

6/15/11 Testimony

Statement By	Topic	Page #	Response
Senator Grassley	ATF and ATF purchased guns from cooperating dealers, and ATF had real-time notice of the purchases.	7	In many instances, the guns were sold without any notice to ATF. ATF had no notice of the guns bought by ATF on 1/16/10.
Agent ATF	Gave example of a transaction at FFL authorized by ATF and then guns were given to third party. Bagful of cash, guns to 3d party	15	FFL makes sale on its own merits. ATF has no authority to allow a sale that is illegal.
Agent ATF	Victor Varela was prosecuted by Ariz AG after AUSA Hurley declined federal prosecution. Hurley declined another case involving a corrupt FFL who was supplying to DTOs. USAO declined most of their firearm cases.	19	This case was not submitted to the USAO. There is no record in LIONS and no declination letter in Emory's files. Running stats.
Agent ATF	The Arizona USAO did not allow them to utilize waivers of speedy presentment or proffers.	28	In the first 6 months of 2011 we averaged 20 in custody freetalks per month. That number increases when you include out of custody proffers. ATF never asked for approval to use in a specific case. USAO never prohibited its use in a specific case. ATF wanted blanket authority to use this at their discretion. USAO did not authorize ATF to use waivers <u>without prior approval</u> due to the constitutional rights implicated. However, had a request been made in a specific situation, it may have been granted.
Agent ATF	Explains why straw purchase laws are <i>toothless</i> .	31	Need guideline breakdown on straw purchases

Agent: ATF	The USAO needs more resources to convict more straw purchases due to overwhelming numbers of gun crimes.	31	
Agent: ATF	When referring to the separation of Agent Terry's murder and Operation Gunrunner, he testifies that it started with a straw purchase that was interdicted.	33	The guns found at the Terry scene were not the murder weapon. The guns that were found were not part of an interdicted straw purchase. ATF was not notified about the purchase until days later.
Agent: ATF	In response to Varela case; the USAO declined it because the evidence was in Mexico.	34	See above. Varela case not submitted to our office.
Agent: ATF	The Excalibur gun store case was declined by Arizona USAO and then brought to AZAG for prosecution.	34	Never presented to USAO until loss in state court. The blue cover shows submission to AG on 5/14/08. After state court directed verdict, we gave ATF the respect to review the case. Resulted in a well-researched 30 page declination memo.
Rep Lynch	The <i>Washington Post</i> and PBS <i>Frontline</i> support Forcelli's version of the Excalibur case	35	??
Agent: ATF	After 2009 his duties were changed to home invasion investigations.	35	While running the home invasion group, Hurley presided over Operation Gideon. Model program that won several awards. Emory getting specifics.
Agent: ATF	The USAO dismissed every case they had on a particular informant because he wore too much jewelry.	39	USAO paid EWAP funds to move the CI after ATF request due to safety concerns. ATF chose to use CI again within 2 months without consulting USAO. USAO felt it would be a danger to use a person who just got EWAP funds.

Mr. ?????	Encouraging gun dealers to sell more guns did not help reputation with the industry.	41	Need stats re: gun store sales. (Mike/Kristen) Government did not and cannot encourage unlawful sales. FFL are licensed to sell guns in compliance with the law.
Mr. ?????	Out of 70 home invasion defendants, the USAO proffered one.	42	Not true re: Operation Gideon. We did at least 4 proffers. Cannot force cooperation.
Mr. ?????	No agencies expressed that the Operation was a dreadful idea to his knowledge.	43	ICE, PPD, DEA all involved. No complaints or concerns raised to USAO.
Mr. ?????	ATF personnel in Mexico were not fully briefed.	43	Newell may have info on ATF personnel knowledge.
Mr. ?????	Multiple sales of long arms reported would be a good indicator.	47	
Mr. ?????	We did not inform Mexican government that we were letting guns cross the border.	49	PGR embedded at ATF. Nobody let guns cross the border.
Agent ATF	They followed a straw purchaser, with 10 FN pistols, transfer guns to an unknown person and were told by probationary employee (English) not to interdict the firearms; she said to fall back; re-surveil.	55	Emory verifying.
Mr. Weich	USAO has brought cases with large numbers of guns which resulted in hung juries or directed verdicts of acquittals because of high stage of proof.	80	Emory getting details—Robert George case. Ignadosian case.