**Rep. Darrell Issa Holds A Hearing On ATF Investigative Techniques**

U.S. House of Representatives

House Committee on Oversight and Government Reform

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WITNESSES: B. TODD JONES, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, U.S. DEPARTMENT OF JUSTICE

[\*] ISSA: The committee will come to order.

The Oversight Committee exists to secure two fundamental principals. First, Americans have a right to know that the money Washington takes from them is well spent. And second, Americans deserve an efficient, effective government that works for them. Our duty on the Oversight and Government Reform Committee is to protect these rights. Our solemn responsibility is to hold government accountable to taxpayers, because taxpayers have a right to know what they get from their government.

Our job is to work tirelessly in partnership with citizen watchdogs to deliver the facts to the American people and bring genuine reform to the federal bureaucracy.

Without objection, the chair is authorized to declare recesses of the committee at any time.

Today's witness, Mr. B. Todd Jones, took over as the head of the ATF as the first or as acting director and later as the first director in the wake of Operation Fast and Furious and the scandal that surrounded it.

His mission was to change the culture at ATF and to move the agency in the right direction. This was no small task. Two and a half years into his tenure, it is safe to say the ATF still has a long way to go. Just over a year ago in Milwaukee, the Milwaukee Journal Sentinel reported on Operation Fearless, an undercover storefront operation conducted by the Alcohol, Tobacco and Firearms in Milwaukee, Wisconsin, during the director's tenure.

ISSA: Everything about Operation Fearless was wrong. ATF agents allowed convicted felons to leave the store armed and dangerous. Three weapons, including a machine gun -- and I repeat, not a semi- automatic weapon often called a machine gun, a machine gun -- were stolen from an ATF vehicle. The storefront was burglarized -- was burglarized, and $39,000 worth of merchandise were stolen, all because the ATF neglected to install an alarm system.

ATF exploited a mentally handicapped person with an I.Q. in the mid-50s to assist in the storefront operation, and then arrested this poor, limited capacity individual for his involvement.

When we learned about this, Chairman Goodlatte, Chairman Sensenbrenner, Ranking Member -- Senate Ranking Member Grassley and I immediately wrote the ATF requesting more information. Only after receiving our letter did the director, that day, order an internal review, even though ATF management was aware of all the operation's problems.

In April 2013, ATF briefed committee staff on this operation. ATF assured us that the botched operation was, and I quote, "an isolated incident." In December 2013, however, we learned that ATF mismanaged similar undercover operations across the country, stretching from Portland, Oregon to Albuquerque, to Wichita, to Atlanta, to Pensacola, Florida.

These other storefront operations followed an incredibly reckless pattern. Agents allowed felons to leave the store with weapons. Agents exploited mentally handicapped people, and agents failed to take precautions to protect the stores from theft.

ATF's dangerous tactics may actually be increasing crime in your neighborhood. When ATF undertook these operations -- these operations do not inspire public confidence. Rather, they make America wonder if ATF is a reliable partner to keep the streets safe.

The Milwaukee operation, Fearless, was part of the ATF's monitored case program. The monitored case program was created after Operation Fast and Furious to ensure careful oversight of field operations from ATF headquarters. Unfortunately, it is clear that the -- in the case of Operation Fearless, the monitoring case program failed and failed miserably.

Today's hearing will explore whether other cases are slipping through the cracks at ATF, even though monitored case programs exist to prevent just that. Effective leadership requires accountability. Accountability ensures that mistakes are not repeated.

Three years after the death of border patrol agent Brian Terry, ATF has yet to fire anybody for their roles in Operation Fast and Furious. And I personally find that inexcusable.

Today, we have -- we will learn whether ATF has held any employees accountable for dangerous, mismanaged Operation Fearless. We have been down this path before. ATF has promised to change its culture, implement new policies and procedures, and hold agents accountable for their actions.

But what good are these new policies and procedures, if they, too, fail?

What good are promises of accountability if the accountability never occurs?

What message does it send to the hard-working ATF agents who get it right? You could be reckless and jeopardize public safety in furtherance of your investigation, but you will not be disciplined or certainly not fired.

The director now faces a difficult task of moving the agency forward from its most recent scandal and hopefully, finally, restoring the integrity to the ATF.

I now recognize the ranking member for his opening statement.

CUMMINGS: Thank you very much, Mr. Chairman.

I'd like to welcome our witness today, the honorable B. Todd Jones, who was confirmed and sworn in last summer as the director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives. For seven years, since 2006, the ATF did not have a Senate-confirmed director. So, I welcome Director Jones's confirmation, and I know he has been extremely busy addressing many of the bureau's problems and challenges that he inherited.

ATF plays a critical role in enforcing our nation's firearms laws and combating illegal firearms trafficking and other crimes as agents, investigators, and support staff work to protect the American people from gun violence that has ravaged communities across the country, as a matter of fact, has ravaged the very community that I live -- that I've lived in for the last 32 years.

ATF personnel played key roles in responding to the Navy Yard shootings, the Boston Marathon bombings, the Sandy Hook tragedy, and the Aurora movie theater attack. In the words of Chairman Issa, I want to thank all of those ATF agents publicly, right now, who get it right.

Given the inherent dangers associated with conducting operations that target violent criminal organizations, the ATF must take on a certain degree of risk. Our hearing today should focus on ensuring that the bureau properly manages this risk while protecting the safety of its personnel and especially the surrounding community. Today, we will hear about one type of operation, the undercover storefront. ATF officials explain that the bureau has used this investigative technique successfully over many years by working deep inside communities that are being terrorized by violent gangs and drug cartels, ATF agents contend that they have been able to make a significant difference for the residents of these various neighborhoods.

And I'm hoping that during his testimony this morning, the director will explain to us exactly what is so special about these types of programs and why are they required to get to certain types of problems.

Over the last year, however, there have been numerous allegations involving storefront operations in several cities. In January of 2013, the Milwaukee Journal-Sentinel reported that an undercover storefront operation in Milwaukee purchased weapons at above market prices, including weapons that were recently purchased at retail outlets. It also reported that three ATF-issued firearms were stolen from the trunk of an agent's vehicle, including an automatic weapon that was never recovered. Also reported that some defendants were incorrectly identified and charged, and that the operation that it (sic) primarily low-level individuals on firearms and drug charges.

Last December, the Journal-Sentinel highlighted additional allegations in five cities: Albuquerque, Atlanta, Pensacola, Portland, and Wichita. According to these reports, some of these operations allegedly targeted individuals with mental disabilities. One operation was located near a school. Some others allowed felons to leave the premises with firearms they brought into the store.

I understand that as soon as these press reports came out, the then-acting Director Jones ordered the bureau's Office of Professional Responsibility and Security Operations to fully investigate these allegations. Last March, this office issued a detailed report and found many deficiencies with these operations. According to the report, and I quote, "these deficiencies caused a loss of property, created risks to the public and officer safety, and led to the improper arrest of four individuals," end of quote.

The report found that the, and I quote, "absence of comprehensive written guidelines and best practices for the operation of an undercover storefront was a contributing factor in many of the deficiencies in operation fielded." It's in the quote. It also found that the primary cause for deficiencies not being identified and corrected was the failure of the case agent and the first-line supervisors to report those problems.

I am hopeful that Director Todd Jones will -- Director Jones will address the issue of accountability and the issue of people reporting up. We found in Fast and Furious there were some issues with that, and so the question becomes, has that been corrected?

In response to these findings, Director Jones and ATF prepared a comprehensive manual incorporating lessons learned from the Milwaukee operation and best practices for many other successful storefronts. The bureau also will require personal briefings between agents and ATF headquarters as well as on-site inspections of the storefronts.

As I close, I hope that the committee will hear more today about ATF's responses to these serious allegations, the reforms ATF has implemented, and additional measures ATF can take to enact safety in high risk operations.

ATF certainly has had its share of problems over the years. Our focus today should be on insuring that the agency continues its path towards reform. I understand that the Department of Justice inspector general is also investigating the Milwaukee operation, and I hope we can obtain the results of that review soon as well.

Finally, Mr. Chairman, I ask unanimous consent to place into the record the letter sent to the committee yesterday from the Federal Law Enforcement Officers Association.

ISSA: Without objection, so ordered.

CUMMINGS: Yield back.

ISSA: Gentleman yields back.

Members may have seven days in which to submit opening statements for the record.

I now ask unanimous consent that the letter sent yesterday to ATF by Brian Terry's family be placed in the record. Without objection, so ordered. And I would ask that the -- that Mr. Jones also be provided with one if he doesn't already have it.

(CROSSTALK)

(UNKNOWN): Mr. Chairman, just to -- unanimous consent, personal privilege.

ISSA: Gentleman recognized for 30 seconds.

(UNKNOWN): One second, I want to introduce a very, very special guest, somebody you've read about in the history books who's my guest today, gentleman sitting back here is Joe Kittinger, who held a record, a man jumping from space. He's had almost every honor you can imagine and recognized nationally and internationally, part of the National Aviation Hall of Fame here. Joe and his wife Sherry.

Joe, raise your hand so everybody can see you, and thank you for being with us today.

ISSA: I thank the gentleman.

We now welcome our witness. The Honorable B. Todd Jones is the director -- the first full director of the Bureau of Alcohol, Tobacco and Firearms and Explosives.

Pursuant to the committee rules, I asked the witness please rise and take the oath.

Do you solemnly swear or affirm the testimony you're about to give will be the truth, the whole truth and nothing but the truth?

JONES: (OFF-MIKE)

ISSA: Pleased be seated.

Let the record reflect that the witness answered in the affirmative.

Mr. Jones, you're a returning witness so you know the routine. We won't shut off the clock, but hopefully you'll use close to the five minutes.

The gentleman's recognized.

JONES: Thank you.

Chairman Issa, Ranking Member Cummings and members of the committee thank you for the opportunity to appear today. I'm pleased to be here to discuss the progress ATF has made in implementing reform, and to discuss our undercover store front operations.

As you all know, ATF's principle mission is to protect our communities from violent criminals who engage in acts of arson, criminal misuse of explosives and illegally possessed and used firearms. We accomplish this mission through both the enforcement of the criminal law and the regulation of the firearms and explosives industry.

When violent crime shakes our nation, ATF is there to work side by side with our law enforcement partners, providing our specialized skills, tools and experience. As was mentioned, in the past two years alone, ATF has provided crucial support to our federal and local partners in the investigation of the Boston Marathon Bombing and the horrific mass shootings in Aurora, Colorado, Newtown, Connecticut and the Washington Navy Yard. Equally important though, we work with these partners to address the less visible, but no less devastating, daily that plague our cities and towns large and small. Across the country, ATF pursues the most violent criminals, particularly those who engage in organized gang violence or illegally supply those gangs with firearms. And a few of these successes are highlighted in the more full written statement that we've submitted.

Our agents put their lives on the line on a daily basis. As they investigate our nation's most violent criminals, they must make difficult and often instantaneous decisions every day, constantly balancing public safety, their own safety and the integrity of the operation.

Of all the activities undertaken by ATF agents in the field, none is more risk-laden or potentially more valuable than undercover work. ATF agents working undercover have infiltrated and brought down notorious motorcycle and street gangs, thwarted murder for hire plots and removed thousands of guns from the hands of criminals.

The committee has asked that I address one undercover tactic in particular, that's the use of storefront operations. A storefront operation is a valuable investigative technique in which the undercover law enforcement officers or agents operate a business that's calculated to identify and proactively intervene with criminals and criminal activity in high crime areas and hot spots.

They are often conducted as joint operations with other federal state and local law enforcement agencies and prosecutors. ATF conducted 37 storefronts between 2009 and 2013. ATF had one storefront active in 2013, and currently we have no active storefront operations.

Storefronts are staff, equipment and resource intensive and require significant planning and coordination. The success of a storefront is also dependent upon a strong partnership and ongoing collaboration with our local law enforcement partners.

The storefronts to be discussed here today identified and built cases against criminals, and would-be criminals, in each and every location. As a result of our storefront operations in Albuquerque, Atlanta, Milwaukee, Pensacola, Portland and Wichita over 250 defendant have been convicted and over 1,300 firearms recovered.

These defendants have over 350 previous felony convictions. These convictions, and the firearms recoveries, undoubtedly made the communities and the people who live there safer.

I acknowledge, Mr. Chairman and members of the committee, that there were deficiencies in our execution and management of some past activities in certain storefronts, but I want to assure you that public safety is the utmost important to me and our current team at ATF. WE recognize that storefronts and other undercover operations require stringent oversight in all facets of planning and execution.

We've put in place several policy and operational changes, creating a tighter process for the authorization management and oversight and review of undercover operations, including storefronts.

As an organization, we are committed to learning from the past, and using some of those hard learned lessons to approve, adapt and insure that we do not repeat the mistakes of our predecessors.

In addition to our own efforts, ATF has and will continue to cooperate with all inspector general reviews and investigations. Some of the specific reforms we have instituted pursuant to our own initiatives are outlined in our written submission, but the important point is putting our work -- putting policy into practice. That's what we've been working very hard the last several years. It's one thing to put policies on paper. It's another to make them real and put them into practice.

All ATF employees, including me, are accountable for their actions and must act at all times with professionalism, integrity and commitment to the agency's vital public safety mission. While I firmly believe we are on the right path, I'm also realistic, Mr. Chairman, and recognize that meaningful change takes time.

Mr. Chairman and members of the committee, I want to conclude by saying that ATF is proud to be at the front line against violent crime, that we are recognized across the country for our expertise and take great pride in our successes that reduce gun violence and remove violent offenders from the streets.

I'm humbled by the exceptional work done every day by ATF special agents, industry investigators and a support staff combating violent crime. In the face of sustained criticism over the last several years, the dedicated men and women of ATF have continued day in and day out to work tirelessly to enhance the safety for all Americans. They and their families have my deepest gratitude for their sacrifices that this often thankless work requires, and I'm honored to be here today to represent ATF.

Thank you for your interest, and I'm sure you have questions which I will do my best to address.

ISSA: Thank you, Director Jones.

And I too want to reiterate the importance of the work that the men and women of the ATF do. And how much we appreciate the many who take a risk to do the right thing in the right way.

Let me go through a couple of questions, no surprise, the first one is a little related to Fast and Furious. Everybody at Department of Justice, from yourself to the attorney general, is living under the specter of Fast and Furious and how it discredited the men and women who do these jobs otherwise right.

Just to make the record clear, was anyone fired as a result of Fast and Furious?

JONES: Mr. Chairman, I can say publicly in this forum that everyone involved at ATF and the chain of command has either been disciplined or is no longer with the agency. ISSA: OK.

But, the answer of, fired, is no. Is that correct?

It's a yes or no -- it really is, Todd.

JONES: As a result of the inspector general's report, the answer is no.

ISSA: OK, so no one was fired. Some chose to retire. But let's go to a particular individual of interest, William Newell. The I.G. recommended he be removed, but in a settlement we have learned that he was demoted from SES to GS-13.

Did you approve that settlement?

JONES: Mr. Chairman, we have provided, in great detail tot he committee, in a confidential document, the processes that we followed internally following the release of the I.G.'s report. It outlines, with some particularity, all of the individuals that were identified in that report and the actions taken.

I am not at liberty, in this public forum, to get into detail...

ISSA: Director -- director, you're here pursuant to a subpoena specifically because Congress does not afford you that choice on the Privacy Act by the statute itself.

