst I did is inc here - think this is gen

You sup HM, JM if they were

- Bel. was **ATF**

P. 3 - pretty deep in 1970 - call from **ATF**

wants 20, only have 4. Wnt guidance to see if shld. You wrote back saying shld go fr. Were you auth by your sup to instr. FFL to go through. Did Newell know?

- Not sure. Newell knew were coop. w/ FFLs.



I und **ATF** balked, meeting w/ Em?  
- don't kn charac as balk

They do

- OK. Went, met w/ **ATF**, ~~clear~~ clear  
not going to tell him how to run bus.

If lawful, can't tell him not. Told him  
what wld help us (call us <sup>if to do</sup>, 44735, receipts)

You don't recall telling them **ATF** to g fwd  
w/ trans uncomf?

- No

Rec lot attn from Sr Mgt?

- Yes

You freq up sup?

- Yes

New up Mchm?

- Yes

Chart, Mc, Hoov, fam w/ details?

- Yes

**ATF** ?

- Rare

Sr ind sig matter for a go?

- Believe so.

They had you brief reg?

- Yes, verb or written

Your imp <sup>more</sup> aware of strat used?

- Yes

**ATF**

lot of det?

- Yes

Spec people, trans, network, recoveries?

- Yes

Who carries ball to OEO?

- I know from exp, internal person before OEO. Reas that Hurler or someone else in USAO rev → OEO

**Ex. 3**: Wiretap Req. for Auth w/ cover letter

Goes from y → New → MCM

- Belso

Your und needed Mc auth to move fund

- Policy is need DAD app - since has changed
- Agency wld send to OEO the approval

This is Feb, before **ATF** → any kn of whether Mc OK?

- assume someone did. Someone @ DAD level has to auth to OEO

At this pt been there 2 mos

- Yes

Lots of detail, fair this is ev<sup>d</sup> everyone on same page?

- Yes, I'd say ev. aware

So to ext ev now 2<sup>nd</sup> guess, fair ev in you C-of-C in know?

- Yes

I someone thought too much, cld shut down

- If ATF might wanted to shut cld have, come to me, did not. Said keep going, try to get bigger array of charges

- If we cld go after bigger array - \$ land, aiding & abet

In your exp. briefing execs - SK ft level?

- yes

Does each go through same <sup>process</sup> ~~part~~?

- yes, & renewal doesn't need DAD auth  
b/c not new line

So mngt chain had lots opp to see wht going on?

- flew to HQ in March. More in this case than most

Disapp to you mngt. not own.

- don't know if agree - being told good case, righteous

Mistakes made?

- premise just, intent pure, righteous goal  
- wanted to best w/what tasked to do

Mistakes you would do-over?

- don't think any w/ hindsight  
- maybe <sup>mr</sup> bro, goal quicker

SF names?

- FBI folks: SAC in Albuquerque, don't know name

SF in this case?

- FBI: **ATF** ? Agent

- DEA: Sup. **ATF**

**ATF**

You rep to ASAC?

- Yes

And line agents in Grp 7 rep to you?

- Yes

an inv

Wnt abt surv?

- They conduct. Need app for enforcement action.
- Spending, electronics, enforcement (arr, sw) need app
- Gen, lat to let them do inv

Is interdict EA?

- depends on how happens. If you knew in advance certain event on certain day, that's EA. Interdict trickier, hard to know/predict actions -

- eg. **ATF** me, Gillett on loop, didn't know w/ move, had to react

- Feb 2010

what do?

- took action, got Tucson inv. They went to house. **ATF** wldn't know if left house

**ATF**

- correct.

**ATF**

**ATF**

Goes to Tihono O'dum.

- both sides of border. Members of nation can travel
- called BP - stop. woman on sup rel, confessed, 40-41 F/As
- Think Feb. 20

Ex. 4 - Newell/Gillett string - "SAC & I concur" earlier says take off b/f border

"Take guns off as soon as" - how aware of

- wanted to make sure interdicted, but less than 100 miles from border

Judge to sign off?

- yes

USAO?

- yes, ct order, affidavit, reas exp of privacy  
- worked w/ USAO

As part of F<sub>3</sub>F -

ATF

ATF

- Consulted w/ USAO, they said old retrieve, we looked & didn't find

Those are reasons not used?

- yes

When last used?

- can't remember, maybe 60-90 days aft. Feb  
Apr/May?

- fair estimate

After weapons interdicted, you knew who purch?

- Yes, ATF

Why not arrest?

- Talked to USAO, decision was not enough  
ev - person smug made no statements,  
said she got dir from guy. Think says  
in here a guy named ATF

Who calling shots - not this female driver, maybe not **ATF**, you might take him out & sequence goes on w/ someone else

Who app. int? Email sugg. Gillett inv?

- Cert - ASAC or SAZ, USAO on whether have PC. To stop & take guns we view as reg ind. PC outside from what oth LE might think P/C ex. If drugs, P/C b/c exists. Guns tricky.

Not being contraband, us seizing is concern. Want buy-in from USA.

- If we were to seize guns... Richmond gun show, ATF accused of overstepping auth, taking guns w/o lawful auth

- Great concern that... not fair comp. betw. guns & drug

Is that why USAO inv?

