

Testimony of Charles H. Bronson, Florida Commissioner of Agriculture
Florida Department of Agriculture and Consumer Services
Summary of Key Points

FDA did not share or solicit critical information from state food safety agencies. State resources could have augmented FDA's efforts if more information had been shared such as where to target our sampling and laboratory analysis. FDA also failed to ask states to provide them with information we now know they needed such as where were tomatoes being grown at the time and at what stage of harvest. This information would have allowed FDA to immediately target their efforts and potentially lessened the impact on the industry as a whole. States found themselves having to exonerate themselves by asking to be put on the "safe list".

Florida is the only state to have adopted mandatory regulations for the production and safe handling of tomatoes. These were developed as a cooperative effort between the Florida Department of Agriculture and Consumer Services and the Florida tomato industry. FDA dismissed our industry's participation in this program as though it had no bearing on the risk Florida presented in potentially being part of the outbreak.

FDA did not employ a common sense approach to assessing the source of the outbreak. Florida tomatoes were implicated as much as Mexican tomatoes by FDA in the investigation because our product happened to be in the market at the same time as Mexico's. The number of salmonella cases per state showed that the vast majority were concentrated in the West, with Florida having only three cases (a state of over 18 million people). If Florida grown tomatoes were the source, one would logically expect us to have a high number of cases. While it may have been theoretically possible for Florida to be the source, it was not plausible based upon the geographic distribution of illnesses.

We do need to improve traceability on all levels, but particularly at the re-packing house level. We know that Mexican tomatoes must be labeled as such when they come into the country. Labels, bar codes or some type of additional identifier indicating where the product was grown should have to travel with the product to the final point of sale.

Roles and responsibilities of each governmental agency, both state and federal, in response to food-borne illness outbreaks need to be clearly defined.

Every agricultural producer in this country is familiar with the risk they take every time they put a crop in the ground and there are tools available to mitigate that risk but we never anticipate that our business will be destroyed by an action of the federal government.

Testimony of Charles H. Bronson
Florida Commissioner of Agriculture
Florida Department of Agriculture and Consumer Services

Before the
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
United States House of Representatives

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My name is Charlie Bronson and I am Florida's Commissioner of Agriculture. I want to express my appreciation to the Chairman and Ranking Member for holding this hearing to examine the ongoing salmonella outbreak and the government's response to it. As Florida's food safety regulator, I believe it is critical that we make whatever changes are necessary in the system to protect public health and safety, limit the financial damages that accrue on the industry that is implicated in situations like this and restore consumer confidence that our food supply is safe to eat.

To give you a little bit of background on the Florida Department of Agriculture and Consumer Services (FDACS), we are the largest state department of agriculture in the country with over 3700 employees. FDACS has a broad and varied statutory mission in Florida that covers everything from food safety and forestry to consumer services and aquaculture. These are in addition, of course, to the plant and animal duties borne by most state departments of agriculture. Put another way, we have a great deal of "boots on the ground" that can be activated quickly and efficiently to assist federal agencies during times of crisis.

Florida has quite a bit of experience working cooperatively with federal agencies, sometimes under less than ideal circumstances, notably in the aftermaths of hurricanes. I feel we are well prepared, therefore, to offer great assistance during outbreaks such as this. Unfortunately, if FDA chooses to limit the information they share with states, we are likewise limited in how useful our assistance will be to them. State and federal agencies have got to work together to protect public health and safety whether it be law enforcement officials or food safety officials.

Obviously this outbreak has exposed vulnerabilities in our nation's food safety net which is widely viewed as the best in the world. It has now been over 3 ½ months since the first exposure occurred and FDA still does not know the source of the salmonella contamination. In fact, they are stating publicly that they may never know the source. Frankly, as an elected official charged with protecting food safety in Florida, that is an unacceptable outcome in my opinion.

From the very beginning, it was clear to us that FDA was not sharing important information with state regulators. In my department, three people hold FDA commissions, myself included. These commissions should have allowed FDA to share information with us that was not publicly available. Throughout the course of this outbreak, states have not been told much more than what FDA made available to the media. In addition, we also became aware of a disconnect between the information that was being provided to state epidemiologists and state food regulators. Oftentimes, information the CDC was providing on their calls to state public health agencies was

more thorough than what FDA was providing to the state food safety regulators. Since these two functions are often in two different state agencies, the information does not always flow quickly between the two. Luckily for Florida, FDACS works very closely with our public health officials and they allowed us to sit in on the CDC calls. However, this is not the case in every state and I believe it is cause for concern. It is important to note that most states have laws that protect information we receive during the course of a food-borne illness investigation. Even Florida, which has one of the broadest public record laws in the country, known as the Sunshine Law, has public records exemptions that protect this type of information. Perhaps a compromise to FDA's confidentiality concerns on information sharing is for FDA to provide more detailed information in a timely fashion to those states that perform inspections and collect samples under contract with them. This will allow us to move more rapidly and coordinate our efforts with our FDA partners to get a mission accomplished.

As I stated earlier, we have many resources at our disposal that could have augmented FDA's efforts yet without information on initial results of their investigation, we didn't know how to target our efforts. FDA also failed to ask states to provide them with information we now know they needed and of course, we had no way of knowing what kind of data that was without them telling us at the time. As an example, in the initial days of the investigation, FDA could have asked states if their producers were even growing the suspect product and what stage of harvest it was in. Having this information would have allowed FDA to immediately focus their efforts and eliminate some states from further scrutiny. FDA would then have been able to target their resources more

effectively. I should say that states, including mine, eventually started providing FDA with this information, but for a much different reason. Given the broad brush of the outbreak and the financial impacts associated with consumers avoiding all tomatoes, states provided this information in an effort to get on the FDA “safe list.” Had FDA immediately asked for this information, not only would it have helped narrow the focus of their investigation, but providing it to the public might have lessened the financial impacts to the industry as a whole.