But, more importantly, we know what occurred.

My question simply was one that you can answer. It has nothing to do with privacy. Did you make that decision?

JONES: The process at ATF involves professional responsibility board...

ISSA: Director, I understand. I'm only asking, did you influence or have an input into that call of his not being fired, his continuing to draw a paycheck and eventually retire at his high pay as an SES?

JONES: I did not.

ISSA: You did not. Did your number two have that input?

JONES: The process involves the bureau deciding official and the ultimate decision maker is the deputy director, with appeal to me, should the employee not be satisfied when it comes to...

ISSA: Well, you were satisfied, and the number two made the call. Is that fair to say for the public record?

JONES: That's fair to say.

ISSA: OK. Similarly, the professional review board proposed that Hope MacAllister receive a 14-day suspension, which I consider pretty minor. This was reduced to a letter of reprimand. Would that also have gone through your deputy?

JONES: Again, Mr. Chair, the process is pretty well delineated in terms of the rights of the employees to grieve and the ultimate decision being made with my involvement with the senior executive service being a little different than anyone who is not a member of the SES ranks.

ISSA: OK, the professional review board proposed a David Voth be demoted to a non-supervisory special agent position. In settlement, he was demoted. Again, that would have been the same process you're alluding to.

JONES: There is a process, and it was followed.

ISSA: OK, so MacAllister, Voth, and Newell -- none of them were fired. All of them received certainly less than what the American people would expect.

Let me move on.

These five separate undercover storefront operations with, obviously, the Milwaukee one being the best known. At this point, I'm gonna ask unanimous consent that the letter dated December 12th, 2013, from the organization non-profit called ARC for people with intellectual and development disabilities addressed to the attorney general, be placed in the record along with excerpts from their website.

Without objection, so ordered.

ISSA: I'm gonna read to you something, Director Jones, from that letter, in which to Attorney General Holder, they say -- besides that it's appalling and unfortunate, in other terms -- they say, speaking of the intellectually disabled, people with low I.Q.s, "They typically have limited, if any, understanding about their involvement in a crime or consequences of being involved in a crime. With few options or opportunities to build safe relationships their strong need to be accepted by peers in their own communities can create a unique vulnerability that people without IDD do not experience.

Have you become familiar with the effects that agents can have by buddying up to people with IQs in their 50s as a result of these operations?

JONES: Well, I think it's important to point out that we do not target the developmentally disabled. When we run an undercover operation, we have very limited control over who comes in the door. I can tell you that my review of the circumstances, and I have met with (inaudible) and talked to them about the concern with enhanced training. But all of these issues that have been identified in the media with respect to developmentally disabled individuals being targeted are the result of defense pleadings during a process. I'm a former prosecutors. And oftentimes in investigations, the criminal investigators have no idea what the individual's intellectual capacity --

ISSA: Yeah, but your agents worked with people, including at least one individual that had to be tutored through to understand what a machine gun was, so that they could send him out to go buy one, so they could then arrest him. Now director, we've had a good relationship. You've got a big job. But I'm going to ask you one closing question. Are you actually telling us that it's just an accident that your people manage to find people with extremely low IQs? These are people who are barely functional, who clearly demonstrate their special needs and limitations, very, very limited people. In the '80s and '70s you might say well, he's just not the brightest bulb.

In the '50s and '60s these are people severely handicap who just want to buddy up, who really exhibit a type of behavior that most people in America are somewhat familiar with, even if it doesn't enter their lives. You're saying that your agents don't look for these people that are so vulnerable that they could just buddy up and get them to do these things? Are you saying that under oath here today?

JONES: No, I'm not saying that. ISSA: So you're agents do target people with low IQs because they're susceptible, exactly as this letter says, to the kind of influence? And what's most appalling to us is after they use these people, often in dangerous positions, the then in many cases, arrested the same people that they had put in and talked through doing these crimes? Is that correct?

JONES: No, that's not correct, Mr.Chairman.

ISSA: Well, that's what Milwaukee's Sentinel says and it's what the evidence seems to show. I'm going to let all of us continue on and, hopefully, I'll coming back to you.

Mr. Cummings?

CUMMINGS: Thank you very much, Mr. Chairman. Just picking up where the chairman left off. We had admitted into the evidence, to the record a little earlier, this letter from the Federal Law Enforcement Officer's Association, J. Adler, the national president. When I was reading this morning, there's a paragraph that kind of struck me, because I, too, am very sensitive to what the chairman just asked about, people with low IQs and having my own experience in my own family. It's very sensitive for me.

But essentially, this is what Mr. Adler said, and I'm just wondering whether you agree with this. In this letter, he said, this has been alleged that ATF targeted and exploited the mentally incapacitated to facilitate storefront connections to perspective criminals. That is beyond absurd. And no one in the field, administrators and impromptu jeopardy-style quizzes to assess the IQ of perspective criminal elements. This is occupied by criminals with IQs ranging from moron to genius. And anyone experiencing law enforcement will tell you that the former is the most difficult to use as a cooperator.

Furthermore, criminal element don't provide their Myers Briggs assessments to law enforcement. And agents are less with making a variety of criminal assessments of those they are dealing with in real-time, including threat levels and safety issues. Nonetheless, neither ATF nor any federal law enforcement component is in the practice of exploiting mentally incapacitated individuals. That -- I didn't say that, Mr. Adler, the national president said that.

Do you agree with that, Mr. Jones, or do you have any issue with what he said there?

JONES: Well, thank you for the opportunity to further explain some of the things that the chair was talking about. We do not target developmentally disabled or mentally challenged individuals. We target criminal behavior. And when you're running an undercover storefront operation with all of the bells and whistles to make sure that you can maintain the integrity of the operation, you have all kinds of individuals walking into the door. You have no idea.

I think it's interesting to note that the media reports about this targeting of individuals really is based primarily on defense motions that were filed and the calling of the public record. And there's no awareness by the special agents at that time. All of these individuals were brought to trial and then all of them raised claims in the context of sentencing advocacy about their intellectual capacity that's not unusual. I've been a defense lawyer, too. But that's after the fact, after someone's plead guilty. None of them have claimed that they were incompetent to stand trial. That's not to excuse the sensitivity involved and the enhanced training that may be involved, not only with the developmentally disabled, but people with mental illness.

There was an article today in The New York Times that talked about the challenges law enforcement, state, federal and local, and particularly with ATF doing in violent crime kind of operations. Well, we're having interactions with the people on the street, much like state and local law enforcement officials. And it is a huge challenge for individuals who were in a law enforcement capacity to make determinations about someone's mental illness or their mental capacity.

CUMMINGS: Director Jones, I'd like to ask you about the specific actions you took when you became aware of these allegations. When the Milwaukee Journal Sentinel published its first story in January 2013, you directed ATF Office of Professional Responsibility and Security Operations to conduct an investigation, is that right?

JONES: That's correct. I gave them thirty days. Now had you known about it before then, I had two indicators before that. One was some indication that a storefront in the St. Paul Field Division had been burglarized. This storefront closed down in September and it had been burglarized. So I do have recollection about seeing the storefront being burglarized. But I also had an indicator that -- in the reports about the stolen weapons. But that was the extent of the red flags that were going on. But I think the third thing was when we did see that there were landlord-tenant issues, in part, flagged in The Milwaukee Journal Sentinel about how we left the storefront, that's when we dispatched internal affairs to go out and do a deep dive and look at what was going on in Milwaukee.

CUMMINGS: Can you explain to us. And I think the chairman would be interested in hearing this, too, and I said it in my opening statement, can you explain to us what's so unique about the storefront and what problem does it get to that you had to bring that kind of operation into play?

JONES: Well, it's an undercover technique that really is designed to do several things. One is to gather intelligence in the area that you locate the store (ph) gather intelligence about crime- gun trafficking, gather intelligence about criminal activity. It's also an opportunity to remove crime guns from the street and that's in an ideal world. But it is primarily an information intelligence- gathering technique and it is an opportunity to remove crime guns from the street.

CUMMINGS: In Baltimore where we've had a pretty high crime rate, had cooperation from ATF and many other agencies, one of the things that I've always thought about and concerned about -- and I live where "The Wire" was filmed, I live there -- is how do you get to -- you talked about intelligence. If there is a drug operation going on and drug folks, say, for example, I'm using this hypothetically, are fighting each other for territory, how do you get information to know, to prevent a murder? In other words, one -- I mean, is it -- would this kind of operation be helpful in that? Because it seems like there's -- some people look at murder rates of cities. But a lot of times, the question is how would the police even know? So would this kind of operation go to that?

JONES: This is just a tool in the toolbox. There are other things that we do, other undercover types of operations. There's Title 3 telephone intercepts, and then there's just good old-fashioned investigation where people take information, they pull the threads, they use confidential informants and they build a case, brick by brick, and that takes information.

CUMMINGS: My last question, one of the things that concerns me, and the chairman talked about this a bit. You know, we've got an agency that has been under a microscope, has been highly criticized, and it's also an agency that didn't have a director, a permanent director for years, and an agency that some would like to see just disappear. And it just seems to me that one of the problems that I saw in Fast and Furious, is that the information didn't filter up to the top. What's new now? What have you done to address that, so that when you come before us, you can be held accountable? And we were in situations before where the top people knew nothing about what was going down -- going on down below, and I was just curious as to where we are now with that and is there anything -- did we learn anything from that and did we learn anything from these storefront situations when you've got -- pull together your recommendations as to how you do business now, how is that different, if at all?

JONES: Well, I think -- well, a lot's changed. But as I mentioned in my opening remarks, change takes time and one of the things that I believe is really important to understand is the lift that's required to turn policy and procedure into practice. When I came on as acting director in September of 2011, the Monitored Case Program had been on paper in July of 2011, and it was a paper program and it was the fundamentals. And we took a lot of action with the PIN (ph) right out of the blocks.

But in addition to the PIN (ph), you need the people. You need to get the right people in the right spots. You need to construct a team and you need to emphasize over and over again with a focus that this has got to be real. And this is all taking place in an environment over the last several years where we've had tremendous turnover in the organization and a very challenging budget environment. And we're grateful that we do have an F.Y. 14 budget so that we can plan.

But this is an organization, as you pointed out, that had not had continuous leadership. Now between acting and being confirmed, I've got thirty months on the job. And I very much have the philosophy, I own it, for good or bad. And when something's wrong, I'm going to take action to fix it. But those remedial steps don't always happen overnight. So we've been working very hard with our team to make sure we're learning from mistakes that some of the systemic challenges that were pointed out in the OIG Fast and Furious report are fixed and they stick.

CUMMINGS: Thank you very much, Mr. Chairman.

ISSA: Thank you.

We now recognize the gentleman from Ohio.

(UNKNOWN): Thank you, Mr. Chairman.

Mr. Jones, are you familiar with the name Catherine Engelbrecht?

JONES: I think that is an individual who -- yes.

(UNKNOWN): OK. And you're familiar with the fact that she testified in front of this committee eight weeks ago. And her testimony, under oath, was that in sixteen years of operating her business, the only interaction she'd had with the federal government was filing her annual tax return. She files for tax-exempt status for two organizations she was involved in creating through the vote in King Street Patriots, and then gets all kind of interaction with the federal government. OSHA visits her place of business. Never happened in her first sixteen years. But then OSHA visits her place of business twice. The IRS audits both her personal and business records for two years. The FBI pays her six visits, two in person, four on the phone, and another organization -- your organization -- pays her two visits as well.

I sent you a letter six weeks ago, asking for documents relating to the visits ATF made to Ms. Engelbrecht's place of business and you have yet to respond to us. Is there a reason why you can't get us those documents?

JONES: Well, I can check into it. What the delays in the response, I can tell you, congressman, that...

(UNKNOWN): It's been six weeks, Mr. Jones, and it seems to me to be a pretty simple search. Put the name Engelbrecht into your computers, come up with the documents, get them to Chairman ISSA and myself.

JONES: My understanding, Ms. Engelbrecht's interactions with us, and I cannot speak for any of the other federal agencies involved, are a license request and a qualification inspection, and then a follow-up inspection (ph).

(UNKNOWN): But she had that license for twelve years. Why did you suddenly decide to go visit her. She -- previous twelve years never had any interaction with her. You visited her in February of 2012 and April of 2013. Why did you visit her on those dates? Why did you visit her twice in thirteen months when, for the first twelve years, you never paid her any visit?

JONES: Congressman, I will get back to you on the letter.

(UNKNOWN): Let me read what the inspector general's report says about how ATF goes out and looks at federal firearms licensees compliance inspections. It says you look for high-risk indicators. Is that true?

JONES: That is one of the factors when...

(UNKNOWN): High-risk indicators says this. Such as a high number of guns used in crimes being traced back to the licensee, numerous multiple sales by a federal firearms licensee to a single individual, theft or losses of firearms, location in a high-crime area, tips from state or local law enforcement agents. Do you know if you had any of those circumstances, any of those indicators? Were any of those present before you went to visit Ms. Engelbrecht?

JONES: I don't have the information sufficient in front of me to answer that.

(UNKNOWN): I can tell you, none of them were. And yet, you show up twelve years -- no one -- never heard from ATF in twelve years and then suddenly she applies for tax exempt status and you're knocking on her door twice in thirteen months.

JONES: Congressman, I wish I had better answers as to what other agencies...

(UNKNOWN): I do, too, Mr. Jones. This is a pretty important issue. It's been front and center in the news for over a year now. I do, too. Can you -- imagine what this lady felt like. She gets the full weight of the federal government coming down on her, her family and her business. And all she's trying to do is get a tax-exempt status that had been routine for fifty years. And suddenly now, the federal government is saying, no, no, no, you're not going to get that tax-exempt status, and we're going to send four federal agencies out to harass you, including yours.

JONES: Well, Congress, it's unfortunate that you and Ms. Engelbrecht think it's harassment. From our perspective, it's part of our regulatory function, both to do qualifications...

(UNKNOWN): Do you think it's unusual that four federal agencies visit her in that short timeframe?

JONES: I can't speak for other agencies other than ATF.

(UNKNOWN): Let me ask you this, did anyone at the White House encourage ATF to pay Ms. Engelbrecht to visit and go inspect?

JONES: No.

(UNKNOWN): Did any other federal agency talk to you or anyone at ATF and encourage you to inspect and visit Ms. Engelbrecht?

JONES: No.

(UNKNOWN): Did any member of congress contact you or anyone at ATF and encourage you to go out and visit and inspect Ms. Engelbrecht's federal firearms license?

JONES: Not to my knowledge.

(UNKNOWN): No knowledge of anyone contacting you at all? Have you talked to anyone, any other federal agency, about what you learned or discussed or discovered when you visited Ms. Engelbrecht's place of business?

JONES: Not to my knowledge.

(UNKNOWN): What did you discover when you visited there in February of 2012 and April of 2013?

JONES: Qualification inspection. I have no idea, based on what I have in front of me (ph).

(UNKNOWN): Was there any citations, any problems, any fines, anything that you discovered?

JONES: I don't know. (UNKNOWN): Our understanding is there's not. We've talked to Ms. Engelbrecht. In fact, we had her sit right in that same chair and answer questions from this committee. We've -- let me ask you one other question. Did Tom Perez have any input into your agency's determination to go and inspect and investigate Ms. Engelbrecht's place of business?

JONES: No.

(UNKNOWN): OK. Mr. Chairman, I yield back.

