

The “see no evil, hear no evil” defense

Much of the media has moved quickly to close the books on Attorney General Eric Holder's role in the Fast and Furious scandal, based on this week's report from the Justice Department's Inspector General's office, headed by Michael E. Horowitz.

But for many others, the [471-page report](#) is nothing more than an effort by an employee to exonerate his boss.

Regarding the so-called “watchdog report,” GOA Executive Larry Pratt told CBN News, “The wolf has reported from the chicken coop that there's nobody here but us chickens.” ([Click here to see the interview in its entirety](#) .)

Some Inspector Generals and special counsels in the past have shown rare courage in challenging superiors who have the capacity to destroy their careers. Sadly, Inspector General Horowitz does not appear to be one of them.

Gun Owners of America has focused, in particular, on the pathetic two-paragraph conclusion concerning Attorney General Eric Holder [on page 453] and have examined its validity -- based on the extensive knowledge and participation of Gun Owners of America, as we have helped unearth this scandal.

The Inspector General (IG) exonerated Holder, not based on what the Attorney General knew or should have known ... or what he constructively knew ... or on what information was provided to him.

Rather, Holder was vindicated based on his ability to misstate facts so effectively there was little to nothing for the IG to “pin on him.”

The key sentence is on p. 453:

We determined that Attorney General Holder did not learn about Operation Fast and Furious until late January or early February 2011 ...

In the next paragraph, comes the following statement:

Although the Office of the Attorney General received various weekly reports from components in the Department that mentioned Operation Fast and Furious, we found that Attorney General Holder did not personally review these reports at the time that his office received them and that his staff did not highlight them for his review. [p. 453]

Note the extraordinary nature of these statements:

(1) The IG not only failed to find evidence that Holder was “guilty” of wrongdoing, he effectively found him innocent.

(2) The IG found that Holder “did not learn about Operation Fast and Furious” until early in 2011. The report does NOT say that Holder didn’t know about the gun running, the failure to follow up, or the consequences. It says Holder “DID NOT LEARN ABOUT” it. [Emphasis added.]

What makes this particularly interesting is that CBS News reported that Holder received memoranda on the program as early as July, 2010. And the IG’s own report finds that “between June 28, 2010, and August 9, 2010, NDIC provided seven weekly reports to the Offices of the Attorney General and Deputy Attorney General that referred to Operation Fast and Furious BY NAME.” [p. 285, Emphasis added.]

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In the same paragraph, the IG states that “the NDIC reports stated that straw purchasers in the case had acquired 1,500 firearms that were supplied to Mexican drug trafficking cartels.”

So, 8-10 months before Holder supposedly learned about the operation, reports were sent to the AG notifying him of all of the problems that were to make Fast and Furious radioactive. And Holder's only defense is that he is, effectively, too important to read the official mail addressed to him.

If that is the case, it also means that the staff whom he hired for his personal office were too incompetent, when given all the salient facts, to recognize the most serious scandal of his tenure. And the IG raises no problems with either Holder or his staff in this regard.

In fact, the only mild rebuke the IG gives the Office of the Attorney General is its observation that “Former Deputy Chief of Staff Wilkinson ... should have promptly informed” Holder when he learned almost immediately after the shooting that two Fast and Furious firearms were found the Brian Terry murder scene.

The truth is that a statement made by Wilkinson to subordinates suggests he did convey that information to Holder. But the IG refuses to look beyond Holder's self-serving denials and Wilkinson's willingness to lie in order to protect his boss.

The appearance is that the IG, who accepted this “he-says-he-didn't-do-it” approach, is a star-struck sycophant afraid of damaging his own career.

(3) The notion that a high-ranking government official can be exonerated precisely because of willful ignorance is an interesting one.

Increasingly, courts are throwing out “willful ignorance” as a defense to regulatory misconduct

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by private citizens. And a 1982 attempt by Congress and the Justice Department to recodify the criminal code would have created an across-the-board "recklessness" state of mind requirement for criminal liability -- and would have specifically made it clear that "recklessness" includes "willful ignorance."

So what's the lesson here? Is it that the way to avoid trouble is to ignore potentially damaging items in your inbox or in your balance statement? That government officials who prosecute and imprison "the little people" for activities involving "willful ignorance" are themselves above the law?

(4) Finally, the IG ignored the fact that managers are responsible for the people they hire and for those who directly report to them.

If the Deputy Chief of Staff did not understand that a Justice Department program which put more than 1,500 guns in the hands of Mexican drug cartels was an epic problem, this does not exonerate Holder.

To the contrary, it demonstrates that he filled his office with incompetents, liars -- or, more likely -- both.

Yet, "vindication as a result of gross incompetence" has now become a cause for rejoicing.

The willingness of the IG to accept the lies of high-ranking government officials, even when easily disproven, is endemic to the report.

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We have seen how Holder's improbable claim to have ignored large amounts of official correspondence sent to him was taken at face value by the IG. Not only did the IG not contest these questionable denials, it put its imprimatur on them.

This gullibility of the IG has already gotten him in trouble with Iowa Senator Chuck Grassley (R), who said that a "factual error" in the IG report "lets Assistant Attorney General Lanny Breuer off the hook" for the part he played in the Fast and Furious scandal.

Indeed, the mild rebuke of Assistant Attorney General Lanny Breuer on pages 454 and 455 accepts Breuer's claims, with respect to the fraudulent February 4 letter to Congress, that Breuer hadn't "proposed edits, commented on the drafts or otherwise indicated he had read them."

In fact, e-mails show Breuer received drafts of the infamous February 4, 2011, letter and commented on them -- and then lied about it to Congress.

Thus, a gullible IG became a repository and transmitter of lies made to him by his superiors at Justice.

The IG also failed to use the full weight of his office to obtain interviews with key witnesses.

One of the men most at the center of the scandal, Patrick J. Cunningham, who is the Chief of the Criminal Division for the U.S. Attorney's Office for the District of Arizona, refused a follow-up interview. So did Kevin O'Reilly of the White House's National Security Staff. And, in fact, the White House refused to produce any documents, claiming it was beyond the IG's jurisdiction.

When the White House claimed "executive privilege" to shield Fast and Furious documents, many argued that such a claim would only be legitimate if the White House itself were involved. House Oversight and Government Reform Chairman Darrell Issa quickly put a lid on this speculation, claiming publicly that there was no evidence of White House involvement. But the complete failure of White House cooperation will surely put the issue of West Wing culpability

back on the table.

SUMMARY

The much anticipated IG report is disgraceful in its inaccuracies and transparent motives.

And, it appears to us that the Obama administration has succeeded in intimidating another cowardly official into doing its bidding.

Gun Owners of America will continue to press its suit, filed in the U.S. District Court for D.C. to compel the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to produce thousands of documents related to Operation Fast & Furious.

You can help GOA with your contribution here: www.gunowners.org/contribute

Thank you.

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