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OPERATION SOMETHING BRUIN

HEARING

BEFORE THE

SUBCOMMITTEE ON
GOVERNMENT OPERATIONS

OF THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES

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OPERATION SOMETHING BRUIN

Friday, June 19, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:07 a.m., in the Historic Haywood County Courthouse, 215 North Main Street, Waynesville, North Carolina, Hon. Mark Meadows [Chairman of the Subcommittee] presiding.

Present: Representative Meadows.

Also Present: Representatives Duncan and Collins.

Staff Present: Melissa Beaumont, Ryan Hambleton and Jeffrey Post

Mr. MEADOWS. The Subcommittee on Government Operations will come to order and without objection, the Chair is authorized to declare a recess at any time.

Before I give my opening statement, if indeed you have to take a cell phone call, we ask that you would step outside and that you move not just outside the room there. The acoustics can be very bad sometimes, so we can actually hear your conversation. So if you have got to have a conversation or a cell phone call, we ask that you move out and kind of down onto the landing outside this particular facility.

Good morning to everyone. I am excited to be here in a field hearing here in Waynesville, at the historic Haywood County Courthouse. In order for this to happen, we had to rely on people here in the county. And it is my great honor to thank Sheriff Christopher and his team and the courthouse staff here. They have been great. I want to not only sincerely thank them for their assistance, but truly for their service to the public each and every day. I also want to thank the public, all of you, for coming out. I hope that you will find that this is a valuable investment of your time and shine some light on a situation. We have a great crowd here, I am very grateful that you would come out.

I also want to mention that this is a honest-to-goodness Congressional hearing and just like the ones we would have in Washington, D.C. Because of this, we need to treat it like one and so we will have two panels of witnesses. Our first panel is here already. We have members of Congress that are here today. They will have a chance to ask them questions. But this is not really a town hall and so unfortunately, we are not going to have time for, you know, opinions to be given from the audience. It is not a forum like that. Hopefully we will be able to ask questions and have the responses.

If you have a burning question that you want to get asked, that you feel like has not been asked, we will actually hold the record open where either Congressman Duncan or Congressman Collins or myself can actually work together to make sure that those questions are asked for the record.

So I would appreciate your cooperation. Even though this can be a very contentious and emotional issue, I ask that you show the rest of the world the kind of Southern hospitality that we are used to here in the mountains of western North Carolina.

Perhaps the best thing about holding a field hearing is that it gives Congress a chance to look at things that have happened outside of that beltway in Washington, D.C. You know, there are a lot of things that happen on the national news and yet Operation Something Bruin is a good example of something that has happened here in western North Carolina and north Georgia.

As many of you are familiar, back in the 1980s, the federal and state authorities undertook Operation Smoky that stopped some illegal, at that point, harvesting of black bears in and around the Great Smoky Mountain National Park. That was a successful operation that caught a lot of people that were indeed breaking the law.

However, about five years ago, many of these same agencies began investigating bear poaching again. A new operation was begun lasting from 2009 through 2013 that covered western North Carolina and northern Georgia. It primarily involved the U.S. Forest Service, U.S. Fish and Wildlife, the Georgia Department of Natural Resources and the North Carolina Wildlife Resource Commission. It was named Operation Something Bruin. We are joined by representatives of each of these agencies here today. I want to thank them for their time that they came to appear here. But before I continue, I want to make a few things clear.

First, I support our law enforcement officers, both state and federal. In particular, I want to thank them for their role in protecting not only lands and wildlife but the people that they serve. And in some cases, their work can be dangerous as has happened even recently over in Henderson County, their work can be very dangerous. And so I appreciate their willingness to endure all those things and the dedication that they show to do that.

I also want to take a moment to recognize the hard work of the state and federal prosecutors who try the cases brought before them by the law enforcement officers. They are all keeping us safe and protected and in this particular case trying to protect our lands and wildlife.

And finally, there have been many instances in the case of Operation Something Bruin where real crimes were committed and these people need to be punished. We have laws for a reason, we have a criminal justice system that enforces these laws, and those are good things.

With this said though, I do believe that some of the conduct of Something Bruin needs to be examined. Over the last few years, there has been a tremendous amount of media coverage on how this operation was handled. We will hear from witnesses today and their representatives about the specifics. However, over the years, I have heard complaints about arrestees being entrapped, other coerced, and charges of the arrestees being taken into custody in an

extremely aggressive fashion. I have heard about defendants receiving extremely harsh punishment for petty crime offenses and undercover officers essentially committing most of the hunting violations.

I hope that this morning we can shed some light on how this state-federal operation was held. Moreover, if we can find things that were not handled properly, I plan on working to improve the system and prevent mistakes like this from happening again in the future.

Now I am pleased today to be joined by some of my colleagues that are not just colleagues, but friends. Congressman Jeff Duncan from the great state of South Carolina—and I would like to say our hearts and prayers are with you and your state mourning the loss in this tragic event that just happened. But I want to thank Congressman Jeff Duncan for being here.

And my good friend Congressman Doug Collins of Georgia was willing to come up today. Some of this happened actually in his particular district as he represents much of the mountainous area of northeast Georgia I guess officially.

So, without objection, they are welcome to fully participate in today's hearing. I recognize Congressman Duncan for an opening statement.

Mr. DUNCAN. Well, I thank Congressman Meadows for inviting me to participate. Just since I learned about Operation Something Bruin, there are a number of questions that I hope to get answered by participating today both from panel one and panel two.

I sit on the Natural Resource Committee, I also sit on Homeland Security and Foreign Affairs. Lacey Act issues and Natural Resources, Forest Service and U.S. Fish and Wildlife Service jurisdiction falls under Natural Resources, so I am very interested in this. I appreciate the Congressman also recognizing South Carolina at this very difficult time for our state with the tragic loss of life, and I would ask everyone to please continue to lift my state, the City of Charleston, and the folks at Emanuel AME Church in your prayers.

And with that, I yield back.

Mr. MEADOWS. Thank you. The Chair recognizes the gentleman from Georgia, Mr. Collins.

Mr. COLLINS. Well, thank you, Mr. Chairman. I appreciate that, and it is a pleasure to be up here across border. We share this border and I think it is one of the reasons people when they come here, they stay here, because this is great for North Carolina and Georgia, as we have a great part. And of course, my friend from South Carolina, we share another border. So we have got this area pretty well covered and again, the prayers of many go to South Carolina during this time.

Mr. MEADOWS. It is God's country.

Mr. COLLINS. There you go, amen.

I just want to say thank you for the hearing and also today we are going to be hearing from a couple of folks from my part of the world, my constituents, Mr. Stockton, Mr. Adams as well. And I am pleased to be a part of this also, from what we have seen so far and from my personal experience with the Georgia DNR has been

excellent, it always has been from my time in the state legislature and I think we will see that again today.

But I think there are a lot of questions that, you know, it does deserve a hearing and what you said, Mr. Chairman, was dead on, being outside the beltway, letting people see not only what we do, but also letting you know that the government—this is the checks and balances that we have, this is the Congressional oversight. This is exactly what we are supposed to be doing.

And serving on Judiciary Committee and the Rules Committee and also being on OGR with you for a couple of years as well, it reminds us that is the part that I believe frankly has been forgotten in Congress many times, is that one of our main roles is oversight of how our tax dollars are spent and how our government operates. So I am looking for to the testimony and the questions.

With that, Mr. Chairman, I yield back.

Mr. MEADOWS. I thank you.

I will hold the record open for five legislative days for any member who would like to submit a written statement further than where we are right now.

We will recognize the first panel of witnesses. I am pleased to welcome several attorneys who have all represented Operation Something Bruin defendants. Mr. Russell McLean, Mr. Allyn Stockton and Mr. Stiles is not joining us today, but I would also like to welcome Mr. Charles Anthony Smith. Mr. Smith was acquitted of charges relating to Operation Something Bruin.

We thank each of you for being here with us today and look forward to your testimony. We welcome all of you.

Pursuant to committee rules, witnesses will be sworn in before they testify, do I would ask you to please rise and raise your right hand.

[Witnesses sworn.]

Mr. MEADOWS. Please take your seat. Let the record reflect that all witnesses answered in the affirmative.

In order to allow time for discussion, we would ask that you would try to limit your testimony, your oral testimony, to five minutes. But your entire written statement will be made part of the record.

So we will go to our first witness, Mr. McLean, if you will give us your opening statement.

WITNESS STATEMENTS

STATEMENT OF RUSSELL McLEAN

Mr. MCLEAN. Thank you for this opportunity to speak today.

Two hundred and thirty plus years ago, the American colonies secured their independence from the yoke of tyranny from the British Crown. The colonies set up a Constitutional Convention to create a document establishing our experience in a free constitutional government. Mr. James Madison was appointed to draft that document. Madison sent a copy of that document to Thomas Jefferson who stated that we must have a Bill of Rights attached, which would establish our inalienable rights as given to us by our Creator, to be free from government interference. Madison responded

to Jefferson stating that the Constitution is such a limiting document that it would not be necessary to have that Bill of Rights.

On March the 19th of 1787, Jefferson wrote back to Madison saying that the reasons we have to have a Bill of Rights is not to protect Americans from the abuses of legislative action, but to protect our citizens from the abuses of judicial discretion.

After the Constitution was adopted along with the Bill of Rights, Madison thanked Jefferson for his insistence on adopting that Bill of Rights.

Two hundred years later, the United States Supreme Court has determined that the plain language of Article III, Section 2 of the Constitution and the Sixth Amendment of the Bill of Rights does not provide a defendant with the right to a jury trial if the criminal charges only imprisons a person for six months or a fine of $5000. The Court further held that that was not a substantial deprivation of freedom or property.

In 1996, the Supreme Court further held that multiple six months' charges would not entitle a person to a right to a trial by jury. The Court was wrong. And only Congress can correct this abuse of judicial discretion. No man should be imprisoned, not even for a day, unless he is convicted by a jury of his peers.

When the federal courts can impose multiple petty offenses exposing persons to months or even years of imprisonment, we must act to preserve the integrity of the judicial system so that citizens once again will expect to be treated not with tyranny, but with the grand experiment that our founding fathers envisioned.

Another area of great concern to Congress should be the abuse of executive authority given to the federal and state agencies to conduct illegal covert operations with impunity. Operation Something Bruin is a prime example. Some of our federal courts have recognized this abuse of power and Judge Sanborn said, and I quote, "The first duty of an officer of the law is to prevent, not to punish crime for the sole purpose of prosecuting it." In the present case, the chief endeavor was to cause and create crime in order to punish it, and this is unconscionable and contrary to public policy. When the criminal design originates in the mind of government officials, the government is estopped from sound public policy from prosecution. Our Supreme Court in 1958 held that public confidence in the fair and honorable administration of justice is the transcending value at stake. And the court further held that in the area of impermissible police conduct, the protection of our functions and the preservation of the purity of its own temple belong only to the court and it is the province of that court to protect itself and the government from such prostitution of criminal law.

In recent years, our district courts have held that the function of law enforcement is the prevention of crime and the apprehension of criminals. Manifestly that function does not include the manufacturing of crimes. The courts have held that it is not the role of the judicial branch to rubber stamp whatever imaginative devices agencies dream up. It is the duty of the courts to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all of the reservations of the particular rights and privileges amount to nothing. And that is quoting Alexander Hamilton in the Federalist Papers at page 78.

These reverse sting operations transcends the bounds of due process and makes the government the oppressor of the people. A review of these cooperative agreements in this case you will be presented with and have been presented with show that it was not until after the investigation of these men that these documents were ever even signed. The operation was conducted for four years without a specific inter-agency agreement between the federal and state agencies and there is nothing in these agreements that authorize or allow the federal or state agencies to engage in the multitude of crimes that these undercover officers committed.

Thank you.

[Applause.]

Mr. MEADOWS. Thank you, Mr. McLean.

I would ask—you know, as much as you may agree, I am going to need to ask you to silently shake your head instead of doing applause because this is—it would not be condoned in D.C. and I cannot condone it in Haywood. And so, if you would do that. You can just kind of do the nod. All right? And I will make sure that we recognize that.

Mr. Stockton, you are recognized for five minutes.

[Prepared statement of Mr. McLean follows:]

McLean

- Constitutional Right to a Jury Trial
- Petty Offenses - including multiple charges still denies trial by jury
- Lacey Act was amended to add that Guiding Services give rise to Lacey violation providing if one is guiding; it increases punishment to 8 points, where Lacey violation is only 6 points (for sentencing purposes).
- Violation of specific Inter-Agency Agreement – signed after all Undercover Ops completed
- No authority to violate State or Federal Law
- Constitutional protection from Law Enforcement

STATEMENT OF ALLYN STOCKTON

Mr. STOCKTON. Congressman Meadows, thank you so much. I can remember—I cannot remember what small town it was, I do not know if it was Bryson City or Robbinsville or whatever when I first met you, but you have talked straight to us ever since then. You said, "I am going to do this" and I did not really believe you to begin with, but you followed up on what you said you would do and I appreciate it. You were also very candid with us, you said, "Look, I know all these folks are not lily white." You told some personal examples and everything and you were exactly right.

This is not a situation where you have a mass of innocent lily white people that were falsely accused of stuff. What Operation Something Bruin is in a nutshell though is probably the largest mass misdemeanor operation in the history of law enforcement. I have never seen so much invested in a crime which our society and our laws holds at the lower end of the spectrum.

This was a situation where—and just to give some background, I have a client right now on death row. I have had clients tried in the federal courts for major drug trafficking operations. I have never seen the amount of law enforcement effort expended on any of these cases that I have seen on Operation Something Bruin. And my experience with Operation Something Bruin involved three clients. One of them was absolutely innocent. She is a mid-40s accountant. She happened to be dating a person who was a target of the investigation in Georgia, although that person—he is here today, Edsel Brent Thomas, his part of the investigation had nothing to do with North Carolina, had nothing to do really with bears. And basically what it involved—and I will also say, it is in my statement—he has one arm—it involved him riding around with two undercover agents, one of which was a North Carolina law officer, undercover wildlife officer, the other was a Forest Service officer for North Carolina. Riding around at night shooting deer with a spotlight. My understanding is five were taken, only one by Mr. Thomas, the others were taken by the undercover officers. Keep in mind, Mr. Thomas has one arm, it is impossible for him to both hold the light and shoot a deer at the same time.

That said, you brought up Operation Smoky. That was a legitimate, apparently, operation. I remember that, I was a much younger person. There was apparently trafficking in bear parts and so forth. Fortunately, with the advent of Cialis and Viagra, we do not have the market for bear gall bladders any more. That is no longer something that can be marketed or is marketed. But nevertheless, that is something that was used as the impetus for this operation. If you look at all the different press releases and the justification behind this, it was we need to stop this organized commercial bear hunting and selling of bear parts and so forth.

And respectfully, that is not what Operation Something Bruin showed. Operation Something Bruin—basically what it showed was the investigation wound up exceeding its authority and its mission. There were no—not one instance I am aware of, of any bear part or animal part being sold or even discussed. There were no felony convictions whatsoever arising out of this and there was no evidence of organized poaching. Clearly there were some misdemeanors committed in this. Most of them, I would submit were

instigated by law enforcement. Not just instigated but actually committed by law enforcement, and the people that were with them got painted with the same brush as the officer committing the crime should have been painted with. One in particular who is here today, Chad Crisp, was not even a target of Operation Something Bruin when they conceptualized it. They came up with him when they went to a convenience store and said we want to go bear hunting, who is somebody we could talk to.

So respectfully—I have said this before—it was more of a solution in search of a problem. There was not the problem with the bear poaching that was portrayed when Operation Something Bruin came about. And I echo Congressman Collins' statements about the Georgia DNR. In my limited dealings with this, the Georgia DNR were not the problem. Of course, that is just my limited dealings with this. Most of what I saw were at the federal and the North Carolina state level. But those were my cases though. I am sure there were problem with Georgia DNR maybe on some of the other cases, but not in mine.

As Mr. McLean said—and I will end with this—probably if anything can come out of this, I would hope that maybe at one point in time, someone like Chad Crisp, who is facing a 20-month sentence, will be entitled to a jury trial for that. He was not allowed a jury trial and his case was at the federal district level and was removed—after he was acquitted on the first felony charges, they removed it, put it in the federal magistrate court because they knew he would not get a jury trial and they knew he would get loaded up on time. If anything could happen, I would like to see something be addressed so we have that right.

Thank you.

Mr. MEADOWS. Thank you, Mr. Stockton.

Mr. Smith, you are recognized for five minutes.

[Prepared statement of Mr. Stockton follows:]

WRITTEN TESTIMONY OF
L. ALLYN STOCKTON, JR.

I have personally represented three separate individuals in various courts for charges arising out of "Operation Something Bruin".

I represented Walter Cale Stancil (Cale) for misdemeanor charges he was accused of in the Superior Court of Rabun County, Georgia. Cale was also charged with misdemeanor offenses in the State Courts of North Carolina. Because I am not a licensed attorney in the State of North Carolina I assisted a North Carolina attorney with Cale's representation. Cale was also indicted in federal court on felony charges in Asheville, North Carolina. I did not represent Cale on his federal felony North Carolina charges.

I have represented Walter Henry Stancil (Walt) for misdemeanor charges he was accused of in the Superior Court of Rabun County, Georgia. Walt was also charged with misdemeanor offenses in the State Courts of North Carolina. Because I am not a licensed attorney in the State of North Carolina I assisted a North Carolina attorney with Walt's representation. Walt was also indicted in federal court on felony charges in Asheville, North Carolina. I represented Walt on his federal felony charges in Asheville, North Carolina after first being admitted to practice in that court pro hac vice and later being "specially admitted" to practice in that court.

I have also represented Cynthia Parker Clanton in the Superior Court of Lumpkin County, Georgia where she was charged with four misdemeanor violations of the law.

During my representation of these three individuals it became clear that although some of my clients may have been culpable of misdemeanor infractions of the law, by and large these infractions were induced by law enforcement and the majority of illegal conduct in "Operation Something Bruin" was committed by undercover government actors.

At no time during my representation of these individuals have I discovered anything that should be classified as a felony offense. To the contrary, the facts in these cases have shown that the government has grossly stepped outside of its law enforcement function and has become the primary criminal offender in an effort to entrap citizens into technical crimes which subject them to felony liability. In several instances, the government officers in "Operation Something Bruin" have preyed upon the emotions, sympathy and kindness of individuals in order to tempt them into committing crimes.

In situations such as the case of Cynthia Parker Clanton, the government simply charged her with crimes in order to put pressure on her then boyfriend and co-defendant. Cynthia Parker Clanton is an accountant in her mid-40s who had never owned a gun, never been arrested and had never hunted. Her entire involvement with "Operation Something Bruin" was having the misfortune to ride in a pickup truck with her then boyfriend, Edsel Brent Thomas. At no time did Cynthia Parker Clanton commit any crimes or conspire to commit any crimes. It was not until I filed a demand for speedy trial that her case was dead docketed on the eve of jury seclection on March 25, 2014.

Ironically, the investigation of Cynthia Parker Clanton's boyfriend did not reveal any crimes concerning black bears. In a nutshell, this investigation consisted of North Carolina Conservation Officer Chad Arnold and United States Forest Service Special Agent Brian Southard traveling to Georgia and riding around at night with Edsel Brent Thomas spotlighting and killing white tailed deer. According to my information, there were a total of five deer illegally killed during these spotlighting trips. One of the deer was killed by Edsel Brent Thomas and the other four deer were killed by the undercover officers.

It is important to note that Edsel Brent Thomas has only one arm and is incapable of both holding a spotlight and shooting a rifle at the same time. Furthermore, according to Edsel Brent Thomas, the undercover officers purchased the spotlight, provided him with alcohol, and drove around at a time when Edsel Brent Thomas was intoxicated with a rifle, hunting for deer illegally at night.

In Cale's case, his state charges in North Carolina were dismissed by the prosecution. His felony federal charges in North Carolina were dismissed in exchange for his plea to two counts of "removing bear from over bait" in Rabun County, Georgia.

Cale is the son of Walt. Cale is a 42-year-old ordained Baptist minister and prior to "Operation Something Bruin" had never even had a speeding ticket in his life.

In Walt's case, his state charges in North Carolina were dismissed by the prosecution. Walt went to trial before a jury in federal District Court in Asheville, North Carolina and was acquitted of the felony charges against him. Walt was convicted during that trial of the misdemeanor charges that he admitted to and is currently awaiting sentencing.

The facts concerning the felony case for which Walt was tried are as follows:

Officer Chad Arnold (Arnold) had been hunting with co-defendant Jerry Parker. Jerry Parker informed Arnold that his dogs had been worn out from the previous days of hunting and needed a rest. Jerry Parker told Arnold that Walt had a bear that was coming into a cornfield in Georgia and he could go hunt the cornfield for that bear.

Arnold called Walt and told Walt that Jerry Parker had said that Walt had a "problem bear". Walt was clearly confused at first but then stated "I know where one is, I think". Walt gave Arnold directions to his house and then drove Arnold to a location where he let him out with instructions of where to go to wait on the bear.

It is important to note that the area in which Walt had taken Arnold was an area Walt had been legally maintaining a bear bait for many years for dog training purposes. By permitting someone to hunt in the baited area, the bear bait became unlawful.

Walt explained to Arnold that there was a very large bear coming to that area but there was also a sow with two cubs coming to that area and that Arnold should not shoot the sow or the cubs. Notwithstanding these instructions, Arnold proceeded to kill a 200 pound sow black bear.

By permitting Arnold to hunt an area which had been baited for bears, Walt committed the misdemeanor Georgia offense of "unlawful use of bear bait". Walt was charged in Rabun County Superior Court for this misdemeanor offense (these charges will now be dropped because Walt was prosecuted for them in federal court). Walt was willing to enter a plea to this misdemeanor offense in Rabun County, Georgia. Unfortunately, the officers and prosecutors involved chose to prosecute him for a felony under the Lacey Act because they contended that Walt knew or should have known that the bear would be used in interstate commerce.

In a related case, Walt was tried before the Federal Magistrate Judge in Asheville North, Carolina and found guilty of the petty offense of "removing property of the United States". Walt was not entitled to a jury trial on this petty offense although he was sentenced to 15 days in jail after the Federal Magistrate Judge found him guilty. The petty offense is currently on appeal to the Federal District Court Judge.

The facts concerning the petty offense are as follows:

United States Forest Service Criminal Investigator Brian Southard became aware of what he believed to be bear baiting sites in Macon County, North Carolina.

One such alleged bear baiting site was located on what is known as the "rough road". The rough road area is located on private property. The private property is a fairly large tract of land. There is only one entrance to the rough road area which is a dead end road.

Officer Southard personally placed a surveillance camera on the rough road site in an attempt to determine who was allegedly placing bait. Although the surveillance camera was the property of the United States Forest Service, nowhere on the camera was there any type of United States Forest Service inventory number, nor is there a way for someone to know whether the camera belonged to the United States Forest Service without opening the camera. If one were looking only at the outside of the camera, there would be no way of determining whether or not the camera belonged to the United States Forest Service or to a trespasser. The camera was not attached to a tree but was laid upon the ground.

The location where the surveillance camera was laid was in a place where no United States Forest Service boundary could be seen and was approximately a quarter of a mile away from any United States Forest Service boundary. The rough road site is accessed from Highway 106. At no time are Federal lands or United States Forest Service lands traversed from the point where one would turn off of Highway 106 and onto the rough road to the place where the subject surveillance camera was laid.

