

ATTACHMENT 1

[REDACTED]

From: Gillett, George T. Jr.
Sent: Wednesday, December 15, 2010 5:47 PM
To: Newell, William D.
Co: Needles, James R.
Subject: Fw: U.S. Border Patrol Agent killed in the line of duty - Two firearms recovered by ATF

Bill -

FYI -

George T. Gillett
ASAC - Phoenix Field Division
Cell: [REDACTED]

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From: [REDACTED]
To: [REDACTED] ATF
Co: Gillett, George T. Jr.; Needles, James R.
Sent: Wed Dec 15 19:45:03 2010
Subject: U.S. Border Patrol Agent killed in the line of duty - Two firearms recovered by ATF

The two firearms recovered by ATF this afternoon near Rio Rico, Arizona, in conjunction with the shooting death of U.S. Border Patrol agent Terry were identified as 'Suspect Guns' in the Fast and Furious investigation [REDACTED]

The firearms are identified as follows:

Romarm/CUGIR, 762 rifle, Model GP WASR 10/63, serial number 1971CZ3775
Romarm/CUGIR, 762 rifle, Model GP WASR 10/63, serial number 1983AH3977

GS [REDACTED] contact me late this afternoon requesting Intel assistance in the tracing of two recovered firearms.

I initiated an urgent firearms trace requests on both of the firearms and then contacted the NTC to ensure the traces were conducted today.

I was advised by the NTC that the firearms were entered into ATF Suspect Gun database by SA [REDACTED] and associated to the Fast and Furious investigation. The NTC further advised that on 01/16/10 [REDACTED] ATF purchased three Romarm 7.62 rifles from [REDACTED] two of these firearms are the recovered firearms cited above.

No trace has been submitted on the third firearm purchased by [REDACTED] ATF (serial number 1979IS1530). I am researching the trace status of the firearms recovered earlier today by the FBI.

Should you have any questions or need further assistance, please contact me.

██████████ - Senior IRS
Acting Intel Group Supervisor
(602) ██████████ - Direct
(602) ██████████ - Mobile
(602) ██████████ - Fax

From: Gillett, George T. Jr.
Sent: Wednesday, December 15, 2010 11:24 AM
To: All Phoenix Exchange
Subject: U.S. Border Patrol Agent killed in the line of duty

A U.S. Border Patrol agent, Brian A. Terry, 40, was shot and killed north of the Arizona-Mexico border while trying to catch bandits who target illegal immigrants. Terry, working as part of a BORTAC unit, was waiting with three other agents in a remote area north of Nogales, Ariz., late Tuesday night when a gunfight with the bandits began. No other agents were injured, but one of the suspects was wounded in the shootout. Terry was shot in the back and was pronounced dead at approximately 4:00 AM today.

The FBI is investigating the shooting. Four suspects are in custody and Law Enforcement Personnel are searching for a fifth.

ATF Tucson personnel are assisting with the follow-up investigation and will be assisting with a search of the area. A firearm in the custody of the FBI is currently being traced.

George T. Gillett
Assistant Special Agent in Charge
ATF - Phoenix Field Division
Office: (602) ██████████

ATTACHMENT 2

[REDACTED]

From: [REDACTED] ATF
Sent: Thursday, December 16, 2010 10:11 AM
To: Newell, William D.; Gillett, George T. Jr.
Subject: change in charging

Gentlemen,

After speaking with Emory he saw the wisdom in not charging the AK-47 rifles in question so as to not complicate the FBI's investigation. As such we are back to our original plan to charge the June guns purchased by [REDACTED] ATF

ATF

Group Supervisor
Phoenix Group VII
602 [REDACTED]

ATTACHMENT 3

[REDACTED]

From: Newell, William D.
Sent: Wednesday, December 15, 2010 9:43 PM
To: ATF; Needles, James R.; Gillett, George T, Jr.
Co: [REDACTED]
Subject: Re: ATF in custody

Great job.

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From: ATF
To: Newell, William D.; Needles, James R.; Gillett, George T, Jr.
Co: [REDACTED]
Sent: Wed Dec 15 23:41:30 2010
Subject: ATF in custody
We (ATF) have ATF in our custody. We are coordinating with the USAO to charge him in the morning via Complaint. We are holding him overnight in custody.

