

OVERSIGHT OF THE DRUG ENFORCEMENT
ADMINISTRATION AND THE BUREAU OF
ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES

HEARING
BEFORE THE
SUBCOMMITTEE ON CRIME, TERRORISM,
HOMELAND SECURITY, AND INVESTIGATIONS
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**OVERSIGHT OF THE DRUG ENFORCEMENT
ADMINISTRATION AND THE BUREAU OF AL-
COHOL, TOBACCO, FIREARMS, AND EXPLO-
SIVES**

TUESDAY, APRIL 4, 2017

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON CRIME, TERRORISM, HOMELAND SECURITY, AND
INVESTIGATIONS

COMMITTEE ON THE JUDICIARY

Washington, DC

The subcommittee met, pursuant to call, at 10:00 a.m., in Room 2141, Rayburn House Office Building, Hon. Trey Gowdy [chairman of the subcommittee] presiding.

Present: Representatives Gowdy, Goodlatte, Chabot, Gohmert, Poe, Chaffetz, Ratcliffe, Johnson of Louisiana, Jackson Lee, Conyers, Deutch, Richmond, Jeffries, and Lieu.

Staff Present: Anthony Angeli, Counsel; Jason Cervenak, Counsel; Scott Johnson, Clerk; Joe Graupensperger, Minority Chief Counsel; Veronica Eligan, Minority Professional Staff Member; Regina Milledge-Brown, Minority Crime Detailee; and Karis Johnson, Minority Legislative Counsel.

Mr. GOWDY. Subcommittee on Crime, Terrorism, Homeland Security, and Investigations will come to order.

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

We welcome everyone to today's hearing. Ms. Jackson Lee is on her way. Mr. Conyers is with us. We have a nice group on our side, and I know Chairman Goodlatte, this means a lot to him, as well. So, we will work the openings in as people come, and I will recognize myself for my opening.

I want to thank you again for being here today. This is our second hearing in a series to examine the Justice Department and its component agencies to identify areas where we can make our justice system both fully respected and fully worthy of respect. So, I want to thank both of you, not just for being here today, but also for your long, distinguished careers in public service, which we will go into in more detail when you are introduced.

As we all know, the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms, and Explosives play a critical role in protecting the safety and security of our communities.

If you will allow me just a brief moment of personal indulgence, as former prosecutors like to do from time to time, we like to reminisce on the last good job we had, which was being a prosecutor. And I can tell you, too, that what you remember are the victims and their courage and heroism. And you remember the men and women of law enforcement and their integrity.

You forget about the bad rulings. You forget about the jury verdicts that did not go your way. You even, after time, forget about the defense attorneys. But you do not ever forget the women and men that you work with in law enforcement, and especially the victims.

So, Mr. Rosenberg, when I see DEA, of course, I think of the Nation's premiere narcotics investigation entity. But I really think about the DEA agents whose names may never be known and never be called in a public hearing, but do the work.

I will not call the name of the folks in South Carolina because I am going to leave one of them out, but I would be very grateful if you could let the women and men who are still in DEA from yesterday, and those that are there now, know how grateful each of us across both sides of the aisle are for their work.

And Mr. Brandon, same to you. You and I know some ATF agents. We both know some of the same ones, and they remain some of the fondest memories that I have from that time period in my life. If you would let the folks in South Carolina know how grateful we are for their continued service, and those who once served in South Carolina but have spread out across the country, I would be grateful to you for that.

We have a lot of challenges. In my home State of South Carolina, at least 95 people died from heroin in 2015, which is almost twice as many as the previous year, and more than 500 died from abuse of prescription opioids over that same time period. Roughly half of these deaths attributed to drug overdose in South Carolina involved a synthetic opioid, which is almost 100 times more potent than morphine. And not only are we seeing an increase in deaths due to drug abuse, but we have also seen a spike in violent crime nationwide.

To be fair, violent crime has been going down for a long time. And once it goes down so long, it only has one place to go. But I do think that we ought to be mindful of the fact that there has been, at least in certain categories, as they keep statistics, something of a spike.

In 2016, violent crime increased in many of our Nation's largest cities, which is the second year that metro areas saw an increase in homicide, robbery, and aggravated assault. No agency is perfect. Congress certainly is not perfect, which may represent an understatement of biblical proportions. But it is our duty as an oversight body, as flawed as we are, to ensure that law enforcement agencies learn from mistakes, use taxpayer dollars responsibly and efficiently, and remain committed to their core missions of protecting the American people.

We have a justice system that is looked to by everyone for fairness, efficiency, thoroughness, professionalism, public safety is, at least in my judgment, the preeminent function of government. And as much as it is a subset of national security, and at the State and local level, public safety may be tied with education as the preeminent function of government. So, it is not only incredibly important. It is incredibly important how people perceive the system. It could be fair, but not perceived that way, and we still have a problem.

So, I know that both of you feel that way, or you would not have devoted your lives to the pursuit of justice.

Over the course of the next several months, I want to work with both of you, not just in public hearings, but also privately, to make sure that Congress is doing everything it can do to enable you to fulfill your missions and, also, to reflect on your missions to make sure that we are pursuing the toughest, where necessary, and the smartest, at all times, policies we can, whether it is drug overdoses, narcotics trafficking, violent crimes, firearms trafficking, any other issue that impacts public safety and the well-being of our fellow citizens.

I know that both of you, each of you, and each member of this committee wants not just the best, but the most respected justice system we can possibly have. And part of that is having frank conversations about sentencing laws and declination levels; and non-24es, mental health; how it impacts your ability to do your job; how we, as a society, are treating mental health-related issues.

You know, I was eating dinner with Tim Scott last night, who is the senator from South Carolina, and the person I respect most in politics. We have to have a justice system that people respect. And we have to be willing to ask tough questions. And we have to be willing to acknowledge that everyone does not perceive the justice system in precisely the same way. But it is the most unifying and equalizing force that we have in our culture. The fact that it is represented by a blindfolded woman tells us what we need to know.

So, you have the highest of all callings. And I will say this in conclusion: next month, Congress recognizes National Police Week. It is in May. This is April; I am not going to wait until May. I want to say, as a husband and a father and a citizen, how much I appreciate the line of work that you all have chosen to go into, and make sure that the women and men that work in your agencies know how grateful we are. It will not stop us from doing oversight, but it will make us cognizant of the challenges that some people have volunteered for to keep other people safe.

And with that, I would recognize the ranking member from Texas, Ms. Jackson Lee.

MS. JACKSON LEE. Thank you, Mr. Chairman. Good morning to my colleagues and members. And good morning to the witnesses. Forgive me for my slight delay. I was just in a meeting dealing with the famine in Africa, sub-Saharan Africa.

I think you may have heard of that disaster's occurrence, and I thank the chairman for his indulgence as we were trying to deliberate on various disasters outcome to those individuals that are starving. But I join my chairman in acknowledging both Mr. Rosen-

berg and Mr. Brandon, and appreciate, very much, the service that the ATF and the DEA gives.

One of my greatest pleasures, serving for a good number of years on the Judiciary Committee, was the many men and women in law enforcement, on the Federal level, that I have had to encounter, sometimes in tragic circumstances.

I go back on this committee, Mr. Conyers, which I cannot compete with him and his tenure. But we go back to the Waco incident. We go back to the issues with DEA, with just enormous drug trafficking cartels, when cities seemed to be collapsing. And it was the collaboration with local authorities that our Federal officers provided, such a great, if I might say, friendship, but also being part of solving problems.

With respect to the DEA, I think our massive, omnibus opioid bill, hopefully, will, at least on the treatment side, on the intervention side, really be a big boost to your work because we always hear our neighbors, such as Mexico, suggesting that we are the problem.

I do not yield to that, but I do know that we need to get those who are sick and addicted, so that you can purge these evil people who violently perpetrate the business of drugs on innocent communities all over the country. And your work certainly includes a large part of that.

With respect to ATF, and I must take a moment to indicate that I flew up yesterday, in the backdrop of the killing of Constable Chief Greenwood, and I offered my sympathy to him on the floor yesterday. And again, I offer it today. And this a gentleman that had been a district attorney and decided that he loved the law so much that, as he retired from the district attorney's office, he would go into being a constable. And I do not know if you are familiar with that in other jurisdictions, but constables are like sheriffs over certain jurisdictions. And he was, in that capacity, a chief deputy constable.

And there is a long story about all of his work. And he was getting out of his car, and it was execution style. So, we know that it was purposeful, and it was the illegal use of guns. And I hope that we will be able to discuss these issues. I am a member of the Congressional Gun Violence Prevention Task Force and Policing Strategies Working Group that my chairman of the full committee and ranking member of the full committee are also members of. And we are looking at a number of issues, but I think it is important to emphasize the crucial work of the DEA and ATF.

And, in particular, every day in America, an average of 93 people die of gun violence, including seven children and teens. That amounts to more than 33,000 people dying from gun violence in this country every year. And so, I am interested in hearing how we are able to enforce laws and certainly, to try and work collaboratively on the importance of weeding out, if you will, those who would use guns illegally. Those who would traffic guns, which contribute to the dangers of drugs even more because those who are in heavy drug trafficking, major drug trafficking, certainly, are using weapons of choice, which are guns.

I have introduced H.R. 62, the Gun Violence Resources Act, which authorizes the hiring of additional 200 ATF agents and in-

investigators for enforcement of existing gun laws. I certainly do not want to see a budget that diminishes the resources, and I think all of us at this table have indicated that we believe in law enforcement that is just. And that means that we adhere to the principles of no racial profiling. We adhere to the principles of ensuring that the case we make against individuals is a just case, on the facts. And I believe that, in many instances, in most instances, our Federal officers abide by that.

So, we need them to be able to protect the people that are really the victims, either of the surge of drugs, large cartels, large shipments, as well as individuals who are taking up guns just to be violent. We passed, as many of you know, in 2010, we lowered the crack powder synthesizing disparity from 100:1 to 18:1. Many local jurisdictions around the Nation are assessing penalties on drug use, on individual drug use and individual possession, in a way that does not incarcerate.

So, it is a combination of thinking that is on this committee. And we need your insight as we try to balance that individual person who is possessing, versus some of the large actors and perpetrators that many of you address, whether it is gun trafficking, or whether it is, of course, in major trafficking.

Let me finish my point with respect to the DEA, Mr. Chairman. Just on a point to indicate that there are new drugs on the market, and I will be interested in hearing, Mr. Rosenberg, how you are keeping up with those and how each new nuance of the artificial drugs play into the Federal enforcement, and what we could be helpful in.

And Mr. Brandon, there will be a series of questions that I will ask, as well, with respect to your work and how we can be helpful in saving lives.

Mr. Chairman, I thank you, and I yield back.

Mr. GOWDY. The gentlelady yields back. The chair would now recognize the chairman of the full committee, the gentleman from Virginia, Mr. Goodlatte.

Chairman GOODLATTE. Thank you, Mr. Chairman. I appreciate your holding this hearing today, and I want to welcome Acting Administrator Rosenberg and Acting Director Brandon, and I want to thank both of you for your service, and I am happy that you are with us today.

In April of 2015, during the tenure of DEA's former administrator, I was very concerned about systemic problems in the DEA disciplinary process, which had permeated several levels of management. At that time, the inspector general testified about serious misconduct by DEA agents, as well as their supervisors. In addition, over the past 2 years, the inspector general has conducted audits and examinations of DEA's confidential source program, the El Paso Intelligence Center, and DEA's aviation operations in Afghanistan. There were numerous findings of mismanagement of resources and significant lapses in oversight.

I am eager to hear what changes you have made, Mr. Rosenberg, to rebuild the American public's trust in the DEA. It is vital that the people have trust in Federal law enforcement because America's prescription drug and heroine epidemic is severe and growing.

It effects Americans throughout the country and does not discriminate on the basis of socioeconomic status.