Officer Southard did not have a warrant nor permission to be on the private property where he laid the surveillance camera. Officer Southard did not know who the owner of this private land was.

Prior to December 7, 2012, the surveillance camera had been on the rough road a little over a month. On December 7, 2012, Officer Southard went to the rough road area to perform a routine check on the site. As he was leaving the rough road area and traveling south on Highway 106, Officer Southard drove past Walt just a short distance away from the area where one would turn into the rough road. Officer Southard observed Walt turn into the rough road.

Approximately 15 minutes after viewing Walt turning into the rough road, Officer Southard observed Walt drive out of the rough road and turn south on Highway 106. Officer Southard followed Walt on Highway 106 until Walt turned off at a residence owned by Jack Billingsley. Jack Billingsley's house is located approximately 3 to 4 miles away from the rough road.

Officer Southard returned to the rough road to retrieve his surveillance camera. Upon arriving at the alleged rough road bait site, Officer Southard realized that his camera was gone.

Upon realizing the camera was gone, Officer Southard contacted a Georgia Department of Natural Resources Officer to help him locate Walt. Walt was located and stopped at the bottom of Walt's driveway by two Rabun County deputies.

Walt informed Officer Southard that he initially believed that the surveillance camera belonged to other hunters. Officer Southard searched Walt's vehicle and located the SD card from the surveillance camera. Walt admitted that the SD card came from the subject surveillance camera. Walt admitted that he had hidden the subject surveillance camera after wrapping it in black plastic and placing it underneath a rock alongside a road known as the double gate.

Walt was very cooperative and took Officer Southard to the place where Walt had hidden the subject camera. The camera was in excellent shape when it was retrieved. There were no parts or accessories of the camera that were not recovered by Officer Southard and the camera was not damaged in any way.

Officer Southard testified that he had placed one of his business cards inside of the surveillance camera. The card purportedly contained Officer Southard's name, who he worked for, and his telephone number. On the back of the business card, Officer Southard claims to have hand wrote "property of the United States". Upon being interviewed, Walt told Officer Southard that he never saw the business card. Officer Southard stated that he had no reason not to believe that Walt didn't see the business card other than every time he serviced the camera the card was there.

Upon reviewing the SD card from the subject surveillance camera, Officer Southard observed that on the morning of December 7, 2012 there were photographs of Walt coming to the alleged bait site, photographs from the camera being turned around in different areas, photographs from the camera inside Walt's vehicle, photographs of a couple of different vehicles, and photographs of the area that appeared to be Jack Billingsley's residence.

The surveillance camera can only be disarmed/turned off by opening the camera. Opening the surveillance camera causes it to cease taking pictures. Based upon the continued photography, Officer Southard agreed that Walt never opened nor disarmed/turned off the camera until at least after he had left Jack Billingsley's home.

Notwithstanding the fact that Walt clearly did not understand he had moved property of the United States Forest Service, he was tried without a jury trial and sentenced to serve 15 days in jail. Prior to "Operation Something Bruin", Walt had never been arrested or charged with a crime and had only had one speeding ticket in his life.

It is my firm belief that there is no way that a jury of regular citizens would have convicted Walt for removing a camera that had no business being on private property. Walt should have had the right to a jury trial for any case that could potentially subject him to jail time.

A matter I found particularly troubling during my representation of Walt was the procuring of a federal felony indictment against C.J. Junaluska. Junaluska is a young Cherokee Indian in his mid-20s who hunted with Jerry Parker on occasion. While Chad Arnold was working as an undercover officer hunting with Jerry Parker, he had an occasion to ride in the vehicle with Junaluska. Arnold's report of his time with Junaluska stated *"[w]hile traveling, Arnold stated to CJ that he hoped Parker was paying him well for as much gas as he had burned that day". "CJ replied that Jerry was paying him enough and smiled."*

Based upon this statement in Arnold's report, Junaluska was indicted for a federal felony violation of the Lacey Act. The charges against Junaluska were later dismissed.

It is important to note that Arnold was recording the conversation with Junaluska. The entirety of Arnold's involvement with Junaluska took place in the cab of a pickup truck or just outside of the pickup truck. Every word of Arnold and Junaluska during the entirety of their time together was recorded. After thoroughly reviewing the recordings it is clear that that the conversation stated in Arnold's report never happened. To the contrary, the recording clearly shows that Arnold asked Junaluska if he worked for Parker to which Junaluska replied *"no, I work for tribal construction".*

Also of particular concern to me is the judge shopping by the government in reducing some of the cases arising out of "Operation Something Bruin" to misdemeanor offenses so that the defendants would be tried in Federal Magistrate Court and not be entitled to a jury trial.

Chad Crisp is a is a perfect example of someone who's charges were reduced to misdemeanors in order to thwart his right to a jury trial. Chad Crisp later entered a plea for which he was sentenced to serve 20 months in federal prison. No one should ever be subjected to a prison term of 20 months without having the right to a trial by jury.

STATEMENT OF CHARLES ANTHONY SMITH

Mr. SMITH. Thank you, Honorable Committee.

I am Charles Anthony Smith, one of ten people in Haywood County charged in Operation Something Bruin. I was charged with 17 misdemeanor violations.

In September 2013, I was tried in a special session of district court. After two days of hearings, charges were dismissed due to insufficient evidence.

In other cases, charges against three other people were dismissed due to not having proof beyond a reasonable doubt. And in June, charges against three other men were also dismissed.

During my hearing, evidence presented was a recorded phone call with North Carolina Officer Chad Arnold, who posed as Chad Ryan. The call was about running his dogs on private property in the Silver's Cove fox pen. There was no conversation whatsoever which involve bears. During my hearing, Officer Arnold testified he never saw me at Silver's Cove, nor did he know of my whereabouts or even if I was in the country on the days he was running his dogs. Yet while he released his dogs, he charged me with the violations.

I learned that I was involved in an investigation on February the 20th, 2013. There was a knock at the door. I answered the door and about 15 officers shouted "search warrant." They grabbed me by my arms and pulled me out of the house. Then the officers pushed past me entering the house with assault rifles wearing bulletproof vests. One officer had a handful of papers but he did not take the time to show them to me. I was terrified because I was at home with my nine-year-old daughter. I told them that she was inside and asked them to let her come outside to be with me because she would be very frightened. My thoughts were that she might get up and run or she could be harmed or even shot. I repeatedly pled to be with my daughter and every repeated request was ignored.

While the officers searched and held me, I asked them if I was under arrest and they replied "no." The officers kept pushing me into the driveway towards their vehicle and I was placed inside one in question. I would not answer their questions, but I did ask them to bring my daughter out to be with me.

One officer was Jeannie Davis, special agent, U.S. Forest Service. She asked if there was anyone I wanted to tell on and when I did not, she placed me in handcuffs and arrested me.

My neighbor picked up my daughter. When I talked to my neighbor later, she said my daughter was sitting on the couch with several officers in the room, some sitting on the couch. My daughter told me they asked her questions and that she was very scared.

During the time I was in jail, my wife told me she and my oldest daughter went to the residence to find out what was going on. They found on the property a swarm of multiple officers and 10 to 15 vehicles in the driveway. They approached the residence and were told that I had been taken to jail and to wait to talk to the officer in charge. The doors were open, officers were in and out, property was being placed in brown paper bags and removed. The officer never came, so they did enter the house. The officer told them to log into their computers, demanding passwords. They were told to

stay with the officers and when the officers asked questions, they were told that their answers would be assumed by these officers.

They observed officers photographing documents, which were confidential. When search teams left, they did provide a copy of a search warrant and a copy of items seized. We determined items seized that were not listed in the affidavit to be seized. They did not leave a list of damaged or broken items or a list of documents photographed.

There are many things that seems and feels to be against our rights as citizens and private property owners. The search, the arrest, and the charges seem to be very wrongly handled. The officers themselves reported I was not violent, yet they stormed the house like a SWAT team.

So far, as a result of Operation Something Bruin, I have learned several things. I have learned by North Carolina Officer Chad Arnold's testimony under oath in a court of law that wildlife officers can kill bears illegally, can kill bears that are under weight, can buy chocolate waste and put it in an individual's yard, can drink alcohol in the capacity of doing their job, can dig ginseng on the national park, and commit other wildlife crimes and violations and charge other individuals for the crimes that they themselves have committed.

I have also found that officers can join in with other agencies and conduct investigations on hunters across state lines before entering an inter-agency agreement. Officers can break laws while alone and then show up with dead bears and charge hunters with these violations. They can secure search warrants for property where no known crimes have been committed. It appeared by Arnold's testimony that the bear poaching exists within those agencies.

While the misdemeanor charges against me were dismissed by the judge, the trauma to my family, invasion of my home, our lost feeling of security, the damage to our names and reputation by things published in the paper, on TV, and on their websites, these things should not be dismissed.

Steps should be taken to protect others from events such as this. Because of this experience, I am asking the individuals who have the authority and the power to please go on our behalf and stand in the gap to protect our families and others from officers' actions such as these.

Thank you.

[Prepared statement of Mr. Smith follows:]

Charles Anthony Smith

Written Testimony

Operation Something Bruin

Good morning,

I am Charles Anthony Smith. I am one of the ten people in Haywood County, North Carolina, who was charged with wildlife violations following an investigation known as Operation Something Bruin. This operation was designed to target bear poaching and illegal bear hunting activities. I was charged by North Carolina Wildlife Resources Commission with seventeen misdemeanor charges.

In September 2013, I was tried in a special session of district court held in Haywood County with a Special District Court Judge - Dennis Redwing. After a two and one-half-day trial Judge Redwing dismissed the seventeen charges against me due to insufficient evidence by the State.

In Haywood County, when the cases were presented during the Special District Court session at the time my hearing was held -- the charges against the remaining three people were dismissed by the State due to not having proof beyond a reasonable doubt that they had violated wildlife laws. Earlier in June, charges against three other men were also dropped by the State for similar reasons.

During my hearing the evidence presented was a tape-recorded phone call with North Carolina Wildlife Resource Commission's Officer Chad Arnold who was posing as a hunter by the name of Chad Ryan. The phone call was about running dogs. At no time did Chad Ryan (Arnold) mention that he was hoping to run bear. Chad Ryan (Arnold) was wanting to run dogs on private property in a fox hunting preserve in an area known as Silver's Cove. There was no conversation whatsoever which involved bears or dogs running bears.

There are many questions that I have about how this Operation was carried out and the way that it happened. During my hearing, Officer Chad Arnold testified under oath that he had never saw me at the Silver's Cove property nor did he

know of my whereabouts on the days he was running his dogs at Silver's Cove. He testified that he didn't know if I was even in the country on any of the days that he had been in Silver's Cove. Yet … while he was the one who released his hunting dogs on the Silver's Cove property he charged me with seventeen violations.

My first knowledge that I was involved in the investigation was at approximately twelve thirty on Wednesday, February 20, 2013. I was at home with my young daughter who was nine years old at the time. She was out of school due to a teacher's workday in the County and we were sitting in the den watching cartoons on TV.

There was a knock on the door. When I went to the door, there were approximately fifteen officers who shouted "Search Warrant". They then grabbed me by my arms and pulled me out of the house. The only thing that I saw were officers pushing past me with assault rifles wearing bullet proof vests going into the house. One officer had a handful of papers but he did not take the time to show them to me. They stormed the house, I was terrified for my daughter and I told them that my nine-year old daughter was inside on the couch. I asked them to let my daughter come outside with me because I knew she would be very frightened and scared. My thoughts were that she might get up and run and she could be harmed or even shot by these officers. I repeatedly plead with the officers to let me be with my daughter. Every repeated request for my daughter was ignored.

The officers held me by my arms and by my legs and searched me and removed the items in my pockets. While these officers held me I asked them if I was under arrest. The officers replied "NO". The officers which were holding on to me keep pushing me into the driveway towards their vehicles. There were approximately six officers who held me. There were approximately twenty-five officers in total, some searching the residence and some had surrounded the outside of the house.

They placed me in one of their vehicles, a Dodge Durango. They began to question me and I told them that I would not answer their questions but I wanted them to bring my daughter out to me. One of the officers was Jeannie Davis a special agent with the United States Forest Service. She testified in my hearing that she is a special agent who investigates felony crimes which occur on Forest Service property. She asked me

if there was anyone that I wanted to tell on. When I told Officer Davis that I would not answer her questions she then told me I was under arrest and made me aware of my Miranda rights. She came around and got me out of the passenger side of the Durango, handcuffed me and then placed me back in the car.

At this point I saw that my neighbor had arrived and she walked over close enough to the vehicle to let me know she had picked up my daughter and was taking my daughter to her house. Later, when I talked to my neighbor she reported that when she arrived at the residence to get my daughter that my daughter was sitting on the couch and three officers were in the room with her some also sitting on the couch. Riley told me later that they were asking her questions and that she was very scared.

The Officers left the house with me and took me to the Haywood County Jail to be processed. When we arrived at the jail the officers took me through the front door in handcuffs to the Administrative Offices. The person working there asked the Officers if I was a violent person and they said, "NO". She told them to take the handcuffs off of me that they had taken me to the wrong part of the Jail. We sat down in the lobby and in about ten minutes they re-handcuffed me, put me back in their vehicle and took me around to the back of the jail where I was processed and placed in a cell. It was sometime after 2:25 p.m. according to the stamped documents from the Haywood County Sheriff's Office that the officers obtained a warrant for my arrest. After that the officers returned and I was taken to appear before the magistrate judge. The Magistrate went over the charges with me as well as details on my first court appearance and released me on an unsecured bond.

I placed a phone call for my oldest daughter to pick me up. When we arrived back at the residence on Medford Cove, the search was still underway. The search lasted well over four hours.

During the time that I was taken placed under arrest and taken to jail, my wife told me that she and my oldest daughter went to the residence to find out what was happening after receiving information that there was something going on there. When they arrived there were about 10 to 15 vehicles in the driveway. Officers were there from the National Park Service, The United States Forest Service, The Georgia Department of

Natural Resources, the United States Fish and Wildlife and the North Carolina Wildlife Resources Commission. My wife and oldest daughter approached the house and were told that they could not enter and that I had been arrested and taken to jail and that the officer in charge of the investigation would be out to discuss what was going on. My wife was not allowed to enter her own residence. They stood on the patio and watched items being removed from the house and officers going in and out. The doors were all open and it was a very cold day outside. After about 30 minutes of waiting and no one coming to talk to them, they entered the home to find items had been broken and officers gathering items, labeling items in brown bags and removing property from the house. The officers demanded computer passwords and other information. The officers also questioned my wife and daughter about various things and when they did not answer the officers told them they would assume their answers. The officers would not allow my wife or daughter to move about in the home. They were told to stay with officers so they could be watched. They observed officers photographing documents which were clearly labeled and marked and were in no way related to me. They photographed documents but did not list these items as items that were seized. These were confidential medical and financial documents. This means now they have photographed copies of personal information that we have no idea of what was collected. We should be made aware of the documents that were photographed.

It was at the end of the search that the officer in charge came to talk to my wife. He told her I had been taken to jail and that I had been charged with misdemeanor wildlife violations.

When they left they did leave a copy of the search warrant and a copy of items seized. We determined that items that were seized were not listed in the detailed list in the Affidavit as items to be seized. They did not leave a list of damaged and broken items nor a list of documents that was photographed.

There are many things that occurred that seems and feels to be against our rights as citizens as well as the rights of private property owners. The search, the arrest, and the charges seem to be very wrongly handled. The officers themselves reported that I was not violent yet I was treated as if I was a violent person by the way they stormed the house with

swat team like tactics, damaged belongings in the house and arrested me for misdemeanor charges.

The questions and concerns that I have are many and I have detailed a few as follows:

The First is - The Investigation - there were a large number of violations reported and a large number of people reported as being charged - yet when the people were brought in for their hearings many had their charges dropped or dismissed by the State. Now in media releases the numbers have been drastically changed from the numbers first reported.

Also, there were individuals that were indicted by a Federal Grand Jury - these Grand Jury indictment charges would later be dropped by the Prosecution and these individuals would be re-charged with petty offences. This took away the hunter's rights to a jury trial. Also there were allegations made that there was judge shopping involved in these trials … but it seemed that it was mostly on the prosecution's part. Judges were brought in out of district and special court sessions were held just for these cases.

This investigation covered a reported four years ending in 2013. Yet the inter-agency agreement was not signed until the third year of the investigation in 2012. Also, what was an officer from North Carolina doing in Georgia spotlighting deer when this was an investigation about bear poaching even without an inter-agency agreement being in place?

The investigation was a crackdown on bear poaching and illegal bear hunting activities. Yet there were only ten bears recorded as illegally taken - six of those at the hands of the wildlife officers. These are the same illegally taken bears that the officers then charged hunters with.

Operation Something Bruin was reported to be a multi-agency four-year long investigation with special officers involved who were responsible for uncovering a bear poaching ring and to crack down on the selling of bear parts. The Agencies involved again - were the North Carolina Wildlife Resources Commission, Georgia Department of Natural Resources, The United States Fish and Wildlife, The National Park Service, and the United States Forest Service.

The North Carolina Wildlife Resources Commission has reported that the bear population is growing and is at the

largest number of bears living in WNC in 100 years as published by an article released by the Commission.

According to their Biologist only fifteen to seventeen percent of the bear population has been harvested over the past 10 years by hunters. Yet in order to keep the population at their desired zero-percent growth the Wildlife Commission is now wanting to increase the harvest to 22 to 27 percent. In there own words they said ''we need to increase the harvest a little bit''. With a growing bear population who concluded that there was a bear poaching problem that would warrant an investigation of this scale netting 10 bears over four years with six of those bears being illegally killed by the officers.

The Search - There was no evidence found during the Silver's Cove investigation that would link the house located in Medford Cove that was searched during my arrest to the Silver's Cove Property where Officer Chad Arnold alleged the crimes took place. I have never leased nor owned property in Silver's Cove or in Haywood County. The statements made by the officers in the Affidavit for the search reported that I owned the land in Silver's Cove.

During the search of the residence, - the residence at Medford Cove, the barn in Medford Cove, a 30-acre sheep pasture in Medford Cove and my vehicles nothing illegal was found but there were items seized. Items that were seized were not listed on the Affidavit to be seized.

How was a search warrant even obtained for this private residence in Medford Cove where a phone call was the only evidence presented to a judge -- not even a judge in Haywood county for a violation? Also -- the violations were reported to have occurred on property located in the Silver's Cove not Medford Cove.

The Officers - the officers that came to the residence on Medford Cove who took me outside and left my daughter inside with an armed swat team inside and outside the residence while they conducted the search. The Officers that secured an arrest warrant after I had already been arrested.

Did any of these officers have jurisdiction when then had not seen a wildlife violation being committed at Medford Cove on private property? Or at this residence?

What was the United States Forest Service, The Georgia Fish and Wildlife, the National Park Service, and United States Fish and Wildlife and the North Carolina Wildlife Resources Commission doing searching a house and a small sheep farm in Western North Carolina where they had seen no wildlife laws being broken.

These officers -- when they didn't get their answers -- reported that they would assume the answers. These officers also photographed documents -- while they didn't take the documents themselves -- they now have the documents in photograph format.

So far, as a result of Operation Something Bruin, I have learned several things. I learned by North Carolina Wildlife Officer Chad Arnold's testimony under Oath in the court of Law, that Wildlife Officers can kill bears illegally, can kill bears that are underweight, can buy chocolate waste and place it on individual's property, can drink alcohol in the capacity of doing their jobs, can dig ginseng on the National Park and can commit other wildlife violations and charge other individuals for their crimes that they themselves have committed. They can join in with other agencies and conduct investigations on hunters across State lines before entering an inter-agency agreement.

These actions by the officers were not only wrong they must have been costly. The North Carolina Resources Commission reports that this operation has only cost them slightly over $12,000. This seems, in my opinion, to be a very low reported cost. I personally witnessed on the two and one-half days during the court hearings when I was on trial many officers and vehicles present for those hearings for days at a time, whose budget paid for these officer's sitting in court? Are these costs counted as part of the Operation? The media reported that the Wildlife Commission conducted this investigation as a crackdown on bear poaching - but it appears by Arnold's testimony that the citizens should ask for a crackdown on the bear poaching ring that exists within those agencies.

While the misdemeanor charges against me were dismissed by the Judge, the trauma to my family, the invasion of our home and our feeling of security in our own home -- not to mention the damage to our names and reputation by things published in the media, on television and on their websites -- these things should not be dismissed.

There should be things done to determine how these things that seem so very wrong could have happened and steps should be taken to protect others from events such as this. Because of this experience I am asking the individuals who have the authority and the power to find these answers to please go on our behalf -- to stand in the gap -- and find out the answers.

Mr. MEADOWS. Thank you, Mr. Smith, for that compelling testimony.

The Chair is going to recognize the gentleman from South Carolina for a series of questions and then we'll go to the gentleman from Georgia and then I'll follow up.

The gentleman from South Carolina is recognized.

Mr. DUNCAN. I thank the Chairman. And thank you for your testimony.

I noticed in some of the documentation that one of the defendants pled guilty to six offenses and received for that guilty plea 20 months in prison since the prison sentences were added consecutively. Now this was in federal magistrate court. I guess the question I would have is—and I look at what he pled guilty to: knowingly operating a vessel on the waters of the state of North Carolina between sunset and sunrise without use of navigational lights; knowingly and intentionally hunting bear at night and during closed season; knowingly and intentionally hunting deer at night; knowingly and intentionally hunting deer with aid of artificial light; knowingly and intentionally hunting without a license; knowingly and intentionally hunting deer with a firearm during closed season. Those look like state game law offenses, not federal offenses.

So he was tried in federal court and given a pretty stiff sentence because they were added together to run consecutively, not concurrently.

The question I have is, do you think, Mr. McLean and Mr. Stockton, being attorneys—do you think that that would have been the sentencing had it been—had he been convicted, pled guilty in state court, jury trial or not?

Mr. MCLEAN. I know it would not have been, plus we would have had an opportunity to have a jury trial in North Carolina. That's the critical key.

Mr. DUNCAN. But set that aside, I agree with you on that.

Mr. MCLEAN. Setting that aside, he would have gotten a probationary sentence, paid a fine of about $2000 and gone to the house. And let me tell you something, he was facing 34 charges, so he was facing almost 18 years in prison. I guess you would say the Pope shot the bear if he wanted him to to keep from having to do that much time. People sometimes plead to stuff they did not do in order to keep from having a harsher sentence imposed on them.

That man—I did not represent him but he was facing 34 counts.

Mr. DUNCAN. Mr. Stockton, do you agree with——

Mr. STOCKTON. Yes. And this particular person, his charges were moved from——

Mr. DUNCAN. Pull that mic just a little closer because folks in the room need to hear too.

Mr. STOCKTON. His case was moved from federal district court where he had just been cleared on felony charges in front of a jury trial. And instead of trying the rest of them to a jury, they moved them to a judge who has treated us with the utmost respect and been very decent and has not been able to find anybody not guilty that I am aware of. But they moved those charges to his court and he has a propensity for giving jail time. And that is basically the

deal they worked out. And it is just—he made the best of a very bad situation.

Mr. DUNCAN. I am not familiar with this individual. Let me ask you this, were these charges, crimes that he committed, were they committed on federal land?

Mr. MCLEAN. Some were, some were not.

Mr. DUNCAN. The ones of the gentleman that pled guilty, they were on federal land?

