

**STATEMENT  
OF  
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**BEFORE THE  
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY  
UNITED STATES HOUSE OF REPRESENTATIVES**

**CONCERNING**

**OVERSIGHT OF THE BUREAU OF ALCOHOL, TOBACCO,  
FIREARMS AND EXPLOSIVES,  
PART 2: GUN SHOW ENFORCEMENT**

**FEBRUARY 28, 2006**

Good afternoon Chairman Coble, Congressman Scott and members of the Subcommittee. Thank you for the opportunity to appear before you to discuss the significant contributions of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) relating to our enforcement of Federal firearms laws. Specifically, we appreciate this opportunity to outline for the Subcommittee our law enforcement efforts related to gun shows in and around Richmond, Virginia, between May 2004 and August 2005.

We acknowledge that some techniques used in our Richmond operations were not implemented in a manner consistent with ATF's best practices. We have determined that we could have done better by maintaining the law enforcement command post off the premises of the gun show, by conducting law enforcement briefings away from the site of the gun show, by not utilizing a letter to convey possible violations to attendees, and by more thoroughly

explaining the parameters for conducting residence checks. However, we, along with our law enforcement partners, feel very strongly that our operations at Richmond area gun shows have reduced violent crime and made the streets of Virginia and America safer consistent with our agency's mission.

ATF enforces Federal firearms laws and provides extensive support to Federal, State, and local law enforcement officials in their fight against crime and violence. Our agents investigate a broad range of firearms violations that can be generally divided into three categories:

1. Investigations of persons who are prohibited by law from possessing firearms, such as felons, illegal aliens, and drug traffickers;
2. Investigations of persons possessing prohibited firearms, such as post-1986 machineguns and sawed-off shotguns; and
3. Investigations of firearms trafficking.

From these types of investigations, ATF agents concentrate on firearms traffickers who are diverting firearms out of lawful commerce into the hands of criminals. Firearms trafficking investigations can be complex and time-consuming. They can involve illegal straw purchases of firearms by one person on behalf of another person who may be unable legally to possess firearms, illegal dealing by unlicensed firearms sellers at gun shows or other locations, robberies of gun stores, and thefts from interstate shipments.

Through the Administration's Project Safe Neighborhoods (PSN) initiative, which began in 2001, and the ATF-led Violent Crime Impact Team (VCIT) initiative beginning in 2004, law enforcement, prosecutors, and community leaders work together to deter and prevent violent crime. Congress has appropriated money for these initiatives and we are using it to reduce violent crime. In support of these initiatives, ATF and its law enforcement partners have developed focused enforcement strategies to investigate, arrest, and prosecute violent offenders, prohibited possessors of firearms, domestic and international firearms traffickers, and others who illegally attempt to acquire firearms. ATF firearms investigations resulted in over 8,300 convictions in fiscal year 2005. Additionally, we have developed expertise in working against criminal organizations, particularly gangs. As a result of our investigations, more than 3,000 gang members have been convicted of firearms offenses in the past five years. In the past two fiscal years, more than 12,000 firearms have been linked to gang activity.

I can tell you that our programs are working. According to data from the most recent Uniform Crime Report (2004), the 15 VCIT pilot cities, which include Richmond, endured 180 fewer homicides as compared to the previous year (2003), which represents 46 % of the overall decrease in homicides nationwide. As a result of ATF's efforts and contributions, as the Attorney General recently announced, gun prosecutions are up 73% from fiscal year 2000 to fiscal year 2005. The Attorney General also has reported that violent crime is at a 30 year low.

As you can see, ATF enforcement activities at gun shows are a piece of the big picture for the national firearms enforcement strategy. We conduct numerous investigative operations at

gun shows across the country in any given year for various reasons. To put things in perspective, more than 5,000 gun shows are held annually in the United States, and on average, we conduct investigations at approximately 2% of these shows. This statistic clearly demonstrates that we are focusing in on key information and working with the specific needs of our State and local law enforcement partners to surgically impact problem areas. ATF's presence at gun shows can provide an invaluable service to the community. Except for the issues surrounding the Richmond gun show operation on August 13<sup>th</sup> and 14<sup>th</sup>, 2005, we have not received any complaints regarding this important element of our firearms enforcement program.

I would like to provide you with some information about why we, along with our State and local law enforcement partners, believed it was important to commit our resources to conducting operations at gun shows in Richmond. Between 2002 and 2005, more than 400 firearms sold by federally licensed firearms dealers at Richmond area gun shows were recovered in connection with criminal activity. Of this total, more than 300 of the total number of guns sold at these gun shows by federally licensed firearms dealers were recovered in the Richmond metropolitan area. These figures do not take into account firearms that may have been sold at Richmond area gun shows by unlicensed sellers, as these transactions are more difficult to track. To confront these issues, ATF and State and local law enforcement officials initiated a cooperative effort focused on the source of guns used in crimes committed in the Richmond area, including those sold at gun shows. The goal was to reduce violent crime by preventing the illegal diversion of firearms and to investigate persons who violate Federal firearms laws.