In 2015, there were over 52,000 drug overdose deaths in the United States. Most than 60 percent of those deaths were attributable to prescription opioids or heroine. Compounding this epidemic are the importation and distribution of synthetic drugs, including several variations of the drug fentanyl. Although fentanyl has a medical use in certain situations, greedy drug traffickers and their industrial chemists are flooding our country with synthetic versions of fentanyl and other drugs, sending Americans to emergency rooms and, unfortunately, often, to their deaths.

These issues have, rightfully, gained Congress's attention. While Congress has, and is, taking action to combat opioid abuse and treat addiction, I would like to hear what tools DEA needs in this fight, and what DEA is doing to stop the flow of illegal drugs and to prevent the diversion of prescription drugs into the illicit market. In that same vein, I would like to hear what tools ATF needs to curb the surge in gun violence that has plagued our urban communities in recent years.

We have numerous laws on the books that are there to prevent gun violence and punish those who would use a firearm illegally; however, it is disheartening that the previous administration chose not to enforce those laws. In fact, the data show that prosecutions for firearms violations in fiscal year 2016 were down 34 percent from fiscal year 2006. This trend is simply unacceptable and must be reversed.

I am a strong believer in the rights guaranteed by the Second Amendment. At the same time, I want to ensure that law enforcement is pursuing and prosecuting those who illegally obtain and use firearms. At a recent meeting with the Attorney General, I brought this issue to his attention, and I look forward to working with him on it. While we know that no agency is without flaws, we cannot ignore those flaws and must work with those agencies to improve their performance and productivity.

That is why I look forward to discussing the recent OIG reports concerning ATF's use and management of confidential informants and ATF's handling of information concerning the traffickers of two firearms that were used in the attack in Mexico by members of Los Zetas, a drug trafficking organization, on Immigration and Customs Enforcement agents Victor Avila and Jaime Zapata.

We look forward to hearing what steps ATF is taking to address the issues raised in those reports. Acting Administrator Rosenberg and Acting Director Brandon, I thank you again for being here and for your continued service. I look forward to your testimony, and Mr. Chairman, I yield back.

Mr. GOWDY. The chairman yields back. The chair will now recognize ranking member of the full committee, the gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. Thank you, Chairman Gowdy. I join in welcoming our acting administrator for DEA and our acting director for ATF. Welcome, gentlemen. This is a complicated activity that we are in.

This morning, both agencies have difficult missions, at least in part because our Nation has differing attitudes about what their respective missions should be. It was President Nixon, as part of

his war on drugs, that established the Drug Administration in 1973. And decades later, after billions of dollars were spent and policies that led to mass incarceration, which I criticize even today, many of our citizens question whether we have pursued the right approach.

As for Alcohol, Tobacco, and Firearms, although the history of this agency has led its accumulating responsibility for a variety of issues, its role in protecting us from firearms violence has been the focus of scrutiny and concern. I have no doubt that the questions raised about the missions of these agencies have made it difficult for their dedicated agents and employees, particularly given the risk many of them undergo on a daily basis.

We must take action to strengthen our firearm laws by expanding background checks, by banning assault weapons and high-capacity ammunition magazines, and strengthening prohibitions against straw purchases.

We must look at several criticisms that have been made on both agencies in recent years. We must have stability and management. And I think that is a huge problem. We must have clear policies regarding employee misconduct and improve trust between these agencies and the public. In raising these issues, we do so because we have to improve two very vital Department of Justice agencies. We must go after, in the Drug Enforcement Agency, the major traffickers and move away from punishing the low-level street dealers and addicts with unnecessarily severe, mandatory minimum sentences.

The Office of the Inspector General has issued a report on the use of confidential informants that is fairly critical. Their report on the review of investigations of Osorio and Barba trafficking rings has been mentioned as critical. The New York Times article regarding secret bank accounts of ATF needs to be discussed today. Inspector General's report on undercover storefront operatives and the Turk white paper, all critical. And we need to do as much as we can to get behind the attempt to not deal with appropriation writers that cater to the gun lobby.

And so, this is a hugely important responsibility, funding, through appropriations, to hire personnel and funds for accomplishing the mission. And as a strong supporter of gun safety and protection and the Second Amendment, I take pleasure in welcoming you here, and looking forward to our discussion.

And I thank the chairman.

Mr. GOWDY. The gentleman yields back. We have a very distinguished panel here today. I am going to begin by swearing in our witnesses.

If you would, please rise and lift your right hand. Do you swear the testimony you are about to give will be the truth, the whole truth, nothing but the truth, so help you God?

Let the record reflect the witnesses answered in the affirmative. You may take your seat.

I am going to ask the gentleman from Texas, the former United States attorney, Mr. Johnny Ratcliffe, to introduce our first witness.

Mr. RATCLIFFE. Thank you, Mr. Chairman. I appreciate the opportunity to welcome my friend and former colleague to our com-

mittee. Chuck Rosenberg, currently the acting administrator of the Drug Enforcement Administration, has an incredibly distinguished record in Federal law enforcement, including service as counsel to former Attorney General of the United States, John Ashcroft; Chief of Staff to the FBI director; and in a very rare double, was United States attorney not once, but twice, in both the southern district of Texas and the eastern district of Virginia.

In dedicating the better part of 25 years to the Department of Justice and its component agencies, Administrator Rosenberg has served some of the most important law enforcement positions, and handled some of the most sensitive matters of national security, in both Republican and Democrat administrations. He is respected by both parties, on both sides of the aisle, for the very simple reason that he is known by his actions and by his reputation to be blind to the color of the jersey that you are wearing and, instead, always faithful to the blindfolded lady holding a set of scales.

Administrator Rosenberg, it is great to see you, and thanks for being here with us today.

Mr. ROSENBERG. Thank you, sir.

Mr. GOWDY. The gentleman from Texas yields back. We are equally happy to have our second witness, as the acting director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Mr. Thomas Brandon.

After holding leadership roles in law enforcement divisions across the country, Mr. Brandon was appointed to lead the ATF in April of 2015. Prior to his service in the ATF, Mr. Brandon served in the United States Marine Corps. We thank you both for being here and your service to our country. Your full opening statements are part of the record, and I know the members have read them. So, I would ask you to summarize your openings in 5 minutes. And there are lights that will guide you in that direction. And with that, Mr. Rosenberg, we will recognize you.

STATEMENTS OF CHUCK ROSENBERG, ACTING ADMINISTRATOR, DRUG ENFORCEMENT AGENCY; AND THOMAS BRANDON, ACTING DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

STATEMENT OF CHUCK ROSENBERG

Mr. ROSENBERG. Thank you, Mr. Chairman, and members of the committee, and Congressman Ratcliffe for the kind introduction. I appreciate it. It is a pleasure to be here on behalf of the men and women of the DEA.

I think you, Mr. Chairman, and Ranking Member Jackson Lee said it well. These are wonderful men and women that have difficult jobs. They try their hardest to get it right. We are not perfect, but we always try to get better. We try to be fair. We try to be just. And when we make mistakes, we, as I ask my people to do, identify them, admit them, and fix them. That is not always an easy thing to do, and it is something we need to be better at, but it is something we strive toward.

Let me just say a few words about the opioid and heroine epidemic. You rightly pointed that 52,000 people died last year. Actually, the numbers are for 2015, from fatal drug overdose. Some-

times, when we use big numbers, it is hard to picture what that really is. Let me give you another way, perhaps, of thinking about it.

We all remember the tragic shooting in Orlando at the Pulse Nightclub; 49 innocent people were slaughtered by a madman. Imagine that happening 3 times a day, once in the morning, once in the afternoon, and once in the evening every single day for 365 days. You do the math on that, and I have. It is roughly the number of people who died from a fatal drug overdose in 2015. These are staggering numbers, and I am not given to hyperbole or overstatement. I hope you understand that. But what we have is an epidemic, and I think it is unprecedented.

And so, we are trying to think about this as broadly as we can. I think Ms. Jackson Lee points out the importance of treatment and prevention; addiction is a disease. We have to do our supply-side law enforcement work. I think it is absolutely critical, and that is a piece of this, but it is only a piece of it. What I have told our special agents in charge around our country that I want them to do is to identify the biggest, most dangerous, and most violent threats in their jurisdictions and mitigate them. It is that simple. Whatever the biggest, most dangerous threat is, mitigate it. From there, if we are doing that, then we are doing our supply-side law enforcement work, I believe, in the right way.

But there is more. We are also a regulatory agency, and we have an important role in the diversion of pharmaceuticals and prescription pills. And I think this is critical. We also have a demand reduction role.

From the very first days that I was a Federal prosecutor, and I agree with Chairman Gowdy; I do not think I have ever had a better job than being a Federal prosecutor. I never thought we were going to enforce or prosecute our way out of this mess. What we need to do, in some ways, is to change the culture. We need to educate, and we need to prevent.

And one of the ways that we do that at the DEA is community outreach. Our demand reduction program is not as big as I would like it to be, but in partnership with the FBI, for instance, we have produced a video called Chasing the Dragon, which we have made available to everybody, free of charge, to talk about the dangers of opioid addiction.

We have partnered with Discovery Education to build a STEM-based curriculum for middle and high school students, free of charge, to teach the science of opioid addiction. And twice a year, we sponsor a National Take Back Day, at which citizens can take stuff out of their medicine cabinets and return it to one of 5,000 sites around the United States, anonymously, free of charge, no questions asked. And the purpose of that is to break the cycle.

Believe it or not, four out of five heroin users start on prescription pills. And most of those folks get those pills from a friend or a relative or a medicine cabinet. And we have to break that cycle. And so, supply-side law enforcement is crucial. I want to be very clear that we work at the highest levels possible. We are looking for that unholy alliance between violent street gangs and the cartels that supply them. But we also have to do a good job as a regu-

lator, and we have to change the culture of drug use and addiction through our outreach programs.

As I said at the outset, Mr. Chairman, it is a great privilege to represent the men and women of the DEA. These are the folks you want living next door to you. They are passionate. They are principled. And they try really, really hard to get this stuff right in a difficult and dangerous environment. And just having the opportunity to represent them is a great honor and privilege.

Thank you for the opportunity to be here.

Mr. GOWDY. Thank you, Mr. Rosenberg.

Mr. Brandon.

STATEMENT OF THOMAS BRANDON

Mr. BRANDON. Chairman Gowdy, Ranking Member Jackson Lee, and members of the subcommittee, thank you for the opportunity to appear before you today.

The mission of the Bureau of Alcohol, Tobacco, Firearms, and Explosives is to protect communities from violent criminals, criminal organizations, the illegal use and trafficking of firearms, the illegal use and storage of explosives, acts of arsons and bombings, acts of terrorism, and the illegal diversion of alcohol and tobacco. To deliver on such a vital and unique mission, you must have quality personnel, and ATF does. Some of our special agents are former Navy SEALs, Marine Recon, Army Ranger, and Green Beret. Other special agents are former local police officers, deputy sheriffs, State troopers, and special agents from other Federal law enforcement agencies.

To balance our team, we have other special agents who are former teachers, emergency room nurses, urban planners, lawyers, and psychologists. ATF special agents are a distinguished group of Americans that lay it on the line every day to protect the public and serve their Nation. I could not be more proud than to serve with them as an ATF special agent.

Of course, ATF has other employees that are vital to our mission. Our industry operation investigators, many of whom are retired law enforcement officers and military service members, are vital to detecting the diversion of firearms and explosives to the black markets. Our special agents and industry operations investigators are supported by an outstanding staff of professionals. They include attorneys, engineers, forensic scientists, intelligence research specialists, forensic auditors, I.T. specialists. These professionals ensure that ATF remains at the forefront of the legal, technological, and scientific developments, so necessary to be effective in the challenging environment of law enforcement it focuses on today.

When you focus these exceptional employees to work together as one ATF, one pure ATF, I believe we bring unique and special value to the American taxpayer, namely to go after the trigger-puller, the firearms trafficker, the arsonist, and the criminal bomber. To remember our mission more easily, it is all about bang, boom, and burn. One of the areas I hope to highlight today is how ATF is utilizing a unique blend of talented and dedicated public servants to tackle our mission priority, reducing violent firearms crime.