We are charging ATF with a standalone June 2010 firearms purchase where he used a bad (old) address on the 4473. [924(a)(1)(A) -- False records required to be kept by dealer.] This way we do not divulge our current case (Fast & Furious) or the Border Patrol shooting case.

Thanks,

ATF
Group Supervisor
Phoenix Group VII
602-[REDACTED]

ATTACHMENT 4

[REDACTED]

From: Gillett, George T. Jr.
Sent: Thursday, December 16, 2010 9:35 AM
To: Gillett, George T. Jr.; Nowell, William D.
Subject: SIR

DEPARTMENT OF JUSTICE - BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES SIGNIFICANT INFORMATION REPORT

DATE: December 16, 2010
FROM: Phoenix Field Division
FIELD OFFICE: Phoenix VII Field Office

CASE INFORMATION

CASE NUMBER: [REDACTED]
CASE TITLE: CHAMBERS, Jacob, et al
SPECIAL AGENT: ATF
TELEPHONE NUMBER: (602) [REDACTED]

SYNOPSIS OF INCIDENT/ACTIVITY:

Arrest of ATF

NARRATIVE OF INCIDENT/ACTIVITY:

On January 16, 2010, ATF purchased three (3) AK-47 variant rifles from a Phoenix area FFL. On December 15, 2010, after the shooting death of a U.S. Border Patrol agent in Southern Arizona law enforcement officers/agents conducted a search of the area. Two (2) of the AK-47 variant rifles purchased by ATF on 01/16/2010 were recovered in the area during this search.

On December 15, 2010, ATF agents located ATF and subsequently interviewed and arrested him on charges stemming from this January 16, 2010, firearm purchase. In summary ATF admitted to ATF agents that he straw purchased these firearms for an unidentified Hispanic male.

ATF was held overnight and ATF agents have prepared a criminal complaint for ATF on firearm charges relating to the straw purchase of these three (3) AK-47 variant rifles on 01/16/2010 and are presenting it to a Federal Magistrate today (12/16/10.)

ATTACHMENT 5



Memorandum

To: Dennis K. Burke
From: Emory Hurley
Subject: ATF
Date: January 28, 2011

The two AK-47 type rifles associated with the U.S. Border Patrol shooting, specifically two ROMARM WASR-10 7.62x39 mm rifles, Serial Numbers 1971CZ3775 and 1983AH3977 were purchased by ATF on Friday, January 16, 2010, along with a third ROMARM WASR-10 7.62x39 mm rifle, Serial Number 1979S1530. The three rifles were purchased in a single transaction from Federal Firearms Licensee (FFL) ATF. ATF was not notified of this purchase until Monday, January 19, 2010, when ATF received the ATF Form 4473 documenting ATF purchase of three AK-47 type rifles on January 16, 2010. These were forwarded to ATF by the FFL and the purchase is documented in ATF ROI #67.

ATF first known firearms purchase occurred on November 24, 2009, at FFL ATF. On that day he was in the company of another Fast and Furious suspect, ATF. On November 24, 2009, ATF purchased five (5) FN Herstal Five-Seven pistols, and ATF purchased five (5) AK-47 type rifles. On the ATF Form 4473, ATF listed his address as ATF, Phoenix, Arizona, 85035. At the time of the purchase, ATF were traveling in a 2000 Isuzu Rodeo registered to ATF Phoenix, Arizona, 85035. This is documented in ATF ROI # 12. As of this date, the five (5) FN pistols purchased by ATF on November 24, 2009, have not been recovered.

On November 25, 2009, ATF entered ATF in the ATF case management system as a suspect in the investigation. This event does not result in the creation of an ROI.

On December 12, 2009, ATF purchased five (5) ROMARM WASR-10 AK-47 type rifles from FFL ATF Company. ATF was notified of this purchase on December 12, 2009 when agents received the ATF Form 4473 recording the purchase. This is documented in ATF ROI # 46. As of this date, these five AK-47 type rifles have not been recovered.

On December 17, 2009, this AUSA, ATF Group Supervisor ATF and ATF Special Agent ATF met with ATF had been providing information to ATF on large firearms purchases, including large purchases of (only) long guns which do not trigger any multiple purchase reporting requirements. This information was being provided voluntarily and without compensation from ATF. ATF had expressed concerns about the cooperation he was providing and whether he was endangering himself or implicating himself in a criminal investigation.

