

## Testimony of Paul E. Pelletier

Mr. Chairman, thank you for your introduction this morning. And thank you to the subcommittee for its time and attention to this most important matter.

Let me start by being blunt: the costly, five-year, extra-territorial “undercover” investigation and subsequent trial of a Cambodian government wildlife official that U.S. Fish and Wildlife Service (“FWS”) was investigating was an abject failure.

This disastrous investigation and prosecution was the direct result of a severely flawed and unsupervised plan. The government’s conduct was unlawful, and the institutional bias of the FWS was nothing short of a misguided effort to obstruct the importation and transportation of Non-Human Primates (“NHPs”) for critical medical, bioscience, vaccine and drug research. This illegal effort has resulted in a negative global impact to human health and has damaged medical research in the U.S.

It has been consistently apparent that FWS, under the influence of PETA and other so-called “animal advocacy” groups, was more focused on a relentless publicity campaign. This half-decade PR campaign began when the FWS investigation was transparently dubbed “Operation Longtail Liberation.” It was then carried out through the recruitment of an unmonitored and uncontrolled Chinese national as a U.S.-paid illegal undercover informant.

And what did all this expense and effort net? First, the dismissal of seven of the nine charges against the Cambodian official in response to the government’s mismanagement and withholding of evidence. Then, the jury acquitted the Cambodian Wildlife official on the remaining two charges, rejecting the government’s allegations completely.

It is now clear that the U.S. government never actually possessed evidence to support the charges against the Cambodian official.

All of this has seriously undermined FWS’ core mission. Having personally supervised and prosecuted hundreds of complex international criminal fraud schemes on the government’s behalf, I am experienced in these areas of law and with government agencies, including FWS.

I was privileged to serve as a federal prosecutor with the Department of Justice for over 25 years. In Miami, I supervised both the Narcotics and Economic Sections for more than 10 years. In 2002 I was called to Main Justice in DC to assist in revitalizing the Criminal Division’s Fraud Section tasked with overseeing the burgeoning accounting fraud scandals that were affecting confidence in our economy.

And, for more than 15 years, I trained prosecutors and agents on how to conduct complex international investigations at DOJ’s National Advocacy Center.

Mr. Chairman, prior to the trial in Miami of this Cambodian official, I spent months reviewing FWS’ so-called evidence and then watched every day of the trial in person.

I'll lay this out for you, plainly:

First, starting in 2017, a Chinese national was recruited and was paid hundreds of thousands of U.S. dollars by FWS to act in an unsupervised undercover role as the agency conducted its off-the-books operation at a large NHP breeding farm in Cambodia which for many years reliably sold NHPs to importers in the United States and other countries.

Rather than actually “liberate” any longtail macaques, which of course is not the mission of the FWS Office of Law Enforcement, it is apparent that the agency repeatedly broke international laws by conducting the undercover operation on foreign soil without the consent of either Cambodia or the U.S. State Department.

In so doing, FWS endangered American citizens by causing the complete cessation of imports of any NHPs from Cambodia, which was by far the largest supplier of NHPs to the United States, especially since 2020 when a ban on the exportation of Chinese-bred NHPs due to COVID went into effect.

While FWS was conducting its 5-year illegal operation, it continued to authorize the entry into the U.S. of tens of thousands of NHPs that they *now claim*, without credible evidence, were exported illegally into the United States.

It doesn't end there.

As FWS' illegal operation continued, the government unconstitutionally labeled my client, Worldwide Primates (WWP), an “unindicted coconspirator,” when, according to FWS' own paid undercover operative, the government absolutely knew that my client had no involvement in any such scheme.

After the acquittal at trial, as we have confirmed with a public records request and evidence admitted at trial, the FWS's undercover operative remained on the agency's payroll, earning tens of thousands of more taxpayer dollars in yet another covert international investigation in Cambodia, this one aptly Code named “Operation Monkey Business.” Incredibly, the government then moved the operative and his family to the United States at taxpayer expense.