ISSA: Would the gentleman yield?

(UNKNOWN): Be happy to yield.

ISSA: Just a statement. I also signed on to that letter and am disappointed we didn't receive further answers before this hearing. I will say that, in light of the deliberate and verified targeting of conservative groups by Lois Lerner in the IRS, we cannot take coincidence, things which occur, which appear to be linked to somebody's application as a conservative for an IRS application. There were leaks out of the IRS of names of contributors, including a constituent of the ranking member that were damaging and appear to be deliberate. So I hope you'll understand that when we see a pattern by an agency and then we see coincidences, it's our committee's requirement to fully explore what appear to be unusual anomalies. We're not accusing you of anything, but we do need the specifics of both classified and unclassified, as necessary, so that we can understand how such an anomaly occurred.

(UNKNOWN): Mr. Chairman, real brief, if I could. Mr. Jones, can you give us a date when you can get that -- those documents to the chairman and myself and the entire committee?

JONES: We'll work with staff and your staff to figure out the specifics.

(UNKNOWN): Sooner or later. When is going to be? Next week?

JONES: As soon as we can.

(UNKNOWN): Thank you, Mr. Chairman.

ISSA: I only want your commitment that you will provide them.

JONES: We have been cooperative with both your staff and committee members in providing information as quickly as we can. I hope you understand that there is a process. I do know that we've got to get better answering the mail. We've worked very hard and have changed some of our processes to get better answering the mail, because we know you need information and we have it. But we also have a certain process and level of sensitivity.

(UNKNOWN): Mr. Chairman, I mean, this -- -again, this is simple. This is one individual, Catherine Engelbrecht. The documents are related to why you went, after twelve years of never showing up at her place, why you decided to go twice in thirteen months. Any document that has Engelbrecht mentioned in it, we want that information. That's a pretty simple search. I think you could have had it to us in a week, a day maybe. But here we are six weeks later and you're telling us, we'll try to do it as soon as possibly can. We heard that last week from John Koskinen at the IRS.

ISSA: I thank...

(UNKNOWN): He told us two years.

ISSA: I thank the gentleman. We now go to the gentleman from Virginia, Mr. Connolly.

CONNOLLY: Thank you, Mr. Chairman. And welcome, Director Jones. We're so glad you are in place, confirmed. After seven years of acting directors at the ATF, finally, to have a confirmed director. Thank you. And I think it's quite notable that in your brief tenure, you've already made a huge change. As I understand it, 23 field special agent in charge out of 25 are new, under your leadership, 38 new headquarter senior executives, new under your leadership. To say nothing of looking at a storefront operation and making reforms there.

By the way, you can look up Ms. Engelbrecht. I remember that hearing, too. She seemed to think that it was outrageous and the government was out to get her because she wasn't notified about an OSHA inspection at her manufacturing plant. Of course, if the statute is clear, that would actually be a violation of law, if OSHA had given advanced notice, by the way (ph), were coming.

She was found to have nine serious violations. She wasn't inspected for a period of time. Well, we only have 2,200 OSHA inspectors for eight million workplaces. So it's not unusual that there can be a gap of as much as twenty years before a firm actually might be inspected. And she settled, by the way. The original fine was $24,850. She settled for $14,910. So other than that, the government is out to get her.

Director Jones, did you volunteer to come and testify before this committee?

JONES: I am here with the invite from the chair.

CONNOLLY: Yeah. Were you subpoenaed to come here?

JONES: I believe there was a subpoena issued, but I was coming before the subpoena was issued.

CONNOLLY: OK. So you're not here as an unwilling witness?

JONES: No. I look forward to answering your questions.

CONNOLLY: Right. Right. Now the chairman has alleged the ATF has not been cooperative with the committee's investigation. So let me go through that. On April 15th, ATF provided a committee staff of the briefing by an assistant director with operational knowledge of the Milwaukee operation. Is that correct? JONES: After the Internal Affairs did their report with a thirty day turnaround, I believe they finished in March, we had a briefing because of some of the confidentiality issues involved.

CONNOLLY: On April 15th?

JONES: April 15th.

CONNOLLY: Right. So you were certainly cooperative with that?

JONES: Yes, sir.

CONNOLLY: At the briefing, your staff provided an overview of the detailed report that you ordered from the Office of Professional Responsibility and Security Operations. Is that right?

JONES: Yes, sir.

CONNOLLY: On April 30th, the Department of Justice provided additional information in response to the committee's request, answering questions about the operation and your knowledge of it, is that right?.

JONES: That's my understanding.

CONNOLLY: The department provided documents in response to the committee's request, including ATF's policies for the storage of firearms and vehicles and for conducting storefront operations. Is that correct?

JONES: Yes.

CONNOLLY: On May 31, the department provided additional information, including steps ATF had taken to approve its planning and oversight of our undercover storefront operations. Is that correct?

JONES: Yes, sir.

CONNOLLY: But you did not provide the report from the Office of Professional Responsibility report at that time. Is that correct?

JONES: I believe that that's correct, although it has been provided.

CONNOLLY: Don't jump ahead of me. At that time, you did not provide it?

JONES: That's correct.

CONNOLLY: And the reason you didn't provide it was?

JONES: We were fixing things.

CONNOLLY: And you were in the middle of a criminal investigation, potentially?

JONES: Yes, we were.

CONNOLLY: And you didn't want to compromise that criminal investigation?

JONES: That would be a bad thing.

CONNOLLY: And the outlandish risk that somebody in this criminal might leak it or use it.

JONES: Once we produce information --

CONNOLLY: That could compromise a criminal investigation.

JONES: There's always sensitivity when we have parallel investigations and request outstanding from Congress, from the inspector general and their active criminal investigation.

CONNOLLY: That report has now been provided to the committee, is that correct?

JONES: With some redactions. Yes, sir.

CONNOLLY: Yes. On March 19th, the chairman issued a subpoena. In his letter to you, he accused you of, and I quote, A complete lack of cooperation with the committee's investigation. He stated, and I quote, not once, have you or your staff responded to any of these letters or produced even a single document. Is that an accurate statement of your relationship with this committee?

JONES: I would hope that our relationship is appropriate and professional and that the information that we provide is done in a timely manner.

CONNOLLY: But the fact is, Director Jones, you and your staff have made yourself available to this committee and you have produced documents, including the one we were just talking about. Is that not correct?

JONES: Yes, sir.

CONNOLLY: So it's not accurate to say you have not produced a single document or that you've been completely uncooperative with this investigation. Or is it?

JONES: That's not accurate, sir.

CONNOLLY: I thank you and I thank you for your service, Director Jones, and we wish you all success.

JONES: Thank you.

ISSA: Mr. Connolly, would you like to take the witness stand? You seem to be very good at giving testimony, but you're very good at getting Mr. Jones to give yes or no answers.

CONNOLLY: I've learned. Mr. Chairman, I've learned from the best.

ISSA: I've never been able to get Mr. Jones to answer something yes or no. But you are a master and I congratulate you.

CONNOLLY: I thank the Chair.

ISSA: Thank you. We now to go to the gentleman from Utah, Mr. Chaffetz.

CHAFFETZ: Thank the chairman. And Director, thank you for being here. Congratulations on being appointed and confirmed. We need you in this position, wishing nothing but the best.

JONES: Thank you.

CHAFFETZ: And we want to thank the men and women who serve on the frontlines. Very difficult situations, dealing with some nefarious characters. And God bless them for the work that they do. I would like to ask unanimous consent to enter into the record the Office of Professional Responsibility and Security Operations report on Operation Fearless, dated March 21, 2013. Simply, the executive summary in Pages 14 and 15.

ISSA: Without objection. So ordered.

CHAFFETZ: Thank you. Director, is it safe to say that the report or that the analysis, the takeaway from Fast and Furious, that it was fatally flawed, disastrous? How would you characterize what happened at Fast and Furious in just a word or two?

JONES: Fast and Furious.

CHAFFETZ: Yeah.

JONES: That's why I'm here. It was the lack of oversight and it was a leadership failure.

CHAFFETZ: Tell me then, as you look at what happened on this Operation Fearless, how would you characterize it?

JONES: It was on a smaller scale because there's no comparison between Fast and Furious and what happened in Fearless. And I'm not excusing the things that are in our internal affairs report and we have taken remedial action to fix those things, like we have every time we've identified --

CHAFFETZ: But it was flawed as well, too, correct? JONES: It was flawed. There were mistakes that were made. It did result in prosecutions. It did result in guns coming off the street. It wasn't --

CHAFFETZ: But it's certainly not the poster child of what we should be doing.

JONES: Not, it's not.

CHAFFETZ: It's certainly not the fix that we were hoping it was supposed to be.

JONES: Nope. That operation had its flaws.

ISSA: Would the gentleman yield? Didn't it also result in a machine gun going on the street, that's never been found? Yes, or no would be good, like Mr. Connolly.

JONES: Context is important, too, Mr. Chair. And I think it's important to note that the agent's vehicle was broken into between noon and three o'clock, and the safe was broken into. So it was unfortunate and there were weapons lost and there were some recovered. And there are some weapons that are still out there.

ISSA: Thank you.

CHAFFETZ: Do you recall when Bernard, otherwise known as B.J. Zapor, was appointed as the special agent in charge of the Phoenix office?

JONES: I believe Mr. Zapor last year, I believe, moved to the Phoenix office. He was the deputy assistant Director of the central, but he moved to be special agent in charge of the Phoenix Field Division.

CHAFFETZ: And what I find curious about that, Director, is here we have the Phoenix office, probably the highest profile on the heels of Fast and Furious, and yet, this same person was in charge of an office that was executing on Operation Fearless. So here you have an internal report dated March 21, sixteen fundamental deficiencies, and you take the person who's in charge of one of those offices and you put him in charge of Phoenix.

JONES: Well, congressman, unlike fast and furious, there was very poor communications going on between the SAC in St. Paul and what was happening in Milwaukee, whereas in Fast and Furious --

CHAFFETZ: But you took Mr. Milanowski, who supervised the Milwaukee office and you put him in Phoenix as well.

JONES: I sure did.

CHAFFETZ: Why did you do that? If this thing is so flawed -- you agree that it was flawed ...

JONES: Which I'll -- CHAFFETZ: ... and we're concerned -- Operation Fearless. You took the people who were overseeing the Milwaukee operation, the SAC, and then the person who's in charge of the Milwaukee office and they get to go to Phoenix, where you have the most -- you got to clean that place up. I don't understand how we take two people responsible for that and put them in charge of Phoenix. I don't see the accountability. I don't see anybody getting fired. I mean, we're taking mentally handicapped people and putting tattoos on their necks. We got missing weapons. We have locations that are opening in proximities to schools in violation of the law. We have stolen agent weapons, we have an agent whose personal contact information is left in one of these offices. I mean, we're enticing people across state lines to engage in prostitution-type things. I mean, the allegations on this just -- I mean, I could go on for ten minutes listing them out. Where's the accountability?

JONES: You've aggregated a lot of information without really the opportunity to talk about some of those things in specifics. I can tell you that the individuals that were in the St. Paul Field Division and the movements that were made were made for very good reasons, based on their records of performance. And that's not to excuse the mistakes made in fearless.

CHAFFETZ: You don't have anybody more qualified than Mr. Zapor and Mr. Milanowski to oversee probably the most critical office on the heels of Fast and Furious after you have an internal report dated March 21st with 16 deficiencies listed out. You don't have anybody better than to go down and that office.

JONES: There is solid leadership in the Phoenix field of vision and a lot, a lot of oversight down there.

CHAFFETZ: So you have full and total confidence in Mr. Zapor and Milanowski?

JONES: I do.

ISSA: Thank you. Director, you said context was important. Would you let everyone understand what the gentleman asked you about or inferred about the tattoo on the severely disabled person?

JONES: Well, if you're talking about Operation Kraken in Portland, Oregon, I think it's important to note that the issues with respect to competency did not arise until the case morphed into litigation mode and defense counsel brought up the issue of intellectual capacity. I think with respect to the tattoo, that was a mistake. And I've seen --

ISSA: Well, context is important. Just tell the story, so everyone on the dais, because not everyone knows and certainly the public doesn't know, of what the agents did and what the judge did.

JONES: Well, I -- there was an individual, as I understand it, in Operation Kraken, that on their own volition got a tattoo that was the logo for the storefront store and subsequently was reimbursed by the storefront in the undercover mode. That's my understanding. ISSA: The judge's understanding was that the individual was talked into getting a tattoo which was then or basically bought by your agents and the judge ordered that you pay to have it removed. Isn't that correct?

JONES: That's correct.

ISSA: Thank you. We now to go the gentlelady from Illinois, Ms. Duckworth.

DUCKWORTH: Thank you, Mr. Chairman. Thank you, Director Jones, for being here. I am going to assume that when you come across processes and procedures within the agency that are substandard or sub par that you would be committed to investigating them and perhaps coming up with better procedures. Is that correct?

JONES: That's correct.

DUCKWORTH: So let's talk about our -- what we've been talking about all day -- all morning this morning with the involvement of persons with developmental and mental disabilities. I am deeply, deeply concerned that this has happened. And I understand your statement that many of these persons are not being recruited by your agents, but in fact, are people that they come across in the course of doing their jobs. What training do your agents have with how to deal with persons with developmental disabilities and mental disabilities once they encounter them?

JONES: Well, that was a topic of discussion with ARC (ph) and that's something that we're looking at. Unfortunately, one of the things that happened in a poor budget environment is training. Training is not what it should be. And I think not unique to ATF, when you talk about developmentally disabled or people with mental illness, that there's not enough training of law enforcement officers to recognize and to deal with in situations of stress or in undercover operations about how to deal and not deal with individuals. It's a very difficult challenge because oftentimes you can't tell on the surface as to whether or not somebody's got issues of that nature.

DUCKWORTH: Have you conducted an internal investigation into this issue?

JONES: As a general issue? No. We've talked internally about developing better training regimen for our folks, particularly in an undercover setting.

DUCKWORTH: What about in this particular case of the individuals who were enticed into participating the case of the individual who had the tattoo, the case of the gentleman with his IQ in the mid-50s. If your IQ's in the mid-50s, it is very clear that you are developmentally disabled. Have you done a formal investigation into those instances?

DUCKWORTH: Well, other than the Milwaukee operation, all of these other storefronts that have been identified in the media that are of concern predated my arrival. And so my level of knowledge about some of those instances is not as deep. But I do know that the inspector general has full review of some of those storefront operations. And so we will work with them, once they peel back the layers of the onion about what the circumstances were. Because again, the media reports are not as fulsome (ph) with respect to the whole story. And a lot of the issues that have been raised about people's mental capacity only came to light during the trial process and sometimes in the sentencing process as part of mitigation for the sentencing.

So this is not a circumstance where there are people who are obviously challenged walking into the storefront operation. These are after the (sic) fact knowledge that we learn of based primarily on the assertion of defense council.

You don't think that your agents dealing with a man with an I.Q. in the 50s knew that he was developmentally disabled?

JONES: You know, to be honest with you Congresswoman, I don't know what they thought when someone came in. I've never met the individual. I don't know other than the fact that they were competent to stand trial. They pled guilty. They were sentenced for criminal conduct. And during the sentencing process they -- issues were raised about their -- their intellectual capacity.

DUCKWORTH: Well, people with far higher I.Q.s than 50 can also be intimidated in the trial process to confess just through the stress of the situation. My question to you is -- so there is an I.G. investigation that is looking into this issue, is that correct?