Mr. MCLEAN. Three of the charges occurred on one hunt. In other words, he went hunting one night with the wildlife undercover agent and they broke it down to whatever happened to be in the woods, they charged him with. You know, if there was a bear, if there was a deer. They did not even see anything, but they charged him with each violation even though he did not shoot a thing and just happened to be there on one night. And that got him 15 months.

Mr. DUNCAN. This individual that we are talking about?

Mr. MCLEAN. Yes, sir, one occurrence got him 15 months in prison, one hunt got him 15 months.

Mr. DUNCAN. Mr. Chairman, emails provided the committee appear to indicate that the magistrate judge in this western district court received a directive from the chief judge that individuals sentenced for petty offenses are not to receive probation.

Mr. MCLEAN. That came from the U.S. Attorney.

Mr. DUNCAN. Wow. That is amazing.

I am going to have some other questions. I want to yield back and hopefully have a second round.

Mr. MEADOWS. The gentleman from Georgia, Mr. Collins, is recognized.

Mr. COLLINS. Thank you, Mr. Chairman.

I think, following up, and Mr. Stockton, I want to go through some of your testimony here because there are some interesting point that are concerning.

It was just pointed out, I think—I serve on the Judiciary Committee, so this falls in line on the other side in the consecutive sentence. I have already contacted my office in D.C. about it and we are actually—because there are some criminal justice issues coming up and we will talk about this.

Let's go backwards for a second. Mr. Stancil had charges pending in Rabun County. That would be with the D.A. Rickman down there.

Mr. STOCKTON. Correct.

Mr. COLLINS. Okay. Those were dropped because of the prosecution on the federal level; correct?

Mr. STOCKTON. He had warrants taken out on him. He has never actually been arraigned on those charges, Mr. Walt Stancil. Mr. Cale Stancil wound up pleading to two misdemeanor charges in order to get the felony federal stuff dropped.

Mr. COLLINS. And Mr. Rickman handled those cases; correct?

Mr. STOCKTON. That is—his office did.

Mr. COLLINS. I understand. I have worked with him a great deal.

Now it is true—and I am asking this—Walter Stancil was found guilty by U.S. District Court for violating Lacey Act. Now did you represent him in that case?

Mr. STOCKTON. I did represent him on that, but I think—respectfully, I think the way to put that is he was found not guilty of committing a felony Lacey Act violation.

Mr. COLLINS. Okay.

Mr. STOCKTON. He was found guilty of what we told them we were guilty of. He allowed—he had a bear bait that he had legally maintained for years for training purposes. In north Georgia, we have a training season that comes in three times a year.

Mr. COLLINS. Right.

Mr. STOCKTON. And the Georgia—there were two Georgia DNR officers who testified at his case and I would submit, as far as I knew, everything they said was very credible and truthful and one of them, I think it was Jesse Cook, he basically confirmed that what Mr. Stancil was doing as far as maintaining those bear baits for training purposes was legal.

Mr. Stancil broke the law though when he allowed Chad Arnold to go up there and hunt one of them. And respectfully, that was the first time that had happened and had he known the full situation, that Chad Arnold had killed a cub a few days before, that would not have happened then. But we told the jury to begin with, that is what he did, and that is what he did in Georgia and that is what he is guilty of.

Mr. COLLINS. And I think that is interesting because some documentation we were provided by agencies actually did not go into that kind of detail and actually just said he was guilty of this by jury trial. So I wanted to focus that.

Let's go back to that for just a second though. The issue of this camera, there is another issue out there. Let's go back to that one because I think that one is—this one disturbs me. Okay? Private property, a camera is placed. Was there ever a warrant or anything ever produced for that?

Mr. STOCKTON. No. And more importantly it is private property that the U.S. Forest Service law enforcement placed in a relatively large piece of private property up near between Scaly and Highlands.

Mr. COLLINS. I know exactly where you are talking about.

Mr. STOCKTON. And it was placed in the middle. And I included in my statement basically what I had, the statement of facts from the appeal so it kind of reads legally. I kind of cut and pasted that.

Mr. COLLINS. I am used to that.

Mr. STOCKTON. But anyway, that situation is bothersome because he was convicted. And Walt Stancil just had his 49th anniversary last week, his son is an ordained Baptist minister, he has had one speeding ticket in Louisiana, so I do not even know if that counts. But that is the only thing he has ever done in his life that was contrary—that he has been convicted of or whatever. But he finds a camera, a surveillance camera, a game camera. It is not attached to a tree, it is laying on the ground. It has got—I think the evidence was there might have been a stick or something over it.

Mr. COLLINS. Let me just interrupt you for a minute because I think this is important. I am going to ask these questions of the second panel coming as well because this is a question on why this got there. Number one, it is trespassing; number two, there is another issue here. But it said—and I am believe this is part of your

cut and paste from the actual testimony, Officer Southard testified that he had placed one of his business cards inside the surveillance camera. I think this is an important point.

Mr. STOCKTON. Yes.

Mr. COLLINS. Said he placed it inside the surveillance camera but yet Officer Southard later agreed that Walter never opened or disarmed or turned off the camera until after he left Jack Billingsley's home.

Again, if you walk up on this in your yard—I'm from north—I am born and raised in north Georgia, you come on my yard without reason, my daddy is a state trooper in the state of Georgia, we will get that out of the way real quickly. I fought the law, the law won all my growing up years. Okay?

[Laughter.]

Mr. COLLINS. Some of you will get that on the way home today.

I get that. But this—we want to investigate this further but basically there is no marking, at least what is shown, and contradictory testimony. I have also looked through the inter-agency agreements, I am not sure where they would find this or whether—again, above all the other stuff, undercover investigative work is a needed, valuable tool of all agencies. But this one gets at the heart of what I think a lot of people in this room are very concerned about, and that is where does that line get blurred when you go on private property off a road, you know, and really have no ID. Even if you put a big red, white, and blue sign that says this is the federal government, I want to know why you are there to start with, or a court had better have allowed you there. And I think that is the problem.

Mr. Chairman, I yield back.

Mr. MEADOWS. I thank the gentleman.

Mr. Smith, I am going to follow up with you. Am I understanding your testimony correctly that you got a phone call——

Mr. SMITH. Yes, sir.

Mr. MEADOWS. —and someone asked you if they could run dogs in an area that it is legal to run dogs to train for fox hunting or whatever and you said it is okay to go there. Is that correct?

Mr. SMITH. Yes, sir. This Silver's Cove fox pen has been a fox pen for probably 50 some years as far as I know. Probably way longer and older than I am, there has been dogs up there. This is not a place where they do any killing, it is a for-sport dog exercising facility only.

Mr. MEADOWS. So when the officer asked you if they could do that, I mean was he inferring that he was going to do something illegal or hunt or anything like that, Mr. Smith?

Mr. SMITH. No, sir. He just asked for a date that he could run his dogs. There was a little cabin up there that had a calendar on it. I didn't own or lease the land but there was a little calendar up there that people just write their names down on when they wanted to come and run. And it was——

Mr. MEADOWS. So tell me a little bit more, there were—how many agents showed up at your door?

Mr. SMITH. Oh, at my place on Medford Cove, probably 20 to 25 agents from five different agencies.

Mr. MEADOWS. And your greatest crime is that you gave advice on a telephone call?

Mr. SMITH. Yes. I do not even see how he was able to get a search warrant. He did not in Haywood County, he had to go out of county to even get one. And I do not see how he even got a search warrant just based on a phone call. That is concerning to me.

Mr. MEADOWS. So let me ask you the other part, because what really concerns me is when you talked about your nine-year-old daughter.

Mr. SMITH. Yes, sir.

Mr. MEADOWS. I start to put myself and think about my kids when they were nine and ten.

And so they took you outside.

Mr. SMITH. Yes, sir.

Mr. MEADOWS. And you kept asking well, just let my daughter come out.

Mr. SMITH. Yes, sir.

Mr. MEADOWS. And their response was no?

Mr. SMITH. They never did acknowledge me asking for my daughter.

Mr. MEADOWS. So they ignored.

Mr. SMITH. Yes, sir.

Mr. MEADOWS. But they do not refute that you asked for your daughter to come out. When you had this, they did not say that——

Mr. SMITH. They never brought it up in court.

Mr. MEADOWS. Okay. Did you bring it up or did your attorneys bring it up in court?

Mr. SMITH. I think Mr. McLean did.

Mr. MEADOWS. Mr. McLean, did you bring that up in court?

Mr. MCLEAN. I brought up a lot of things on top of that; yes, sir, I did.

Mr. MEADOWS. Okay, all right.

So Mr. Smith, when we see this, do you believe that the type of, what I would refer to as SWAT team kind of swooping down, do you think that that was disproportional to the crime that you were even charged of?

Mr. SMITH. Yes, sir.

Mr. MEADOWS. All right. So what kind of lasting effect has it had on your family? You mentioned that a little bit in your testimony. What kind of lasting effect has it had?

Mr. SMITH. It has hurt our reputation of our name in the community.

Mr. MEADOWS. Because they think you are guilty because you were charged.

Mr. SMITH. True. And just all the media sensation that they had over everything, it was just totally uncalled for. And the conduct of the officers at my house was outrageous.

Mr. MEADOWS. Outrageous in what sense? I mean obviously there was a number of them. We want to make sure our law enforcement officers are safe.

Mr. SMITH. All it would have took, if they would have needed me to turn myself in, it would have took a phone call and I would have

gladly brought myself right up here to the courthouse, to the jail. It would not have took 25 officers to come to my house with bullet-proof vests and assault rifles to get me to turn myself in or for them to apprehend me. It would have took one phone call, I would have been up here as quickly as I could have done something my daughter and got her safely somewhere.

Mr. MEADOWS. Mr. McLean, let me come to you since you talked about these charges. You know, I think it was mentioned there were three different charges—hunting a bear, a deer and a hog with a spotlight, but it was one time.

Mr. MCLEAN. December the 3rd, one time.

Mr. MEADOWS. All right. So did they have different kinds of shells for the gun that particular night? Maybe in D.C., they do not understand that perhaps you use a different shell to hunt different kinds of animal. I mean obviously you could possibly find one that would work for all three.

Mr. MCLEAN. They had one gun.

Mr. MEADOWS. But you do not normally go out hunting for all three of those.

Mr. MCLEAN. The undercover agent had one gun.

Mr. MEADOWS. All right. So the undercover agent had a gun?

Mr. MCLEAN. Yes, sir.

Mr. MEADOWS. Did the person you——

Mr. MCLEAN. No.

Mr. MEADOWS. So your person did not have a gun?

Mr. MCLEAN. No. But he went with them.

Mr. MEADOWS. But he had a spotlight and went with them.

Mr. MCLEAN. Had a flashlight; yes, sir.

Mr. MEADOWS. Had a flashlight?

Mr. MCLEAN. Yeah.

Mr. MEADOWS. A flashlight?

Mr. MCLEAN. You know, one of them big lights.

Mr. MEADOWS. Oh, so it was a big flashlight.

Mr. MCLEAN. Pretty good size flashlight.

Mr. MEADOWS. All right. So here he was out there, but he went out and so he got charged with three——

Mr. MCLEAN. Whatever they could think of was in the woods that night, they charged him and he ended up getting 15 months. They did not see anything.

Mr. MEADOWS. Well, they did not charge him with grouse hunting at night.

Mr. MCLEAN. No, but if there was—I do not think there are any grouse out there any more.

Mr. MEADOWS. Oh, maybe that is what it was. All right. So if we are doing that, you mentioned how many charges were made against him?

Mr. MCLEAN. He had 34 charges. And I want to say this about that, if you do not care. One of your U.S. Forest Service officers specifically told Mr. Stiles—and I wish he was here because he is the one that came down and related it to us—he said look, you may win in district court in front of a jury but we are going to take you in front of a magistrate and you will get time. And that is what Eric Stiles would have told you if he had been here.

So he was facing that going in. And that man knew that he had 34 charges and that was, in my opinion, almost 18 years in prison. And so he opted to do what he had to do to keep from getting as much time as they wanted him to get.

Mr. MEADOWS. So 34 charges and if you added the maximum sentence for each——

Mr. MCLEAN. Six months a charge.

Mr. MEADOWS. So that would be how many years?

Mr. MCLEAN. Well, I am not good at math, but take six and divide it into 34 and that will give you—it would be half of that

Mr. MEADOWS. Seventeen years.

Mr. MCLEAN. Seventeen years. I became a lawyer, not a mathematician.

Mr. MEADOWS. Well, sometimes being a lawyer is better than being a mathematician.

I am going to recognize the gentleman from South Carolina for a second round of questions.

Mr. DUNCAN. Thank you, Mr. Chairman.

I want to go back to something that Congressman Collins mentioned and that is federal officers coming onto private land. Now I realize that in South Carolina, game wardens working for the wildlife department can enter private land even without the necessity of showing probable cause without a warrant if they are trying to enforce game laws. If they are coming to see if you are baiting deer, turkey. You know, if you have made it a water fowl hole and all that, they can come on private land. I get that.

I am real fuzzy on whether a federal officer can enter private land without a warrant, because my gut and my understanding of Constitutional law says no.

Mr. COLLINS. That is right.

Mr. DUNCAN. So I would like some clarification there. Was a warrant issued? Was there, due to the joint jurisdictional operation, was there an agreement? And the other question I have is probably for the second panel, is when I was a legislator in South Carolina, we were approached by U.S. Forest Service law enforcement officers to give them the ability to handle Title 51, which was our criminal code in South Carolina, offenses. So if they saw someone breaking a South Carolina law on U.S. Forest Service property, they had the ability to enforce South Carolina law on federal Forest Service property, federal land.

But I do not remember anything we did in the state giving those federal officers the ability to enforce either South Carolina law or federal law on private property, non-federal land, without going through the normal warrant process.

So that is just a question I throw out there because I am real concerned about what Representative Collins said.

Mr. MCLEAN. The particular officers you will be talking to shortly will tell you that they had an agreement signed in 2006, what is called an inter-agency agreement. But all that basically did was deal with federal wildlife violations, such as the Lacey Act. It did not provide that they had the right to go enforce South Carolina laws on private South Carolina or Georgia property. And it required, in the 2006 agreement, that they had to have a specific inter-agency agreement before they could even get involved in

those types of activities if they wanted to go undercover, covert operations. So that was the premise that they tried to claim that they had the authority.

Then when I asked for the written authority, they signed it a week and a half after they started charging all these guys and picking everybody up. All of a sudden it came up and it was signed by all of the agencies.

South Carolina actually did participate in some of these activities, but they realized what was going on, I think, and they dropped out of this. Georgia stayed in and so did Kentucky and some other agencies, but South Carolina came out.

Mr. DUNCAN. Just for clarification purposes, going back to what Representative Collins was asking, did a Georgia wildlife officer or a North Carolina wildlife officer accompany the federal officers as they entered private land?

Mr. MCLEAN. No.

Mr. STOCKTON. Well, with Mr. Stancil's situation on the private land, there was on occasions state officers, North Carolina state officers that entered with him. It is clear in the statements and everything though, Forest Service Officer Brian Southard said I made the decision to do this and everything.

In Rabun County, Georgia where I am from, 65 percent of the county is owned by the U.S. Forest Service. They have got plenty to look after on their own. And it is a similar situation in western North Carolina. I do not know why the U.S. Forest Service—and this was not just any governmental agent that did it, it was a U.S. Forest Service person that strayed off of their thousands and thousands of acres to surveil something on 50 acres.

And you are right, in Georgia I think we are pretty much the same way about an officer, a conservation officer can enter on to check to see what is going on. But I would submit there is a difference between checking for compliance and surveiling somebody. I would submit they should have had a warrant, they should have had permission, they should have had some kind of—in the situation with the Forest Service ranger, he should have had some kind of jurisdiction to go there. Like I say, if he is putting that camera on federal lands, that is one thing. But he was putting it on private property.

Mr. DUNCAN. It was strictly investigating on private property, it was not an instance of transiting private property to get to federal property. This was uniquely——

Mr. STOCKTON. And I gave you too much information in my statement. If you will read it, I spell it out from the time you leave the state road until you get to where this was, you do not traverse any federal property at all. And keep in mind, in his trial, all of the testimony was from the officers, everything you see is based on the actual transcript of that trial, that I have written there. And the officers themselves stated look, it is probably a quarter of a mile from the nearest U.S. Forest boundary, you cannot see a U.S. Forest Service boundary from where we are at. You do not cross the U.S. Forest Service. No, this was a wholly contained private piece of property.

Mr. DUNCAN. Do you think this was an instance—and this is just for my edification—of baiting or luring animals off of federal property onto private property?

Mr. SMITH. They will go where they want to.

Mr. STOCKTON. That was probably the argument. Keep in mind though, there are legal instances of baiting, there are legal ways of baiting. This had been surveiled, and candidly there were no baiting cases made out of this. The case that was made out of it——

Mr. DUNCAN. I am not familiar with North Carolina and Georgia law, you can bait in South Carolina all day. It is the hunting over baiting that trips you up. If you are luring animals to hunt, and so I can put bait out to view wildlife and photography and all kinds of things. It is the hunting aspect, taking of game over baiting, where the law kicks in. I appreciate that.

Let me move on in the essence of time. I want to talk about the Lacey Act a little bit because during Operation Something Bruin, federal Lacey Act violations could apply if a bear or wildlife was illegally killed and then transported across state lines.

According to media reports, undercover officers, against the advice of hunters, called hunters from surrounding counties to try to get them to participate in illegal selling of bear parts such as gall bladders. Hunters refused to take part in this illegal activities and, according to news reports, no charges were filed in Operation Something Bruin related to gall bladders. So related to gall bladders, there was no Lacey Act violations.

This seems like a huge federal effort, using the Lacey Act as the impetus for that, to prosecute and investigate hunting activity in North Carolina and Georgia. And at the time, it was developed, South Carolina was brought into it for at least the initial discussions and no cases or no investigation was done in my state. But they were initially contacted. So it just seems like a tremendous effort.

Mr. STOCKTON. To give some background on the Lacey Act, it came around at the turn of the past century, around the early 1900s and it was at a time when the birds in the Everglades were just being decimated because of women's hats. That is basically part of what brought the Lacey Act around. It was about fighting the commercialization of animals.

What has happened now is—and the way the Lacey Act I guess applied in our situation is you have got a situation that Mr. McLean's client was a licensed hunting guide and they considered that selling the animal. In my client's situation, he was not part of the commercial operation, the outfitting operation at all. He allowed this undercover officer—and there is no testimony, no evidence whatsoever that my client ever received a dime, but he allowed him to hunt at a place where he had been maintaining legal bear baits for training purposes. It became illegal the minute he allowed him to go there.

But the way they bootstrapped him in the Lacey Act is he knew or should have known that that bear would eventually cross state lines.

Mr. DUNCAN. Does he have a crystal ball?

Mr. STOCKTON. That is what it would take.

Mr. MCLEAN. And that is the same, Mr. Duncan, basically the game warden, state game warden in North Carolina, went to this bait site by himself, nobody else was there. My client was not even in the picture. He shot the bear, he then called his client to come back and help him load it, took it to my client's property in Georgia. They skinned the bear and then he brought it back, the wildlife officer brought it back across the state lines in order to get the Lacey violation.

Mr. STOCKTON. The next day.

Mr. MCLEAN. The next day—the next day.

Mr. DUNCAN. Well, Mr. Chairman, I do not want anything to be construed that I am against the Lacey Act. I think the Lacey Act has a very immense value in this nation with regard to ivory, with regard to a number of other things. I fully support that. I do understand the history of the Lacey Act and the Migratory Bird Treaty Act and what it did for conservation and protecting certain species. But I am concerned about what I am reading and hearing about how the Lacey Act was sort of the impetus for the whole operation and there were not any violations, there was not any evidence that I have been able to see that the Lacey Act was, you know, egregiously being violated here.

So I thank the Chairman and thank the witnesses and I will yield back.

Mr. STOCKTON. If I may just real quick, the Lacey Act situation, my client was charged in North Carolina, indicted for a felony in federal court for a Georgia violation, a Georgia misdemeanor violation. And that misdemeanor was the predicate for a potential felony conviction. That is the situation we had.

Mr. MEADOWS. The Chair recognizes the gentleman from Georgia, Mr. Collins, for a second round.

Mr. COLLINS. Thank you, Mr. Chairman.

There is a lot that has been asked here and I think the gentleman from South Carolina answered and really raised a lot of things. I want to—some of the times at Congressional hearings not only on a specific issue, give you a chance to make a statement but also clarify and maybe teach even.

I may not like this, Mr. Stockton and Mr. McLean, we have—as many times among defense attorneys, we have only always—you know, we always represent innocent people. We do not. There are many times that people need us because they are not innocent.

But one of the things that is talked about and it has been talked about in this administration. There has been a discussion in this country for about eight, nine months now about prosecutorial discretion. In fact, our President has said that he is acting under prosecutorial discretion by just basically saying I am just going to five or six million people and say I am just not going to prosecute the law. That is not prosecutorial discretion, that is just against the law. Okay?

But what we are seeing here, and I want to make this clear because in fairness to our prosecutors and in fairness to our system, the issues here in which I have had cases in which I have had multiple charges and it is up to the prosecutor to decide really what they want to go forward with, how much they want to charge or

how less. Would you not both of you agree that is prosecutorial discretion?

Mr. STOCKTON. Yes.

Mr. MCLEAN. Correct.

Mr. COLLINS. In its purest sense. So really, as much as we may or may not like it, they can in some ways choose the forum in which they are going to charges these crimes. Correct?

Mr. STOCKTON. Yes.

Mr. COLLINS. I think that is the hard part to understand. And this petty offense issue I think makes it very difficult for people to understand but I think the bigger picture is, and I want everybody here to understand this and maybe you are going to be watching later, those of us who got really upset with this administration for claiming prosecutorial discretion in an immigration issue in which they are just blanketly saying we are not going to touch this because we have the ability to choose, pick and choose which laws we want to enforce. That is not what happens a lot of times in these cases which are actual prosecutorial discretion. Whether I like it or not frankly is irrelevant. They do have that.

But I do want y'all to expound upon that because you both mentioned it in your testimony. I would just like to hear your comments on that.

Mr. MCLEAN. And I appreciate the fact that they have prosecutorial discretion. My position is even beyond that. If you are going to prosecute me, at least give me a right to go in front of 12 people who are my peers to try to see if that prosecutor can get a conviction, because my client is presumed innocent whether he chooses to prosecute him or not. I believe that every man who faces any day in jail should have the right to have a jury. If we had lost every one of these cases in front of the magistrate because they wanted jail time, then we would not be sitting here, in my opinion. But they denied something that is even far greater than prosecutorial discretion. They denied every man in magistrate's court the opportunity, because they knew they were going to get time, to give us a jury trial to let the jury make that determination.

Mr. COLLINS. And I think the issue you bring up there—and let's continue this—it is something, like I said, I have already said in my first line of questioning, is this concern of, you know, especially consecutive because many times people are charged with multiple, because, you know, just the nature of the offense, it may be petty but it is multiple and if it is done consecutively and not concurrently, it presents an even larger issue and I think that is what you are pointing out there.

Mr. MCLEAN. And my point is also, I respect one of our district court judges by the name of Cogburn. He in the district court for the Middle District of North Carolina. Let me tell you something, when he was the magistrate in the 1980s, when he realized that the government wanted active time, even one day, he would require, that prosecutor could bring a jury in a magistrate's court and let us try it in front of a jury. And that is the thing that I think Congress really needs to look at and change.

