

Congress of the United States

Washington, DC 20515

March 2, 2017

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue NW, Suite 4706
Washington, D.C. 20530-0001

Dear Mr. Horowitz:

Thank you for your letter of March 1, 2017, announcing that your office has completed its review of the Department's investigations of the Osorio and Barba trafficking rings.

On February 15, 2011, Immigration and Customs Enforcement Agents Jaime Zapata and Victor Avila were driving on official U.S. business near the Mexican town of Santa Maria del Rio, when members of the Zetas drug trafficking organization opened fire on their vehicle.¹ Agent Zapata died from his injuries and Agent Avila was seriously wounded.² Firearms recovered at the scene traced back to an October 10, 2010, purchase by Otilio Osorio at a Dallas-Fort Worth Gun Show.³ An additional weapon recovered traced to an August 20, 2010, purchase in Beaumont, Texas by Robert Riendfliesh.⁴

Among your findings, you determined the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) knew in June 2010 that Osorio's brother Ranferi Osorio "could be trafficking firearms to Mexico, and by September had obtained information implicating [a second member of the ring Kelvin] Morrison as well."⁵ You reach the gravely serious conclusion, "[w]e identified one instance, however, where we believe ATF had both the legal authority and opportunity to take the firearms in [Osorio's] possession, yet failed to seize them."⁶ We will never know whether Agent Zapata would still be alive if ATF had done its job properly.

On September 25, 2012, then-Chairman Darrell Issa and Senator Grassley wrote to you to initiate this probe and enclosed letters to the Justice Department on this issue from March 4, 2011; March 28, 2011, October 25, 2011, and February 27, 2012. Outlined in those letters, attached here for ready reference, was the statement "it appears that ATF may have had probable cause to arrest [the Osorio brothers] on November 9, 2010, when ATF witnessed them providing 40 weapons with obliterated serial numbers to an undercover ATF informant in a Walmart parking lot for the purposes of trafficking the weapons to Mexico."⁷ In your report, you confirm these facts:

¹ U.S. Dep't of Justice, Office of Inspector General, *A Review of Investigations of the Osorio and Barba Firearms Trafficking Rings* (Mar. 1, 2016) (Oversight and Review Division Report No. 17-01) (hereinafter Osorio IG Report) at i.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at ii.

⁷ Letter from Chairman Darrell E. Issa, H. Comm. On Oversight and Gov't Reform, and Sen. Charles Grassley, Ranking Member, S. Comm. On the Judiciary, to Michael E. Horowitz, Inspector General, Dep't of Justice, Sept. 25, 2012.

We do, however, believe that there clearly was probable cause to arrest both Osorio brothers and Morrison after ATF witnessed the Osorios complete a transfer of 40 firearms on November 9, 2010. Yet, ATF's first contact with the Osorios and Morrison did not occur until late February 2011. We did not agree with explanations that ATF offered for this delay.⁸

It has been more than six years since Agent Zapata was murdered in the ambush attack involving U.S.-purchased and subsequently trafficked firearms. It has been nearly five years since the probe was requested. Given the high level of congressional interest in this matter and the seriousness of the allegations, we are perplexed that your investigative work took so long. Further, it was well understood that multiple Committees were interested in the findings presented by your report yesterday. Committee staff frequently inquired with your office—for years—about the progress of this work. Yet, yesterday, with almost no warning, your office dropped the report at the same time it appeared on your website, and a redacted version at that.

We appreciate that you have provided a copy of the report with law enforcement sensitive material unredacted. We understand the remaining redactions relate to information your office believes, but is not certain, may be under seal. Please examine this issue as soon as possible, and provide the Committees with a completely unredacted electronic report delivered promptly, but no later than March 10, 2017, at 12:00 noon.

We look forward to the briefing scheduled for our Committees tomorrow afternoon. Please ensure that the briefers are prepared to explain why this review took so long to complete, and particularly, (1) when did your office confirm the core facts at issue described above, (2) why that conclusion could not be communicated to the Committees in a more timely manner, (3) has the Department taken any steps to hold any government officials accountable for this failure to interdict firearms, and (4) if not, why has your office made no recommendations that the Department take steps to hold anyone accountable.

If you have questions about this request, please contact Tristan Leavitt of Chairman Chaffetz' staff at (202) 225-5074 and Katherine Nikas of Chairman Grassley's staff at 202-224-5225. Thank you for your prompt attention to this matter.

Sincerely,



Jason Chaffetz
Chairman
House Committee on Oversight and
Government Reform



Charles E. Grassley
Chairman
Senate Committee on the Judiciary

⁸ Osorio IG Report at ii and 31-47.

The Honorable Michael E. Horowitz

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cc: The Honorable Elijah E. Cummings, Ranking Minority Member
House Committee on Oversight and Government Reform

The Honorable Dianne Feinstein, Ranking Minority Member
Senate Committee on the Judiciary