

9. **CONSENT AGENDA**

- h. Approval of a Memorandum of Understanding between the City of Sanibel and the Bureau of Alcohol, Tobacco, Firearms and Explosives regarding eTrace based firearm tracing application and authorize the City Manager to execute same (this MOU provides the necessary utilities for submitting, retrieving, storing and querying firearms trace information relative to Sanibel Police Department)



MEMORANDUM

DATE: November 10, 2010
TO: Pamela Smith
FROM: Chief William Tomlinson
SUBJECT: MOU

I've attached a Memo of Understanding for the eTrace application to be placed on the City Council agenda. The Bureau of Alcohol, Tobacco, Firearms and Explosives will provide participating agencies with a paperless firearm trace submission system and trace analysis module that is accessible through a connection to the World Wide Web. This application, known as eTrace, provides the necessary utilities for submitting, retrieving, storing and querying firearms trace related information relative to our jurisdiction.

/cad

September, 28 2010

Detective Slater,

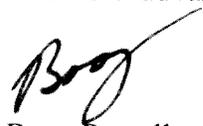
This is the Memorandum of Understanding (MOU) for the eTrace application. The MOU must be signed and dated by Chief Tomlinson on page 7. You need to sign as the primary Point of Contact (POC) on page 8, as does Detective Steele as the alternate POC. Your Agency selects the personnel you want to have "User Accounts" and may be as few or as many as your mission dictates. You will need to do that once you have been placed on-line by the National Tracing Center (NTC). I have enclosed a copy of the POC duties and functions to assist you with this. Any future changes, additions or deletions of Users must be made by you as you are the POC and responsible for maintaining your agency's user list. Once the paperwork is completed by you please mail it back to me in the provided envelope (DO NOT MAIL IT TO THE NATIONAL TRACING CENTER) at the following address:

Boog Powell
Bureau of Alcohol, Tobacco, Firearms and Explosives
923 U.S. Highway 301 South
Tampa, FL 33619

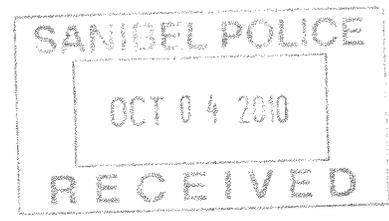
I will then make a copy for my files and mail the package to the NTC. After all the Users are registered, contact me and we can setup a formal training session(s) at your convenience. Please make a copy of the MOU for your files.

I have enclosed an informational CD, DVD and other literature for your use. If you have any questions please call me at 813-612-2464.

Thanks in advance,


Boog Powell

Robert "Boog" Powell
Firearms Crime Analyst
Tampa Intelligence Group
Bureau of Alcohol, Tobacco, Firearms and Explosives
robert.powell@atf.gov
813-612-2464
813-663-3939 (fax)





BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

**MEMORANDUM OF UNDERSTANDING REGARDING THE
eTRACE INTERNET BASED FIREARM TRACING APPLICATION**



**Memorandum of Understanding
between the
SANIBEL POLICE DEPARTMENT
and the
Bureau of Alcohol, Tobacco, Firearms and Explosives**

Article I. Purpose and Authority

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) would like to extend their on-going commitment to the law enforcement community by providing participating agencies with a paperless firearm trace submission system and trace analysis module that is readily accessible through a connection to the World Wide Web (Internet). This application, known as eTrace, provides the necessary utilities for submitting, retrieving, storing and querying firearms trace related information relative to your jurisdiction. The firearms tracing process is a valuable service offered by ATF to the global law enforcement community. Information acquired through the firearm tracing process can be utilized to solve individual cases, to maximize the investigative information available for use in identifying potential illegal firearms traffickers, and to supplement the analysis of crime gun trends and trafficking patterns.

Law Enforcement agencies that make a commitment to comprehensive crime gun tracing will be provided with an information platform for developing the best investigative strategies for the reduction of firearms-related crime and violence. ATF has made a concerted effort to leverage existing information technology to better assist law enforcement agencies in the investigation of illicit firearms trafficking as well as the interdiction of firearm sources to juveniles, youth offenders and other prohibited persons. This Memorandum of Understanding (MOU) is intended to formalize a partnership between the participating agencies with regard to policy and procedures relative to the access and utilization of eTrace services.

The parties enter into this MOU pursuant to 31 U.S.C. § 6305; the E-Government Act of 2002, Public Law No. 107-347; and the Government Paperwork Elimination Act of 1998 (GPEA), Public Law No. 105-277.