JONES: My understanding -- part of the inspector general at the Department of Justice is looking into is this set of storefronts and looking at the details as to what happened when and why and how.

DUCKWORTH: Well, you know, leadership starts from the top. What commitments have you made personally to pursue this particular issue whether it is to figure out what the situation was, to figure out what kind of training can be done, even on a limited budget basis. I'm sure ARC would probably be willing to cooperate with you to provide some of that training, or at least help you structure something.

What commitment have you made as director to show the entire agency that this is important to you and that this is something that is not acceptable conduct among your agents?

JONES: Well, we have met with ARC. We are in discussions with them about developing an appropriate training package. We have put word out through our internal processes about situational awareness on the issue. But it really is on the go forward a matter of enhancing the level of knowledge and understanding to the agents who were out there as to what they need to be on the look out for and how to deal with situations like that.

So it's a training issue. And we're working on that.

DUCKWORTH: I'm out of time, Mr. Chairman.

ISSA: The gentlelady yields back. We now go to the gentleman from Florida, Mr. Mica.

MICA: Thank you, Mr. Chairman.

Director Jones, a couple of questions about the operation in general. How long did this go on?

JONES: Which operations...

MICA: The storefronts. How long did you -- was the storefront operations going on?

JONES: Well, it depends on the storefront. As I mentioned in my...

MICA: Well, no the whole program. I mean, you have -- well how many did you have, 30-some?

JONES: Thirty-seven storefronts between 2009 and 2013.

MICA: OK, so that would be about a four or five year period that this operation went on.

Now, we've referred some of the worst, egregious incidents took place in Milwaukee. I think there are like seven places that were cited, at least the report I have, Portland, Phoenix, Albuquerque, Wichita, Atlanta and Pensacola all of which had botched operations. That's sort of a given.

JONES: Well, I wouldn't describe it as botched. I think that the one that I have the most knowledge of is the one...

MICA: Milwaukee.

JONES: Was the Milwaukee one.

MICA: Each of them had names. We've gone from Fast and Furious. Now we've got I guess Milwaukee was given Operation Fearless. I think it should be renamed, Operation Fearless and Brainless from what we've heard here today. Some of the things that went on are astounding.

How -- how much money did they spend in this program -- can you tell me -- during the four or five years?

JONES: Well, I think...

MICA: A million, half a million -- any idea?

JONES: It depends on the...

MICA: Can you provide the committee with the amount?

JONES: I think -- I believe that some documents that we have produced...

(CROSSTALK)

MICA: OK, I'd just like to -- there were 36 of these storefronts, seven of them had just horrible experiences. Some of what I've read -- I guess -- in Wichita, it doesn't sound like that had exactly a glorious operation. A known criminal came in with two AK-47s, and we only bought one. And he was -- he was a known felon and then was let out on -- actually on the street with the one that wasn't purchased, are you aware of that case?

JONES: I do have some knowledge about it...

MICA: An AK-47 bought one. And I'm told that we paid such a high price. I want to find out how much we paid for these that actually where we had these operations we had little crime waves of people going out -- they heard that you could get these weapons purchased at a higher than black market rate so they were -- ATF was buying them at a high rate and we had little crime sprees.

I've asked the staff to also look at these different operations, but there was a spike in crime in those neighborhoods. Are you aware of that?

JONES: I know that one of the indicators that we have in terms of monitoring and making sure a storefront is operated -- and isn't manufacturing crime.

MICA: OK, can you tell me again -- I'm interested in the results of this -- how many weapons were seized in the whole program? Do you know?

JONES: I do know that...

MICA: Or -- or purchased, I should say, not seized -- how many?

JONES: I think in the six operations that are of particular interest to the committee, including Fearless, that there were approximately about 1,300 weapons taken off the street.

MICA: OK, so I want to see the cost -- again, I'd like to see for the whole period of time, how many weapons -- actually what -- what number of weapons. You said there were some indictments? How many indictments and arrests?

JONES: Well, we can get that specific information back to you...

MICA: I would think that would be the first thing you would tell the committee is how many arrests, what the cost was of the operation, how many indictments -- do you know how many indictments we had?

JONES: Well, in the six storefronts under discussion, 250 defendants were convicted, over 1,300 firearms were recovered and the defendants had over 350 prior felonies. So these are oftentimes not first time offenders. In Milwaukee there were 16 federal defendants, and 10 state defendants, 150 firearms. In Pensacola, which was February to October in 2011, 78 defendants convicted, 275 firearms recovered.

MICA: Well, I'm told that the operations also had such a bad reputation that when FBI was contacted about participating that they shied away or denied cooperative effort with ATF. Is that -- are you aware of that?

JONES: You know, I'm -- I don't have sufficient knowledge to know why that happened. I'm not gonna speculate as to what occurred to have our federal law enforcement partners pull out on that. I do know that there were concerns expressed about data de-confliction and certain investigative concerns, but I"' not in a position to explain anything.

MICA: Well, it sounds like the whole thing went haywire. And again, I'd like to see for the record how much it cost, what the results were for the whole period of time.

I yield back.

ISSA: Gentleman yields back.

We now go to the gentleman from Massachusetts, Mr. Tierney.

TIERNEY: Thank you, Mr. Chairman.

Director Jones, thank you for being here today, for giving us your perspective as the -- now the director, formerly acting director, former U.S. attorney and prosecutor as well. I think that's helpful for us.

I understand that in many of these cases it was local law enforcement that asked the Alcohol Tobacco and Firearms agency to set up these undercover storefront operations in their communities, is that correct?

JONES: My understand is that in all of those operations that there was to varying degrees local law enforcement involvement.

TIERNEY: But, for example in Milwaukee, both federal and local law enforcement requested the agency's assistance. They want to target violent crime and gang crime and that's what led them to set up that particular store, is that correct?

JONES: Yes sir. TIERNEY: You know, I think everybody knows that gun violence is a daily challenge in many of our communities on that. Can you tell us why a local law enforcement agency would make that kind of request?

JONES: Oftentimes it's a resource issue. Sometimes it is the collaborative nature of ATF's relationship with state and local law enforcement. We have excellent relations with state and locals across the country and we partner with them on much of the work we do in cities large and small. And that partnership is very important to us.

TIERNEY: In your experience, how severe can the -- the gun problem be in a local community before ATF is requested for assistance?

JONES: You know, that -- that varies. Over the last couple of years, we've tried to be more focused in our resources by dedicating resources to those places that are experiencing either in the short or long term higher levels of gun violence, but I think that, again, that partnership that we have with local law enforcement is critical to us being successful.

TIERNEY: Now, in the wake of all the horrific gun violence that we've experienced in this country, the president developed a series of proposals that were aimed at reducing gun violence without infringing on the rights of lawful gun owners. They would purportedly provided law enforcement additional tools to prevent and prosecute gun crimes.

Last year, a bipartisan group of Congress, 100 Democrat and Republican members led by Representative Meehan, Representative Maloney, Representative Riggle and Ranking Member Cummings introduced the Gun Trafficking Prevention Act of 2013.

Now that's a bill that would have made firearms trafficking a federal crime for the first time, and impose stronger penalties for straw purchasers. Can you explain to us what straw purchases are?

JONES: Straw purchasing essentially is making a misrepresentation on form 4473 when you purchase a firearm legally that you are purchasing it for yourself.

TIERNEY: When, in fact, you might be purchasing it for a convicted felon or somebody else who's prohibited from owning a gun.

JONES: Yes sir.

TIERNEY: So that bill would have made those penalties and made them stronger on that. It was supported by law enforcement right around the country. It was based on previous testimony from ATF agents that came before Congress and told us how helpful it would be to finally create a federal offense for firearms trafficking.

Do you believe that would have been one useful tool in trying to get at gun violence?

JONES: As a former prosecutor, and as now the director of the law enforcement agency responsible for enforcing the Gun Control Act, having a more fulsome federal firearms trafficking statute would be very helpful in constructing cases and doing investigations.

TIERNEY: Can you talk a little bit about how the Alcohol Tobacco Firearms mission could be better accomplished by the adoption of strengthening of laws that would help reduce gun violence? Are there other ways that we could be of assistance?

JONES: Well, I think ti -- you know, I don't want to step out of my lane, because, of course, Congress makes the law, we enforce the law. There's a lot of input into it. I can give you the perspective of a former prosecutor and someone now who works with ATF, that there are things that could be different.

But I -- you know, at the same time, I don't want to get into advocacy mode that's inappropriate.

TIERNEY: I respect that, and I don't want to put you in a position of that. Let me just close by saying we have that Gun Trafficking Prevention Act of 2013. It is a bipartisan proposal. It has been supported by law enforcement (inaudible) across the country. And perhaps one of our future hearings here, rather than be delving into conspiracy theories, could actually be talking about why that legislation hasn't been brought forward and passed.

With that, I yield back my time.

ISSA: I thank the gentleman for yielding back.

We now go to the gentleman from Texas, Mr. Farenthold.

FARENTHOLD: Thank you, Chairman Issa.

Director Jones, thank you for being here. I know that's an uncomfortable seat sometimes for folks.

JONES: It's warm.

FARENTHOLD: We will maybe name it the hot seat.

I kind of want to get a -- step back and get a big picture idea here. Can you refresh my memory. What was the stated goal of your storefront operations?

JONES: Well, it's a business calculated to identify and proactively intervene with criminals and criminal activity in high crime areas.

FARENTHOLD: All right. So, and you -- you open up these storefronts. And you attempt to buy guns back from criminals. Is that one of the...

JONES: That's a piece of it. It's primary value is intelligence gathering. Oftentimes, the storefronts are wired for video and audio. People make admissions. People -- we can identify them. We can run crim histories to see if they're prohibited on some occasions.

So it's -- it attracts -- it's designed to attract a certain criminal element so that we can gather intelligence as to what's happening outside of the storefront.

FARENTHOLD: And the normal goal of law enforcement is to move up the chain. You know, rather than getting the petty street criminal, you want to move up the chain to more serious offenses. That's a normal operation for law enforcement, isn't it?

JONES: Sometimes that is to build -- if you're interested in sort of a enterprise theory investigation to take out a whole gang. But sometimes you're talking about a single trigger puller who's got a reputation in a community of just being a bad actor.

FARENTHOLD: Well, the reason I'm getting at this is, you know, we had -- we heard testimony in this committee about Operation Fast and Furious that really what they were after was taking down a drug -- a drug lord in Mexico or abroad.

And what concerns me is are we developing a mentality in here of we're after the -- we're after the more serious offenses, damn the consequences.

You know, we saw in Fast and Furious we let guns -- guns walk across the border with tragic result. We're seeing in this the ATF encouraging people to, you know, saw off a shotgun or having to train someone in what an automatic weapon is.

Shouldn't we -- shouldn't we be focused on just getting the job done?

And when we start going beyond that, it's like we get in trouble.

JONES: Well, I think it's important that storefront operations, the ones we're talking about, and the many others that are highly successful are just a tool in a tool box that we have. They're not the end all to be all. There are other undercover operations...

FARENTHOLD: And, you know, I -- you know, I remain concerned that, again, if I -- it's the Rudy Guiliani (ph) theory. We fix the broken windows, the big stuff starts to take care of itself.

But, I mean, my -- are we going for big headlines and big busts that may go forward with a political agenda, or, you know, can we just get down to the nitty-gritty?

But, let me, in a speech you said it was "time for the ATF to bring our A game, protect the American people in public from violent crime, and on my watch, that's what we're gonna do."

Was Operation Fearless your A game?

JONES: No, it wasn't the A game, and we could do better. And I freely admit that. And we've learned lessons from Fearless. One of the reasons that we dispatched Internal Affairs is to peel back the onion, see what went wrong, validate some of the things that worked, and know what didn't work.

You know, I think it's significant to note that we put -- we hit the pause button on storefronts until we can get them right.

Now, if we can't do them right, we don't know them. If we can't do them right, we don't do them. If they're not sited right, if they're not resourced right, if they're not staffed right, if there isn't an intelligence purpose for it other than to generate numbers, we're not doing them.

FARENTHOLD: All right. And let me ask, as we go forward, we've been having trouble, obviously, from the attorney general in getting Fast and Furious information. And I just want to say, are you willing to work hard with this committee, to make sure we get to the bottom of these things, and they don't happen again?

JONES: You know, I've read the (inaudible) for the Fast and Furious OIG report several times, including in the last couple of weeks. And I fully understand some of the systemic issues. That's my challenge.

There's ongoing litigation with respect to...

FARENTHOLD: We just can't let this happen again.

I've one other quick question that a constituent wanted me to ask you. And we're getting reports of trouble with imports of seven-in- six (ph) Russian surplus ammunition. Yet, we're not seeing anything from your agency about this. Are you all planning on implementing a new policy on that?

JONES: Well...

FARENTHOLD: That's kind of in left field, but.

JONES: It is kind of out of left field. Brownsville wonderful, by the way. But, you know, we'll look into that. I just -- if you give us more context.

FARENTHOLD: All right. We'll get with you. I'm out of time. So I'll yield back.

Thank you.

ISSA: The gentlelady from Illinois, Ms. Kelly?

KELLY: Thank you, Director Jones.

As we assess the problems in Milwaukee, I'd like to know how this investigative technique has been used in other cities to target violent crime.

You stated in your testimony that since 2009, ATF has conducted 37 undercover storefronts. Did the use of undercover storefronts only begin in 2009?

JONES: No, it's a -- it's an investigative technique that really has its genesis going back as far as 20 years in south Florida, during the -- you know, the height the trafficking in Florida.

And it's something that we have very good people to do it. They're not always in the right place to do it and make sure it's done right, but we've had very successful storefronts around the country.

KELLY: So this technique has been used under other administrations, like the Bush administration?

JONES: I think the administration and the politics has less to do with it than sort of the public safety value of using this as an undercover technique. And it has been used for a long time.

KELLY: So how do you measure the success of these operations?

JONES: I think one measurement of success really is the people that end up coming into court. There were some successful operations in other parts of the country that did identify and end up in the conviction for very long sentences of armed career criminals, people who have extensive records.

There have been instances where storefronts have brought in people who are on the cusp of committing egregious acts of violence.

I think that the intelligence value and the way that people have been brought in, the trigger pullers and the traffickers of crime guns, getting pulled into this and giving us an opportunity to build a case around that person, eventually indicting them and hopefully sending them to prison.

KELLY: It's my understanding that the Pensacola police chief made a very strong statement about the outcome of an operation you did there in 2011, and I'll quote, "The value of this operation is immeasurable, and we may never know how many lives this may have saved."

Do you agree with the police chief that the undercover operation might have saved lives?

JONES: Yeah, I do agree with the police chief in terms, you know, it's very difficult to talk about the what-if circumstance, but we do know that there were good work done at a very fundamental level and that trigger pullers and traffickers were pulled off the street and into the criminal justice system.

KELLY: And we've already talked about some of the other places that storefront operations occurred. Are you satisfied with the results in Albuquerque, Atlanta, some of the places we talked about, Portland, Wichita?

JONES: Well, to the extent that, you know, again, I have deeper knowledge about some rather than others. But, you know, I do know that all of these operations resulted in criminals going to jail in the end, and making the community safer.

KELLY: Also, we talked a lot about the storefronts, but what other tools are in the toolbox to get illegal fire arms off the street and out of the hands of violent criminals?

