

## FIREARMS TRACING

Public release of gun trace data outside law enforcement has and will continue to jeopardize criminal investigations putting the lives of law enforcement, witnesses and others at risk. This is why Congress and law enforcement, including the world's largest organization of sworn law enforcement officers, the Fraternal Order of Police, agree on the importance of securing this sensitive data. Access to gun trace data should only be available to law enforcement taking part in a bona fide investigation.

Former Mayor Michael Bloomberg and his coalition of Mayors Against Illegal Guns have unsuccessfully lobbied congress to forgo the restrictions on public access to firearms tracing data, and to date committees in both the United States House of Representatives and Senate have consistently rejected attempts to derail this protective language.

### WHAT IS "TRACING A FIREARM?"

Tracing a firearm is the process by which law enforcement tracks the chain of custody of a firearm through the licensed distribution system to the original (first) retail purchaser.

Not all firearms used in crime are recovered by law enforcement. Of those that are recovered, not all firearms are traced by law enforcement. It is not appropriate to derive statistical conclusions from the database about firearms used in crime because the database is not a "random sample" of guns used in crime. The database has biases. For example, it is biased toward "newer" firearms because tracing newer firearms is more likely to yield relevant investigative information than tracing an older firearm.

### HOW DOES ATF TRACE A FIREARM?

If a federal, state or local law enforcement agency comes into possession of a firearm it can request that ATF conduct a trace. ATF then contacts the firearm's

manufacturer or importer, provides the firearm's serial number and asks to whom the firearm was sold. If the firearm has been sold to a distributor, ATF then contacts the distributor to determine to whom they sold the firearm. Typically, this process is repeated throughout the commercial chain until a retail dealer is identified. Depending on the law enforcement agency that initiated the trace request, the dealer may be contacted and asked to provide the name of the purchaser.

### ARE TRACES AN INDICATOR OF WRONGDOING?

No. A tracing request is simply a law enforcement tool. As the ATF has repeatedly stated, "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).

### WHY IS ALLOWING PUBLIC ACCESS TO TRACE DATA DANGEROUS?

The uncontrolled and ill-advised misuse of such information can interfere with investigations and jeopardize the lives of law enforcement officers and witnesses (as in the case of Mr. Bloomberg's private operations that interfered with as many as 18 federal investigations). This is precisely why the Fraternal Order of Police supports legislation that would prevent public disclosure of trace data. Even former New York City Police Commissioner, Raymond W. Kelly opposed public release of the information in a 2002 letter to then Attorney General John Ashcroft, saying, "The release of trace information . . . seriously jeopardizes not only . . . investigations, but also the lives of law enforcement officers, informants, witnesses, and others."

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**"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).**

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## WHAT IS THE TIAHRT AMENDMENT?

The Tiahrt Amendment prohibits the release of firearms trace data to any entity except law enforcement. It was sponsored by Congressman Todd Tiahrt (R-KS) in 2003 as part of an appropriations bill and has been renewed every year since. It does not, as claimed by some, prohibit law enforcement from accessing and sharing such data.

## RELATED TRACING DOCUMENTS

NSSF Senior Vice President and General Counsel Lawrence G. Keane Op-Ed piece in “The Hill,” May 2007

ATF Acting Director Sullivan’s Scripps News Op-Ed “Setting the Record Straight about Firearms Trace Data”

FOP President Chuck Canterbury Op-Ed on Securing Tracing Data

## ATF AND TRACING DOCUMENTS

“A crime gun trace alone does not mean that an FFL or firearm purchaser has committed an unlawful act. Crime gun trace information is used in combination with other investigative facts in regulatory and criminal enforcement.”<sup>i</sup>

“ATF emphasizes that the appearance of [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 FFL or the first purchaser has committed criminal acts. Rather, such information may provide a starting point for further and more detailed investigation.”<sup>ii</sup>

<http://www.atf.treas.gov/firearms/>

## CONGRESSIONAL INTENT IN RESTRICTING TRACING DATA ACCESS TO LAW ENFORCEMENT

“It is of great concern that releases have occurred, and if repeated, may result in the wide-spread disclosure of this information to the public at large. This holds the potential of endangering law enforcement officers and witnesses, jeopardizing ongoing criminal investigations and homeland security ... In addition, such information, once released, might easily be disseminated through the Internet. This would endanger law enforcement and homeland security, and violate the privacy of innocent citizens and businesses.”<sup>iii</sup>

## FRATERNAL ORDER OF POLICE LETTER SUPPORTING THE RESTRICTION OF TRACE DATA

The Fraternal Order of Police expressed its strong support to include language in a Congressional bill that would prohibit the disclosure of firearms trace data to non-law enforcement. In a 2007 letter to the Commerce, Justice, Science and Related Agencies Appropriations Subcommittee in support of the Tiahart Amendment, former FOP National President Chuck Canterbury wrote, “The FOP has supported this language since the original version was first enacted several years ago because of our concern for the safety of law enforcement officers and the integrity of law enforcement investigations.”

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<sup>i</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Crime Gun Trace Reports (introduction, p. 4 of the Youth Crime Gun Interdiction Initiative).

<sup>ii</sup> ATF, Crime Gun Trace Reports (Youth Crime Gun Interdiction Initiative, supra, p. 17).

<sup>iii</sup> U.S. House Report 108-576, Departments of Commerce, Justice and State, the Judiciary, and related Agencies Appropriation Bill, Fiscal Year 2005, p. 30.