

From: Jordan, Wyevetra G (JMD)
To: Weich, Ron (SMO)
CC: Sullivan, Bill (JMD); Lauria-Sullens, Jolene (JMD); Lucas, Daniel (JMD)
Sent: 3/9/2011 1:04:00 PM
Subject: RE: Today's afternoon Prep session

Did Matt cover the issues that came in from Hutchison this morning (pasted in below)?

DP

DP

Anticipated Hutchison Q's

Project Gunrunner

National media reports now appear to support allegations that ATF officials have allowed dealers to proceed with suspicious firearms transactions, in hopes of tracking the movements of those guns and their buyers. Reportedly, field agents strongly protested the operation, especially after the guns started turning up in trace reports related to criminal activity. On March 3, ATF promised to convene "a multi-disciplinary panel of law enforcement professionals to review the bureau's current firearms trafficking strategies."

- Did ATF allow these transactions to proceed, as alleged in the media reports?
- If so, did the Justice Department approve use of this technique? Is this an investigative technique ATF has used in the past? What were the results in past investigations? Is the practice being continued during this review and investigation?
- When does ATF expect the panel's review to be completed?
- When does ATF expect to respond to Senator Grassley's March 3 letter, and to the February 16 request for additional documents reiterated in his March 3 letter?

Multiple Rifle Sales Reporting

In December, ATF proposed requiring licensed firearms dealers in the four border states to report multiple sales of certain rifles to the same customer within five business days. ATF says it will use these reports as investigative leads in firearms trafficking investigations. Since federal law currently only requires multiple sales reports for handgun sales under 18 U.S.C. § 923(g)(3), ATF plans to impose this new requirement through "demand letters" sent to dealers under 18 U.S.C. § 923(g)(5).

- For each of the last three fiscal years, how many multiple handgun sales reports were submitted by licensees nationally, as well as in Texas, New Mexico, Arizona and California? How many of those reports (including a state-by-state breakdown of reports from the border states), resulted in further investigative actions by ATF? How many of those investigations, if any, resulted in criminal prosecutions, and how many of those prosecutions resulted in convictions?
- Both an investigation by Senator Grassley and major media reports have recently raised very serious questions about how ATF uses voluntary real-time reports from firearms dealers concerning suspicious transactions. The allegation, as you know, is that ATF has chosen to let those transactions go forward, with disastrous results. Given those questions, is it an efficient use of ATF's resources to sort through reports of transactions involving huge categories of rifles, hundreds of miles from the border, regardless of whether the dealer found anything suspicious about the sale or not?

- How did ATF reach its estimate that 8,479 respondents would submit reports? How many reports does ATF expect each respondent to submit?
- How does ATF expect criminal firearms traffickers to respond to the new requirement? Does ATF anticipate that buyers will restructure transactions to avoid the reporting requirement? If so, what would be the effect on generation of investigative leads through voluntary reporting by dealers?
- Courts that have upheld the use of demand letters outside of specific investigations in the past have emphasized the narrowness of those programs. See *RSM, Inc. v. Buckles*, 254 F.3d 61, 67 (4th Cir. 2001); *Blaustein & Reich, Inc. v. Buckles*, 365 F.3d 281, 289 (4th Cir. 2004); *J & G Sales Ltd. v. Truscott*, 473 F.3d 1043, 1049 (9th Cir. 2007). As a legal matter, how can ATF justify the much broader scope of the current proposal?

Shotgun Importation

In January, an ATF "working group" proposed banning the importation of "shotguns with common military features" under the "sporting purposes" test in 18 U.S.C. § 925(d)(3). Many of the features are used by private citizens for self-defense or competitive shooting. (The report noted that many of these guns might be used in "practical shooting" competitions, but declined to revisit ATF's position that these competitions are not "sport," arguing that a change in that position would also affect existing bans on importation of certain rifles.)

