



NATIONAL SHOOTING SPORTS FOUNDATION, INC.

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May 10, 2007

Members of Mayors Against Illegal Guns coalition:

Re: *Firearms Industry Joins Law Enforcement In Support of Tiahrt Amendment*

Dear Mayor:

I am writing to you as a member of the Mayors Against Illegal Guns (MAIG) coalition led by New York City Mayor Mike Bloomberg. Mayor Bloomberg, on behalf of MAIG, has been very vocal in opposing Congress' decision to restrict public access to gun trace data – the information law enforcement uses to track firearms from manufacturer to the retail purchaser. The National Shooting Sports Foundation (NSSF), as the trade association for America's firearms industry, wants to take this opportunity to share with you why we support the reauthorization of this restriction.

We were surprised and disappointed to hear Mayor Bloomberg insult federal law enforcement officials last year at a press conference announcing a civil lawsuit (discussed in more detail below) against several out-of-state firearms dealers by calling them “asleep at the switch.” Unfortunately, on your behalf Mayor Bloomberg again insulted federal law enforcement officials in a May 3rd letter to the Attorney General, calling the federal Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) efforts against illegal guns “lethargic” and claiming that ATF “has been failing to adequately enforce” our nation's gun laws. Mayor Bloomberg is wrong on the facts.

According to recent Congressional testimony by acting director of ATF Michael Sullivan, last year ATF initiated over 29,166 firearms cases and arrested and convicted over 1,500 defendants in firearms trafficking cases, a 166 percent increase since 2002. ATF recognizes street gangs are often involved in firearms trafficking and last year conducted over 2,000 gang-related investigations – an increase of over 157 percent since 2002 -- and achieved a 289 percent increase in convictions. Nearly 2,000 of ATF's special agents work exclusively on investigating violent crime and gangs. The Acting Director noted that ATF uses its analytical resources (which includes the trace data base) to strategically deploy its resources and focus on key firearms trafficking corridors. He testified that, “ATF is attempting to balance the resources it devotes to fighting violent crime and addressing the supply of firearms to criminals. Successfully tackling the problem of firearms trafficking requires a comprehensive effort and a multifaceted

approach utilizing court-authorized electronic surveillance, *undercover operations*, source development and *cooperation with other law enforcement entities* in order to be truly effective in shutting down illegal firearms markets.” (emphasis supplied).

Several years ago Congress wisely passed, as part of an appropriation bill, the so-called Tiahrt Amendment. Named for its sponsor, U.S. Representative Todd Tiahrt from Kansas, the amendment restricts solely to law enforcement access to and use of this sensitive crime-fighting data that is maintained by ATF. Congress took this important measure because public disclosure and misuse of the data can interfere with ongoing criminal investigations and jeopardize the lives of law enforcement and witnesses.

Many in law enforcement, including the nation’s largest law enforcement group the Fraternal Order of Police (FOP), support reauthorizing the Tiahrt Amendment. In a recent editorial, a copy of which I have enclosed, FOP explains that, “officers in the field who are actually working illegal gun cases know that releasing sensitive information about pending cases can jeopardize the integrity of an investigation or even place the lives of undercover officers in danger. That is why the Fraternal Order of Police has always supported language protecting firearms trace data... For the men and women in uniform who are fighting illegal guns, it is a matter of officer safety and good police work.”

The best argument for restricting access is Mayor Bloomberg himself. Last spring Mayor Bloomberg had the New York City Police Department improperly – perhaps illegally - obtain trace data from ATF not for use in a criminal investigation but for use in preparing a civil lawsuit. The data was given to private eyes who used it to target out-of-state federally licensed firearms dealers for so-called “sting operations.” These “stings” were done without the knowledge of ATF or even the city’s own police department. These dealers were targeted based solely on how many traces they had, even though ATF has repeatedly cautioned, “The appearance of [a licensed dealer] or a first unlicensed purchaser of record in association with a crime gun or in association with multiple crime guns in no way suggests that either the federal firearms licensed dealer (FFL) or the first purchaser has committed criminal acts. Rather, such information may provide a starting point for further and more detailed investigation” (*Crime Gun Trace Analysis Reports, ATF, 1998*).

As a result of these “stings,” Mayor Bloomberg actually interfered with as many as 18 ongoing criminal investigations, jeopardizing the lives of law enforcement officers, informants, witnesses and others. The Department of Justice investigated the actions of the mayor’s private eyes and in a strongly worded letter admonished the city against engaging in similar conduct because it could “interrupt or jeopardize ongoing criminal investigations.”