Mr. COLLINS. Anything, Mr. Stockton, you want to add to that?

Mr. STOCKTON. Just when you were saying that about prosecutorial discretion, it just kind of reminded me of the movie "Cool

Hand Luke," where he said, "Look, calling it your job don't make it right." And that is kind of the situation. Just because they are saying look, that is our job, that does not make what has gone on here right.

Like I say, this is not a situation where you have got a lot of lily white people, although there are some lily white people in this situation. In my statement, I hope y'all will pay attention to C.J. Junaluska. He was a victim, he was an absolute victim because he was indicted on a felony in federal court on a lie, absolute lie. No other way to put that. It was ultimately dismissed but only after he had to worry about it and I think had to hire a lawyer to do it.

Cindy Clanton was indicted—I am not going to say it was on a lie, but she just did not do what they said she did. She was just completely innocent.

Jack Billingsley, who is here today, he was charged and ultimately dismissed. And he was just innocent. Like I say, calling it their job to bring those charges did not make it right, because they put some people who had not committed crimes in a bad situation.

I represent a lot of hardened criminals, you know, they thrive off that kind of rush, that kind of drama but your average law-abiding people, even though it is relatively a minor misdemeanor maybe in some case, that is a huge issue to their life. You know, people's good names mean something to them. Walt Stancil, it means something to him that he has got a clean record. It means something to him that he can tell his grandson that look, I have not been convicted of any crimes or whatever.

And they are making more out of this than what it ever was.

Mr. COLLINS. And I think the biggest thing here—and having respect, and from my background, from the state legislature and on and basically family background, we need law enforcement and we need good attorneys on the other side as well. It is the balance that keeps the system operating and when those balances are missed and those balances are off kilter, that is when people lose faith in the system on both sides. And we need to continue to maintain that.

And I also want to say, Mr. Smith, Mr. Meadows has done a good job asking questions, but I just want to thank y'all for your testimony and I appreciate it and yield back.

Mr. MEADOWS. I thank the gentleman. I am going to go ahead and conclude with a round of questions and then we will make a very brief adjournment for the second panel.

But Mr. McLean, I want to come back to you. You had indicated earlier that the agreement that basically authorized this was not signed until did you say 12 days after some of the charges?

Mr. MCLEAN. Just to be on the safe side, let me look, I brought it with me.

Mr. MEADOWS. You actually brought documents with you.

Mr. MCLEAN. I brought the—okay, apparently the U.S. Forest Service signed it on February the 23rd and it looks like that the State of North Carolina signed it on February the 28th, 2012.

Mr. MEADOWS. And this was after——

Mr. MCLEAN. Tony got arrested on February the 19th.

Mr. MEADOWS. So it was after Mr. Smith was arrested.

Mr. MCLEAN. And all my other clients too.

Mr. MEADOWS. So are you suggesting that these agencies knowingly entered into arresting someone without having the proper documentation?

Mr. MCLEAN. I guess the judges will have to deal with that.

Mr. MEADOWS. I am saying are you suggesting.

Mr. MCLEAN. I believe they are. I believe they did not have the authority to do what they claim they did.

Mr. MEADOWS. All right. So one of the things that was real troubling to me early on and why it raised I guess my sensitivity is I heard a number of different stories that were very—they just did not seem like it was America. You know, it just seemed like they were going a different direction than what our founding fathers.

One of those had to do with an email that basically said we are going to give people jail time instead of probation because I guess it was cheaper, is what they said. Now does that make sense to any of you on the panel, that it is cheaper to put somebody in jail than to give them probation? Under what theory is it cheaper to do that? Mr. Stockton.

Mr. STOCKTON. Well, I think it depends on what you are assigning a value to. If you are saying dollars and cents, maybe you can do some fancy accounting and come up with it being cheaper.

Mr. MEADOWS. So it is cheaper to feed them and house them?

Mr. STOCKTON. But if you are looking at the cost in liberty and justice, then it is definitely not cheaper. That is the wrong way to go.

Mr. MEADOWS. Well, I do want to make mention of Mr. Frank Whitney, he is the Chief United States District Judge. Because when some of this stuff came up, I made a commitment not only to some of you but some of the people in the audience here that I would follow up personally. And I will say that I called Frank Whitney, the Chief Judge, and made him aware of the emails that I had received. It was of great concern to me because it appeared as if we were intentionally trying to put people in jail instead of actually allowing them to either pay a fine or probation. And much to his credit, I guess the day after my phone call, he put forth a clarification memo that I think now that you have seen.

Mr. MCLEAN. Actually, I have not seen it, but I am aware of it.

Mr. MEADOWS. You have not seen it but you are aware of it, that says that we should have all the options. They should not be forced into jail.

So I guess my question is, with this clarification, do you think the ambiguous nature that was there prior to that entered in in any way as a factor in terms of sentencing for any of your clients as they went forward? In any way.

Mr. MCLEAN. I do not think I can speak to that. Just truthfully, I do not believe I can.

Mr. MEADOWS. All right.

Mr. MCLEAN. You would ask me to step into the minds of those justices and those judges and I cannot do it.

Mr. MEADOWS. All right, fair enough.

Mr. STOCKTON. I have got to say I think that the law enforcement officers in this knew where they could get the most bang for

their buck and they moved from district court to the magistrate court because they knew there would not be probation.

Mr. MEADOWS. So what you are suggesting then, Mr. Stockton, is that there were charges, felony charges, all these other charges, that would allow for a jury trial. And then they saw people getting off of a jury trial and they said well, let us just do away with all of these that require a jury and let us re-charge them with a misdemeanor where hopefully the result is a little favorable; is that what you are saying?

Mr. STOCKTON. I believe in my heart that is exactly what the situation is. But I am saying that based on the knowledge I have of what Brian Southard had said to Eric Stiles about we will just move it down to magistrate court and they will give him time. That is why I say that.

You had asked Mr. McLean earlier if he believed that law enforcement had deliberately arrested like Mr. Smith, knowing that they did not have the inter-agency agreements. I do not want to assign ill motives to anybody without good reason, because that is what has been done to us, that is what has been done to our clients.

Mr. MEADOWS. Sure.

Mr. STOCKTON. I can only assume that that was negligent, not intentional. But on this situation, absolutely, they moved—and we are talking basically about Chad Crisp's case and his father's case. They basically moved those from the district court down to magistrate court to load them up.

Mr. MEADOWS. All right. So let me say, if I were speeding on a federal highway, Blue Ridge Parkway, I guess that would be a federal misdemeanor.

Mr. MCLEAN. It would be.

Mr. MEADOWS. So if I was speeding and they caught me three times on the Blue Ridge Parkway, could I, under this same scenario, go to jail for 18 months?

Mr. STOCKTON. I am not completely sure if a speeding ticket in the federal system——

Mr. MCLEAN. I saw one get five months.

Mr. STOCKTON. —allows for that.

Mr. MEADOWS. I could get five months is what you are saying? Well, that is encouraging.

[Laughter.]

Mr. MEADOWS. All right. I think we get the sense of it. I am looking forward to hearing some of the answers from the second panel. Obviously I want to thank each of you for your time, for your testimony here today.

We are going to take a short break as we seat the second panel of witnesses.

Mr. MCLEAN. We thank you for the privilege of being here. Thank you.

[Recess.]

Mr. MEADOWS. All right, the Committee will come back to order, if we can. If you will please take your seat, and if you have to have a conversation, take it outside.

We will now recognize our second panel of witnesses and I am pleased to welcome Mr. Luis Santiago, Special Agent-in-Charge of

the Atlanta Regional Office of the U.S. Fish and Wildlife Service; Mr. Tony Tooke, Regional Forester for the Southern Region at the U.S. Forest Service. Thank you for being here. Mr. Gordon Myers, Executive Director of North Carolina Wildlife Resources Commission; and Major Stephen Adams, who is with the Law Enforcement Division at the Georgia Department of Natural Resources.

Thank you all, gentlemen, for being here and pursuant to committee rules, we will ask that y'all be sworn in. So if you would please rise and raise your right hand.

[Witnesses sworn.]

Mr. MEADOWS. Thank you. Please be seated. Let the record reflect that all witnesses answered in the affirmative.

Again, in order to allow time for discussion and questions as a follow-up, please limit your oral testimony to five minutes, but your entire written testimony will be made part of the record. And I will say that before we go to questions, we will be yielding, after your testimony, to the gentleman from Georgia, Mr. Collins, because he is going to have to depart for another engagement. But we will first go to you, Mr. Santiago and recognize you for five minutes.

WITNESS STATEMENTS

STATEMENT OF LUIS J. SANTIAGO

Mr. SANTIAGO. Good morning, Chairman, Meadows, Representative Collins and Representative Duncan.

We are here today to talk about our investigation into illegal activities involving money, chocolate and greed. Poachers and unethical commercial hunting guides in Georgia and North Carolina have reaped financial gains using baiting stations filled with chocolate waste to attract the American black bear for an easy kill during the hunting season.

It is an unethical practice and the Service is committed to doing as much as it can with the resources we have to make the illicit take and illegal trade of wildlife such as the black bear as short as possible.

Demand for bear parts such as claws, paws, meat and gall bladders on the black market is resulting in the rapid decline of Asian bear populations and the American black bear is filling the void. Typically, poachers sell bear parts to local buyers who in return sell them to buyers in Asian American markets. The trafficking of bear gall bladder in particular is big business. Used for illegitimate medicinal purposes, the price of a bear gall bladder typically starts between $50 to $200 and can end up being sold several times at prices exceeding $1000 each.

The continued illegal take of the American black bear to meet increased commercial demand for its parts may eventually have a negative impact in its population. As such, the bear is afforded protection under an international treaty known as CITES or the Convention on International Trade in Endangered Species. The American black bear is also protected by the nation's first federal wildlife protection law, the Lacey Act, and state wildlife laws.

To facilitate this illicit take, poachers use chocolate to lure bears and make their capturing them much easier. In this investigation, we saw people bait black bears by using chocolate waste products

to fill small culverts known as bait stations. It is unlawful in North Carolina to place processed food products as bait in any area with an established season for hunting black bears.

The people who do this are poachers, not hunters. They are not the hunter conservationists who have led the conservation successes we have seen over the past century and contributed with the hunting and shooting sports industry more than $8.4 billion to help make America the world's premier conservation leader. Indeed, it was at the behest of citizens and ethical hunters in Tennessee and North Carolina that led to this investigation.

Acting on numerous reports of illegal bear hunting in the southern Appalachian mountains, the Service partnered with the Forest Service, Georgia Department of Natural Resources and North Carolina Wildlife Resources in this undercover investigation in 2010.

The objective was to establish facts to support the apprehension and prosecution of individuals involved in the unlawful take, possession, sale, purchase, and transport of American black bears. Law enforcement officers infiltrated poaching circles to document violations including bear baiting and illegal take of bears and other wildlife. The Service's role in this investigation focuses on the unlawful take and commercialization of the black bear.

Five individuals were indicted on Service-led charges of conspiracy to violate the Lacey Act and a violation of the Lacey Act. Prior to trial, the United States Attorney's Office dismissed charges against two of these individuals; one after he pled guilty to a state charge for unlawfully taking a bear and a second for his cooperation and limited role. Charges against the remaining three defendants went to trial where two were convicted and the third individual was acquitted of conspiracy to violate the Lacey Act.

The Service's partnership with state and federal partners in investigations like Operation Something Bruin promotes the sharing of assets and information to investigate the illicit take of wildlife in the most effective way possible. To date, the Service has expended less than $10,000, excluding salaries, during the investigation. We are hopeful that this small investment in activities to counter illegal poaching makes a long impact that results in increased protection of the black bear.

In closing, I would like to commend the citizens and hunters who recognized this unlawful activity was occurring and reported it. They are conservation champions.

Again, I appreciate the opportunity to testify today and I will be glad to answer any questions you may have.

Mr. MEADOWS. Thank you, Mr. Santiago.

I missed something, how much did you spend? It was in the latter part of your comments.

Mr. SANTIAGO. Ten thousand dollars.

Mr. MEADOWS. Ten thousand dollars. Okay.

[Laughter.]

Mr. MEADOWS. Mr. Tooke, five minutes.

[Prepared statement of Mr. Santiago follows:]

TESTIMONY OF
LUIS SANTIAGO, SPECIAL AGENT-IN-CHARGE, SOUTHEAST REGION,
U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR
BEFORE THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
SUBCOMMITTEE ON GOVERMNENT OPERATIONS REGARDING OPERATION SOMETHING BRUIN, AN ONGOING LAW ENFORCEMENT ACTION IN WESTERN NORTH CAROLINA AND NORTH GEORGIA

JUNE 19, 2015

Good morning Chairman Meadows and Members of the Subcommittee. I am Luis Santiago, Special Agent-in-Charge for the Southeast Region of the U.S. Fish and Wildlife Service (Service) within the Department of the Interior. As Special Agent-in-Charge, I provide leadership and oversight for the Service's law enforcement work across 10 southeastern states, Puerto Rico, and the U.S. Virgin Islands.

I appreciate the opportunity to discuss the Service's involvement in Operation Something Bruin, an ongoing joint federal and state law enforcement investigation conducted in North Carolina and Georgia. The Service's role in this investigation focused on the unlawful take and commercialization of American black bears, a species protected under Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

The Service's Role in Addressing Wildlife Trafficking

The Service serves as the primary Federal agency responsible for enforcing U.S. laws and treaties that address domestic and international wildlife trafficking and protect native and foreign species from unsustainable trade. Working with a modest budget and a workforce of about 200 special agents spread across the country, the Service has disrupted trafficking in contraband wildlife "commodities" that range from elephant ivory and rhino horn to sturgeon caviar and sea turtle skin and shell.

In the Service's Southeast Region, 31 special agents enforce wildlife protection laws in 10 states and the Caribbean. Nationally, the Service's special agents work on some 10,000 investigations each year involving complex, high-impact wildlife crimes. These wildlife crimes generally involve unlawful commercialization of wildlife, or illegal poaching of imperiled species. Service special agents utilize both overt and covert investigative techniques to detect and document crimes involving the unlawful exploitation of protected native and foreign species in interstate commerce. These efforts to stop wildlife trafficking often pit them against transnational organized networks and criminals conducting high-profit, black market trade valued in the billions of dollars.

Law Enforcement to Target and Stop Illicit Take and Trade of Black Bear

The American black bear is a popular big game species hunted in the southern Appalachian Mountains of Georgia, North Carolina, Tennessee and South Carolina. Although the black bear populations in the Southern Appalachians appear stable or slightly increasing, much of its historic range is now decreasing due to habitat loss.

With the rapid decline in Asian bear populations primarily due to demand for bear parts trade, other bear species such as American black bear are targeted to address the demand for bear parts. The continuing illegal take of black bears to meet the increasing demand of a commercial bear part trade may eventually have a negative impact on the American black bear population. As such, American black bears are afforded protection under Appendix II of CITES. CITES, an international agreement among 180 member nations, including the United States, is designed to control and regulate global trade in certain wild animals and plants that are or may become threatened with extinction due to international trade. The illegal sale of black bear parts such as claws, paws, meat and gall bladders on the black market is well documented. Typically, poachers sell bear parts to local buyers, who in return sell them to buyers in Asian-American markets located in urban areas. Bear parts also are exported in foreign commerce to other countries.

The trafficking of bear gall bladder is big business and part of an enormous market around the illegal trafficking of wildlife. Bear gall bladder is illegally sold for non-traditional medicinal purposes. The price for an illegal bear gall bladder typically starts between $50 and $200, and depending on the market can end up being sold several times over at prices exceeding $1,000 per organ.

Bear hunters usually hunt in groups using multiple dogs to locate, chase, and bay bears on private and public lands. In the Southern Appalachians, individuals who illegally hunt bears typically form tight knit groups that reject newcomers. Also, they do not share detailed information with individuals outside of their poaching groups for security reasons as well as competitive ones.

Poachers and unethical commercial hunting guides often illegally maintain bait stations, using chocolate waste product or another sugary substance, throughout the year to lure and attract black bears for an easy kill during the hunting season. The hunter also watches the baited areas to detect signs that bears have been there. This makes it much easier to track bears, and ultimately kill them illegally. In this investigation, one way we saw people bait black bears illegally was by using chocolate waste from manufacturers, which is commonly sold for hog feed and other uses. In North Carolina, it is illegal to put out processed, unnatural food as bait. It's illegal and unethical, and the people who do it are poachers – not hunters.

Poachers are not the hunter conservationists who have played a leading role in the conservation successes we have seen in our country over the past century and who have contributed more than $8.4 billion through the hunting and shooting sports industry to help make America the world's premier conservation leader. Indeed, it was at the behest of citizens and ethical hunters in Tennessee and North Carolina that led to this ongoing investigation.

The last significant Service undercover investigation in the Southern Appalachians that focused on the illegal take and commercialization of black bears occurred between 1985 and 1988. Since that time, advancement in technology such as GPS units, game cameras, and cell phones have made conventional law enforcement tactics unsuccessful and allowed most forms of illegal activities to go undetected. In the years prior to this investigation, citizens and hunters in Tennessee and North Carolina repeatedly reported illegal bear hunting to state wildlife officers.

Acting on these reports, the Service, U.S. Forest Service, Georgia Department of Natural Resources, and North Carolina Wildlife Resources Commission initiated a joint investigation into illegal bear hunting and commercialization of bear parts in 2010.

The objective of the undercover investigation was to establish facts to support the apprehension and prosecution of individuals involved in the unlawful take, possession, sale, purchase and transport of American black bears protected under CITES, the Lacey Act, and State wildlife laws. The Service's role in this investigation focused on the unlawful take and commercialization of black bears. The investigation spanned three fall hunting seasons and targeted poachers in North Carolina and Georgia, with some work in adjacent states. Law enforcement officers infiltrated poaching circles to document violations including bear baiting, illegal take of bears and other wildlife, illegal use of dogs, operation of illegal bear enclosures in North Carolina, and guiding hunts on national forest lands without the required permits.

By February 2013, the Operation Something Bruin partners detected dozens of wildlife violations. Five individuals were indicted on Service-led charges of conspiracy to violate the Lacey Act and a violation of the Lacey Act. Prior to trial, the United States Attorney's Office dismissed charges against one individual after he pleaded guilty to a State charge for unlawfully taking a black bear and a second individual for his cooperation and de minimis role. Charges against three defendants went to trial where two were convicted and the third individual was acquitted of conspiracy to violate the Lacey Act.

The Service's partnership with State and Federal conservation agencies in investigations like Operation Something Bruin promotes the sharing of assets and information to investigate the illicit take of wildlife in the most effective way possible. To date, the Service has expended less than $10,000, excluding salaries, during the four-year investigation. We are hopeful that this small investment in activities to counter the illegal poaching in the Southern Appalachians makes a long-term impact that results in increased protection of the black bear, benefitting current and future generations of hunters and wildlife enthusiasts across the country.

Conclusion

Poaching wildlife to engage in wildlife trade is illegal and unethical. The Service is committed to doing as much as it can with the resources we have to combat illicit take and illegal trade of wildlife and wildlife products. We do this knowing our efforts will protect wildlife like the American black bear for current and future generations of Americans.

Clearly, the citizens and hunters that recognized this unlawful activity was occurring and reported it are conservation champions. It happened a century ago when hunters and industry recognized that commercial hunting activities were decimating some wildlife populations. Not only did they come together to put landmark laws on the books to stop it, they established laws that would over the next eight decades help our nation become a model for wildlife conservation. Today, this enduring tradition continues with American sportsmen and women providing billions of dollars to support wildlife-dependent recreation like hunting. This is why nearly 15 million ethical hunters are among our nation's premier conservationists.

I would like to thank the Subcommittee for its interest in the conservation of the American black bear and other fish, wildlife and plants throughout the Southeast and the world. I appreciate the opportunity to testify here today in Waynesville. I would be pleased to answer any questions that you may have.

STATEMENT OF TONY TOOKE

Mr. TOOKE. Good morning, Mr. Chairman, members of the Committee, thank you for the opportunity to share the Forest Service's involvement in Operation Something Bruin. I have submitted my written testimony for the record, so you have got our official comments.

I wanted to make a few key points about law enforcement operations, their value to public lands and their value to management of the national forests.

Forest Service manages public lands in 42 states and Puerto Rico. The national forests are some of the most beautiful lands in the world and they provide high quality wildlife habitat, diverse wildlife and fish populations, forest products and unsurpassed recreation opportunities. The conservation mission of the Forest Service is recognized worldwide, including right here in western North Carolina.

The Forest Service manages 2.1 million acres of public land in North Carolina and Georgia. These national forests are some of the most highly visited and treasured landscapes in the nation. These lands and forests exist today because not only of our visionary leaders from the past, but because of work accomplished every day by land managers and the public working together to conserve this legacy.

The Forest Service Law Enforcement Investigation Unit provides support to the managers of these lands by protecting the public and natural resources. They enforce and investigate violations of federal laws, rules and regulations. Two special agents assigned to the national forests here in North Carolina and Georgia investigate a wide variety of crimes, including damage to natural resources, wild land arson, illegal drug manufacturing, timber theft, property crimes, archeological resource protection crimes and others. Because of the size and the scope of this responsibility, Forest Service Law Enforcement Investigation routinely works collaboratively with other federal, state and local agencies. And that includes the protection of wildlife on national forests which is a shared responsibility with the states. We are committed to doing our part to ensure that we have sustainable populations of wildlife for the public to enjoy for generations to come.

First and foremost, Operation Something Bruin was about protecting the public's interest. The operation sought to end illegal conduct that denied others access to the benefits from public land. Law abiding citizens, which include ethical hunters, forest visitors, and anyone else who supports wildlife conservation, all of these deserve access to these rich and valued public resources. Operation Something Bruin was a joint law enforcement operation between federal and state agencies.

The Forest Service participation in this operation focused primarily on initial violations ranging from resource damage, sanitation violations, illegal motor vehicle use, and operating a commercial activity on national forests without permits.

During 2008 and 2009, the Forest Service began seeing a trend of illegal activities associated with the use of the national forests. Our officers witnessed and members of the public reported activities that indicated increased activities of illegal baiting, illegal tak-

ing of black bear and illegal commercial outfitting of hunting services. The reported violations were occurring on federal, state, and private lands crossing multiple jurisdictions. These complex jurisdictional issues combined with the limited investigative resources and officer safety concerns led the Forest Service to contact the other impacted agencies. The purpose was to combine intelligence as well as plan a potential covert operation to surface the violations within the respective jurisdictions. These coordinated efforts led to the formulation of Operation Something Bruin.

From 2009 through 2013, this operation was managed jointly, but each respective agency had supervision and oversight of their assigned resources. As a result of the investigation by the Forest Service, 18 individuals were convicted of various crimes including operating a commercial activity on national forests without a permit, illegal placement of bait on national forests with the intent to hunt bear, illegal hunting of bear on national forest land.

Three more key points that I would like to make. In the course of these prosecutions, the court considered and denied challenges to federal jurisdiction while multiple juries convicted defendants alleging entrapment.

One important aspect in the planning of this undercover operation was the joint decision by all agencies, including the Department of Justice, that if an agent was put in a position that would otherwise expose his or her cover, the taking of game was authorized. The Forest Service spent a total of about $70,000 related to Operation Something Bruin over a five-year period.

