

ATF

ATF

BACKGROUND:

Since late 2006 the Phoenix Field Division has been analyzing the increasing use and seizure in Mexico of military ordnance, specifically hand and rifle **ATF** on the part of Mexican Drug Trafficking Organizations (DTOs) in their ongoing battle with each other and the Government of Mexico (GOM). In 2007, Phoenix Field Division personnel along with Phoenix Explosives Enforcement Officer **ATF** began working closely with the Mexico Country Office and GOM officials in properly identifying and inventorying previously seized hand and rifle **ATF** in order to better analyze the source of these items as well as put together an overall report on the increasing use of the same. In support of this effort the Phoenix Field Division, in conjunction with the U.S. Bomb Data Center, created the English/Spanish Southwest Border Ordnance Recognition Guide, ATF Publication 3320.10, dated August 2009. This publication was created in order to provide up to date information for Mexican law enforcement and military officials who are regularly seizing these items and have a need to properly identify and safely handle them. This guide is also being distributed to U.S. law enforcement personnel along the Southwest Border due to recent incidents involving the seizure of actual U.S. **ATF** as well as illegally manufactured **ATF**. A result of these efforts has led Mexico and Guatemala to acknowledge problems with internal inventory procedures of military ordnance, specifically hand and rifle **ATF**. This has led to a much closer working relationship with ATF and U.S. Defense Attaché Offices in these two countries and through this much improved relationship an ability to more effectively track the use and seizure of **ATF**. One of the concerns has been however that the Mexican DTOs are aware of this potential loss of a steady source of **ATF** and are availing themselves of other markets, to include the U.S. market for illegally manufactured improvised **ATF**. Unlike most countries the U.S. sells **ATF** component

parts as "novelty items" which with the addition of fuzes and explosive substances can be readily converted to function as improvised [ATF]. Several ATF investigations along the Southwest Border over the past several years have resulted in the dismantling of improvised [ATF] "factories" as well as the seizure of hundreds of improvised [ATF] destined for Mexico. The ongoing McAllen, Texas Field Office investigation referenced below is an example of this.

CURRENT INVESTIGATIVE STATUS

This Yuma investigation was initiated due to information gained from the ongoing Houston Field Division, McAllen Field Office investigation (UI#782055-09-0086) of an individual purchasing novelty MK2 (pineapple style) [ATF] bodies and then assembling them into functional explosive devices. During the Houston Field Division investigation information was obtained from the seller/shipper of these items that an individual in Yuma, Arizona had obtained 120 novelty MK2 bodies. The seller/shipper agreed to cooperate with the Phoenix Field Division in delaying the shipment of these items.

The Yuma Satellite Office has identified the recipient of the [ATF] bodies as [ATF] [ATF] and DOB: [ATF]. The Yuma Satellite Office verified that [ATF] and his family have had previous contact with law enforcement agencies going back to 2003 in relation to suspicious narcotics and alien smuggling activities. It should be noted however that no criminal record has been verified for [ATF] at this time. Further investigation into [ATF] history indicates a desire to start a company in Mexico and frequent border crossings. [ATF] is a Mexican national and [ATF] is a fluent Spanish speaker. In addition on December 5th, 2008, [ATF] was involved in the purchase of seven (7) AK-47 type WASR Rifles in Tucson, for which he paid \$4,600.00. When interviewed by ATF Agents assigned to the Yuma Satellite Office [ATF] confessed to having purchased the weapons for re-sale, and admitted to lying on ATF F 4473. A case report was submitted recommending [ATF] prosecution for "lying and buying," however the case was declined by AUSA Tracy Van Buskirk.

On October 30, 2009, AUSA Tracy Van Buskirk staffed with her supervisor, AUSA Emory Hurley, whether ATF could intercept and [ATF] [ATF]. On that date, AUSA Van Buskirk conveyed to AUSA Hurley that ATF had contacted her and indicated their intent to [ATF].

[ATF] During the day, AUSA Van Buskirk had several phone calls with S/A [ATF] regarding ATF's desire to [ATF].

Specifically, AUSA Van Buskirk received a telephone call from SA [ATF] about the possibility of charging [ATF] with a violation of the Armed Export Control Act (AECA) if [ATF] tried to cross into Mexico with the [ATF] bodies, and whether the [ATF] bodies were included on the munitions list. AUSA Van Buskirk immediately spoke to her supervisor, AUSA

Emory Hurley about the case. She emailed SA [ATF] a page from the USA Book about what is needed to charge a violation of the AECA. (This began an ongoing discussion—lasting months—about obtaining a licensing certification through the State Department.) Throughout that day and the next, AUSA Hurley and AUSA Van Buskirk talked to SA [ATF] on the phone several times. SA [ATF] told AUSA Van Buskirk about ATF's desire to mark the [ATF] in order to track them if/when they were recovered in Mexico. AUSAs Hurley and Van Buskirk consulted other AUSAs within the office. AUSA Hurley also responded in an email to AUSA Van Buskirk that, "[i]f it becomes clear that the target is taking [ATF] bodies out of the United States into Mexico, we cannot approve of allowing the illegal export to be accomplished . . . we cannot be party to the unlawful export of 100-[ATF] bodies. [ATF] AUSA Van Buskirk thereafter telephonically advised ATF of the USAO position. ATF S/A [ATF] responded by stating that, "ATF will proceed with their investigation as they see fit . . . [and] decisions [are] being made at [higher] levels." (See attached email dated 10/30/09.)

AUSA Van Buskirk was left with the impression that ATF strongly desired to use this [ATF] and that is why they disregarded the USAO's position against knowingly allowing the [ATF] bodies to cross the border. USAO personnel were informed by GS [ATF] on May 11, 2011 that this technology was later classified as Top Secret by Acting ATF Director Ken Melson. (See 5/11/11 email.) The USAO does not have any verification of this recent reclassification other than an email recommending the reclassification as Secret other than an email received on our classified system containing a single page of an ATF document recommending the classification as Secret/NOFORN.

Also, during this time, AUSA Van Buskirk was in contact with Ryan Fayhee of the National Security Division, in Washington D.C. He agreed with our initial conclusion that the [ATF] bodies were on the munitions list. AUSA Van Buskirk conveyed this to SA [ATF] (See email dated 11/02/09.) Ryan Fayhee also helped by providing contacts for obtaining the licensing information, which AUSA Van Buskirk also conveyed to SA [ATF]

On November 2-3, 2009, ATF agents, contrary to the legal advice given by the USAO, intercepted [ATF] 20 MK2 [ATF] body order from the postal service and [ATF]

[ATF]

On November 4, 2009, ATF delivered the [ATF] back to the Postal Service and the Postal Service delivered the [ATF] to [ATF] home. ATF then began surveillance of [ATF] home. [ATF] used [ATF] residence in Yuma, Arizona as a domestic delivery point for most of the purchases as they relate to this investigation). ATF's surveillance efforts broke-off, however, after two additional packages were delivered to [ATF] home because one of the packages was thought to contain highly explosive material and ATF initiated public safety protocols. On this same date, AUSA Van Buskirk discussed the use of disclosing identifying information on [ATF] to the Mexican government. (See 11/4/09 email.)