JONES: Well, one of the things that we're doing, particularly in Chicago is experimenting -- maybe it -- we are developing firearms trafficking techniques to see the flow in the black market of firearms.

Now, the crime gun pool is very deep, and it's quite a challenge. But, you know, doing things from the trafficking, the following the gun, identifying FFLs (ph) who may be supplying crime guns, identifying individual traffickers in the black market who may be supplying crime guns.

And we've worked real hard with folks in the Northern District of Illinois and in the Northern District of Indiana in studying the firearms trafficking patterns and trying to intervene to cut off to the extent that we can the supply and also make sure that those who are engaged in unlicensed dealing, people who are stilling guns on the black market, get our full attention so that we can at least drain a little bit out of the crime gun pool.

KELLY: Well, representing that area, I'm very glad to hear that. When I was a state legislator, that was the first bill I passed, dealing with straw purchases, so I know how very important that is.

Thank you so much.

I yield back.

ISSA: The gentlelady yields back.

We now go to -- we now go to the gentleman from North Carolina, Mr. Meadows.

MEADOWS: Thank you, Mr. -- thank you, Mr. Chairman.

Mr. Jones, I wanted to go ahead and follow up. In your testimony just a few minutes ago, you mentioned that -- I know that we're highlighting these six different storefront operations in your testimony today, but I think, to quote you, you said, quote, "the other highly successful storefront operations."

What are the other highly successful storefront operations?

JONES: Well, the one that immediately comes to mind is an operation -- and I don't want to overstep, because some of these are still in the moment as...

(CROSSTALK)

MEADOWS: Well, you -- according to your testimony, there is no active storefronts right now, so I don't know that we would be putting anybody in jeopardy. JONES: No, but once they close down, and it goes into prosecution mode, there's still...

MEADOWS: Well, go ahead, what are the other highly successful?

JONES: Well, I -- you know, the one that immediately comes to mind, because I just saw a recommendation for an award, is Smoking Guns 2 (ph) which is in Miami Gardens in the Southern District of Florida that was very successful in taking out.

MEADOWS: So what's successful? How do you define success?

JONES: Identifying a very deadly armed criminal group that was engaged both in firearms trafficking and drug trafficking South Florida.

MEADOWS: Fine (ph). Do you have storefront operations in Chicago?

JONES: We don't have any current storefront ops (ph).

MEADOWS: Do you have -- well, have you had them in Chicago?

JONES: As I sit here today, I can't definitively say we've never done --

MEADOWS: I don't think you have. How about in Los Angeles, have you had in the city of Los Angeles, have you had storefront operations?

JONES: Again, I can't off the top of my head say that we've never had or not had a storefront in Los Angeles.

MEADOWS: So did you prepare for coming to provide testimony today?

JONES: Yes, I did.

MEADOWS: And wouldn't you assume that some of that out of the 37 storefront operations that you would be able to figure out which ones you've actually had or haven't had?

JONES: Well, my focus was on the ones where --

MEADOWS: I know your focus was. But I'm saying in your testimony, you talked about 37. So you say today that you can't tell me whether you had one in Los Angeles, Chicago or New York? Have you had any storefront operations in any of those three cities?

JONES: Without certainty right here now, I can't say --

MEADOWS: What is your best guess?

JONES: I don't like to guess when I'm sitting here under oath.

MEADOWS: Well, you've got staffers behind you. Do they know if you've had any storefront operations in any of those three cities? I don't believe you have, but have you had any?

JONES: We will find out.

MEADOWS: OK. So under what matrix do you decide where to put storefront operations?

JONES: Primarily by the intelligence needs and the commitment of locals to work with us. It is a --

MEADOWS: So you're saying those three cities you might not have had the commitment of locals to work with you?

JONES: There's a technique that we use on occasion, but it's not the only technique that we use. The --

MEADOWS: OK. The reason why I ask -- let me tell you the reason why I ask. Those three, according to the Center for Disease Control and Prevention, according to their report, are the top three cities in terms of gun-related violence. And yet, you don't seem to have storefront operations in the very top three in our nation in terms of gun-related violence. The president even talks about Chicago. And yet, you don't have operations there. Why would that be?

JONES: Because we're using other types of investigative techniques in those major metropolitan areas where the dynamics on the ground and the opportunities to identify bad guys are a lot different than smaller venues.

MEADOWS: That's exactly what I thought you would say. So there is not a direct correlation between storefront operations and gun- related violence is what you're saying?

JONES: Depending on the venue that you open up, if you pick the right spot, yes.

MEADOWS: OK, so there's not a direct -- those are the top three. You have no storefront operations, so there's not a direct correlation in terms of selling out of a storefront versus the number of deaths that happen according to gun-related violence. There's no empirical evidence that would suggest that?

JONES: It is a technique that is --

MEADOWS: I understand it's a technique. Is there any empirical evidence to that effect? Because you're -- where you're placing these would suggest that there is not.

JONES: We've placed them all around the country. And again --

MEADOWS: Why did you not place them in the top three gun- related, violent, murder capitals of our country. Why would you not place them there then? If there was a direct correlation, why would you not place them there?

JONES: Well, you know, one of the things that immediately comes to mind is in those larger urban areas, you've got very difficult de- confliction issues going on because a lot of people are playing in the same territory. And so, there's safety risks involved with this type of undercover technique, both in terms of maintaining its integrity, sharing information. That's one of the things that happened --

MEADOWS: It's easier -- let me -- if the chairman will indulge this last question?

ISSA: Briefly.

MEADOWS: It's easier for an ATF agent to blend in in Wichita, Kansas, than it is in New York City?

ISSA: That's a -- the gentleman will answer if he can.

JONES: You know, that's -- I can't answer that. I mean, you know in some of these storefronts, we bring in undercovers from different parts of the country. One of the reasons that we don't often have local law enforcements in an undercover capacity in a place like Milwaukee where they weren't behind the counter is because they work in Milwaukee and they may run into somebody that they've arrested. And so, maintaining the integrity of the undercover operation does sometimes require bringing in people from out of town, because they're not known.

ISSA: Thank you. At this time, we go to the gentlelady from California, Ms. Speier.

SPEIER: Mr. Chairman, thank you. And thank you, Director Jones. I think what this hearing has helped me solidify is the importance of us having another hearing to talk about storefronts, in general, Mr. Chairman. I don't know about you, but I want to know how much money we're spending on this kind of activity? And Mr. Jones, maybe you can tell us? How much do you budget for storefronts a year?

JONES: We don't budget for storefronts. We budget for operations. I think in looking at some of the basic information on this, the -- you know, there's a cost of the site. There's, of course --

SPEIER: OK. What we need to do is find out how much you do spend. You've got 37 of these storefronts. I think -- I certainly would like, and probably the chair would like as well, documentation to tell us how much was spent on each storefront and what was recovered as a result.

I was with our U.S. attorney this morning who said that you actually had a very successful one in Gilroy, California, called Operation Garlic Press. Where do you come up with these clever names? Someone sits around with a great sense of humor (ph).

JONES: Well, come on. Gilroy and garlic, that's not all that clever.

SPEIER: Well, I mean, but it's -- it is in fact taking advantage of the fact that it is the garlic capital of the world. But in any case, she indicated to me that there were some 92 persons that were charged or were at least found to be gun running. So I think we need to have a better sense of -- and a better accountability of how much money is being spent on each of these operations. And to the point of one of my colleagues, why certain areas are picked and others are not. Now I'm also --

ISSA: Would the gentlelady suspend for just a moment?

SPEIER: I certainly will give back (ph) the time.

ISSA: If you'll hold it. Director Jones, there's been a series of questions on a bipartisan basis. And maybe to cut short the need for those questions, would you agree to prepare a briefing, a secure briefing for the committee that will include essentially what Ms. Speier is talking about, about expanding on cost, all of the operations. And then obviously because the earlier briefing we had alleged that there was only one in Milwaukee that was flawed and now we, of course, have similar situations and others,a more expansive ability to answer questions on the good, the bad and the ugly, if you will, of these various operations around the country. Is that something you could give us a timeline and commit to that we would make the committee available?

JONES: I think -- Mr. Chair, I think it would be of value to educate, because I think these storefront, in particular, that we're talking about are the ones that there were issues with. But as the congresswoman -- Ms. Speier talks about, there have been successful storefronts. They are a valid technique. And I think it would be of value. And we can work with staff to get that in the appropriate venue because again we always have law enforcement sensitive. We've got techniques that in a public setting may -- and I inadvertently educate bad guys.

ISSA: All right. And I would appreciate it. I mean, today's hearing, Ms. Speier and I are both aware, is on some flaws that have been -- that you're working on today to correct. But I think it would be helpful. So I would make one of our large -- it would probably bring this room into a secure mode, at a time to be arranged. If your folks before the end of the hearing could give us an estimate, we'll make it -- make that time available in a few weeks. Ms. Speier, thank you for bringing it to -- it was time to ask the question and the gentleday's time fully continues.

SPEIER: Thank you. I also want to alert you to a program called Operation Lipstick, which started in Boston. It's a program focused on women. And since more than 50 percent of gun-trafficking cases involve straw purchases, and guns purchased by women are two times as likely to be used to commit a crime, they are working the communities to try and get the word out to women, who tend to be the girlfriends or the wives to go in and buy the gun, that they become accomplices of crime as well. And I think it's the -- one of the kinds of activities that we should be looking at as well. I also want to point out that you have the ability to recommend to the president that he no longer allow for the importation of Russian bullets or assault weapons. George H.W. Bush, president, had done that by executive order. It was enhanced by then President Clinton. It then expired under President George W. Bush. And so the importation of these guns and bullets continues. We have a case in California where a state senator was willing to, for a campaign donation, provide an FBI undercover agent with guns and shoulder missiles from the Philippines. So we have some other areas that we could be looking at. And I hope that you will take that into account.

Now in the Milwaukee Journal Sentinel, they reference and suggested that the ATF storefront operation was actually generating crime. And I would like for you to respond to that allegation.

JONES: Well, that is a concern when we design a storefront operation. And we need to have indicators, for example, from the local police department as to whether or not there's been a spike. In burglaries, for example, we know that there were issues with respect to folks who purchased weapons and then resold them. That's always a phenomena that you have to maintain a certain level of risk to make sure that that's not happening.

SPEIER: Well, let me ask you this. Were they actually selling or purchasing guns for sky-high prices?

JONES: I think from what I've seen that the prices were comparable to the black market prices. The price that we pay in the operations for a gun really is not sort of what is it listed at lawful FFL (ph) for. It's a black market gun. These are crime guns. So there's value on them. If it's got an obliterated serial number, for example, it's got great value. If it's --

SPEIER: OK, for clarification purposes, were any of these firearms that were purchased then sold at those storefronts?

JONES: No, we didn't -- we do not...

SPEIER: I think that's very important.

JONES: We do not sell at -- it's -- it's one way. You -- we buy the weapons. We do not sell the weapons.

SPEIER: All right. Thank you. My time's expired.

ISSA: I thank the gentlelady.

We now go to the gentleman from Michigan, Mr. Bentivolio.

BENTIVOLIO: Thank you very much, Mr. Chairman, Ranking Member Cummings and distinguished members of the committee.

You know, as -- as we all know, one "aw, shucks" can wipe out 1,000 "attaboys." And we know there's -- my experience working with AT&F over the years -- history -- always professional, brave, valiant. But after reading this testimony, I cannot even get my head around what has happened in this case.

When I was preparing for this hearing yesterday, I actually thought my staff was playing an April Fools joke on me. The operation could have not been this botched. This investigation could not have been this mishandled. I am not sure where to even begin. But I do know this. I have a frame of mind right now -- after reading and hearing this testimony, I would join any member of Congress who sponsors a bill to keep hands -- or guns out of the hands of ATF agents. And with that in mind, I have just a few questions.

ATF agents recruited mentally handicapped people, or people with an I.Q. in their 50s to assist with this operation. Later, these individuals were arrested for their involvement.

I taught special education when I was a teacher, and was surrounded by these kids. They are some of the best, most caring, nicest people, who try their best, and try and want to please. I'm appalled that you would use these individuals like this, and then arrest them later.

Does ATF even regret using these individuals in this way?

JONES: Hindsight's 20/20, Congressman. And I think that, you know, there's lessons to be learned. And as I mentioned earlier, there's opportunities for us to do better in terms of situational awareness training, and making sure that we do it right.

BENTIVOLIO: You know, in my experience, it's -- there's -- there's a difference in individuals with low I.Q. It's pretty easy to spot. You would think anybody with any life experience can just ask a simple question: is this the person we should be using for this operation?

So, you -- you're going to discontinue using individuals in this way, that have this low I.Q.?

JONES: To -- to the extent that we can -- we know that up front at that stage in an investigation, of course is the -- of course.

BENTIVOLIO: OK. Has ATF apologized to any of these individuals?

JONES: Well, I know that the person in particular who had -- from the Portland operation, we've had some interaction with them. But, you know, many of the individuals, unfortunately, are in the custody of the Bureau of Prisons. And so, you know, the opportunity for interaction is limited.

BENTIVOLIO: In the storefront location in New Mexico, ATF agents gave lessons on how to identify a machine gun. In a location in Kansas, ATF agents told a man how to saw off the end of a shotgun. It is normal -- is it normal for ATF agents to teach heroin addicts and drug dealers how to tell the difference between a machine gun and a semiautomatic weapon?

JONES: Well, I think there's -- I -- you know, I think it's important to note that when these ATF agents are in an undercover capacity, they have to go into role. And so, unless you want to blow the integrity of the operation -- and, again, you got to make decisions about the cost benefit analysis, but...

BENTIVOLIO: Talking about your decisions, I heard earlier you mentioned that, before you go into any operation, you do a risk analysis. Did I hear that correctly? You -- you evaluate the risk. That's current state.

JONES: Yes, sir.

BENTIVOLIO: OK, so why wasn't -- the risk of -- well, let's see if I can answer this -- or ask this question a different way.

Was one of those highly successful operations in a storefront the one that was located within 1,000 feet of a middle school? And if that's the case, why wasn't a risk analysis done to that?

JONES: I...

BENTIVOLIO: Why would you put one of these storefront operations where you have criminals coming in with these guns and rifles 1,000 -- within 1,000 feet of a middle school?

JONES: I think the case you're -- if I'm correct in my recollection, I think the case you're discussing is the -- the Portland operation. And -- and it was sited poorly in terms of its proximity to a school. Current state is making sure that the location is not only secure, but you avoid situations like that.

But that -- that's a -- this is -- that's an after-the-fact.

BENTIVOLIO: Right.

JONES: The Portland operation was...

BENTIVOLIO: So, you have an ongoing -- three years ago, OK, after action review -- what went right, what went wrong, and how can we do better tomorrow, right?

JONES: Yes, that's -- that's...

BENTIVOLIO: You have a policy in place that's going to apply those things that you've learned for future operations?

JONES: Yes, sir.

BENTIVOLIO: OK. So, we still have...

JONES: Already in place.

BENTIVOLIO: It seems like you are, once again, learning the lessons of how not to do an operation on a regular basis.

Thank you. I yield back.

ISSA: Thank the gentleman.

We now go the gentleman from Missouri, Mr. Clay.

CLAY: Thank you, Mr. Chairman.

