

**Transcript: "Podcast: A Review of Investigations of the Osorio and Barba Firearms Trafficking Rings,"
March 2017**

Stephanie Logan: Welcome to the latest podcast from the Department of Justice Office of the Inspector General. My name is Stephanie Logan.

I'm here with Sean O'Neill, the Deputy Assistant Inspector General in our Oversight and Review Division, to discuss the findings of a new report about the run-up to a tragic shooting in Mexico of two Immigration and Customs Enforcement Agents, Victor Avila and Jaime Zapata. Thank you for joining me today, Sean.

Sean O'Neill: I'm glad to be here, Stephanie.

Logan: Sean, let's start with the basics. Who were Agents Avila and Zapata, and what is this report about?

O'Neill: Agents Avila and Zapata were ICE agents who were attacked on a Mexican Highway in February 2011 by members of the Los Zetas drug trafficking organization. Agent Zapata died from his injuries, and Agent Avila was seriously wounded.

After the attack, ATF ran traces on firearms used in the attack and determined that one of them had been purchased by an individual named Otilio Osorio in Fort Worth, Texas, and another had been purchased by Robert Riendfliesh in Beaumont, Texas. Both purchases happened in the second half of 2010. Shortly after it ran those traces, ATF arrested Osorio, Riendfliesh, and other traffickers they worked with.

Logan: And now the OIG has released a report that describes the actions of federal law enforcement agencies in the lead-up to the attack. So what, specifically, is the report about?

O'Neill: Our review primarily looked at two issues. First, we looked at the question of what information federal law enforcement agencies had before Osorio and Riendfliesh made their purchases, and what agents did with that information. We were particularly interested to know whether agents had improperly failed to seize firearms destined for Mexico, since that was an issue we previously looked at in connection with ATF's Operation Fast and Furious.

Second, we looked at the investigation of another firearms trafficker, Manuel Barba. Barba led a ring of firearms straw purchasers called the "Baytown Crew." He had previously been arrested by the DEA for narcotics offenses, but in the summer of 2010 he was released from federal custody in Beaumont. He later trafficked the Riendfliesh firearm to Mexico. We wanted to understand the circumstances surrounding his release.

Logan: Okay so let's take each of those issues in turn. On the first issue – the Osorio and Riendfliesh firearms – what did the review find?

O'Neill: Unfortunately, we found problems with how the ATF followed up on the information it had before the Osorio purchase. For example, we found that ATF had gathered a fair amount of information about two of his associates – his brother, Ranferi, and the Osorios' neighbor, Kelvin Morrison. Our review determined that ATF's Dallas Field Division had collected enough information to justify questioning at least Ranferi Osorio and Morrison prior to Otilio Osorio's purchase of the firearm. But ATF agents did not interview Osorio and Morrison until months later, a delay that we found was too long.

We also found that the ATF witnessed the Osorios complete a transfer of 40 firearms in November 2010. After they saw that, we think the ATF clearly had probable cause to arrest all three men. Yet ATF did not make contact with any of them until after the attack on Agents Avila and Zapata. Again, ATF offered multiple explanations for this delay, but we didn't agree with them.

Logan: And at any point did ATF have a chance to seize firearms from these traffickers?

O'Neill: Yes. We identified one instance when ATF searched the Osorios' residence in late February 2011 where we believe ATF had the legal authority to seize firearms they found, but did not do so. Unfortunately, two of the firearms that were not seized ended up at a crime scene in Mexico.

Logan: Sean, just to be clear, does the report take a position on whether earlier, more aggressive action by the ATF would have prevented the Zetas' attack on the ICE agents?

O'Neill: That is an important question, and I do want to be clear about that. We don't believe that it is possible today to identify what investigative steps should have been taken at the time, or precisely when arrests should have occurred. ATF should have been in consultation with the U.S. Attorney's Office in Dallas and obtaining advice from the prosecutors there. But our trying to specify what investigative steps should have been taken would just be too speculative, especially since we don't know what advice a prosecutor would have given the ATF had ATF asked.

Logan: I see. And what about the second issue you looked at, which was the release of Manuel Barba from federal custody? What did your review find about that?

O'Neill: This was another area where we found some issues. We determined that the Assistant U.S. Attorney handling the Barba drug prosecution should not have agreed to Barba's release from federal custody in the summer of 2010. Releasing

him left him free to lead the Baytown Crew, and ultimately to direct the straw purchase and the trafficking to Mexico of one of the firearms used in the attack on Agents Zapata and Avila.

There were a couple of breakdowns that led to that release. For example, Barba told the lead DEA agent who was investigating him that he had trafficked AK-47s, but the DEA agent didn't think those statements were credible, and he failed to highlight them for the AUSA or his supervisor. We also found no evidence that the assigned AUSA in Beaumont read the DEA report that recited Barba's statements or took them into account before agreeing to his release. And neither the DEA agent, his supervisor, nor the AUSA notified ATF about Barba's statements. That meant the ATF never had the chance to consider what additional investigation of Barba's trafficking would have been appropriate.

Logan: So it sounds like the report found issues with the actions of several agencies – at least the DEA, ATF, and a federal prosecutor. Were there any other agencies involved?

O'Neill: We looked into the role of the FBI, but we found no evidence that they knew about the criminal activities of the various traffickers before the attack on the ICE agents. The same was true for DOJ headquarters.

Logan: Does the report make any recommendations?

O'Neill: No, it doesn't, but only because we felt that our recommendations in two prior reports about ATF's Operation Fast and Furious already cover the issues we identified.

Logan: So when those recommendations are implemented, the ongoing issues you've described in today's report will also be addressed.

O'Neill: That's right. And we are monitoring the progress of that implementation carefully.

Logan: Great. Sean, thank you for speaking with me today.

O'Neill: My pleasure, Stephanie.

Logan: That's it for today. To read the report, please visit our website, oig.justice.gov. Thanks for joining us.

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