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Congress of the United States
House of Representatives
Washington, D.C. 20515

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REPUBLICAN
POLICY COMMITTEE

April 24, 2012

B. Todd Jones, Acting Director
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE
Washington, DC 20226 USA

Dear Acting Director Jones:

In recent weeks my office has received reports regarding the activities of the BATFE's Anchorage office. In particular there have been serious issues raised concerning the actions of some Industry Operations Investigators.

As you are aware, federal law places specific restrictions on the activities of the Industry Operations Investigators, particularly regarding the copying or removal of records that Federal Firearms Licensees (FFLs) must maintain. Federal law also specifically prohibits the collection of the information contained in those records into any sort of registration list or database.

The following provisions of federal law deal specifically with these activities:

"Provided, That no funds appropriated herein and hereafter shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of Justice, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees." (Pub.L. 112-55, Div. B, Title II, Nov. 18, 2011, 125 Stat. 609.)

"No such rule or regulation prescribed after the date of the enactment of the Firearms Owners Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or disposition be established. (Federal Law 18 U.S.C. 926 (2) (a))"

In spite of these provisions of federal law, I have received reports that gun dealers in the Anchorage area have been asked to provide those records—bound books and forms 4473—for copying or removal from the business location as a part of a routine compliance inspection. Some dealers complied with the improper request, while others correctly asserted that the request violated federal law and refused. Those that refused were then pressured or even intimidated in an effort to obtain the records.

These allegations are extremely serious. For over 30 years Congress has passed legislation containing a provision that specifically prohibits the collection of information from gun dealers to create a list or database

of gun owners. In 2011, that prohibition was made permanent law. A number of questions must be answered in response to this abuse of federal authority.

- How are Industry Operations Investigators trained? Are they given specific training on what they are allowed to do during a routine annual inspection as opposed to a criminal investigation?
- Are Investigators encouraged to ask for records in spite of the law in the hopes FFLs will simply comply?
- Are Investigators specifically trained to understand that copying of and/or compiling the information from these records violates the law?
- Are Investigators trained to understand that removal of records to any facility owned, managed, or controlled by the United States or any state or any political subdivision is prohibited?
- Are Investigators trained to inform FFLs that it is fully within their rights to refuse to allow any records to be removed or copied without the proper warrants or as part of a criminal investigation?
- Does BATFE have in place any system to discipline Investigators that violate the law regarding the copying or removal of records from a FFL's place of business?
- Has any information from FFL records be collected and kept by BATFE personnel?

Full and complete responses to these questions are vital to the ability of Congress to provide the necessary oversight of BATFE activities to insure that the law is being followed. While the reports I reference in this letter have come from my home state of Alaska, I believe it unlikely that these improper activities have only happened in Anchorage.

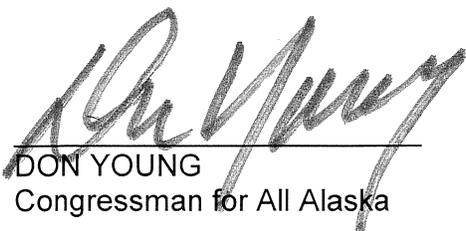
These abuses are serious violations that must be addressed not only with the specific persons involved, but with all Industry Operations Investigators nationwide. The intent of Congress and the law is clear that the copying of or removal of firearms transactions information not in connection with a criminal investigation is prohibited. This prohibition is a vital protection of the Second Amendment rights of all Americans and must be enforced by BATFE leadership.

As part of a routine compliance inspection, that is not a part of a criminal investigation, BATFE personnel should be instructed that removal or copying of records is prohibited. Inspectors should therefore never request the records, even if the request is presented as voluntary on the part of the license holder. The position of authority that an inspector holds makes any such request improper.

The history of abuse by BATFE inspectors and agents is well documented, and has led to specific statutory restrictions, such as the Firearms Owners Protection Act, as well as the prohibition on the removal or collection of firearm transfer records. Continued abuses such as those reported to me cannot be permitted, and if not rectified in an appropriate manner could lead to additional Congressional action to protect Americans' Second Amendment rights.

Your timely attention to these issues is greatly appreciated.

Sincerely,



DON YOUNG
Congressman for All Alaska