

Merging DEA and ATF: A Bad Idea

By Gary Fouse

Let me state at the outset that I have been very pleased with the actions of the Trump administration in confronting crime, particularly at the border and deporting criminal aliens, not to mention foreign students who have abused their student visas to stir up trouble and anti-Jewish feeling in our universities. For those things, they get an A+ from me. However, I am not so happy about this newly-ordered study coming out of the Justice Department to consider the possible merger of the Drug Enforcement Administration (DEA) and the Bureau of Alcohol, Tobacco, and Firearms (commonly referred to as ATF) into one agency. At the same time, FBI Director Kash Patel, who is also serving as the acting-director of ATF, is reportedly considering taking up to 1,000 ATF agents into the FBI.



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om DEA, I am obviously prejudiced, but I believe strongly that DEA should remain a single-purpose agency and that a merger

would be bad for both sides. First, a little background. I began my career in 1970 with the Bureau of Customs as a criminal investigator. While Customs had other non-enforcement duties, about one-half of the agent workforce was dedicated to the investigation of drug smuggling. At the time, domestic (and foreign) enforcement was the lead responsibility of the Bureau of Narcotics and Dangerous Drugs (BNDD). That agency had been created by President Lyndon Johnson in 1968 due to a consolidation of the old Federal Bureau of Narcotics (FBN) and the Bureau of Drug Abuse Control (BDAC) into one agency. While Customs had jurisdiction at the border, that jurisdiction could be extended inland as long as the smuggling nexus existed, which is the case with so many drugs.

From 1968-1973, Customs agents and BNDD agents often worked cases jointly due to overlapping jurisdictions. Oftentimes, however, the relationship between agencies suffered due to turf wars and lack of trust. Thus, in 1973, President Nixon ordered a reorganization in which BNDD was renamed DEA, and 500 Customs agents, who had been assigned to drug smuggling cases, were brought into DEA as well. I was one of those agents. While Customs agents received a fair share of supervisory positions, we were basically absorbed into the old BNDD infrastructure. It wasn't easy at first, there were growing pains, but by the late 1970s, DEA had hit its stride. Our overseas operations were the envy of other federal agencies, and we were well-respected by our foreign counterparts. Mexico has always been a difficult situation because of many factors, but my own foreign experiences were very positive (3 years in Thailand and 5 years in Italy). Looking back, I am of the opinion that the 1973 merger was a great success. Admittedly, I am prejudiced, but I believe DEA is a premier law enforcement agency. Has it won the war on drugs in its 52 years of existence? Clearly not, but that is a goal that requires not only enforcement success, but success in treatment and education, not to mention diplomacy. There have been successes and failures on all those fronts, but the

US remains the world's largest drug consuming society. As long as that situation persists, it would take a police state to end drug trafficking-and even then, there would never be total eradication. Similarly, ATF has made great cases, but we are still plagued by guns being in the hands of too many criminals with the resultant deaths that follow.

Along the way, there were a couple of studies done by different administrations to merge DEA into the FBI, but they were ultimately rejected (fortunately). The FBI, however, was given joint Title 21 authority (Federal drug laws) along with DEA, and the problems that existed between Customs and BNDD repeated themselves.

More recently, the Department of Homeland Security under President Biden and DHS Secretary Alejandro Mayorkas was making a full court press for joint Title 21 authority, and backstabbing DEA in order to accomplish it. That included filling the void in Mexico left by DEA's problems under former Mexican President Andres Manuel Lopez Obrador, who greatly limited DEA's role in that country.

Now comes the latest idea. DOJ will now launch a study as to the feasibility of merging DEA and ATF, largely because of the latter's jurisdiction in illegal arms trafficking and the obvious nexus between drug trafficking and firearms. I want to state unequivocally that during my career I had great respect for ATF, whose agents, like ours, had one of the more dangerous jobs in federal law enforcement. It is true that in the past few decades, ATF has suffered two major disasters, the Waco raid fiasco in 1993 that left 4 agents killed, and the Fast and Furious scandal under the Obama administration and Attorney General Eric Holder. In the latter, I have always believed that the operation was ordered at the highest levels of the Justice Department. The apparent purpose was to allow straw-purchased weapons in the US to be smuggled into Mexico without interdiction and then document their use in Mexican shootings that would justify tighter gun control. Some Phoenix

street agents blew the whistle, but in the end, the higher-ups were never touched.

All that said, I go back to my stated belief that DEA should remain a single-purpose (drugs) agency and should be the single federal agency responsible for enforcing federal drug laws. I would favor a task force relationship between DEA and ATF, as well as with DHS, IRS, and other state and local agencies. Under those relationships, non-DEA members of task forces are granted Title 21 authority by DEA. I am a great believer in inter-agency cooperation; I saw firsthand how a lack of cooperation only benefits the criminals.

As a side note, as far as the FBI is concerned, I feel that Kash Patel's first priority is to bring reform and trust back to the FBI. It should not be to expand the FBI's powers and jurisdiction at the expense of other agencies.

Conducted properly and with a careful study, a government reorganization can be successful. Not done properly, it can lead to disaster. During my career, I watched as new administrations came to Washington and hotshot political operators came up with all kinds of ideas, some good, some bad. This DEA-ATF idea strikes me as a bad idea. It would be disruptive to both agencies, especially should the FBI draft hundreds of current ATF agents to further complicate the matter. Don't forget that many agencies have their own culture and in many cases, attract people of different personalities and backgrounds. The FBI has long been unique in that respect. There has traditionally been a wide difference in culture between the FBI and DEA though there have been efforts to reduce that difference in recent years in terms of hiring practices-a topic for a different discussion.

To sum up, this has to be considered cautiously and not done for the purposes of power struggles, reducing government, or cutting the costs of government. (This is not a job for Elon Musk.) This is a job for law enforcement experts and managers.

I think it would be a bad idea. I say leave DEA alone and leave ATF alone.