These are the facts, but there is one more story of Operation Something Bruin I want to conclude with. Forest Service law enforcement officers and agents support our mission delivery each and every day and I would like to take a moment to recognize them this morning for their service. These officers work long hours, usually at odd times and over holiday weekends so the rest of us can safely enjoy our national forests and other public lands. This service comes at a cost to these officers and their families, and in some cases with great, tremendous sacrifice. So I want to take a moment here today to make sure that we honor the service of those who protect our public lands and the visitors who enjoy them.

To conclude, I would emphasize once again that the protection of wildlife on national forests is a shared responsibility. The Forest Service is committed to doing our part to ensure that citizens have sustainable wildlife populations for the public to enjoy for generations to come.

That concludes my comments. I will be glad to answer any questions.

Mr. MEADOWS. Thank you, Mr. Tooke. I would be remiss if I did not acknowledge the service of the tremendous law enforcement officers of the U.S. Forest Service. I have had the unfortunate necessity to be at a funeral of a U.S. Forest Service law enforcement officer who was fighting courageously in my district and lost his life. And so it does not go unnoticed of the sacrifice, not only the ultimate sacrifice that he and his family paid, but the daily sacrifice, the missing of birthdays and anniversaries and others as they work. So this hearing in no way, in no shape or fashion is designed to impugn the service of so many great public servants. Thank you.

Mr. Myers, you are recognized for five minutes.
[Prepared statement of Mr. Tooke follows:]

Statement of
Tony Tooke
Regional Forester
Southern Region
Forest Service
U.S. Department of Agriculture
Before the
Committee on Oversight and Government Reform
Government Operations Subcommittee
United States House of Representatives
06/19/2015
Concerning
"Operation Something Bruin," a joint law enforcement investigation focused on poaching and other wildlife-related crimes in North Carolina and Georgia.

Mr. Chairman and members of the Committee, my name is Tony Tooke and I am the Regional Forester for the Southern Region of the U.S. Department of Agriculture (USDA) Forest Service. Thank you for the opportunity to present the views of the Forest Service regarding the agency's involvement in Operation Something Bruin.

Conservation Mission

The Forest Service manages national forests and national grasslands in 42 states and Puerto Rico with the mission *"to sustain the health, diversity and productivity of the Nation's forests and grasslands to meet the needs of present and future generations"*. The lands that make up the National Forest System are some of the most beautiful lands in the world, which provide high quality wildlife habitat, diverse wildlife and fish populations, forest products and unsurpassed recreation opportunities. The conservation mission of the Forest Service is recognized world-wide.

The Forest Service manages 2,116,148 acres of public land in North Carolina and Georgia. The geographic locations and public accessibility of these lands require intensive management techniques to protect a variety of resources and provide for a variety of public uses.

In service to the agency's multiple and sustainable use management practices, the Forest Service Law Enforcement and Investigations (LEI) unit provides support to the managers of these lands by enforcing and investigating violations of federal laws, rules and regulations impacting that management. In the expanse of North Carolina and Georgia forests, there are just two special agents and approximately 18 uniformed officers providing this support. Duties include investigating a wide variety of crimes including, but not limited to, damage to resources, wild land arson, illegal drug manufacturing, timber theft, property crimes, archeological resource protection crimes and illegal uses of lands without proper permits. Because of the size and scope of this responsibility, Forest Service LEI routinely works collaboratively with all Federal, State and local agencies to facilitate common objectives. This includes the protection of wildlife on national forest system lands, as well as, health and safety of the public. The Forest Service is committed to doing its part to ensure that we have sustainable populations of wildlife for

generations to come. Similarly, to maintain the health and safety of the forest visitors, these professionals also remove the threats presented by illegal outfitter and guiding operations.

History of Operation Something Bruin

Operation Something Bruin was a joint law enforcement operation, conducted primarily in North Carolina and Georgia, involving the U.S. Forest Service, the U.S. Fish and Wildlife Service, the North Carolina Wildlife Resources Commission, the Georgia Department of Natural Resources and the National Park Service.

During 2008 and 2009, the Forest Service began seeing a trend of illegal activities associated with the use of National Forest System lands. Reported violations from the public and other agencies indicated increased activities of illegal baiting, illegal taking of black bear, and illegal commercial outfitting of hunting services. The reported violations were occurring on Federal, State and private lands and crossed multiple jurisdictions. The complex jurisdictional issues in conjunction with limited investigative resources and officer safety concerns led the Forest Service to initially contact, and then further coordinate with the other impacted agencies. The purpose was to combine intelligence as well as plan a potential covert operation to surface the violations within the respective jurisdictions. These efforts led to the formulation of Operation Something Bruin.

U.S. Forest Service participation in this operation focused primarily on initial violations ranging from resource damage, sanitation violations, illegal motor vehicle use, and operating a commercial activity on National Forest System lands without permits. While investigating these initial violations, other wildlife crimes such as the baiting of black bear, unlawful possession of black bear, unlawful transportation of black bear, commercial sale of black bear parts, taking black bear during closed season, failure to register black bear harvests and various Federal Lacey Act violations were also uncovered.

From 2009 thru 2013, the operation was jointly managed by each respective agency, while each agency retained supervision and oversight of their assigned resources. Each agency respected the shared jurisdiction and respective roles among Federal and State partners. Interagency operational goals were established for Operation Something Bruin as follows: (1) deter illegal activities over a long period of time, (2) educate the public to reduce poaching, (3) garner the support of the hunting community, and (4) reinforce the value and protection of wildlife resources. Since no single agency had the financial resources or capacity to safely and independently manage a cross-jurisdictional operation, each agency agreed to be fiscally responsible for its involvement. It was also determined that in today's world of communication and technology, traditional uniformed "patrol" could not be successful in surfacing these types of targeted violations. As a result, a decision was made to use undercover agents.

One important aspect in the planning and preparation for this undercover operation was the joint decision by all agencies (including the Department of Justice) that if an agent was put in a position that would otherwise expose his cover, the taking of non-endangered game was authorized. This occurred twice during the course of the four-year operation.

Information was obtained over the course of the operation on a wide variety of crimes both on and off National Forest System lands. The Forest Service ultimately gained documentation to present for federal prosecution violations that directly impacted the National Forest System. The Forest Service presented information and evidence on twenty-four (24) individuals to the local U.S. Attorney's Office(s) for prosecutorial review. The 24 individuals were collectively responsible for 240 violations impacting the management of National Forest System lands. Many of the violations were repeat offenses that took place over the investigative time period on various dates.

Judicial Outcome

Eighteen (18) of the 24 individuals that the Forest Service special agent presented to U.S. Attorney's Office(s) for prosecutorial review were convicted on a variety of Federal charges. Sixteen (16) of those individuals have been sentenced and two (2) have pending sentencing dates. The individuals were convicted of a variety of Federal crimes including:

- Operating a commercial activity on National Forest lands without permits (9 individuals were involved and charged in this activity).
- Illegal placement of bait on National Forest with intent to hunt bear.
- Illegally hunting bear, including at night, on National Forest System land.
- Illegally hunting deer on National Forest System lands.
- Gaining illegal motorized access to National Forest System lands by use and possession of a government key.

Of the other six individuals presented for review, two (2) were initially charged and the cases were dismissed as part of plea agreements associated with other Federal cases. Four (4) of the individuals were ultimately not charged after DOJ review.

Following the operation, several defendants began filing motions claiming that the Forest Service did not have legal jurisdiction over some of the charges on national forest lands. The federal court ruled in favor of the government and denied these motions. Several defendants also requested dismissal based on claims of "outrageous government conduct" and entrapment. The court rejected the defendant's outrageous conduct motions, and allowed the jury to consider the entrapment defense. The jury acquitted on one count but convicted on another.

The Forest Service spent a total of $70,352.23 related to Operation Something Bruin over a five-year period and all funds utilized were within normal allocations for Forest Service law enforcement. This total amount included $43,930.44 for vehicle-related expenses, equipment, supplies and purchase of information. An additional $26,421.79 was spent for officer travel and associated expenditures to safely execute search warrants and support the cooperating agencies.

To conclude, I would emphasize again that the protection of wildlife on national forest system lands is a shared responsibility. The Forest Service is committed to doing its part to ensure that we have sustainable populations of wildlife for the public to enjoy for generations to come. Only by enforcing the rule of law can we protect these treasured resources and public lands. Mr. Chairman and members of the Committee, this concludes my testimony. I am happy to answer any questions that you may have.

STATEMENT OF GORDON MYERS

Mr. MYERS. Thank you, Mr. Chairman. Chairman Meadows and members of the Subcommittee, thank you for bringing your important work directly to the people of western North Carolina and for the opportunity to appear before you this morning to discuss our role in Operation Something Bruin.

The Wildlife Commission's primary mission is to conserve North Carolina's wildlife resources and their habitats and provide programs and opportunities that allow hunters, anglers, boaters, and other outdoor enthusiasts to enjoy wildlife-associated recreation. That mission is derived from our agency's statutory purpose, which includes protection of North Carolina's wildlife resources and administering the laws relating to those resources. Those resources are held in trust by the state for the benefit of the public. Individuals may only take them within the constraints of law and regulations.

To accomplish the law enforcement elements of our mission, we use a multi-faceted approach which includes focused education, public awareness campaigns, and proactive law enforcement. Together, these elements of conservation law enforcement encourage ethical conduct by sportsmen, assure proper conditions for scientific management of our wildlife resources, and secure significant public benefits from those resources.

The achievements resulting from scientific wildlife management in North America over the past century have been astounding. In North Carolina, restored populations of black bear, wild turkey, and white-tailed deer are a just a few examples of those long-term achievements. Conservation law enforcement is fundamental to that success.

Information provided to me indicates the U.S. Forest Service initiated Operation Something Bruin in late 2009. And based on my records, I was first informed of the operation in early 2011 when our Law Enforcement Division Chief requested authorization to actively assist in the investigation, which was funded and led by the U.S. Forest Service. The Wildlife Commission values our partnerships and strong working relationships with local, state and federal agencies, including law enforcement and public safety agencies. We strive to operate effectively and efficiently by working with those partners to reduce duplication of effort and to leverage our resources for mission accomplishment. To that end, we provided one undercover officer as well as officers who assisted in the execution of search warrants.

In a letter dated to me May 21, 2015, from the Committee on Oversight and Government Reform, references were made to media reports citing questionable tactics used in the operation, including allegations of entrapment. Entrapment is a complete defense to a crime and to the extent that any defendant believed he or she was entrapped, the defendant could bring that forward in court. Based on my understanding, at least one defendant did raise that defense and the issue was determined by a jury.

That letter also referenced concerns associated with the circumstances under which wildlife was taken by an undercover officer. There is no dispute that wildlife was taken during this operation and it is my understanding that on at least one occasion,

Wildlife Commission Officer Chad Arnold testified as to the circumstances. When officers work in an undercover capacity, there are times when they may need to take specific actions, including the taking of wildlife resources in order to maintain their cover or their safety. In addition, the potential long-term resource benefits that accrue from enforcing our wildlife laws, including the limited taking of resources, can protect far more wildlife resources than those taken in that undercover capacity.

That letter also requested information related to charges and convictions as well as costs associated with the operation. It is my understanding that the prosecuting attorneys reviewed all violations prior to charges being filed. It is also my understanding that after charges were filed, some charges were dismissed, many of which referenced the Petite Doctrine, which limits and prioritizes prosecutions if overlapping jurisdiction exists. In some cases, plea deals were agreed upon in which a defendant pled guilty to some charges in exchange for the dismissal of others. The decisions regarding pretrial disposition of charges rests with the prosecuting attorney's office.

There have been wide-ranging media reports on the costs of Operation Something Bruin, including reports that the operation costs several million dollars. Based on review by my office, it is my understanding that the direct cost to the Wildlife Resources Commission were less than $12,000. This figure does not include salary costs which were paid regardless of the work performed while on duty.

In closing, I have worked for the Wildlife Commission for the past 24 years and it is truly and honor and a privilege every day to work among staff who exhibit the highest level of professionalism and dedication to resource conservation. I greatly value and respect the important responsibilities of our law enforcement officers, just as I value and respect the important work that you are doing here today.

Mr. Chairman, that concludes my testimony and I will gladly take any questions.

Mr. MEADOWS. Thank you, Mr. Myers. Thank you for your services.

Mr. Adams.

[Prepared statement of Mr. Myers follows:]

TESTIMONY OF

GORDON S. MYERS
EXECUTIVE DIRECTOR
NORTH CAROLINA WILDLIFE RESOURCES COMMISSION

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT OPERATIONS
OF THE
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

FOR A FIELD HEARING ON

OPERATION SOMETHING BRUIN

PRESENTED ON JUNE 19, 2015

Testimony of Gordon S. Myers
Executive Director
North Carolina Wildlife Resources Commission
Before the
Subcommittee on Government Operations of the Committee on Oversight and Government Reform
U.S. House of Representatives

June 19, 2015

Chairman Meadows, Ranking Member Connolly, and Members of the Subcommittee, thank you for bringing the important work of this Subcommittee directly to the people of western North Carolina and for the opportunity to appear today to discuss the role of the North Carolina Wildlife Resources Commission (Wildlife Resources Commission) in Operation Something Bruin.

The Wildlife Resources Commission's primary mission is to conserve North Carolina's wildlife resources and their habitats and provide programs and opportunities that allow hunters, anglers, boaters, and other outdoor enthusiasts to enjoy wildlife-associated recreation. That mission is derived from our agency's statutory purpose, which includes protection of North Carolina's wildlife resources and administering the laws relating to game, game and freshwater fishes, and other wildlife resources. Wildlife resources are held in trust by the State for the benefit of the public. Individuals may only take wild animals within the constraints of laws and regulations. To accomplish the law enforcement elements of our mission, the Wildlife Resources Commission relies on a multi-faceted approach, including focused delivery of education, public awareness campaigns, and proactive law enforcement. Together, these elements of conservation law enforcement encourage ethical conduct by sportsmen, assure conditions for scientific management of wildlife resources, and secure significant public benefits from wildlife resources. The achievements resulting from scientific wildlife management and allocation of wildlife resources by law have been astounding across North America over the past century. In North Carolina, restored populations of black bears, wild turkeys, and white-tailed deer are a few examples of those long-term achievements. Conservation law enforcement is fundamental to that success.

Information provided to me indicates the U.S. Forest Service initiated Operation Something Bruin in late 2009. Based on my records, I was first informed of the operation in early 2011 when our Law Enforcement Division Chief, Colonel Dale Caveny, requested approval to actively assist in this undercover investigation, funded and led by the U.S. Forest Service. The operational focus of the investigation was primarily unlawful take and commercialization of black bears in southwestern North Carolina, northwestern Georgia, and southeastern Tennessee. The Wildlife Resources Commission values our partnerships and strong working relationships with local, state, and federal agencies, including law enforcement and public safety agencies. We strive to work effectively and efficiently by working with partners to reduce duplication of effort and

leverage resources for mission accomplishment. To that end, the Wildlife Resources Commission provided one undercover officer whose work was overseen by the U.S. Forest Service. Wildlife Resources Commission officers also assisted with the execution of search warrants.

In a letter to me dated May 21, 2015 from the Committee on Oversight and Government Reform, references were made to media reports citing questionable tactics used in Operation Something Bruin, including allegations of entrapment. Entrapment is a complete defense to a crime and to the extent that any defendant believed he or she was entrapped, the defendant could bring that forward in court. Based on my understanding, at least one defendant did raise that defense and that issue was determined by the jury.

That letter also referenced concerns associated with the circumstances under which wildlife was taken by an undercover officer. There is no dispute that wildlife was taken during this operation in an undercover capacity. It is my understanding that, on at least one occasion, Wildlife Resources Commission officer, Chad Arnold, testified as to those circumstances. When officers work in an undercover capacity, there are times when they may need to take specific actions, including the taking of wildlife resources, in order to maintain their cover and safety. In addition, the potential long-term resource benefits that accrue from enforcing our wildlife laws can protect far more wildlife resources than those taken in an undercover capacity.

That letter also included requests for information referring to any charges or convictions as well as costs associated with the operation. We are fulfilling this Subcommittee's request for information as quickly as possible.

It is my understanding that the respective prosecuting attorneys reviewed all violations prior to charges being filed. It is also my understanding that after charges were filed, some charges were dismissed, many of which referenced the Petite Doctrine, which limits and prioritizes prosecutions if overlapping jurisdiction exists. In some cases, plea deals were agreed upon in which a defendant pled guilty to some charges in exchange for the dismissal of others. The decisions regarding pre-trial disposition of charges rests with the prosecuting attorney's office.

There have been wide-ranging media reports on the costs of Operation Something Bruin including reports that the operation cost several million dollars. Based on review by my office, my understanding is that the direct state costs were less than $12,000. This figure does not include salary costs which are paid regardless of the work performed while on duty.

I have worked for the Wildlife Resources Commission for the past 24 years. It is an honor and privilege every day to work with staff who exhibit the highest level of professionalism and dedication to resource conservation. We value and respect the important work of this Subcommittee and appreciate this opportunity to speak today. Mr. Chairman, that concludes my prepared testimony. I welcome any questions you or other Members of the Subcommittee may have.

STATEMENT OF STEPHEN ADAMS

Mr. ADAMS. Chairman Meadows, Congressman Collins and Congressman Duncan, thank you for the invitation to this hearing and for allowing transparency and oversight on behalf of all citizens of the United States. Additionally, coming to the people only shows care and concern to ensure all parties are equally represented.

The Department of Natural Resources supports legal and ethical hunting under fair chase conditions. The agency is charged with managing wildlife populations under the public trust doctrine for all citizens of Georgia. Law enforcement is a critical component in ensuring that wildlife populations are conserved for present and future generations.

Today, I will discuss the role and scope of involvement of the Georgia Department of Natural Resources in the multi-state, multi-agency Operation Something Bruin.

In 2009, the Law Enforcement Investigative Unit of the Georgia Department of Natural Resources was contacted by the U.S. Forest Service and requested to participate in an undercover operation that would target unknown individuals believed to be participating in illegal hunting activities in remote areas of the Southern Appalachian Mountains. Illegal bear hunting, illegal guiding on federal property, hunting out of season and in closed areas, illegal sale of black bears and parts and Lacey Act violations were all types of violations that were thought to be occurring in this region based on citizen complaints and fragmented information given to officers over several years. Additionally, hunters had begun to use advanced radios, GPS devices, and electronic tracking systems, making enforcement and documentation of violations more difficult. Research previously conducted show that less than ten percent of witnessed wildlife crimes are reported, further hampering enforcement efforts. Georgia agreed to participate in the operation by furnishing one trained officer during hunting season for the duration of the operation. U.S. Fish and Wildlife Service, as well as U.S. Forest Service agreed to provide the needed supervisory structure, support agents and undercover agents. It was also decided that the undercover portion of the operation would last no more than three years. Supervisors with the Georgia DNR maintained contact with the undercover officer from Georgia while he was detached to the operation. Authority for the operation and officers came under a long-standing Memorandum of Agreement between the Georgia Department of Natural Resources and the U.S. Fish and Wildlife Service that was last updated in 2006.

During this operation, there were two black bears that were taken in Georgia. These two were taken by an undercover officer in 2011. Each of the harvests were made while the officer was in a role as a hunter being guided, on duty, and as an official act. In addition, both instances were thoroughly documented in writing in a Report of Investigation and reported as soon as practical to operation supervision. During the 2011 hunting season, Georgia DNR records show 690 bears harvested by hunters in Georgia with 529 coming from the mountain bear population.

During the 2013 hunting season, agencies that were participating in Operation Something Bruin made the decision to end all covert operations and begin the closeout phase of the operation. Be-

ginning in December 2013 and continuing until February 2014 when the initial arrest warrants were served, several tasks were completed by Georgia DNR officers and supervisors that provided multiple layers of oversight on all charges taken by the Georgia Department of Natural Resources. A small number of supervisors who were not aware of the operation were briefed on the operation and directed to review all Reports of Investigation that involved state charges that occurred in Georgia over the course of the operation. Their charge was to review the Reports of Investigation, list out possible violations, review them to make sure that they were in compliance with the Law Enforcement Concepts Policy, confirm all elements of the crime were met, they were not duplicative and not minor administrative infractions.

After the list of possible charges were reduced to a list that met the previously stated criteria, supervisors with Georgia DNR met with prosecutors in each judicial circuit where charges were being made and briefed as well as received approval to move forward and an intent to prosecute the defendants on the crimes outlined in the briefings. After the briefings were held, officers secured arrest warrants that were signed by judges for each defendant and each charge.

In addition, a media plan was coordinated to highlight the operation in an attempt to deter other violations. The media plan was to give an overview of the operation and discuss the number and types of charges made. This number continued to decrease as the charges went through the previously mentioned vetting and oversight process.

On the first day of the takedown phase, Georgia officers, along with law enforcement officers from the U.S. Fish and Wildlife Service and U.S. Forest Service, made contact with three suspects identified in the operation. Walt Stancil, Cale Stancil, and Jerry Parker were all contacted at their residence during the early afternoon hours on the first day. All were given copies of the search warrant and arrest warrants and the state charges and the search process was explained to each by a Georgia DNR officer. Georgia DNR has issued and required the use of body worn recording devices since 2007. The encounters during the takedown phase of all Georgia defendants were recorded using these devices, and all recordings have been submitted to the committee as requested. Each video of these encounters depicts professional, polite and courteous officers who complete their jobs but treat the defendants and their personal property with respect. I was at Walt Stancil's residence for a period of time during his arrest and the search of his residence. When his attorney, Mr. Stockton, came to the residence, he was allowed to speak privately with Mr. Stancil. And while at the residence, Mr. Stockton commented to Mr. Stancil in my presence and other officers that he appreciated how we were conducting the arrests and searches and they should be thankful that we were being respectful to them and their belongings. He had never seen a search warrant executed that way and that officers normally dump belongings on the ground and have little respect for personal property. I told him that is not how the agency did things, and not what we saw from our officers.

The remaining search warrants and arrests of the defendants in Georgia were executed over the next two days without incident.

In closing, thank you for the opportunity to come and testify in front of the committee and I look forward to your questions.

[Prepared statement of Mr. Adams follows:]

GEORGIA
DEPARTMENT OF NATURAL RESOURCES
LAW ENFORCEMENT DIVISION

MARK WILLIAMS
COMMISSIONER

EDDIE HENDERSON
COLONEL

June 19, 2015

Statement of Major Stephen Adams

Congressional Committee on Oversight and Government Reform, Subcommittee on Government Operations

Historic Haywood County Courthouse, Waynesville North Carolina

Major Stephen Adams is a 22 year veteran of the Georgia Department of Natural Resources. He has served in various roles with the agency including: Wildlife Technician, Conservation Ranger, Sergeant / Field Supervisor, and Captain / Region Supervisor of the Coastal Region. Currently, Adams serves as a member of the Law Enforcement Division Command Staff at the rank of Major, supervising Special Operations programs including the Investigative Unit on statewide level. Major Adams earned a Wildlife Degree from Abraham Baldwin Agricultural College, has been a P.O.S.T. Certified Peace Office Officer for 20 years, holds a P.O.S.T. Instructor Certificate and Firearms Instructor certificate, is a graduate of the 28th Georgia Law Enforcement Command College, a past president of the Georgia Peace Officers Association, a graduate of the 246th Session of the FBI National Academy, a member of the National Association of Conservation Law Enforcement Chiefs Leadership Academy 2nd Cohort Group, a member of the Georgia Peace Officers and Standards Training Council Executive Committee, and chairman of the P.O.S.T. Council Training and Certification Committee.

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Today, Major Adams will discuss the role and scope of involvement of the Georgia Department of Natural Resources in the multi-state, multi-agency "Operation Something Bruin."