- yes, incident in Jan, we wanted to indict, USAO said no. If we went ahead anyway, real problem

Email: customary for DAD McMahon notified?

- Yes, if significant interdiction

So McMahon only not. of signif?

- I guess whichever Newell dec - I can only speak to when SIR created b/c I created.

But App from Newell/Gillett, not McMahon?

- I can't speak to that... don't reme he was notified or connected, just

1-11-12 2-11-14

Then you wld req @ ASAC level?

- moving so fast... if don't know till hap, talk to ASAC - call to ASAC may just be, this is what go on, we're going to try
- w/o prior kn, lots of comm going on, SAC old be in meeting

For Arrests → USAO?

- abs. There may be imp we just arrest. w/o USAO, we're going to unarrest in morning. USAO final say. We abs have to have buy in. whole series of bad events if started [not]

Who in C-of-C app arrests?

- if planned, we prepare a blue cover sheet, recd for prosecution. Spot for being approved. Point is someone app
- If more live time, response - charge by comp, call boss and tell what's going on, talking w/USAO
- By pt of USAO buy-in, kind of going to go fwd

So sep from ATF C-of-C, proc. beg w/USAO?

- yes

Agents have independent auth to cond. surv?

- yes

To end surv?

- Yes

Don't need to go up chain to end?

imp to know what can guns in.  
Who makes dec to stop sitting on stash house?  
- no hard & fast answer. Maybe if act, diff  
from if no act for 8 hrs. If un couple  
w/WT, **ATF** totality of circ, if purch @  
FFL, we only have cert ves. Have to  
decide where expend.

Wld field agent cons?

- might. Might ask to transfer stash  
house to FFL

One acc is that SA watched stash houses  
and stopped. At what pt aware happening?

- don't know. Never phrased how is now.

Maybe if see transfer, talked to USA,  
if guy trying to lose us, if risking vio  
for something not violation, ~~ATF~~

- if this one not panning out to clear vio,  
maybe next one will

And dec not panning out — w/USA?

- yes, even if didnt consult ev occ,  
if consisten w/sim trans, it's same  
premise

Wld you consult w/ASAC or SAC re: dec to  
reallocate?

- depended on what SAC doing, what  
going on in field, convo w/USAO  
- no hard & fast rule bth than we always  
comm. w/somebody.

- <sup>w/white van</sup> greater good of what hoped to acc



- range or leave happens
  - do best we can w/ what we've got
- Ev. comm concerns?

- one of these BPs, says add'l res, ask for analyst for WT
- analyst we had didn't have software training

When?

- one of BPs ... rem vividly line of how many agents avail.
- Did you  
Get add'l?

- got some when wire active - <sup>maybe</sup> Apr/Mar
- GRIT in May

Did arrival of agents change calculus w/r/t recall?

- Yes  $\frac{1}{2}$  no. Still w/ trying to schedule. Tried 7 days a week. Better, prob not perfect. w/ so many straws, PFLs, stashes - diff straws old be buying @ diff PFLs same time

How many people under your supervision?

- At some pt, 17 agents, May - Aug (GRIT)
- Couple stayed for indictments

Been told that ~~during~~ agents felt enough ev but told to stand down. Aware?

- heard as part of hearing

Not brought to attn during F&F?

- no.

No conv. w/ agents and sup wanting to arrest/strip?

- no.

Why not use locant?

- we often did.

This incident?

- don't know why. Maybe not avail, maybe didn't resp. fast enough.

Other incidents?

- only one I can remember

Concern <sup>Convo</sup> w/ agents?

- no, **ATF** told me after fact. I thought wise dec. No one ev brought to my attn again

Did tactics include foregoing arr/interdicts where agents bel. legal aut?

- no...
- we seized over 200 guns in case
- when we comm w/ USAO... whether agent not in consult w/ USAO thought, don't know, didn't bring to me
- approx 278
- group as whole, 373 F/A in Grp 7
- know or believe this is more than oth SWB. From queries - more than other

Who is "we" w/ USAO

- **ATF** talked to Em daily, nights, weekends
- ~~met~~ talk to Emory
- Newell met w/ USA Burke
- mult levels of communication w/ USAO

Do you know if other agents conc. w/ Em?

- on this case... TB talking to Emory. On

w/ USAO. Don't know if P/C grey area, but if USAO says don't have, hard to override as agent or supervisors

- twice turned down by mag. for search warrant
- if I hear enough we don't have P/C have to acc... my role is my role, they have their role as attys/judges

Brief up chain?

- at some point frust w/ lack ab to seize F/As
- alluded to - met w/ civil side abt. civil forfeiture. Shifted burden.
- to best of my kn. no one else @ ATF doing this. Was a resp.

Who raise w/

- met w/ Newell, Gillett, Need
- when met w/ **ATF** civil side. I talked to Needles, he thought great idea. w/ done w/ success

Know if <sup>he</sup> took up chain?

- Don't know. Know historical difficulty, have gone state route. Gen sense of frustration. Newell aware, been there longest.

When raised, what came down?