AUSA Van Buskirk did receive a prosecutive report ("blue cover") for a false statements case from S/A [ATF] in January 2010. On April 5, 2010, AUSA Van Buskirk sent S/A [ATF] an email outlining all the reasons why she believed that there was insufficient evidence to charge a false statement violation. (See attached email.) At the time of this email, [ATF] had not confessed to lying on the Form 4473 as suggested above. Rather, the January 2010 case report reflects an interview of [ATF] on 12/5/08 wherein [ATF] told agents that he possessed the guns in a storage locker and that they were purchased as an investment. Later, when [ATF] was contacted at his sister's home on January 12, 2009, he declined to discuss the rifles; he invoked his right to an attorney and then obtained representation. [ATF] made it clear to the agents that he would not talk with them without his lawyer present.

It wasn't until after [ATF] was stopped at the San Luis Port of Entry on June 15, 2010, two months after the declination, that he "confessed" to the "lying and buying." Further, AUSA Van Buskirk was alerted to [ATF] arrest by ATF SA [ATF] as he traveled to the San Luis Port of Entry to meet with the agents who had detained [ATF]. AUSA Van Buskirk immediately informed AUSA Emory Hurley of the arrest. AUSA Hurley made himself available to SA [ATF] and the other agents that participated in the post-arrest questioning of [ATF]. AUSA Van Buskirk reminded SA [ATF] that [ATF] had obtained an attorney with regard to the November 2008 purchase of AK-47 rifles and not to interview him about that alleged false statement offense. This interview was recorded by agents. Copies of the recordings or any transcripts were not provided in the blue cover submitted in September 2010 but were finally provided in May 2011. In listening to these recordings, it appears that [ATF] may have volunteered information about his conduct in the fall of 2008. However, prior to May 2011, in discussions between the USAO and ATF regarding the Constitutionality of [ATF] statements, agents never represented that [ATF] statements were not provided under questioning but were instead volunteered.

ATF Special Agents assigned to the Yuma Satellite Office have conducted surveillance on the suspect on numerous occasions, and on several occasions have observed him receive packages from UPS, DHL and the U.S. Postal Service, after placing on-line orders with several distributors of inert [ATF] and military surplus items. Federal grand jury subpoenas were served on his internet provider and analysis of the records indicate that [ATF] has purchased approximately two thousand [ATF] hulls, head assemblies, spoons and jungle clips. Extensive surveillance also led the agents to a hardware store in the Yuma area where the suspect was found to have purchased drill bits, a tapping tool, and other items which would be consistent with the manufacture of IEDs from grenade bodies.

AUSA Van Buskirk assisted ATF by issuing grand jury subpoenas for FPA material and telephone records. Between 11/2/09 and 3/9/10, 12 grand jury subpoenas were issued. Results from these subpoenas indicate that [ATF] has purchased approximately 460 [ATF] hulls, and 1000s of head assemblies, spoons and jungle clips. AUSA Kathy Lemke also assisted with obtaining stored email communications pursuant to a 2703(d) order on 11/20/09. Motions to delay notification of the 2703(d) order were filed by the USAO twice, so that ATF's

investigation would not be compromised. Notice was ultimately given on August 18, 2010, and was sent to [ATF] house in Yuma as the last known address from ATF.

In addition, on November 12th, 2009, Yuma Special Agents [ATF] interviewed [ATF] who indicated that the suspect had a history of manufacturing machine-guns and silencers, and had trafficked firearms in the past. This interview also revealed that the suspect has a primary residence in an exclusive neighborhood in Mazatlan, in the state of Sinaloa, Mexico. She further indicated that the suspect returns frequently to the United States to pick up supplies and visit [ATF]. This interview also revealed that the suspect has a scheduled appearance in a San Diego courthouse in regards to a child custody issue. Agents from the Yuma Office conducted surveillance on Kingery as he attended the child custody hearing, and in another trip to San Diego for the birth of a child that he shares in common with [ATF] who is a Mexican national. [ATF] and his movements were closely monitored by ATF Agents assigned to the Yuma Satellite Office, with assistance from assets from Phoenix Group I, and the Mexico City Office.

On January 6, 2010, AUSAs Sukenic and Hurley met with ATF ASAC Needles and GS [ATF]. ATF had a plan to track [ATF] into Mexico and assist Mexican authorities in building a case against him in Mexico. If ATF believed [ATF] was in possession of [ATF] capable of being activated, they would interdict in the U.S., otherwise they would stop him at the port of entry as he entered Mexico. (See 1/6/10 email.)

On January 26th, 2010, ATF Agents assigned to the Yuma Satellite Office conducted a controlled delivery of [ATF] hulls, head assemblies, spoons and pins to [ATF] at [ATF] Yuma residence. This controlled delivery was conducted with the assistance of the United States Postal Inspection Service. This delivery was conducted after conferral with the U.S. Attorney's Office, Phoenix ICE SAC Office, and the U.S. Border Patrol, and after receiving clearance from the U.S. Ambassador to Mexico (through the ATF-MCO). After this delivery, [ATF] [ATF] at which time he drove into Mexico at the San Luis Port of Entry (POE), where he eluded Mexican military and police officials who were working with ATF in an effort to interdict the components (ATF Agents were present and relayed real-time information to the GOM assets).

ATF did not keep USAO Phoenix updated on this operation. At the request of SA [ATF] AUSA Hurley prepared a tracking warrant for [ATF] and coordinated with AUSAs in California in case [ATF] was located there. AUSA Hurley sent a draft tracking warrant to AUSAs in California. (See 1/28/10 email.) SA [ATF] did not inform AUSA Hurley that there had been a controlled delivery on January 26, 2010, either by phone or email, nor was there any reference to the controlled delivery in SA [ATF] affidavit to obtain the tracking warrant.

Additionally, AUSA Hurley also conferred with OIA to ensure that ATF would be able to use their court ordered tracking device if [ATF] crossed into Mexico. Based on consultation with OIA, AUSA Hurley told ATF that [ATF]

ATF

ATF AUSA Hurley had to call ATF to find out when they expected to seek the tracking order, at which time they were advised that ATF had failed to interdict any grenades and had lost surveillance of ATF. The USAO learned of this after ATF's failure to interdict ATF on February 2, 2010.

ATF Agents continued surveillance efforts when ATF re-entered the United States several weeks later. In addition, intelligence was shared with assets from the Mexican Attorney General's Office (PGR), in efforts to have ATF surveilled, and if possible prosecuted by Mexican authorities if he was determined to have committed violations in Mexico.

Between January and June of 2010, AUSAs Hurley and Van Buskirk continued to work with ATF to obtain information through GJ subpoenas. Seeking an ex parte order for tax information was discussed but rejected because of ATF's intention to turn over any information obtained to Mexican authorities for prosecution in Mexico. (See 6/11/10 email.) ATF auditors were also reluctant to work up financial information if such an analysis could not be used by Mexicans.

On June 15th, 2010, ATF was arrested by members of the U.S. Department of Homeland Security, Office of Customs and Border Protection at the San Luis POE. This arrest occurred after ATF vehicle was x-rayed as part of a "Southbound" inspection. The x-ray showed grenade hulls inside one of the tires on ATF SUV. The port was closed, and an EOD team called in to conduct "render-safe" procedures. When the tire was cut open, the search revealed 116 ATF hulls, spoons, head assemblies, and pins. This arrest generated a significant amount of local media attention in both Yuma and the Mexican State of Sonora.

Agents also found over 2000 rounds of ammunition, five cellular telephones, three SIM cards, one "flash" disk and three thumb drives. These items were not exploited by investigators for evidentiary or intelligence purposes. Investigators never requested a search warrant. The assigned AUSAs were not advised of the seizures of these items at this time. AUSA Hurley was also having difficulty getting accurate information about munitions seized at this stop. (See 6/23/10 email.) It is clear, however, that ATF and ICE failed to exploit this evidence, for nearly a year, until requested to do so by AUSA Josh Parecki in May 2011. On May 31, 2011, a search warrant was authorized and obtained.

