

The truth about the Fast and Furious scandal

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A Fortune investigation reveals that the ATF never intentionally allowed guns to fall into the hands of Mexican drug cartels. How the world came to believe just the opposite is a tale of rivalry, murder, and political bloodlust.

By Katherine Eban



Dave Voth, Fast and Furious supervisor for the ATF

FORTUNE -- In the annals of impossible assignments, Dave Voth's ranked high. In 2009 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives promoted Voth to lead Phoenix Group VII, one of seven new ATF groups along the Southwest border tasked with stopping guns from being trafficked into Mexico's vicious drug war.

Some call it the "parade of ants"; others the "river of iron." The Mexican government has estimated that 2,000 weapons are smuggled daily from the U.S. into Mexico. The ATF is hobbled in its effort to stop this flow. No federal statute outlaws firearms trafficking, so agents must build cases using a patchwork of often toothless laws. For six years, due to Beltway politics, the bureau has gone without permanent leadership, neutered in its fight for funding and authority. The National Rifle Association has so successfully opposed a comprehensive electronic database of gun sales that the ATF's congressional appropriation explicitly prohibits establishing one.

Voth, 39, was a good choice for a Sisyphean task. Strapping and sandy-haired, the former Marine is cool-headed and punctilious to a fault. In 2009 the ATF named him outstanding law-enforcement employee of the year for dismantling two violent street gangs in Minneapolis. He was the "hardest working federal agent I've come across," says John Biederman, a sergeant with the Minneapolis Police Department. But as Voth left to become the group supervisor of Phoenix Group VII, a friend warned him: "You're destined to fail."

Voth's mandate was to stop gun traffickers in Arizona, the state ranked by the gun-control advocacy group Legal Community Against Violence as having the nation's "weakest gun violence prevention laws." Just 200 miles from Mexico, which prohibits gun sales, the Phoenix area is home to 853 federally licensed firearms dealers. Billboards advertise volume discounts for multiple purchases.

Customers can legally buy as many weapons as they want in Arizona as long as they're 18 or older and pass a criminal background check. There are no waiting periods and no need for permits, and buyers are allowed to resell the guns. "In Arizona," says Voth, "someone buying three guns is like someone buying a sandwich."

By 2009 the Sinaloa drug cartel had made Phoenix its gun supermarket and recruited young Americans as its designated shoppers or straw purchasers. Voth and his agents began investigating a group of buyers, some not even old enough to buy beer, whose members were plunking down as much as \$20,000 in cash to purchase up to 20 semiautomatics at a time, and then delivering the weapons to others.

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The agents faced numerous obstacles in what they dubbed the Fast and Furious case. (They named it after the street-racing movie because the suspects drag raced cars together.) Their greatest difficulty by far, however, was convincing prosecutors that they had sufficient grounds to seize guns and arrest straw purchasers. By June 2010 the agents had sent the U.S. Attorney's office a list of 31 suspects they wanted to arrest, with 46 pages outlining their illegal acts. But for the next seven months prosecutors did not indict a single suspect.

On Dec. 14, 2010, a tragic event rewrote the narrative of the investigation. In a remote stretch of Peck Canyon, Ariz., Mexican bandits attacked an elite U.S. Border Patrol unit and killed an agent named Brian Terry. The attackers fled, leaving behind two semiautomatic rifles. A trace of the guns' serial numbers revealed that the weapons had been purchased 11 months earlier at a Phoenix-area gun store by a Fast and Furious suspect.

Ten weeks later, an ATF agent named John Dodson, whom Voth had supervised, made startling allegations on the *CBS Evening News*. He charged that his supervisors had intentionally allowed American firearms to be trafficked—a tactic known as "walking guns"—to Mexican drug cartels. Dodson claimed that supervisors repeatedly ordered him not to seize weapons because they wanted to track the guns into the hands of criminal ringleaders. The program showed internal e-mails from Voth, which purportedly revealed agents locked in a dispute over the deadly strategy. The guns permitted to flow to criminals, the program charged, played a role in Terry's death.

After the CBS broadcast, Fast and Furious erupted as a major scandal for the Obama administration. The story has become a fixture on Fox News and the subject of numerous reports in media outlets from CNN to the *New York Times*. The furor has prompted repeated congressional hearings—with U.S. Attorney General Eric Holder testifying multiple times—dueling reports from congressional committees, and an ongoing investigation by the Justice Department's inspector general. It has led to the resignations of the acting ATF chief, the U.S. Attorney in Arizona, and his chief criminal prosecutor.



