

Questions for the Record from Rep. Cline for Director Dettelbach  
“Oversight of the Bureau of Alcohol, Tobacco, Firearms, and Explosives”  
May 23, 2024

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#### Firearm Trace Data

1. What is ATF’s policy as it relates to the “Tiahrt Amendment?”
2. ATF and Law Enforcement groups like the Fraternal Order of Police supported the “Tiahrt Amendment” because releasing this sensitive data can not only jeopardize law enforcement investigations, but out of concern for the safety of law enforcement officers and all parties involved. Do you agree?
3. On ATF’s website, it states “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.” Do you stand by this statement?
4. What steps has ATF taken, if any, to ensure this information is protected? For example, when a law enforcement agency applies for an account with the tracing center, is there a box that must be checked on the application to certify that it is understood that publicly disclosing trace data outside of law enforcement is a violation of law?
5. What is the violation if non aggregate trace data is disclosed outside of the law enforcement community? How does ATF investigate violations of this law? What actions does ATF take to enforce the restrictions congress put in place on the release of trace data outside of law enforcement, for example, to academics?

#### Demand 2 Program

1. Do you agree that the information obtained from the National Tracing Center is sensitive information and should be treated as such?
2. Did ATF receive a FOIA from USA Today and Brady United requesting federally licensed retailers listed in the Demand 2 program?
3. In your opinion, why did USA Today and Brady United want that information, which is not subject to a FOIA?
4. Did the information used to generate the Demand Letter 2 list (released to Brady United and USA Today) come from the NTC Firearms Tracing System (FTS)? If not, from what non-NTC-FTS source was the Demand Letter 2 list compiled?

5. Did the release of Demand Letter 2 list in response to a FOIA request from Brady United and USA Today violate the terms of the Tiahrt Rider? If not, why?

#### “Zero Tolerance” Policy

1. According to the ATF website, “Willfulness is not defined in the regulations, but is defined by case law to mean the intentional disregard of a known legal duty or plain indifference to a licensee’s legal obligations. In the case of an FFL who has willfully violated the law, [the FFL] has shown an intentional disregard for regulatory requirements or has knowingly participated in criminal acts.” During your confirmation hearing, you testified, “The word willful implies something more than an inadvertent error. It implies an intentional misstatement...the term willful implies a high level of intent.” Do you stand by this statement?
2. Is it true that ATF Industry Operations Investigators (IOIs) were directed by leadership to reopen investigations with closed inspections and to look for any minor infraction to justify revocation?
3. As its regulator, what kind of relationship does ATF have with the firearm industry? In the past ATF has considered federal firearms licensees the front line of defense when it comes to straw purchases, for example. How does this policy, in your opinion, impact the relationship between ATF and industry?
4. Does ATF publish the names of businesses that saw their licenses revoked or ceased operations? What is the purpose of this?
5. On the one hand, you have hundreds of licensed firearm retailers being put out of business, and on the other hand you have this new rule, which clearly ignored Congressional intent and exceeded your statutory authority, to force private citizens to obtain a license for occasionally selling or even trading a gun with a friend or neighbor. Do you want more people licensed to sell guns or fewer people licensed to sell guns? Are you simply trying to drive out of business high volume dealers to make room for all the new hobbyists expected to get a federal firearms license?
6. During the course of a regulatory compliance inspection of an FFL, is an IOI authorized to take pictures of Form 4473s when it is not part of the inspection (not memorializing a violation) but is being done at the request of a Special Agent to gather intelligence? If so, please provide the IOI manual that authorizes such conduct. Please Identify the statutory basis for law enforcement actions by an IOI. What is done with the photographs of the 4473s when IOI transmits them to a Special Agent?

Questions for the Record from Rep. Gooden for Director Dettelbach  
“Oversight of the Bureau of Alcohol, Tobacco, Firearms, and Explosives”  
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**Questions for Steve Dettelbach, Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives:**

Q.1. It has been revealed that certain financial institutions have been sharing private data of their customers with agencies such as the FBI without a warrant. Have any financial institutions (including but not limited to banks, card issuers, and all kinds of payment processors) shared the data of their customers with the ATF?

Q.2. It has been further revealed that such data has even been shared voluntarily and under very broad and sweeping pretenses. One notorious example is that of Bank of America sharing data with the FBI for whichever customer conducted a transaction near Washington D.C. in early January 2021. They even “prioritized” those customers who had ever purchased a firearm. Has the ATF been in contact or cooperation with any financial institutions in a similar manner or capacity?

Q.3. If the answer to any part of Q.1 or Q.2 is in the affirmative, could you please tell us:

- In how many instances has the ATF requested private financial records of customers under a broad or “sweeping” search, i.e. not linked to an identified suspect?
- In how many instances have financial institutions voluntarily given up data of their customers to the ATF?
- In how many instances have these institutions provided personal data of their customers to the ATF without a warrant?
- Which financial institutions have voluntarily or without the need of a warrant given up any data of their customers to the ATF?

Q.4. The ATF's new "engaged in the business" rule emphasizes its purpose is increasing public safety, but its new presumptions surrounding eligibility and requisite intent for a firearm license – is said not to be applicable to criminal cases. Does this limitation on the use of those presumptions demonstrate a lack of confidence in their legality? Please give specific examples of enforcement scenarios for these presumptions and explain how those scenarios enhance public safety.

Q.5. Has the ATF coordinated with the FBI or other agencies for input on the ability of NICS (the background check system) to handle the additional workload of the many thousands of new FFLs that would be presumably created under the new rule?

Q.6. Based on the harrowing account and concerning revelations surrounding the handling of the Malinowski case, will the ATF be revamping any of its internal procedures?

Q.7. The purpose of the Stabilizing Brace is to provide stability and more accurate fire. In fact, as it has been pointed out repeatedly – the brace was invented to help a disabled veteran use his firearm accurately. Now, with the 2023 rule it is an offense to be in possession of the brace unless owners first go through the lengthy process, which, according to reports, would cost our economy over \$1 billion.

Why is the ATF putting severe restrictions on stabilizing braces? On that note, which is considered a more serious threat according to the ATF – a gun that fires accurately or a gun that doesn't?

Questions for the Record from Rep. Nehls for Director Dettelbach  
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