In sum, Mr. Chairman, FWS' refusal to abide by the long-held, demonstrably effective protocols already set forth in the international CITES treaty, in which the FWS plays a central enforcement role, has set back international cooperation in this area for decades. All because the FWS and the DOJ have lost sight of their established missions.

Instead, they have taken sides with private sector radical animal rights groups like PETA to prevent the US-government-mandated and essential commerce of NHPs for our vital domestic bioscience and vaccine research programs.

You should know that though the undercover portion of “Operation Longtail Liberation” officially ended in January 2022, the DOJ waited more than seven months to bring charges; all

the while, FWS continued to authorize the importation of thousands of NHP's into the US—NHP's which the FWS now refuses to be allowed for bio-science research.

So they delay bringing these charges until July 2022—not coincidentally, this was one week after the public revelation of a PETA-driven and questionable report which, of course, concluded that longtail macaques were now “endangered.” This was a complete falsehood, contrary to the CITES determination that these longtail macaques are not in fact endangered at all and instead are an Appendix II “threatened” species. Interestingly, DOJ just managed to include that legally irrelevant and orphaned “endangered” finding in its press release announcing the arrest of the Cambodian Wildlife official.

And soon after the unsealing of the indictment, the United States Attorney's office in Miami issued a grand jury subpoena to publicly traded importer of research NHP's, knowing that they would have to be announced publicly by the company. Despite the fact there existed no possible venue in the Southern District of Florida! Nevertheless, upon the mandatory disclosure of the subpoena, investors in that public company lost more than \$1.25 *billion* dollars.

Along with collaborating with and embracing PETA, whose stated mission is to ***prevent the importation and use of all*** animals for any purpose (including bioscience research as required by both vaccine development and US law), the FWS confidentially shared aspects of its investigation with PETA, so PETA could promote FWS' actions. The FWS covertly provided copies of the indictment and undercover video tapes directly and immediately to PETA—and only PETA—for its use in generating positive sounding press releases about FWS' actions. We know this incestuous collaboration continues.

Mr. Chairman, no such similar collaboration occurs between the FWS and US-based importers of NHPs for bioscience research — and these are the very organizations that have the greatest breadth of knowledge and experience in the operations of overseas, purpose-bred NHP farming. Such private companies regularly “audit” the breeding operations of foreign farms to ensure proper conservation measures are utilized.

Now to add some perspective, according to the Centers for Disease Control (CDC), the number of NHPs annually imported into the United States, has remained relatively consistent at around 25K per annum for the last 15 years. In the wake of the COVID pandemic, a severe export ban enacted by China in March 2020 removed a large portion of previously available, captive-bred NHPs from the global marketplace. This left Cambodia, Mauritius, the Philippines, Vietnam, and Indonesia as the remaining habitats for NHPs that could still be lawfully imported into the United States.

It is important to note that because longtail macaques are an Appendix II threatened species, there is no law that prohibits the import of wild caught NHP's into the United States as long as they are labeled as such on the required CITES permit (as Source code “W”), and that the importation process is accomplished in accordance with all relevant laws in the country of

export. Nevertheless, the biomedical research community had largely shifted from the use of wild caught NHPs to “purpose-bred” NHPs over the last several decades. In addition to important conservational benefits, this shift ensured a better quality NHP for the scientific research sector.

In the U.S., it is the future of the NHP sector.

The Southern District of Florida’s (“SDFL”) 2022 Indictment—not CITES—effectively removed Cambodia as a supplier of captive-bred NHPs for export *only to the United States*. The FWS is now refusing entry even to NHPs bred in other captive breeding centers in Cambodia, none of which were referenced in the indictment or in any official records.