Article II. Background

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is a law enforcement organization within the United States Department of Justice with unique responsibilities dedicated to reducing violent crime and protecting the public. ATF enforces the Federal laws and regulations relating to alcohol, tobacco, firearms, explosives and arson by working directly and in cooperation with others to:

- Suppress and prevent crime and violence through enforcement, regulation, and community outreach
- Support and assist federal, state, local, and international law enforcement.
- Provide innovative training programs in support of criminal and regulatory enforcement functions
- Ensure fair and proper revenue collection. Provide fair and effective industry regulation

ATF recognizes the role that firearms play in violent crimes and pursues an integrated enforcement and regulatory strategy. Investigative priorities focus on armed violent offenders and career criminals, narcotics traffickers, narco-terrorists, violent gangs, and domestic and international arms traffickers.

Sections 924(c) and (e) of Title 18 of the United States Code provide mandatory and enhanced sentencing guidelines for armed career criminals and narcotics traffickers as well as other dangerous armed criminals.

As part of ATF's unique enforcement powers the Congress of the United States has provided ATF with two federal sentencing laws that mandate minimum mandatory sentences for defendants convicted of offenses relating to the possession of a firearm in violation of the Gun Control Act of 1968. Under Title 18, United States Code, Section 924(c), defendants convicted of possessing a firearm during the commission of an offense defined as a federal crime of violence or a drug trafficking crime shall receive an additional 5 years imprisonment added to the punishment for the original offense. Under Title 18, United States Code, Section 924(e), a defendant convicted of illegally possessing a firearm in violation of Section 922 (g) who has three previous convictions for an offense defined as a violent felony or as a serious drug trafficking offense shall be imprisoned not less than 15 years.

ATF uses these statutes to target, investigate and recommend prosecution of these offenders to reduce the level of violent crime and enhance public safety. ATF also strives to increase State and local awareness of available Federal prosecution under these statutes. For more information about the use of these statutes please contact your local ATF office.

Article III. Scope

The purpose of this MOU is to establish an interagency agreement governing the access and utilization of eTrace. In addition, the MOU will designate a primary and alternate point of contact within your agency. The agency point of contact will be charged with ensuring adherence to the MOU between the Bureau and the client agency users. The MOU will require the designated agency point of contact to identify individuals from their respective agency who will require system access, to periodically validate the list of users, and to notify the National Tracing Center immediately in the event that it becomes necessary to revoke or suspend a user's account.

Article IV. Interagency Communications

The participating law enforcement entity and the Bureau of Alcohol, Tobacco, Firearms and Explosives agree that a principal point of contact within each organization shall coordinate all communications and tasks under this MOU. The designated points of contact (POC) shall be as follows:

ATF Field Division Name: Tampa Field Division

Address: 400 North Tampa Street
Suite 2100
Tampa, Florida 33602

	Designated ATF Contact	Alternate ATF Contact
Name:	Robert "Boog" Powell	William T. McFarland
Title:	Firearms Crime Analyst	Firearms Crime Analyst
Phone #:	(813) 612-2464	(904) 380-5500

Participating Law Enforcement Agency Name: SANIBEL POLICE DEPARTMENT

Agency Address: 800 DUNLOP ROAD
SANIBEL, FL 33957

	Designated Law Enforcement Agency Primary POC	Designated Law Enforcement Agency Alternate POC
Name:	JOHN SLATER	MARK STELE
Title:	DETECTIVE	DETECTIVE
Phone #:	(239) 472-3111 xtn 240	(239) 472-3111 xtn 237

Article V. Responsibilities and Procedures

In becoming an approved user of the eTrace application, the involved parties hereby acknowledge and accept the following responsibilities and procedures:

A. Responsibilities of the participating Law Enforcement Agency

The Participating Law Enforcement Agency shall:

1. Appoint a primary and alternate point of contact within your agency. The above appointed individuals will be responsible for providing and maintaining a list of all personnel within your department that will require access to eTrace.
2. The designated POC(s) within your agency will be responsible for completing "Attachment A" (Agency Approved eTrace Users) of this MOU. Any individuals within your agency who will require access to eTrace must be listed on Attachment A as agency approved users.
3. The designated POC(s) will immediately notify the ATF National Tracing Center in the event that an individual's eTrace account needs to be suspended or revoked for any number of reasons, to include (but not limited to): employee transfer, retirement, or release from employment. Initial notification for account revocation can be made by contacting the eTrace Customer Support Group @ (800) 788-7133. However, official notification to the National Tracing Center must be provided by completing Attachment B of this MOU and mailing the original copy to the NTC.
4. Once this MOU and relative attachments have been completed and signed by all involved parties, the original copies should be mailed to the ATF National Tracing Center at the following address:

Bureau of Alcohol, Tobacco, Firearms and Explosives
National Tracing Center Division
244 Needy Road
Martinsburg, WV 25401
Attn: eTrace Customer Service Group

Phone: (800) 788-7133

B. Responsibilities of the Bureau of Alcohol, Tobacco, Firearms and Explosives:

The appointed ATF Field Division representatives shall:

1. Coordinate all communications and tasks listed under this MOU and serve as a liaison between the participating law enforcement agency and the National Tracing Center Division.