Over the last 3 years, ATF has established Crime Gun Intelligence Centers, or CGICs, in all of our 25 field divisions. CGICs

synthesize the skill of our special agents, our IOIs, our intelligence research specialists, our ballistic technicians, our laboratory scientists, and support staff, to collect, analyze, and develop crime gun intelligence, creating timely and actual leads for the dissemination to our field agents and our local, State, Federal, and tribal partners.

Beyond the talent of our people, CGICs also utilize powerful intelligence tools that are unique to ATF. The firearms tracing results from our National Tracing Center in Martinsburg, West Virginia, and data from the National Integrated Ballistic Information Network, known as NIBIN, the Nation's only automated ballistic imaging network. NIBIN provides critical intelligence and investigative leads through the analysis and comparison of ballistic evidence left at crime scenes. By comparing the unique marks on the ammunition's cartridge case, NIBIN produces correlations that link shooting incidences, creating actual leads that aid in the identification of the trigger-pullers who menace our community.

Mr. Chairman and members of the committee, for the last 2 years, I have had the honor to lead the ATF. It is been the highlight of my professional career, and I openly admit that I love America. I love the men and women of ATF, and I love our mission of public safety and the regulatory mission.

Thank you for your time, and I look forward to your questions.

Mr. GOWDY. Thank you, Mr. Brandon. The chair will now recognize the chairman of the full committee, Mr. Goodlatte, for his questions.

Chairman GOODLATTE. Thank you, Mr. Chairman. Mr. Rosenberg, let me start with you. Over the past 10 years, the DEA has seized more assets than any other law enforcement component of the Department of Justice: 80 percent of the total. Recently, the DOJ Office of Inspector General released an audit critical of DEA's asset seizures and forfeitures. What is the DEA doing to implement OIG's recommendations?

Mr. ROSENBERG. All right. I am still working my way through the report, but I have a couple of things that I have taken away from it, Mr. Goodlatte. One is, as the I.G. said, this program is effective and important, but I think we need to do a better job of establishing linkages between seizures that we make and criminal cases that we prosecute down the road. And sometimes, we struggle with that piece of it.

I do not mean to sound overly defensive, but I want to point out one sort of flaw, I think, in the I.G.'s report. A lot of cases that they selected do not result in criminal enforcement, but there are reasons for that. Sometimes, we will have intelligence or, from a wiretap, know that a bad guy is going to drive some cash south, having sold their drugs.

Chairman GOODLATTE. Mr. Rosenberg, let me interrupt and just say, I do not disagree where you have no one claiming the property.

Mr. ROSENBERG. Yes.

Chairman GOODLATTE. But where you do have people claiming the property, there needs to be a much more transparent and effective and cost-effective way for them to challenge the seizure of their assets and get them back if they were improperly taken.

Next, let me ask you about your recently-promulgated rule regarding a drug code for marijuana derivatives, derivatives such as cannabidiol, and maintaining marijuana, hemp, and other derivatives as schedule I substances. Following that, a lawsuit was filed in the Ninth Circuit. What is the current status of hemp enforcement?

Mr. ROSENBERG. Well, hemp remains a schedule I substance. It is derived from the marijuana plant. So, sorry, do you have—

Chairman GOODLATTE. Are you looking to harass hemp farmers and—

Mr. ROSENBERG. No. No. As long as they abide by section 7606 of the farm bill, we are not looking to harass those who abide by that statute. No, sir.

Chairman GOODLATTE. All right. Well, we are working on trying to make it clear that there should be an easier path for people with a product that is commercially viable for a lot of purposes, should be able to be produced in a more convenient way, and more accessible to the market.

Mr. ROSENBERG. And we have worked with your staff, sir, to try and work through some of those issues. We will continue to do so.

Chairman GOODLATTE. Let me ask you this. I am getting reports from people that there are restrictions by the DEA on the supply of buprenorphine products, like SUBUTEX and Suboxone, that they are being restricted to the same level that a pharmacy sold last year. Is that true?

Mr. ROSENBERG. I do not believe so. I will double check, but I do not think that is right. I do not think that there are shortages, and I do not think—

Chairman GOODLATTE. As you know, the Congress passed, and President Obama signed into law, the Carrot Act that promotes medication-assisted treatment. And it sounds like the DEA may be making it more difficult for people to get it because, obviously, if they are being successful in getting people on these kinds of treatments, the demand is going to go up. It should not be flat like last year, when there is an emphasis being made on making sure people have access to things that could help them with their addictions.

Mr. ROSENBERG. Well, access is crucial. I do not think there is a backlog for data wave dots, at least from our perspective.

Chairman GOODLATTE. I have heard of patients having to go from pharmacy to pharmacy, spending hours trying to find a store with enough stock to fill a legal prescription.

Mr. ROSENBERG. If that is the case, again, happy to work with your committee and your staff to address it, sir.

Chairman GOODLATTE. Thank you very much. Let me turn to Mr. Brandon. Over the past 10 years, we have witnessed a precipitous drop in firearms prosecutions. In fact, during the last administration, prosecutions went down over 30 percent in this area. Do you have any explanation for this drop?

Mr. BRANDON. Mr. Chairman, thank you for the question. I know, in the previous administration, the operative word was “impact,” and that the cases, even though they would be few, it should all be impactful. And we complied with that to try to focus on the

most violent, what we call trigger-pullers, and the traffickers, supply, and then firearms.

Chairman GOODLATTE. Let me tell you the problem that I have with that. If you look at, I think, any recent year, you are going to find that a number of people lie when they fill out the instant check form for the NICS system when they purchase a firearm. Most years, it is 60, 70,000 people. And most years, the number of actual prosecutions is less than 100 out of 60 or 70,000. I have seen some years which have been 40, 60.

That means that, if you knowingly go into a gun store and you attempt to purchase a firearm by providing false information on the form, you know as you go in that the odds of your being prosecuted, even if you are caught, and because the instant check system, by no means, has all the data in it that it would need to detect anybody who has a conviction that should prevent them from purchasing a firearm, that the odds are less than one in 1,000, even if you are caught, that you are going to be prosecuted. Have you had any communications with others in the justice department, the FBI, the U.S. Attorneys' Offices about why this prosecution rate is so low?

Mr. BRANDON. Mr. Chairman, thank you for the question.

Chairman GOODLATTE. You know, and I would not say, you talked about the most serious violations. Here is the problem. If we do not send the message that this system is meant to stop people from buying firearms who are prohibited by law from buying firearms, what is the point of this system? You got to prosecute people before they commit these acts, if they are purchasing firearms that they are not supposed to be purchasing.

Mr. BRANDON. Yes, sir. Just so you know, when we are referred on these cases by the FBI, everyone is examined, and each U.S. attorney has prosecutorial guidelines, and then we will review it against each district to see if the case would be acceptable for prosecution. If it is, then it is forwarded to the field division that has jurisdiction over that area responsibility, and a case will be perfected.

But to answer your question, we look at all of them, and then we go against the U.S. attorney guidelines for prosecution. And if the facts and the evidence are something that fit within the guidelines, a criminal case is perfected. If it does not fall within the guidelines—

Chairman GOODLATTE. Only one in 1,000 is making the cut? That just does not seem like a good approach. Mr. Chairman, I know I have exceeded my time. I would like to ask Mr. Brandon about one other thing, if I may?

Mr. GOWDY. Of course.

Chairman GOODLATTE. In Associate Deputy Director Turk's white paper, he points out that, for over 2 years, representatives within the firearms licensing community have asked for clarification and/or a decision from ATF regarding new Federal firearms license applicants requesting to conduct business solely at gun shows.

The ATF has delayed a decision or guidance due to several concerns, including what it means to be, "engaged in the business," of selling firearms, and ATF's ability to have access to a dealer's

records where they may not have routine business hours. The ATF has already recognized FFL activities via the internet without a classic storefront and is considering whether to include gun show-only activities in a similar manner.

He then correctly asserts that the marketplace has changed significantly in recent years, and ATF's guidance to FFLs on these issues has not kept pace with developments and commerce. Classic brick-and-mortar storefronts with an on-hand inventory and set, front-door business hours no longer apply, in many instances, in today's modern marketplace. What are you doing about that?

Mr. BRANDON. Mr. Chairman, thank you for the question. On February 17 of this year, we sent a letter out to a private request saying that, if the FFL wants to deal primarily at gun shows, and as long as it is compliant with State and local law, we issued the license. And so, we have showed a sensitivity to the industry. If it is solely just to operate at a gun show, that would require a statutory change by this committee, I guess. We are issuing a license where they are primarily selling at gun shows and that they have a place where we can go in and inspect the records.

Chairman GOODLATTE. So, in the meantime, what are you doing to enforce the law, with regard to entities or individuals that only sell at gun shows and are not doing the background check? Because they are obviously not in compliance with the law.

Mr. BRANDON. Yes, sir. And I know, Mr. Chairman, that, when we met privately, you expressed your concern about that. One of the plans is, or what we do is, an education component.

When ATF industry operation investigators will be at certain gun shows, they do not walk up to people; they just have a booth, and they educate them to say that, if your activity is false within this or repetitive buying or selling of firearms principally, you know, for profit, that you would need a Federal firearms license. And also, the great men and women, the Federal firearms licensing communities, our frontline defense, often they will be frustrated because they are saying, hey, I am playing by the rules, and this guy over here is not.

Chairman GOODLATTE. You bet they are frustrated, and so are people who are frustrated, who think that, this way around, having to comply with the NICS system is a loophole, and it should be closed. Now, not the way some people have advocated, but in terms of enforcing the law, which is very clear that, if you sell a firearm at a gun show, you are required to do a background check, just like anyone else is, unless you meet the narrow exceptions of an individual transaction where you are not in the business, or you are selling a collection and not selling the collection and replenishing it and selling it again. So, what is ATF's plan to go make sure that the people selling at gun shows are getting in FFL, or if they are not getting in FFL, they are not selling at gun shows?

Mr. BRANDON. Mr. Chairman, again, thank you for the question. We investigate allegations like this across the country. Often, they come from the FFLs that are, like I just mentioned previously, complying with the law, and doing things correctly. And we will investigate, and if we can perfect a criminal case, we will do that and recommend it for prosecution to the U.S. Attorney's Office.

Chairman GOODLATTE. Thank you. And thank you, Mr. Chairman, for your forbearance.

Mr. GOWDY. You have any other questions? I have got all the time you want. The chair will now recognize the gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much, and the work you do is mounting and important, and questions are such that we all need more time. But I am constrained by the time I have, and so, let me try to focus on questions that we can get, and I do not need answers, but to be instructed as a committee to be as helpful as possible.

First, I want to be clear that I think that the work that the DEA and the ATF does is extremely important, and I think there should be a balance between treatment and enforcement, but I think that we would be completely naive to think that the enforcement arm is not important. It would be good to get to the point, particularly as it relates to drugs, but that would be less important; that we will be diminishing, if you will, the users of the product and the suppliers would come down automatically, that is not the case.

So, let me raise questions to both of you, dealing with some of the issues that we are concerned about and a number of questions that I have. Mr. Rosenberg, have you looked at the disparities? Obviously, you are at, more or less, the top end. You might give me, when you collaborate with local law enforcement, when does DEA do that? And are you seeing disparities in the arrests of more African Americans in drug use, particularly marijuana, than others? And whites in particular? And how would the DEA, in its capacity, the level that it is at, deal with that disparity?

Mr. ROSENBERG. At the Federal level?

Ms. JACKSON LEE. Yes.

Mr. ROSENBERG. We represent a very small piece of the Federal, I am sorry, of law enforcement efforts in the United States; a tiny sliver, if you would.