On June 16th, 2010, ATF was interviewed by ATF Agents from the Yuma Satellite Office, with assistance from agents assigned to the Mexico City Office, and ICE Agents from Yuma and Hermosillo, Mexico. At this time, ATF made a post-Miranda statement in which he confessed that he has been supplying members of La Familia Michoacan (LFM) with ATF components, which they use to turn into IEDs with explosives that they (LFM) steal in Mexico, from mining locations and elsewhere. He added that the people he supplies are conducting the enforcement work for the Sinaloan Cartel. In addition, ATF stated that he has instructed them

(LFM) on how to convert semi-automatic AK-47 variants into fully automatic machine guns. ATF also advised that he has been asked by his associates, to transport narcotics into the United States, but has declined for fear of being arrested.

On June 16, 2010, ATF and ICE informed AUSA Hurley that ATF possessed detailed information about DTO's and/or arms smuggling, and that they wished to work him as ATF. ATF S/A ATF telephonically asked for AUSA Hurley's concurrence in using ATF as ATF. AUSA Hurley informed S/A ATF that if ATF believed ATF would stick around and cooperate, he was in concurrence.

On the night of June 22, 2010, SA ATF informed AUSA Hurley that ATF was stopped at the POE Calexico. SA ATF indicated that ATF was not being as helpful as he had initially been. (See 6/23/10 email.) During their conversation, AUSA Hurley indicated that arresting ATF on a complaint was not prudent given that they had not received the required certification from the State Department that the items being exported were in violation of the Armed Export Control Act (AECA) or that ATF was not a licensed exporter of these goods. Additionally, AUSA Hurley requested reports regarding ATF port stop on 6/16/10. AUSA Hurley told SA ATF that, if he went to Calexico and believed that there was a public safety issue, ATF should call AUSA Hurley back to discuss an immediate arrest. (See email of 6/23/10.) At the time they ended their call, AUSA Hurley believed SA ATF would be interviewing ATF at Calexico and that no decision had yet been made as to ATF continued cooperation as ATF. Indeed, ATF continued to meet with ATF in June 2010. (See 6/28/10 email.) The USAO recently learned that ATF continued to have contact with ATF through July 2010, although no reports or recordings were provided to the USAO about these meetings until August 8, 2011.

ATF communicated very little with the USAO in July and August 2010, about ATF case. On September 2, 2010, GS ATF is advised that ATF linked to ATF were recovered in Mexico. (See 9/2/10 emails.) Between September 2 and 3, 2010, a meeting was set up between Agent ATF, GS ATF and AUSAs Hurley and Van Buskirk. The meeting was held in GS ATF office at ATF. GS ATF presented the ATF blue covers for prosecution. The AUSAs, GS ATF and SA ATF discussed that ATF still did not have the State Department certifications. SA ATF suggested a theory of prosecution that involved charging a conspiracy related to ATF connections/assistance to the DTO's. No charging decisions were made at that time. AUSAs Hurley and Van Buskirk left with blue covers, less the State Department certifications, and told the agents that the case would be reviewed for prosecution. This meeting was friendly and non-confrontational.

(These blue covers were even less complete than originally believed. On August 4 or 5, 2011, AUSA Parecki learned from SA ATF that ATF had not terminated ATF as ATF ATF in June 2010. Instead, despite SA ATF concerns expressed to GS ATF he was told by GS ATF to string ATF along until the case could be charged. At the time, the USAO was waiting for State Department certifications previously noted. AUSA Parecki also learned during the week of August 1, 2011, that ATF had recorded conversations with ATF

during the summer of 2010. These recordings were not part of the blue cover official report nor were any references made in any report received by the USAO that these recordings were in evidence.)

On December 10, 2010, the Department of State forwarded to investigators a pretrial certification from indicating that the items seized from [ATF] in June 15, 2010 were controlled munitions under the Arms Export Control Act (AECA), 22 U.S.C. § 2778, and the International Trafficking in Arms Regulations (ITAR), 22 C.F.R Part 120, et. seq.. On February 22, 2011, after an inquiry by AUSA Hurley on the status, the certification was forwarded to AUSA Hurley. Agent [ATF] believes that he had previously forwarded them to AUSA Hurley, however, the USAO has been unable to locate any email from Agent [ATF] with the certification. After a manual search of the file, the USAO has been unable to locate a hard copy of the certification being sent directly to AUSA Hurley. It appears that an interim certification was produced by the State Department on July 20, 2010. This interim certification was not provided in the blue cover case report nor was this information provided to the USAO until May 2011.

Since the time of his arrest on June 16th, 2010, the Group Supervisor of the Phoenix I Field Office has met with the assigned AUSAs from the District of Arizona and requested that [ATF] be indicted and charged. This has not yet occurred. The Group Supervisor has also requested that this case be considered for prosecution by the U.S. Attorney's Office for the Southern District of New York's (SDNY) International Narcotics Trafficking Unit, which has ongoing prosecutions against members of La Familia Michoacan and the Sinaloan Cartel. At the meeting with SDNY prosecutors, attempts were made to determine if any materials ordered by [ATF] or monies utilized by [ATF] had transferred through the SDNY for consideration in a 21 USC 846 prosecution. No such nexus could be determined.

The USAO has no correspondence with GS [ATF] indicating an urgency to indict this case. Indeed, ATF has had no contact with [ATF] since July 2010. The USAO is unaware of any attempts by ATF to even locate [ATF] in the US or Mexico.

AUSA Parecki has attempted to follow-up on ATF's conversation with SDNY prosecutors by contacting AUSA Jocelyn Strauber on June 28, 2011. Specifically, AUSA Parecki sent AUSA Strauber an electronic mail communication requesting her thoughts on 21 U.S.C. 846 conspiracy under the facts and circumstances of the [ATF] case. AUSA Strauber did not return AUSA Parecki's e-mail.

In October, 2010 a case report was sent to the ATF Mexico City Office for translation and referral in accordance with the MLAT. In May 2011, ATF informed the USAO that the Government of Mexico had no interest in prosecuting [ATF]. Contrary to the representations made in the May 2011 meeting with ATF, on August 10 and 11, 2011, AUSA Josh Parecki learned from the Government of Mexico, that Mexico was indeed interested in prosecuting [ATF] and had been in the process of prosecuting him since receiving the translated case reports in 2010 but was still awaiting a lab report from ATF and surveillance photos of the controlled delivery to [ATF] house in November 2009.

On April 1, 2011, re-manufactured [ATF] were seized by the Mexican military in Manzanillo, Colima, Mexico. ATF agents were able to examine, disassemble, document and photograph 13 explosive items. ATF agents learned that on March 20, 2011, the Mexican military received information that armed Cartel De Jalisco Nueva Generacion (CJNE) members were attending a funeral in Armeria, Colima. When the military arrived a firefright began at the cemetery. One suspect thereafter fled to the nearby town Villa de Alvarez and barricaded himself inside a house. A second firefright ensued before the suspect was arrested in the house. A search incident to arrest uncovered the explosive items which ATF agents later examined. The ATF laboratory confirmed that 2 of the items recovered in Colima had [ATF] [ATF] hulls and parts in a laboratory report dated 6/8/2011.