Rep. Darrell Issa (R.-Calif.)

Conservatives have pummeled the Obama administration, and especially Holder, for more than a year. "Who authorized this program that was so *felony* stupid that it got people killed?" Rep. Darrell Issa (R-Calif.), chairman of the House Committee on Oversight and Government Reform, demanded to know in a hearing in June 2011. He has charged the Justice Department, which oversees the ATF, with having "blood on their hands." Issa and more than 100 other Republican members of Congress have demanded Holder's resignation.

The conflict has escalated dramatically in the past ten days. On June 20, in a day of political brinkmanship, Issa's committee voted along party lines, 23 to 17, to hold Holder in contempt of Congress for allegedly failing to turn over certain subpoenaed documents, which the Justice Department contended could not be released because they related to ongoing criminal investigations. The vote came hours after President Obama asserted executive privilege to block the release of the documents. Holder now faces a vote by the full House of Representatives this week on the contempt motion (though negotiations over the documents continue). Assuming a vote occurs, it will be the first against an attorney general in U.S. history.

As political pressure has mounted, ATF and Justice Department officials have reversed themselves. After initially supporting Group VII agents and denying the allegations, they have since agreed that the ATF purposefully chose not to interdict guns it lawfully could have seized. Holder testified in December that "the use of this misguided tactic is inexcusable, and it must never happen again."

There's the rub.

Quite simply, there's a fundamental misconception at the heart of the Fast and Furious scandal. Nobody disputes that suspected straw purchasers under surveillance by the ATF repeatedly bought guns that eventually fell into criminal hands. Issa and others charge that the ATF intentionally allowed guns to walk as an operational tactic. But five law-enforcement agents directly involved in Fast and Furious tell *Fortune* that the ATF had no such tactic. They insist they never purposefully allowed guns to be illegally trafficked. Just the opposite: They say they seized weapons whenever they could but were hamstrung by prosecutors and weak laws, which stymied them at every turn.

Indeed, a six-month *Fortune* investigation reveals that the public case alleging that Voth and his colleagues walked guns is replete with distortions, errors, partial truths, and even some outright lies. *Fortune* reviewed more than 2,000 pages of confidential ATF documents and interviewed 39 people, including seven law-enforcement agents with direct knowledge of the case. Several, including Voth, are speaking out for the first time.

How Fast and Furious reached the headlines is a strange and unsettling saga, one that reveals a lot about politics and media today. It's a story that starts with a grudge, specifically Dodson's anger at Voth. After the terrible murder of agent Terry, Dodson made complaints that were then amplified, first by right-wing bloggers, then by CBS. Rep. Issa and other politicians then seized those elements to score points against the Obama administration, which, for its part, has capitulated in an apparent effort to avoid a rhetorical battle over gun control in the run-up to the presidential election. (A Justice Department spokesperson denies this and asserts that the department is not drawing conclusions until the inspector general's report is submitted.)

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"Republican senators are whipping up the country into a psychotic frenzy with these reports that are patently false," says Linda Wallace, a special agent with the Internal Revenue Service's criminal investigation unit who was assigned to the Fast and Furious team (and recently retired from the IRS). A self-described gun-rights supporter, Wallace has not been criticized by Issa's committee.

The ATF's accusers seem untroubled by evidence that the policy they have pilloried didn't actually exist. "It gets back to something basic for me," says Sen. Charles Grassley (R-Iowa). "Terry was murdered, and guns from this operation were found at his murder site." A spokesman for Issa denies that politics has played a role in the congressman's actions and says "multiple individuals across the Justice Department's component agencies share responsibility for the failure that occurred in Operation Fast and Furious." Issa's spokesman asserts that even if ATF agents followed prosecutors' directives, "the practice is nonetheless gun walking." Attorneys for Dodson declined to comment on the record.

For its part, the ATF would not answer specific questions, citing ongoing investigations. But a spokesperson for the agency provided a written statement noting that the "ATF did not exercise proper oversight, planning or judgment in executing this case. We at ATF have accepted responsibility and have taken appropriate and decisive action to insure that these errors in oversight and judgment never occur again." The statement asserted that the "ATF has clarified its firearms transfer policy to focus on interdiction or early intervention to prevent the criminal acquisition, trafficking and misuse of firearms," and it cited changes in coordination and oversight at the ATF.