Our main interaction with State and local law enforcement officers is through their participation as task force officers with the DEA. We have about 4,600 DEA special agents, about 2,700 task force officers that work with us. But their work, and if we are doing this right, is not aimed at low level, you know, dealers or users. It is saying that, what I described earlier, it is that unholy alliance between cartels and violent street gangs. So, probably, the best place to go to answer your question, which I think is an important one, would be the State and local folks.

Ms. JACKSON LEE. Do you have any discussions among your team on disparities and the individuals that are arrested for drug engagement?

Mr. ROSENBERG. By race? I do not have those numbers, and I do not ask for them, and I do not keep them.

Ms. JACKSON LEE. All right. On the OIG report, one of the issues of concern was the confidential informants. I just wanted to get an answer from you that you view that as serious? One of the issues that came up that I would be interested in as a lawyer is limited source or limited use, such as, I hate to say airline employees, professionals who may be helpful.

How are you answering that question? That is of great concern. You are using some agents or agencies, or your different units assess that source differently. How are you addressing that question?

Mr. ROSENBERG. It was actually an illuminating report, Congresswoman. We have done a couple of things that I think are important. So, confidential sources, confidential informants are very important to our work, but we have to make sure we are careful. So, for instance, as the report pointed out, where we were using quasi-government employees, for instance, at places like TSA and Amtrak, we have stopped that. We do not do that anymore. We now have confidential source guidelines that are fully in compliance with A.G. guidelines. We are now doing 90-day reviews of every single one of our confidential sources. We have put in place an awards review board, so we can make sure that confidential sources are paid and treated the same way across the country.

Ms. JACKSON LEE. My time is running out.

Mr. ROSENBERG. I am happy to come brief you on it.

Ms. JACKSON LEE. I want you to do so. Let me quickly just indicate, I think I was in Colombia when the incidents with the DEA behavior, and you are handling that, with respect to the kind of protocols that need to be followed? I just need—

Mr. ROSENBERG. We have revised our standards of conduct, and in fact, we have made a first-time offense for engaging in prostitution, even in a place where it is legal, is cause for removal.

Ms. JACKSON LEE. Thank you. Let me quickly go to Mr. Brandon. And thank you very much, from Mr. Piralter, who was very effective at a meeting that we had dealing with gun violence. Thank you again.

Let me try to get you to answer what you think is the reason for the proliferation of illegal guns. Let me also take note of the fact that, over a period of time, in the Obama administration, when people asked what the ATF does effectively, 65.4 million gun purchases since Obama took office, 91 percent more. That means that you were doing 65,376,373 background checks. It looks just, to me—what can you say about the proliferation of illegal guns? And which tools does ATF have to combat gun trafficking, and are they helpful? And what is the role that silencers would play in enhanced gun violence, if used inappropriately?

Mr. BRANDON. Thank you, ma'am, for the questions. First, on the proliferation of gun violence, I have been an agent for the government 29-and-one-half years. If bad people want to get a hold of guns, they are going to get them. We have seen an increase in Federal firearms licensing burglaries, and that increased even from last year to this year, from 2015 to 2016, a 56 percent increase. A number of guns. Some of the motives for those burglaries have been gang-related or related to opioids, trying to feed their drug habits and so forth.

The tools that we have, the comprehensive tracing of firearms at the Tracing Center, is a vital technique and a tool. And like I mentioned in my statement, NIBIN, the National Integrated Ballistics Information Network is something, whether you are a Democrat or a Republican, it is an American issue. It is an effective tool of linking up shootings that you would never detect previously. And when you have that with the comprehensive tracing of firearms, the

other tool, and along with exploiting local police department intelligence, you can go after the trigger-pullers who are perpetuating the violence.

Ms. JACKSON LEE. Silencers?

Mr. BRANDON. Silencers, 42 States now, legal. It has created a demand for us. It is still covered under the National Firearms Act. The industry refers to them as suppressors, and it is something that we are dealing with.

Right now, we have an 8-month backlog. We have applied resources of 30 additional people. We have applied overtime money to try to fulfill our obligation at ATF to do the background and authorize the silencer to be transferred to the individual purchasing it.

Ms. JACKSON LEE. My last point. Did you benefit from an increase in ATF officers?

Mr. BRANDON. No. No, ma'am.

Ms. JACKSON LEE. You could not benefit from a—

Mr. BRANDON. Oh, could—yeah, no, I would welcome it. The pun is intended here: you get a lot of bang for your buck when you put an ATF agent on the street, working with the locals.

Ms. JACKSON LEE. Thank you. I yield back. Thank you.

Mr. GOWDY. The gentlelady yields back. The chair will now recognize the gentleman from Texas, Judge Poe.

Mr. POE. I thank the chairman. Thank you both for being here.

I want to tap my foot and say amen to what the chairman said regarding the work you do in law enforcement. Yesterday morning, we had a peace officer, Clint Greenwood, a friend of mine, was ambushed and murdered. He had an interesting background. He was not just a police officer. He was a prosecutor in the District Attorney's Office, a private attorney, worked for the sheriff's department, constable's office, for over 30 years. And what you do is dangerous, but it is appreciated.

As the chairman mentioned, I was a former judge, and a former prosecutor. And I have talked to a lot of former prosecutors over the years, and they have all gone on to do other things. But I think most of them, if not all, always go back to when they were a prosecutor, and those were the best years of their careers, so I want to thank you both for that.

I want to deal specifically, Mr. Rosenberg, with the border, with Mexico. I have a map here that I got from the DEA, so you are familiar with it. And Mr. Chairman, I would like unanimous consent to introduce this into the record.

Mr. GOWDY. Without objection.

Mr. POE. And it shows most of Mexico, except for a few places that are controlled by the drug cartels. The Texas border has on it the gulf cartels, the Zetas, and the Juarez drug cartels, moving drugs into the United States on the Texas-Mexico border. You mentioned in your testimony that the drug cartels work with criminal gangs in the United States. Would a fair statement be primarily, one of them is the MS-13 gang?

Mr. ROSENBERG. Certainly, it is one of them.

Mr. POE. All right. Do the drug cartels not only bring drugs illegally into the United States; they bring anything else for money? Including people, human trafficking, and bring all of that into the

U.S.? And some cases, turn that over to the criminal gangs to disperse it into the United States? Is that a fair statement or not?

Mr. ROSENBERG. Well, I would say it a little bit differently, sir. These cartels are poly-crime and poly-drug organizations; they are out to make money. Generally, they stay out of the human smuggling business, except that they often do two things. They tax human smugglers for the use of their corridors or plazas, and sometimes, they will force people who are coming across the border to carry their stuff. But by and large, they stay out of the human smuggling business, to the best of our intelligence.

Mr. POE. They subcontract that out to people coming across the border, and that would include human trafficking; would it not?

Mr. ROSENBERG. It includes all sorts of crimes, sir.

Mr. POE. Smuggling and trafficking are two different things.

Mr. ROSENBERG. Yes sir.

Mr. POE. Would you recommend or not that the Congress consider, these drug cartels that have been in operation for years in Mexico, making them foreign terrorist organizations?

Mr. ROSENBERG. I am sorry, making them?

Mr. POE. Making them foreign terrorist organizations. Labeling them as a foreign terrorist organization?

Mr. ROSENBERG. I do not know the ramifications of that. I have not been asked that question before. Can I least think about it a bit?

Mr. POE. Sure.

Mr. ROSENBERG. And give you an answer.

Mr. POE. Sure. Just give me your opinion in writing if you would.

Mr. ROSENBERG. I will.

Mr. POE. Recently, on the Texas-Mexico border, primarily in the McClellan sector down by not only the border with Mexico, but the Gulf of Mexico, Texas law enforcement has been working there in connection with border security, putting a lot of boots on the ground, even the National Guard, in some places. They got these fast boats that I got to be on. They are quite amazing. They can go 70 miles an hour in 17 inches of water, armed. Is it your opinion, like many others, that that presence on the border for that 100 and 150 miles, the drug cartels quit crossing primarily and just moved up river more?

Mr. ROSENBERG. It is a bit of whack-a-mole. When we clamp down on one part, they will find another part because the trade is so lucrative, which is why, in part, we need to change the culture and knock down the demand. But it is a bit of whack-a-mole, sir.

Mr. POE. I agree with you. Stop the demand in the United States is the long-term answer. But sir, the crossings into the United States by the drug cartels, they are done primarily on the border with Mexico.

Mr. ROSENBERG. Primarily.

Mr. POE. And if we want to decrease those crossings, we need to have a good presence all the way on the border, not just in portions of the border, to prevent whack-a mole.

Mr. ROSENBERG. We need good intel; we need good agents; and we need a good presence, yes, sir.

Mr. POE. A couple more questions. What assets do you need on the southern border of Mexico? What are the assets you need?

Mr. ROSENBERG. Well, DEA is actually, down believe it or not, about a 1,000 employees over the last 5, 6, 7 years, and almost 500 special agents. Now, I do not want anything, sir, at the expense of my brothers and sisters in the Department of Justice. But we are, and this is a cliché, literally doing more with less. We are down quite a bit. And as you look at the demographics of our agent population, we have 30 percent of our special agents within about 5 years of retirement. So, I do not want to call it a crisis. But it is absolutely a challenge.

Mr. POE. A crisis, that is what it is. Do you work well with the Mexican government? Because you know there is a reputation or a rumor out there that it is tense between the United States and the Mexican government. They do not work well; they give you partial information; sometimes it is wrong. Explain that to me. That is my last question.

Mr. ROSENBERG. We work well. It is not perfect; no relationship is, but we work well. Those are extraordinarily brave men and women in Mexico with whom we partner. We also have a large presence of DEA agents and analysts and professional staff in Mexico. Seymour, the Mexican Marines, are extraordinary. They go above and beyond the call of duty. And so, I would describe the relationship as very good and very healthy.

Mr. POE. Thank you, Mr. Chairman. I now yield back.

Mr. GOWDY. Judge Poe yields back. The chair will now recognize its friend from Florida, Mr. Deutch.

Mr. DEUTCH. I thank the chairman. And I thank the ranking member for his kindness in allowing me to jump ahead.

Mr. Rosenberg and Mr. Brandon, thank you both for the work that you do for our country, to all of the men and women who work in your important organizations for the service and security they provide all of us. We appreciate it.

Mr. Brandon, Ronald Turk is, as I understand it, your number two at ATF. And obviously, ATF uses regulations to discount violence and ensure public safety, among other things. And on January 20, Chief Operating Officer Turk released a white paper entitled, "Options to Reduce or Modify Firearm Regulations." The white paper begins by recognizing that ATF's enforcement and regulatory efforts are focused on reducing violence and increasing public safety. We could not agree more, and we are grateful for that. And yet it supports and, indeed, advocates for reducing a number of gun regulations that I think most people would wonder how reducing these regulations would make anyone any safer.

The recommendations consider the removal of silencers from the protection of the National Firearms Act, silencers that make it much more difficult for law enforcement and bystanders to hear gunshots and react quickly. The white paper also suggests having further discussions on change in the Anti-Trafficking Program that require dealers in southwestern States to notify ATF about multiple sales of high-powered rifles. And the white paper calls for examining permitting gun dealers to avoid reporting requirements that assist law enforcement investigating trafficking, even after the dealer has sold many guns that were later used in crimes. And there are lots of other proposals to eliminate gun regulations described in this white paper.

The proposals in this white paper, coming from ATF, are greatly concerning to a lot of us. They would weaken the authority of ATF; they would undermine the Agency's authority to protect public safety. I just would like to know from you, first of all, why was this drafted? What was the purpose of this white paper?

Mr. BRANDON. Congressman, thank you for the question. These were the personal views of Associate Deputy Director Ron Turk, my number two. They are not the positions of the agency.

Mr. DEUTCH. The white paper does not represent the official opinion of ATF. Did anyone ask your number two, the number two at ATF, to offer his personal reflections in a white paper in this way?