The ATF National Tracing Center (NTC) Division shall:

1. Upon receipt of this signed MOU, initiate a phone call to the designated POC and provide detailed instructions on the process of requesting and receiving an eTrace user account.
2. Review all applications for eTrace access in a timely manner and facilitate the provisioning of accounts to include relative user identifiers and passwords. Once accounts are activated, a representative from the NTC will contact each individual user and provide them with their account information.
3. Upon receipt of a request for account revocation, the NTC will immediately deactivate the said user account.
4. Provide the participating law enforcement agency's designated POC and the responsible ATF Field Division with an annual (or upon request) listing of agency approved eTrace users for review and auditing purposes.

Article VI. Conditions

- Both ATF and the participating law enforcement agency acknowledge their understanding that the eTrace application is intended "FOR OFFICIAL LAW ENFORCEMENT USE ONLY". The federal government may monitor and audit usage of this system, and all persons are hereby notified that use of this system constitutes consent to such monitoring and auditing. Unauthorized attempts to upload information and/or change information on these web sites are strictly prohibited and are subject to prosecution under the Computer Fraud and Abuse Act of 1986 and Title 18 U.S.C. Sections 1001 and 1030.
- The parties acknowledge that the eTrace application will only be accessed and utilized from your official duty station and/or alternate task force locations. However, under isolated and stringent circumstances eTrace can be accessed from an alternate location, specifically in furtherance of Law Enforcement activities.
- The parties agree that premature disclosure of certain firearms trace information can reasonably be expected to interfere with pending or prospective law enforcement proceedings. This law enforcement sensitive information includes data that can link a traced firearm to: the location of a crime; the Federal firearms licensee; retail purchaser or possessor of a traced firearm; or to firearms trafficking patterns involving a traced firearm. It is agreed that the law enforcement sensitive firearms trace information generated pursuant to this agreement shall not be disclosed to a third party without the consent of both parties of this agreement, subject to State and Federal law. The parties agree to notify all other parties to the MOU prior to the release of any sensitive firearms trace information to a third party under State or Federal law.

- **IT IS FURTHER AGREED THAT PRIOR TO THE INITIATION OF ANY INDEPENDENT FIREARMS TRAFFICKING INVESTIGATIONS BY THE PARTICIPATING LAW ENFORCEMENT AGENCY (BASED ON FIREARM TRACING DATA OBTAINED VIA ETRACE), THE INTELLIGENCE GROUP AT THE ABOVE REFERENCED ATF FIELD DIVISION WILL BE CONTACTED. This critical step will not only allow for the further collaboration of valuable investigative information, but will also assist in ensuring the effectiveness and overall safety of investigating officers.**
- It is understood that any report or trace result generated through the use of eTrace does not constitute a fulfillment of the Interstate Nexus requirement in any Federal, State or Administrative legal process or litigation. That expert testimony or Interstate Nexus determination is made through trained experts who must be contacted at the local ATF Field Office or Field Division Directorate.
- The parties agree that a 'crime gun' is defined as "any firearm that is illegally possessed, used in a crime, or suspected by law enforcement officials of having been used in a crime".
- The parties agree that the ATF, National Tracing Center will be designated as the central recipient of all information entered into the eTrace application relative to crime gun recoveries. The participating law enforcement agency agrees to make every effort to provide complete and accurate firearm trace-related information to include: recovery location, possessor information and associated individuals. Law Enforcement agencies that make a commitment to comprehensive crime gun tracing will be provided an information platform for developing the best local investigative strategies for their community in the reduction of firearm related crime and violence.

Article VII. Conclusion

It is the intent of the signatories that this MOU ensures coordination, cooperation and the mutual conduct of enforcement and research activities relative to the eTrace application. The result of this mutual cooperation and coordination will be the successful prosecution of illegal firearm crimes in State and Federal jurisdictions as well as the development of an accurate picture of the illegal firearms market and the inception of new strategies to effectively interrupt this market and impact the rate of firearm related violence.



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**MEMORANDUM OF UNDERSTANDING - ATTACHMENT: A
AGENCY APPROVED POINTS OF CONTACT FOR
THE ETRACE APPLICATION**

Participating Law Enforcement

Agency Name:

SANIBEL POLICE DEPARTMENT

Agency Address:

800 DUNLOP ROAD

SANIBEL, FL 33957

	Designated Law Enforcement Agency Primary POC	Designated Law Enforcement Agency Alternate POC
Name:	JOHN SLATER	MARK STELE
Title:	DETECTIVE	DETECTIVE
Phone #:	(239) 472-3111 xtn 240	(239) 472-3111 xtn 237
Email Address:	JOHN.SLATER@MYSANIBEL.COM	MARK.STEELE@MYSANIBEL.COM
Last 4 of SSN		
Date of Birth	9/29/1941	3/9/1961
Signature:		
Date:		