ATF was advised by the agents and this AUSA that they could not tell him who he could or could not sell to and that they could not instruct him to make a sale in violation of the law or to refuse to

make a lawful sale. He was advised by the agents that as an FFL he has to comply with all of the statutes and regulations that govern the sale and transfer of firearms and cannot sell firearms unless the required paperwork and background check were completed. As long as the required forms were properly filled out and the FFL did not know or have a reason to know that the firearms were part of a straw purchase or intended to be used in a crime, that he could complete the transfer. [REDACTED] was also told by the agents and this AUSA that the information he provided to ATF regarding large firearms transactions, particularly sales involving only long guns, was very important and useful to ongoing ATF investigations.

During this meeting, ATF agents also described additional information that [REDACTED] employees might receive from purchasers which would not necessarily be required by the provisions of Chapter 44 of Title 18 to be kept in his records, but which would prove useful to ATF. This information included phone numbers or other contact information as well as license plate numbers and vehicle descriptions. As of the date of this meeting, [REDACTED] was already providing this type of information to ATF and continued to do so throughout the course of the investigation.

On January 9, 2010, [REDACTED] ATF purchased three (3) FN Herstal Five-Seven pistols from FFL [REDACTED]. [REDACTED] ATF was not advised of this purchase by the FFL, however, on January 14, 2010, these firearms were entered into the suspect gun database by ATF Phoenix. These firearms were discovered by law enforcement on January 14, 2010, in Columbus, New Mexico, but were not traced and were returned to person carrying them. ATF Phoenix was not notified of this law enforcement contact until May 17, 2010. ATF ROI #254.

On January 14, 2010, in Columbus, New Mexico, (a border town), U.S. Border Patrol agents pulled over a vehicle driven by [REDACTED] with passenger [REDACTED], due to suspicious driving behavior. In the vehicle they found three AK-47 type rifles purchased by [REDACTED] ATF three FN Herstal Five-Seven pistols purchased by [REDACTED] ATF on January 9, 2010, from FFL [REDACTED] and two Ruger pistols purchased by another. U.S. Border Patrol agents did not observe any other criminal conduct and so returned the firearms to the occupants of the vehicle. They did not trace any of the firearms. ATF Phoenix was notified of the observation of the firearms on May 17, 2010, after ATF Las Cruces forwarded information in connection with a firearms trafficking investigation in New Mexico involving [REDACTED] and others. The investigation of [REDACTED] is still on going, [REDACTED] and must be viewed as close-hold.

On January 16, 2010, [REDACTED] ATF purchased the three ROMARM WASR-10 AK-47 type rifles, Serial Numbers 1971CZ3775 and 1983AH3977 as well as 1979IS1530. As detailed above, ATF was not notified of this purchase until January 19, 2010. This notification came only through the cooperation of the FFL as this long gun only purchase would not trigger any affirmative reporting requirements. ATF ROI #67.

On December 15, 2010, [REDACTED] ATF, was arrested for using a false address on the ATF Form 4473 on June 15, 2010. A complaint was filed on December 16, 2010, and he was indicted on January 11, 2011, for making false statements in connection with the acquisition of a firearm. On January 19, 2011, he was indicted as part of the overall Fast and Furious conspiracy.

Agents were able to determine that when [ATF] purchased firearms on June 15, 2010, that he no longer lived at the [REDACTED] address listed on the ATF Form 4473 and his drivers license. His drivers license was changed in August of 2010, to reflect a different address. In the course of his post arrest interview in December 2010, he admitted that he had not lived at the [REDACTED] address for two or three years. However, earlier in the investigation, agents had no reason to believe that this was not his address because his drivers license and the registration to the car that he was driving came back to the [REDACTED] address. See ATF ROI #12.

On March 1, 2010, [ATF] purchased one FN Herstal Five-Seven pistol from [REDACTED] in a single-firearm transaction. On or about March 3, 2010, this pistol was recovered by Phoenix Police in connection with a drug house in Phoenix. This was the first actual recovery of a firearm purchased by [ATF] ATF ROI #107 and 156.

