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Description of document: Each written response or letter from the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE or ATF) to a Congressional Committee (not a congressional office or Committee Chair) during CY 2012 - CY 2013

Requested date: 20-April-2013

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Source of document: Bureau of Alcohol, Tobacco, Firearms and Explosives
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U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

July 29, 2016

REFER TO: 13-1093

This responds to your Freedom of Information Act ("FOIA") request dated April 20, 2013 and received by the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") on June 13, 2013 in which you requested a copy of each written response or letter from the BATFE to a Congressional Committee (not a congressional office) (or Committee Chair) in calendar years 2012 and 2013. Your request has been assigned number 13-1093. Please refer to this number on any future correspondence.

In response to your request, I am providing you with the requested information. Your request is granted in full. We are releasing 12 pages in full. I hope you find this information helpful.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaisons, Darryl Webb or Johnny Rosner, at (202) 648-7390, for any further assistance and to discuss any aspect of your request.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie M. Boucher".

Stephanie M. Boucher



Office of the Assistant Attorney General

Washington, D.C. 20530

JUN 06 2011

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Charles E. Grassley
Ranking Minority Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Issa and Senator Grassley:

This responds to your letter dated March 5, 2012, which requested updated information about any firearms recovered in relation to crimes of violence that are associated with an investigation by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) known as Operation Fast and Furious. Based on information collected and reviewed by ATF, there do not appear to have been any such recoveries since we last provided you information on this subject on September 9, 2011.

ATF advises that between September 2011 and May 2012, 49 firearms associated with Fast and Furious have been recovered and successfully traced. 10 in the United States and 39 in Mexico. In all of these recoveries, the trace requests for these firearms provided a crime code indicating that the firearm had not been recovered in connection with violent crime.

We hope that this information is helpful. Please do not hesitate to contact this office if we may provide assistance regarding this or any other matter.

Sincerely,

Judith C. Appelbaum
Acting Assistant Attorney General

The Honorable Darrell E. Issa
The Honorable Charles E. Grassley
Page Two

cc: The Honorable Elijah E. Cummings
Ranking Minority Member
Committee on Oversight and Government Reform
U.S. House of Representatives

The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

Washington, DC 20226

JUL 25 2012

Via Hand Delivery

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
United States House of Representatives

Dear Ranking Member Grassley and Chairman Issa:

This is in response to your letter dated July 18, 2012, wherein you raised concerns about an internal video message entitled "ChangeCast #8: Choices and Consequences" that I recorded for the employees of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

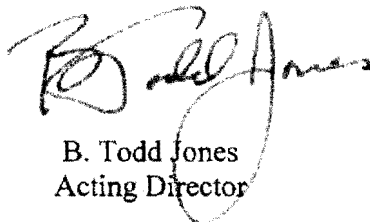
Since becoming the Acting Director of ATF in August of 2011, I have used these brief internal video messages, or ChangeCasts, as a means to communicate efficiently with our nearly 5,000 employees throughout the country and in our international posts of duty. In developing these ChangeCasts, I have covered a number of topics of interest to our workforce, to include Trust, Morale, Mission, Change, ATF's Role in the Department of Justice, Leadership and Organizational Discipline. This latest video message, "ChangeCast #8," was designed to reinforce and highlight the importance of accountability at all levels of ATF to safe and efficient Federal law enforcement, one of the main concerns raised to me by employees in the field. At no time was I attempting to discourage, dissuade or prevent employees from making protected disclosures under Title 5 of the United States Code.

I have issued a "Special Message" to all ATF employees that clarifies the message of ChangeCast #8, and outlines the nature of the protected disclosures under the Whistleblower Protection Act.

The Honorable Charles E. Grassley
The Honorable Darrell Issa

Thank you for your time and consideration in this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "B. Todd Jones". The signature is written in a cursive style with a large, looping initial "B".

B. Todd Jones
Acting Director

c: The Honorable Patrick J. Leahy, Chairman
Committee on the Judiciary, U.S. Senate

The Honorable Elijah E. Cummings, Ranking Member
Committee on Oversight and Government Reform, U.S. House of Representatives



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

DEC -9 2011

Washington, DC 20226

The Honorable Kenny Marchant
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Marchant:

This is in response to your letter dated November 3, 2011, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regarding the processing delay for National Firearms Act (NFA) applications.