Mr. BRANDON. Associate Deputy Director Turk notified me, it was Inauguration Day. As soon as I saw President Trump sworn in, I went on the White House website, and I saw that he was going to have the head of every Federal agency review its regulations. And I sent an email to all of my executive team. Ron wrote back to me, "Hey, I am working on a white paper." And I said, "Well, enjoy your weekend. Let's talk on Monday." Part of the process of leading a team is to have deliberations and active conversations about things. But it does not necessarily reflect the opinion of the agency. And clearly, that paper is not a position of ATF.

Mr. DEUTCH. Are any of the concerns raised in the paper shared by ATF? And more specifically, is ATF considering adopting any of the proposals contained in the white paper?

Mr. BRANDON. You know, these positions go through the administration. The administration is new. And when the deputy attorney general was confirmed, there will be various conversations like we have had, you know, previously, and get guidance from the department.

Mr. DEUTCH. I do not understand what that means. Does that mean that they are being considered? It is simple, right?

Mr. BRANDON. I am trying to be truthful. Like you know we would talk, for instance, silencers.

Mr. DEUTCH. Yeah.

Mr. BRANDON. The demand that you know 42 States created and the backlog, we were always getting Congressional inquiries, what are you doing about the backlog? My constituent is waiting. And so, we were applying resources, and that is how this conversation came up. If silencers went under the Gun Control Act and still went through a NICS check, is it still public safety being met? And seeing how there has been a change within the country candidly at the State level.

Mr. DEUTCH. So, again, I just want to make sure I understand. So, the President was inaugurated, and this review was to commence. And it sounds like he had already started the process. Did someone ask him to do it beforehand?

Mr. BRANDON. No, I did not ask him to do it. And being honest here, which I would not be anything but, he obviously had to be working on it before Inauguration Day.

Mr. DEUTCH. I think we would like to find out how that started. But just in my last few seconds, in an exchange you had with the chairman earlier, the chairman referred to the narrow background check exception. And if I understand you correctly, you said that

ATF conducts the background checks at gun shows for those who are in the business of repeatedly buying and selling because they are required to have a license.

The narrow exception for those not in the business, how is that defined? What is the definition? How do we know whether someone fits under that narrow exception, as the chairman referred to it?

Mr. BRANDON. Well, we produce guidance, sir, for what is legally required, you know, your activities. So, it is the repetitive sale of firearms for profit and livelihood. That said, you would fall in and need to be licensed. I just want to clear; ATF does not do these NICS checks. They are done by the FBI. And the Federal firearms licenses are required to conduct them before they transfer a firearm to a non-licensee.

Mr. DEUTCH. Last question, Mr. Brandon. Do you think that the background checks that are done on people who are in the business, acknowledging that it is unclear how we define that, which is something a lot of us think should be done, and that the exception is not narrow at all? But, do you think that there would be benefit, if we are conducting those background checks, for people who buy a gun at a gun store, to have everyone who buys a gun at a gun show or online to be subjected to the same background checks?

Mr. BRANDON. Yes, sir, that would be a legislative change that, you know, I should not be commenting on as the head of an agency. But if Congress passed a law, we would enforce it.

Mr. DEUTCH. Well, I look forward to that day. Thank you. Mr. Chairman, I yield back.

Mr. GOWDY. The gentleman from Florida yields back. The chair will now recognize the gentleman from Texas, former U.S. attorney, Mr. Ratcliffe.

Mr. RATCLIFFE. Thank you, Mr. Chairman. Director Brandon, I got the chance to welcome my friend Chuck Rosenberg, and I wanted to be sure that I had a chance to welcome you. We had a chance to visit for the first time yesterday, but before that meeting, I had a conversation with former Acting ATF Director Mike Sullivan, who is a close friend and, actually, former colleague of Mr. Rosenberg, as well, and someone whose opinion I value greatly. He described you to me "A conscientious, hard-working, disciplined, open-minded, just a terrific guy and phenomenal human being." So, pretty high praise, and from what I have, heard well deserved.

Having gotten those niceties out of the way, I have what maybe a difficult question for you to answer, but one that I think is important. Because I am from Texas, you would not be surprised to hear that there are quite a few hunters and law abiding gun owners in my district. And hunters, not just in my State, but certainly across the country, are being forced to use alternative, non-lead ammunition.

And the problem, as you know, is that manufactures cannot make brass or steel core ammunition for a 306 or a 270 deer hunting rifle unless they get a waiver from the Attorney General saying that it is primarily intended for sporting purposes.

Now, in a prior hearing when I had the prior Attorney General Loretta Lynch, in here, I asked about a number of petitions that were pending for those waivers. And at that time, unfortunately,

none of those had been granted, but I think, even more importantly, none of those had even received a response. So, the prior administration, for whatever reason, did not feel that manufactures were deserving of a response. Is there any reason for hope or optimism that this administration might respond to this issue?

Mr. BRANDON. Sir, thank you for the question, and also, please thank Mr. Sullivan. I think the world of him. He was very good for ATF. Regarding armor-piercing ammunition and the exemption request that we would have from manufactures, that is true. We have not been able to act on them. I believe that, when the deputy attorney general is confirmed, that we will be able to bring our issues to him. And that we will be able to answer the mail to the manufacturers; it is our obligation to do so.

Mr. RATCLIFFE. Well, great, I am very glad to hear that and eager for that to occur. Administrator Rosenberg, I know you will get a bunch of questions today about marijuana and its derivatives as schedule I drugs. As former prosecutors, we will often refer to marijuana as a gateway drug. The more recent statistics seem to lend themselves to the argument that prescription pills have become a gateway drug to heroin. You talked about four out of five heroin users starting on prescription pills. Is that accurate, if I were to refer to it as a gateway drug?

Mr. ROSENBERG. Four out of five heroin users begin on prescription pills. That is our best information, sir, yes.

Mr. RATCLIFFE. So, in the focus on the opiates and the opioid epidemic in this country, there has been a lot of finger pointing. I know at least one Senator that has pointed the finger of blame at DEA, which, of course, has the power to set the limit for how many opioids can be manufactured in the United States. So, do you think that is fair or legitimate criticism? I want to give you a chance to address that publicly.

Mr. ROSENBERG. And I have spoken with that particular Senator. I understand the impulse, but I do not think the criticism is entirely accurate. Here is why.

We do set the aggregate production quota. But we are guided by statute in how we set that aggregate production quota. So, it is the ceiling; manufactures typically do not manufacture to that ceiling. They manufacture below it. In partial response to that, Mr. Ratcliffe, we have cut the aggregate production quota by 25 percent. We are trying to be responsive and thoughtful. But as I have tried to explain, and maybe I did not do a very good job of it, that aggregate production quota is largely driven by statute. We are required to look at last year's manufacturing, last year's production, put aside some reserve, put aside some inventory. So, it would require DEA to work with this Congress to reset how that aggregate production quota is determined.

Mr. RATCLIFFE. Thank you. As my time is expiring, and I know the chairman is a stickler for time, so I want to get my last question in. You have talked a little bit about the DEA's role; we all know that DEA is really good at reducing supply. That is what law enforcement does: goes after cartels and the street gangs that source the supply. And the problem, you referred to this earlier, is that we can never enforce or prosecute our way out of the problem. So, the other half of the equation is reducing demand.

And so, you talked a little bit about some of the things that you have been trying to do. You know, obviously, public education is part of the answer. You have talked about STEM and the Chasing the Dragon video and the National Prescription Drug Take Back Program. Has that been effective? What else are you doing, and what, if anything, else can we be doing? What can Congress do to support those efforts on that side?

Mr. ROSENBERG. Thank you. And Mr. Chairman, if I may respond in full to that, I will take a couple of minutes. Mr. Ratcliffe, you are a very good and very highly respected Federal prosecutor. And so, I think you know as well as anyone that we are not going to prosecute our way out of this mess.

That said, I think some of our programs make a lot of sense. Our National Take Back Program, for instance, sir, last year on 2 separate days, we took in, and this is a stunning number, 1.6 million pounds of stuff. That people dropped off at 5,000 sites around the country. Our next National Take Back Day is April 29th.

I want to tell you that we think that about 10 percent of the stuff that is dropped off are opioids. But even if it is only—because you can drop off anything. You can drop off BENGAY; you can drop off an old tennis racket. I mean, we will take it. But it is “only 10 percent,” that is 160,000 pounds of opioids that were returned to the DEA and incinerated in a safe and effective way. So, we are going to continue to do that.

You mentioned the Operation Prevention Program, sir, with Discovery Education, we have created a STEM-based curricula, free of charge, to any middle or high school in the nation. And I believe the last number I had is at more than 200,000 students have viewed that. So, we have to change the culture. It is a hard thing to do. This may seem like a silly example, but I do not think it is; we have changed the culture in the United States with respect to using seatbelts. It took a long time, and it took a lot of determination. But I believe that has saved lives. We can do it here as well.

Mr. RATCLIFFE. Thank you, and I just want to close by joining the chairman in asking that you relay to all of the women and men in your agencies, the agents, and the teams that support those agents, our gratitude as we do approach Police Week coming up. You know, law enforcement officers, much like our Armed Forces, they courageously face the dangers that others have the luxury of running away from.

So, please thank your team for the sacrifices they make. I know they miss out on a lot. Crime does not sleep, does not take a day off, and your team rarely gets a day off as well. So, please extend our thanks and gratitude.

Mr. ROSENBERG. We will. Thank you for that, sir.

Mr. RATCLIFFE. I yield back.

Mr. GOWDY. The gentleman yields back, and he is grateful there is not mandatory minimums for exceeding the time.

With that, we recognize the gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. Thank you, Chairman Gowdy. And thank you for your testimony. I want to direct this to Mr. Rosenberg, Administrator Rosenberg.

A small percentage of individuals convicted of violating Federal laws are high-level suppliers or major traffickers. But is not it more constructive to go after the sources of illicit drugs to end or slow the flow of drugs into this country? If it is more constructive to go after the suppliers, how do you explain why most people convicted of violating Federal drug laws are, in fact, low-level sellers instead of suppliers or major traffickers?

Mr. ROSENBERG. Mr. Conyers, if we are doing our jobs right, and we are not perfect, so we do not always get it right, we are aiming at that unholy alliance between the cartels and the violent street gangs. My goal is to hit that spot and work up. It is a very difficult thing to do, as I am sure you understand. We should not be prosecuting, you know, folks for simple possession or simple users or addicts. That would be, I think, a mismanagement.

Mr. CONYERS. But you are.

Mr. ROSENBERG. I think in the main, we are not, sir. My understanding, at least from the statistics I have seen, is that we are not prosecuting low-level users. We are trying to work our way up the chain, again, not always perfectly. But if I have that wrong, and I am happy to look at the statistics again. I will come back and tell you that I have it wrong.

Mr. CONYERS. Well, I will look at mine again, too, and let you know because I think that is key to this whole discussion today. Are we able to go after the major traffickers or not? And if not, then we have to alter our strategy.

Mr. ROSENBERG. As far as strategy goes, sir, my direction to our special agents in charge is very simple. Identify the biggest, most difficult, and most dangerous threats in your jurisdictions and mitigate that. Now, again hard to do, and we do not always get it right. But that is my direction to them. I do not want us to be spending our limited resources on simple possessors or low-level users, sir.

Mr. CONYERS. Thank you. This, I think, is one of the biggest issues that we are confronted with. And I wanted to return to Director Brandon. The Police Foundation and the Major City Chiefs Association recently published a report making 25 recommendations detailing how Federal Government could best assist State and local law enforcement, positively impact violent crime. Now, the report spoke of the critical need for a Federal firearms trafficking law. How, in your view, would legislation making firearms trafficking a Federal crime help ATF and the U.S. attorneys to prevent firearms from getting into the hands of criminals?

Mr. BRANDON. Congressman, thank you for the question. And, you know, the predecessors to my distinguished Acting Director Sullivan, that was the U.S. attorney in Boston, and former Director Jones, both weighed in on this, and I see it the way they do, that a firearms trafficking statute would be effective on having more substantial penalties for those that are trafficking in firearms. And the information I learned on it, also, is that it has like a kingpin and where, instead of getting the paper violations for lying and buying, and we would be able to work our way up and target, ultimately, the person that is pulling the strings, with all these store purchases, and the statute would help that, along with allowing us, as a Title III, it could be an investigative technique. It would be a predicate to the RICO statute. So, there is a number of things.

