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Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Annual Appropriations Contains Provisions That Endanger Public Safety

Dangerous Provisions Should be Dropped from FY 2008 Legislation

For the past four fiscal years (FY2004, FY2005, FY2006, and FY2007), legislation making appropriations for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has contained language that stymies the ability of law enforcement to prevent illegal gun trafficking and makes it harder to keep guns out of the hands of persons prohibited by federal law from possessing firearms.

Restrictions on Data Release Frustrate Efforts to Halt Illegal Gun Trafficking

ATF is currently prohibited from releasing any data contained in its firearms trace database, except on a case-by-case basis to individual law enforcement agencies. There is also a prohibition on use of the data in civil litigation.

These restrictions prevent public officials, law enforcement agencies, and the American public from having access to the information necessary to answer basic questions about firearms traced to crime. Denying state and local officials and law enforcement personnel access to this basic information regarding guns traced to crime scenes handcuffs police and makes it virtually impossible for city mayors working to crack down on illegal gun trafficking to identify the sources of crime guns used in their municipalities.

Before the release of such information was restricted, crime gun tracing data had been publicly available and was routinely used by city officials and law enforcement agencies to determine the sources of illegally trafficked firearms and to identify corrupt gun dealers and the types of guns most often traced to crime. In fact, this information was compiled and released by ATF in its annual *Youth Crime Gun Interdiction Initiative*. In the last version of the report, released in 2002, ATF described the purpose of analyzing and disseminating the information:

The reports provide extensive analyses of crime gun traces submitted in calendar year 2000 by law enforcement officials in selected cities throughout the country participating in ATF's Youth Crime Gun Interdiction Initiative. The analysis of a large number of individual traces from many similar jurisdictions helps identify consistent crime gun patterns that may not be apparent from information in a single trace or traces from a single jurisdiction or State. **With information about patterns and trends, more violent criminals can be arrested more efficiently, more focused regulatory enforcement can be undertaken, and more gun crime and violence can be prevented.** [emphasis added]

Experts Reject Arguments Made by Secrecy Proponents

Independent, respected entities, including the National Academy of Sciences and a U.S. Court of Appeals, have supported release of the restricted trace data to academics and the general public.

In 2004, in *Firearms and Violence: A Critical Review*, a committee of the National Academy of Sciences recommended that "appropriate access be given to data maintained by regulatory and law enforcement agencies, including the trace data maintained by the Bureau of Alcohol, Tobacco and Firearms...for research purposes."

Moreover, claims that release of tracing data could interfere with ongoing law enforcement investigations were roundly rejected by the U.S. Court of Appeals for the Seventh Circuit in 2002.¹ In its opinion ordering release of the data that ATF sought to withhold under the Freedom of Information Act, the court stated:

ATF's hypothetical scenarios do not convince us that disclosing the requested records puts the integrity of any possible enforcement proceedings at risk....ATF has provided us with only far-fetched hypothetical scenarios...[A]rguments that the premature release of this data might interfere with investigations, threaten the safety of law enforcement officers, result in the intimidation of witnesses, or inform a criminal that law enforcement is on his trail are based solely on speculation.

The court also noted that release of the data serves the public interest in that it provides a mechanism to evaluate ATF's effectiveness, helps control gun trafficking, and aids cities' ability to enforce their gun laws.

The funding restrictions on ATF's release of crime gun trace data serve only to frustrate the efforts of law enforcement and policymakers to stop illegal gun trafficking. The provisions should be dropped from ATF's fiscal year 2008 appropriation legislation.

For more information visit www.vpc.org or contact Kristen Rand, VPC legislative director, at (202) 822-8200 ext. 102, email: krand@vpc.org.

¹ *City of Chicago v. United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms*, 287 F.3d 628; 2002 U.S. App. LEXIS 7537 (7th Cir. 2002).