ATTACHMENT 6

Statement of Senator Charles E. Grassley
Before the United States
House of Representatives
Fast and Furious
June 15, 2011

Thank you, Chairman Issa, for calling these important hearings and for the great work you and your staff have done. I am grateful to Agent Brian Terry's family for being here today and wish to express my sympathies for their loss. I hope we can get them the answers they deserve. I also want to thank the federal agents who will be testifying from the Bureau of Alcohol, Tobacco, and Firearms. I know they are here to tell the unvarnished truth. I also know that can be tough, since they still work for ATF. These agents already risk their lives to keep us safe. They shouldn't have to risk their jobs too. *Any* attempt to retaliate against them for their testimony today would be unfair, unwise, and unlawful.

When I became Ranking Member of the Judiciary Committee in January, this was the first oversight issue to land on my desk. Several other Senators' offices contacted my office to pass along these allegations about an ATF case called "Operation Fast and Furious." At first, the allegations sounded too shocking to believe. But sadly, they turned out to be true.

ATF is supposed to *stop* criminals from trafficking guns to Mexican drug cartels. Instead, ATF made it *easier* for alleged cartel middlemen to get weapons from U.S. gun dealers. Agents were ordered to stand by and watch these middlemen — these straw purchasers — buy *hundreds* upon *hundreds* of weapons. Agents warned that inaction could lead to tragedy, but management didn't want to listen. We will hear from some of those agents today.

Inaction would be bad enough, but ATF went even further.

ATF *encouraged* gun dealers to sell to straw buyers. Emails prove that at least one dealer worried prophetically about the risk.¹ He wrote to ATF about his concern that a border patrol agent might end up facing the wrong end of one of these guns.² ATF supervisors told the dealer not to worry. So, the *agents* said it was a bad idea. And, the *gun dealers* said it was a bad idea.

Who thought it was a good idea? Why did this happen?

The President said he didn't authorize it and that the Attorney General didn't authorize it. They have both admitted that a "serious mistake" may have been made. There are a lot of questions, and a lot of investigating to do. But one thing has become clear already — this was *no mistake*.

¹ Email from Cooperating FFL to ATF Group VII Supervisor [ATF], Jun. 17, 2010 (Attachment 1).

² *Id.*

It was a conscious decision by senior officials. It was written down. It was briefed up to Washington, D.C. According to an internal briefing paper, Operation Fast and Furious was intentionally designed to “*allow the transfer of firearms* to continue to take place.”³

Why would the ATF do such a thing?

Well, the next line in the brief paper tells us. It was, “to further the investigation and allow for the *identification of additional co-conspirators*.”⁴ So, that was the goal. The purpose of allowing straw buyers to keep buying was to find out who else might be working with them — who else might be in their network of gun traffickers. Of course, that assumes that they are part of a big, sophisticated network. That kind of assumption can cause you to start with a conclusion and work backwards, looking for facts that fit. Until you figure out that you’ve got the cart before the horse, you’re probably not going to get anywhere.

Professor of Criminology Gary Kleck recently published an article in the *Wall Street Journal* called “The Myth of Big-Time Gun Trafficking.”⁵ Professor Kleck said that according to his study of national crime data, ATF handles *only about 15* operations each year that involve more than 250 guns.⁶ According to his study, a typical trafficking operation involves *fewer than 12 guns*.⁷

So why would the ATF make it a priority to identify large networks of traffickers? Why would senior leadership decide to explicitly elevate that goal above ATF’s traditional work of seizing weapons that were illegally purchased?

On October 26, 2009, emails indicate that there was a meeting of senior law enforcement officials at the Justice Department.⁸ It appears to have included the heads every law enforcement component of the Department, including directors of the FBI, the DEA and the ATF.⁹ It also included the U.S. Attorneys for all the Southwest border states, the Director of the Organized Crime Drug Enforcement Task Force, and the Chair of the Attorney General’s Advisory Committee.¹⁰

Sounds like a pretty big, important meeting, doesn’t it?

On the agenda at that meeting was a document describing the Department’s strategy for combatting the Mexican cartels. In a section called “Attacking the Southbound Flow of Firearms,” it says:

³ Bureau of Alcohol, Tobacco, Firearms and Explosives, “Briefing Paper, Phoenix Field Division – Phoenix Group VII (SWB Group)” (Attachment 2).