In early May of 2011, SAC Brandon, ASAC Atteberry and GS [ATF] met with Criminal Division Chief Cunningham and Supervisory AUSA Morrissey to request that this case be transferred. This case was reassigned to AUSA Josh Parecki of the National Security Section. AUSA Parecki moved diligently in examining all of the evidence which had been gathered in the case, and prepared to move towards securing an indictment (which is imminent). AUSA Parecki concurred with ATF's belief that a search warrant was needed for the thumb drive that [ATF] had in his possession at the time of his detention at the border and subsequent confession. Exploitation of that thumb drive provided information that indicates that [ATF] was either trafficking or manufacturing .50 caliber rifles, in addition to his activities pertaining to the securing of grenade components.

This meeting took place on May 5, 2011. Present at the meeting were SAC Brandon, ASAC Atteberry, GS [ATF] Intel Analyst [ATF] ATF Division Counsel [ATF] Section Chief Mike Morrissey, Acting Criminal Chief Raynette Logan and First Asst. AUSA Ann Scheel. (Criminal Chief Pat Cunningham was out of the office on that date.) The meeting was initially called as a "meet and greet" with new Acting SAC Brandon. During the meeting, SAC Brandon raised the [ATF] case and expressed concern about ATF's actions in the case, in particular, the controlled delivery of [ATF] shells that were later found in Mexico. (See Memorandum from Raynette Logan.) During the meeting Section Chief Morrissey discussed, at length, ATF's prior representations that the case was going to be prosecuted in Mexico because venue was there for the most serious charges. (ATF's discussions with the Government of Mexico about prosecution of [ATF] have since been confirmed.) (See 8/9/11 email.) The USAO agreed to take another look at the [ATF] case at the request of ATF to see if charges could be filed in the U.S. because, as was represented by ATF, the Mexican government had decided not to pursue charges. (See memorandum by Raynette Logan.)

In August of 2011, ATF Financial Auditors located financial assets which had not previously been located. These assets included two Mexican Bank Accounts. [ATF] is suspected of having transferred several hundred thousand dollars in funds from those accounts, to accounts in Germany or Switzerland. [ATF] did not file income taxes during this period, as required of a U.S. Citizen living abroad. In addition, ATF surveillance can corroborate that [ATF] was residing part time in the United States during the period of these wire transfers.

RECOVERIES:

- 116 grenade hulls, head assemblies, spoons and pins were recovered from inside **ATF** tire at the San Luis POE on June 15th, 2010. There have been approximately 12 additional recoveries at various crime scenes in Mexico, samples from these recoveries have been sent to the ATF Laboratory for analysis.

ISSUES/PROBLEMS:

- There were problems with the lack of initiative on the part of the previous Assistant U.S. Attorney, who took no action for a period of 10 months in this case despite overwhelming evidence, which included a confession from **ATF**. This case was reassigned to another Assistant U.S. Attorney in June of 2011, and significant progress has since been made.
- An assessment needs to be made regarding the level of involvement of the Government of Mexico in this investigation. Specifically, the USAO has been told by ATF that the Government of Mexico has chosen to decline prosecution of **ATF** (arguably a domestic terrorist in their country) in favor of a U.S. prosecution. This choice has not been memorialized in any fashion. Additionally, there is documentation of ATF's interaction with the Government of Mexico wherein ATF fully apprised the Government of Mexico of the details of the **ATF** investigation including the **ATF** **ATF**. This documentation indicates that PGR SIEDO was made aware of this investigation and investigation strategy on 12/14/2009. Should the Department seek extradition of **ATF** the knowledge and level of cooperation of the Government of Mexico is an important consideration appurtenant to the Department's extradition request. The USAO has asked for, but not received, all information and documentation of ATF contacts with the Government of Mexico.
- **ATF** has taken his **ATF** to Mazatlan, where they currently reside with him and **ATF**. Their **ATF** who has been cooperative in this investigation, resides in the State of California. If **ATF** is apprehended in Mexico, **ATF** will require safe passage back into the United States.
- **ATF** is a United States Citizen. His marital status with reference to the female with whom he resides in Mazatlan is unknown. If he is in fact married to the female, deportation efforts initiated by the Mexican Government may become complicated.

ACTION or FOLLOW-UP:

- The Phoenix Field Division has been and is working closely with the ATF Mexico Country Office (MCO) on this case and they are prepared to assist in any follow-up needed.

- The Phoenix Field Division is also coordinating this investigation with the PGR representative assigned to the Phoenix Field Division office.
- The Phoenix I Field Office Supervisor has traveled to the U.S. Embassy in Mexico and conducted briefings with the DOJ Attaché and the Charge'd Affairs in regards to the unclassified aspects of this investigation.
- ATF personnel assigned to the Mexico City Office will coordinate with GOM assets in the event of [ATF] arrest, to ensure that [ATF] who are U.S. citizens, are safely transported back into the United States.

AUSA Parecki and ATF personnel with U.S. Embassy (DOJ Attaché Chris Snyder) and OIA concurrence (Deputy Director Jerold McMillan) participated in a meeting with principle deputies at PGR SIEDO on 8/10/2011 to discuss: (1) past joint effort related to [ATF] (2) future possible joint investigating efforts related to [ATF] and his potential Mexican co-conspirators (e.g. to detect arms manufacturing facilities and cartel weapons distributors working for [ATF] and (3) PGR SIEDO's position regarding Mexican prosecution of [ATF]

- Coordinate with IRS-CI in regards to bank accounts which have been located. These accounts indicate that [ATF] has wired several hundred thousand dollars in funds, between bank accounts in Mexico, Germany or Switzerland. [ATF] did not file taxes or declare income during this period.

EXPECTED OUTCOMES:

- It is expected that [ATF] will be indicted in mid-August, 2011 for violations of the Arms Export Control Act. Superseding indictments are expected for additional violations, including narcotics conspiracy and other related charges. Additionally, any pertinent information that may be developed as a result of [ATF] arrest of a public safety nature will be immediately passed on to our Mexican counterparts via the ATF Mexico City Office. Other intelligence or information gathered will be shared with other ATF and DOJ assets as appropriate.

An initial draft indictment was completed on 6/21/2011. A copy of that Indictment was sent to the Department of Justice, National Security Division, Counterespionage Section (CES) on 6/23/2011.

BUDGET IMPACT:

- To date, approximately \$3000.00 in Agent Cashier has been expended in support of this investigation. No additional significant funding of this investigation is anticipated at this time.
- Politically-Great potential for use to highlight ATF's unique experience and expertise in the explosives arena in furtherance of our efforts to combat Southwest Border related violence.

DOJ POSITION/INTEREST:

- This case should be of intense interest in DOJ mainly due to the growing concern on the part of ATF personnel along the Southwest Border of the illegal manufacture of improvised **ATF** for use by DTOs.
- In addition the GOM has in the past blamed the U.S. as being the source of the **ATF** being seized in Mexico. Due to our efforts over the past several years we have been able to disprove these claims clearly showing that up to this point most of the **ATF** being seized are part of Foreign Military Sales to countries such as Guatemala and El Salvador as well as **ATF** manufactured by and for the Mexican Army. However this case and the case in McAllen if made public or shared with the GOM could raise these claims once again, even if these are technically not “military **ATF**.” They are however equally deadly when used as IEDs.

CONGRESSIONAL INTEREST:

- Yes, especially along U.S./Mexico border region and given the current climate, additional delays may cause criticism which could adversely affect the case.