- Corpus delicti issue. **ATF** memo/disc. w/ USAO. Pos is if gun rec in Mex, can't use in ct. Believed

Was real concern com? 2

- don't know if that ex concern - was comm. conc. abt. res

**ATF**

on the record -

**ATF**

**ATF**

Came to Phoenix in Dec 09?

- yes

Where before?

- Minn

Talk to **ATF** before?

- Think so

When How talk to **ATF**?

- guess knew who coming

Telephone convos?

- Yes, to stay when coming, have a house? etc

Talk abt case?

- Don't remember... don't know what I wld hv known

Didn't say going to be on **ATF**?

- Don't remember those conv.

Prior to Dec 09

- Don't remember those convs

- May have gen talked abt. OCDETF, etc

<sup>Both</sup> Going there to follow new strat?

- going there for GIP?

He got there before you?

- he might have

Initial contacts w/ **ATF**

She was contact on prev cases?

- He had cooper

1

- I knew from Newell he had coop. w/ Agent **ATF**  
Prof. <sup>OP</sup> Southbound. EV seemed cons in he was  
coop PFL

And worked well?

- That was sense

Ever talk to **ATF**?

- Strategic initiative - for OLDETF case, submission  
form, asked her if she had filled out form. They  
were OLDETF not **ATF** as

It <sup>idi</sup> may have done SUB case w/ him, 20 yrs?

- I'd have no knowledge to that.

You didn't talk to her abt rel w/ **ATF**

- No, trying to figure out how to do strategic  
initiative. Gen. facts.

You knew at time **ATF** coop w/ F&F?

- Yes

Aware of Oct or Nov 09 meeting, agents → **ATF**

- No, not in Phoenix at time

Secondhand kn?

- No

Aware of any meetings Em - **ATF**

- just Dec. 17

- me, Em, another AnSA, **ATF** - told cant  
tell him who to sell to, when not, but  
that giving us info on callers helpful,  
license plates

How many oth times AUSAs w/FPLs?

- just w/ **ATF**

- I don't think of any other cases

Why not?

- didn't really have same prop in oth cases  
in St. Paul - large numbers of guns being  
purchase

EH got inu for what purp?

- to make sure no denying civ lib or en

Who sugg?

- no idea.

Wasn't you?

- no

Hurley's idea?

- don't know

**ATF** idea?

- don't know

Who told you?

- I think **ATF** Didn't think twice

**ATF** exp concerns?

- No

- asked log q's abt phones, lic plates, camera

Didn't raise Qs abt # of guns selling to ATF susp<sup>Shm</sup>

- not that I remember

Did you take notes? Anyone

- No. Not to best of my knowledge.

Did ATF record?

- I didn't, No kn of anyone else

Recording system

Does **ATF** have access?

- don't think so

Did **ATF** use <sup>system</sup> to call ATF?

- cert. don't think so

But if so wld be recorded?

- yes

At meeting w/ **ATF**, did you assure him weapons interd. before border?

- not to my rec.

Next interaction?

- don't know if I've had one. Can't remember one. Guess can't rule it out. Maybe if a fax went through

Never been back to store?

- No - he had an employee w/ associate, maybe money owed, gun taken

- wld have been on video, went to store for help to find - nothing to do w/ F&F

- had burglary, I think I went w/ **ATF** prob w/ alarm - he showed us.

When?

- Spring 2010. Don't think GRIT detail there.

- But not F&F

What abt. after ~~the~~ Terry death?

- I didn't talk to him after that.

You didn't go to store to talk abt how to deal?

- No

Hope?

+ 1 ... of - 1 ... 1 ... 1 ... 1 ... - 1 ... 1 ...

discussed cameras, alarm at his house

Threat ass?

- fair to say that

His store?

- at his house

Discuss Terry death?

- not that I rem - standard phys. sec stuff.

Did anyone discuss case?

- not that I remember

- I know there's been disc, but my rec of his hse was phys security

Did you say "we're all on same sheet of music & stay & we'll be all right"?

- don't have spec. rec of that

What abt aft TA?

- I didnt. I contacted alarm co to contact him. Oth bn thru atty. USAO. More formal TA by USMS. Any contacts thru attys.

Ever @ meet @ USAO? Em did

**ATF**

- 2H

When?

- approx. March/Apr 2011

Old it hv bn Feb 11?

- Could hv bn.

What rec?

- **ATF** didn't attend

- talked abt perc threats



It was decided he would?

- Don't know. He put one out, don't know if rxn to meet

Exp. concern he was only FFL named in indict?

- Don't know but do know change his bn made b/c of this, FFLs

But you don't know it in resp to his conce?

- fair to say was in why named

- I think you need venue

Did you review draft?

- think so

Did you raise concern

- don't rem if did or not
- hard to disassociate before and after, and subsequent indictments

As ATF sup, isn't it concern naming might disc?

- in hindsight make sense wasn't first thing came to my mind. don't have rec of that conc

Generally don't you take ~~pre~~ precautions to protect CIs?

- he's not a CI

Not my Q

- generally yes, do take ~~pre~~

want to go back to PC - that you're not an atty?

- we rely on them. It's a partnership. You don't have to check w/USA to make P

Do you think qual to dec?

