

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

Opening Statement Rep. Stephen Lynch Hearing on “Fast and Furious, Six Years Later” June 7, 2017

I would like to begin by recognizing the life and service of Border Patrol Agent Brian Terry, who served as a United States Marine, a police officer in his home state of Michigan, and an agent of U.S. Customs and Border Protection. His life was tragically cut short when he was murdered in a gunfight near the Mexican border in 2010. Agent Terry’s family is here today. Mrs. Terry and Mr. Heyer, we are deeply sorry for your loss.

Ranking Member Cummings very much wanted to be here today, but as many of you know, he is still recuperating from heart surgery. He wants me to extend his apologies for not being here personally today. He was able to speak with Agent Terry’s family members last month, and he offered to see if there was anything more we could do here on this Committee to obtain additional information about what happened nearly seven years ago.

As part of that effort, Ranking Member Cummings wrote a letter to Attorney General Jeff Sessions on May 30, asking whether the Department of Justice still has the same policy about producing documents to Congress that it had under the Obama Administration.

Years ago, this Committee had a high profile disagreement with the Justice Department. Although it produced a great deal of information to this Committee, it withheld information based on the argument that federal agencies have a so-called deliberative process privilege.

That issue was litigated, and the court found that agencies do in fact have this privilege, but that there were some additional documents that should be produced even when applying that privilege. Following the court’s order, the Department provided the Committee with access to thousands of pages of additional documents last summer.

In his letter to Attorney General Sessions, Ranking Member Cummings asked whether the Department’s policy on these documents is the same as it was under the Obama Administration. He asked whether Attorney General Sessions is now asserting the same privilege that Attorney General Holder and the Obama Administration did, or whether Attorney General Sessions has changed these policies to provide more documents to the Committee.

Ranking Member Cummings shared his letter with Agent Terry’s family members, and Mr. Chairman, I ask unanimous consent that we place his May 30 letter into the official record for today’s hearing.

Unfortunately, the Department responded on Monday that it will not provide us with answers to the Ranking Member's questions. It will not explain whether Attorney General Sessions is changing the Department's policies or legal interpretations, and it declined to send anyone here today to testify about these questions.

Instead, the Department informed us that it is continuing to discuss these matters with Chairman Chaffetz. Because Democrats have not been invited to participate in those discussions, we do not know whether Attorney General Sessions will let us have any of these remaining documents.

This also raises a second problem. Last week, the White House directed a new policy that federal agencies should ignore requests for information from Members of Congress other than Republican Committee Chairmen.

This new policy relies on an opinion from the Department of Justice's Official of Legal Counsel, which claims that the authority to conduct oversight "may be exercised only by each house of Congress or, under existing delegations, by committee and subcommittees (or their chairmen)" and that individual Members of Congress "do not have the authority to conduct oversight in the absence of a specific delegation by a full house, committee, or subcommittee."

That analysis is wrong, and it is a mistake. The great irony here is that we have Senator Grassley testifying before us today, and he was responsible for first bringing Operation Fast and Furious to light in 2011. At the time, Senator Grassley was not a Committee Chairman—he was in the minority.

The Trump Administration should acknowledge and respect the constitutional oversight role of every member of Congress regardless of party because we do our oversight in service of the American people—like the Terry family.

As Senator Grassley wrote in a letter back in 2009 about the role of the minority, "As a senior member of the United States Senate and the Ranking Member of the Committee on Finance (Committee), I have a duty under the Constitution to conduct oversight into the actions of executive branch agencies." Senator Grassley was right.

Finally, I want to address an issue that was raised by the Terry family. When Americans are killed in the line of duty, as Agent Terry was, their family members deserve our support. Today, I am asking that the Department of Justice review its policies and procedures for supporting the families of those who lose their lives in service to this country. I hope the Chairman and other Members of the Committee will join me in that request, and by working to ensure that victim's families are supported, we can honor Agent Terry's legacy.

Contact: Jennifer Werner, Communications Director, (202) 226-5181.