I am not an attorney, but I agree with my former bosses that it would be an effective tool in addressing violent gun crime across the country.

Mr. CONYERS. It is a big challenge. And if I could get—well, my time is expired. I will be in touch with you for some more discussion, which, if we get it in time, we will include it in the record. If not, I will have it for my personal edification. But I value you both coming before the committee today. Thank you, Mr. Chairman.

Mr. GOWDY. I thank the gentleman from Michigan. The chair will now recognize the gentleman from Louisiana, Mr. Johnson.

Mr. JOHNSON of Louisiana. Thank you, Mr. Chairman. I want to echo the gratitude of all my colleagues to you good men and to your colleagues for all of your important work. We are grateful you are at the helm. A couple of quick questions, Mr. Rosenberg, about the National Guard Counterdrug Program.

I am from Louisiana, and Louisiana National Guard participates, and from our perspective, the program is shown to be a good resource for State and local agencies to fight against drug abuse and all these problems. I assume you agree it is a valuable program?

Mr. ROSENBERG. Completely agree.

Mr. JOHNSON of Louisiana. The problem is that, despite the clear benefits that are obvious to us, of the National Guard Program, over the past several years, going back to about 2012, the National Guard has seen repeated reductions in their funding. And that has effected resources and, of course, impacted their ability to adequately meet the counterdrug objectives. And it includes limiting the operational capacity to support the DEA. We talk a lot about budget cuts, but do you think the level of success in drug and criminal intervention is where it needs to be? And more specifically, do you think there is added value to the DEA's efforts when the National Guard is able to assist in that way?

Mr. ROSENBERG. I will take the second question first, sir. Absolutely. As I travel around the country, and I have paid 98 office visits so far to the men and women of DEA, in a little under 2 years. I meet men and women of the National Guard everywhere I go. They are an extraordinary part of who and what we are.

So, the second part is easy. With respect to the first part, as I mentioned, we are down more than a 1,000 people over the last 5, 6, 7 years, more than 500 special agents. But were also down intel analysts, professionals support, diversion investigators, and so it just makes our job that much more difficult. That is why I love having the National Guard sit with us. High-quality men and women, and they do high-quality work. If you have more, I will take them.

Mr. JOHNSON of Louisiana. We would like to give you more. Over the course of the last 17 years, the El Paso Intelligence Center, EPIC, has grown from an entity consisting of three law enforcement agencies to a center comprised now of over 20 agencies. And of course, they share a common mission to identify threats to the Nation with an emphasis on the southwest border. Just from an outsider's perspective looking in, can you describe for us what the value is in having 20 agencies now involved who have the same mission?

Mr. ROSENBERG. Having a bunch of folks sitting together and exchanging information quickly and, I hope, seamlessly is enormously valuable. Plus, all these men and women reach back out to their own home agencies and at the resources that they bring to bear. So, when you have a lot of really smart and dedicated people sitting in the same room, focused on the same problem set, same mission set, that is a good thing for your government.

Mr. JOHNSON of Louisiana. I was in a conference room a few moments ago back here. The Louisiana Sheriffs' Association is in town, and we were talking about similar issues with coordination among agencies. And we understand how that can work. But when you are doing that, you are maximizing efficiency and communication, do you experience any collaboration issues with so many Federal agencies passing down information and intelligence to the local law enforcement?

Mr. ROSENBERG. Oh, sure, there are bumps. And I am sure Tom Brandon would tell you the exact same thing; there are bumps. But we are better when we are together. And I know that sounds clichéd. But we have fusion centers around the country; we have OCDETF task forces around the country. We sit with our brothers and sisters at ATF and FBI and the Marshals Service, around the country. Perfect? No. But to borrow Tom's phrase, you get more bang for your buck that way. It is a good thing.

Mr. JOHNSON of Louisiana. I appreciate it. That is all I have. I yield back.

Mr. GOWDY. The gentleman from Louisiana yields back. The chair will now recognize the other gentleman from Louisiana, Mr. Richmond.

Mr. RICHMOND. Thank you, Mr. Chairman. And thank you all for being here. Let me start with something that has come up before. I would assume both of your agencies use confidential informants?

Mr. ROSENBERG. Yes, sir.

Mr. RICHMOND. Do you track your confidential informants and any crimes that may have been committed by them? Because we learned last year that the FBI does not.

Mr. BRANDON. Congressman, thank you for the question. Yes, we do. And as far as when an informant is registered, you know, a criminal history is done. And in the semi-annual review, they have to run checks to see if they have been involved in any criminal activity.

Mr. RICHMOND. And I would assume that means that they do not get passes for petty crimes for the work they do?

Mr. BRANDON. Any time that the control agent is aware of that activity, and it is brought to the supervisor, and depending like, say, if they get a parking ticket, or you know, something like that, or drunk in public, they should let the assistant U.S. attorney know that, if that person is involved in a case, of any unlawful activity, and the judgement call is made whether to continue the informant on the rolls.

Mr. RICHMOND. Mr. Rosenberg.

Mr. ROSENBERG. Yeah, we are also trying to tighten up a bit here. Sir, we are not perfect. But we are doing 90-day reviews now. We are bringing it to higher level supervisors, something we did not do in the past. For instance, if a C.S., confidential source, has

been inactive for 6 months or more, we are going to look to shut that down unless a higher-level supervisor finds a reason to keep it open. So, we have a little tidying up we need to do. I have created a small section within headquarters to essentially audit and inspect how well we are doing this in the field.

Mr. RICHMOND. Oh, good. Second, and it is more for you, Mr. Rosenberg, do you agree with this new treatment type approach: addiction, mental health, and real health response to the opioid crisis that we are facing?

Mr. ROSENBERG. Absolutely.

Mr. RICHMOND. Do you think it would have been more appropriate for the response to the crack epidemic in the early 1980s, or do you think that the crack response was adequate? Or knowing what we know now, it should look more like this?

Mr. ROSENBERG. We are better now than we were then. Treatment has to be a part of the solution. Addiction is a disease. I do not want to lose sight on a supply-side enforcement role because I think that is very, very important. I think we are better now than we were, you know, 10 years ago or 20 years ago or 30 years ago. Hopefully, in 10 years from now, we will be better still, sir.

Mr. BRANDON. Congressman?

Mr. RICHMOND. Go ahead.

Mr. BRANDON. May I go back on the informant issue with ATF?

Mr. RICHMOND. Yes.

Mr. BRANDON. There is this important thing that I forgot to mention. We have a 24/7 monitoring of our informants. So, if they get arrested, we will get notified through NCIC. And also, when we fingerprint them, we run it through AFIS, the Automated Fingerprint and Identification System, to make sure their true identity, in case they have fraudulent identification. If they have been arrested previously, we would know if they are lying to us. Sir, I just wanted to supplement with that. And thank you, sir.

Mr. RICHMOND. Let me, and Mr. Brandon, I am just using it as an example; I do not need you to respond. But this committee held many hearings and was furious about the Fast and Furious Program. At least from my knowledge of DEA and other drug agencies, oftentimes, part of a bigger sting is letting transactions and other things go through.

Now, it is a very specific question. In DEA's past, present, future, anytime, do you let drugs hit communities in order to get the bigger fish?

Mr. BRANDON. We are not supposed to, no, sir.

Mr. RICHMOND. Okay. Are you aware of any instances where it may happen?

Mr. BRANDON. I will have to check and get back to you on that.

Mr. RICHMOND. Okay, last question is, what is the status of the investigation of the DEA agents in New Orleans that are under investigation? And two, do you have a process where you go back and review all of the cases that they have made to make sure that they were legitimate cases?

Mr. BRANDON. Second question first, if I may, sir. We are doing that with our Federal and State and local prosecutor partners. So, absolutely. I am more limited to what I can say with respect to your first question because it is an ongoing investigation. I made

management changes in that division. I added a second SES supervisor to the New Orleans division because we have to get things right there. And we are working closely with both the Inspector General at the Department of Justice and with the FBI on a criminal investigation. But again, I am somewhat limited in what I can say about that because it is pending.

Mr. RICHMOND. Let me just close with this. I think transparency and trust and community participation is vital for law enforcement. And I think that it helps our agents; it ensures that they know everything that is going on; and it makes their job safer. But to have that trust where people in certain communities will risk their lives to help officers, I think it has to go both ways. And here is—and you do not have to respond. Here is my concern from growing up during the crack cocaine era, which it was a lot heavier of a hand than the opioid response. And the question becomes, is it because of the neighborhood or the victims or the sellers?

Question, second part with the Fast and the Furious, the victims were police officers, and that is very, very, tragic. The question becomes, do we get drugs back in our neighborhoods, which creates more addicts, more crack babies, and more other things? Is it because of who the victims are?

Now, assuming, in the best light, that I am reaching on both of those, it does affect your ability to get cooperation from certain communities. And we just have to think about how we address it, and whatever has happened in the past is it happened. But we have to address it because there is that festering feeling. And I think that it does not serve law enforcement well because you do not get the assistance that you need. And it does not serve those communities either. So, with that, I look forward to working with both of you all to make sure we can close some of those gaps.

Mr. GOWDY. The gentleman from Louisiana yields back. The gentleman from Texas is recognized.

Mr. GOHMERT. Thank you, Mr. Chairman. Mr. Rosenberg, Mr. Brandon, thank you for your service. Thanks for being here today. You know, for 8 years, the Obama administration was continually pushing the supposition that far too many low-level, non-violent drug offenders were being investigated and prosecuted and imprisoned federally. President Obama issued 1,715 commutations that represents an awful lot of Federal man hours, women hours, hours where people had their lives on the line to make those arrests and see them through to prosecution. He also had a flat 212 outright pardons of drug offenders that he claimed were serving lengthy prison terms.

At one time, I looked, and the figures Jeff Sessions had gotten was that I think like nearly three-fourths of those who were in Federal prison for simple possession actually were not in the United States; they were not U.S. citizens; they were not here legally. But the number of possessions, there were not that many in Federal prison for possession compared to traffickers.

So, the public has gotten the idea that people in Federal prison are these poor guys that maybe they smoked a joint or something and ended up doing life without parole. But my experience, in my time as a State assistant D.A. and my time as a felony judge, the

Federal prosecutors, normally, did not take small cases. What is your experience, Mr. Rosenberg?

Mr. ROSENBERG. I was a Federal prosecutor, sir, for many years. And I just personally did not see cases involving low-level, first-time offenders. We had neither the resources, nor the inclination to do those types of cases.

Mr. GOHMERT. The State did though, right? If it was something to prosecute, they would go ahead; you would say, "We are waving off; you guys take it?"

Mr. ROSENBERG. It would not be unusual, sir, for a case to be split, where we take the higher level, the more serious offender.

Mr. GOHMERT. The Federal would take the higher, yeah.

Mr. ROSENBERG. Others go to State prosecutors or are nolle prossed. That is entirely possible, too. But from a Federal perspective, that was not my experience, that we would do low-level, first-time offenders.

Mr. GOHMERT. And when we see somebody in Federal prison for simple possession, it makes me wonder based on my experience; I want to ask your experience. Did you see people offered a plea agreement they would only be prosecuted for simple possession if they would turn and help them go after the other guy? It seems like that was the only time Federal officials wanted to go after for simple possession.

Mr. ROSENBERG. That is plausible. Ironically enough, given my current job, I was actually not a narcotics prosecutor, when I was an assistant U.S. attorney. But there might be reasons why you find folks who fit that, you know, description in Federal prison. But it has to be the exception and not the rule. It has to be, in my experience, an extenuating circumstance or somebody who may have plea bargained down to something like that. But it would surprise me if there was a very large number of that.