Florida was the first, and to my knowledge, is still the only state to have adopted mandatory regulations on Good Agricultural Practices (T-GAP) and Best Management Practices (T-BMP) for the production and handling of tomatoes. The T-GAP’s and the T-BMP’s are based upon sound scientific research and establishes practices and procedures for the safe handling of tomatoes. It was developed as a cooperative effort between the Florida Department of Agriculture and Consumer Services and the Florida tomato industry. There were many reasons for doing this, but an important consideration was the need to limit or avoid food safety issues associated with Florida’s products, many of which are perishable. Like many of the perishable commodities that Florida produces, tomato growers can’t simply hold on to their product until the crisis passes.

Following FDA’s announcement that tomatoes were the product suspected of being the source of the outbreak and Florida tomatoes in particular, we reminded FDA that we had this program in place. We thought that this information would allow FDA to more specifically target their resources based on risk as well as keep our growers from being

caught up in the dragnet. Unfortunately, FDA dismissed our industry's participation in this program as though it had no bearing on the risk Florida presented in potentially being part of the outbreak.

One of our greatest frustrations is that Florida was as implicated as Mexico from the very beginning of the investigation yet a simple review of the number of salmonella cases per state showed that the vast majority were concentrated in the West. Florida had only three cases in a state of 18 million people. Given the large amount of Florida tomatoes that are consumed in our state, if Florida grown tomatoes had been the source, one would logically expect us to have a high number of cases. Since our tomatoes were in the marketplace at the same time as Mexico it may have been theoretically possible for Florida to be the source. It was not, however, plausible that we were based upon the geographic distribution of illnesses. We have repeatedly raised this issue to FDA yet they continue to maintain that Florida could have been the source out the outbreak and Florida grown tomatoes have yet to be exonerated officially. In fact, Dr. David Acheson, FDA's Associate Commissioner for Foods told the New York Times as late as June 19th that the "tainted tomatoes were probably grown in Mexico or central or southern Florida". A statement like this without strong data to corroborate this allegation is tantamount to a death knell in terms of consumer confidence in an agricultural commodity.

We have learned some lessons from this situation that will help us be better positioned to respond to outbreaks like this in the future. One is that we need to improve traceability on all levels, but particularly at the re-packing house level. Companies, which may have

their business operations based in Florida yet grow in both Florida and Mexico, often label their boxes and their invoices with their Florida business address. This resulted in FDA finding invoices in their traceback that indicated a product was from Florida but in fact came from Mexico. We know that Mexican tomatoes must be labeled as such when they come into the country. Labels, bar codes or some type of additional identifier indicating where the product was grown should have to travel with the product to the final point of sale.

We also need to clearly establish the roles and responsibilities of each governmental agency, both state and federal, in response to food-borne illness outbreaks. This could be accomplished through a Memorandum of Understanding (MOU) between the FDA, CDC, state public health agencies and state departments of agriculture. This MOU should outline the expectations and actions that should be taken to timely gather evidence in an investigation.

I would also like to highlight legislation introduced by a member of Florida's Congressional Delegation, Representative Adam Putnam, that would help strengthen the safeguards on our nation's food supply. H.R. 5904, The *Safe Food Enforcement, Assessment, Standards and Targeting Act* or "Safe FEAST Act", co-sponsored by Representative Jim Costa of California, would put in place new food safety standards throughout the food chain. To ensure the highest level of food safety to American consumers, the legislation requires all domestic and foreign food companies selling food in the U.S. to conduct a food safety risk analysis that identifies potential sources of

contamination, outlines appropriate food safety controls, and requires verification that the food safety controls implemented are adequate to address the risks of food-borne contamination. In addition, to ensure that food products coming into the United States from international sources are safe, imported goods would have to adhere to the same safety and quality standards as set by the FDA. This would be accomplished by their completion of a Foreign Suppliers Quality Assurance Program as well as documenting their food safety measures and controls for FDA review. I would respectfully urge you to adopt this legislation.

The losses that have been sustained by this industry are still being calculated. You will hear from Reggie Brown with the Florida Tomato Exchange shortly and he will be able to talk more specifically to those losses. Millions of dollars lost and yet there is still not one shred of evidence suggesting that Florida grown tomatoes were the source of this outbreak. They were implicated simply because they happened to be in the market at the same time as Mexican tomatoes. There has got to be a way to protect public health while minimizing collateral damage to an industry.

Mr. Chairman, as a 6th generation farmer and rancher, I know every time a growers puts something into the ground we take a risk that it may be destroyed by a weather-related event such as a hurricane or a drought. Pest and diseases can also wreck havoc on a crop, a fact that Florida growers know all too well. But I can tell you we never anticipate that our business will be destroyed by an action of the federal government. As Florida's Commissioner of Agriculture, I don't know how to tell my agricultural producers to

prepare for something like that and there is certainly not a crop insurance tool out there to guard against these types of losses.

Again Mr. Chairman, I want to thank you for having this hearing on an issue that you can see I feel very strongly about. Florida stands ready to assist both the FDA and CDC on their efforts to improve the current system in any way we can and I would be happy to answer any questions you may have.