In 2002, Mayor Bloomberg’s own police commissioner, Ray Kelly, urged the Department of Justice to oppose the public disclosure of trace data to the City of Chicago – whose mayor is a member of your coalition – for use in civil litigation against members

of the firearms industry precisely because it would “compromise critical law enforcement investigations and endanger the lives of police officers and members of the public.” He reaffirmed that concern a year later – just months before Congress enacted the Tiahrt Amendment – when he signed a memo of understanding with ATF granting the NYPD access to trace data in connection with a joint ATF-NYPD task force. Commissioner Kelly acknowledged, “that the premature disclosure of certain firearms trace information can reasonably be expected to interfere with pending or prospective law enforcement proceedings.” Mayor Bloomberg creates a false dichotomy by ignoring the fact that ATF works extensively with state and local law enforcement to combat the criminal misuse of firearms and the illegal trafficking in firearms, like the joint task force his own department participates in.

Mayor Bloomberg has argued that the Tiahrt Amendment forbids law enforcement from sharing trace information. Mayor Bloomberg is wrong on the facts, again. In a recent editorial titled “Setting the Record Straight,” a copy of which is enclosed, ATF Acting Director Sullivan does just that, stating, “Let me be clear: neither the congressional language nor ATF rules prohibit the sharing of trace data with law enforcement conducting criminal investigations, or place any restrictions on the sharing of trace data with other jurisdictions once it is in the hands of state or local law enforcement.”

In Mayor Bloomberg’s letter to the Department of Justice he continues to have his facts wrong when he suggests that the Tiahrt Amendment prevents law enforcement from having aggregate information for their jurisdiction. That is simply not true, and we respectfully suggest he knows it. ATF has now made it crystal clear nothing prevents law enforcement from sharing data within law enforcement. Mayor Bloomberg suggests that concern with the need to protect anonymity of undercover officers – a view shared by his own police chief – is without merit because he claims no one “has been able to identify a single instance when trace data compromised the anonymity of an officer or the integrity of an investigation.” This is, to say the least ironic, coming from a Mayor whose “sting” operations forced ATF to sort out whether their own undercover investigators may have been jeopardized, according to ATF special agent Joe Green of the New York field office (New York Magazine, *Gun Nuts* Oct. 5, 2006), and the Mayor who has complained – rightly so – that he has attended too many cop’s funerals. The widowed wife and orphaned child of the first slain law enforcement officer would find little solace in being first.

Mayor Bloomberg’s argument that the Tiahrt Amendment restricts law enforcement’s access to the data is simply without merit. In fact, only law enforcement can have and share this information for bona fide criminal investigations. His letter, however, reveals the real reason why he wants public access to this data. That is to “take matters into [his] own hands, filing suit against 27 out-of-state dealers.” He claimed they were “caught breaking federal law” even though he had already been told by the Department that after careful review of the evidence the United States Attorney’s Offices had “concluded that the circumstances surrounding the purchases do not rise to a level

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that would support a criminal prosecution.” Ironically, if anyone had broken the law it was the mayor’s investigators, which is why the Department admonished the City that further similar conduct could result in “possible legal liability.”

Mayor Bloomberg, and others in the gun control lobby, suggests that the Tiahrt Amendment is designed and intended to protect corrupt firearms dealers. We would submit that is both illogical and obviously false. What possible motive would members of Congress, ATF, FOP and law-abiding members the firearms industry have for protecting criminals?

Mayor Bloomberg’s allies in the gun ban lobby, i.e. the Brady Center to Prevent Gun Violence that represents the City of New York in its litigation against members of the firearms industry, want access to this sensitive law enforcement data to advance their political agenda. Kristen Rand, legislative director of the Violence Policy Center, explained to the National Journal magazine that the “The primary legislative objective of the entire gun-violence-prevention movement is removing the trace-data limits.”

When it authorized restrictions on public access and use of gun trace data, Congress correctly understood that this sensitive information was a crime-fighting tool always intended solely for use by law enforcement and that, in the wrong hands, it could be recklessly misused. Those legitimate concerns are still valid today. Congress should continue to put public safety and the lives of law enforcement ahead of gun control politics and reauthorize the Tiahrt Amendment.

Sincerely yours,



Lawrence G. Keane

LGK/tn/mas

Enclosures