Pursuant to its authority in Title 26, United States Code, Chapter 53, ATF is responsible for reviewing and acting on applications for the making, import, transfer, interstate movement, and export of firearms such as machineguns, short-barreled rifles and short-barreled shotguns, firearms silencers and suppressors, certain concealable firearms defined in the law as "any other weapon," and destructive devices.

The processing time for NFA applications varies depending on the type of application submitted. Certain applications require the processing of transfer taxes, while others are tax-exempt. Some applications require the prospective transferee to pass Federal background checks based on both name and fingerprints, while transferees such as law enforcement agencies or foreign military agencies are exempt from background checks. ATF also must ensure that a proposed transfer would not violate State or local law in the transferee's place of residence. The time needed to research and verify State and local requirements can vary greatly depending on the legal complexity of laws governing the type of firearm sought or the business structure and status of applicants other than individuals.

In addition, the sheer volume of applications submitted for ATF review has increased dramatically in recent years. In fiscal year 2005, for example, ATF processed 41,579 NFA applications of all types. By fiscal year 2011, that number had increased to 105,373, with a corresponding decrease of 25 percent in the number of NFA examiners available to process the work. ATF's customer service goal is to process an Application to Make and Register a Firearm (Form 1) and an Application for Tax Paid Transfer and Registration of a Firearm (Form 4) within 6 months of ATF's receipt of a correctly executed application. The customer service standard for processing all other types of NFA applications (i.e., those which don't generally require tax processing or background checks) is 1 month from ATF's receipt of a correctly executed application.

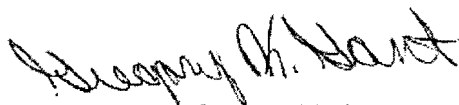
The Honorable Kenny Marchant

ATF has 10 legal instruments examiners to process over 100,000 applications per year. The number of examiners will fall to 9 in December 2011 and continue to decline as natural attrition takes its toll. There are about 20,000 applications pending review and action. As you may be aware, the U.S. Department of Justice (DOJ) is under a hiring freeze that prevents ATF from recruiting new employees from outside the agency. External hiring is necessary to fill examiner positions because they are entry level positions for which ATF lacks an internal candidate pool. ATF is weighing the possibility of obtaining a waiver from the DOJ hiring freeze for several critical positions, including the position of legal instruments examiner in the NFA Branch.

For the last several years, ATF has employed other tools in an attempt to keep up with processing demand, such as the use of contract employees to perform front-line customer service and data entry work, paying overtime to the dedicated group of NFA examiners who are determined to deliver on customer expectations, and detailing employees from other offices to support the NFA function. These efforts have helped mitigate the workload imbalance but cannot overcome the growing demand for ATF services and its direct impact on processing times. We empathize with the many small businesses and firearms collectors who are negatively affected by the NFA Branch's inability to grow proportionately with the firearms industry it serves, and we will continue to look for ways to keep vital industry services as timely and efficient as possible in today's challenging budget environment.

We hope this information proves helpful to you. Please let me know if we can be of further assistance.

Sincerely yours,



Gregory K. Gant
Assistant Director
Public and Governmental Affairs



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

Washington, DC 20226
www.atf.gov

FEB 19 2013

The Honorable Kenny Marchant
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Marchant:

This is in response to your follow-up inquiry of June 7, 2012, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regarding the current status of the backlog of National Firearms Act (NFA) applications and efforts being made to reduce the backlog and cut application processing times. You also asked about the status of the ATF application for a waiver from the U.S. Department of Justice (DOJ) to allow the addition of vital positions during the current DOJ hiring freeze. We apologize for the delay in our response.

As of April 30, 2012, the NFA Branch added 12 Contract Research Assistants (CRA) and one Supervisory Research Assistant on a year-long contract to help with the application backlog. The branch is determined to deliver on its industry service commitments in the face of record-breaking demand. The arrival of these CRAs resulted in significant improvement in forms processing times. In May 2012, their first full month on the job, the new contract employees assisted the NFA Branch in processing more than 14,000 applications. This was a single-month record, 26 percent higher than the branch's next most productive month. Despite the increased speed in processing applications, the application backlog currently stands at over 36,000 applications. The backlog is steadily increasing because the number of NFA applications received exceeds the number that can be physically processed in any given month.

