



October 10, 2017

VIA Electronic Delivery

Bureau of Alcohol, Tobacco, Firearms and Explosives
Disclosure Division, Room 4E.301
99 New York Avenue, NE
Washington, D.C. 20226

Re: Freedom of Information Act Records Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552 *et seq.*, and the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") FOIA regulations beginning at 28 C.F.R. Part 16, Democracy Forward Foundation makes this request on behalf of the Law Center to Prevent Gun Violence (the "Law Center"), the partner organization of the gun-violence-prevention organization founded by former Congresswoman Gabrielle Giffords and retired Navy combat veteran and NASA astronaut Captain Mark Kelly, Americans for Responsible Solutions ("ARS").

Background

According to press reports, ATF's then-Associate Deputy Director Ronald Turk authored an ATF "White Paper" dated on Inauguration Day, January 20, 2017 (the "Turk Memo"), which advocated for, among other things, rolling back restrictions on purchasing gun silencers, taking steps towards ending a long-standing ban on assault weapon imports, and increasing the number of gun crimes that must be traced to a licensed dealer before the federal government requires it to answer additional questions about its operations.¹ As reported, many of the positions advocated in the Turk Memo "are supported by the National Rifle Association, which has lobbied for some of the proposals for years."² During the first week of the Trump Administration, and following the leak of the Turk Memo, the executive director of the NRA's lobbying arm stated, "[w]e look forward to working with the new attorney general After eight years of overreach by the

¹ Sari Horwitz, *Senior ATF official proposes loosening gun regulations*, The Washington Post (Feb. 6, 2017), https://www.washingtonpost.com/world/national-security/senior-atf-official-proposes-loosening-gun-regulations/2017/02/06/beeb1120-ec7c-11e6-9662-6eedf1627882_story.html?utm_term=.7769564c1abf.

² *Id.*

Obama administration, it's time to roll back regulations that serve no legitimate law enforcement purpose.”³

Records Requested

In an effort to understand, and explain to the public, the extent to which gun lobby influence has caused the ATF to pursue dangerous policies, the Law Center requests that ATF produce the following within twenty (20) business days:

1. All records sent or received by Thomas E. Brandon or Ronald B. Turk containing any of the following terms: DJT, DJT Jr., NRA, NRA-ILA, national rifle association, rifle association, nra.org, nraila.org, Pete Brownell, Wayne LaPierre, Josh Powell, Chris Cox, Richard Childress, Carolyn Meadows, Wilson Phillips, John Frazer, Dana Loesch, Steve Sanetti, Larry Keane, National Shooting Sports Foundation, NSSF, Gun Owners of America, gun lobby, silencer, suppressor, bump stock, CCR, reciprocity, SHARE Act, National Firearms Act, NFA, or derivations thereof.
2. All records, including but not limited to calendar records revealing meetings, in person or otherwise, between: (i) Thomas E. Brandon or Ronald B. Turk; **and** (ii) Pete Brownell, Wayne LaPierre, Josh Powell, Chris Cox, Richard Childress, Carolyn Meadows, Wilson Phillips, John Frazer, Dana Loesch, Steve Sanetti, Larry Keane, or other representatives of the NRA, the NRA-ILA, the National Shooting Sports Foundation, Gun Owners of America, or derivations thereof.
3. A copy of all iterations and versions of the Turk Memo.
4. All emails on a thread in which the Turk Memo was referenced, attached, or pasted in significant part (more than 20 words).
5. All communications and attachments containing the terms: (i) NRA, NRA-ILA, national rifle association, rifle association, nra.org, nraila.org, gun lobby, National Shooting Sports Foundation, NSSF, Gun Owners of America; **and** (ii) concealed carry reciprocity, CCR, reciprocity, silencer, suppressor, bump stock, Trump, DJT, DJT Jr., SHARE Act, National Firearms Act, NFA, or derivations thereof.

In completing this request, please search for records sent or received by the following ATF offices: Office of the Director, Office of the Chief of Staff, Office of the Deputy Director, or the Office of Public and Governmental Affairs.

The time period for this search is from November 9, 2016 to the date on which the request is processed.

³ *Id.*

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Request for Fee Waiver

The Law Center requests a waiver of document search, review, and duplication fees because the disclosure of the requested records is in the public interest and because disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). The Law Center also requests a waiver of search fees on the ground that it qualifies as a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

The disclosure of requested records is “likely to contribute significantly to public understanding of the operations or activities of the government” because, as discussed above, news accounts underscore the substantial public interest in the records sought through this request. 5 U.S.C. § 552(a)(4)(A)(iii). Given the ongoing and widespread media attention, the records sought will contribute significantly to public understanding of an issue of profound public importance. Moreover, the Law Center is a nonprofit organization organized under Internal Revenue Code § 501(c)(3) and is dedicated to promoting policy engagement and civic education. As a nonprofit organization, it does not have a commercial interest in the records. The records obtained from this request will be made available to the public at no cost.

The Law Center also requests a waiver of search fees because it is a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). The Law Center meets the definition of “representative[s] of the news media” because it gathers information, exercises editorial discretion in selecting and organizing documents, and “distributes the resulting work to the public.” *Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). It is therefore a “representative of the news media” for the same reasons it is “primarily engaged in disseminating information.” 5 U.S.C. §§ 552(a)(4)(A)(ii)(II), 552(a)(6)(E)(v)(II).⁴

If the request for a waiver is denied, we are willing to pay all reasonable fees incurred for searching and duplicating records in responding to this request, up to \$100. If the costs of responding to this request should exceed that amount, please contact us before incurring costs exceeding that amount.

Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Robin Thurston as soon as possible at foia@democracyforward.org or 202-448-9090.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

/s/ Robin Thurston
Democracy Forward Foundation
*Counsel for the Law Center to Prevent
Gun Violence*

⁴ The Law Center routinely researches and publishes reports in support of commonsense solutions to the epidemic of gun violence in America. These resources are maintained in the Law Center’s online resource library. *See* Publications, Law Center to Prevent Gun Violence (last visited Oct. 5, 2017), <http://smartgunlaws.org/resources/publications/>.