⁴ *Id.*

⁵ See Gary Kleck, *The Myth of Big-Time Gun Trafficking*, WALL ST. J., C2, May 21, 2011 (Attachment 3).

⁶ *Id.*

⁷ *Id.*

⁸ Email from [Admin. Assistant] to Lanny Breuer, et. al, Oct. 26, 2009 (Attachment 4).

⁹ *Id.*

¹⁰ *Id.*

Thus, given the national scope of this issue, merely *seizing firearms through interdiction* will not stop firearms trafficking to Mexico. We must *identify, investigate, and eliminate* the sources of illegally trafficked firearms and *the networks* that transport them.¹¹

The message was clear. Trying to identify networks of traffickers is more important than seizing weapons. This document was transmitted to the head of the Phoenix Field Division on October 27, 2009.¹²

Four days later, the Phoenix Field Division began investigating [ATF] on suspicion of being involved in a gun trafficking ring. Ten days after that, [ATF] was assigned his own case number. In the first 24 days that the ATF was on to him, [ATF] bought 34 guns from dealers cooperating with the ATF. That's nearly three times more than the typical gun trafficking operation, according to the study in the *Wall Street Journal* I mentioned earlier.

But that was just the beginning.

Since the dealers were cooperating, ATF received notice of each purchase right away. Analysts entered the serial numbers into ATF's Suspect Gun Database, usually within days of the purchase. On November 20th, one of the 34 guns [ATF] bought turned up in Mexico — just 14 days after he bought it in Phoenix. ATF learned of the recovery through a hit in the suspect gun database on November 24th.¹³ That same day, [ATF] brought [ATF] into a cooperating gun dealer and they bought five more guns.¹⁴ ATF had real-time notice from the dealers and agents rushed to the store to follow them, but arrived too late.

Over the next six weeks, [ATF] bought 13 guns at dealers cooperating with the ATF.¹⁵ The dealers notified the ATF of each purchase right away. Analysts entered the serial numbers into the ATF database, usually within about 2 days of the purchase.

Yet ATF did nothing to deter or interrupt the straw purchasers. [ATF] went back to the cooperating dealer and purchased three more AK-47-type weapons on January 16, 2010.¹⁶ ATF simply put the serial numbers in its database. Still, ATF did nothing to stop [ATF]

11 months later, two of those three rifles were recovered at the scene of Agent Terry's murder.¹⁷ During those 11 months, [ATF] purchased another 34 firearms. [ATF] purchased [ATF]

¹¹ Department of Justice Strategy for Combating the Mexican Cartels, p.6 (Attachment 4).

¹² Email from Raymond Rowley to William Newell, Oct. 27, 2009 (Attachment 4).

¹³ Bureau of Alcohol, Tobacco, Firearms and Explosives, "Firearms Trace Summary," Nov. 24, 2009 (Attachment 5).

¹⁴ See Bureau of Alcohol, Tobacco, Firearms and Explosives, "Multiple Sale Summary," Nov. 24, 2009; see also Bureau of Alcohol, Tobacco, Firearms and Explosives, "Suspect Gun Summary," Nov. 25, 2009 (Attachment 6).

¹⁵ See Bureau of Alcohol, Tobacco, Firearms and Explosives, "Suspect Gun Summary," Nov. 24, 2009 (Attachment 6); see also Bureau of Alcohol, Tobacco, Firearms and Explosives, "Suspect Gun Summary," Dec. 12, 2009 (Attachment 7); see also Bureau of Alcohol, Tobacco, Firearms and Explosives, "Suspect Gun Summary," Jan. 09, 2010 (Attachment 8).

¹⁶ See Bureau of Alcohol, Tobacco, Firearms and Explosives, "Suspect Gun Summary," Jan. 19, 2010 (Attachment 9).

Again, cooperating gun dealers *notified ATF of each purchase*. It usually took about 5 days to enter the serial numbers into ATF's database. But ATF often had real-time or even *advanced* notice of the purchases from the dealers.

ATF even specifically *approved* particular transactions.