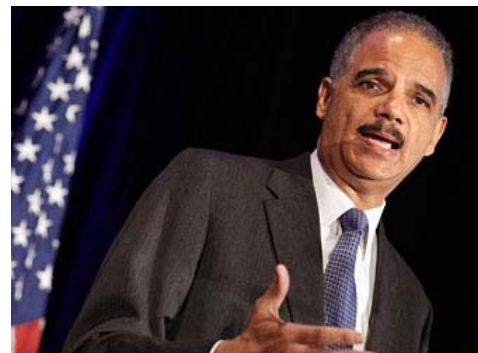
Irony abounds when it comes to the Fast and Furious scandal. But the ultimate irony is this: Republicans who support the National Rifle Association and its attempts to weaken gun laws are lambasting ATF agents for not seizing *enough* weapons—ones that, in this case, prosecutors deemed to be legal.

The investigation begins

The ATF is a bureau of judgment calls. Drug enforcement agents can confiscate cocaine and arrest anyone in possession of it. But ATF agents must distinguish constitutionally protected legal guns from illegal ones, with the NRA and other Second Amendment activists watching for missteps.

Critics have depicted the ATF as "jackbooted government thugs" trampling on the rights of law-abiding gun owners. From the deadly standoff with the Branch Davidian cult in Waco, Texas, in 1993 to allegations that ATF agents illegally seized weapons from suspected straw purchasers at a Richmond gun show in 2005, these scandals have helped cement the bureau's reputation in some quarters for law-enforcement overreach.

In part because of these notorious cases, the bureau has operated in a self-protective crouch. It has stuck to small single-defendant cases to the detriment of its effort to combat gun trafficking, the Justice Department's inspector general found in a review of ATF cases from 2007 to 2009. To refocus its efforts, the ATF established Group VII and the other Southwest border units to build big, multi-defendant conspiracy cases and target the leaders of the trafficking operations.



U.S. Attorney General Eric Holder

Of course, the ATF can be its own worst enemy. Voth arrived in Phoenix in December 2009 only to discover that his group had not been funded. The group had little equipment and no long guns, electronic devices, or binoculars, forcing Voth to scrounge for supplies.

Then there was Voth's seven-agent team, which was almost instantly at war with itself. Most of the agents were transplants, unfamiliar with Arizona or one another. Fast and Furious' lead case agent, Hope MacAllister, 41, was the exception—a tough, squared-away Phoenix veteran with little tolerance for complaints. Her unsmiling demeanor led Voth to give her the ironic nickname "Sunshine Bear." She declined to be interviewed.

Dodson, 41, arrived one day before Voth from a two-man outpost of ATF's Roanoke field office, where he'd worked since 2002. He had joined the ATF from the narcotics section of the Loudoun County sheriff's office in Virginia, where his blunt, even obnoxious manner did not earn him friends. He's "an asshole sometimes—there is no other way to put it," says his former partner, Ken Dondero, who served as best man at Dodson's wedding. "He's almost too honest. He believes that if he has a thought in his head, it's there to broadcast to everyone."

Voth, MacAllister, and a third agent, Tonya English, were quintessential by-the-book types. By contrast, Dodson and two other new arrivals, Olindo "Lee" Casa and Lawrence Alt, seemed to chafe at ATF rules and procedures. (An attorney for Casa says that "in light of the current congressional investigation, as well as investigations by the Department of Justice Inspector General and the Office of Special Counsel" it would be premature to comment. A lawyer for Alt says Alt could not be interviewed because he is in mediation to settle a suit he filed in which he charges that he was retaliated against for being a whistleblower.)

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Dodson's faction grew antagonistic to Voth. They regularly fired off snide e-mails and seemed to delight in mocking Voth and his methodical nature. They were scornful of protocol, according to ATF agents. Dodson would show up to work in flip-flops. He came unprepared for operations—without safety equipment or back-up plans—and was pulled off at least one surveillance for his own safety, say two colleagues. He earned the nickname "Renegade," and soon Voth's group effectively divided into two clashing factions: the Sunshine Bears and the Renegades.

Even had they all gotten along, they faced a nearly impossible task. They were seven agents pursuing more than a dozen cases, of which Fast and Furious was just one, their efforts complicated by a lack of adequate tools. Without a real-time database of gun sales, they had to perform a laborious archaeology. Day after day, they visited local gun dealers and pored over forms called 4473s, which dealers must keep on file. These contain a buyer's personal information, a record of purchased guns and their serial numbers, and a certification that the buyer is purchasing the guns for himself. (Lying on the forms is a felony, but with weak penalties attached.) The ATF agents manually entered these serial numbers into a database of suspect guns to help them build a picture of past purchases.

