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Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
FACSIMILE (202) 225-3974
MINORITY (202) 225-5051

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August 10, 2011

Special Agent William McMahon
Bureau of Alcohol, Tobacco, Firearms
and Explosives
99 New York Avenue, NE, Room 5S 144
Washington, DC 20226

Dear Special Agent McMahon:


Thank you for appearing before the Committee on Oversight and Government Reform on July 26, 2011, at the hearing entitled, "Operation Fast and Furious: The Other Side of the Border." We appreciate the time and effort you gave as a witness before the Committee.

Pursuant to the Chairman's directions, the hearing record remains open to permit Members to submit additional questions to the witnesses. Attached are questions directed to you from Chairman Issa, Member of the Committee. In preparing your answers to these questions, please address your response to the Member who has submitted the questions and include the text of the Member's questions along with your response.

Please provide your response to these questions by August 30, 2011. Your response should be addressed to the Committee office at 2157 Rayburn House Office Building, Washington, DC 20515. Please also send an electronic version of your response by e-mail to Kate Dunbar, staff assistant, at kate.dunbar@mail.house.gov in a single Word formatted document.

Thank you for your prompt attention to this request. If you need additional information or have other questions, please contact Henry Kerner at (202) 225-5074.

Sincerely,


Darrell Issa
Chairman

Attachment

DOJ-FF-56487

Questions for Special Agent William McMahon
Bureau of Alcohol, Tobacco, Firearms and Explosives

Rep. Darrell Issa
Chairman of the Committee on Oversight and Government Reform

Hearing on "Operation Fast and Furious: The Other Side of the Border."

Lessons Learned From Fast and Furious

- 1) In your opening statement, you said: "Let me be clear from the onset, as the ATF senior executive in charge of the West Region, I share responsibility for mistakes that were made in the Fast and Furious investigation."
 - a) What specific mistakes were made during the investigation?
 - b) Who else shares the responsibility for those mistakes?
- 2) In your opening statement, you said that "the benefit of a thorough review of the case clearly points me to things that I would have done differently."
 - a) What specifically would you have done differently during the operation?
 - b) Why did you fail to do these things during the operation?
 - c) What steps have you taken to ensure these failures will not recur in future investigations?
- 3) At the hearing, you stated, "I do see that one of the mistakes that I made personally was maybe more thoroughly reviewing some of the documents that were coming across my desk on this case."
 - a) What documents would you have more thoroughly reviewed? Please describe these in detail.
 - b) What actions would you have taken had you more thoroughly reviewed these documents?
 - c) Given the fact that "the magnitude of [this] case was something [you] had never encountered before in [your] career," why did you fail to review thoroughly all documents coming across your desk pertaining to Operation Fast and Furious?
 - d) What changes have you implemented to ensure this lack of review will not happen again in the future?

- 4) An exit strategy was prepared for Operation Fast and Furious during the spring of 2010.
 - a) On what specific day did Mr. Chait or Mr. Hoover instruct you to prepare an exit strategy for Fast and Furious?
 - b) What was the specific day on which you asked Mr. Newell for an exit strategy for Fast and Furious?
 - c) On what specific day did Mr. Newell present you with an exit strategy?
 - d) What did you do with the exit strategy once Mr. Newell gave it to you?
- 5) You stated that you and Mr. Newell frequently discussed in the summer of 2010 “how much closer [you] were to completing [the] investigation.”
 - a) If that was the case, why were the indictments not handed down until January 2011?
 - b) Given that you said you were close to completing the investigation in the summer of 2010, why is the investigation currently still ongoing?
- 6) You stated, “I think what we got to realize is guns to Mexico from the U.S. has been a problem for an awful long time.”
 - a) Was the amount of guns linked to Operation Fast and Furious and recovered in Mexico “abnormal”? If so, what was abnormal about it?
 - b) If guns traveling from the U.S. to Mexico have been a problem for a long time, then why did ATF allow hundreds and hundreds of weapons, all linked to a single operation, to cross into Mexico without shutting down the operation?
- 7) Chairman Issa requested that you provide a list of the things that you would have done differently under Fast and Furious. Please provide this list.
- 8) You stated that, “one of the things I wrote down here, the things that I would like to improve on, is my access to people in the field.”
 - a) What steps have you taken to improve your access to people in the field?
 - b) In hindsight, what would you have done differently regarding this access under Operation Fast and Furious?