In 2009, the Law Enforcement Investigative Unit of the Georgia Department of Natural Resources was contacted by the US Forest Service and requested to participate in an undercover operation that would target unknown individuals believed to be participating in illegal hunting activities in remote areas of the Southern Appalachian Mountains. Illegal bear hunting, illegal guiding on federal property, hunting out of season and in closed areas, illegal sale of black bears

LAW ENFORCEMENT DIVISION
2070 U.S. Hwy. 278, SE | SOCIAL CIRCLE, GEORGIA 30025
770.918.6408 | FAX 770.918.6410 | WWW.GADNRLE.COM

and parts, and Lacey Act violations were all types of violations that were thought to be occurring in this region based on citizen complaints and fragmented information given to officers over several years. Additionally, hunters had begun to use advanced radios, GPS devices and electronic tracking systems, making enforcement and documentation of violations more difficult. Research previously conducted show that less than 10% of witnessed wildlife crimes are reported, further hampering enforcement efforts. Georgia agreed to participate in the operation by furnishing one trained officer during hunting season for the duration of the operation. The US Fish and Wildlife Service, as well as the US Forest Service agreed to provide the needed supervisory structure, support agents and UC agents. It was also decided that the undercover portion of the operation would last no more than 3 years. Supervisors with Georgia DNR maintained contact with the undercover officer from Georgia while he was detached to the operation. Authority for the operation and officers came under a long standing Memorandum of Agreement between the Georgia Department of Natural Resources and US Fish and Wildlife Service that was last updated in 2006.

During the operation there were two black bears that were taken in Georgia. These two were taken by an undercover officer in 2011. Each of the harvests were made while the officer was in role as a hunter being guided, on duty as an official act. In addition, both instances were thoroughly documented in writing in a Report of Investigation (ROI) and reported as soon as practical to operation supervision. During the 2011 hunting season Georgia DNR records show 690 bears harvested by hunters in Georgia with 529 of the 690 harvested from the mountain bear population.

During the 2013 hunting season, agencies that were participating in Operation Something Bruin made the decision to end all covert operations and begin the closeout phase of the operation. Beginning in December 2013 and continuing until February 2014 when the initial arrest warrants were served, several tasks were completed by Georgia DNR Officers and supervisors that provided multiple layers of oversight on all charges taken by Georgia DNR. A small number of supervisors who were not aware of the operation were briefed on the operation and directed to review all Reports of Investigation that involved state charges that occurred in Georgia over the course of the operation. Their charge was to review the ROI's, to list out all possible violations, to review all possible violations to ensure they were in compliance with the GA DNR LE Law Enforcement Concepts Policy, and to confirm all elements of the crime were met and that they were not duplicative charges or minor administrative infractions.

After the initial list of possible charges were reduced to a list that met the previously stated criteria, supervisors with Georgia DNR LED met with prosecutors in each judicial circuit where charges were being made and briefed as well as received approval to move forward and an intent to prosecute the defendants on the crimes outlined in the briefings. After the briefings were held, officers secured arrest warrants that were signed by judges for each defendant and each charge.

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types of charges that were made. This number continued to decrease as the charges went through the previously mentioned vetting and oversight process.

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Major Stephen Adams
Georgia Department of Natural Resources
Law Enforcement Division

Mr. MEADOWS. Thank you, Mr. Adams. I would like to highlight the fact that your agency has been extremely cooperative with this committee in terms of the document requests, and everything that we have asked for you have been willing to provide. And in a time were sometimes that is difficult to do, I just want to say thank you on behalf of the committee. We have got unbelievable staff on committee and it makes their job much easier.

Additionally, Mr. Myers, thank you. You have agreed to provide documents on a rolling basis. We look forward to getting those completed documents, but you too have been very cooperative in those. And that is what it is all about, it is about transparency, it is about restoring trust in government. And when we are open and transparent, we know that the rule of law is here.

I think it is important that the nine-year-old girl that we heard about in this very first panel, that she understands that law enforcement officers are people that she can depend on and trust. And in an environment where a lot of the narrative is not that, your actions, Mr. Adams and those of your fellow officers seek to restore that. And I just want to say thank you.

The gentleman from Georgia is going to have to get out. He has made a long trip down and there is not a straight road between here and there and so I am going to recognize the gentleman from Georgia and then he will be stepping out.

Mr. COLLINS. I appreciate that, Mr. Chairman. And I appreciate it and thank you for those kind words. Thank you for allowing me to be here. I just want to say thank you to the good folks in this great district. From your representation of them, which is outstanding in D.C. and for their turnout today on this issue is really amazing. And I think I will come down here for all hearings. I just—you know, if I could just sit here and look out the window, I would probably have a hard time, it is just absolutely beautiful. So thanks.

One of the issues that I have, and I have served on Oversight and Government Reform and still maintain a membership there, I just am not there right now. But I do serve on Judiciary. And Judiciary has primary oversight of the Department of Justice. And unfortunately, especially over the last few years, this Department of Justice has chose not to be transparent, has chose to be—at times to obfuscate, to give half answers. I have had my run-ins with the former Attorney General, thank goodness former Attorney General. I was hopeful of the new Attorney General to put in a new order of openness, but undoubtedly the Department of Justice wanted to claim that there are still ongoing criminal cases, decides not to come and be transparent about simple things such as the operating agreement between North Carolina and the federal Fish and Wildlife.

If they were here—but oops, they are not—they could then talk to me about the mutual consideration or consultation in the North Carolina agreement with federal and state prosecutors. I would love to ask them that question. I guess they are too busy.

I would love to ask them if they actually consulted and decided, as we heard in the first panel, about where they were going to charge and how they were going to charge, what were the decisions

made, why are we moving cases, you know, to that prosecutorial discretion.

Again, Mr. Chairman, I would love to ask those questions but again, our Department of Justice decides to hide behind procedure, when we are not asking questions about cases. I just want to know about their thinking. Again, there is a TV show on called "Law and Order." My wife loves it, I tolerate it.

[Laughter.]

Mr. COLLINS. Because it really condenses our criminal justice system into really too often bumper sticker answers, but it makes a great statement at the beginning. It says, "This is a story about the men and women who enforce the laws and the ones who prosecute." Today, we have before us those who enforce, who put their lives on the line, who represent those who do that. And as the son of one who watched his dad go out not knowing if he would come home and sometimes when he came home bloodied, torn uniform, I understand that. I am just highly disappointed that DOJ chose again to hide. I have seen this though not only in Oversight, I have seen it in Judiciary all the time. It is just sad.

But let me get to a few things here. One, the Georgia Department of Natural Resources, I served in the State House with your Commissioner, Mark. Tell him that I am saddened that he did not make the long windy road up here, I will have to see him about that later, and also Colonel Henderson as well. Give them my best.

Your amount of cooperation, as the Chairman has said, has been very cooperative with this committee. You gave me a statistic, how much data have y'all turned over to the committee?

Mr. ADAMS. Forty gigabits of data. It was a challenge to figure out how to get it there on time.

Mr. COLLINS. I can imagine. But it was turned over. And I think one of the things that—that also listed some costs. What are some of the cost estimates or what costs, because there has been a lot of numbers thrown around. We just heard $10,000, many in the audience was not sure about that, but just from Georgia's perspective, cost on this operation.

Mr. ADAMS. There were no direct costs related to the operation other than salary of the undercover officer that was involved, and limited supervisory oversight. The takedown phase, there was a small amount of travel incurred. This is a guess, probably less than $5000 and that is a high estimate.

Mr. COLLINS. Okay. One of the things that has also been brought up here is this cooperative agreement issue. And I want to highlight something here, because we do have a cooperative agreement in North Carolina, a different agreement, if you would. Your contention is, and I am assuming from other issues that you have with Forest Service, that you are operating under the 2007 agreement I believe, or 2006 agreement. Is that correct?

Mr. ADAMS. That's correct; yes, sir.

Mr. COLLINS. From what you know of this agreement—and you may not and if you do not, that is fine—but maybe Forestry could answer this. Are there any applicable differences between this agreement that would have necessitated the need for this agreement as opposed to what Georgia is operating under and has been

operating under. Mr. Adams first and if you would care to comment on that.

Mr. ADAMS. Not familiar with the North Carolina agreement, although I can speak to the Georgia agreement. The Georgia agreement which is signed between the director of our agency, or Commissioner, and the Special Agent-in-Charge of the Southeast Region—I hope I have got that term correct—grants authority to rangers with the Georgia Department of Natural Resources who have passed the field training status to enforce several federal statutes such as the Lacey Act, CITES, Migratory Bird Treaty, ESA and other—Endangered Species Act— and other things.

The agreement also provides deputization of federal officers as Georgia conservation officers. So it is a dual back and forth.

Mr. COLLINS. So they can come in and——

Mr. ADAMS. That is correct.

Mr. COLLINS. And before I go to Mr. Santiago, because I want your interpretation. You operated, even though it has been brought up that there is not an agreement with Georgia per se in this, you are under, and all of your agreements operate off of that one, it would cover this completely; correct?

Mr. ADAMS. That is correct. We consulted with counsel for Georgia DNR and we felt like that the longstanding MOU which was last updated in 2006, prior to this operation's inception, would cover our officers in the performance of their duties.

Mr. COLLINS. Mr. Santiago, would you agree with that assessment?

Mr. SANTIAGO. Yes. With one clarification that the agreement is signed by our Chief of Law Enforcement at our headquarters and the Regional Director.

Mr. COLLINS. Okay. But as far as the operational aspects of this, because—I think there has been some confusion. Why was this signed, why did Georgia not, but as far as from the operational perspective, what Georgia operated under, and because North Carolina and maybe Mr. Myers, you want to say why did y'all sign a new agreement or did you not have an original Memorandum of Understanding?

Mr. MYERS. Congressman, we are operating under an agreement with U.S. Fish and Wildlife Service from 2006. It is much like the agreement that State of Georgia has except in North Carolina we do not have the reciprocity where the federal agents can enforce the state laws. That is the only difference.

Mr. COLLINS. That is why you would have felt the need to have had this other agreement; correct?

Mr. MYERS. Well, the other agreement with the Forest Service—the agreement with the Fish and Wildlife Service gave our officer authority out of state.

Mr. COLLINS. Right.

Mr. MYERS. The agreement with the Forest Service established the relationship on this operation relative to administrative costs and other things.

Mr. COLLINS. Okay. I am going to wrap up here. I appreciate the Chairman's indulgence and the gentleman from South Carolina as well. I think one of the things that was brought up by the Chair in this, and it goes back to something that has been in the news

lately. There is a lot of good that can come from body cameras, there are a lot of questions still out there on how you use them, how you are not using them. When they are off, when they are not. But I think this is an example that could be used, because even the attorney for the family and the family itself, when you were able to show that and the respect and the treatment, even in a very difficult situation for all involved, not just the officers but also the families involved, I think showed that there was a way to do that. And I am proud of Georgia for doing that and the way it was handled and your turning over.

I appreciate the hard work of all in this. Nobody wants to illegal hunt. I grew up hunting. You do it the right way. But also the federal government has to be very much aware of the perception that many times occurs in this in these kinds of operations when there feels like there was, as was said earlier, what is entrapment in this defense. There is a very legal definition of entrapment and, you know, that is what I think is concerning to many.

So I think there are a lot of questions raised here. I will go back to what I started with though, what you are working through and I appreciate you being willing to sit at this panel and testify. And I am sure DOJ is listening somewhere. I am not on their best list and I am not making it again today, but again, I wish DOJ would share the same transparency issues that members of Congress do and that you showed here today.

And with that, Mr. Chairman, I yield back and I do excuse myself and I do appreciate the opportunity.

Mr. MEADOWS. I thank the gentleman. North Georgia is very fortunate to have you representing them and I thank you for taking the time away from your family to come here and hopefully allow for greater transparency. Thank you.

Mr. COLLINS. Thank you, I appreciate it.

Mr. MEADOWS. So with that, I am going to recognize the gentleman from South Carolina, which by the way is the Vice Chair of the Sportsmens Caucus, so he is very familiar with a number of these things. The gentleman from South Carolina is recognized.

Mr. DUNCAN. Thank you, Mr. Chairman. I am an avid outdoorsman, love to hunt and fish and travel to do that.

I am just trying to get my head wrapped around the impetus for Operation Something Bruin. So Mr. Santiago, how did this originate? Who contacted who and how did all this begin?

Mr. SANTIAGO. Basically in years prior to the investigation, citizens and hunters in Tennessee, North Carolina reported illegal bear hunting to state wildlife officers. And acting on these reports, the Service, U.S. Forest Service, Georgia DNR and North Carolina Wildlife Resources initiated this investigation basically from the concerns of citizens and hunters.

Mr. DUNCAN. So let me go to North Carolina. Mr. Myers, I do not think you were the Executive Director then, but maybe you can answer this. So North Carolina was seeing, and Georgia, were seeing large amounts of baiting activity, illegal bear pens—we call them pens in South Carolina—trespass, all these activities, and transport. You were apprehending or uncovering gall bladders that were being prepared to ship or were crossing state lines. You were hearing from the FBI that these gall bladders were being apprehended

or confiscated in other states or ports going out of the country. Is that what you are telling me?

Mr. MYERS. Congressman, based on my information, the United States Forest Service began getting reports in 2009 when this project was initiated, this operation. And our Colonel came to me in early 2011 after he had attended a meeting and was briefed on the situation, and in that meeting it is my understand that there was enough compelling information that he felt it would be beneficial for the Wildlife Resources Commission——

Mr. DUNCAN. Were these anonymous tips or were these actually interviews? Did you have someone come in and they interviewed and they told you specific instances of illegal harvest, baiting, gall bladder sales, or all that?

Mr. MYERS. I do not know the source of the information.

Mr. DUNCAN. Because anybody can call anonymously. And I would believe that there are a lot of people out there—based on my history in the state legislature on the committee that handled all of our DNR wildlife issues, there are people out there that do not want bears killed, period. And they will raise allegations at the drop of a hat to stop it from happening. And so if this was an anonymous tip line, that is one thing. If you went out and interviewed people that were making these allegations and began an initial investigation from the state wildlife offices that uncovered an enormous activity in North Carolina, western North Carolina and Georgia and South Carolina—is that what you are telling me? That is what I am asking.

Mr. MYERS. This operation was not initiated by the State of North Carolina.

Mr. DUNCAN. Georgia?

Mr. ADAMS. I guess a couple of things. In Georgia, just to clarify earlier testimony, bear, feeding of wildlife is legal in Georgia. It is when you introduce gun powder that it becomes a crime. The exception to that, however, is bears. There is a specific statute. It is O.C.G.A. 27–3-27, that makes it illegal to place feed to congregate bear populations. Bears can be habituated to become dependent upon humans. It causes them to be problem bears and problem bears generally become dead bears. So there is a specific state law, absent of hunting, that prevents the congregation of black bear populations which is an admitted activity that was being done by one of the defendants.

We had officers who would, for many years, encounter people who were training dogs. And that was legal, there was a legal training season. There was convenience store talk and things like that, anecdotal evidence, that there was more than training occurring sometimes. Training is a legal activity, we certainly support it, it is something they could do.

Additionally, most of the areas that we are talking about are remote areas that are between western North Carolina and northeast Georgia——

Mr. DUNCAN. Can I ask you a question real quick?

Mr. MYERS. Yes, sir.

Mr. DUNCAN. Is bear baiting, that training, is that a legal activity?

Mr. MYERS. It is a legal activity certain times of the year. It is not legal to hunt bears with dogs in north Georgia. It is legal in south Georgia, it is not legal for the mountain population of black bears in Georgia.

Mr. DUNCAN. Thank you.

Mr. MYERS. So there was a lot of anecdotal talk that our officers in the area, uniformed officers, heard of people being guided, training being used as a guise for hunting and we heard that. Undercover officers during the course of this operation heard defendants say "you do not have a gun, you are not hunting." And I am paraphrasing here. So we did feel like there was some activity. But we were contacted by the U.S. Forest Service to start this operation.

Mr. DUNCAN. U.S. Forest Service, were y'all contacted? I mean I know you have got a limited number of officers and what-not out there. Were you contacted by outside sources—based on testimony, that is how this thing began, and did you verify those outside sources? Did y'all investigate, interrogate, question, whatever?

Mr. TOOKE. Sir, the Forest Service contacted the other federal and state agencies and our participation was initially focused on different violations, some similar to what has already been mentioned, violations ranging from resource damage, sanitation violations, illegal motor vehicle use. And then operating a commercial activity on the national forests without a permit.

So as our officers began to investigate that, they had their own observations as well as reports from the public, from citizens, about other crimes, other violations that were uncovered, such as illegal baiting of bear, taking of black bear during the closed season, and then again the commercial sale of black bear parts. And so in 2009, those contacts were made to the other agencies and the agencies came together to share information and look into the situation as a whole.

Mr. DUNCAN. So there were allegations that black bear parts were being sold across state lines. What evidence was there? Were these being seized at airports, being shipped by UPS? Were these being seized at ports on cargo ships going out? I mean what evidence was there?

Mr. TOOKE. I do not have the specific evidence. I just know that there were reports of that and that is what they uncovered during their investigation.

Mr. DUNCAN. I am going to go that it is hearsay. And so let me shift gears here a little bit. Does U.S. Forest Service permit commercial activity hunting guides? Not talking about rafting on the Nantahala. Does the U.S. Forest Service permit hunting guides on U.S. Forest Service property in western North Carolina and north Georgia?

Mr. TOOKE. Yes. We have operator and guide permits on multiple national forests across the country. We do have legal outfitting and hunting guide permits.

Mr. DUNCAN. Is most of the property considered game management area, is it open to public hunting?

Mr. TOOKE. All of the national forests in North Carolina are in what is called game lands areas, all of the lands here in North Carolina.

Mr. DUNCAN. Okay. Just for my edification, are the permits restricted—if I am an outfitter and I want to take folks hunting and I get a commercial operator's permit as an outfitter from the U.S. Forest Service, am I restricted to a certain area?

Mr. TOOKE. The permits I think vary. It depends on what the applicant is asking for. Some of them may request certain parts of the forest, some of them may request the entire part. I do not have the specific details on the ones that we have.

Mr. DUNCAN. I know out west if you are a guide and you are permitted, you are usually permitted for use days on certain areas and you are restricted to those use days and those areas.

Mr. TOOKE. Yeah, and I think some of them may be for certain time frames and others different time frames.

Mr. DUNCAN. If y'all suspect illegal guiding activity, are you investigating that? You are going out and meeting with the people that were supposedly taken hunting?

Mr. TOOKE. I would say that our officers probably did it a variety of ways, but yes, they could do that.

Mr. DUNCAN. Are these permits for just big game or do you have to issue permits for people doing any commercial guiding, for turkey hunts, trout fishing, that sort of thing?

Mr. TOOKE. It would be for whatever is legally available, whatever the legal season is during a legal time, whatever could be legally hunted.

Mr. DUNCAN. How many of the cases involved illegal commercial activity on U.S. Forest Service property with regard to Operation Something Bruin?

Mr. TOOKE. I do not have the specific numbers. I know we brought forward 24 individuals. There were 18 that were charged and convicted and there were also 10 arrests for breaking of federal laws, rules, and regulations. And some of those did include operating a commercial operation without a permit.

Mr. DUNCAN. I am trying to get my head around jurisdiction on federal and state. Who owns the wildlife that is out there? Who controls that? Is that the State of North Carolina or is that federal?

Mr. TOOKE. On federal lands, on national forests, we have concurrent jurisdiction with the states to enforce wildlife laws on those lands.

Mr. DUNCAN. So can North Carolina wildlife officers conduct their normal activities on U.S. Forest Service property?

Mr. TOOKE. We have concurrent jurisdiction.

Mr. DUNCAN. Concurrent jurisdiction, okay.

I think this next question I have is probably more for the Justice Department, but I am curious about the directive to deny probation. Were any of you involved in that directive?

Mr. TOOKE. I did not hear the first part. I am sorry, sir, the first part of your question.

Mr. DUNCAN. Were either of you involved in the directive in terms of to deny probation? Were you aware of it, were you involved in it?

Mr. TOOKE. That was determined by the prosecutors, if I am understanding your question.

Mr. DUNCAN. There was an email that was provided the committee that apparently directs the prosecutors to deny probation to some of these defendants, assuming they were convicted.

Mr. TOOKE. Yes, sir, that was totally their decision.

Mr. DUNCAN. How about change of jurisdiction from a local state court to the federal magistrate?

Mr. TOOKE. Totally their decision.

Mr. DUNCAN. U.S. Fish and Wildlife, you concur?

Mr. SANTIAGO. Yes.

Mr. DUNCAN. Justice Department? Okay.

How do you respond to the allegations of property damage for seized items? And I guess I will start with you, Mr. Santiago.

Mr. SANTIAGO. Through the process of the search warrants, the Service did not confiscate any items.

Mr. DUNCAN. Has there been a specific investigation into the allegations of the defendants who had property seized as to whether that property was damaged by elements of the Fish and Wildlife Service or North Carolina and Georgia law enforcement?

Mr. SANTIAGO. I have no knowledge of any allegations of damage.

Mr. MEADOWS. If the gentleman will yield.

Mr. DUNCAN. Allegations.

Mr. MEADOWS. Mr. Tooke, are you aware of any then?

Mr. TOOKE. In the search warrants, in the property that was seized, all these warrants were approved by judges, they were all reviewed by them. Our officers——

Mr. MEADOWS. That was not the question. That is a good answer to a question that was not asked. But that was not the question.

You are talking about seizing of property. Are you aware of any improper seizing of property or improper holding of property——

Mr. SANTIAGO. No, sir.

Mr. DUNCAN. And damage.

Mr. MEADOWS. —and resulting damage.

Mr. SANTIAGO. No, sir. They followed the federal rules of evidence in both seizing it, taking care of it, and returning it, what has been returned. I am not aware of any damage.

Mr. DUNCAN. The committee has been made aware of that and the defendants have raised this issue. Whether they have raised it with North Carolina and Georgia or the feds, I am not sure, but the issue has been raised or otherwise, I would not know about it.

So what is the process—for the people that are here, what is the process for some sort of either reimbursement or an "I am sorry" from the federal government or the local law enforcement for damage to items seized? What sort of recourse do they have? So what would be the step? If one of these folks that are out here that may or may not be defendants in these cases that had items seized that were damaged, what would be their recourse? What would the process be? Because they are wondering. If an antler was sawed off—I mean you cannot replace, that is a trophy, you cannot replace that. Why in the world was it sawed off? What is the ramifications or what is their recourse rather for dealing with that? Mr. Santiago.

Mr. SANTIAGO. There is a tort claim process where a subject can file a complaint about the damages.

Mr. MEADOWS. So you are saying they need to sue the federal government?

Mr. SANTIAGO. Well, there is a process for it.

Mr. MEADOWS. But that does not normally end well. Is that what you are saying, is that is your answer if you did it improperly?

Mr. SANTIAGO. I am not referring to this particular investigation, but in circumstances where there are some claims about damages, that is the way that we normally handle those claims.

Mr. DUNCAN. Mr. Myers, if North Carolina was involved in the—I will not say illegal seizing because there is an investigation going on and items that were a part of—were wildlife trophies and other things, probably could be seized and be justified, but if they were damaged, what is the recourse for the people? What would be the process, who would they talk to within North Carolina DNR for that? Because—yes, sir.