Richmond is one of the most violent cities in America according to the most recent Uniform Crime Report data available (2004), which indicates that Richmond's violent crime rate is nearly 3 times the national average. In advance of our operations between May 2004 and August 2005, ATF special agents and detectives from the Richmond Police Department analyzed information to determine the sources of crime guns and illegal firearms trafficking patterns in and around Richmond, and determined that a number of guns used in crimes had connections to Richmond area gun shows. Among other things, we found that many of the guns recovered by the Richmond Police Department after being used in connection with violent criminal acts had been purchased illegally at local gun shows. Our investigations also demonstrated that individuals who purchase firearms illegally at Richmond area gun shows, such as straw purchasers and prohibited persons, do not always provide accurate residence information at the time of purchase, as required by law. We briefed leaders from both the Richmond Police Department and Henrico County Division of Police on the initiative and they fully supported the plan to conduct enforcement operations at Richmond gun shows. In keeping with our longstanding partnership with the firearms industry, ATF also advised gun show promoters and owners/managers of the premises where the gun shows were held of the law enforcement presence and of our goals.

Between May 2004 and August 2005, ATF and our State and local law enforcement partners attended eight gun shows in the Richmond area.

Let me share a significant example of the outstanding police work that came out of these partnerships. On October 17, 2004 at the Showplace Gun Show in Richmond, Virginia, officers observed a straw purchase of a firearm by two male individuals. The term “straw purchase” refers to a transaction in which the actual buyer of a firearm uses another person, the “straw purchaser,” to execute the paperwork necessary to purchase a firearm. Law enforcement personnel observed obvious signs of a straw purchase during the interaction between these two subjects. Therefore, after a firearm was purchased by one man and provided to the other, officers approached them and conducted separate interviews. The purchaser admitted to being paid \$100 by the other man to complete the paperwork and buy a handgun. He also admitted to having “straw purchased” an AK-47 rifle for the same man during the Showplace Gun Show in Richmond on July 10, 2004. Further investigation over the course of the next six months revealed that the primary subject was a ringleader in the “Blue Ridge Crew” street gang and that he was the primary suspect in a murder that had occurred on July 19, 2004 in the city of Richmond.

Ultimately, agents and officers determined that the murder weapon used in the July 19<sup>th</sup> murder was the straw-purchased AK-47 rifle obtained at the gun show just 9 days before the crime. While law enforcement was present at the July 10, 2004 gun show, we did not prevent the illegal sale of that AK-47 rifle; however, we were present at a subsequent show on October 17, 2004, and through our joint law enforcement efforts, caught these criminals in the act and prevented another potential murder weapon from hitting the streets. Our involvement in this

investigation eventually led to a guilty plea to murder by the gang member who was acquiring firearms illegally at Richmond area gun shows. He has been sentenced to serve 40 years in prison.

Our focus at the Richmond-area gun shows was on indicators of criminal activity, not on the color of skin or the gender of potential suspects. I listened to the allegations of “racial profiling” that were leveled against ATF by some of the witnesses who testified before this Subcommittee on February 15, and I can tell you, having conducted a thorough review of our activities at these gun shows, that those allegations have no basis in fact. ATF does not condone or engage in racial profiling of any sort and we adhere strictly to the Attorney General’s guidelines in this regard. Our agents’ focus, and the focus of the State and local partners who serve on our task forces, is on disrupting criminal activity, without regard to the race or gender of those who appear to be engaged in criminal acts. That being said, I do recognize that concerns have been raised about the manner in which certain aspects of our operation were conducted. We have listened closely to those concerns and have taken steps to adapt our operations for the future.

First, we recognize that it was not a “best practice” to have maintained the task-force command post on-site, nor to have conducted a briefing for our State and local partners at the site of the gun show, as these actions may have contributed to the perception of an overly large law enforcement presence at the show. During each event, a command post was established to coordinate activities and to facilitate communication between law enforcement personnel. The

command post staff included supervisors from each agency as well as agents and detectives. For the first seven gun shows in Richmond, the command posts were established away from the site of the gun show. For the August 13-14, 2005 gun show, the manager of the complex and the promoter identified a room in the building as vacant and available for law enforcement use as needed. We established a command post in that space. It is clear in hindsight that unnecessary attention was drawn to the law enforcement operation by utilizing this space so close to the activities of the gun show.

Additionally, briefings were conducted prior to the beginning of each show to advise Federal, State, and local law enforcement personnel of the initiative, to discuss the relevant investigative techniques, and to review each officer's or agent's assignment, including command post responsibilities, surveillance duties and residence checks. Each gun show operation was staffed with between 24 and 50 agents and officers. For the first seven shows, this briefing was held at a location other than the gun show premises. At the eighth show, on the weekend of August 13-14, 2005, the briefing was conducted on-site, and we recognize that this also was not a good decision. In hindsight, the gathering of that many uniformed officers with marked patrol units clearly brought unnecessary attention to our operation. Since the plans called for covert activity at the gun show, it did not serve the operation well to conduct the briefing on-site.