In order to continue this improved production rate, ATF is planning to extend the CRA contract for an additional year. In addition, ATF's FY 2013 staffing plan, which has been approved by the DOJ, includes additional Legal Instruments Examiner positions. Legal instrument examiners are the final determining officials on an NFA application and are the backbone of the application process. Nine new examiners will be assigned to the NFA Branch, one to the Federal Firearms Licensing Center and one to the Firearms and Explosives Imports Branch. On January 30, 2013, a nationwide vacancy announcement was posted advertising these positions. The application ranking and qualification process is currently underway. We anticipate that new hires will enter on duty after being cleared through the selection and background process. As of January 2013, the current NFA staffing levels of employees processing applications are as follows:


The Honorable Kenny Marchant

- 10 Data Entry Positions (these people receive applications and enter them into the system) -- Contractors
- 12 Research Assistants (these people help perfect applications to a point where examiners can review) – Contractors
- 9 Legal Instrument Examiners (these people are final decision makers regarding applications) – ATF staff
- 8 Firearms Specialists (these people assist with field inspections, NFA inventory, testify in Federal court) – ATF staff

In your letter you had also expressed concerns that tax payments on applications are processed promptly, but action on the attached applications may take months. ATF currently contracts with Bank of America to process the funds associated with application fees and taxes. As contracted, the bank is responsible for processing the funds and then forwarding the applications to ATF for processing. While ATF is empathetic to the effects this policy has on individuals, it ensures that payment is cleared before proceeding with any action on an application.

We hope this information proves helpful in responding to your concerns and those of your constituents. Please let me know if we can be of further assistance.

Sincerely yours,



Richard W. Marianos
Assistant Director
Public and Governmental Affairs



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

JUN 05 2012

Washington, DC 20226
www.atf.gov

The Honorable Don Young
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Young:

This letter is in response to your letter to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) dated April 24, 2012. Your inquiry concerns the manner in which ATF handles records of firearms acquisition and disposition maintained by Federal firearms licensees (FFL). I welcome receiving such inquiries and concerns so that ATF can respond to Congress and the public in a clear and expeditious manner.

Regarding your concern about ATF centralizing firearm ownership records, please be assured that ATF fully complies with Federal laws prohibiting such consolidation. In that regard, ATF has no general database or registry of firearms other than the National Firearms Registration and Transfer Record which is mandated by Congress in 26 U.S.C. 5841. Moreover, to the extent that ATF maintains any firearms purchaser information, it is done only to the extent necessary to fulfill ATF's statutory enforcement responsibilities. In addition, ATF does not have the computer infrastructure that could support the volume of data required for such a database, the personnel to administer such a system, nor the budget to acquire it. Therefore, I can assure you that ATF has neither the inclination nor the capability to create a registry of firearms owned by licensees or individuals. We are available at your convenience to further discuss this issue should you so desire.

In your letter, you also expressed concern about the photocopying and removal of certain records of FFLs by ATF Industry Operations Investigators (IOI). ATF's authority is limited to copying or removing required records without a warrant for the purpose of examination to ensure compliance with recordkeeping requirements of the Gun Control Act, 18 U.S.C. Chapter 44, or as evidence of a crime. ATF sometimes copies such records, and FFLs sometimes request that ATF temporarily remove the records to minimize the intrusion an inspection may cause an FFL's business. In any event, turning over such records to ATF is voluntary. Moreover, copies of documents obtained from an FFL with no violations are purged or destroyed once the inspection is closed. In response to your letter and similar inquiries from others in the delegation, we have reissued guidance to our field personnel clarifying ATF's policy on this issue.

IOIs receive extensive classroom and on-the-job training to ensure regulatory inspections are conducted lawfully. The training covers ATF's regulatory authority, including the right of entry and examination during regulatory compliance inspections of industry members, such as FFLs. Inspection findings are documented in written reports completed by the IOI and reviewed by a

The Honorable Don Young

supervisor. These narrative reports may contain copies of documents with violations, work notes, and other information which was examined during the inspection. Employees who violate ATF or Department of Justice rules, regulations, and/or policies are subject to discipline up to and including removal from employment. Inspection reports including relevant attachments are maintained and archived in ATF's National Field Office Case Information System (N-FOCIS). N-FOCIS cannot be queried by purchaser information.