- I think if you talk to USA, to override dec wld not be best prac
- So if they say non-pro to non-pro not P/C

You do realize diff std in courtroom than in field?

- I don't know if true... we try to op lawfully

Diff betw. RD & PC?

- Don't know if agree. PC is PC. Lawful or not. Don't think diff on street.

Pros has goal of guilt R/D

- ~~Do~~ Think we share

In field, ~~we~~ don't need R/D, corr?

- don't know

Were you aware disag. betw. on interd. dict?

**ATF**

- no

Not aware of **ATF** crit of **ATF** - too quick to int?

- not aware of that

Rec LE techniques ones Recs susp to dev PC, or to learn what prohib pers in car, or otherwise convince person to

- that Q had couple

Techniques to interd. short of arrest & conviction?

- if we don't think will meet goal, &  
other techniques might be better  
But is it not case if pens on fs w/ 301c  
is at least RS

- that could be one tactic employed  
Agents hv told us that technique (dev.  
thru interview, etc) to get guns was a  
freq thing in other offices and in Ph  
before. **ATF** says only one time that  
unsucc. Wrong?

- No, I think over time straws gotten  
smarter.

- Straws tell us going to desert to  
shoot. Another unemployed guy,  
no ammo, where'd you get the money -  
host of unsuccessful interviews

**ATF** says successful, that straws will  
give up

- I think used to be more acc. They've  
gotten more <sup>smart</sup> ~~stec~~, soph.

So if we're told never had problem  
before - acc?

- No idea if that's acc.

How did ATF learn **ATF** in contact  
w/ DTOs?

- we susp he was highest in Ph.

How early on ev **ATF** in comm w/ DTO?

- hindsight 20/20 - DEA  
@ time...

**ATF**

- DeA hit

Isn't that basis? OCDETF

- yes

So as early as Dec 09

- out that's hindsight - we susp. but don't think was provable at that pt

Whit abt **ATF** - as early as 09, guns in MX w ttc 14 days

- sounds abt right

And continual rec in MX?

- yep so

Does that meet PC?

- talked to USAO - need int P/C for each transaction. Can't transfer to next SP.

Doesn't matter that end up @ crime scene.

- talking to USAO, if he sells to non-pro pers, lawful. Non-pro can sell/transfer, not vio. If sec pers → Mex, can't transfer

But continual patt/intent? USAO said no?

- fact that someone buys & sells guns is PC?

But being proh. not only illegal thing - also intent?

- <sup>don't know if agree</sup> there are cases in 9th circ - conviction overturned, person purp. bought gun for non-proh, ~~not~~ conv. overruled

**ATF**

Ev heard her say PI - grassley?

- no  
Heard her say

FBI prob of own, take heat off?

- no, I mean some gen dissat. Don't know if attrib that statement, w/r/t

**ATF**

B/c turns out oth guys FBI knew?

- yes.

w/ knowledge, may have taken down w/o allowing **ATF** to by

- may have acc goal sooner

People you mentioned before -

- pretty sure how wld be FBI in Las Cruces  
FBI personnel? <sup>we's</sup>

- Las Cruces or

No name?

- **ATF** don't know last name

DEA?

- in Las Cruces or El Paso

Remember when first learned of **ATF**?

- after arrest of **ATF**

2011?

- yes

Before or after news?

- before - when arrested, giving statement

Doing doc review?

- No

Not involved in resp?

- No

W/ve heard access in case in what kind of time?

Did you think genuine?

- I think genuine he believes, and that people may have called store. Out of our exp - USMS. Alarm system

Recall Needles saying we'd buy your house?

- one thing **ATF** wanted to look into, don't know if thru relocation

246

**ATF**

How long Gsup?

- Dec. 09

- prior, was agent

Sounds like HM/TE <sup>prim</sup> contact w/ USAO?

- yes

But Dec you?

- on occasion, yes

w/ line

- H/T, w/ line

- mine, 50% line, 50% meeting,

my sups

**ATF**

who is

**ATF**

- Emory's direct supervisor - section chief or something

How frequently?

- 3 times <sup>week</sup> sometimes, once others

@ Agents?

- mult times a day, early, late, etc

Other agents?

- again, maybe re: documents,

**ATF**

Your <sup>trp</sup> int. w/  $\frac{1}{2}$  morn?

- SD/SD in person/phone

How about Case Agents?

- Phone, emailing drafts/docs

Fair to say USAO ext. involu w/ CA's?

- yes

Typical?

- in larger investigation, yes

~~When I was agent~~

- in OLCDEF inv, working w/ constantly. when I was agent, on phone w/ AUSA all time

If in F<sub>2</sub>F acted inc. w/ USA advice, what happen?

- case wouldn't get prosecuted - legal reason/ problem

Wld jeep case?

- absolutely

For example, if you had asked, AUSA said no

PC - wld jeep

- wld certainly jeep case, and I wld have trouble thinking we acted in good faith.

I wld have trouble thinking I violate Const.

When you received advice/dir. from Hurley,

who in Grp. 7 was briefed abt. disc

- **ATF** myself, SAC, ASAC

Wld ever brief down chain?

- well, ex of tracker -

What if AUSA said didn't do something?