Mr. MYERS. Well, we would be contacted and I will preface that there is ongoing litigation relative to a tort claim and so I would say that the process would be to contact us and we would advise them of the tort claim process, which they can file a tort claim and there has been one filed in North Carolina. I will also say that we were not the custodians of evidence in Operation Something Bruin.

Mr. DUNCAN. I do not know if Georgia was involved in any of that. Sir?

Mr. ADAMS. I think we took very few things. For example, we had a computer person come in and we imaged hard drives instead of taking things. And our process for collecting evidence like that is to photograph it, document it, and to say what condition it is in. Again, in this operation, we were not the custodians, however, we may have seized some things pursuant to the search warrant and we have not been made aware of any complaints of anything from Georgia that was taken. And it would take a simple phone call, probably follow up with a letter, saying what was damaged. We would probably internally look at evidence photographs to make sure that it was not in that state before we got it. And then we would move forward. But that would be how we would handle it. We have not received any complaints of anything being damaged that Georgia DNR took.

Mr. DUNCAN. They would be rightfully upset, and I would be upset, if one of my trophies had been damaged, especially if I was—if the case was adjudicated and I was found not guilty and they returned my seized items and they are damaged, I am going to be upset.

So are you gentlemen willing to provide to the audience in some shape, form, or fashion, maybe through the committee, some sort of steps of recourse on who they can contact. Not a negative way, and I am going to appeal to the people that have had their items damaged, there is a process. Let's get to that process for some sort of recourse short of suing the federal government, which I think is obtuse. So let's try to work through this, because the committee has been provided evidence or at least allegations that things have been damaged.

Mr. Chairman, this has been a good hearing. I am going to yield to you. I may have some more questions as I think through this. I yield back.

Mr. MEADOWS. So let me go ahead and follow up on that question, Mr. Tooke.

Were you the custodian of all the seized equipment?

Mr. TOOKE. I do not know if we were——

Mr. MEADOWS. Was the U.S. Forest Service, not you personally. I did not say it was in your garage.

Mr. TOOKE. I do not know if we were of all of it. I know we did have evidence that we seized and I think some of it has even been returned. And they followed the federal rules of evidence as the process and constantly work with the Justice Department in all phases of executing that.

Mr. MEADOWS. Where was it held?

Mr. TOOKE. I am not sure where we——

Mr. MEADOWS. So you do not know where you held it?

Mr. TOOKE. No, sir.

Mr. MEADOWS. Was it in a conditioned space?

Mr. TOOKE. Pardon me?

Mr. MEADOWS. Was it in a conditioned space? Because one thing that is for sure if it was not, it will mildew in western North Carolina.

Mr. TOOKE. Right. Whatever is required in the federal rules of evidence is what our officers followed.

Mr. MEADOWS. All right. So how do you respond, since you are the custodian, to the fact that there was damage to some of the items. Is that true or not? Did you take pictures before?

Mr. TOOKE. Not that I am aware of.

Mr. MEADOWS. Did you take pictures before?

Mr. TOOKE. I am not sure. Whatever the steps they were supposed to follow, we looked into that——

Mr. MEADOWS. Well, you have got counsel here, did you take pictures before where you have a before and after. Yes or no?

Mr. TOOKE. I am not sure.

Mr. MEADOWS. You are not sure, okay. Let me go on a little bit further because this is extremely troubling. I understand that you still have stuff in—somebody mentioned that you still have stuff that you are keeping in your custody right now?

Mr. TOOKE. I think we do, sir.

Mr. MEADOWS. That it is important to your investigation. Is that correct?

Mr. TOOKE. There are ongoing investigations, yes.

Mr. MEADOWS. I did not ask that. Is it critical to your investigation? I know there are ongoing investigations. Is what you are holding critical to your investigation, or are you just holding it?

Mr. TOOKE. No, sir. What is being held I would say is important to the investigation.

Mr. MEADOWS. All right. So let me—you know, I have complimented both state agencies on their response to this committee. Is there any particular reason why your response, Mr. Santiago, and yours, Mr. Tooke, is less than voluminous?

Mr. SANTIAGO. We still have some open aspects of the investigation.

Mr. MEADOWS. I understand that. Are you saying—I got no documents from you. Are you saying that there is not one single docu-

ment that you could have sent this committee that was not involved with an ongoing investigation? Not one.

Mr. SANTIAGO. As far as I know, the department and the agency staff is in conversations about what information can be released.

Mr. MEADOWS. So you are going to release it?

Let me tell you what I am concerned about. I get two letters from two different agencies—do y'all work in the same building? You do not. I mean I know the answer. Do you work in the same building, Mr. Santiago?

Mr. SANTIAGO. No.

Mr. MEADOWS. Do you, Mr. Tooke?

Mr. TOOKE. No, sir.

Mr. MEADOWS. How can I get two letters with the exact same wording except for one sentence, one day apart? How can I do that if there is not a coordinated effort to make sure we did not get information. How does that happen? Mr. Santiago.

Mr. SANTIAGO. I cannot answer that.

Mr. MEADOWS. Mr. Tooke?

Mr. TOOKE. We know that the committee has requested documentation. I think we provided one or two.

Mr. MEADOWS. You provided two documents.

How many gigabits did you provide, Georgia?

Mr. ADAMS. Forty.

Mr. MEADOWS. Forty gigabits and you provided two documents.

Mr. TOOKE. Yes, sir.

Mr. MEADOWS. One of which was just a list and description of federal charges. Would you say that that is really trying to be open and transparent, Mr. Santiago?

Mr. SANTIAGO. We provided——

Mr. MEADOWS. Yes or no. Is it open and transparent?

Mr. SANTIAGO. All I can say is that we have ongoing investigations and they are looking at what information can be released.

Mr. MEADOWS. Since you are going to respond the same way, let me ask it a little bit differently. Are you willing to commit here today to give to this committee the necessary documents that give the background, the process of where we are—are you willing to commit to give those to the committee as long as they are not in an ongoing investigation of that particular individual? Can I have all the other documents? Mr. Santiago, are you willing to agree to that?

Mr. SANTIAGO. Yes.

Mr. MEADOWS. Okay. Mr. Tooke.

Mr. TOOKE. Yes. They are being reviewed and as soon as those reviews are completed and people allow us to do that, yes. But there are ongoing investigations and all these documents are being given a thorough review by the Department of Justice and others.

Mr. MEADOWS. So are they reviewing your confiscation of private property as well?

Mr. TOOKE. The documentation on that?

Mr. MEADOWS. DOJ. Yeah, the documentation.

Mr. TOOKE. The prosecutors, yes.

Mr. MEADOWS. Okay. Mr. Santiago, your opening testimony was interesting because you said that the reason that the U.S. Fish and

Wildlife got involved is because you saw bear populations decreasing. Is that correct?

Mr. SANTIAGO. That is correct.

Mr. MEADOWS. How do you reconcile that with the North Carolina Wildlife Commission biologist who says that, "Bear population is the highest it has been in 100 years, between 6500 and 7500." How do you reconcile that?

[Applause.]

Mr. MEADOWS. How do you reconcile that?

Mr. SANTIAGO. I believe what I said was that the poaching and the take of American black bear may affect the populations in the U.S.

Mr. MEADOWS. Well, there are a lot of things that may happen, but we did—you spent money based on what you said had happened. You know, I mean you are really—because they are looking at extending the season on black bear. And you are saying that there is just such a devastating effect by this poaching ring, that you got involved. How do you reconcile those two?

Mr. SANTIAGO. Again, what I said was that the continuing illegal take of American black bear may increase commercial demand of its parts, eventually have a negative impact on its population.

Mr. MEADOWS. I guess my question then, Mr. Santiago, is why look at western North Carolina, because that could be true all over the United States. And we are seeing an increase in population here. So why would you focus just on western North Carolina? Is it because you had a successful poaching operation 20 something years ago, that you found some guilty folks there? Is that why you got involved in western North Carolina?

Mr. SANTIAGO. Well, my guess is that this was the result of the information received from the field by the different investigating agencies.

Mr. MEADOWS. I yield to the gentleman from South Carolina.

Mr. DUNCAN. I want to ask, have y'all done physical survey of the number of black bears in the Great Smoky Mountains area?

Mr. SANTIAGO. I have no information about that. I would have to look into it.

Mr. DUNCAN. How are you coming up with that determination that bear numbers are down?

Mr. SANTIAGO. That was in preparation for the testimony. I do not have that information.

Mr. DUNCAN. The reason I ask that is—and this is a side track for just a second, Mr. Chairman—is we continually see agents of the federal government using computer models to try to extrapolate and figure out how many numbers of black bear there may be, how many numbers of red snapper there may be. Guys in lab coats sitting up in a cubicle in Washington, D.C. somewhere coming up with some sort of figure of what they think, and not listening to the people out in the field. Not listening to the State of North Carolina on the number of bears here, and not listening to the people on the Gulf of Mexico on the number of red snapper that are actually being seen or caught, released or taken on the boat for their bag limit. And these computer models are affecting what the American taxpayers can benefit from through recreational activities of sport hunting or sport fishing. And so this is not directed at you,

it is directed at your agency and it is directed at NOAA and it is directed at the other federal agencies, because we continually see this, Mr. Chairman, where they are using computer models and not actual data.

I would ask how did North Carolina come up with that number.

Mr. MYERS. Congressman, we use harvest data on an annual basis to try to determine black bear population.

Mr. MEADOWS. Actual data.

Mr. DUNCAN. Actual data. Using sightings, using trail cameras, using other things; right? Okay.

Mr. Chairman, I yield back.

Mr. MEADOWS. Two other things before we finish up here, I need to get some clarity on.

One has to do with this memo that was signed after federal and state agents got together. Now there was an allegation made in the first panel that that was signed after there was actually activity going on. Is that the case? Mr. Tooke, Mr. Santiago, either one of you.

Mr. TOOKE. Sir, the Memorandum of Understanding that the Forest Service signed with the State of North Carolina was signed in February 2012.

Mr. MEADOWS. Right.

Mr. TOOKE. And it is my understanding that we did not have any search warrant, state executed, or any arrests until about a year later in 2013.

Mr. MEADOWS. But were state and federal agents working together without an agreement, entering into conversations and hunts with other people? Now search warrants are a different thing. The one is working together to build a case, but search warrant is a totally different question.

Mr. TOOKE. The operation could have went forward without the specific Memorandum of Understanding. It was just determined that——

Mr. MEADOWS. Well, that disagrees with what Mr. Myers was saying earlier in his testimony. He said that y'all needed an agreement to work together. I guess if you did not need the agreement, why did you sign it in February? Maybe that is the way I need to ask it.

Mr. TOOKE. There was already an existing agreement.

Mr. MEADOWS. That is correct. So if there is an existing agreement, why did you sign one in February? I mean why would you need one in February if there is already an existing one? I am confused.

Mr. TOOKE. Okay, so the magnitude of the operation was increasing and it was determined that this particular—most of it focused on western North Carolina, but not all of it—that it would be helpful to make sure we were clear on roles and responsibilities, how information and intelligence would be coordinated. It was non-monetary except for just—it was in there that the Forest Service could cover some incidental expenses like fuel of a state officer working on federal land. And so we thought that another—this particular MOU or agreement could be helpful to go through the rest of the operation.

Mr. MEADOWS. So magnitude in that a week or 12 days prior, as was testified in the first panel, you found something and you said well, we had better go and get a memo of understanding because the magnitude is getting greater? Because that is what they are saying, is 12 days after that, you signed this agreement. Is that correct?

Mr. TOOKE. Twelve days after what, sir?

Mr. MEADOWS. After some type of—you heard Mr. McLean, he was talking about it. It was basically some type of interaction on behalf of federal and state agents together that then you went back and signed it.

Mr. TOOKE. I am not aware of that specific incident. That was not the purpose of this at all.

Mr. MEADOWS. So your testimony here today is that you had an existing agreement and that the February 2012 agreement was a clarifying agreement; is that correct?

Mr. TOOKE. We have concurrent jurisdiction with the states on national forests.

Mr. MEADOWS. You testified to that already. I am asking you a specific question. Is the document that you signed in February of 2012, was that a clarifying document to your previous Memorandum of Understanding?

Mr. TOOKE. Parts of it.

Mr. MEADOWS. Or did you need it?

Mr. TOOKE. Parts of it were.

Mr. MEADOWS. So it was new, some parts of it were new.

Mr. TOOKE. Well, like the part about incidental expenses, that was——

Mr. MEADOWS. Anything else new?

Mr. TOOKE. Most of the agreements are pretty common.

Mr. MEADOWS. That is not what I asked. I said any—you know, you are answering good questions—I mean good answers to questions I do not ask. And so, here is what I am asking you: What other parts of that memorandum were different?

Mr. TOOKE. More clarity around the roles and responsibilities for this specific operation.

Mr. MEADOWS. So basically, you got some anonymous tips that said that you needed to have the federal government come in here and help Georgia and North Carolina do their job; is that correct?

Mr. TOOKE. No, sir, it was not based on anonymous tips. It was also based on what our own officers——

Mr. MEADOWS. But Mr. Santiago and you both have said you got numerous phone calls. I wrote down "numerous." How many is numerous?

Mr. TOOKE. I know that our officers got reports from the public, I do not know how many.

Mr. MEADOWS. Okay, Mr. Santiago, you said numerous, how many are numerous?

Mr. SANTIAGO. I would have to check on that and see how many were.

Mr. MEADOWS. So it may be two?

Mr. SANTIAGO. I do not have that information.

Mr. MEADOWS. Okay, so you are going to get that information, how many anonymous tips that you got. Will you both agree to get that information to me?

Mr. TOOKE. If we have the information about how many contacts——

Mr. MEADOWS. Oh, so you are saying that you think that you had anonymous tips. Either you got them and you documented it or you did not.

Mr. TOOKE. I don't know if they were anonymous. I know that we got——

Mr. MEADOWS. Oh, okay. Well, if you can let me know the number of tips that you got from the public and when you got them, that would be very helpful. Are you both agreeing to do that?

Mr. TOOKE. If we can do that, sir, yes, we will do that.

Mr. MEADOWS. So let me come back to the camera. Who put the camera on private property? Who put the federal camera on private property?

Mr. SANTIAGO. I have no idea.

Mr. MEADOWS. So you have no knowledge of a federal camera?

Mr. SANTIAGO. No.

Mr. MEADOWS. Okay, Mr. Tooke, who put the camera on federal property?

Mr. TOOKE. I am not exactly sure but I know all of the tactics and the operations were reviewed by supervisors and the Department of Justice.

Mr. MEADOWS. Okay. So all those supervisors—that sounds like a prepared answer to the question. So let me ask you this, who put the camera on private property? I mean obviously there is a supervisor that was involved, so maybe the supervisor knows?

Mr. TOOKE. They could have, I am not aware that our officer put a camera on private property.

Mr. MEADOWS. Oh, so it was just the allegation, are you saying it was on federal property?

Mr. TOOKE. No, sir, I am not saying either way. I am not aware of our officer putting one on private property.

Mr. MEADOWS. There was not a federal camera involved?

Mr. TOOKE. No, sir, I am not saying that. There could have been a federal camera placed on private property. That would have been authorized under this operation.

Mr. MEADOWS. So who did that?

Mr. TOOKE. I am not totally sure, sir.

Mr. MEADOWS. All right, would that person have been trespassing? Did they get permission to go on federal property and leave a camera?

Mr. TOOKE. All of the Forest Service investigation started on national forests.

Mr. MEADOWS. So they just lost their way and ended up on private property?

Mr. TOOKE. If that had went over onto other lands, other properties, our officers, like I said——

Mr. MEADOWS. According to the testimony, they were a quarter of a mile away from federal land. That is what we heard in the first panel.

Mr. TOOKE. They could have been authorized to do so, sir, in this operation.

Mr. MEADOWS. All right. So let me ask you if that is the case, if they ended up on private land, how do we know with specificity that all these things actually happened on federal lands? If they inadvertently got on private land, how do we know that they were on federal land when it happened? Do you have specifics on where they were?

Mr. TOOKE. No, sir, and I am not saying that——

Mr. MEADOWS. So your testimony here today is that you do not know whether it was on federal land or not.

Mr. TOOKE. I do not know for sure. I just know that all of the tactics and operations were approved and I know that our investigation started on national forests and it could have went to other lands.

Mr. MEADOWS. But would that not have a whole lot to do with the federal question in this particular issue? If it did not happen on federal lands, how are they being prosecuted federally?

Mr. TOOKE. Well, for example, under the game lands that we have here in North Carolina, it allows for cooperative work. And if the state——

Mr. MEADOWS. Yeah, but it would be a state issue. It would be a state question, not a federal question, unless they were selling bear parts.

Mr. TOOKE. If they asked for our assistance on private lands or state lands, under that, we could provide it. At the same time, under our concurrent jurisdiction and federal jurisdiction, which has already been ruled upon by federal jurisdiction and the courts, by multiple courts as well as a jury. Our officers would have had the jurisdiction and the authority to do that. And it began on national forests.

Mr. MEADOWS. But not if you did not know where you were.

Mr. TOOKE. I am not saying they did not know where they were, sir. I am saying I do not know——

Mr. MEADOWS. You knew where you were for prosecuting. You just did not know where you were for the camera.

Mr. TOOKE. I am not saying that. I am saying I do not, specifically myself, know exactly where they were. But I am saying that our officers, I know that if they went on those lands, they knew where they were and they were following what they were supposed to.

Mr. MEADOWS. Last question. How much of your $10,000 that you said that you spent, which I would like a better accounting of that, will you be glad to give this committee a better accounting? You are saying the total cost was $10,000 for the U.S. Fish and Wildlife.

Mr. SANTIAGO. Less than $10,000.

Mr. MEADOWS. How much of that less than $10,000 was paid to someone to guide your agent?

Mr. SANTIAGO. I would have to research that.

Mr. MEADOWS. Was any of it?

Mr. SANTIAGO. I would have to research it.

Mr. MEADOWS. So how would you know that it is less than $10,000 if you do not know the breakdown?

Mr. SANTIAGO. Because when we conduct investigations——

Mr. MEADOWS. So you were preparing for the testimony, you said well, this is what it is.

Mr. SANTIAGO. No. We have undercover procedures and undercover accounts. And when we open investigations, we keep undercover books and track all the expenses on each investigation.

Mr. MEADOWS. So did you pay people to take you hunting, your agent hunting?

Mr. SANTIAGO. I would have to review the record.

Mr. MEADOWS. So you prepared for this testimony and you do not know the answer to that question?

Mr. SANTIAGO. No, I do not.

Mr. MEADOWS. Okay. Mr. Tooke, do you know the answer to that question? How much of $70,000 was paid to folks to take them hunting?

Mr. TOOKE. I do not have that with me today, but we have receipts, itemized receipts, an itemized accounting of all the $70,000 that was spent.

Mr. MEADOWS. So when you hired these guides to take you, was it 1000, was it 5000, was it 100?

Mr. TOOKE. I do not know, sir. Out of the 70,000, 44,000 was spent just about all on vehicle expenses and equipment and then in the latter phases of the operation, the other 26,000 was spent on travel expenses for officers to execute the search warrants and support the——

Mr. MEADOWS. So 44 and 26.

Mr. TOOKE. Is 70,000, yes.

Mr. MEADOWS. So then you did not have any money left to pay the guides.

Mr. TOOKE. I am not saying that there was not some of it spent on that.

Mr. MEADOWS. I am just saying the numbers are not adding up. Either you did not pay them much or they are very bad businessmen. I am just trying to figure out, since this was a pay-to-play kind of thing. It is troubling to me that we are looking at all of this and there is not the money there.

Mr. TOOKE. It will be in the itemized accounting, sir.

Mr. MEADOWS. And when can we expect that, Mr. Tooke?

Mr. TOOKE. I cannot say for sure.

Mr. MEADOWS. Is 30 days enough time?

Mr. TOOKE. I cannot say for sure, sir.

Mr. MEADOWS. Three hundred and sixty five days, is that enough time?

Mr. TOOKE. I cannot say for sure, but I know as soon as those reviews are completed and we are allowed to provide it, we will.

Mr. MEADOWS. I will recognize the gentleman from South Carolina. I will let him either ask some questions or do his closing remarks, if he would like.

Mr. DUNCAN. Mr. Chairman, I just have some closing remarks. First off, I want to thank all of you for your service to states and to the federal government. I do not want anything to be construed—we are trying to get to the bottom of concerns of our constituents and in our role as watchdogs of the federal government on this. And I know the questions were hard and they were put

forth in a manner that seemed aggressive at times, but sometimes that is necessary.

I do question the impetus and motives which led to this operation, based on what I am hearing and what I have seen and what I have read.

I am concerned about the federal question and the ultimate decision to prosecute these cases in federal magistrate court.

I am worried about and very concerned about the issue that Mr. Collins raised about federal agents, without probable cause and going through the due process of getting a warrant, actually got on private property to investigate this.

I am concerned about the directive to limit and/or deny the defendants their right to probation or any recourses that may be available to most people when they are facing prosecution.

And I am concerned that the Lacey Act was used for justification of this operation without hard evidence. Y'all have not been able to give me any hard evidence. And so I am concerned that there were possibly allegations made by outside parties or groups to the taking, harvesting of black bear and that those allegations may not have been followed up on to warrant an investigation of this nature and of this scope.

And so I want to thank the Chairman for continuing to delve into this. I think it is the right thing to do because I think this was a very large operation that happened in North Carolina and there were some, I think, some very egregious violations of folks here in your state.

So with that, I will yield back.

Mr. MEADOWS. Well, I thank you. I thank each one of you.

The questions that I have asked today have been hard but I can tell you that they pale in comparison to the questions that I have gotten by email, phone call. I face these people in the grocery store and time and time and time again I have been asked "what are you going to do about it?" I mean, "why does my nine-year-old daughter have to worry about the kind of treatment that they got." And I say that because I have great respect for my law enforcement friends all over the place. I can look back and see the sheriff, he is a gentleman that has prayed with me and for me and vice versa, and there is no one that I respect more than my law enforcement guys.

At the same time, when we allow the federal government—and that is where I am coming to this—when we allow the federal government to come in and at times not be the best custodian of personal property, of allowing some of these things to go on on the allegations that I have heard, they are troubling. But the biggest issue that I think I have with this may not pertain to any of you here. Mr. McLean talked about it early on in his opening testimony. When we allow the stacking of misdemeanor offenses on what we would believe—you know, five months in jail for having a hunting license expired for less than 48 hours is excessive. It is excessive in my book, I think it would be excessive in your book as well. Now sometimes we can justify that saying well, we pleaded and they were guilty of other things. That is not up to a prosecutor to make that decision. It is up to a jury to make that decision and

when we stop that very fundamental foundational principle within our Constitution, it is troubling to me.

And so I can tell you that the gentleman from South Carolina and I talked about that in terms of these particular offenses and the way they were stacked. We plan to address that. We are coming back.

You know, western North Carolina is a beautiful place and for all those that are listening that think that I am going to be soft on those who are violating crimes, you have come to the wrong person. I want us to make sure that you adhere to the laws until the laws are changed. At the same time, I am not going to allow my government to trample on the rights that are foundational and, by many, inalienable rights. I am not going to allow that to happen and I am going to continue to ask the tough questions.

Mr. Tooke, I thank you for your willingness to be here today. I know this was not the most pleasurable thing. I will say I am working with you on a number of other issues and I want to compliment you on your willingness to engage us on those issues as well.

