



NATIONAL FRATERNAL ORDER OF POLICE®

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7 September 2011

The Honorable Patricia L. Murray
Co-Chairman
Joint Select Committee on Deficit Reduction
United States Senate
Washington, D.C. 20510

The Honorable Jeb Hensarling
Co-Chairman
Joint Select Committee on Deficit Reduction
U.S. House of Representatives
Washington, D.C. 20515

Dear Co-Chairmen Murray and Hensarling,

I am writing on behalf of the members of the Fraternal Order of Police to advise you of our deep concern about the growing social and economic costs of tobacco smuggling. We first warned the Congress of this growing law enforcement problem in 1999, and today we come to you again, like the proverbial voice crying out in the wilderness.

For more than a decade, the FOP has been very engaged in matters of public policy which impact the trafficking in illegal tobacco products. As a result, we have endured significant criticism in the past because we questioned the wisdom of government policies which, while designed to combat youth smoking or reduce smoking overall, also greatly contributed to a rise in tobacco smuggling and a huge loss in revenue from taxes on tobacco products. According to a Congressional report on illicit trafficking in tobacco products, the Federal government is losing between \$500 million and \$1.5 billion annually in uncollected taxes. Under the new tax rate adopted in April 2009, these losses could go as high \$4.5 billion. In fact, a February 2010 report detailed the magnitude of the current contraband problem in a recent analysis entitled, "Department of Treasury Report to Congress on Federal Tobacco Receipts Lost Due to Illicit Trade and Recommendations for Increased Enforcement." The report states that the "diversion of tobacco products occurs for two principal reasons: the potential for illicit gains is high and the risk to illegal operators is low." Enforcement mechanisms, it said, are "insufficient to countervail the lure of high profit potential."

These revenue losses, and the increased danger to public safety that goes hand-in-hand with large trafficking operations dealing in contraband, can be mitigated if Congress will make a modest investment in expanding the enforcement authority and resources of the Alcohol and Tobacco Tax and Trade Bureau (TTB) within the U.S. Department of the Treasury.

The TTB is the only Federal agency with jurisdiction over the Federal excise tax evasion in relation to alcohol and tobacco products. The authority of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is limited to the interstate smuggling of tobacco products to avoid paying State taxes, and does not include criminal activity designed to avoid Federal excise taxes.

—BUILDING ON A PROUD TRADITION—

The criminal enterprises that profit from smuggling tobacco products are very likely to avoid paying either State or Federal taxes, so it is critical that criminal enforcement be linked with regulatory enforcement.

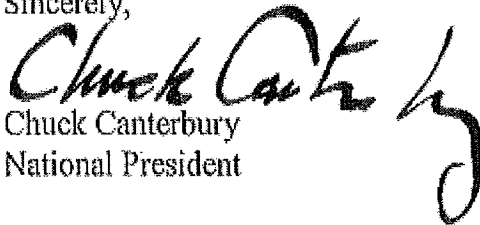
For this reason, the FOP strongly urges that Congress amend the Contraband and Cigarette Traffic Act (CCTA) and transfer the ATF's authority under that statute to the TTB. This will keep criminal and regulatory enforcement in the same bureau while increasing efficiency, reducing costs, and generating greater revenue from Federal excise taxes on tobacco products. Currently, the TTB has entered into a reimbursable agreement with the Internal Revenue Service, Criminal Investigations (IRS-CI) to leverage existing support infrastructure and benefit from economies of scale while conducting these enforcement operations.

Without the transfer of authority and sufficient funding to continue enforcement operations, investigations into current cases by the TTB under the existing Internal Revenue Code (IRC) will cease after 30 September 2011. The agreement with IRS-CI will also come to an end, meaning that IRS-CI agents will continue to investigate only those cases that also fall under IRS jurisdictions which involve income or business tax violations. If the Federal government reduces or does not fund the enforcement of the IRC with respect to alcohol and tobacco products, existing losses to Federal revenue would increase as smuggling becomes less risky and more profitable for criminals.

If the Congress provides the TTB with authority under the CCTA and provides \$4 million to the Bureau, an additional 5-6 agents could be hired, enabling the TTB to handle the current caseload of criminal investigations and enforcement operations. It would enable the TTB and the IRS-CI to pursue another agreement and continue to leverage existing enforcement resources. The expenditure of \$4 million would not only help the Federal government collect revenue on alcohol and tobacco, but also help end the smuggling of these products, which provide millions of dollars to criminal enterprises. In addition, the TTB has seized property valued in the millions of dollars that would be available for sharing the forfeitures if its current cases are successfully closed out.

This is a rare confluence in which increasing enforcement efforts will result in a much greater increase of Federal revenues—on the scale of approximately \$8 for every \$1 spent at the TTB. This is very important issue from both a law enforcement and revenue-generating perspective and I urge that the Committee provide sufficient funding to the TTB to carry on and expand their mission. If I can be of any additional assistance to you on this or any other issue, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,


Chuck Canterbury
National President

cc: Jacob J. Lew, Director, Office of Management and Budget, Executive Office of the President of the United States