

March 28, 2006

Mr. John Conyers, Jr.
Ranking Member
Committee on the Judiciary
House of Representatives
Congress of the United States

Dear Mr. Conyers:

In response to your communication of March 10, 2006 in which you invite me to serve as a witness at this Congressional briefing regarding the alleged Federal Bureau of Investigation misconduct in Puerto Rico, I'm here today to explore the following areas: the FBI agent's conduct on September 23, 2005 and February 10, 2006; and how Puerto Rico and Federal Law Enforcement agencies can work together in the future to ensure law and order in our country.

We must begin recognizing the Federal Bureau of Investigation's jurisdiction to investigate federal violations such as: terrorism; violent crimes; public corruption; white collar crimes, among others in Puerto Rico.

On September 23, 2005 the Federal Bureau of Investigation (FBI) conducted a raid in Hormigueros, Puerto Rico to arrest Mr. Filiberto Ojeda Ríos, a federal fugitive and leader of "the Macheteros" clandestine group. This group was responsible of the shooting of U.S. Navy personnel at Sábana Seca, Puerto Rico (December 1979); the destruction of Puerto Rico Air National Guard Jet Fighters at Isla Verde, Puerto Rico (January, 1981); and the Wells Fargo robbery in Hartford Connecticut (September 1983).

I would like to inform you that the Police of Puerto Rico was not informed of this raid until it was already under way and gunfire had been exchanged between Mr. Ojeda and the FBI agents.

At approximately 5:00 p.m. on September 23, 2005, I received a telephone call from Mr. José Figueroa Sánchez, Assistant Special Agent in Charge, San Juan Division, informing me that the FBI was in process of arresting Mr. Ojeda and requested assistance from the Police of Puerto Rico, since the situation was becoming "too tense" with the neighbors and followers of Mr. Ojeda. Mr. Figueroa requested the establishment of a perimeter in order to prevent unauthorized persons from accessing the area. The Police of Puerto Rico established a perimeter in the area with personnel from the Mayaguez office.

During the following hours, I spoke with FBI personnel including Special Agent in Charge, Mr. Luis Fraticelli, who informed me at approximately 8:00 p.m. that Mr. Ojeda could have been wounded, but that his condition was not known at the time.

Throughout that evening, the information provided to our officers in the field was that negotiations with Mr. Ojeda were under way, however conflicting stories began to emerge from the scene at Hormigueros, Puerto Rico.

During one of my conversations with Mr. Fraticelli, I informed him that conflicting reports concerning Mr. Ojeda's condition were being aired by the press and that it was necessary that the FBI issued a statement in order to avoid false rumors. Mr. Fraticelli informed me that FBI Headquarters was preparing a press release to be aired that night. He also informed me that additional agents would be sent to replace the personnel that were at Mr. Ojeda's property in Hormigueros. During that conversation I expressed my position that all efforts should be made to apprehend Mr. Ojeda alive, he then informed me that he thought that Mr. Ojeda was wounded. On September 24, 2005 Mr. Ojeda was found dead inside his residence.

In your invitation you indicated that you would like to discuss the handling of the September 23, 2005 and February 10, 2006 incidents by the FBI. I must inform you that in neither incident we were informed before hand and had no knowledge of the FBI's plans on both occasions. For that reason, I do not have enough elements that may allow me to form a critical judgment as to the way the September 23, 2005 incident was handled at the scene.

As the Puerto Rico Police Superintendent and with the experience acquired as a retired FBI agent specialized in hostage negotiations, I consider that

the September 23, 2005 intervention lacked effective communication between the FBI and the Puerto Rico Police Department. I strongly believe that the situation could have gotten out of control if the police had not responded timely in establishing a perimeter, that in my opinion, prevented serious confrontations between FBI agents and Mr. Ojeda's followers.

Press reports informed that Mr. Ojeda requested the presence of a newspaper reporter during the negotiations and it was denied. As a hostage negotiator that participated in hostage crises in Atlanta and Alabama correctional facilities, I can assure this Committee that during a negotiation process all options have to be considered in order to reach a successful resolution to the crisis. At this time I do not know the reason for rejecting Mr. Ojeda's request.

Regarding the information provided to the Police Department and the media, I believe that it was incomplete and not provided on a timely basis. It was not until September 24, 2005 that Police and the public were informed that Mr. Ojeda was dead. This lack of information could have caused serious confrontations between Ojeda's followers and law enforcement agents.

It's important to notice that on February 10, 2006 a number of search warrants were executed against alleged "Machetero's members" by FBI's agents throughout the Island. Once again, the Puerto Rico Police Department was not notified of these searches, and in one incident in San Juan, Puerto Rico, members of the press were sprayed with pepper gas by an FBI agent. As seen on television, no perimeter was established to keep the public from the area, resulting in a confrontation with members of the press. The television images showed one FBI agent acting in an improper manner, spraying pepper gas in the faces of reporters, including one that was on the ground. I believe that such actions were uncalled for and could have been avoided with the establishment of a proper perimeter in the area and proper communication with the Police of Puerto Rico.

Regarding your question about how Puerto Rico and Federal Law Enforcement agencies can work together in the future to ensure law and order in our country, I must indicate that law enforcement agencies, federal and local, work in a coordinated and successful way in Puerto Rico. The Police of Puerto Rico participates in numerous task forces with different

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federal agencies, and has enjoyed an excellent working relationship with these agencies.

As Superintendent of the Police of Puerto Rico and a retired FBI agent, I am convinced of the need to work in coordination with state and federal agencies in order to be successful in our fight against crime. The Police of Puerto Rico will continue to work together with these agencies; however one key element in these efforts is an effective communication between law enforcement agencies in order to prevent situations like the September 23, 2005 and February 10, 2006 incidents.

Thank you very much,

Pedro A. Toledo Dávila, Esq.
Superintendent