Mr. Santiago, I would encourage your testimony speechwriters to go back and check their facts because your opening testimony does not match with the facts that we have here in North Carolina. And I am troubled a little bit about a narrative that justifies this when indeed it may not be represented by the facts.

So I appreciate your willingness to be here. We are going to continue to follow up and look at these issues. I thank you both for your commitment to get us the information to the committee.

I want to thank the committee for their very hard work, for our law enforcement officers, and really the town of Waynesville for not only hosting us but making a lot of these folks who have never been to western North Carolina before feel welcome.

I thank the gentleman from South Carolina who is a dear friend.

If there is no further business, without objection, the subcommittee stands adjourned.

[Whereupon, at 12:47 p.m., the subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

GEORGIA
DEPARTMENT OF NATURAL RESOURCES
LAW ENFORCEMENT DIVISION

MARK WILLIAMS
COMMISSIONER

EDDIE HENDERSON
COLONEL

June 1, 2015

Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 Rayburn House Office Building
Washington, DC 20515-6143

Madam and Sirs:

In a separate mailing, you will receive all documents and communications requested by the committee relative to Operation Something Bruin. The documents and communications are contained on a SanDisk flash drive and the contents of the flash drive are listed on the enclosed file index. To view the files on the flash drive, you must first enter the password. The password is *Dnr1911. The password is case sensitive.

This response shall serve as written certification that: (1) a diligent search has been completed of all documents in our possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

The Georgia Department of Natural Resources stands ready to provide any further assistance necessary. If such assistance is required, please feel free to contact Major Stephen Adams at 770-918-6414 or stephen.adams@dnr.ga.gov.

Sincerely,

Colonel Eddie Henderson
Chief of Law Enforcement

LAW ENFORCEMENT DIVISION
2070 U.S. Hwy. 278, SE | SOCIAL CIRCLE, GEORGIA 30025
770.918.6408 | FAX 770.918.6410 | WWW.GADNRLE.COM

USDA

JUN 17 2015

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

JUN 04 2015

The Honorable Mark Meadows
Chair
Subcommittee on Government Operations
Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter dated May 21, 2015, cosigned by Congressman Jason Chaffetz and Congresswoman Cynthia Lummis, to Mr. Tony Tooke, Regional Forester for the Forest Service, requesting documents related to "Operation Something Bruin," an active law enforcement action in western North Carolina and Georgia.

Because there is an ongoing investigation, we are unable to release documents related to the operation at this time. As your letter indicated, this is a joint Federal and state operation. The operation consists of multiple separate and distinct components. The Forest Service's role is to enforce National Forest System regulations. Although at this time we are currently unable to release the requested documents, we would be happy to meet with you and your staff to discuss general law enforcement techniques in investigations of this nature, and the Forest Service's role in addressing wildlife trafficking.

We appreciate your understanding of the sensitivity of this matter and any ongoing law enforcement investigations. If you would like to set up a meeting as offered above, please contact me at (202) 720-7095.

Similar letters were sent to Congressman Chaffetz and Congresswoman Lummis.

Sincerely,

Todd A Batta

Todd Batta
Assistant Secretary
Office of Congressional Relations

An Equal Opportunity Employer

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

June 3, 2015

In Reply Refer To:
FWS/LE ESO 00063154

The Honorable Mark Meadows
Chairman, Subcommittee on Government Operations
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515-6143

Dear Chairman Meadows:

Thank you for your letter dated May 21, 2015, cosigned by Representatives Chaffetz and Lummis, to Ms. Cynthia Dohner, Regional Director, Southeast Region, for the U.S. Fish and Wildlife Service (Service), requesting documents related to "Operation Something Bruin," an active law enforcement action in western North Carolina and Georgia.

Because this is an ongoing investigation, we are unable to release documents related to the operation at this time. As your letter indicated, this is a joint Federal and state operation. The operation consists of multiple separate and distinct components. The Service's role in this investigation focused on the unlawful take and commercialization of black bears, a Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Appendix II species. Although we are currently unable to release the requested documents, we would be happy to meet with you and your staff to discuss general law enforcement techniques in investigations of this nature and the Service's role in addressing wildlife trafficking.

We appreciate your understanding of the sensitivity of this matter and any ongoing law enforcement investigations. If you would like to set up a meeting as offered above, please contact me at (202) 208-3809.

Similar letters were sent to Representatives Jason Chaffetz and Cynthia Lummis, who cosigned your letter.

Sincerely,

For William C. Woody
Assistant Director, Office of Law Enforcement

Cc: The Honorable Elijah E. Cummings, Ranking Member
Committee on Oversight and Government Reform

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

US Agreement # 12-LE-11083150-004

COOPERATIVE AGREEMENT

BETWEEN
U.S. Forest Service
Law Enforcement and Investigations
AND
North Carolina Wildlife Resources Commission

WHEREAS, the U.S. Forest Service (USFS) has been delegated the authority to cooperate with State or political subdivisions to enforce or supervise laws and ordinances of a State or political division on National Forest Systems lands (Cooperative Law Enforcement Act of August 10, 1971, 16 U.S.C. 551a, Pub. L. 92-82); and

WHEREAS, the North Carolina Wildlife Resources Commission (NCWRC) has been delegated the authority for the administration and enforcement of laws pertaining to fish, wildlife and plants in the State of North Carolina; and

NOW THEREFORE, this Cooperative Agreement is herein entered into between the U.S. Forest Service – Law Enforcement and Investigations and the North Carolina Wildlife Resources Commission

OBJECTIVE

The primary objective of this Cooperative Agreement is to facilitate a joint enforcement investigation between the USFS LEI and the NCWRC to identify, apprehend, prosecute and convict persons participating in the unlawful taking, possessing, transporting, selling and purchasing of wildlife parts in interstate commerce. The investigation will primarily focus on activities occurring on National Forest System lands in North Carolina, Georgia and Tennessee. This agreement will be **valid until January 01, 2014.** Each signing agency (USFS LEI and NCWRC) hereby agrees as follows:

1. Law Enforcement personnel from each of the respective agencies are expected to recognize possible violations of State and Federal laws, develop intelligence, collect evidence and report their activities to the agent responsible for case coordination.

2. The USFS and NCWRC shall each designate a case agent who will be responsible for representing their respective agency in furtherance of this investigation. The primary USFS Case Agent is S/A Brian SOUTHARD and the primary NCWRC Case Agent is Major Todd KENNEDY. The USFS Case Agent will be responsible for overall coordination of investigative activities.

   A. Supervision will follow the routine of each of the parent agencies. **(See Appendix A).**

   B. Decisions relating to investigative direction shall be initially determined by the

designated Agency case agents and continued by the appropriate level(s) of supervision in the respective agency.

3. The USFS and as necessary the NCWRC shall supply funding needed to complete this mutually agreed upon operation. **(See Appendix B).**

   A. Allocation of any funds to further the operation will be cleared, in advance, through the appropriate level of supervision in each agency and in accordance with each agency's administrative policies.

   B. Each agency will pay the salary, overtime and associated benefits for their respective employees.

   C. Any required in-state or out-of state overnight travel shall be pre-approved by the NCWRC and USFS for the purpose of reimbursement.

   D. The USFS along with other involved agencies will provide funding to purchase information as well as to pay for covert purchases of evidence. Additional funds may be applied for if deemed necessary.

   E. All expenditures will be documented by receipt or memorandum if acquiring a receipt poses a risk to officer safety or otherwise would jeopardize the integrity of the undercover investigation. Payments to targets of this investigation will be documented in case reports. In addition, the USFS Case Agent or an assisting agent will maintain an independent ledger which will document all expenditures.

   F. Any interagency transfer of funds for the purpose of this investigation will require an additional memorandum of understanding outlining such transactions.

   G. Documentation of all expenditures will be available for audit only when the specific investigation is completed or upon advice of the United States Attorney or the Attorney General for the State of North Carolina or other signatory states.

   H. It may be necessary at various times during this operation that NCWRC employees operate a USFS owned vehicle **(See Appendix C)**. During those times, the USFS assumes no responsibility or liability to injury or damages that occur during this period.

4. Each agency agrees to supply at their cost whatever personnel are necessary and available for the successful completion of the investigation, as allowed by budget and personnel constraints.

   A. In the event that a Cooperating Private Individual (CPI) will be utilized in this investigation, the signatory agencies will agree on a single point of contact to avoid mis-communication or conflicting directions to the CPI. The point of contact will coordinate all communications and proposed activities between the signatory

agencies and the CPI unless otherwise directed. Signatory agencies agree not to compromise the CPI's relationship with the investigation.

B. Anticipated investigative activities for which secondary case agents and additional personnel from each agency will be needed include: surveillance, monitoring of body wires, transcribing tapes, preparing reports, receipt, transport and evidence storage, photography and videotaping for evidentiary purposes, or any other investigative need as identified by respective case agents.

C. Additional personnel from each agency will be needed at the conclusion of the investigation to assist in surveillance, execution of warrants, subpoenas, interviews and other overt activities.

D. Should injury occur to any personnel during participation in this investigation, that injured person's agency shall cover all liability for the injury. Third party injuries or property damage claims will be handled by the agency whose personnel are primarily responsible for the injury or damage.

5. Each agency agrees to supply whatever equipment is necessary and available for the successful completing of the investigation as allowed by budget and personnel constraints. **(See Appendix D & E).**

A. Loaned equipment becomes the responsibility of the borrower and will be returned in the same condition as when received. Normal wear and tear is accepted. Damage in excess of normal wear and tear will be repaired by the borrower.

B. Any equipment or accountable property purchased for use in this investigation shall remain the property of the purchasing agency.

6. The U.S. Attorney's Office will be the lead legal counsel for the investigation.

A. The respective agencies will decide through mutual consultation whether Federal or State prosecution is most appropriate for each documented violation. Each agency agrees that all documented violations which fall under Federal jurisdiction will first be presented to the appropriate U.S. Attorney's Office for prosecution prior to any related charges being filed in State court.

B. The USFS Case Agent will take the lead role in presenting the case to the U.S. Attorney's Office for consultation and prosecution. The NCWRC Case Agent will take the lead role in presenting the case to the State Prosecutor's Office for consultation and prosecution as appropriate.

C. If it is determined through mutual consultation with the respective agency case agents that charges would be best filed in State court, documented violations with concurrent Federal jurisdiction can be presented to the appropriate State

prosecutions.

D. All documented violations with only State jurisdiction will be presented to the appropriate State prosecutor, but only after obtaining a mutual agreement by all signatory agencies as to if and when to do so.

7. The existence of this investigation and information gathered during this investigation will be considered restricted and will not be provided to individuals other than each signatory agency's case agent, appropriate supervisors or prosecutors. Signatory agencies agree that no case information will be released to others unless done with the concurrence of all parties. The existence of or information about a CPI will also be restricted from release to unauthorized individuals.

8. Reports of Investigation detailing the progress of the investigation will be generated and distributed in a timely manner.

The primary USFS Case Agent will be responsible for compiling information and writing Reports of Investigation.

Reports of Investigation will be written by the USFS Case Agent and submitted through supervisory chain of command no later than 45 days after each investigative activity.

Copies of Reports of Investigation will be provided to each of the signatory agency Case Agents within two (2) weeks of finalizing the report and obtaining the necessary approvals.

Secondary case agents or law enforcement personnel from a signatory agency who support the investigation (i.e., meeting a CPI, surveillance, monitoring body wires, collection of evidence, execution of search warrants) will provide investigative reports to the USFS Case Agent detailing their involvement and observations. These reports will be submitted within four (4) weeks of the support activity. The USFS Case Agent will advise when investigative reports are needed. (FS form 5300-19, Memorandum of Interview, or 5300-16 Statement, can be utilized unless the Case Agents determine another means of documentation is more appropriate.)

In consideration of the Privacy Act, the Freedom of Information Act and state public records law, information and documents relative to this investigation will be centrally located with the primary USFS Case Agent and shared among all participating agencies. Periodic meetings will be scheduled between participating agencies and individuals to coordinate intelligence and investigative priorities.

All news and other media releases will be coordinated with the appropriate State/Federal attorney's offices and the appropriate levels of supervision. There will be no release of case information, without the concurrence of all participating agencies, recognizing the most restrictive policy on release of information will apply. The Public Affairs Officer(s) is to assume the lead in disseminating information. Participating agencies will determine the scope of information to be

disseminated prior to close down of the investigation

All abandoned and forfeited wildlife, equipment and other property to which legal title has been obtained will be disposed of by the courts and/or by mutual agreement of the agencies.

As part of case prosecutions, each agency may seek restitution from defendants charged with violations associated with this investigation. Restitution will be directed to the appropriate state agency unless other provisions are mutually agreed upon by the agency's case agents.

Emphasis will be placed on the long term operation, with the goal of apprehending major targeted violators. However, the length of time the covert phase of the investigation will run will be dependant upon the mutual decision of the Case Agents, their supervisors and State/Federal prosecuting attorneys.

This Cooperative Agreement will become effective when signed by each of the Agency representatives and can be modified at anytime before expiration. **(See Appendix F).** Any of the signing agencies may cancel this Cooperative Agreement upon giving thirty (30) days written notice to any other signing agency. This agreement may be amended to include the addition of other agencies upon mutual agreement of all signatory agencies.

Each agency hereby agrees to abide by the preceding stipulations to this letter of agreement and Appendices A - F by their respective signatures on this document.

(Dale) Cavey Jr. — 2-28-12

Colonel Dale Cavenny — Date
Chief of Law Enforcement
North Carolina Wildlife Resources Commission

Steve F. Ruppert — 3/23/2012

Steve Ruppert — Date
Special Agent in Charge, Region 8
U.S. Forest Service, Law Enforcement and Investigations

The authority and format of this instrument has been reviewed and approved for signature.

PLEZ WEST — Date
Forest Service Grants and Agreements Specialist

FS Agreement # 12-LI-11083150-004

Appendix A

NON-FEDERAL STATUS FOR COOPERATOR PARTICIPANT LIABILITY. NCWRC agree(s) that any of their employees, volunteers, and program participants shall not be deemed to be Federal employees for any purposes including Chapter 171 of Title 28, United States Code (Federal Tort Claims Act) and Chapter 81 of Title 5, United States Code (OWCP), as hereby willingly agree(s) to assume these responsibilities.

Further, NCWRC shall provide any necessary training to NCWRC's employees, volunteers, and program participants to ensure that such personnel are capable of performing tasks to be completed. NCWRC shall also supervise and direct the work of its employees, volunteers, and participants performing under this Agreement.

Appendix B

NONBINDING AGREEMENT. This Agreement creates no right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purpose(s) of this Agreement. Nothing in this Agreement authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate agreements and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperator availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization by statutes, etc. This Agreement neither provides, nor meets these criteria. If the parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of appropriated . Funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable law.

Nothing in this Agreement is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

Appendix C

USE OF GOVERNMENT OWNED VEHICLES. U.S. Forest Service vehicles may be used for official U.S. Forest Service business with the following stipulations:

1. Drivers and equipment operators must hold appropriate operating licenses to meet State and Federal laws. Employees of the Parties to this Agreement may operate each other's vehicles provided that operator meets the current operating guidelines and training requirements of their own Party.

2. The following are required as a minimum:

a. Valid State drivers license for the type of vehicle to be driven. The State license must be carried with the employee at all times while driving a Government vehicle.

b. An identification card or document that identifies the person, as a member of one of the cooperating agencies.

c. A means of determining what the person is qualified and authorized by the appropriate agency to operate (such as an OF-346).

3. The Forest Service will not train, test, qualify, or certify the employees of other agencies.

Appendix D

GOVERNMENT-FURNISHED PROPERTY. NCWRC may only use U.S. Forest Service property furnished under this Agreement for performing tasks assigned in this Agreement. NCWRC shall not modify, cannibalize, or make alterations to U.S. Forest Service property. A separate document, Form AD-107, must be completed to document the loan of U.S. Forest Service property. The U.S. Forest Service shall retain title to all U.S. Forest Service-furnished property. Title to U.S. Forest Service property must not be affected by its incorporation into or attachment to any property not owned by the U.S. Forest Service, nor must the property become a fixture or lose its identity as personal property by being attached to any real property.

Cooperator Liability for Government Property.

1. Unless otherwise provided for in the agreement, NCWRC shall not be liable for loss, damage, destruction, or theft to the Government property furnished or acquired under this contract, except when any one of the following applies—

a. The risk is covered by insurance or NCWRC is/are otherwise reimbursed (to the extent of such insurance or reimbursement).

b. The loss, damage, destruction, or theft is the result of willful misconduct or lack of good faith on the part of NCWRC's managerial personnel. NCWRC's managerial personnel, in this clause, means NCWRC's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of NCWRC's business; all or substantially all of NCWRC's operation at any one plant or separate location; or a separate, and complete major industrial operation.

2. NCWRC shall take all reasonable actions necessary to protect the Government

property from further loss, damage, destruction, or theft. NCWRC shall separate the damaged and undamaged Government property, place all the affected Government property in the best possible order, and take such other action as the Property Administrator directs.

3. NCWRC shall do nothing to prejudice the Government's rights to recover against third parties for any loss, damage, destruction, or theft of Government property.

4. Upon the request of the Grants & Agreements Specialist, NCWRC shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including the prosecution of suit and the execution of agreements of assignment in favor of the Government in obtaining recovery.

Appendix E

BUILDING AND COMPUTER ACCESS BY NON-U.S. FOREST SERVICE PERSONNEL. NCWRC may be granted access to U.S. Forest Service facilities and/or computer systems to accomplish work described in the Operating Plan or Statement of Work. All non-government employees with unescorted access to U.S. Forest Service facilities and computer systems must have background checks following the procedures established by USDA Directives 3505 and Departmental Manual 4620-02. Those granted computer access must fulfill all U.S. Forest Service requirements for mandatory security awareness and role-base advanced security training, and sign all applicable U.S. Forest Service statements of responsibilities.

Appendix F

MODIFICATIONS. Modifications within the scope of this Agreement must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.

Jun. 18. 2015 3:16PM No. 0078 P. 2

FILED
CHARLOTTE, N. C.
NOV 22 1999
U. S. DISTRICT COURT
W. DIST. OF N. C.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
MISCELLANEOUS NO. 3:99MC78-MU

RE: POLICIES AND PROCEDURES GOVERNING THE PROSECUTION AND ADJUDICATION OF PETTY OFFENSES IN THE WESTERN DISTRICT OF NORTH CAROLINA

ORDER

THIS MATTER is before the Court to establish policies and procedures for the prosecution and adjudication of petty offenses in U. S. District Court for the Western District of North Carolina. This Order supersedes any prior orders, procedures, or practices which may be in conflict with its terms.

It is the intent of this Court to manage adjudication of petty offenses in an efficient and proportionate manner without compromising the legitimate needs and objectives of federal law enforcement or the rights and concerns of cited defendants. Accordingly, it is anticipated that these policies and procedures will need to be clarified and modified from time-to-time to keep these several objectives in proper balance.

NOW THEREFORE, IT IS ORDERED:

1. Maximum Utilization of the Central Violations Bureau. To use the automated services of the Central Violations Bureau (CVB) to the maximum possible extent, all petty offenses charged by violation notice in this district shall be processed through the CVB (in the Western District of Texas). Thereafter, if the alleged violator does not pay a "collateral forfeiture," notice of the required court appearance shall be sent directly from the CVB, not scheduled individually by the Clerk's Office in this district.

OCD Rule

9. Probation in Petty Offense Cases. Similarly, probationary sentences are ordinarily not appropriate in petty offense cases charged by violation notice(s). Rather, a fine, incarceration (including incarceration at the violator's expense), restitution, and/or prohibition from federal land are each considered appropriate terms of punishment. (Those who subsequently ent federal lands, or violate other injunctive aspects of a judgment, can be prosecuted for civil criminal contempt, as appropriate, rather than enforcing the judgment through probati revocation proceedings.)

10. CVB Violators Currently on Probation. The Probation Office shall review all fi of CVB violators currently on probation to determine whether early termination is appropri in each case. Where it is determined that termination is appropriate, a form so indicating sh be prepared and presented to Chief Magistrate Judge Carl Horn (irrespective of which Magistr Judge imposed the probationary sentence) for his determination.

11. Probation Violation Hearings. Effective immediately, the Clerk's Office shall place any probation revocation hearings in CVB cases on the calendar for the next CVB Term, not on any Magistrate Judge's weekly calendar. Thereafter, the Magistrate Judge handling that CVB Term shall be responsible for determining the proper disposition of the revocation proceeding.

12. Guidance and Warnings; Arrests and Mandatory Appearances/ Perspective. Officers, are urged to: (a) consider and employ the least amount of law enforcement action necessary in each particular situation, giving guidance and warnings in more instances than in the immediate past; (b) make only necessary arrests, preferring violation notices over arrests whenever feasible; (c) allow a greater number of those charged in violation notices to pay fines than in the immediate past, including those charged with simple possession of small quantities of drugs (rather than requiring mandatory appearances); and (d) conduct themselves in a polite and professional manner, consistent with standard law enforcement training and the circumstances presented to the officer.

13. Arrests. Unless the U. S. Attorney's office intends to charge an arrested individual in a Bill of Information or to present a Bill of Indictment, violators who are arrested shall also be scheduled for the next CVB Term–not scheduled for appearance on the weekly calendar of any Magistrate Judge.

14. Officers, Rangers, to be Prepared for Trial. CVB court will be conducted so than an individual charged with a petty offense who chooses to plead not guilty will ordinarily find it necessary to come to court only once. Officers may contact the Deputy Clerk of Court handling CVB Court (current Elizabeth Wurst or Marie Maher, both in Asheville) to see if their cases have been continued for trial, or to request such a continuance. However, unless the case is continued, the individual who wrote the violation notice shall be prepared to try the case on the initial court date. Officers may also call the CVB toll free number (1-800-827-2982), up to the day before the CVB Term, to inquire whether a fine has been paid in any case.

New Rule

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
MISCELLANEOUS NO. 3:99MC78-Mu

RE: POLICIES AND PROCEDURES GOVERNING THE PROSECUTION AND ADJUDICATION OF PETTY OFFENSES IN THE WESTERN DISTRICT OF NORTH CAROLINA	))))))	AMENDING ORDER

THE COURT HEREBY AMENDS the Policies and Procedures Governing the Prosecution and Adjudication of Petty Offenses in the Western District of North Carolina, 3:99-mc-78 (November 22, 1999), as follows:

Paragraph 9, entitled "Probation in Petty Offense Cases," is stricken.

In lieu thereof, the following is inserted:

> 9. Sentences for Petty Offenses. A sentence for a petty offense should be sufficient but not greater than necessary to accomplish the goals of sentencing, and no sentence should be disproportionate to the crime, considering the defendant's history and characteristics, and shall otherwise comply in all respects with the provisions of Title 18 United States Code section 3551. While judicial officers imposing sentences may consider the costs of any particular type of punishment, in no case should a judicial officer increase the severity of a sentence to save judicial or executive resources, except that a fine may be based on the cost of punishment. On the other hand, while judicial officers may decrease the severity of a sentence to save judicial or executive resources, the judicial officer should insure the sentence imposed is just punishment for the offense. The judicial officer has available to him/her the full array of sentencing options, including incarceration (including incarceration at the violator's expense), probation, fine, restitution and/or prohibition from federal land, as provided by law.

FOR THE BOARD OF JUDGES, IT IS SO ORDERED, this the 28th day of October, 2014.

FRANK D. WHITNEY
CHIEF UNITED STATES DISTRICT JUDGE