- **ATF** me - maybe tell SAC or agents in group

- what would I not think to do -

USAO had info abt tactics?

- yes

So did CAg take dir from AUSA on surv dec?

-

**ATF**

**ATF**

Many surv

comm to AUSA. I said, daily / mlt daily  
conv

Consults abt. Suspects?

- I remember talking to Em abt failed  
int in past prosecutions - in h.s  
op pros those cases diff/hard b/c  
int yielded so little

Fair to say

- yes

His exp?

- I think always F/A

How long?

- don't know

Exp pros?

- yes

Do you know if CA disc seizures/strips w/  
EH?

- of course. we did lots seizures - to my kn,  
consulted

If didn't concur you -

- well, may have disagreed, but if render  
legal opinion <sup>to supersede</sup> goes against what I  
und to be for

Rely on them



Coordinate w/other LE agencies?

- ICE, DEA, CBP, Phoenix police, IRS  
Hurley consulted?

- I know he worked w/IRS on subpoenas  
for bank accts, Ag for **ATF** info

He was aware of FFL cooperation?

- present at both meetings we had

What other challenges?

- hurdle - roadside conv. w/AsUSA, saying  
he doesn't have job, told not illegal

- That's when went to **ATF** lower  
std

Even w/that USAO inv?

- yes - got forfeitures

Can you think of dec USAO not involved?

- not in this case. Not going to take  
ind. action when worked so long & hand  
together.

- I can't think of anything we did we  
didn't consult abt

Are there other legal constraints w/it op?

- one is notion we cd provide to FFL, no-sell  
list - that's not an option

- being a suspect doesn't take away  
your civil lib

- This notion we could have given  
FFL list - we don't have that  
authority

Were there discussions w/ USAO at other  
points in case - traffic - crime?

- when I say seized

Did Grp 7 make steps?

- seizures yes, don't know abt steps. we have unmarked cars - better practice to use marked cars

Protect ATF inv?

- part of consideration

Hypo - non-pro person buying gun - legal gun, right?

- yes

So as long as not pro-person, have right?

- yes - can't treat Barrett dif from others

So acc to non-pro person, didn't matter who/ID of that person, circumstances - didn't m

- scenario w/ unemployed - don't need to just funds

- non-pro pers → non-pro pers, not illegal

- being on **ATF** by itself not ill

How get info for PC?

- **ATF**

Could talk to person?

- Yeah, think that's been covered...

But not favored?

- Not fav by USAO b/c unsucc att

What other ways for PC?

- **ATF**

- be hard pressed to think of technique ~~others~~ we didn't try

- **ATF**

You talked to USA abt?

- he gave ~~EOs~~ - say thought ass<sup>ant.</sup> weap ban coming back, it's riot, can liquidate <sup>chd m</sup> → doesn't make orig purch a straw

Do you recall instance contra. USAO advice?

- I can't think of one. Can think of debates..

Debates?

- huge gun, has to be mounted, - ind. had no emp, paid 13k in cash, said for shooting in desert
- we stopped, interviewed him, said saved his money - pt is we disagreed w/USA, but ult. sided with them that this not PIC

This is during F<sub>3</sub>F?

- yes
- this was one thing prompted why going civil route - found alt. solution, diff std.

Became OZDET case → change USAO role?

- Yes & no. More oversight - approval process, interim / status reports.

Who prepares?

- We prepare part, submit to USAO

Each rep inv both ATF/USAO?

- Yes, and then it goes back to OZDET

Ever feel like F<sub>3</sub>F too much dir. from F<sub>3</sub>F?

- don't know if fair to say too much. Maybe their dir weighed heavier than our dir.

- I know mult meeting abt charging, got to pt of SAC/Dennis saying we need these. Case w/conf → hung jury

- **ATF** I think?

- **ATF** told me abt Briefing in DC?

- March 15, 2010

- Hoover, Chait, McMahon

**ATF**

**ATF** from DOJ.

Melson?

- No. Fair to say Hoover, exec level, there. How long?

- Briefing abt other stuff too - briefing I part was 30-45 mins

you were providing?

- I think **ATF** started, w/ PPT, then got more spec. into our recoveries, guns, money, funding, going up on wire SURV

So did you say cutting surv @ stash house for FFLS?

- don't recall that being disc

Did you say # purch, rec, both?

- Both

Did you desc ind. purch?

- Did.

IP spec individuals int?

- Don't know if did @ that pt or not.

So Ex. 2 - Apr. 2010?

- Seizures in Mex, us, [ATF]
- wire, what we hoped to learn, how hoped to dismantle org

Explain conversations w/USAO w/rt PC?

- don't know if had conv. abt P/C
- said were working w/USAO, no part rec of talk abt that

Asked why net not taken down?

- don't think - our strat was thought to be good one, well rec

Sounds like you sd needed [ATF]?

- [ATF] wld help us get @ people controlling net who might never touch gun

Concerns abt. # of guns?

- don't remember spec. concern/@ rel to that

Ex. 5 [ATF] Melson email

Dir is Melson?

- yes

Q: Arose pursuant to your brief?

- my imp, though not involved in conveyance

Verbally, or over email?

- I think verbally

IP address for [ATF] <sup>App melson</sup> - wanted access?