For example, in August of 2010, a gun dealer cooperating with the ATF asked for guidance. [ATF] wanted 20 more weapons, but the dealer only had 4 in stock.¹⁸ The dealer told ATF that if he were to sell the guns, he would have to "obtain the additional 16 specifically for this purpose."¹⁹ An ATF supervisor wrote back, "our guidance is that we would like you to go through with [ATF] request and order the additional firearms[.]"²⁰ At this point, ATF *already knew* that he bought 673 guns from cooperating dealers and that many had already been recovered at crime scenes. I want to be clear that we don't know whether this particular order was actually filled.²¹

However, these new emails support what agents and dealers have been telling us for months. According to them, dealers notified ATF when *any* of the straw purchasers bought guns — either before, during, or shortly after the sale.

We don't know what the exact totals are. But, we know the Suspect Gun Database had at least 1,880 guns related to this case.²² At least 30 of them were high-power, .50 caliber rifles.²³ The straw purchasers bought 212 guns in just *six days* in December 2009.²⁴ 70% of all the guns in the database were bought by just 5 straw purchasers.²⁵ If ATF agents had been allowed to stop just those five buyers, most of the guns in this case would not have fallen into the wrong hands.

Finally, I want to say something about the politics of gun control. This investigation *is not* about politics. It is about getting the facts. No matter what side of that issue you are on, the facts here should be disturbing. There will be plenty of time for both sides to argue about policy implications of all this at some point. But I hope we can do that another day.

¹⁷ See Email from REDACTED to ATF Group VII Supervisor [ATF], Dec. 15, 2010 (Stating "[t]he NTC further advised that on 01/16/10 [ATF] purchased three Romarm 7.62 rifles..., *two of these firearms are the recovered firearms cited above*") (emphasis added) (Attachment 10); see also Bureau of Alcohol, Tobacco, Firearms and Explosives, "Significant Information Report, Arrest of [ATF]" (declaring two of the AK-47 rifles purchased by [ATF] on January 16, 2010 were recovered at the scene of the shooting death of Brian Terry on December 15, 2010) (Attachment 11).

¹⁸ Email from Cooperating FFL to ATF Group VII Supervisor [ATF] Aug. 25, 2010 (Attachment 12).

¹⁹ *Id.*

²⁰ Email from ATF Group VII Supervisor [ATF] to Cooperating FFL, Aug. 25, 2010 (Attachment 12).

²¹ Email from Cooperating FFL to ATF Group VII Supervisor [ATF] Aug. 26, 2010 (Attachment 12).

²² Senator Charles E. Grassley, "The Department of Justice's Operation Fast and Furious," Before the U.S. House of Representatives Committee on Oversight and Government Reform, Jun. 15, 2011, slide 8 (Attachment 13).

²³ *Id.* at slide 9.

²⁴ *Id.* at slide 10.

²⁵ *Id.* at slide 11.

Today is about these agents not being allowed to do their job. Today is about the Terry family and their search for the truth. Too often, we want to make everything about politics. We pick sides and only listen to what we want to hear. At least for today, let's just listen to what these agents and this family has to say. Let's hear their stories. Then let's work together to get answers for this family and the other families who may have suffered. It's time to get to the truth and hold our government accountable.

Attachments:

- Attachment 1 – Email re Cooperating FFL Concerns to [ATF]
- Attachment 2 – ATF Briefing Paper
- Attachment 3 – Gary Kleck WSJ Article
- Attachment 4 – DOJ Strategy Combating Mexican Cartels and Related Emails
- Attachment 5 – Nov. 24, 2009 Firearm Trace for [ATF] Purchased
Gun Recovered on Nov. 20, 2009
- Attachment 6 – SGS for [ATF] Purchase of 5 Guns on Nov. 24, 2009 and MMS for [ATF]
Purchase of 5 Guns on Nov. 24, 2009
- Attachment 7 – SGS for [] Purchase of 5 Guns on Dec. 12, 2009
- Attachment 8 – SGS for [ATF] Purchase of 3 Guns on Jan. 09, 2010
- Attachment 9 – SGS for [] Purchase of 3 Guns on Jan. 16, 2010
- Attachment 10 – Email to ATF Group VII Supervisor [ATF] re: Terry Shooting and [ATF]
Connection to Guns Found at Scene
- Attachment 11 – Suspect Incident Report re [ATF] Arrest
- Attachment 12 – Cooperating FFL and [ATF] emails re [ATF] Purchase of 20 Guns
- Attachment 13 – Senator Grassley Presentation