10/30 @ approx 2:40 pm
conveyed U/ATO position to

ATF

Van Buskirk, Tracy (USAAZ)

From: Hurley, Emory (USAAZ)
Sent: Friday, October 30, 2009 2:39 PM
To: Van Buskirk, Tracy (USAAZ)
Subject: Exporting ATF Bodies

Received response that ATF will proceed with their investigation as they see fit. According to agent ATF decisions being made at levels above him. JWB

Tracy,

You received a call from ATF Yuma and later you and I both spoke by phone with the ATF agents in Yuma about a shipment of ATF bodies that may be headed south to Mexico. It appears that the ATF bodies without explosives are covered by the United States Munitions List under Category IV (h) as a "specifically designed or modified component" of a ATF. As such, they cannot be exported without a license. A violation of 22:2778 however, is a specific intent crime requiring a willful state of mind.

ATF has a target in Yuma named ATF suspected of smuggling guns to Mexico. Several months ago this target bought seven AK47s on a single day from a single Tucson FFL. Following a tip from the store, ATF went to talk to the target who gave them a story about the guns being in a storage locker on Indian Country and finally telling ATF that he would be willing to talk to them with his attorney present, but then avoided setting up an interview. Target also changed addresses and cell phones and sought to duck any contact with ATF.

ATF has learned that this target has recently ordered 100+ ATF bodies from a surplus company in New York. The company is working with ATF and will send the shipment to ATF before it is sent to the target, so that ATF can insert a flyer into the shipment containing a UC number that defendant might call to set up illegal arms deals. I have run this aspect of the case past ATF and he advises this type of UC contact with an unindicted subject is permissible, even if they have claimed to be represented on previous matters.

ATF has also questioned whether or not they could: ATF

ATF

ATF

this office cannot approve or the exportation of grenade bodies under these circumstances.

If it becomes clear that the target is taking ATF bodies out of the United States into Mexico, we cannot approve of allowing the illegal export to be accomplished. The munitions should be confiscated at the outbound port. Although it is very likely that no charges will arise from this confiscation unless the target makes a detailed and unexpected confession, the munitions should still be interdicted and administrative forfeiture of the ATF bodies initiated by ATF. Although ATF is concerned about tipping its hand and letting the target know he is under investigation, we cannot be a party to the unlawful export of 100+ ATF bodies. ATF

Should ATF want to interdict the ATF bodies without making its involvement obvious, the confiscation could be accomplished with a secondary outbound inspection by CBP/USBP. The Target could be warned that guns, gun parts, ammunition, ammunition components ATF and any ATF components or parts are illegal for export without a license, thus putting the target on notice for the next time he attempts to smuggle munitions.

Cunningham, Patrick (USAAZ)

From: Hurley, Emory (USAAZ)
Sent: Wednesday, May 11, 2011 2:51 PM
To: Cunningham, Patrick (USAAZ)
Subject: FW: ATF Case- Change in classification.

This is convenient for GS: **ATF**

From: ATF (ATF)
Sent: Wednesday, May 11, 2011 2:47 PM
To: Parecki, Josh (USAAZ); Hurley, Emory (USAAZ); Van Buskirk, Tracy (USAAZ); Morrissey, Mike (USAAZ)
Cc: ATF (ATF)
Subject: ATF Case- Change in classification.

Ladies and Gentlemen:

Please be advised, the investigative technique utilized in the marking of delivered items in the Case (ATF UI 785041-08-0009) has been designated CLASSIFIED- TOP SECRET. **ATF**

This classification has been changed with concurrence from both ATF and DOJ. Any and all documents making reference to this technique which were included in the case file are in the process of being reviewed in order to ensure compliance with the policies related to handling such data. ATF personnel assigned to this investigation have been briefed in person as to this change in classification.

I respectfully request that parties refrain from disclosing any information on this investigation with parties who are not directly involved in this investigation, and that any documents that pertain to the case, be treated and stored accordingly.

This is new territory for me, so if you have any questions or concerns, please do not to contact me. I will work to get you the answer.

Thank you.

ATF

Supervisory Special Agent

Phoenix I Field Office (Home Invasion/ Violent Crime)

Yuma Satellite Office

Desk- (602) 776- **ATF**

Cell- **ATF**

Fax-

"Fidelis Ad Mortem"

Van Buskirk, Tracy (USAAZ)

From: Van Buskirk, Tracy (USAAZ)
Sent: Monday, November 02, 2009 3:55 PM
To: [ATF] (ATF)
Cc: Hurley, Emory (USAAZ)
Subject: Update [ATF]

Hi [ATF]

I just got off the phone with a DOJ attorney in the National Security Division at Main Justice. He was very helpful. Although he agreed with our assessment that the [ATF] bodies are covered by the U.S. Munitions List, he advised that it is absolutely essential that ATF reach out to ICE, to get a determination from the State Department that (1) the [ATF] bodies are controlled under the AECA/Munitions list, and (2) [ATF] is not licensed. DOJ will not approve ANY prosecution under the ACEA without those two necessary determinations, which should be done ASAP.

As a way of imputing the requisite mental state, he suggested perhaps having a U/C call [ATF] posing as a company representative and ask where the final destination for the [ATF] bodies is and letting him know that it is illegal to export them outside the U.S.

Thanks.
Tracy VB

From: ATF (ATF) ATF Date: 11/04/2009 17:50:13
 To: Van Buskirk, Tracy (USAAZ) <Tracy.Van.Buskirk@usdoj.gov> Cc: ATF (ATF) ATF
 Folder:
 Subject: RE: ECC Section Chief/AUSA concurrence
 Attachments:

Print the page

Good deal, thank you very much. ATF please see below regarding AUSA concurrence. Thanks again-

ATF

From: Van Buskirk, Tracy (USAAZ) [mailto:Tracy.Van.Buskirk@usdoj.gov]
 Sent: Wednesday, November 04, 2009 3:38 PM
 To: ATF
 Subject: RE: ECC Section Chief

ATF

Regarding "concurrence" I don't see any problem with disclosing identifying information about ATF that will assist our Mexican counterparts in their investigation. You cannot, however, disclose any information that is obtained via grand jury subpoena (Rule 6(e) materials). Also, if possible, I would avoid disclosing ATF SSN#. You'll have to judge whether to disclose U.S. residence, etc, that Mexican law enforcement really couldn't use, but could be obtained/used by corrupt folks to find/harm ATF
 Thanks.
 Tracy

From: ATF (ATF)
 Sent: Wednesday, November 04, 2009 3:22 PM
 To: Van Buskirk, Tracy (USAAZ)
 Cc: ATF (ATF); ATF (ATF)
 Subject: RE: ECC Section Chief

Ok, I will forward this through my chain; thanks! Also, any word regarding "concurrence" reference forwarding suspect information to our counterparts in Mexico?