The disastrous consequences disadvantage *only* United States stakeholders, namely scientific researchers and their suppliers. Other countries, such as Canada, Japan, and Korea, remain free to import from Cambodia under valid CITES permits. China continues its primate bio-science research unabated after implementing its 2020 export ban, allowing China to advance in research to the detriment of the United States scientific community and the public’s need for cures and vaccines. China also does not actively account for the parental source of NHP’s.

Notwithstanding that CITES directly provides immediate and broad remedies for the conduct and suspected activity cited by the FWS in the indictment of Cambodia, the five- year investigation has caused irreparable damage to the use and availability of lawfully acquired NHPs by US suppliers and research organizations. CITES’ historically effective programs for wildlife management have been tossed to the wayside. Contrary to the FWS’ mission of wildlife conservation and the stated purpose of CITES, the net effect of the ill-fated 2022 Indictment has been to **increase** the number of wild caught NHPs now being removed worldwide from their natural homes.

The ripple effects of the indictment have undermined conservation efforts and pushed critical research operations to foreign countries, some of which are adversaries of the United States. This compromises the global standing of U.S. scientific research and puts at risk US-developed intellectual property. This, of course, has been China’s plan all along, as evidenced by their “Made in China 2025 Initiative.”

While U.S.-based research has been stifled, Canada has now become the largest importer of animals of Cambodian origin, and demand for necessary research is migrating out of the U.S., straight over our Northern border.

Some U.S. companies, including WWP, have been forward-thinking, establishing their own purpose-bred colonies here in the United States. These homegrown NHP farms reduce imports and dependance on foreign sources.

But now, as a continuation of the bludgeon-like intent of “Operation Longtail Liberation,” and even after their spectacular failure at the Miami trial, FWS is preventing export of specimens taken from Cambodian NHPs that were acquired legally via FWS authorization years ago.

FWS’s permitting denials appear to be applied with an inexplicably unreasonable broad brush, especially since DOJ prosecutors and FWS agents were *unable* to trace as “wild caught” NHP’s in specific Cambodian shipments post-2018 as alleged in the 2022 indictment, and at the trial of the Cambodian Wildlife official.

Scientific researchers who purchased NHPs prior to the 2022 indictment and have used them on vital research are now unable to get permits to export the blood and tissue samples at the conclusion of their studies. Other research organizations that purchased Cambodian NHPs prior to 2023 but have not yet taken delivery of them currently refuse to do so, as they are concerned with retributive actions by FWS. Many research organizations have canceled orders for all animals of Cambodian origin. As a result, some research organizations have shifted to utilizing imported feral animals.

In addition to all of this, the actions of these agencies have caused real and significant harm to the United States’ relationship with our ally Cambodia. The Cambodian government has made it known that it is troubled by the U.S.’s treatment of the Cambodian Wildlife official, including the Court-suppressed unconstitutional actions of the FWS agents at his arrest, his false imprisonment pre-trial and treatment at trial. It has questioned whether the actions of the FWS violated international or domestic laws or the CITES treaty in carrying out the illegal undercover operations in Cambodia. The United States government may have a long way to go address the certain harms that have been caused by this matter.

Finally, if, as a net result of the ill-advised, deliberately biased, mismanaged and failed FWS operations, the United States moves forward to “uplisting” longtail macaques to “Endangered” status under the Endangered Species Act, importations of these very specific NHPs to the United States will end. Longtail macaques are the primate most commonly used for preclinical studies due to their > 90% similarity to human DNA. Researchers will feel even more supply pressure and may be forced to send their studies to countries like China, where longtail macaques are readily available and safeguards for quality control, efficacy, and animal welfare are effectively nonexistent.

The FWS must understand that US importers of NHPs have a unique understanding of an industry that could benefit from enforcement and protection of relevant species. In fact, collaboration with importers is logical and absolutely necessary to ensure the integrity of FWS’ efforts in this area. So I ask Mr. Chairman, why isn’t this cooperation happening and why isn’t the FWS using the global CITES treaty to address this perceived problem?

Thank you.