- yes

[ATF] ?

- at pts we had [ATF]

[ATF]

Can I make a copy of this?

when you att. brief w/MR. Hoover, desc

**ATF**

Get into that detail? <sup>level of</sup>

**ATF**

During briefing, say you didn't seize where had lawful auth?

- I didn't say that at all. I think I mentioned **ATF**

- **ATF** in this email - 30k receipts of ammo, <sup>not supp to have</sup> but no ind illegal at time b/c no 4473

- hurdle we have

Q abt

**ATF**

- yes

**ATF**

**ATF**

Ex. 6 - HOBIC ATF 000884

**ATF**

re-cert

Recollection of this?

m. 11 - 11 - 11 - 11 - 11

w/ some freq?

- knew more **ATF** than week, month before  
know if gyp would call FBI after learn of purch?

- I don't have any spec knowledge of that.

Think wld be reasonable to call to arrange  
to segregate cash. Some comm. going on.

Think FF had  
sense ATF interdict weapons

- don't think they antic. we doin pl or anything.

- don't know what <sup>their</sup> exp was.

- had those conv. w/ USA

Do you think FFs' thought had

- don't know what FFs thought. In some  
cases we did had, others USA.

At some pt realized dealing w/ lots guns?

- kept ev. apprised of # of guns.

At various pts - **ATF**, Chait - when going  
to shut down? When did that brew?

- No, I went up there in March - Chait didn't  
ask. Chait didn't email me, ask that a  
spec

- I think later, Aug, we said we got what  
we got, there was disc. when we will indict

- I remember ask gyp, Need → Mar, New → Bulc  
timing of ind

Safe to say ATF Ph saying we have to stop

**ATF** he's <sup>dans</sup> doing?

- I think F/A laws bein

You had frust w/ Em - emails abt violence

in Mex. I read that as we need to  
- Perf world - faster

- <sup>in MN</sup> We wld have team of AUSTAs, didnt have here,  
That was new to me.

wasn't that frust b/c more F/A opp in Ph?

- yes, Ph ~~frust~~ crazy & limited resou - frust  
Ind - 3-4 bying 1101's share?

Isol. Yes

So if pluck off, might take down?

- Don't know, might have to start over

Did you & Needles talk abt. **ATF**

- Don't have spec. recollection

B/C **ATF** - MX w/t-t-c

- Don't rem. spec. conversation. I rem.

talking to Needles abt. **ATF**

**ATF**

try - That was convo Needles prop of,  
USAO not → frust

Guns purch @ **ATF** much higher?

- I think so.

Like 1100?

- Not sure of #

And **ATF** ?

- **ATF** up there

Not as high as **ATF**

- ok.

Was **ATF** a concern to you?

- if he's legally selling, not anything we  
can do

**ATF**

Can you tell him to stock certain kind?



- I don't know what imp they have. **ATF**  
wld order spec gun. We weren't telling Lone  
Wolf what to sell, Steward was.

OK - **ATF** says **ATF** told him to exp. increase  
in cert. kind, was told that she should exp.  
increased purch, names to exp, and it was  
out of ord.

from?

from T.I of **ATF**

- Don't know if predicting future, & if that  
was consistent

He later said voiced concerns, that never  
seen 0-50 w/days of being notified by  
ATF. He's talking abt. meeting w/ ~~Em~~ Em

- I don't rem. him saying that  
Recall a spike?

- No, wld need a baseline, don't know  
what hap in Oct

Know that 212 during those days?

- <sup>wld</sup> Believe that

wld corrob this test.

- OK

He said on rec,

- diff peop can have diff rec of same ev

You're not saying he def didn't say

- I have no rec

He also says instructed by EH to stock  $\frac{1}{2}$  <sup>infor</sup> ~~at~~  
ATF

- I don't recall

Record?

When Terry killed in Dec, weap recovered - 2 or 3.  
- to best of my kn, it's 2

What do you remember abt. Learning abt that?

- when det. 2 guns purch by Av - call from Gillett  
wanted Av arr 15 mins ago, sense of urg

- I contacted Emory - There was reluctance,  
concerned abt. compr. entire case, I sugg  
we cld find standalone reason to charge

- I said we cld do residency check, find  
violation, so sent agents to address on 4473  
W. Monte Vista, occupants said bought  
Apr. 2010, didn't know **ATF**

- Showed hadn't lived since Apr. found  
latest - June - prep comp, arrested

**ATF**

App quickly?

- That night

Reluctance before b/c Hurley didn't think  
enough?

- on entire case or

**ATF**

On whole case, - 1

So diff betw. arres

- hadn't conducted residency check. Thousands  
of people buy guns, conducting isn't feasible

A BP agent killed, had to arrest someone, so  
pt things in motion to get him - I'm pointing  
out

- residency checks are resource intense,

- at some pt if USAO wanted to find reason  
for any one or two people, prob could have  
didnt want to

- wanted organiza.

At PC  
Newell said whole org - but Straws

- couple mid-level players

So you agree top-to-bott

- as we knew as existed at time

Now know more C-A assoc

- now know 2-3 people ab C-A

who talked to AH @ ATF?