From: Van Buskirk, Tracy (USAAZ) [mailto:Tracy.Van.Buskirk@usdoj.gov]
 Sent: Wednesday, November 04, 2009 3:11 PM
 To: ATF
 Subject: RE: ECC Section Chief

ATF works for ICE. So, my advice is to call him, explain the situation, and see if he can expedite a licensing determination via the Exodus system (?). We may be getting to the point of having too many cooks in the kitchen, but I think talking to ATF can only help move things along.
 Tracy VB

From: ATF (ATF)
 Sent: Wednesday, November 04, 2009 3:00 PM
 To: Van Buskirk, Tracy (USAAZ)
 Cc: ATF (ATF)
 Subject: RE: ECC Section Chief

Tracy-

From my conversation with Ryan, I was under the impression that all licensing/AECA determinations would be forwarded through ICE to the Dept of State. I am confused about what role ICE is or is not supposed to play ref. the AECA charges. I'm happy to call and facilitate this determination, however my chain of command has been in contact with ICE regarding this AECA issue. Please let me know what you think.
Thanks-

ATF

From: Van Buskirk, Tracy (USAAZ) [mailto:Tracy.Van.Buskirk@usdoj.gov]
Sent: Wednesday, November 04, 2009 2:13 PM
To: ATF
Subject: FW: ECC Section Chief

ATF

Please see below.
Tracy

From: Fayhee, Ryan (SMO)
Sent: Wednesday, November 04, 2009 2:11 PM
To: Van Buskirk, Tracy (USAAZ)
Subject: FW: ECC Section Chief

Tracy--

Here is name and phone number of the POC for LD. Please pass along to the Agents. Thanks.
Ryan

From: Pelak, Steven
Sent: Wednesday, November 04, 2009 1:00 PM
To: Fayhee, Ryan
Subject: Fw: ECC Section Chief

Ryan,

Below is the POC for the ATF Agent to submit his licensing certification request.
Thanks for facilitating.

Steve

From: Settles, Clark E <clark.settles@dhs.gov>
To: Pelak, Steven
Sent: Wed Nov 04 12:55:03 2009
Subject: ECC Section Chief

Steve here is Craig Larrabee's phone number (202) 732-3766.

Hernandez, Rachel (USAAZ)

From: Sukenic, Howard (USAAZ) [HSukenic@usa.doj.gov]
Sent: Wednesday, January 06, 2010 3:20 PM
To: Burke, Dennis (USAAZ); Scheel, Ann (USAAZ); Hernandez, Rachel (USAAZ); Lodge, Joe (USAAZ); Morrissey, Mike (USAAZ)
Cc: Larson, Brian (USAAZ); Hurley, Emory (USAAZ); Logan, Raynette (USAAZ); [ATF] (ATF); Needles, James R. (ATF); Van Buskirk, Tracy (USAAZ)
Subject: [ATF]

1/6/10

Emory and I have just met with ASAC Needles and GS [ATF]. The meeting was called abruptly based on new developments in an investigation that Tracy has been working. Both ASAC Needles and GS [ATF] are extremely pleased with Tracy's work on this investigation as am I.

[ATF] has been purchasing large amounts of "parts" which, when assembled, would form the body of a [ATF] with triggering device. The ATF has utilized grand jury subpoenas to track the purchases through [ATF] credit card(s) as well as reviewing bills of lading to ascertain shipping. [ATF] is shipping these "parts" to [ATF] home in Yuma. [ATF] primary residence is in Mazatlan, Mexico (yes this is why Brian is included on this e-mail). The residence is in an upscale neighborhood and is believed to be populated by individuals engaged in narcotics activity.

It is believed by law enforcement that [ATF] is assembling and activating the [ATF] in Mexico for sale to Cartels. It apparently is not a crime in the US to purchase(no special license required) or assemble the inert shells but is a crime to transport them into another Country. If activated, it is a crime in the U.S. to possess these items.

ATF in Mexico is aware of the investigation. It is unclear if Mexican authorities are aware but ASAC Needles has assured us that they will be made aware shortly. ASAC Needles is also going to contact the appropriate authorities at ICE.

New Developments:

ATF has been made aware of a recent and substantially large purchase of [ATF] bodies by [ATF] from a company in Illinois. The \$8,000 purchase includes 400 [ATF] bodies, some assemblies and 19 Kevlar helmets. [ATF] is believed to be currently in Mexico and it is anticipated that he will drive to Illinois to pick up the shipment.

ATF will pick up surveillance of [ATF] in the United States. If they believe at any time that he has possession of [ATF] capable of being activated, they will make an immediate arrest. If not, they wish to follow him to the border and have him picked up again on the other side (ATF in conjunction with ICE and Mexican Authorities). The purpose is to determine where his "manufacturing facility" may be in Mexico as well as his customers. ATF understands that if an arrest is made in Mexico, than a prosecution will happen there that will have greater charges than what we can generate here. However, we have not precluded the possibility of a prosecution here as well if evidence warrants and all parties agree that it is an effective use of resources. Also, ATF has been advised and understands that absent us seeking the appropriate Orders, no grand jury material can be shared with Mexican authorities or any other agency. Nor can the existence of a grand jury investigation be acknowledged.

Emory and I were comfortable with ATF's plan. The one caveat we gave them was our comfort level was subject to any concerns of the USA.

I have tried to encapsulate all of the pertinent information. I invite ASAC Needles or GS **ATF** to jump in and fill in any gaps. However, I suggest limited e-mail traffic. After 4 pm, I will not have e-mail access but can be reached by cell.

Howard

From: **ATF** (ATF) <**ATF**> Date: 01/28/2010 00:25:52
 To: Hurley, Emory (USAAZ) <Emory.Hurley@usdoj.gov>, Van Buskirk, Tracy (USAAZ) <Tracy.Van.Buski...> Cc:
 Folder:
 Subject: tracker warrant affidavit
 Attachments: @image001.png

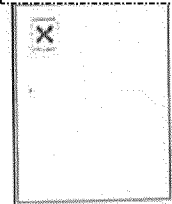
Print the page

Emory-

I have the warrant affidavit for Arizona completed. I would like to have one for Southern CA done as well, but I have a problem... the "specific location" where **ATF** parking lot is located. Anyway, it is very difficult to describe and I am curious to your opinion regarding whether this is considered a public or private place. It is accessible to the public, but is fenced and charges a fee....obviously it is difficult to distinguish and a tracker install at **ATF** in Southern CA could present warrant problems. Please let me know your thoughts and how we might tackle it. It would be safer and easier to do it in CA (operationally) however it is easier administratively to get the warrant signed here (for obvious reasons). Anyway, please let me know your thoughts. I'd also like to fill you in on additional details when you have a chance. Thanks again-

Karl

ATF Special Agent
 Bureau of Alcohol, Tobacco, Firearms & Explosives
 Phoenix Field Division
 Yuma Satellite Office
ATF



From:	Hurley, Emory (USAAZ) <EHurley@usa.doj.gov>	Date:	01/28/2010 18:38:15
To:	Braverman, Adam (USACAS) <abraverman@usa.doj.gov>, ATF (ATF)	Cc:	
Folder:			
Subject:	ATF		
Attachments:	Tracking ap and order ATF wpd Tracking Warrant Return in Word.doc		

Print the page

Adam,

Attached is my draft of the tracking application and order and the tracking order return as a separate Word document. ATF Agent ATF will email to you his affidavit and call you about setting up an appointment with your Magistrate Judge. He is in San Diego right now to ATF

Please call me if there is anything I can do to assist in getting the tracking order.

Contact Numbers:

Adam Braverman 619-557-7004 office

619-807-3027 cell

ATF cell

Emory Hurley 602-514-7678 office

602-301-3693 cell

<<Tracking ap and order ATF wpd>> <<Tracking Warrant Return in Word.doc>>

From: Hurley, Emory (USAAZ) <EHurley@usa.doj.gov> Date: 06/11/2010 17:05:26
 To: ATF (ATF); ATF; Van Buskirk, Tracy (USAAZ) <TVanBuskirk@...> Cc: ATF (ATF); ATF
 Folder:
 Subject: RE: Financial Meeting and MLAT
 Attachments:

Print the page

ATF

I am working on your questions but do not yet have an answer for you with regard to the disclosures of both original GJ, FPA, and Tax material, as well as reports and analysis derived from these materials. I will get back to you as soon as I have an answer.