I can assure you that ATF conscientiously uses all lawful means available to reduce violent crime and protect the public, and that those means do not include creating a centralized database of firearms purchasers. In order to better address your constituents concerns regarding ATF inspections, we are planning to host a town hall meeting in Anchorage on Tuesday, June 5, 2012, at the Federal Building Annex. Please let us know if we may be of further assistance.

Sincerely yours,



Joseph J. Allen
Acting Assistant Director
Public and Governmental Affairs



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

JUN 11 2013

Washington, DC 20226
www.atf.gov

The Honorable Mark P. Begich
United States Senate
Washington, DC 20510

Dear Senator Begich:

This is in response to your letter dated April 15, 2013, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). In your letter, you requested information regarding the processes used by ATF to determine whether the violations of a Federal firearms licensee (FFL) are sufficient to revoke his or her Federal firearms license, actions being taken to crack down on FFLs who illegally sell firearms to prohibited persons, and whether ATF needs additional resources to enforce existing laws.

ATF is responsible for licensing persons engaging in a firearms business. In addition, ATF conducts inspections to ensure that FFLs comply with the Gun Control Act (GCA) and Federal firearms regulations, and educates FFLs on the specific requirements of those laws and regulations. Although not required to do so, ATF provides FFLs with suggestions and recommended business practices designed to improve compliance with the GCA. If violations are discovered during the course of an FFL inspection, ATF can help guide the FFL to correct such violations and ensure future compliance by issuing a Report of Violations, sending a warning letter, and holding a warning conference with the FFL. Despite these actions, on rare occasions ATF encounters an FFL who fails to comply with the laws and regulations and demonstrates a lack of commitment to improving his or her business practices. In such cases, ATF's obligation to protect public safety may require revocation of the Federal firearms license.

Under the law, in order to revoke a Federal firearms license, ATF must establish willfulness on the part of the FFL. Willfulness is defined as the intentional disregard of a known legal duty, or plain indifference to the FFL's legal obligations. Although there are various indicators of willfulness, the ability to determine its role may be complicated by numerous factors. ATF takes care to weigh mitigating circumstances to ensure revocation is justified in each case. Although ATF is not required to prove that the FFL intended to violate the law, sufficient evidence of willfulness is needed to substantiate a revocation.

The Honorable Mark P. Begich

Because revocation is such a serious matter, ATF strives to maintain the integrity of the revocation process. Every recommendation for a revocation is thoroughly reviewed for adherence to policy and to ensure that willfulness has been established. To accomplish this, recommendations for revocation are reviewed through the chain of command to the Deputy Assistant Director of Industry Operations to maintain consistency of these decisions on a national level.

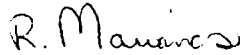
ATF continues to focus on the illegal diversion of firearms from lawful commerce and onto America's streets where convicted felons, violent repeat offenders, and gang members have access to them. Through the comprehensive tracing of crime guns and the strategic analysis of crime gun trace data, ATF prioritizes both the inspection of FFLs and the initiation of criminal investigations of firearms trafficking.

While the primary goal of ATF's regulatory inspection of FFLs is to ensure voluntary compliance with Federal firearms laws, the program also helps identify purchasers of firearms who illegally divert them to criminals, as well as FFLs who disregard firearms laws and regulations and traffic weapons to criminals. By using crime gun trace data as an indicator, ATF can focus its regulatory resources to inspect FFLs where criminal activities, or noncompliance, would have the greatest potential for harm to the public. ATF also analyzes crime gun trace data, often combined with other law enforcement intelligence, to identify firearms trafficking schemes for criminal investigation. In some instances, these leads disclose active criminal involvement by FFLs and they become the target of the criminal investigation.

Although there are challenges during the ongoing tight budget constraints, ATF is committed to ensuring the safety of the public. Be assured that ATF is using all proper means to combat and reduce violent crime, and is working collaboratively with our fellow law enforcement agencies to protect the public.

We hope this information proves helpful in responding to your constituent. Please let me know if we can be of further assistance.

Sincerely yours,



Richard W. Marianos
Assistant Director
Public and Governmental Affairs