By January 2010 the agents had identified 20 suspects who had paid some \$350,000 in cash for more than 650 guns. According to Rep. Issa's congressional committee, Group VII had enough evidence to make arrests and close the case then.

Prosecutors: Transferring guns is legal in Arizona

This was not the view of federal prosecutors. In a meeting on Jan. 5, 2010, Emory Hurley, the assistant U.S. Attorney in Phoenix overseeing the Fast and Furious case, told the agents they lacked probable cause for arrests, according to ATF records. Hurley's judgment reflected accepted policy at the U.S. Attorney's Office in Arizona. "[P]urchasing multiple long guns in Arizona is lawful," Patrick Cunningham, the U.S. Attorney's then-criminal chief in Arizona would later write. "Transferring them to another is lawful and even sale or barter of the guns to another is lawful unless the United States can prove by clear and convincing evidence that the firearm is intended to be used to commit a crime." (Arizona federal prosecutors referred requests for comment to the Justice Department, which declined to make officials available. Hurley noted in an e-mail, "I am not able to comment on what I understand to be an ongoing investigation/prosecution. I am precluded by federal regulation, DOJ policy, the rules of professional conduct, and court order from talking with you about this matter." Cunningham's attorney also declined to comment.)

It was nearly impossible in Arizona to bring a case against a straw purchaser. The federal prosecutors there did not consider the purchase of a huge volume of guns, or their handoff to a third party, sufficient evidence to seize them. A buyer who certified that the guns were for himself, then handed them off minutes later, hadn't necessarily lied and was free to change his mind. Even if a suspect bought 10 guns that were recovered days later at a Mexican crime scene, this didn't mean the initial purchase had been illegal. To these prosecutors, the pattern proved little. Instead, agents needed to link specific evidence of intent to commit a crime to each gun they wanted to seize.

None of the ATF agents doubted that the Fast and Furious guns were being purchased to commit crimes in Mexico. But that was nearly impossible to prove to prosecutors' satisfaction. And agents could not seize guns or arrest suspects after being directed not to do so by a prosecutor. (Agents can be sued if they seize a weapon against prosecutors' advice. In this case, the agents had a particularly strong obligation to follow the prosecutors' direction given that Fast and Furious had received a special designation under the Justice Department's Organized Crime Drug Enforcement Task Force. That designation meant more resources for the case, but it also provided that prosecutors take the lead role.)

In their Jan. 5 meeting, Hurley suggested another way to make a case: Voth's team could wiretap the phone of a suspected recruiter and capture proof of him directing straw purchasers to buy guns. This would establish sufficient proof



ATF agent John Dodson

to arrest both the leaders and the followers.

On Jan. 8, 2010, Voth and his supervisors drafted a briefing paper in which they explained Hurley's view that "there was minimal evidence at this time to support any type of prosecution." The paper elaborated, "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 co-conspirators."

Rep. Issa's committee has flagged this document as proof that the agents chose to walk guns. But prosecutors had determined, Voth says, that the "transfer of firearms" was legal. Agents had no choice but to keep investigating and start a wiretap as quickly as possible to gather evidence of criminal intent.

Ten days after the meeting with Hurley, a Saturday, Jaime Avila, a transient, admitted methamphetamine user, bought three WASR-10 rifles at the Lone Wolf Trading Company in Glendale, Ariz. The next day, a helpful Lone Wolf employee faxed Avila's purchase form to ATF to flag the suspicious activity. It was the Martin Luther King Jr. holiday weekend, so the agents didn't receive the fax until Tuesday, according to a contemporaneous case report. By that time, the legally purchased guns had been gone for three days. The agents had never seen the weapons and had no chance to seize them. But they entered the serial numbers into their gun database. Two of these were later recovered at Brian Terry's murder scene.

Rebuffed by the prosecutors

Voth was a logical thinker. He lived by advice he received from an early mentor in law enforcement: "There's what you think. There's what you know. There's what you can prove. And the first two don't count."

But he was not operating in a logical world. The wiretap represented the ATF's best—perhaps only—hope of connecting the gun purchases it had been documenting to orders from the cartels, according to Hurley. In Minneapolis, the prosecutors Voth had worked with had approved wiretap applications within 24 hours. But in Phoenix, days turned into weeks, and Group VII's wiretap application languished with prosecutors in Arizona and Washington, D.C.

