



# Department of Justice

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**STATEMENT OF**  
**THOMAS E. BRANDON**  
**ACTING DIRECTOR**  
**BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES**  
**U.S. DEPARTMENT OF JUSTICE**

**BEFORE THE**  
**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM**  
**U.S. HOUSE OF REPRESENTATIVES**

**FOR A HEARING CONCERNING**  
**REVIEWING ATF'S FAILURES**  
**IN THE DEATH OF ICE AGENT JAIME ZAPATA**

**PRESENTED**  
**MARCH 9, 2017**

Chairman Chaffetz, Ranking Member Cummings, and Members of the Committee, thank you for the opportunity to appear before the Committee today. I welcome the opportunity to discuss the Department of Justice (DOJ) Office of Inspector General's (OIG) reports "Review of Investigations of the Osorio and Barba Firearms Trafficking Rings" and "ATF's Use of Income-Generating, Undercover Operations."

Before addressing those matters, however, I want to express again the deeply felt condolences of all the men and women of ATF to the families, friends and colleagues of Special Agents Jaime Zapata and Victor Avila for the loss and suffering they have endured. As a career special agent, I understand all too well the devastating impact of having a colleague killed or seriously injured in the line of duty. The entire law enforcement community is a family that depends on each other, and whatever missteps we have made as an agency, ATF's commitment to supporting our law enforcement partners is – and always has been -- deep and unwavering.

Mr. Chairman and Members of the Committee, every day, ATF Special Agents, Investigators, and professional staff work tirelessly to remove the most violent offenders from the streets and make our communities safer. I am honored and proud to lead the men and women of ATF. We take our motto, "Protecting the Public; Serving our Nation" to heart.

## Review of Investigations of the Osorio and Barba Firearms Trafficking Rings

I have closely reviewed the OIG report on the Osorio and Barba gun trafficking rings, and I thank the Inspector General for the thorough assessment of the events involved in those investigations. The primary findings of the OIG report with respect to ATF relate to the Osorio investigation, so I will focus my remarks on that part of the report. Overall, ATF agrees with the OIG's assessment that we did not effectively evaluate and internally disseminate information developed during the summer of 2010 indicating the existence of the Osorio trafficking ring; that we did not effectively communicate with the U.S. Attorney about charging options that information may have supported; and that we did not effectively communicate with our partner agency and prosecutors following the November 2010 seizure of the firearms the Osorio brothers delivered in the undercover operation.

ATF could -- and should -- have done better. ATF makes no excuses, and I accept full responsibility for those lapses in 2010 and 2011.

Since my arrival as ATF Deputy Director in the fall of 2011, the ATF Executive staff has been laser-focused on enhancing communication, operational oversight, and accountability to ensure that our investigations are effective, focused and efficiently executed. In particular, we know from hard-learned lessons that the level of complexity involved in firearms trafficking investigations demands constant

organizational vigilance, and that effective communication is essential to success in these high-stakes cases.

To meet these demands, ATF has implemented a broad-range of organizational improvements over the last six years. These improvements include implementation of Frontline, ATF's intelligence-led, risk-based business model; establishment of Crime Gun Intelligence Centers in every ATF field division; focused hiring of intelligence research specialists with an emphasis on those with military experience; establishment of a formal ATF internal communications plan; enhancement of ATF's Monitored Case Program; enhancement of mandatory leadership command and control training for first line supervisors and managers; and mandatory training for all agents on firearms trafficking techniques.

The Inspector General is aware of these changes, and we hope the absence of new recommendations in this report indicates that these changes have effectively addressed recommendations in prior reports. I assure the Members of the Committee that ATF will continue to identify areas where we can further strengthen our operational effectiveness.

## ATF's Use of Income-Generating, Undercover Operations

I also understand the Committee's interest in recent media reports regarding an ATF tobacco investigation. That investigation is the subject of an ongoing federal civil lawsuit, and the Court has ordered the sealing of the case pending trial. The United States is a party to that litigation, and ATF is bound by the Court's order. Consequently, my ability to respond to questions specific to that investigation is extremely limited, but I look forward to addressing the Committee's concerns in the future.

What I can advise the Committee is that the OIG conducted a full program audit of ATF's "income generating undercover activities" beginning in 2011, and issued a comprehensive report in September 2013. That report, which evaluated the period 2009 to 2011, identified serious deficiencies in ATF's policies and controls over those investigations, commonly referred to as "churning" cases. Well prior to the issuance of that report, ATF had internally recognized the need for more robust policies, procedures and oversight on churning investigations, and had begun implementing enhancements in 2011. In April 2013, ATF issued a comprehensive Order governing use of the churning technique and tobacco investigations. Beyond implementation and strict enforcement of the April 2013 Order, ATF also complied with all of the subsequent recommendations made by

the OIG in the September 2013 report. As a result, by October 2015, OIG had closed all of its recommendations.

I can also advise the Committee that ATF is not currently utilizing the churning technique in any tobacco investigation, and has not done so since 2013. All churning bank accounts have been closed, and all remaining funds in those accounts, have been deposited into the U.S. Treasury general fund.

Mr. Chairman and Members of the Committee, I am proud to be here today representing the men and women of ATF; they work diligently every day to make our communities safer. Thank you for this opportunity.