Mr. GOHMERT. Well, there were not that many in Federal prison for simple possession. Well, we have a President who had promised; you may have heard something about it; some call it a wall. And some think that is being punitive to Mexico. But it seems to me, when you look at Mexico, they have some of the hardest working people in the world. The location is absolutely perfect for being maybe the greatest trading partner the world has ever seen, with two oceans, two continents on either side.

And, yet, I mean, their economy is in the '60s. It seems like they ought to be in the top 10. But the reason I keep hearing over and over companies are not moving there more quickly than they are is corruption. And corruption is related to the drug cartels. The drug cartels are related to the tens of billions of dollars in drugs coming across our border.

If we secured the border with a wall where it is possible and really got serious about securing the border, yeah, there may be tunnels, but there is new technology that could anticipate and determine when they were being tunneled. If we really got serious about enforcing that border, what would you see, based on your experience, happening to drug availability, illegal drug availability, in the United States?

Mr. ROSENBERG. Here is what worries me, sir. As long as there remains a significant demand in the United States and a signifi-

cant profit to be made from meeting that demand, the traffickers are going to find a way to get this poison into our country.

Mr. GOHMERT. So, you do not see, no matter how much we protect ourselves from the free flow of narcotics across our southern border, it would not affect any supplies here in the U.S.?

Mr. ROSENBERG. I am not a border——

Mr. GOHMERT. That is an interesting position by the way.

Mr. ROSENBERG. Border security is important. And I have worked in national security, so I appreciate its importance. I am talking about a more, sort of a smaller dynamic, which is, with a significant demand and a significant profit margin, I worry that traffickers are going to find a way: under, around.

Mr. GOHMERT. I understand your worry. I just wanted to get, you know, you are under oath, basically, here. It is a crime to not tell the truth to a congressional committee. I just want to make sure the record is clear your position. We secure the border, cut drugs to a trickle coming in from Mexico, you do not see it having much effect?

Mr. ROSENBERG. No, I did not say that, sir.

Mr. GOHMERT. You said they will find a way to be here.

Mr. ROSENBERG. I believe they will find a way to be here.

Mr. GOHMERT. So, it would not affect the drug availability?

Mr. ROSENBERG. We could well see price fluctuations. Look, it is a good thing to secure our border. No question, it will make a difference in the work we do. I just find it difficult to imagine, given the profit that is to be made, that we could turn it down to zero.

Mr. GOHMERT. My time has expired.

Mr. GOWDY. The gentleman's time has expired. The gentleman from the great State of New York, my friend, Mr. Jefferies, is recognized.

Mr. JEFFRIES. Thank you, Mr. Chairman.

Mr. GOHMERT. My question, though, is not would it get it to zero. Basically, would it materially effect, and I did not get an answer to that.

Mr. GOWDY. The record will reflect the gentlemen's question. Now, the gentleman from New York, Mr. Jefferies.

Mr. JEFFRIES. I thank the distinguished chairman for yielding, for his leadership, as well as the distinguished witnesses, Mr. Rosenberg and Mr. Brandon, for your presence and for your service to this country and helping to make America as safe as it could possibly be.

I just wanted to turn to Mr. Rosenberg for a few questions. With respect to the trajectory of the war on drugs that has been underway here in America for the last few decades, would it be accurate to say that the war on drugs has been underway now for more than 45 years?

Mr. ROSENBERG. Yeah, I do not use that terminology, but it is around for a long time.

Mr. JEFFRIES. I guess the demarcation point in terms of the beginning of the so-called war on drugs was when Richard Nixon declared drug abuse in America public enemy number one. He did that in 1971; is that correct?

Mr. ROSENBERG. I do not know when he declared it. I know he created the DEA in 1973.

Mr. JEFFRIES. Now, at the time that the DEA was created in 1973, there were approximately 350,000 or so people incarcerated in America; is that right?

Mr. ROSENBERG. I do not know.

Mr. JEFFRIES. Today, there are more than 2.1 million people incarcerated in America; is that correct?

Mr. ROSENBERG. I do not know. Is that State and Federal sir?

Mr. JEFFRIES. That is State and Federal.

Mr. ROSENBERG. I will accept your number. I do not know the number.

Mr. JEFFRIES. Okay. So, I mean, is that a relevant bit of information in terms of the person in charge of such an important and prominent organization as the DEA, how many Americans are incarcerated in this country?

Mr. ROSENBERG. For any crime or?

Mr. JEFFRIES. Any crime.

Mr. ROSENBERG. Yes. It is a relevant bit of information.

Mr. JEFFRIES. Okay. And a significant number of those individuals, that 2.1 million, are incarcerated as a result of drug crimes; is that correct?

Mr. ROSENBERG. Probably a significant portion, yes, sir.

Mr. JEFFRIES. I think numbers that I have seen, maybe, approximately, 50 percent of those individuals incarcerated overall are nonviolent drug crimes in some way, shape, or form. Now, the DEA, I think, initially had approximately 1500 special agents when the agency was created in 1973; is that right?

Mr. ROSENBERG. I would have to check the number. But it is less than we have now.

Mr. JEFFRIES. And currently, the number is a little over 4,000. Is that right?

Mr. ROSENBERG. 4,500, 4,600.

Mr. JEFFRIES. And the DEA's initial budget in 1973 was about 75 million; is that correct?

Mr. ROSENBERG. I do not know.

Mr. JEFFRIES. But the budget today is a little over 2 billion?

Mr. ROSENBERG. Correct.

Mr. JEFFRIES. Oh, yeah. Now, so, I think it is fair to say that during the 45-year-plus history of the so-called war on drugs, I know it is not a phrase, and I understand why, that you would embrace.

Mr. ROSENBERG. I do not think it is very descriptive, which is why I do not use it.

Mr. JEFFRIES. During that 45-plus-year period, is it fair to say that there has been a significant increase in the number of people incarcerated? A significant increase in the number of agents that the Agency has at its disposal? Although I understand that there is a shortfall in your view, and I think all of us are concerned about that possibility, but a significant increase compared to when the Agency was initially enacted and a very significant increase in the amount of yearly resources allocated, 75 million at one point in 1973, over \$2 billion.

But during that same period of time, am I correct that, though the nature of the drugs that Americans have used and or have been subject to a variety of different crises, heroin,

methamphetamines, crack cocaine, cocaine, now back to heroin, fentanyl, opioid, that has changed, but the crisis has remained the same; is that correct?

Mr. ROSENBERG. By crisis, you mean the amount of violence that attends it? The number of people dying?

Mr. JEFFRIES. All of the above.

Mr. ROSENBERG. Yeah, those are big numbers, and it worries me.

Mr. JEFFRIES. In fact, you can make the argument, based on what you said earlier in terms of the overdosing that took place in 2015, the most recent year for which we have figures, that, in some ways, the drug crisis in America has not gotten better; it has gotten worse. Correct?

Mr. ROSENBERG. Which is why, as I have mentioned, we have to also attack the demand side, and we have to educate, and we have to treat.

Mr. JEFFRIES. So, we have done some things right. We have done some things wrong. I think that is fair to say.

Mr. ROSENBERG. I agree with that.

Mr. JEFFRIES. Based on the way we were, the way we are today, what exactly in your view, as succinctly as possible—my time is running out; do you think we can do differently? Based on the fact that we have expended a significant amount of resources devoted to this problem.

The nature of the crisis has changed; the intensity of it has either remained the same or gotten worse. And we have exploded our incarcerated population to a point where we now incarcerate more people than any other country in the world. And thankfully, there is a bipartisan effort of which the chairman and others are involved in to try to deal with this mass incarceration phenomena. But from your perspective as a top law enforcement professional, what can we do differently?

Mr. ROSENBERG. That is a very good question. I am not sure how succinct I can be in answering it because I think it is multi-layered. I will say this: I think the mix of stuff that we are trying to do, demand reduction, supply reduction, and regulation, is the right mix. And we can always debate, you know, how much should be in each bucket.

But while I have seen some bad trajectories and some bad news, sir, I have also seen some good news. I have seen communities where I think we have made a difference. I have talked to families, you know, who have helped us get the message to kids about the dangers of opioids and heroin.

I think our National Take Back Program works. I think we should continue down those paths. I think we are thinking about treatment and rehabilitation in much more sophisticated and helpful ways than we have in the past. I am already probably violating your request that I be succinct, but I would be happy to come talk to you about it some more if you would have me.

Mr. JEFFRIES. Well, I only made that request to indulge the chairman and his desire to move this hearing along. But I appreciate your willingness, and I appreciate the chairman giving you an opportunity to respond.

Mr. GOWDY. I appreciate the gentleman from New York being concerned about the time limit. I wish other members had your

same sense of fairness. With that, the gentleman from Utah is recognized for his 5 minutes.

Mr. CHAFFETZ. I assure the chairman that I will be punctual. I thank the chairman.

To both the ATF and DEA, I cannot thank the men and women enough who are on the front lines doing the hard, difficult work putting their lives in jeopardy on a regular basis, and I hope you both carry that back, and they know how much people root for them, care for them, and are concerned about them. We also, in Congress, have to be concerned about the expenditures and making sure that we are giving proper oversight.

Mr. ROSENBERG, I want to talk about the confidential informant policy. It has been a source of a scathing review by the Inspector General's Office, how that is being executed; there is a supplement to that, as well. You have a confidential informant policy in place, correct?

Mr. ROSENBERG. Which now meets the Attorney General's guidelines, yes, sir.

Mr. CHAFFETZ. And we have been trying in the Oversight Government Reform Committee, as well as Senator Grassley in the Senate Judiciary Committee, to get a copy of this policy. Why would you not give it to us?

Mr. ROSENBERG. Well, two things, sir. One is I believe we made it available to you and to Senator Grassley's staff in-camera review if I am not mistaken. In terms of just providing it that goes back to Department of Justice policy by which I am constrained.

Mr. CHAFFETZ. You testified on June 22 of 2016, you said to Senator Grassley in a Senate hearing regarding this policy, "It has been finalized. It has been approved by the department. I am more than happy to provide a copy to this committee and to your staff, sir," yet you did not do that. Who is prohibiting you from giving that copy to Congress? I see a huge difference between in-camera review and actually providing it to the Congress.

Mr. ROSENBERG. And I respectfully do not see a huge difference. I understand your point. We have made it available for in-camera review.

Mr. CHAFFETZ. And that is true. By the way, that is my understanding of it, was well. But I just do not understand what you believe what Congress had the right to have and not have the right to have. You freely give it to the Inspector General, but you will not give it to the United States Congress.

Mr. ROSENBERG. And while I do not see a big difference, I understand your point. Nevertheless, I am constrained by the department.

Mr. CHAFFETZ. Who, at the Department of Justice, is telling you this?

Mr. ROSENBERG. The name of the person I do not know, sir.

Mr. CHAFFETZ. Will you give me that name?

Mr. ROSENBERG. I will ask the Department of Justice if I can give you that name. I will give you—

Mr. CHAFFETZ. No, no, no. Come on, that is silly season here.

Mr. ROSENBERG. No, I do not think it is silly.

Mr. CHAFFETZ. I want to know specifically. Because there is hundreds of thousands of people involved here. I need a name. Can you give that to me by the end of the week?

Mr. ROSENBERG. I will ask if I can provide you—

Mr. CHAFFETZ. No, no, I am asking you to give me the name of the person who is denying access to this. Here is what I am forced to do. We have a hearing next door on the Oversight Committee, as well as with both of your deputies.

Mr. ROSENBERG. Yes.

Mr. CHAFFETZ. We are issuing a subpoena.

Mr. ROSENBERG. Okay.

Mr. CHAFFETZ. And so, I see no choice. We have been trying to do this. Senator Grassley has been trying to do this. I have been trying to do this. The Department of Justice just does not get to hide things from the United States Congress. And there is a huge difference between an in-camera review, no notes, people looking over your shoulder. Members of Congress have a very difficult time accessing that information. And if we are going to provide proper access, it seems like we should be able to review this, especially in the light of hundreds of millions of dollars over the course of a year going out the door. The Inspector General giving you all a “gentlemen’s C,” as he called it, to grade how this is done. We have had massive problems with people misusing money and assets. And so, I am left with no choice. I have issued you a subpoena.