Lack of Interdiction of Weapons

- 9) You stated, “[i]f we pick off these one or []two straw purchasers, they get replaced in a day, and we have even more guns going into Mexico.”
 - a) Isn’t it the job of ATF to pick off straw purchasers one by one, even if you assume they are going to get replaced?
 - b) If you have known straw purchasers illegally purchasing weapons, isn’t it ATF’s duty to, at a minimum, interdict those weapons and arrest the straw purchasers?
- 10) What is the exact number of firearms purchased by Operation Fast and Furious suspects of which ATF is currently aware, both before and after they were identified as suspects?
 - a) By what date were all of Fast and Furious suspects indicted on January 25, 2011 identified as straw purchasers?
 - b) How many of these guns have been recovered in the United States?
 - c) How many of these guns have been recovered in Mexico?
 - d) How many of these guns have yet to be recovered?
- 11) In how many different seizure events in the United States have Fast and Furious guns been recovered?
 - a) On what dates did these recoveries take place, and how many guns were associated with each recovery?
 - b) In how many different seizure events in Mexico have Fast and Furious guns been recovered?
 - c) On what dates did these recoveries take place, and how many guns were associated with each recovery?
- 12) How many Barrett .50 caliber rifles were purchased by suspects in Fast and Furious?
 - a) How many Barrett .50 caliber rifles are in the entire Suspect Gun Database?
 - b) How many Desert Eagle .50 caliber weapons were purchased by suspects in Fast and Furious?
 - c) How many Desert Eagle .50 caliber weapons are in the entire Suspect Gun Database?
 - d) How many FN Five-seven pistols were purchased by suspects in Fast and Furious?

- e) How many FN Five-seveN pistols are in the entire Suspect Gun Database?

Involvement With Other Agencies

- 13) You stated that, “DEA had some information that they shared with us that helped us in our investigation and actually helped foster it even more so.”
- a) What was the nature of this information?
 - b) When did DEA share this information with ATF?
 - c) Did this information come as a result of DEA participation in the Fast and Furious OCDETF Strike Force, or as a result of an earlier, DEA investigation parallel to Fast and Furious?

Informing Mexico of Fast and Furious

- 14) You stated that, “I told Dan [Kumor] everything I knew about the case.”
- a) What did you tell Dan Kumor about Operation Fast and Furious?
 - b) When did you tell him this information?
 - c) Did Mr. Kumor share any concerns or complaints from the ATF Mexico office with you?
- 15) On October 21, 2010, Mexican drug cartel members kidnapped Mario Gonzalez Rodriguez, brother of the then-Attorney General of the state of Chihuahua. After the grisly discovery of his body on November 5, 2010, a raid on the gang resulted in the seizure of two guns that traced back to Fast and Furious.
- a) When did you become aware of the link between the murder of Mario Gonzalez Rodriguez and the subsequent shootout to Operation Fast and Furious?
 - b) Why weren't the Mexican authorities informed of this until June 2011?
 - c) Who from ATF told Mexican authorities of the link?
 - d) Whom in the Mexican government did that ATF official inform?

The Genesis of Fast and Furious

- 16) A January 8, 2010 briefing paper stated, "Currently, our strategy is to allow the transfer of firearms to continue to take place, albeit at a much slower pace, in order to further the investigation and allow for the identification of additional coconspirators who would continue to operate and illegally traffic firearms to Mexico drug trafficking organizations."
- a) Who drafted that briefing paper? Who approved it? Who sent it to ATF headquarters?
 - b) Who at ATF headquarters reviewed this paper? Did anybody at headquarters express any concern about this language?
 - c) How many additional weapons were bought by suspects during Fast and Furious after this briefing paper was drafted? How many of these weapons have been recovered in Mexico and the United States?
 - d) How many additional co-conspirators were identified as part of the firearms trafficking organization after this briefing paper was drafted? How many of these additional co-conspirators have been indicted?
- 17) You stated, "I communicated to my chain of command within ATF. We were all very much made aware of this investigation and what was going on."
- a) With whom did you communicate in your chain of command about Operation Fast and Furious? What was the nature of these discussions?
 - b) When discussing Operation Fast and Furious with your chain of command, did you or anyone else express concerns about the number of weapons showing up in Mexico linked to the operation? What were those concerns?