- How many makes and models of shotguns does ATF estimate would be banned under the proposed criteria? Please specify examples of shotguns that would be affected.
- Why shouldn't practical shooting—a popular competitive event with rules, governing organizations and prizes—be considered a "sporting purpose"? Shouldn't a comprehensive definition of "sporting purposes" be a prerequisite to deciding whether particular guns are suitable for those purposes?
- Since 18 U.S.C. § 922(r) prohibits assembly of a non-importable shotgun from imported parts, what would be the effect of the proposed import ban on American gun owners who wish to add these features to imported shotguns using aftermarket parts?

M1 Rifle and Carbine Importation

Last year, the State Department revoked a previously granted approval for reimportation of thousands of M1 Garand rifles and M1 carbines from South Korea. Both the State Department and ATF were involved in the process because these firearms were furnished to South Korea under foreign assistance or sales programs. See 22 U.S.C. § 2778(b)(1)(B). Both guns are legal to make and sell in the U.S. Surplus M1 rifles and carbines have long been sold in the U.S. (including sales by the Department of Defense through the Civilian Marksmanship Program). Commercial replicas of the M1 carbine are currently made and sold in the U.S., and commercial replicas of the M1 rifle have recently been made and sold in the U.S. as well.

When news of the revocation became public, a document surfaced which is purported to be an ATF position paper on the issue. (The document is attached, and was posted online at http://www.scribd.com/full/39176770?access_key=key-k0k126h4dxkbhj0z4r.) The anonymous document argues that the importation, if approved, would result in a large increase in firearms imports into the United States and that there would be "no controls on the domestic sales of the firearms."

- Was this document created by ATF? Does it accurately reflect ATF's policy on these firearms?
- If so, as a matter of policy, does ATF believe that significant increases in the numbers of firearms imported are inherently dangerous?
- If the document is authentic, does ATF normally believe that import permits should be denied for firearms that (as the document says) "may be legitimately sold, trafficked or otherwise transferred" under the Gun Control Act and other federal laws?

-----Original Message-----

From: Weich, Ron (SMO)
Sent: Wednesday, March 09, 2011 12:56 PM
To: Jordan, Wyevetra G (JMD)
Cc: Sullivan, Bill (JMD)
Subject: RE: Today's afternoon Prep session

In the AM moot we pretty much exhausted guns.

Unrelated

Unrelated

-----Original Message-----

From: Jordan, Wyevetra G (JMD)
Sent: Wednesday, March 09, 2011 12:17 PM
To: Sullivan, Bill (JMD); Delery, Stuart F. (OAG); Grindler, Gary (OAG); Lucas, Daniel (JMD); Lauria-Sullens, Jolene (JMD); Weich, Ron (SMO); Aguilar, Rita C. (SMO); Agrast, Mark D. (SMO); Appelbaum, Judy (SMO); Dauphin, Dennis E. (JMD); Lauria-Sullens, Jolene (JMD); Goldberg, Stuart (ODAG); Monaco, Lisa (ODAG); Moran, Molly (OAG); Richardson, Margaret (SMO); Lofthus, Lee J (JMD); Thiemann, Robyn (OLP)
Cc: Cupertino, Michael (JMD); Long, Linda E (SMO); Lynch, LaFondra (JMD); Lynch, LaFondra N. (ATF); LaCour, David (JMD)
Subject: Today's afternoon Prep session

ATTORNEY GENERAL'S FY 2012
HEARING PREP SCHEDULE

Senate Appropriations

Moot Sessions

- Wednesday March 9 11:00 - 12:30 MOOTS -

Mooters: Matt Miller, Tracy Schmalder, Stuart Goldberg, Ron Weich, Jolene Lauria-Sullens, Lee Lofthus

Ö Southwest Border/

Ö Project Gunrunner

Unrelated

Wednesday March 9 4:00-4:45 Late Breaking Member Issues & Hot Topics

Matt Miller, Tracy Schmalder, Stuart Goldberg, Ron Weich, Jolene Lauria-Sullens, Lee Lofthus, Wyevetra Jordan, Bill Sullivan, Dan Lucas, Thiemann

Ö Gun Issues (Hutchison Q's) (Thiemann, Miller)

Unrelated

Unrelated

Senate CJS Appropriations hearing is March 10 at 11:00am, Dirksen 192