Mr. ROSENBERG. Okay.

Mr. CHAFFETZ. We expect you to comply with that subpoena. I wish we did not have to do that.

Mr. ROSENBERG. Oh, I understand.

Mr. CHAFFETZ. But I want to have a further discussion, and I need names as to who is holding us back at the Department of Justice.

Mr. ROSENBERG. I can promise you two things. I will look at the subpoena carefully, and I will have a further discussion with you.

Mr. CHAFFETZ. Fair enough. Mr. Chairman, I have plenty of time on the clock, but I am happy to yield back.

Mr. GOWDY. The gentlemen shockingly yields back with 33 seconds left. I will now recognize myself to go last. Gentlemen, 5 minutes is not much time to resolve issues. It is barely enough time to raise them. So, I do not know that I will have that many questions for you other than raise points that I would like you to reflect upon. And then over the course of your tenure and as long as I am in Congress, would like to work with your respective agencies to see if we can make some progress.

I know both of you have been in the justice system before, so you have seen the majesty of a system that exceeds people’s expectations. There is a reason we have a phrase, “May justice be done, though the heavens fall.” And it is beautiful and majestic to watch a justice system that inspires people.

On the other side, if you have ever had witnesses that had knowledge refuse to cooperate, you have had victims that had no expectation whatsoever that the system would work for them. Perception is reality. And when you have communities among our American family that do not have confidence in the justice system,

it is all of our problems. And we can debate the legitimacy of those perceptions, but the perceptions remain.

So, my focus on whatever amount of time I have left in this job is to try to find that justice system that is not just respected, but worthy of respect, aspirationally worthy of respect. So, I am going to raise some issues that may be unusual for Republicans to raise.

And I will start with the ratio between cocaine base and cocaine powder. I understand it is a rational basis test. I understand we just have to have a reason for it, or at least they did when the law was initially passed. But at some point, Mr. Rosenberg, I would love to sit down with whoever the pharmacological experts are at the DEA and understand what it is about the pharmacology of baking soda that makes the ratio 18:1. And if there is a basis for it, then help me understand it.

I get going back to Con law, there is a rational basis test. But confidence in the justice system is the most compelling national interest we could possibly have. So, I would love to work with the DEA and understand why a one-to-one ratio is not better. A mandatory minimum, some think they work great in violent crime cases; I would be in that camp. Less so for, perhaps, for economic or nonviolent crime cases.

Also, as a former prosecutor, I know mandatory minimums are an effective way to get folks to cooperate. But whether or not the drug amount levels need to be raised, whether there can be some proportionality as we, you know, treat methamphetamine, and heroin, and cocaine powder, and cocaine base, and you know, marijuana, it takes tractor trailers full to reach a mandatory minimum, but not so with other drugs.

To my friends at ATF 924(e), I have not seen the statistics, but when you have someone who has more than one felony conviction, and they are in possession of a firearm or ammunition, that has a lot more jury appeal.

Trust me, I get the lack of jury appeal for 922(g) cases; I lived it. It is hard to get a jury interested in lying and buying or simply being a felon in possession of a gun that you are going to use to go squirrel hunting, and you had a conviction 20 years ago. There is not a lot of jury appeal. Murder cases have jury appeal. But our objective is to prevent the murder prosecution. It is to save the life. And I have seen it done in South Carolina.

Bill Nettles was the United States attorney in South Carolina. He was appointed by President Obama, so politically, we are at opposite ends of the spectrum. But he did great work that part of 922(g) that deals with domestic violence. South Carolina ranks number one in the Nation in men killing women. So, he used the 922(g), that subsection that relates to orders of protection and domestic violence convictions; that is a misdemeanor, not felony, in South Carolina.

Certain domestic violence cases are. To Chairman Goodlatte's point, it would be great for me to see your referrals versus the declarations. If you are getting the cases from State locals, and you are writing up a bluebook or whatever they call them now, and it is being declined by the Assistant United States Attorney, we need to know it. And if you are presenting 924(e)(k)s and they are being

declined, we need to know it. And I am not beating up on prosecutors. I actually like them.

But I need to know, if there has been a decrease in firearms prosecutions, it is either the referrals have dried up, or we are not adopting them, or you are adopting them, and they are being declined. And we need to figure that out. 922(g) also includes a subsection for people who had been adjudicated "mentally defective." Those are the words of the statute. Those are not my words.

So, we will just go with "mental illness," those who had been adjudicated mentally ill. That is already against the law for someone who has been adjudicated, to possess a firearm or ammunition. So, when I look at the statistics for the prosecutions, they are anemic. And I do not know if it is because the cases are not being referred, if they are not being adopted, or if there has been a declination.

So, one other point: I hear some of my friends mentioned a gun show loophole. There may be a background check loophole, but there is not a selling a firearm to a prohibited person loophole. You could be prosecuted for giving a firearm to a prohibited person whether you are an FFL or not. And one way to get the attention of folks who do not think that they have to do background checks is to see an uptick in prosecutions for folks who fail to ask simple questions. "Are you a convicted felon? Have you been adjudicated mentally ill? Are you subject to a restraining order or domestic violence case?" The notion that you can sell a firearm to whoever you want to is just not accurate. Maybe from a background check, but not from the actual transfer of the weapon.

Last point, Mr. Rosenberg, I know it is hard to prosecute doctors. I grew up with one. He is the most popular person in the community that I grew up in, and I never would have won the district attorney's race had it not been for my father. I get how popular doctors are. Also get how impossible it is to get a prescription without going to a doctor. And there used to be a DEA diversion group that investigated physicians who were writing prescriptions outside the course of a legitimate medical practice.

I assume DEA is still doing that. I hear more on the drug companies, the distributors, than I do that middle component. But getting physicians to understand that you cannot write prescriptions for controlled substances on napkins at a bar for someone you just met, which is a fact pattern of one of the cases I handle, getting that message out may also be part of us combatting the opioid epidemic that we have.

So, I am going to recognize the ranking member for her concluding remarks, but I will just tell you this raised a lot of issues. You are too busy; you are too busy, but just assign someone to come help me. I understand either what is going on or maybe we can make improvements, and where they ought to be made. I want to adjust this system that people respect. So, with that, you are welcome to respond, and then I am going to recognize the ranking member from Texas.

Mr. ROSENBERG. Happy to come talk to you myself about those issues; they are also very important to me. I heard someone recently describe the majesty of our justice system in the following way. Actually, I had not heard it before; I thought it was really interesting. "We have courts in which the United States government

can lose, and we do.” And, to me, I think that is, you know, again we are all human; therefore, we are all flawed. None of us are perfect. But the fact that the United States Government can lose in its own courts tells you that we have a justice system that should be admired and, frankly, copied.

Mr. BRANDON. Mr. Chairman, can I speak for a minute?

Mr. GOWDY. Sure.

Mr. Brandon I could not agree more with you about a justice system worthy of trust, and that is one thing that drilled into our new hires, the special agents, and everyone that everybody is worthy of trust. And that is in the culture of ATF, and we look forward to working with you, and if the committee would ever like a demonstration of the National Integrated Ballistics Information Network, we just had a van built out, along with a trailer, where you can do test fires, so it can respond to seams. We briefed the Attorney General on it last Monday, but if that is something that you, Mr. Chairman, would like to see, we would be happy to bring it up to Capitol Hill.

Mr. GOWDY. Thank you. And, with that, I will recognize the ranking member for any concluding remarks you may have.

Ms. JACKSON LEE. Mr. Chairman, thank you so very much, and thank you, particularly, for giving me the opportunity to have just a few, brief closing remarks.

Let me say that I think you are seeing evidence in this committee, I hope, of our very strong attempt to work in a bipartisan way. So, Mr. Brandon, it would be the chairman and the ranking member that may, if we decide, welcome that vehicle to come. It is also the chairman and the ranking member, as I conclude, that, again, offers her appreciation to the men and women who work for you, Mr. Rosenberg, the DEA, and then Mr. Brandon for the ATF, and all of the law enforcement officers that work throughout the Nation and, particularly, those under our jurisdiction, which is a Federal jurisdiction.

I want to just raise two quick points as it relates to the legislation that we have been working on: the Sentences Reduction Act, where we took special note, we were dealing with drug offenses, nonviolent, and we think we were on the right track in reducing sentences. But what came to mind was phenol. And I just want a quick answer, Mr. Rosenberg, so that my time will not be yielded away, how dangerous and how prolific that is, and how important it is that we work together on that.

Mr. ROSENBERG. Very succinctly, incredibly dangerous and very important. Amphenol is up to 50 times more potent than heroin. Carphenol, which we are beginning to see, is up to 100 times more potent than phenol. So, extraordinarily dangerous.

Ms. JACKSON LEE. So, we will work with you on that. I would like to invite you to my office; we have an epidemic of Kush—I do not know if you have heard that word—in our area, in Houston, Texas. And I would like to follow up on some questions that I have raised on the question of drugs.

Mr. ROSENBERG. I would be delighted.

Ms. JACKSON LEE. Thank you. And I would certainly welcome the chairman on joining on some of the meetings that he has asked and some of the meetings that I have asked. I just want to quickly read

into the record one of the responsibilities of the ATF, and that is to deal with gang violence and violent actions as one of your works. Would you please—and I ask unanimous consent. Let me just read it specifically; I am sorry. It was just “to reduce risk to public safety caused by criminal organizations and gangs.”

I think that it still one of your responsibilities. I want to put into the record, and I ask unanimous consent, the Gang Resistance Education Training Program, which I discussed this weekend, Mr. Chairman.

Mr. GOWDY. Without objection.

Ms. JACKSON LEE. I would also like to offer my sympathy, but also put into the record the headline “Purview shaken over the deaths of two students over the weekend, ages 21 and 20, not far away from being students in middle school and elementary.” Would you just quickly say how important—and can we expand the great program—how important you have seen it, and can we expand it?

Mr. BRANDON. Yes, ma’am. That was the special agent in charge in Detroit and was an advocate for Gang Resistance Education and Training program, was started in 1991 by the Phoenix P.D. and ATF, and it trains officers, primarily, but also Federal agents, to go into the middle school classes. They have a curriculum, and it is really to train them on controlling their emotion, impulse control. I was at Detroit Homicide when an 18-year-old kid pulled the trigger over a beef over a female, and he ruined his life, and I was friends with a homicide detective that was a task force officer with us.

And it was, for lack of a better word, learn how to hit the “pause” button, so you do not do something that you ruins your life; you ruin another person’s life. And I believe there were studies to validate the effectiveness of GREAT, and every year, the kids that would successfully go through the program would be treated to a Detroit Tiger game, a great game, and they would have someone of influence to talk to them and to give them a congratulatory speech on doing that. And I am a fan on preventing, and then I am a fan on going after the trigger-pullers, and I think, like Chuck Rosenberg said, and as all of you know, you got to address it from both sides. And GREAT does that.

Ms. JACKSON LEE. I thank you very much, Mr. Chairman. I think there are many ways that we can work together on really making the criminal justice system work for everyone. Both for those who are, unfortunately, victims on the enforcement side, but also on the justice side as well and the prevention side, which I think is crucial to, how shall I say, moving America forward. And with that, Mr. Chairman, I yield back. Thank you so very much.

Mr. GOWDY. Yes, ma’am. This concludes today’s hearing. I want to thank both of our witnesses again.

Without objection, all members have 5 legislative days to submit additional questions for the witnesses or additional material for the record. The last thing I will ask you to do is the first thing I asked you to do: make sure the men and women of your respective agencies, not just the agents, administrative folks, folks that run back-ground checks, all of them, know how grateful we are for their service.

With that, we are adjourned.

[Whereupon, at 12:17 p.m., the subcommittee was adjourned.]