As for the actual enforcement operation, surveillance by plainclothes officers and agents was conducted at the gun shows to observe potential straw purchases or related illegal activity. Additionally, there were occasions when Federal firearms licensees made contact with law



enforcement personnel, pointed out suspicious behavior and requested that agents watch the activities of particular individuals. If a firearms transaction was completed and there was probable cause to believe that a violation had occurred, the parties were kept under surveillance for as long as practicable. In some cases, purchasers were stopped by law enforcement and questioned about the firearms transaction. In all cases where firearms were taken into custody by law enforcement, there was probable cause to believe that a criminal violation had occurred.

Although our review of enforcement activities revealed that, in every case in which a firearm was taken into custody, there existed probable cause to believe that a criminal violation had occurred, we recognize that a form letter issued to some of those from whom firearms were seized was not in keeping with ATF's best practices. Use of this letter was discontinued before the seventh gun show operation in May 2005. I can assure you that this letter will not be used again.

We also recognize the concerns surrounding our conduct of residence checks on firearms purchasers on the weekend of August 13-14, 2005. By way of background, and as we have previously relayed to the Subcommittee, prior investigations had revealed that some purchasers at gun shows had not provided accurate address information at the time of purchase. Federal law prohibits knowingly giving false information to a federally licensed firearms dealer in connection with the purchase of a firearm and prohibits the sale of a firearm by a federally licensed firearms dealer to a person where possession by such person would violate any State law or published

ordinance. Furthermore, the information provided by purchasers is particularly important because it is used to initiate the background check process required by the GCA.

Confirmation of residence addresses through residence checks has proven to be an important and useful tool to ensure the lawfulness of firearms transactions and to prevent straw purchases. ATF personnel working in the command post received residence information from firearms transaction paperwork and relayed the information to uniformed officers in the field who would confirm the addresses of purchasers. The results from the officers were conveyed to the command post. If the residence information was valid, all notes and paperwork utilized by the officers were destroyed at the end of the day. If an address was not valid, the officer submitted his notes and/or paperwork to the case agent. The goal of the residence checks was simple: to verify an address by going to the residence and confirming that a certain individual actually lived at that location. Ideally, this would be accomplished by speaking to someone at the cited address. If, and only if, no one was available at the address, a neighbor would then be located and asked to confirm, if they could, that an individual lived at the address in question.

It bears noting that throughout the initiative, between May 2004 and August 2005, law enforcement conducted a total of 302 residence checks. Of those, 47, or 16%, proved to be addresses where the purchaser did not reside. It should be noted also that residence checks were conducted on only 8% of the total number of people that completed firearms transactions through federally licensed firearms dealers during the initiative.

Despite the concerns surrounding our operation on the weekend of August 13-14, the joint law enforcement presence and enforcement activity at the Richmond area gun shows resulted in the prevention of unlawful sales and the detection of criminal activity. Cases were perfected against 25 defendants on various Federal charges and all cases submitted were prosecuted. Some defendants' gun show related charges were combined with other charges that were developed as the investigation progressed, as was the case in the example I shared earlier.

ATF policy regarding gun shows provides guidance as to investigative practices applicable to dealers and other persons involved in firearms transactions at gun shows, and this policy has not changed significantly since 1989. Our internal review has shown that to the extent that certain decisions regarding implementation of various techniques were not reflective of ATF's best practices, there was no evidence of misconduct, nor was there any indication of concerns reflecting negatively upon the integrity of our agents or our State and local partners. I have issued a memorandum to ATF Field Operations reminding employees of both policy and best practices related to gun show investigations. In this memorandum, and in other communications with our leadership in the field, I have specifically highlighted the key areas discussed here today.

In addition to the investigative efforts outlined above, I would like to point out that, in cooperation with certain gun show promoters, ATF has staffed booths at various shows to provide guidance on firearms issues and to answer questions for gun show attendees. As a result of the attention directed at ATF's involvement at gun shows in Richmond, we have made an

increased effort to meet with industry members, particularly gun show promoters, on a number of occasions. Most recently, ATF met with gun show promoters and offered to assist dealers and buyers at shows in understanding their obligations under Federal law by providing written publications and on-site advice. I personally explained to the promoters that residence checks, done appropriately, serve a valid law enforcement purpose. The open dialogue proved beneficial, and I believe that the meeting went far toward fostering a partnership that will ultimately assist agents and officers in their efforts to ensure that felons and other “prohibited persons” do not obtain firearms at gun shows. This partnership is particularly important because it will take cooperation between the law enforcement community and persons involved in the firearms industry to ensure that we are doing all we can to take guns out of the hands of criminals who might use them to promote violence and chaos on our streets.

As I stated earlier, although our efforts at gun shows are only a small part of ATF’s overall firearms enforcement activities, they are a valuable tool in protecting our communities. Like everyone in this room, we are committed to reducing the gun crime that confronts America today. ATF works side-by-side with our partners in both the law enforcement community and the firearms industry every day. We continue to work diligently to enforce existing laws to keep firearms out of the hands of terrorists and criminals while remaining sensitive to the rights of law-abiding citizens to engage in lawful firearms-related commerce. As reflected in recent crime statistics compiled by the Department of Justice, our efforts are having a positive impact in the fight against violent crime.

We hope this information will assist the Subcommittee in its oversight efforts. I look forward to answering any questions the Subcommittee may have.