Thank you,
Emory

From: ATF (ATF)
 Sent: Monday, June 07, 2010 11:56 AM
 To: Hurley, Emory (USAAZ); Van Buskirk, Tracy (USAAZ)
 Cc: ATF (ATF)
 Subject: Financial Meeting and MLAT

Emory and Tracy-

I recently met with our financial auditor and an IRS agent regarding the ATF investigation. Since we've received much of the subpoenaed GJ info, I spoke with the auditor re: the bank accounts, etc. Anyway, he is happy to do a financial analysis of the information, however he was hesitant to do the analysis if the information may not be able to be released through the MLAT process. My question is this: can we release a financial analysis through the MLAT process to our Mexican counterparts? I know we have not released 6e information through MLAT, however would the analysis of said information be releasable? My understanding is that the financial analysis would show monies spent vs income; unaccounted-for income vs known, etc. Anyway, any insight you might have would be great.

Another issue I wanted to discuss regarding the same conversation was an ex-parte order for tax return information. I know Emory was working on it, but was curious if anything has been found. I know you guys have been very busy, but I wanted to touch base and see where we are at with that. Again, thanks for your help-

ATF

From: Hurley, Emory (USAAZ) <EHurley@usa.doj.gov> Date: 06/23/2010 01:54:07
 To: Morrissey, Mike (USAAZ) <MMorrissey@usa.doj.gov> Cc:
 Folder:
 Subject: ATF Tuesday Night
 Attachments:

Print the page

Mike,

I was advised on Tuesday June 22, at 10 pm that ATF had just attempted to cross back into the U.S. from Mexico at Calexico and that ATF agent ATF and an ICE agent were going to go interview him. SA ATF told me that although ATF had provided some information, he was now not being as helpful as he said he was going to be and that he had turned off his cell phones. I told ATF that I did not think that arresting him on a complaint was a good idea under the circumstances since:

- 1) we had already discussed indicting rather than arresting on complaint if he proved uncooperative,
- 2) that the questioning of ATF last week likely involved some form of 5th amendment complication due to questioning on matters in which he had previously invoked and retained counsel,
- 3) the USAO still has not received reports of the interview or an accurate accounting of the munitions and so-called munitions found last week
- 4) there has been no determination that he did not possess an export license with regard to last week's ammunition and other items. ATF said that ICE had made that determination prior to last week's discovery and seemed unclear why a determination of no license from several months ago did not work for a subsequent exporting violation.

As we left it, ATF understood that approval of a complaint was very unlikely and ill-advised, but held out that once ATF was interviewed, there may be a heretofore unknown and compelling public safety issue that would mandate an arrest and complaint.

ATF acknowledged that the first signs that ATF was not being compliant happened last Friday, but that no one had bothered to notify the USAO. I told him that if it were clear that ATF was not living up to his side of the bargain, ATF should present the reports, the interviews, an accurate accounting of the evidence and we would sort out any constitutional issues raised by overly enthusiastic questioning and see if we wanted to indict him. He sounded crestfallen, but said he understood...unless, of course, he finds a compelling public safety issue.

Thank you,

Emory

Parecki, Josh (USAAZ)

From: Hurley, Emory (USAAZ)
Sent: Wednesday, June 29, 2011 1:03 PM
To: Parecki, Josh (USAAZ)
Subject: FW: MEETING

Importance: High

From: ATF (ATF)
Sent: Monday, June 28, 2010 2:38 PM
To: ATF (ATF)
Cc: Hurley, Emory (USAAZ); ATF (ATF); Needles, James R. (ATF)
Subject: RE: MEETING
Importance: High

At this point, we will not provide ANY new information on ATF to the G.O.M. What they already have may be useful in gaining Intell on if he's being up front with us on his historical activities. As for briefing ATF ATF an anything further, I'd say no at this point. If ATF has information about PGR corruption, then we should not be networking with PGR at this point.

As for his cooperation, future prosecution strategies and other matters, we will meet in the near future. I would advise keeping email communication on this case to a minimum. I'll let you know more after I speak with ASAC Needles tomorrow.

ATF

Group Supervisor
Phoenix I Field Office

From: ATF
Sent: Monday, June 28, 2010 2:32 PM
To: ATF
Cc: Hurley, Emory (USAAZ); ATF
Subject: MEETING

ATF

I just got off the phone with ATF with ATF in Mexico City. He wanted specific information regarding the ATF investigation and also relayed to me the information that has made it south through the MLAT process. I also understand ATF was going to present his case in Mexico City as well. I think that given the information ATF provided in the interview it would be very important for us to have a meeting as soon as possible. I am concerned with how we should proceed in the case; specifically which information we should release to the Mexicans regarding the recent developments and also what ATF is doing right now. At this point I think there are only a couple of ways to proceed: 1) continue working ATF as a cooperating defendant and keep the information to Mexico limited or 2) prosecute ATF both here and there and forget the possibility of going any further with the case. I am concerned with OPSEC in this case, especially if we are going to work ATF as a cooperating defendant; I don't see how we could realistically provide info. to the Mexicans and, at the same time, continue working ATF either here or there. I know Emory has been very busy lately, but I think the sooner we address these issues, the better. Please let me know what you think. Maybe we could phone conference if a face-to-face meeting isn't do-able? Again, thanks for your help-

Parecki, Josh (USAAZ)

From: Hurley, Emory (USAAZ)
Sent: Wednesday, June 29, 2011 1:01 PM
To: Parecki, Josh (USAAZ)
Subject: FW: ATF ATF

Follow Up Flag: Follow up
Flag Status: Flagged

From: ATF (ATF)
Sent: Thursday, September 02, 2010 6:20 PM
To: ATF (ATF); ATF (ATF); ATF (ATF); Hurley, Emory (USAAZ)
Subject: Re: ATF ATF

ATF

I just spoke with ATF and with Emory ref. this recovery. Ref. my conversation with Emory, if we could do the following (if it's possible) then it would greatly help out the case:

1. Keep a ATF if possible
2. Take photos and document how many there are
3. Process the ATF for the DNA sample and preserve it for our lab
4. Determine if its filled, how, etc.

I know this stuff is a pain down there, but anything you could do would be huge. I really appreciate your help. I will be in contact with the lab in the near future. Please reach out to me if you have any questions. I can't call international on my phone but am available if you can. Currently ATF is not in custody and has not been indicted. According to AUSA Hurley, this new development may assist with additional charges and, if not, could add later sentencing. Again, thank you all very much-

ATF

ATF

Special Agent
ATF Yuma, AZ

ATF

NOTICE: This electronic transmission is confidential and intended only for the person(s) to whom it is addressed. If you have received this transmission in error, please notify the sender by return e-mail and destroy this message in its entirety (including all attachments).

From: ATF
To: Needles, James R.; ATF
Sent: Thu Sep 02 20:51:01 2010
Subject: Fw: ATF ATF

FYI

ATF

Group Supervisor
Phoenix I Field Office-

(Home Invasion/ Violent Crime) &
Yuma Satellite Office
(602) 776- [ATF] desk

[ATF] cellular
[ATF] fax

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From: [ATF]
To: [ATF]
Cc: [ATF]
Sent: Thu Sep 02 19:46:35 2010
Subject: RE: [ATF] [ATF]
[ATF] please forward all explosive related stuff to [ATF]

From: [ATF]
Sent: Thursday, September 02, 2010 5:39 PM
To: [ATF]
Subject: [ATF] [ATF]

On Tuesday, the military seized some [ATF] and a bunch of rifles (701532-10-0008). I have been talking to [ATF] and sent him the photos we took of the [ATF] at the Military base. He mentioned they looked like the [ATF] (Yuma Case) [ATF]. We went back today with a black light and although all of them, but one, had been painted over, we were able to see the [ATF]. Are we doing anything else with this case since the guy got arrested. The 6 suspects had about eight firearms, grenades, and a bunch of narcotics.