Let me thank you also for conducing this hearing, to allow me to publicly thank Director Jones and the men and women of ATF for putting their lives on the line on a daily basis to protect communities throughout this country. And one example that I'd like to share with my colleagues is the storefront operation conducted in my home town, Saint Louis, Missouri.

The Saint Louis and East Saint Louis Metropolitan areas consistently rank in the top five most dangerous cities in overall violent crime. Director Jones, in your testimony, you highlight that in April through July in 2013, ATF lead a 15-week surge, including a storefront operation to reduce violent crime in my district. According to several news outlets and other counts, this surge was successful.

Let me repeat for my colleagues. This surge was successful. The storefront operation was successful, resulting in 159 defendants being charged, of which 78 percent were previously convicted felons. In addition, 267 firearms and significant quantity of illegal narcotics were taken into ATF custody.

This enforcement action had a significant impact on violent crime as an analysis by the Saint Louis City Police Department, comparing crime statistics from January through July, 2012 to statistics for the same timeframe in 2013 reveal that murder was down 15.7 percent. Robbery was down 22.3 percent. And aggravated assault was down 22.6 percent.

Mr. Director, my first question is, in enforcement actions like this one in Saint Louis, how much of a priority does ATF place on working cooperatively with local law enforcement to address public safety and law, and how important is it to reducing violent crime?

JONES: I think it's absolutely critical, Congressman. That opportunity that we had last year to work enhanced enforcement operation in Saint Louis was probably one of the better operations we've done during my tenure. Because we brought the full package. We brought in experts who know how to do a storefront. We brought in experts that did undercover. We were working very closely not only with the Saint Louis Police Department, but also the East Saint Louis Police Department.

I think it's an example of the pivot that we've made on two things: having a focus -- a unified effort with our state and locals and getting the resources that we need to the spot. And, unfortunately, what we did in Saint Louis cannot be replicated all around the country. And it's one of the things that we've moved to with the mobility model so that we can bring assets from around the country to do it, and do it right. Or we're not going to do it at all. And that's particularly important when we do undercover operations.

CLAY: Thanks you. And -- and that's why I take this opportunity to say thank you to you and the men and women of the ATF, speaking on behalf of my constituents, who want to live in a safer environment, who want their neighborhoods cleaner, who want those illegal weapons taken off the street.

Tell me, what is the impact of violent crime on the youth and people of color in a city like Saint Louis. And what success is ATF having in disrupt -- in disrupting and dismantling gang violence in areas that you're talking?

JONES: You know, unfortunately, there are pockets of -- of violent gun crime that increasingly are involving younger individuals. And it's -- I call it more disorganized crime. Its -- its blocks, its turfs. It's sort of -- it's ingrained. The challenges in Saint Louis, or -- or in Memphis or in Chicago. There are areas around the country that we are working very closely to do two things: identify traffickers so that we can disrupt the crime gun pool, and to identify the worse of the worse in terms of the trigger pullers, who are often not only teaching downstream a culture of violence, but also perpetrating violence themselves.

And so, the armed career criminals that are in these communities are a particular interest to us.

CLAY: Thank you.

JONES: Traffickers and trigger pullers.

CLAY: Thank you so much.

And, Mr. Chairman, we should be supporting these efforts, and not trying to conduct witch hunts, OK?

ISSA: I'm sure the gentleman knows we're not.

But would the gentleman yield to the ranking member?

CLAY: Oh, certainly.

CUMMINGS: Thank you very much, Mr. Clay. I'm -- I'm glad you mentioned that.

CUMMINGS: And -- but I kind of want to go back to what the chairman said a little earlier, Director, with regard to the briefing that you are -- all are going to give us.

I think that -- in light of what Mr. Clay just said, I think it's extremely important that we hear about the good -- some of this good stuff that's happening. Because I can tell you, living where I live, it is -- I mean, people feel like they're -- sometimes, they're in a terror zone. I mean, and it's hard. And trying to get to the very people that Mr. Clay talked about is so very, very important. And if the ATF has a way of -- the way you're doing it right. And I'm glad you said what you said, do it right or not at all. It -- it is -- it sounds like the kind of tool that would be very, very helpful in neighborhoods like the one I live in.

And I just -- I'm really looking forward to that (inaudible) to make sure that we get it right. So I hope that can be -- I hope we'll be able to have that briefing very soon.

Thank you, Mr. Chairman.

ISSA: I thank the gentleman.

We now go to the gentleman from Florida, Mr. Desantis.

DESANTIS: Thank you, Mr. Chairman.

Welcome, Director.

I'm over here.

(LAUGHTER)

You were sworn in August, 2013. Is that correct?

JONES: Oh, time flies. I think it was August.

DESANTIS: Roughly. And I just mention that because, you know, I'm going to ask about some of the issue that my colleague from Ohio, Jim Jordan, asked about in terms of ATF's visit to this woman in Texas. And I just wanted to clarify, whatever happened during that -- those instances, happened before you came on board.

And so, you know, at this point, what we're asking for you to do in terms of responding to Mr. Jordan's letter is just to be transparent about what happened and if any -- if nothing sinister happened, nothing sinister happened, but we're in a situation where this woman applied for tax-exempt status for two conservative-leaning groups and she was, after having never had any interaction with law enforcement for 20 years, she was visited by the IRS, OSHA, FBI, ATF and Texas's version of the EPA.

And of course, this committee has been consumed with dealing with targeting done by the Internal Revenue Service, and we've had high officials in the IRS who have -- who have refused to testify, and we've had trouble getting documents. And so I hope you'll be a force for transparency.

So here -- here's what I understand. They had a license for 12 years. Basically, it's a metal -- precision metal cutting company. They did the firearm license thinking maybe we'll do firearm parts at some point. They never actually manufactured any firearm parts. And so even though they'd had a license for a while, ATF audited them February, 2012.

So, do you know the reason why that audit took place?

JONES: You know, my understanding now, and I've had an opportunity to look at the timeline, is that Ms. Engelbrecht -- the business was issued a plan B firearms license by ATF in October of 2009. In February of 2012, we had a routine compliance inspection. There were some minor recordkeeping errors, that there was a warning letter issued. And then in April of 2013, we conducted a followup inspection and there were no violations.

So over a period of between 2009 and 2013, you know, this (inaudible) as simple as it sounds, coincidences then explanation, irrespective of what other agencies were doing.

DESANTIS: No, I understand that. Now, how common is it that, given that they were not involved in firearms manufacturing at all, I understand they had the license thinking they may do it, you know, devoting the resources to auditing them versus using resources in other areas.

I mean, I'd imagine you guys have limited resources. You know that you can't possibly deal with every issue out there. So what went into, or do you know what went into the decision to focus those two visits on Engelbrecht Enterprises, rather than, given that they weren't even manufacturing any firearm parts, vis-a-vis doing that in other areas that may have been more pressing in terms of the threat that they posed to the public?

JONES: Well, I think that there are two things to keep in mind, that the inspection -- the investigative function, the regulatory function we got 700 approximately investigators around the country, thousands of licensees both FFLs and FELs and that they do have a punch list. And if you read the I.G. report, you know that sometimes we have things fall behind simply because of the volume.

DESANTIS: Right.

JONES: You know, we have discretionary time where we can focus on naughty FFLs, those few that are naughty. And then there's the nondiscretionary time, and so there's a practice -- a three-year, you know, a 2009 FFL license issued after qualification inspection and then coming down for a routine compliance inspection within 12 years. I'm not sure which field division would cover that, but I know both the Dallas and the Houston field divisions have a pretty vibrant inspection schedule because of the number of licensees down there.

DESANTIS: So would you -- you would state definitively that it would be inappropriate if her filing for tax-exempt status for conservative-leaning organizations influenced the ATF in any way. You would admit that that would be totally inappropriate if something like that were to happen.

JONES: That's not part of our practice. We have our hands full trying to just do -- keep up with the volume of inspections both required -- qualifications, followup compliance. People are working very hard on the inspections front. And they're doing the best they can. And that's -- that's not into the mix as to who ends up on the compliance inspection list.

DESANTIS: And I appreciate your time today. I would just reiterate the chairman and Mr. Jordan, if you can just get us answers to that letter in due time, we'd really appreciate that.

And I yield back. Thank you.

ISSA: I thank the gentleman.

We now go to the gentlelady from New York, Ms. Maloney.

MALONEY: I thank the chairman and the ranking member for holding this hearing.

And Director Jones, welcome. And I know that the nature of today's (inaudible) but we've never had the director of the ATF before, and I would like to ask you some questions related to ATF hearings that we have held before, and this hearing specifically on the problem of gun trafficking.

In 2001, the House Oversight Committee, we had one of your special agents, Peter Facelli (ph), and I asked him whether criminal penalties are so weak that federal prosecutors are discouraged from pursuing cases involving the so-called "straw purchasers," those who buy guns and sell to known felons and others who should not -- or legally cannot have them.

He had testified in his written, and really his oral statement, that the current straw purchasing laws, and I quote, "are toothless." That's what he said. And he further said that existing gun laws do not provide law enforcement officials the tools they need to successfully stop the flow of illegal guns to Mexico.

He also testified that in his view, Operation Fast and Furious was a partial consequence of these deficiencies. And it is an issue of great concern I think in the country. Jackie Speier mentioned the lipstick cases that they're trying to inform women. But shortly after Sandy Hook, in Webster, New York in 2012, like a week or two afterwards, there was a terrible case where a prior felon was released. A straw purchaser got him a bunch of guns. He then put his house on fire. And when the police and the fire department came to put the fire out, he mowed them down, shot them.

And certainly, if this woman had known there would be real penalties, I doubt she would have been out there buying guns for him.

And they testified, these agents, in that hearing that they don't even bother to prosecute or even refer them to prosecution because the penalties are so weak that you're not even doing anything. It's almost not worth the time of law enforcement.

So in response to that, I authored a bill that made trafficking in guns a felony. I find it almost unbelievable that trafficking in illegal guns is not a felony, and increasing the penalties on straw purchasing. An incredible amount of law enforcement came out across the country in support of this legislation. It's bipartisan. An NRA member, Scott Rigell, is one of the prime leaders on this, as well as Ranking Member Cummings, and also a former prosecutor I think from Pennsylvania, Representative Meehan has been very active on it.

And it seems to me this is -- if we don't give the tools to law enforcement to do their job, the testimony from these agents was "we don't even bother to prosecute because the penalties are so weak; we don't -- it's not worth our time to pursue it."

So I guess my -- my question is, do you think that -- that we should have stronger laws and penalties against straw purchasers? And do you think it would stop the practice that has really been such a terrible problem in our country? According to a report from the ATF in 2000, and I quote, "Straw purchasing is the most common channel of illegal gun trafficking, accounting for almost half, 46 percent of all investigations."

This is from your own division. And do you think stronger penalties would help bring down that number? And if you could comment on it, I think it's a very important issue and certainly keeping guns out of criminals' hands should be a top priority. Law enforcement -- law-abiding people can own guns. It's not aimed at them. It's for criminals, drug dealers, gang dealers. Your comments and experiences?

JONES: Congresswoman, I think that is one of our focuses in our overall mission. And, you know, as I mentioned before, a federal firearms trafficking statute would be helpful. I know that there are increasing efforts across the country by U.S. attorneys who we work closely with to do more straw purchasing, or providing a gun to a prohibited person.

I know that the sentencing -- U.S. Sentencing Commission has revised recently their guidelines, but to get back to your point, a federal firearms trafficking statute would be helpful. I would push back a little bit about these cases aren't being done. I think that they are being done by U.S. attorneys around the country. The challenge is more getting -- getting the fact pattern and making sure that you're not getting an unwitting -- the lipstick phenomena -- the Operation Lipstick phenomena.

I mean, it's -- it's, you know, a criminal defendant who's got no crim history, who may be in a relationship with a bad guy and ends up in federal court for the first time is different than somebody who's got sort of a pattern of purchasing weapons and doing sort of the aggregation, and then selling them on the black market.

MALONEY: The testimony of your agents said it was a slap on the hand or a paper -- paper notice. And possibly, we should do a joint GAO request to find out how are straw purchasers treated when they are convicted. That was the point that they made. They don't even follow through or try to convict because the penalties are so weak.

And so the bill that we worked on increases penalties. I believe it's supported by your department and many other law enforcement. I think it's worth looking at. And I think a GAO report on what does happen to traffickers...

(CROSSTALK)

ISSA: I thank -- I thank the gentlelady, but the gentlelady's time has, as my predecessor said, has long expired.

We now go to the gentleman from Georgia, Mr. Collins.

COLLINS: Thank you, Mr. Chairman.

The -- this one is (inaudible) my father is a state trooper in Georgia. I thank you for your service also and the military as well. But, it's very disturbing to me, as I was growing up one of the things I always found was is that when one officer did something wrong everything else got painted.

And you were...

(OFF-MIKE)

COLLINS: ... this disturbs me in the sense that it was an overall -- the storefront operations were overall looked after from D.C., but handled in the different areas.

I'm gonna concentrate specifically on Atlanta, because some of your comments today are not consistent with the actions that happened in Atlanta. And I want to talk about that.

In Atlanta -- the Atlanta Blaze, the storefront operation bought stolen goods, including guns stolen from police squad cars. How many stolen police weapons did ATF agents in Atlanta recover?

JONES: (OFF-MIKE) I know a bit about Atlanta Blaze, because it is one of the historical ones. It's not something that was going on when I came on board... COLLINS: And I -- and I understand that, but the hearing title today was "Undercover Storefront Operations," involving all of these. I would have expected to be at least have been briefed on all of the ones that were going on especially given the -- the problems that existed in many of these.

JONES: Well, I do understand that in -- in Atlanta there were some weapons that ended up coming into the storefront that were the result of thefts from other police officers...

COLLINS: What did the ATF agents do with the weapons when they purchased them and where are those weapons now?

JONES: I believe the case is completed. I'm not certain as I sit here today where the weapons are now.

COLLINS: OK, are you aware that the Atlanta Police Department spent considerable resources interviewing witnesses and attempting to recover the weapons, because ATF agents did not report the guns as recovered?

And then why didn't the ATF promptly return the guns to the Atlanta Police Department?

JONES: Well, I'm not aware of that.

COLLINS: Did you look over this case? Did you look over these storefront operations before coming to testify today?

JONES: I spent a lot of time with Fearless. I spent less time with the four occurred before I got on board at ATF.

COLLINS: OK, but knowing that this was an overall -- I mean, I'm concerned here in the sense that this was a storefront and there were multiple operations to know this.

Going back to another one. There was an ATF agent who bought one high point pistol stolen from a police car a week after it was just taken from -- in Christmas 2010. I realize this is before you. As of November 2013, the Fulton County Police Department still had the firearm listed as stolen. A representative said the department did not receive any notification that the weapon was recovered.

I'll ask the question -- I assume the answer at this point, has the ATF returned this to Fulton County?

JONES: I'm not sure if they have...

COLLINS: Has the ATF informed the Fulton County that the ATF agents had recovered this weapon?

JONES: I'm not certain...

COLLINS: It's interesting to me -- and this is why I said earlier that the (OFF-MIKE) between local enforcement and the ATF, but in Atlanta there wasn't this. And right now we're still looking at this.

I'll ask another question. Does ATF have a policy about notification of other law enforcement agencies when weapons or other possessions are obtained by ATF agents either by purchase through a storefront operation or otherwise?

JONES: I know that we do run traces at a storefront...