No one has yet explained this delay. Voth thinks prosecutor Hurley's inexperience in wiretapping cases may have slowed the process. Several other agents speculate that Arizona's gun culture may have led to indifference. Hurley is an avid gun enthusiast, according to two law-enforcement sources who worked with him. One of those sources says he saw Hurley behind the counter at a gun show, helping a friend who is a weapons dealer.

William Newell, then special agent in charge of the ATF's Phoenix field division, suspected that U.S. Attorney Dennis Burke, an Obama appointee, was not being briefed adequately by deputies about the volume of guns being purchased. He wrote to colleagues in February 2010 that the prosecutor seemed "taken aback by some of the facts I informed him about"—by then, the Fast and Furious suspects had purchased 800 guns—"so I am setting up a briefing for him (alone no USAO 'posse') about this case and several other cases I feel he is being misled about."

The conflict between federal prosecutors and ATF agents had been growing for years. Pete Forcelli, who served as group supervisor of ATF's Phoenix I field division for five years, told Congress in June 2011 that he believed Arizona federal prosecutors made up excuses to decline cases. "Despite the existence [of] probable cause in many cases," he testified, "there were no indictments, no prosecutions, and criminals were allowed to walk free." Prosecutors in Los Angeles and New York were far more aggressive in pursuing gun cases, Forcelli asserted.

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Phoenix-based ATF agents became so frustrated by prosecutors' intransigence that, in a highly unusual move, they began bringing big cases to the state attorney general's office instead. Terry Goddard, Arizona's Attorney General from 2003 to 2011, says of federal prosecutors, "They demanded that every *i* be dotted, every *t* be crossed, and after a while, it got to be nonsensical."

For prosecutors, straw-purchasing cases were hard to prove and unrewarding to prosecute, with minimal penalties attached. In December 2010, five U.S. Attorneys along the Southwest border, including Burke in Arizona, wrote to the U.S. Sentencing Commission, asking that penalties for straw purchasing be increased. The commission did increase the recommended jail time by a few months. But because the straw purchasers, by definition, have no criminal record and there is no firearms-trafficking statute that would allow prosecutors to charge them with conspiracy as a group, the

penalties remain low.

Prosecutors repeatedly rebuffed Voth's requests. After examining one suspect's garbage, agents learned he was on food stamps yet had plunked down more than \$300,000 for 476 firearms in six months. Voth asked if the ATF could arrest him for fraudulently accepting public assistance when he was spending such huge sums. Prosecutor Hurlley said no. In another instance, a young jobless suspect paid more than \$10,000 for a 50-caliber tripod-mounted sniper rifle. According to Voth, Hurlley told the agents they lacked proof that he *hadn't* bought the gun for himself.

Voth grew deeply frustrated. In August 2010, after the ATF in Texas confiscated 80 guns—63 of them purchased in Arizona by the Fast and Furious suspects— Voth got an e-mail from a colleague there: "Are you all planning to stop some of these guys any time soon? That's a lot of guns...Are you just letting these guns walk?"

Voth responded with barely suppressed rage: "Have I offended you in some way? Because I am very offended by your e-mail. Define walk? Without Probable Cause and concurrence from the USAO [U.S. Attorney's Office] it is highway robbery if we take someone's property." He then recounted the situation with the unemployed suspect who had bought the sniper rifle. "We conducted a field interview and after calling the AUSA [assistant U.S. Attorney] he said we did not have sufficient PC [probable cause] to take the firearm so our suspect drove home with said firearm in his car...any ideas on how we could not let that firearm 'walk'?"

Voth believed the wiretap could help bring the case to a swift and successful close. On March 5, 2010, ten days before their first wiretap was set to begin, Voth was in Washington, D.C., to brief ATF brass and Justice Department officials on Fast and Furious. The response was overwhelmingly positive. A senior ATF attorney wrote Voth, "This is exactly the types of cases ATF should be doing with a wire, it is fantastic."

The schism inside Phoenix Group VII

Voth returned to Phoenix fully expecting his team to unite for the work that lay ahead. But instead he found a minor mutiny—over the schedule for the wire, which needed to be monitored around the clock. Dodson didn't want to work weekends. Casa felt his seniority should exclude him from the effort.

Agents were getting pulled from other field offices to assist, and on March 11, one wrote to ask Voth, "You're not going to give the out-of-towners the crappy shifts, are you?" Voth responded, "I am attempting to split the weekends so everyone has to work one of the two days that way no one gets screwed too hard and everybody gets screwed a little bit."

