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*Opening Statement to Congress on Operation "Fast and Furious"*



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**AUTHENTICITY CERTIFIED:** Text version below transcribed directly from audio and edited for continuity

Good morning, Chairman Issa, Ranking Member Cummings and members of the committee. I thank you for the opportunity to appear before the committee today.

I'm here to provide testimony that I hope will assist in your inquiry into the investigation that has come to be known as "Operation Fast and Furious." I believe that your inquiry is essential. There have been grave mistakes made in this case, and the committee, the American People, and the family of slain Border Patrol Agent Brian Terry deserve answers.

Please allow me to give you a little background information about myself. In 1987, I began my career with the New York City Police Department, worked in Bronx County, often referred to as "The Bronx," as a uniformed police officer, and then ultimately as a detective in the Bronx Homicide Task Force. In my career, I estimate that I have responded to approximately 600 homicide scenes. The vast majority were drug related, committed by armed criminals, and these violent criminals were armed with illegal firearms, and they had little regard for human life.

I retired early from the NYPD in June of 2001 to take a position with the Bureau of Alcohol, Tobacco and Firearms -- as we were then known -- and I did this because I had the honor of working with ATF agents who were working and making great cases, working hand in hand with incredible prosecutors from the Southern and Eastern Districts of New York.



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In working with these offices, one thing was very clear: Dedicated prosecutors worked hand in hand with dedicated ATF agents to make great cases that truly impacted the safety of the public. There was an absolute sense of teamwork and respect. Again, I emphasize the words *teamwork* and *respect*.

Together with the prosecutors from the U.S. Attorney's Offices with whom I'd worked, we'd used, confidential informants, proffers, cooperation agreements, "Waivers of Speedy Presentment," investigative grand juries and grand jury subpoenas, and an abundance of other investigative tools to make successful cases as part of a team.

I left the New York Field Division in March of 2007 to begin working in my current post of duty as a Supervisor of the Phoenix I Field Office. Within weeks, I was surprised at what I had observed. In my opinion, in my professional opinion, dozens of firearms traffickers were given a pass by the United States Attorney's Office for the District of Arizona. Despite the existence in [sic] *probable cause*, in many cases there were no indictments, no prosecutions, and criminals were allowed to walk free. In short, their office policies, in my opinion, helped pave a dangerous path.

Fortunately, the same could not be said of the Arizona Attorney General's Office -- state prosecutors -- to which we agents were forced to turn for prosecution of firearms cases. Victor Varela and his associates, who trafficked .50 caliber rifles directly to Mexican Drug Cartels, one of which was used to kill a Mexican military commander, were successfully prosecuted by the Arizona Attorney General's Office. And this was after the case had been declined for federal prosecution by Assistant U.S. Attorney Emory Hurley due to what he referred to as *corpus delecti* issues. Mr. Varela, sadly, was released from prison last July, because of lesser sentencing guidelines that apply in state court. But the alternative -- no prosecution -- in my eyes was unacceptable.

Another case, which involved a corrupt federal firearms licensee, who was supplying several firearms trafficking organizations, was declined by Mr. Hurley. This particular dealer in his post-arrest statement admitted that "approximately 1000 of his firearms" were trafficked to Mexico. Over one half-dozen of that dealer's firearms were located around the body of Arturo Beltran-Leyva, the head of Beltran-Leyva Cartel, after he was killed in a gun battle with the Mexican Naval Infantry in Cuernavaca, Mexico.

Due to the recalcitrance of the United States Attorney's Office, cases such as these were presented for prosecution to the Arizona Attorney General's office, where the state laws carried significantly lesser penalties than they did under the federal statutes. And I believe that this situation, wherein the U.S. Attorney's Office for the District of Arizona in Phoenix particularly, declined most of our firearm cases, was at least one factor which led to the debacle that's now known as "Operation Fast and Furious."

And I'll fast forward to "Operation Fast and Furious" itself. ATF agents assigned to the Phoenix Field Division, with the concurrence of their local chain of command, "walked" guns.



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ATF agents allowed weapons to be provided to individuals who they knew would traffic them to members of Mexican drug trafficking organizations. They did so by failing to lawfully interdict the weapons, and they did so by encouraging federal firearms licensees to continue selling weapons in instances where they knew that no interdiction efforts would be planned.

When I voiced surprise and concern with this tactic to ASAC [Assistant Special Agent in Charge] George Gillett and SAC [Special Agent in Charge] William Newell, my concerns were dismissed. SAC Newell referred to the case as "groundbreaking" and bragged that "we're the only people in the country doing this." My other ASAC, Jim Needles, merely said "Pete, You know that if you or I were running the case, it wouldn't be getting run this way."

This operation, which in my opinion endangered the American public, was orchestrated in conjunction with Assistant U.S. Attorney Emory Hurley -- the same Assistant U.S. Attorney who prevented us from using some of the common and accepted law enforcement techniques utilized elsewhere in the United States. I've read documents that indicate that his boss, U.S. Attorney Dennis Burke, also agreed with the direction of this case.

Allowing firearms to be trafficked to criminals is a dangerous and deadly strategy. The thought that the techniques used in the "Fast and Furious" investigation would result in "taking down a cartel," given the toothless nature of the "straw purchasing law" and the lack of a strong "firearms trafficking statute" is, in my opinion, delusional.

Based upon my conversations with agents who assisted in this case, surveillance was often terminated on individuals far from the border, which means that, while the case agent believed that these weapons were destined for Mexico, the possibility exists that they were trafficked with cartel drugs to other points within the United States of America.

As a career law enforcement officer, who has had to investigate the deaths of police officers, children, and others at the hands of armed criminals, I was and continue to be horrified, truly horrified. I believe that these firearms will continue to turn up at crime scenes on both sides of the border for years to come.

In closing, I want the members of the committee and all Americans to know that this is not how ATF agents conduct business. I'm very proud of some of the incredible work done by ATF agents around the country every day. ATF agents have given their lives in the performance of duty. On my last trip back to New York, sir, I had the privilege of being present for a homicide trial. In that same courthouse, in the Southern District of New York, there were three other separate homicide trials going on all from three separate ATF-initiated investigations. That's the type of work ATF agents do everyday, and that's what I'd like the committee to keep in mind as well.

I thank you for your time. And again, my condolences to the Terry family.