



OFFICE OF THE INSPECTOR GENERAL

U.S. Department of Justice

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INVESTIGATIVE SUMMARY

Findings of Misconduct by ATF Supervisory Special Agent for the Unauthorized Disclosure of Statutorily Protected Information

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated an investigation of a Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Supervisory Special Agent based on information it received from the DOJ Office of the Deputy Attorney General in 2012 alleging that the Special Agent released information in violation of federal statutes.

The OIG found that the Special Agent had indiscriminately provided to his attorney thousands of statutorily-protected documents relating to ATF investigations without authorization, some of which the attorney subsequently provided to selected Members of Congress while acting on the Special Agent's behalf. The materials disclosed included court-sealed documents relating to wiretaps, disclosure of which is punishable under law as contempt of court; documents containing summaries of intercepted telephone calls, which are protected from disclosure under the wiretap statute; and ATF reports of investigation and reports generated by other law enforcement agencies, which contained information about the identities of investigative subjects and witnesses that is protected from disclosure under the Privacy Act of 1974.

In addition to providing the materials that the attorney had passed on to selected Members of Congress, the Special Agent also transmitted to his attorney records relating to financial transactions of third parties, which are protected from disclosure by federal statute; a document classified as "confidential," which violated a federal statute and executive orders; and certain ATF materials and information, the handling of which was restricted by ATF Orders. Lastly, the OIG found that the Special Agent used unauthorized external devices and personal e-mail to move the documents from ATF systems, networks, and devices and transmit them to his counsel, which conduct violated a DOJ Order relating to information security.

The OIG analyzed the Special Agent's claim that his disclosures were protected under the Whistleblower Protection Act (WPA). The WPA authorizes disclosures to Members of Congress. However, in enacting the WPA, Congress specified that information specifically prohibited from disclosure by other statutes can only be provided to the Office of Special Counsel, the Inspector General, or an employee designated by the head of the agency to receive such disclosures. Accordingly, the WPA does not protect employees for disclosing such information to Members

of Congress, even if Congress is authorized to receive the information in other contexts. Therefore, we found that the Special Agent's unauthorized disclosures of statutorily protected documents and information violated federal law.

During its investigation, the OIG obtained certifications from the Special Agent and his attorneys that the Government records the Special Agent transmitted to his attorneys had been deleted or destroyed. Prosecution was declined.

The OIG completed its investigation and provided its report to ATF for appropriate action.

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