- dont know. Heard name but not sure.

Did ATF go out?

- as I und, ATF - at this pt he's in intel

That's only person?

- I dont even know if he did - that's  
just what I've heard

Feb 11 meeting w/ ATF where?

- USAO

Who there? PC, you, ?

- ATF

- Jim Needles

- ATF

Diff betw. ATF & PC?

- PC sup him

Who else?

- PC, ATF, ZH, Need, ATF, me, ATF

Other agencies?

- not that know of

o ...

Remember what **ATF** told abt F/A?

- don't recall that being disc  
Remember?

- safety concerns, witness relocation (explaining complicated)

Second meeting in March w/new ATF atty?

**ATF**

**ATF**

- I don't re

**ATF** was there?

- I couldn't swear.

She didn't update?

- No spec. recollection. We had gone to USMS  
for threat assess. At some pt I was not  
inv.

It was reported SH said to **ATF** that  
we're in same boat & have to stick tog.  
He said sim?

- I can't recall spec rec.

First you've heard SH saying that?

- Yeah, no spec. rec of him saying befor  
B/c implies cover-up, and that's dramatic -  
heard anything of that sort?

- No

Surprised by that?

- I don't know. I think I might be sur  
if cover up - this case so well document  
You do und. that if FA/ exch. fac, spreadsheet  
Surv to watch move, if found @ crime

- irrelevant?

- You were det to USAO?

- don't think fair

But

**ATF** is

- don't think fair

Needles is.

- don't think fair

- I've temp left Phoenix. Threats against me, safety. I'm working out of **ATF** sup on indictment. My contact w/ USAO has sig dec

Inu into Terry death - F/A placed into backpack

[consult w/ **ATF**

- proffer whole def charged, **ATF** there. Didn't ID F&F ppl, phone numbers didn't match. He ~~ID~~ ~~made~~ robbery scenario in desert - retrieve & use, place back, return to MX, weep stay.

Fair to say trying to fig out ~~trying~~ who put guns?

- FBI inu, can't speak to

You don't think rel by USAO to explore if wld conn to F&F

- I don't und. We showed photos -

You don't think rel. to show F&F → placing

- I ~~am~~ <sup>have</sup> not heard of any rel.

This goes back to EtI "same boat" statement

In my eyes sounds like rel to tie F&F guns.

I und your test no

- I don't know of any rel

**ATF**

- realtime consultation, 2H clear not enough, doing so in his opinion <sup>ATF</sup> lawful
- recovered in MX w/abt 20 other guns

Did you watch hearing?

- yes

Did you read rep?

- read some, <sup>chose</sup> not to read all

Generally, pretty clear sev. agents say their exp concerns to you. True, right?

- I don't believe so. I can't remember a spec. inst.

~~The~~ Generally - the stories they tell abt. butting heads w/you. How are we to rec

- I don't know - disagree w "const", "butting heads"

- Meetings - Gillett was at meeting - venue was there and can't think of instance where did, don't know if talked amongst self, or in debriefs...

Ex. 7 - **ATF** email

what is your rxn to this email? Corrob test?

- Don't think corrob at all. March 10, **ATF** abt

**ATF** Lots people concerned abt assigns, weekends, Seniority

- toolbox = **ATF**

- und wasn't best email

- ~~was~~ was strictly abt wire, working **ATF**

who's been disc?

- **ATF** Needles, PC,

why?

- walking of guns issue

You are saying only in conn. w/ that case,  
not F&F, abt. snrv

- what?

Disc. abt F&F, techniques, allowing purch  
to cont was tant. to "walk"

- no spec. rec

Regardless of term walk, not disc?

- at any given time, talking w USAO

So agents were conc. abt being prev. from  
ex their lawful auth

- I think that's overstat

Did they express to you?

- no, don't have recollection

So after email, meeting w/ Gillett?

- talking abt pulling together, need to walk  
together

Gillett didn't say you don't know what walk

- I don't have spec. rec of that

Gen?

- oth people

How expl?

- diff people have diff. recollection

- I think there are some alleg not nec.  
accurate

**ATF**

You mentioned instance <sup>gunwalking</sup> discussed w/ agent.

Ex B

HUGR - ATF - 001656

**ATF**

email abt.

**ATF**

case

- I saw version, not this particular email.  
At bottom, appears to be email text from ETH.

- first time I've seen this set.

ETH language - can't "walk" w/ AUSA app  
what's ES?

- electronic surv

This is what you were referring earlier?

- This issue

- There was report detailing meeting w/ Needles -  
"proposed undercover"

What was request to "walk"

**ATF**

So walk is ref. to undercover agent?

- yes, uc prov to sus

This not F&F?

- no

Tactic used in F&F?

- no

Accolades ...

"Tremendous potential ..." Recall accolades w/ RIT

This investigation?

- no, his rep not up to date, I sent him  
email saying good case, pls bring up to  
date

**ATF**



- June / Jul / Aug most active in seizing F/A
- corresponds to ev. we had obtained for lawful seizure of F/A

You do not recall complaints until media?

- correct

Other sorts of complaints, personnel, oth?

- yeah. Instance where FPI Guns-for-all had susp. att. purch - tried to contact Mac, who was in Mex. Then tried GRIT agent **ATF**.