COLLINS: No, that's not what I asked. I asked do you have a policy of notifying other agencies when they recover or buy stolen police equipment?

JONES: I don't want to step out of bounds here and say for certain that we do, but I would be surprised if we did not have a policy about...

COLLINS: OK...

JONES: ... recovering weapons that are traced back to a law enforcement...

COLLINS: Which they have -- OK, that's concerning in itself, and I'm gonna ask that, that be made available to my office and this committee as soon as possible. That should be an easy find -- I'm wondering if someone behind you probably already has that information.

If you don't have a policy, that needs to change. If you do have a policy, I really ask why it's not being followed in this situation.

What -- in looking at this -- in talking about the cooperation between agencies supposedly in St. Louis that my colleague spoke of, why was this seemingly run so differently in Atlanta where you have agencies, other law enforcement agencies spending a lot of time trying to track down their own weapons, when ATF had the weapons? Why is there such a disconnect here?

JONES: Well, let me first say, that we have good working relationships with the Atlanta and Fulton County and...

(CROSSTALK)

COLLINS: Well, obviously this case is different.

JONES: A disconnect and an individual circumstance. An isolated circumstance about the reporting mechanisms going back, and people looking for a weapon and not cooperating, that's disappointing to me to hear. So I understand your concerns about the lack of communication.

COLLINS: Well, I'm still concerned about where these weapons actually are. There's a number of things going on. And you used an interesting word just a moment ago and that was based on the questions of the woman who had got investigated. You said that you keep a list and you used the word, "naughty."

It's pretty interesting to me because I think that -- that wording is good, because it reminded me of the song that we're making a list, we're checking it twice to see who's naughty or nice. And maybe the naughty part here was they applied for a (c)(4) permit and that might be why they got more scrutiny than they should have.

This Atlanta operation bothers me. I do want to hear those answers, and please get those to my office as soon as possible (OFF- MIKE) Jones, I appreciate that several times during this hearing that you've talked about...

(AUDIO GAP)

(UNKNOWN): ... productive and to minimize risk to the public and to maximize the operations and to take responsibility. (OFF-MIKE) and that ATF did conduct a storefront operation in Albuquerque in 2010. I think I share (OFF-MIKE) And like many other members here today, I'm specifically concerned about how your agency, in fact (OFF- MIKE) not only disabled individuals.

Why -- I mean, I want to get right to policies and training. It is my understanding that the FBI, local law enforcement, in fact, I know unequivocally that local law enforcement in Albuquerque use CIT. So they're Crisis Intervention Teams, and these teams, their effort is to calm persons who've got a mental illness or disorder or an issue in lieu of arresting them. And we know that, that minimizes risks quite frankly on both sides, and I did a little -- a quick, right here, sitting in this committee, just a quick search to see how easy it is to find what kind of training and policies exist.

And, in fact, it's clear that there's substance abuse recognition, cultural sensitivity -- there is a training on developmental disorders, personality disorders and then I could go on because the list that I found in a quick search were fairly exhaustive, giving me the impression that there is a considerable body of training to help someone identify when they're dealing with a population or an individual in this situation.

And I want to know do folks in ATF take part in this training?

JONES: Sorry, as I stated before, Congresswoman that's something that is really important to us, given some of the things that we've learned (OFF-MIKE) country are in a position where they need to have enhanced, not just...

(AUDIO GAP)

(UNKNOWN): ... sort of conduct but that there's no way to identify an individual per say. And I want you to be -- I also recognize you've got to be cautious about creating an environment where we're just discriminatory in every operation, but you've known for quite some time, these trainings have been available and around for a long time, at least a decade, but that's my personal knowledge in my community.

And I guess we could argue today that in a place like Albuquerque they might need some significant re-tooling, but did you do that a year and a half ago? Have you been doing since it was identified? Are you doing that training right now, given this (sic)circumstances?

JONES: Well, absent specific public safety threat, we don't target developmentally challenged individuals. As you mentioned, we target...

(UNKNOWN): But you are clearly engaged now in a situation (OFF- MIKE) seems to me that training is a good thing. Are you engaging ATF in these training protocols that clearly exist in like-operations and for like-enforcement (ph) officials in the Department of Justice and in local police forces?

Are you?

JONES: We'd had discussion about how we integrate that into our training...

(UNKNOWN): So you haven't done it, you're just -- you're looking at it?

JONES: The ones that you were -- that you identified, the sort of the pre-packaged or whatever the Los Angeles police department's done...

(UNKNOWN): The FBI's got it. So I'm gonna guess that these are packages -- if we're gonna call them that. I -- I would -- I would hope that these are sophisticated, evidence-based training protocols that exist in the Department of Justice that should be readily available for a model like ATF, and I -- I am -- I am flabbergasts that they're not available to you, that they're not utilizing them.

It would -- it seems to me that you then don't have any written policies or procedures to deal with these issues and I would then ask if my time is up the following, that my expectation is -- since we share a role in making sure we have best practices -- we mitigate risk both to officers and absolutely to the public -- that you immediately replicate these policies and procedures, make them relevant to the operations that your responsible for, and you bring that evidence that you have a protocol and a program in place for training immediately back to this committee for our review and discussion, because I -- I again, I don't understand why that's not the case.

ISSA: I thank the...

(AUDIO GAP)

(UNKNOWN): ... director, thank you for being here.

I'm gonna ask you a quick question, and I hope you can kind of summarize with some adjectives (OFF-MIKE) going back 20 years from AUSA time ATF was one of those organizations that I enjoyed working with both as a prosecutor and as U.S. attorney first and second time. I have a lot of respect for the work that they did with me personally and in Minnesota generally.

And it's unfortunate, the developments that's happened in certain field divisions across the -- in your part of the world. (OFF-MIKE)

(UNKNOWN): Well, I mean, you know you said that we're naughty (ph), you know, for those of us on the one side of the law. And now the other side of the law (OFF-MIKE)

Mr. Jones. So I look at structure. And you have to hold people accountable for decisions (OFF-MIKE) things that would cross that line. And, of course, the public sector's got a little bit more structure than the private (OFF-MIKE)

(UNKNOWN): ... aren't held to the same accountability. Would you kind of agree with that?

JONES: Not necessarily.

(UNKNOWN): Oh, I would very agree. Because if you get on Main Street (OFF-MIKE) to you from the, Jill Stein Terry (ph), Brian Terry's mom.

ISSA: Without objection, so ordered.

(UNKNOWN): And I want to highlight some of inquisitions here. So I'm gonna come back to the -- I phrased my lead up here. You're familiar with Inspector General Michael Horowitz's summary comprehensive report, a review of ATF's operations Fast and Furious and related materials, are you not?

JONES: I am.

(UNKNOWN): In that case, I want to cite for her, because she does it so eloquently, identified several current Department of Justice and ATF employees who bore particular responsibility for the many mistakes made in Operation Fast and Furious.

These employees included ATF agents Holt McAllister (ph), David Roth (ph), George Gillet (ph), William Newell (ph), and Emery Hurley (ph), Michael Morrisey (ph).

And we understand these individuals have continued their employment with the Department of Justice, despite the findings of the inspector general's report.

Now, it's come to our attention that the ATF's Professional Review Board had previously recommended termination for at least some of these individuals.

Is that true?

JONES: We've provided that information in the...

(UNKNOWN): Is that true? Yes or no?

JONES: That material's been provided.

(UNKNOWN): Yes or no. JONES: That material's been provided.

(UNKNOWN): So it's a yes, right? Yes?

OK.

Why weren't these followed through on?

JONES: I'm not quite sure I understand.

(UNKNOWN): Were there any terminations?

I mean, for example, let's just take one. William Mills (ph)?

Nobody's been fired, sir.

JONES: There are people who have retired. There are people who have been disciplined.

(UNKNOWN): I don't consider. You know, what I'd like to do is enter into the record a letter from the U.S. Department of Justice to you, Mr. Chairman, dated April 4th or 1st, 2014, outlining these summaries.

ISSA: Without objection, it'll be placed in the record.

(UNKNOWN): It doesn't show that. I mean, there is no accountability for Fast and Furious within this thing.

And, you know, from a guy that ran his own dental practice of accountability, it seems that when we come into the place of service, as the head of an ATF, that is dysfunctional, at least when you say, looking at the Phoenix office, when you have such a quandary with Fast and Furious, that we would actually hold people accountable.

This is hardly unaccountable. The Brian Terry family has no answers whatsoever. Wouldn't you agree?

JONES: That's unfortunate, that communication has not been what it should be in terms of anyone who's lost a person in the line of duty.

(UNKNOWN): Well, I want to highlight it even further, because in his conversation with a gentleman from Atlanta, the Terry family was talking to Michel Terwilliger (ph), the special FBI agent, about communication and about Atlanta, and it seems like we've got problems all the way around in communications with other law enforcement officers.

Imagine to the shock on learning that the members of the ATF field division and the U.S. attorney's office in Arizona had chosen to keep the enforcement piece of information about one of those guns found at the Brian Terry murder was not at -- as not brought forward.

I mean, once again, a gentleman was talking about Atlanta not talking. We understand there was problems in Milwaukee with the FBI and communications.

So, does ATF have a problem playing with other law enforcement officers?

JONES: No.

(UNKNOWN): Then, what about my question to Mr. Maddows (ph) is why wouldn't we want to play in Chicago, the highest rate of death, of violence, of guns, why wouldn't we want to work with those? I mean, it's just an exercise of communication, right?

(CROSSTALK)

ISSA: The gentleman's time has expired, but you may answer.

(UNKNOWN): Oh.

JONES: Oh, we work very closely with federal, state and local in Chicago and every place that we're at.

Our partnerships with both our federal brothers and sisters within the department and at the local police level are absolutely critical to us performing our mission.

And that partnership includes communication.

And so, while it's not perfect across the country, and while personalities do impact sometimes that level of communication, organizationally that is something that we highly value and we couldn't do our job without that partnership.

ISSA: I thank the gentleman.

We now go to the gentlelady from the District of Columbia.

NORTON: Thank you very much, Mr. Chairman.

And thank, Mr. Jones. I was at another hearing, but I did want to be here to hear your testimony or at least ask a question.

First of all, I commend the ATF for looking for innovative risk, perhaps, bearing ways to get at gun running in our society. You know, I don't -- I'm gonna defer to your expertise. I know this much, thugs consistently outsmart law enforcement.

So if we can't stay ahead of them by tailoring to the location what you think will work there, and if all we do is second guess, without having the available expertise, and I'm not sure we're gonna get at it, so I'm not gonna -- I'm not gonna tell you or wonder why you haven't done one of these storefronts in this or that city.

I would like to know, off the record, whether there has been any such storefront here in the District of Columbia. So I'd appreciate your writing our office on that question.

We -- we're not -- we would be a city not unlike Milwaukee. Now, Milwaukee has, like the District, has declined in crime. They had one of these storefronts. I don't know if we do, but they had one. And some guns were stolen from an agent's vehicle.

And, of course, that is one of the risks that you always have, when there's a storefront or, for that matter, in any area where there are people who want to get at guns and can't use them.

After the Milwaukee experience, you ordered the Office of Professional Responsibility and Security Operations to conduct a full investigation. I have seen that report. I'm pleased to say it pulls no punches.

I do note that the field agents in the absence of guidance were trying to put together ways on their own how to run a storefront operation. And that bothered me, that there was no guidance on something as risky and I think, frankly, worth the innovation, as one of these operations.

After that professional responsibility report, did you take any actions in response, Mr. Jones?

JONES: We took actions both with respect to reviewing how they were operated. We took action with respect to the lessons learned, both from a resource standpoint, from a management standpoint. And we took action to try to minimize the chance that those issues identified in Milwaukee didn't happen again.

NORTON: Well, Mr. Jones, there was no written guidance.

Did you develop a manual or other operations guidance after the Milwaukee...

(CROSSTALK)

JONES: That's one of the things that did emerge from that, sort of the level of understanding. Because we have a cadre of experienced agents, but sometimes that knowledge is difficult.

So one of the things that we've done is generate sort of best practices manual.

And that's separate and apart from what's in our order with respect to undercover operations and specifically storefront operations. That's more the parameters of what the rules of the road are. This secondary document and the follow-on training, when they're done, is sort of a go-by. And it's law enforcement sensitive, but it does talk about the things that you should consider, the things that need to be consider to successfully operate a storefront.

And that's been memorialized in a storefront operations manual.

NORTON: I'm not sure the committee staff has had an opportunity to review this manual. Have you submitted the manual to them?

JONES: I believe, because of the sensitivity with sort of the methodologies, and it's -- it may have been reviewed. We've had staff over to ATF headquarters to look at manuals.

But, of course, those are the...

(CROSSTALK)

NORTON: I would appreciate it -- I would appreciate your submitting the manual so the committee could take a look at it. I think it would help, frankly, when I consider some of the questions that have been raised for people to know that there is written guidance and how that guidance proceeds.

ISSA: If the gentlelady would yield?

NORTON: Yes, Mr. Chairman.

ISSA: I would certainly join with you. Yet, I do want to be careful that manuals that are not available to the public, if we take them into the committee as committee documents, then they become broadly available, normally. So I...

NORTON: I certainly didn't think they'd become broadly available, because then the thugs would have them.

ISSA: Well, the -- if your -- if your -- if members of your staff would like an in camera review, and after an in camera review you want specific portions to be provided to the committee, I would join with you on it, but I would -- I would prefer that we continue the process whenever we have that kind of sensitive information of having staff see it, and only if we believe we need some portion, do we request that portion.

It's also less burdensome on the agency.

NORTON: Go ahead, Mr. Jones.

JONES: I understand that there was an invite to have staff come over to our shop and look at it, and then, as the chair mentioned, if anything piqued your interest, we cn do follow up.

But there is a certain level of sensitivity about an operational manual...

(CROSSTALK)

NORTON: Sure. Sure.

Well, I thank you, Mr. Chairman.

And I thank you, Mr. Jones.

I would like my staff to be able to see some of this, as well, because, as I said, this is a city that had a high gun incidence. Gone down. And I would be very interested in looking at what you're doing with respect to these storefronts.

So as long as my staff could also see that, I would -- I would certainly understand the admonitions of the chairman and of you, Mr. Jones.

Thank you very much, Mr. Chairman.

ISSA: Thank you.

We now go to the gentleman from Kentucky -- Kentucky, Mr. Massie.

MASSIE: Mr. Jones, thank you for coming to testify today.

JONES: Thank you, Mr. Massie.

MASSIE: It's quite an opportunity and honor to be able to ask you questions.

I'm an avid gun collector. I try to convince my wife these are investments, but she says, "How are they investments if you're never going to sell them?" She's got a point. But it causes me to -- to wonder -- and also, watching some collectors who have been prosecuted and arrested -- it causes me to wonder, if -- if the collectors and the firearms dealers, and, in fact, the ATF itself wouldn't be better served if we had some very bright lines drawn between what is a straw purchaser and what -- who is not? And also, who is a dealer and who is not?

You're kind of left to interpret a very gray area. And I've always wondered, wouldn't it be helpful if Congress defined that line a little bit better for you, or somebody did, between dealer and collector? For instance, number of sales per year?

JONES: It's always helpful to have Congress define in a statue where certain lines are drawn. It's difficult on occasion for us with regulatory authority to do that with clarity all of the time, both because of the process and the dynamics, as you mentioned.