Investigative Procedures

- 18) Did ATF intend to recover weapons purchased in Fast and Furious? How could ATF accomplish this once surveillance on them had ceased?
- 19) Regarding the authorization for the wiretap applications, you stated, "And I think our email records show they weren't able to scan the attachment because it was so large, and they said they were going to FedEx it."

- a) How large was the file? Was the file too large to attach because of its length? Does its length suggest the level of detail in the application?
 - b) Is it common practice to send a wiretap application via FedEx?
 - c) Is it common practice for you not to review documents that are sent to you via FedEx?
 - d) How frequently do you receive FedEx packages from other ATF personnel? How frequently do you receive FedEx packages from your direct reports?
- 20) During your transcribed interview, you stated, "I never signed off on a memo for a wiretap application." When Representative Ross asked you about this statement at the hearing, however, you testified that you signed a memorandum to Julie Wuslich, attached as a cover letter to an affidavit prepared by Special Agent Hope MacAllister, in support of an application for authorization to intercept wire communications.
- a) How can you reconcile your statement in the transcribed interview that you never signed off on a memo for a wiretap application with the memorandum you signed?
 - b) Can the document to Julie Wuslich be accurately described as a memorandum for a wiretap application?
 - c) Isn't your initial statement in the transcribed interview a "materially false, fictitious, or fraudulent statement or representation"?
- 21) When asked in your transcribed interview, "So do you sign everything that comes in your box?", you responded, "I sign it when I review it." Later in the interview, when asked if you most likely would have read something sent to you, you answered in the affirmative.
- a) Did you review the aforementioned memorandum before signing it? If not, why?
 - b) Did you review any of the underlying affidavits accompanying the memorandum you signed? If not, why?
 - c) How frequently do you sign for Assistant Director of Field Operations Mark Chait on wiretap memoranda such as the one described above? How many have you signed within the past two years?
 - d) Do recall signing this memorandum? If not, why?

- 22) In Operation Fast and Furious, straw purchasers bought over 2,000 guns. In your capacity as Deputy Assistant Director, what did you do to ensure that proper safeguards were in place so that ATF would not break off surveillance of the weapons?
- 23) At the hearing, you stated that none of the identified straw purchasers physically transported weapons into Mexico.
- a) Did supervisors in the Phoenix Field Division order agents to conduct surveillance of the third parties receiving the weapons from the straw purchasers? If not, why did supervisors continually allow agents to let the guns purchased by known straw purchasers to leave FFLs?
 - b) Did supervisors consider using reasonable suspicion to justify detaining suspected straw purchasers?

Other

- 24) At the hearing, you stated in response to a question from Representative Cummings: "Bill [Newell] and I were probably talking weekly about the activity of what was going on in the case and how much closer we were to completing our investigation." However, in your transcribed interview with Committee staff, you stated: "We have day-to-day conversations about the ongoing activities in Phoenix. . . . There were some days we spoke three, four times a day and I know that because Bill would call, sorry for going over my limit of one call a day type of thing. He would say things like that. But there were times that I wouldn't speak to him for a couple of days."
- a) How frequent was your actual contact with SAC Newell?
- 25) You stated that an individual would not "be able to buy the weapon because they're under indictment. But I'm not sure if the NICS system in Phoenix would capture that if they did attempt to buy a weapon."
- a) At what point would the NICS system in Phoenix be able to identify that an individual attempting to purchase a firearm was a prohibited person? After an arrest? An indictment? After the individual was incarcerated?
 - b) Were any of the suspects or indicted defendants in Fast and Furious legally ineligible to buy or possess weapons at any point during the investigation? If so, when did they become prohibited purchasers?