The next day, March 12, Voth sent out the wire schedule at 5:15 p.m. but got such a blizzard of complaints about the shifts that, two hours later, he sent another e-mail to the group. It read in part: "[T]here may be a schism developing amongst the group. This is the time we all need to pull together not drift apart. We are all entitled to our respective (albeit different) opinions however we all need to get along and realize we have a mission to accomplish. I am thrilled and proud that our Group is the first ATF Southwest Border Group in the country to be going up on [a] wire...I will be damned if this case is going to suffer due to petty arguing, rumors or other adolescent behavior...I don't know what all the issues are but we are all adults, we are all professionals, and we have an exciting opportunity to use the biggest tool in our law enforcement tool box. If you don't think this is fun you're in the wrong line of work—period! This is the pinnacle of domestic U.S. law-enforcement techniques. After this the tool box is empty."

The wire turned out to be short lived. Within days, the agents realized that their suspect was phasing out use of the phone they were monitoring. Group VII would have to reapply, all over again, for permission to tap the new phone number.

But Voth's so-called "schism e-mail" would live in infamy. Today it is held up as proof that the group was desperately divided over the tactic of gun walking and that Voth belittled those who opposed it. But there is no documentary evidence that agents Dodson, Casa, or Alt complained to their supervisors about the alleged gun walking, had confrontations about it, or were retaliated against because of their complaints, as they all later claimed.

Who's opposed to gun walking?

The atmosphere inside Voth's group had become toxic. The subjects of dispute were often trivial. For example, when Voth asked Casa to turn off his computer's Godzilla sound effect, which roared each time he got an e-mail, Casa replied, "I have done some limited research and have found no ATF order or internal division memo addressing this issue."

Voth remained even-tempered but did take a stand after one incident. Alt taped to Voth's door an eight-point takedown of agent MacAllister, sarcastically stating that she was in charge of *everything*. Voth reported the note to an ATF attorney, and Alt apologized. It's unclear what drove the men's anger, but it seems unlikely that it was caused by disagreements over alleged gun walking.

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How is it possible to deduce that? Because Dodson then proceeded to walk guns intentionally, with Casa and Alt's help. On April 13, 2010, one month after Voth wrote his schism e-mail, Dodson opened a case into a suspected gun trafficker named Isaiah Fernandez. He had gotten Casa to approve the case when Voth was on leave. Dodson had directed a cooperating straw purchaser to give three guns to Fernandez and had taped their conversations without a prosecutor's approval.

Voth first learned these details a month into the case. He demanded that Dodson meet with him and get approval from prosecutors to tape conversations. Five days later, Dodson sent an uncharacteristically diplomatic response. (He and Alt had revised repeated drafts in that time, with Alt pushing to make the reply "less abrasive." Dodson e-mailed back: "Less abrasive? I felt sick from kissing all that ass as it was.") Dodson wrote that he succeeded in posing undercover as a straw purchaser and claimed that prosecutor Hurley—who he had just belatedly contacted—had raised "new concerns." The prosecutor had told Dodson that an assistant U.S. Attorney "won't be able to approve of letting firearms 'walk' in furtherance of your investigation without first briefing the U.S. Attorney and Criminal Chief."

It was the first time Voth learned that Dodson intended to walk guns. Voth says he refused to approve the plan and instead consulted his supervisor, who asked for a proposal from Dodson in writing. Dodson then drafted one, which Voth forwarded to his supervisor, who approved it on May 28.

On June 1, Dodson used \$2,500 in ATF funds to purchase six AK Draco pistols from local gun dealers, and gave these to Fernandez, who reimbursed him and gave him \$700 for his efforts. Two days later, according to case records, Dodson—who would later testify that in his previous experience, "if even one [gun] got away from us, nobody went home until we found it"—left on a scheduled vacation without interdicting the guns. That day, Voth wrote to remind him that money collected as evidence needed to be vouchered within five days. Dodson e-mailed back, his sarcasm fully restored: "Do the orders define a 'day'? Is it; a calendar day? A business day or work day....? An Earth day (because a day on Venus takes 243 Earth days which would mean that I have plenty of time)?"

The guns were never recovered, the case was later closed, and Fernandez was never charged. By any definition, it was gun walking of the most egregious sort: a government agent using taxpayer money to deliver guns to bad guys and then failing to intercept them.