Let me know,

[ATF]
Resident Agent in Charge
Tijuana Field Office
619-600- [ATF] (U.S. Desk Line)
[ATF] (Tijuana Desk Line)
[ATF] (Mobile)
[ATF] (Direct Connect)

Cunningham, Patrick (USAAZ)

From: Parecki, Josh (USAAZ)
Sent: Tuesday, August 09, 2011 9:52 AM
To: Morrissey, Mike (USAAZ); Cunningham, Patrick (USAAZ)
Subject: Fw: contacts

I am about to take off, but I figured I would forward the below email along. Agent **ATF** has summarized his efforts to coordinate with the GoM below.

As you can see, it appears that **ATF** was coordinating with the GoM military during the first "marking" on November 4, 2009 so as to interdict **ATF** should he cross with the marked grenades.

From: **ATF** (ATF)
Sent: Monday, August 08, 2011 08:19 PM
To: **ATF** (ATF)
Cc: Parecki, Josh (USAAZ)
Subject: contacts

ATF

Reference our meeting this afternoon, I've listed below some of the related documentation on the Mexican contact(s) we've had. I've CC'd Josh so that he would also have a general idea about this as well. Also, I am curious about management log entries. I suspect some of the info in my management log would be very helpful and/or insightful to Josh as he puts together his case but I was not sure about discovery, etc. Anyway, is it ok to provide Josh with print-outs from the management log or is this "frowned upon," a policy issue, a discovery issue, etc? I just wanted to check on his/my behalf. I know Josh has been very helpful, transparent, and understanding in this case and I want to help him as best as possible. Thank you for meeting with me today and please let me know what, if anything, else I can do.

ATF

GENERAL MEXICAN CONTACT TIMELINE:

01/09- Contacted SA **ATF** ref. Mexico assistance

4/09- Sent info to **ATF** (PGR) re. Mex assistance: spec residences, businesses, & **ATF**

11/4/09- EEO **ATF** advised Mex military on standby for takedown

12/1/09- Referred more info to **ATF** and to EEO **ATF** ref **ATF** address

12/21/09- Photos obtained from Mex SSP and DEA Mexico assets (**ATF** house)

01/27/10- ICE Attaches from Hermosillo at controlled delivery briefing and advised of case status, etc

02/02/10- **ATF** info relayed real-time to Mexico (CISEN) while crossing, Mexicans ultimately not able to interdict him

03/08/10- Met with **ATF** and chain of command

03/31/10- Official PGR request made from **ATF**

✂ 04/20/2010- Case report submitted for Mexico MLAT

✂ 06/10/10- Contact with **ATF** ref. CISEN and his upcoming presentation of **ATF** case in Mexican court

09/03/10- working w ATF Attaches ref. grenade recoveries

09/11/10- Worked with SEDENA (in Mexico) re: **ATF** recoveries

✂ 10/20/10- Second case report submitted to chain of command ref. Mexican prosecution

✂ 11/03/10- Met with **ATF** re. SAC Newell to make "Apostilla"; once it's certified then **ATF** can be charged in and extradited to Mexico

✂ 11/12/10- ATF Mexico Attache advised Mexico City to prosecute **ATF**

✂ 12/03/10- Met with **ATF** (PGR) and SAC Newell ref. Mexican prosecution

04/01/11- ATF CEIT responds to and works hand in hand with Mex military ref. **ATF** recovery in Colima



Memorandum

To: Dennis Burke
Ann Scheel
Pat Cunningham

From: Raynette Logan

Subject: May 5, 2011 Meeting with ATF Senior Staff

Date: 8/10/11

I was present at a meeting with ATF Senior Staff on May 5, 2011, at 3:30 p.m. in the USA Conference Room. I believe I was notified of this meeting by Mike Morrissey within 24 hours of the meeting, if not the same day, and asked if I was available in the afternoon to meet with the new SAC. I was asked to be there because I was the Acting Criminal Chief on that day. I searched my e-mails from around that time frame (5/3/-5/5) and do not have any e-mails regarding the setting of this meeting.

Present at the meeting from the USAO were Ann Scheel for Dennis Burke, Mike Morrissey, and myself. Present for the ATF were the new Acting SAC (Thomas Brandon), the two new acting ASACs, Division Counsel [ATF] an intel officer just returned from Mexico, and [ATF] I cannot specifically remember if any others were there.

I believed that the meeting was going to be a meet and greet with the new ATF supervisors, and it started that way. SAC Brandon introduced himself and the others and told us about himself, where he was from, and what his philosophy was. We asked him how long he was going to be in that position and whether or not he would have operational authority in Phoenix. He stated that his appointment was initially for 30 days, but that it may be extended. He had not made plans to move his family down. He also stated that he and his supervisors had operational authority in Phoenix and should be treated as such.

SAC Brandon brought a file with him and thereafter started to talk about specifics of prosecutions in the office. Initially, SAC Brandon asked about the issue of corpus. Mike Morrissey stated that he did not believe that corpus was an issue between the USAO and ATF, and [ATF] agreed. There was a brief discussion of corpus, but mostly we discussed some training issues with ATF. We discussed the more recent problems with agents not using 4473's in their interviews in straw purchase cases and being specific about the questions related to 4473's. ATF was receptive to addressing these issues, and we discussed training opportunities of ATF agents.

Then the conversation turned to the file that SAC Brandon brought named [ATF] This was the first time I had heard the name: [ATF] (sp?). SAC Brandon said that with all that was going on in Congress with the guns going south, that their agency could not afford another "Fast and Furious" situation and wanted another look at [ATF]. SAC Brandon and the intel officer gave facts involving this case. These facts included that ATF had [ATF] [ATF] They stated that the shells themselves may not violate any export laws, but once in Mexico they believed the shells were being used to make grenades by the cartels with the assistance of [ATF]. In Mexico [ATF] was alleged to be providing training on how to make the shells into grenades.

Wm. Asst. Dir.

SAC Brandon said that they, the ATF, had allowed these shells to go south, in an effort to follow them, and they wanted a second look at this case to see if [ATF] could be prosecuted for anything because this did not look good for the ATF.

During this briefing, Mike and Ann focused on whether or not ATF had contacted the Mexican authorities regarding the prosecution of [ATF] since clearly he was violating Mexican laws. Also, I believe [ATF] provided the information that [ATF] was in Mexico and had not returned to the US, to their knowledge. [ATF] looked visibly angry when he spoke of this case, and when he spoke of Emory. ATF, at some point during this meeting, told us that Mexico had not prosecuted [ATF] nor did they believe that Mexico would. They asked if someone could take another look at the case for possible prosecution. Mike said that he would see if Josh Parecki could take a look since he had just finished up a case and that Josh had experience in dealing with the Mexican authorities. We, the USAO, would see if we could get Mexican cooperation in the prosecution of this case in Mexico, or see what other evidence was available in Mexico for US prosecution. It seemed apparent from the discussion that no new investigative measures had been taken since it was last looked at by Emory.

SAC Brandon was visibly relieved to hear that the USAO would take another look at the case.