MASSIE: But do you think it could be helpful if we did? I -- I just think it helps people who want to obey the law. I think it helps them to have it drawn very brightly. So, that's something that I would advocate for.

This next question may not seem related to this hearing, but it is, because maybe we can avoid another hearing if I could just get one question answered.

Are you familiar with Ares Armor? The -- they were recently raided in California? They make 80 percent polymer lowers for AR-15s. Are you familiar with them?

JONES: I am familiar with that.

MASSIE: So...

JONES: That is an -- that is an active criminal investigation.

MASSIE: Understood.

JONES: So, I will say up front, there are limitations about that specific phenomenon (ph).

MASSIE: Understood. But, you know, we can be -- you know, the search warrant is public and these sort of things, so I think we can talk some about it.

Now, one thing that was requested was a list of their 5,000 customers. Now, Ares Armor maintains that they're not in the business of manufacturing firearms. If this is true, then what would justify the ATF having a list of their 5,000 customers?

JONES: Well, I hope you understand, Mr. Massie, that there are certain things that are on the public record, particularly with the TRO. My understanding, the search warrant's still sealed. It is an active criminal investigation. But generally speaking, I think that in those circumstances where we're investigating the potential that -- this isn't specific to Ares Armor, but one of the things that would be of interest for someone who may be illegally manufacturing firearms is the list of who they've sold them to...

MASSIE: Correct.

JONES: ... not necessarily to look at the list...

MASSIE: Right.

JONES: ... but to see if there are witness leads about the circumstances of...

MASSIE: Gotcha. But that'll be up -- that'll be up to a court to decide whether Ares Armor was manufacturing firearms, not Congress and not the ATF. Ultimately, this would be held in court.

JONES: Well, I think in between, there's prosecutors involved, too, that would have to confront (ph)...

MASSIE: Right, but a jury gets to decide at the end of the day.

JONES: Yes, they do.

MASSIE: And so, if the jury finds that they weren't manufacturing firearms, can we have some assurance from you that that list of 5,000 people that they were selling material to won't be kept by the ATF?

JONES: Well, I think that in the normal circumstance of investigations, that that would be something that would migrate into a prosecutor's office and -- at the conclusion of a case in their (ph)...

MASSIE: I -- I would hope that the names -- the 5,000 names were acquired, and the case were found not to be -- you know, if Ares weren't found to be manufacturing firearms, that you would destroy that list. Because the list was otherwise ill-gotten.

Quick question on this particular case. In Wichita, Kansas, agents let felons leave the store with guns on at least three occasions. One man brought in two AK-47s to sell, but agents only had enough money to buy one. The man, a felon, was allowed to leave with the other AK-47. And this was at Bandit Trading in Wichita, Kansas, one of the storefronts.

Why would ATF agents let a felon leave the storefront with an AK- 47?

JONES: I'm not certain, Congress, of all the circumstances, but I think in an undercover setting, first and foremost, we may not know that the individual's prohibited until after the fact. And so, you know, someone who comes into the store, even if there's a suspicion that these are crime guns, the status of the person selling the gun isn't always known right out of the box.

MASSIE: If the person were known, do you think that the agent should have alerted local law enforcement that there was a felon in possession of an AK-47?

JONES: I think if they had an opportunity with cover teams, the right staffing, that the circumstances may warrant away from the premises some intervention.

MASSIE: According to my information, this -- this weapon was never recovered. Is that true?

JONES: I'm not certain as I sit here today of all the details of that particular circumstance, other than the fact that there may have been a lack of knowledge about someone being prohibited when they tried to sell the weapon.

MASSIE: If you found out that your agents let a felon leave the store with an AK-47 knowingly, would you be concerned?

JONES: Yes.

MASSIE: Would you just follow up on that for us?

JONES: Yes.

MASSIE: Thank you.

I yield back the time.

ISSA: I thank the gentleman.

Director, I'm going to be very brief with one quick round of questioning.

Monitored case program, subject today. How frequently was Operation Fearless briefed to the ATF headquarters, to your knowledge?

JONES: Well, we've spent a lot of -- thank you for that question, Congressman. We spend a lot of time on Monitored Case Program because one of the -- one of the things that -- well, recommendations in the I.G. report in Fast and Furious is the lack of communication as to what was going on out in the field. And so, the Monitored Case Program that we have in place isn't the same that it was a year ago or two years ago. It's grown. We've learned more.

I think at the core of it is this push-pull dynamic of what comes up, and how we get it, and what's pulled up, and how we get it.

The circumstance with respect to Operation Fearless was, it did not migrate up the food chain. It got briefed (ph) up. Not all the information on the ground got briefed to the sack, which means it didn't get to the deputy assistant director. That's a phenomenon we've worked hard to make sure, both by looking at our own case management system and proactively engaging with the special agents in charge about what's coming up.

ISSA: If I could interpret that, I think accurately, that would mean that if the answer to the question of how frequently was headquarters briefed, the answer was that you weren't? It didn't get to you is what you're saying?

JONES: Well, I don't -- you know, there are a number of cases on the Monitored Case Program that I don't get a personal briefing on.

ISSA: Well, I actually asked headquarters. So, I was including your deputy.

JONES: The deputy assistant directors do, based on their region, have regular interaction. And Fearless -- Fearless was up to the deputy assistant director in terms of the information flow. But I think the glitch that we learned was, what the special agent was hearing was positives, and not problems.

ISSA: OK. So, is it fair to say that although our information shows that Operation Fearless was briefed to headquarters nine times, that, in fact, those briefings were insufficient to uncover the flaws in Operation Fearless?

JONES: Yes.

ISSA: How often were you briefed on Monitored Case Programs in a, I guess what you'd say a setting in which you knew you were being briefed on Monitored Cases?

JONES: We have monthly meetings.

ISSA: So, essentially, in 12 months, 12 times, roughly?

JONES: Yes.

ISSA: OK.

Were you ever briefed on Operation Fearless separate from the Monitored Case Program in some capacity? The deputy come in and say, "I want to talk to you about"...

JONES: To me personally?

ISSA: Yes, you personally.

JONES: No.

ISSA: No?

And this is redundant somewhat, but did you ever meet with anybody at Main (ph) Justice concerning Operation Fearless?

JONES: No.

ISSA: Did you ever meet with anybody at DOJ's Criminal Division about Operation Fearless?

JONES: In terms of timeframe? I mean, after we launched the...

ISSA: And if the answer is yes, then the follow-up would be, what was the first time? And what was the subject?

JONES: I mean, there were discussions with the Justice Department, in particular, the I.G. when we launched Internal Affairs to go out there and do the dive. But until certain issues came to light, no., This was -- this was Field Division, United States Attorney's Office, Milwaukee Police Department.

ISSA: So...

JONES: February to September of 20 -- 2012. So, it's -- it's not an extended storefront operation. It was up and down pretty quickly. And then the concerns were brought to light.

ISSA: So, would it be fair to say that your first meeting with DOJ, the Criminal Division, would have been after the end of Operation Fearless as an ongoing operation?

JONES: I -- I -- you know, in terms of the Criminal Division, I don't recall any interaction there. I'd brief up on challenges that we're having. And we talked to the United States attorney about cases generated out of that operation.

ISSA: But you didn't talk to anyone with the DAG's office or anyone of that sort?

JONES: We have regular meetings, and it's sort of, "Here's where we're at in terms of our"...

ISSA: Look -- so is it possible that in, you know, that last -- in the last 12 months -- 14 months -- you did have conversations about Operation Fearless with the day (ph)?

JONES: I think it would be fairer to say we've had conversations about storefronts generally, but I don't recall having specifics on -- on this particular operation in Milwaukee.

ISSA: Final question, I guess -- following up on that -- so, this has been an area of interest of the deputy attorney general, the storefronts and the concerns about operations?

JONES: We all, collectively -- all the DOJ law enforcement community, U.S. attorneys, and the deputy attorney general have had a lot of discussions about managing risk in the last several years. New policies across the board within the Department of Justice, applicable to all law enforcement and (inaudible) U.S. attorney offices.

So, there's been discussions with the DAG about managed risk and information flow, generally.

ISSA: OK. Mr. Cummings, do you have anything?

CUMMINGS: Yes.

ISSA: If -- if you don't mind, I'll let you close. But we'll go to Mr. Jordan briefly.

JORDAN: I thank the gentleman.

Mr. Jones, just real quickly, just back to where Mr. Desantis was -- I want to be clear. You were acting director of ATF when ATF visited Ms. -- Ms. Engelbrecht's place of business? You've been acting director since -- my understanding, since August of 2011? Have you been acting director since August, 2011?

JONES: My first day in that building was -- I think it was the last day in August -- August 31st..

JORDAN: OK. So, you were acting director when -- when ATF visited Ms. Engelbrecht the 12th and 13th?

JONES: Yes.

JORDAN: Okay. I also want to ask you about -- I mentioned briefly at the end of my first round, Mr. Tom Perez. Because we had a hearing in this committee regarding what took place in St. Paul, what we've called the quid pro quo.

Now just quickly, and I guess my interests is because Mr. Perez was the civil rights division and Ms. Bosserman is the person heading the investigation in the IRS. I'm just curious, you're interaction with Mr. Perez, and why he -- this is in your role as U.S. attorney, but while you were also acting director of ATF -- when he contacted you about the Newell (ph) case and the fact that you had career attorneys recommending intervention, and then that was subsequently changed and you did not intervene, based on conversations you had with Mr. Perez. Can you walk with me through that real briefly?

JONES: That's more than briefly.

JORDAN: I understand.

JONES: A lot of discussion during my confirmation process about those interactions. It's fair to say I have never talked to Mr. Perez about anything related to Ms. Engelbrecht, and that my focus really since the end of August 2011...

JORDAN: How did it happen. You had career attorneys tell you -- I'm just curious, you had career attorneys tell you, we need to intervene, this is a good case; $62 million potentially of fraud against the federal government, and then you decide not to do that. We had to -- during the hearing we had on this issue in this committee the Democrat witness told us, that's highly unusual when you have career attorneys recommending you take a certain course of action, and then it subsequently changed.

How was that decision reached? Did you agree with Mr. Perez? Did you sign off on it, or how was it ultimately decided?

JONES: Well, you know that is something that's beyond the scope of why I'm here today, and I'm not really prepared to go into a deep dive as to what when on with my experience as United States attorney.

JORDAN: I would argue it has a lot to do with this committee. We've been -- we've spent countless hours investigating the IRS situation and how that -- Mr. Perez at the civil rights division, how Barbara Bosserman gets to be the lead investigator in the Justice Department investigation of this. We think Tom Perez is involved. I'm trying to figure out how this may relate. We know Mr. Perez flew to St. Paul, got things changed. We know that the United States government did not intervene even though there were millions of dollars at stake that we could have potentially recovered. We know that didn't happen after Tom Perez talked to you. And after your career attorney said we should intervene. So I think it's highly relevant.

JONES: I provided a substantial amount of information to Senator Grassley's staff on the record that I'm sure that they would share transcripts of my prior testimony.

JORDAN: Mr. Chairman, I yield back.

ISSA: I thank you. Now I'll go to the ranking member.

CUMMINGS: I just wanted to close up. The -- director, first of all I want to thank you for your testimony. It has been very helpfully, and I think you set a bright light on the good, the bad and the ugly. And I do emphasize good. There's a lot of good here.

But on the other hand, as you said, it's got to be right; it's got to be done right.

You know, as I was sitting here, I was just thinking about, you can never say thank you enough, and I, again, say thank you to you and to the ATF. Let me tell you why. On Good Friday of last year I went to observe an autopsy of a young African-American man who had been killed, shot to death by some so-called friends, and I intentionally wanted to go and see an autopsy of a gunshot victim.

And it's interesting, when I watched that autopsy, they apparently shot him in the head, right behind the ear, and then it came out over the eye, one bullet. And when I looked at the hole, I sweat it looked about half the size of a penny on one side, but on the other side it looked the size of about a quarter.

And then they showed me something like a CAT scan of what happened when the bullet went through his head, and how everything just exploded. And I followed that case, because I was just curious.

And then of course I had the issue with the situation with my nephew at Old Dominion, who three years ago was murdered. Again, some people came into his room, 5:00 in the morning, third years honors student at Old Dominion, killed him. Blasted his head. The next day -- a few days later, I went to his apartment, his brains and blood splattered all over the walls.

That's what your folk try to prevent, and I want them to know that it is so very, very important. They may not get all the thanks, and I know they've been through some hell. I know they have. We watched the fast and furious situation. Mistakes were clearly made, and I was so glad to see you come in. That's one of the reasons why I went to your swearing in. Because I just have so much hope for this organization because it is so important.

And I think that we need to make sure that under all of these circumstances that we would get it right, because I think when anything goes wrong, then it's as if it's wrong, but nobody pays a lot of attention to the right.

And but the mission must go on. The mission must go on. There are kids in my neighborhood, in my neighborhood, who tell me they can get a gun, if they've got the money, faster than they can get a cigarette. That's real.

And so you all have a tough situation to deal with. But I am so thankful that the ATF exists, because if it didn't we would have to invent it, the expertise that your people bring, the dedication.

And I don't want them -- I don't want what happened with regard to Fast and Furious to have a chilling effect on any of them. I want them to understand that they've got a mission that's bigger than them.

And it's about trying to make sure that people are safe, trying to make sure that they address the issues of just -- you know, of guns being in the hands of the wrong people doing the wrong things.

And so, again, I just want to say thank you. I'm looking forward to our briefing. I'm hoping that the policies that your team has brought together now are put in place, will address the kind of issues that came up in Fast and Furious.

I'm hoping that with regard to the storefront situation that things are in place so that we don't have to go through this kind of situation again. But I think the best words that you could have said that were music to my ears is, and as I close, is this.

Is that if we cannot do it right, we're not going to do it at all. And it reminds me of my first trip to Israel many years ago. And they had a saying that just rings in my head. Everywhere I go it was this saying.

It said, if we are not better, we will not be. If we are not better, we will not be. And so I thank you for pursuing the best. And the chairman and I were just talking. We were kind of joking about you, saying, who wants this job? You know?

(LAUGHTER)

(CROSSTALK)

CUMMINGS: But we know that it's a love of country, it's a love of just trying to make a difference and have an impact in your time on this earth. And so we appreciate you.

JONES: You know, with respect to that last comment, I think that -- you know, I have a lot of friends that asked me too. But over the last two-and-a-half, three years, I've gotten to know this organization.

I've been to every field division. I've met a lot of people outside of headquarters, agents, investigators, support staff. They have a great mission. And this is really a great organization.

They understand. We all understand that we've got to refill that well of credibility because of recent events and mistakes. But I can -- I can share with you, without any hesitation, that the folks at ATF are dedicated to a very important mission.

It's probably the most resilient law enforcement organization I've ever come across, and in the face of a lot of adversity related to both the enforcement of the Gun Control Act to recent snafus and mistakes made for a lot of different reasons, they are tough as nails.

And they are completely dedicated to the mission of making our communities safer from gun violence and arson and people who would use explosives to hurt folks. So it's an honor to really be at the helm of this organization.

CUMMINGS: Thank you, very much.

Thank you, Mr. Chairman.

ISSA: I thank you for your testimony. We're going to stand adjourned. And if you don't mind, I'd like -- the ranking member and I would like to see you in the back for a couple of minutes.

JONES: Yes.

ISSA: Thank you.

JONES: Thank you.

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