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Sent: 9/7/2011 3:05:34 PM
Subject: RE: Sept 7 Arizona Star Report - follow up

New criticism in 'Fast, Furious'

Brady McCombs Arizona Daily Star Arizona Daily Star | Posted: Wednesday, September 7, 2011 12:00 am

The U.S. Attorney's Office in Arizona tried to downplay the link between two guns found at the scene of a Tucson Border Patrol agent's fatal shooting and a problem-plagued gun trafficking investigation led by the ATF, two Republican lawmakers contend.

The claim is the latest criticism leveled by Sen. Charles Grassley, R-Iowa, and Rep. Darrell Issa, R-Calif., regarding the Bureau of Alcohol, Tobacco, Firearms and Explosives' "Fast and Furious" operation.

The duo launched a congressional inquiry into the ATF operation early this year after learning two assault rifles recovered at the scene of the Dec. 14 killing of Agent Brian Terry near Nogales had been sold to straw buyers in Phoenix and tracked into Mexico under the ATF operation.

It has not been made public if the gun used to kill Terry was tracked in the federal operation. In "Fast and Furious," officials allowed guns to be bought by "straw purchasers" with the goal of busting high-level operatives in Mexico.

But officials admitted they had lost track of more than half of the 2,000-plus weapons in the operation.

Straw purchases - when gun smugglers pay someone with no criminal record to buy a gun from a licensed dealer - make up a significant portion of illegal gun sales and fuel gun smuggling from the U.S. to Mexico.

The accusation that officials tried to minimize the connection between the guns found at the Terry shooting and Fast the Furious is based on a decision by federal officials in Arizona not to initially charge Jaime Avila Jr. for a straw purchase he made in Phoenix in January 2010 of three weapons - two of which were found at the Terry shooting scene.

In the first criminal complaint filed in federal court on Dec. 16 and subsequent indictment filed on Jan. 11, 2011, there was no mention of the January 2010 weapons purchases, but rather a June 2010 purchase, online court records show.

In an internal email obtained by Issa and Grassley, an ATF official said the decision was made to "not complicate the FBI's investigation."

The charge was later included in an indictment filed on Jan. 19, 2011, against Avila and 19 other people busted in the Fast and Furious operation, online court records show.

"In light of this information, it appears that your office has a direct interest in avoiding or minimizing these facts," wrote Issa and Grassley in the Sept. 1 letter addressed to acting Arizona U.S. Attorney Ann Scheel.

The U.S. Attorney's Office in Arizona would not comment. Requests for comment from the Department of Justice were not returned.

Cases transferred

Three open cases stemming from the ATF's "Operation Fast and Furious" will be transferred from the U.S. Attorney's Office in Arizona to Los Angeles and San Diego, officials said Tuesday.

The move was requested by the U.S. Attorney's Office out of an "abundance of caution and in the best interest of these prosecutions," agency spokesman Manny Tarango said in an emailed statement.

Sen. Charles Grassley, R-Iowa, and Rep. Darrell Issa, R-Calif., have urged the Justice Department to transfer the cases.

The move is "clearly in the best interest of achieving just outcomes and removes the apparent conflict of interest that Arizona prosecutors had in bringing cases from an operation they mishandled," said Issa in an emailed statement.

The move is the latest fallout from congressional inquiries into the ATF operation. Last week, U.S. Attorney Dennis Burke resigned and Assistant U.S. Attorney Emory Hurley, who was responsible for the day-to-day operations of Fast and Furious, was reassigned to the civil division at his own request. Before that, William Newell, former head of the Phoenix ATF Office, also was reassigned.