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On Feb. 4, 2011, the Justice Department sent a letter to Sen. Grassley saying that the allegations of gun walking in Fast and Furious were false and that ATF always tried to interdict weapons. A month later, Grassley countered with what appeared to be slam-dunk proof that ATF had indeed walked guns. "[P]lease explain how the denials in the Justice Department's Feb. 4, 2011 letter to me can be squared with the evidence," Grassley wrote, attaching damning case reports that he contended "proved that ATF allowed guns to 'walk.'" The case and agent names were redacted, but the reports were not from Fast and Furious. They came entirely from Dodson's Fernandez case.

An unusual alliance

By the end of July 2010, the Fast and Furious investigation was largely complete. The agents had sent prosecutors 20 names for immediate indictment, Jaime Avila's among them. His purchase of the three WASR-10s were listed among his criminal acts. On Aug. 17, 2010, ATF agents met in Phoenix with prosecutors, including U.S. Attorney Dennis Burke. According to two people present, the ATF presented detailed evidence, including the fact that their suspects had purchased almost 2,000 guns, and pushed for indictments. A month later, on Sept. 17, an ATF team—this time including ATF director Kenneth Melson—met with prosecutors again and again pushed for action. The sides agreed to aim for indictments by October, according to one person in attendance.

But as weeks and then months passed, prosecutors did not issue indictments. The ATF agents grew increasingly concerned. By December, prosecutors had dropped Avila's name from the indictment list for what they deemed a lack of evidence.

Only when Terry, the U.S. Border Patrol agent, was murdered in December 2010 did the prosecutors act. Voth's agents arrested Avila within 24 hours of Terry's death. On Jan. 19, 2011, a federal grand jury indicted him and 19 other suspects. (Avila has since pleaded guilty to dealing guns without a license).

Meanwhile, a crucial part of the Fast and Furious scandal—an unusual alliance that would prod politicians and spread word of the failure to stop guns from making their way to Mexican drug cartels—was waiting in the wings. Little more than a week after Terry's murder, a small item about the possible connection between his death and the Fast and Furious case appeared on a website, CleanUpATF.org. The site was the work of a disgruntled ATF agent-turned-whistleblower, Vince Cefalu, who is suing the bureau for alleged mistreatment in an unrelated case. His website has served as a clearinghouse for grievances and a magnet for other ATF whistleblowers.

It had also attracted gun-rights activists loosely organized around a blog called the Sipsey Street Irregulars, run by a former militia member, Mike Vanderboegh, who has advocated armed insurrection against the U.S. government. It was an incendiary combination: the disgruntled ATF agents wanted to punish and reform the bureau; the gun-rights activists wanted to disable it. After the item about Terry appeared, the bloggers funneled the allegations through a "desert telegraph" of sorts to Republican lawmakers, who began asking questions.

A week after the initial Fast and Furious press conference in January 2011, Dodson dropped a small bombshell. He told a supervisor that he had been contacted by congressional staff. Dodson met that day with two ATF supervisors. According to their written contemporaneous accounts, Dodson was vague but claimed that Voth had always "treated him like shit" and that it "felt good" to speak with someone outside ATF.

Dodson appeared on the *CBS Evening News* a week later. As Voth watched the program from his living room, he says, he wanted to vomit. He saw sentences from his "schism" e-mail reproduced on the TV screen. But CBS didn't quote the portions of Voth's e-mail that described how the group was divided by "petty arguing" and "adolescent behavior." Instead, CBS claimed the schism had been caused by opposition to gun walking (such alleged opposition is not discussed anywhere in the e-mail, which is below). CBS asserted that Dodson and others had protested the tactic "over and over," and then quoted portions of Voth's e-mail in a way that left the impression that gun walking was endorsed at headquarters. CBS contacted the ATF (but not Voth directly). The result was a report that incorrectly painted Voth as zealously promoting gun walking. (A CBS spokeswoman, Sonya McNair, says CBS does not publicly discuss its editorial process but notes, "The White House has already acknowledged the truth of our report.")



From: Voth, David J. <...>
Sent: Friday, March 12, 2010 9:34 PM
To: Phoe-Group VII <phoe-group7@atf.gov>
Subject: Monday Morning Meeting, Strike force 9

To all:

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The "Witch Hunt"

Less than 36 hours after the CBS report, Voth was jolted awake at dawn by the blaring of his burglar alarm. With his wife and children still in bed, he crept down the stairs of his desert home, his ATF-issued .40 caliber Sig Sauer extended before him. In the garage, he saw a door ajar and a massive kettle bell he used for workouts knocked from its place. Outside, the fleeing intruder had left behind a partial footprint in the sand.

