

The Department of Justice Office of the Inspector General (OIG) announced today the release of a review of the investigation of Jean Baptiste Kingery. The OIG's report details a pattern of serious failures and inadequate consideration of the public safety by both the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the U.S. Attorney's Office for the District of Arizona (USAO) in the handling of the investigation of Kingery's purchase and suspected transportation of grenade components into Mexico, where Mexican law enforcement officials discovered some of those components were used to construct live hand grenades.

The OIG initiated this review after receiving information about ATF's investigation of Kingery during its review of Operation Fast and Furious, including allegations that ATF was using a strategy and tactics similar to those employed in Operations Fast and Furious and Wide Receiver. The OIG's findings included the following:

In October 2009, about one year after Kingery was suspected by ATF of illegally purchasing AK-47s for someone else, special agents from ATF's Phoenix Division learned that Kingery was ordering large amounts of grenade components from an online military surplus dealer. The agents suspected that Kingery was transporting grenade components into Mexico for conversion into live grenades and then supplying them to Mexican drug cartels. Over the next four months, ATF agents intercepted two deliveries of grenade components intended for Kingery, marked those items in a manner where they could be identified later, and delivered the marked items to Kingery's shipping address. ATF agents then attempted to conduct surveillance of Kingery to determine if he was taking the grenade components into Mexico. ATF agents also attempted to work with Mexican law enforcement officials to follow or arrest Kingery. Neither effort was successful. Months later, ATF learned that two live grenades recovered at a crime scene in Mexico contained component parts that bore markings of the type ATF used on the components delivered to Kingery.

In June 2010, U.S. Customs and Border Patrol (CBP) agents stopped Kingery as he was attempting to cross the border into Mexico from a port of entry in Arizona. During a secondary inspection of Kingery's vehicle, CBP agents recovered from the inside of a spare tire attached to the vehicle 114 grenade hulls, 114 grenade fuses, and more than 2000 rounds of ammunition. That evening, special agents from ATF and Immigration and Customs Enforcement (ICE) conducted interviews of Kingery, who admitted that he loaded the ammunition in the spare tire and that he knew it was illegal to transport grenades and ammunition out of the United States and into Mexico. However, after ATF and ICE agents conferred with an Assistant United States Attorney (AUSA) from the USAO, who was resistant to bringing any charges against Kingery that evening, Kingery was allowed to leave without any charges being filed, but with the understanding that he would voluntarily return the next day for further interviews. The following day Kingery returned and was interviewed further by ATF and ICE agents. After the interview, he was again allowed to leave without being charged with a crime, with the understanding that he would be cooperating with law enforcement.

However, approximately one week later, after ATF agents lost contact with Kingery, he was stopped trying to re-enter the United States and ATF agents requested that the same AUSA agree to Kingery's

immediate arrest. The AUSA declined and indicated that Kingery could be indicted at a later date. Kingery was released without any charges being filed against him, and he returned to Mexico.

Thereafter, the USAO still did not charge Kingery and Mexican authorities, with assistance from ATF, arrested Kingery in Mexico in August 2011. Officials there are currently prosecuting him for violating Mexican organized crime laws. Following the allegations in 2011 regarding the USAO's handling of Operation Fast and Furious, the investigation of Kingery was reassigned to the U.S. Attorney's Office for the Central District of California and it remains ongoing.

The OIG found that the investigation of Kingery was seriously flawed in several respects and that Kingery should have been arrested and charged with violating the Arms Export Control Act (AECA) by criminal complaint or indictment long before he finally was charged. We also determined that, as in Operation Fast and Furious, this failure to act reflected inadequate consideration by the agents and prosecutors of the risk to public safety in the United States and Mexico created by Kingery's illegal activities.

The OIG's review concluded that the Kingery investigation suffered from additional flaws that we also observed in Operation Fast and Furious. Both were relatively complex investigations with international implications that suffered from inadequate resources being devoted to meet the cases' objectives, poor supervision by ATF field office supervisors, and insufficient oversight from officials at ATF Headquarters and supervisors and management officials at the USAO. Prosecutors and agents in both investigations also failed to take or insist on overt enforcement action against the subjects of the investigations when there was sufficient evidence to do so.

Today's report also highlighted ATF's failure to adequately coordinate its operations with ICE, as well as ATF's failure to request that CBP agents be on the lookout for Kingery at the border in connection with the November 2009 and January 2010 marking and surveillance operations. The OIG concluded that these failures to coordinate predictably produced poorly conceived and executed operations. In order to address the tensions that were apparent in the Kingery investigation, the OIG recommended that the Office of the Deputy Attorney General, ATF leadership, and the Attorney General's Advisory Committee engage with the leadership at the Department of Homeland Security, ICE, and CBP in an effort to identify and develop opportunities to improve these important and highly consequential relationships.

The report released today can be found on the OIG's website at:

<http://www.justice.gov/oig/reports/2014/s1501.pdf>.