- Young female w/ man, speaking Spanish, guy delayed, got **ATF**, he said wld monitor. When FPI called back, mother called back, she was displeased. In meantime, **ATF** calls back, says can't tell you to make sale. FPI decided not. **ATF** others had been ready to set up. Att letter on door to office.

What say?

- new op. procedures - check w/ **ATF**

So resentment of **ATF**

- Yes

Aware?

- Don't know if aware of format of letter

**ATF** had come to me abt. **ATF** Connect

**ATF**

**ATF**

out of Yuma had

**ATF**

informant, worked w/ **ATF** Thought informant

could work w/ **ATF** met, didn't get good

reception. He saw

**ATF**

talk

## Get-backs

- whatever form of authorization DAD level to OEO

- I know **ATF** got out of academy, said **ATF** doing P&F, White Gun, spend time helping ~~Joe~~ **ATF** I reassigned **ATF** so he could have more exp.

Did agents do compl?

- I alluded before abt. schedule.
  - I think resistance was didn't want to be in **ATF** room (elsewhere, lots of typing)
  - I tried to explain was in Spanish, transcription alleviated
  - Gen, wanted surv.
  - gen, when up  $\frac{1}{3}$  running. not bad
- Other personnel matters?

- **ATF** wrote report, **ATF** asked if entered in SGD - disagreements like that

Other concern abt tactics?

- I don't have spec ~~concern~~<sup>rec</sup> w/spec concern w/spec tactic

wld take to Case Ag?

- could have. I might have as field agent~~#~~
- even myself, fact we went civil affidavit route - we all want best case, have to do in confined of jud dist. Even I had frustr. Sought other avenues.

Concerns abt your leadership?

- don't recall

Think happy w/it?

- some were, some not

At some pt. **ATF** transferred out Grp 7

- correct  
Not req? No  
Who trans

- Gillett: **ATF**

- Needles: **ATF**  
How hap? Not consult?  
no

- w/ no foreshadowing, Gillett told me **ATF**  
to come, said role in Jt Terror TF, Int?

**ATF** said yes

How abt **ATF**

- There was door issue

- Attorney: **ATF** made him aware of  
situation. Asked me if contacted OPP.

~~He said~~ Needles out, told him when back,  
Needles had **ATF** come in, that wasn't  
approp/prof. In add, **ATF** N-force cert  
instructor & Ph FD review - Nforce  
deficiencies indicated. Needles moved  
him to look @ N-force discrepancies.

March 5, 2010 Brief. Our und. McMahon visited  
PPD on Apr. 2010. Recollect?

- can't swear he didn't, but don't remember  
specifically.

Do you have spec. knowledge of other briefings?

- BPs, exit strategy, SIRs, **ATF**  
- I know Needles/Newell talked to McMahon,  
Chait

Were you present for any others?

- video teleconference w/ Newell when he was

Or not interd?

- not aware of that

Or that ATF enc. FFLs?

- don't think anyone told b/c don't agree w/ premise

Made aware sending any emails to FFLs?

- not aware of that

Ex. 9 - Exit strategy | HOCR ATF 001178

Doc sent from **ATF** to SAC Newell Apr. 2010

- I believe I drafted the document.

Bullet on prosecutorial Strategy - basis for conclusions?  
Info from convo w/ USAO?

- Those convos and convos w/ USAs throughout time as agent

- SP part wld be more disc. w/ AusAs in Ph

- trying to incorp vast array of charges - more severe, narz, money laund - fact trying to bring more severe set of charges. To incorp those not buying guns, like MCA, those in MX need diff evidence.

- More severe charges going up food chain of Cartel.

- There are narco-terrorism charge

So straw purch charges - not up chain?

- right

Terry murder - **ATF** pwlk violation?

- right

My und. that was info you cld have gathered

- in theory, if taken upon ourselves to do res check. Resource intensive, Richmond

**ATF**

communications - Apr. 2010. Pieces missing -

What impact arresting **ATF** at this point affect?

- C-A not going to change his activity,
- So arresting **ATF** wld have hindered ab to take down net?
- Conv. w/USAO & ourselves - wouldn't have brought down.

B/c straw charges not enough to flip Ds?

- correct

We've spoken abt. large # purch - as result, Spike in violence?

- I know from one email, deadliest month... don't know if attrib

Concerned?

- Yes, concerned.

Steps to mitigate?

- When talked to atty, when lawful, seized.
- If info abt <sup>98</sup> Sou, didn't, wld act
- Treasury comp. system - flag secondary inspection

So you did take steps to interdict/mitigate?

- Yes.

Case began to wind down Aug 2010?

- Made dec not to go after another **ATF** charge
- Still had loftier goal of DTO, hadn't got there, but made dec to stop

Why

- So much trouble w/phones, mules transp

Aug 2010 - USAO ind?

- Yes

Delays w/ USAO?

- ~~No~~ Yes

Reasons?

- Not really, perfecting, date moving,
- ~~Remember~~ waiting on IRS
- At some pt., Newell conv. w/ Burke

So in response to delays, you thought had to do w/ IRS?

- waiting on figures