As Voth waited for the police, he checked his e-mail and found an anonymous threat, sent minutes earlier: "You God-damned stupid 'Yes-Man' who does not have either the morals, or the intelligence, to realize that allowing this 'Fast and Furious' operation would result in unnecessary, unjustified deaths: MAY YOU EAT SHIT AND DIE." Later his wife found a strange car outside their house and an angry post on the Internet listing their home address. Voth confidentially shared his concern about that post in a meeting with two senior ATF officials, only to find an account of the meeting on the Sipsy Street blog within 24 hours.

The ATF's office of operations security investigated the threats to Voth. A confidential report on March 29, 2011, concluded, "ATF 'insiders' are the number one threat to GS Voth and his family." The report cited "at least six individuals," whom it did not name, who had "personal agendas to undermine the credibility of ATF supervisors and members of management as retribution for [Voth's] operational shortcomings." The report cited the two blogs and concluded that "the malicious intent of insiders" had led directly to Voth's becoming the target of a "nation-wide...libel campaign."

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Politicians soon got involved, and the situation grew worse for the ATF. In June, Republican staffers for the House Oversight and Government Reform Committee and the Senate Judiciary Committee released a joint report that leaned heavily on interviews with Dodson, Casa, and Alt and identified Voth as a central figure in the scandal. It quoted Dodson describing Voth as "giddy" over the slaughter in Mexico—Voth says he was deeply upset by the violence—but didn't reflect Voth's perspective. The report was released two weeks before Voth was scheduled to be questioned for the first time by congressional investigators. (A spokesman for Issa says the committee attempted to interview Voth earlier.)

As the allegations mounted, pressure intensified. In early July the ATF's once supportive acting director, Melson—who according to e-mails had been briefed weekly on the case—went to Congress and threw his own people under the bus. Melson told Grassley that he had read the case reports only after the scandal broke, and had been "sick to his stomach," according to press accounts of the meeting. In August, Melson resigned, as did Arizona's U.S. Attorney, Burke. (Melson's lawyer, Richard Cullen, says the Justice Department's inspector general will likely answer many of the continuing questions.) In December 2011, the Justice Department retracted its Feb. 4 letter, in which it had denied walking guns in the Fast and Furious case.

For Voth, steeped in military loyalty, Melson's betrayal was the blow he couldn't fathom. Voth began losing weight, losing

sleep. As he puts it, "You barely remember your own name, your mind is going 100 miles an hour." He no longer knew what to do or who could be trusted. "There would be no way," he says, "to foreshadow *this*."

Since the scandal erupted, almost everyone associated with Fast and Furious has been reassigned. Dodson, Casa, and Alt have been transferred to other field offices. Voth, who has now been interviewed by congressional investigators and the Justice Department's inspector general, has been reassigned to a desk job in Washington.

New facts are still coming to light—and will likely continue to do so with the Justice Department inspector general's report expected in coming months. Among the discoveries: Fast and Furious' top suspects—Sinaloa Cartel operatives and Mexican nationals who were providing the money, ordering the guns, and directing the recruitment of the straw purchasers—turned out to be FBI informants who were receiving money from the bureau. That came as news to the ATF agents in Group VII.

Today, with Attorney General Holder now squarely in the cross hairs of Congress, Democrats and Republicans are accusing each other of political machinations. Rep. Elijah Cummings, a Maryland Democrat and ranking member of the oversight committee, has accused Issa of targeting Holder as part of an "election-year witch hunt." Issa has alleged on Fox News that Fast and Furious is part of a liberal conspiracy to restrict gun rights: "Very clearly, [the ATF] made a crisis and they are using this crisis to somehow take away or limit people's Second Amendment rights." (Issa has a personal history on this issue: In 1972, at age 19, he was arrested for having a concealed, loaded .25-caliber automatic in his car; he ultimately pleaded guilty to possession of an unregistered gun.)

Issa's claim that the ATF is using the Fast and Furious scandal to limit gun rights seems, to put it charitably, far-fetched. Meanwhile, Issa and other lawmakers say they want ATF to stanch the deadly tide of guns, widely implicated in the killing of 47,000 Mexicans in the drug-war violence of the past five years. But the public bludgeoning of the ATF has had the opposite effect. From 2010, when Congress began investigating, to 2011, gun seizures by Group VII and the ATF's three other groups in Phoenix dropped by more than 90%.

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