



August 6, 2008

**An Open Letter to the Senator McCain and Senator Obama**

Dear Senator McCain and Senator Obama:

Mayors Against Illegal Guns is a bi-partisan coalition founded in 2006 with just 15 mayors that has grown to more than 325 mayors from around the country, representing more than 55 million Americans in big cities and small towns. Public safety is every mayor's number one priority, and the most prevalent and dangerous threat to public safety is – hands down – illegal guns. This year, our coalition has adopted a legislative agenda that focuses on fixing our nation's broken federal background check system. We urge you to review the questionnaire and let us – and the American people – know where you stand.

This coalition believes fighting illegal guns is an urgent problem because the price for failing to address it is paid with innocent American lives – and across the country the trends are getting worse. Based on the latest estimates released by the FBI, violent crime in the U.S. has increased 2.8% from 2004 to 2007. Also, the National Law Enforcement Officers Memorial Fund reports that fatal shootings of police officers were up an alarming 26% from 2006 to 2007.

Currently, as you both know, it is easy for criminals and terrorists to evade the federal background check system. Closing those loopholes is essential to stopping criminals – and potentially terrorists – from murdering innocent people and putting all of us at risk. We have been encouraged by prior statements that both of you have made concerning the flaws of the federal background check system, and we hope that this will be an area where common sense – not politics – will prevail.

As mayors, we are at the center of the battle against crime and illegal guns, but it is not a problem we can solve acting alone. Illegal gun trafficking crosses states lines. Cracking down on it will require both local alliances and national leadership. That is why we have formed this coalition. It is why we need support from Washington. And it is why we are asking you to share your views on six critically important issues.

We request that you reply to these questions by September 8, 2008.

You should know that the Mayors Against Illegal Guns coalition will not endorse a candidate for president. However, your answers will be made available to mayors within the coalition to assist them in their choices. Your answers will also be made available to the general public to inform the debate on these important issues of national concern.

Sincerely,  
Mayors Against Illegal Guns



## MAYORS AGAINST ILLEGAL GUNS: PRESIDENTIAL QUESTIONNAIRE

Please submit your responses by **September 8, 2008**:

### **FEDERAL ISSUES ON WHICH THE MAYORS AGAINST ILLEGAL GUNS COALITION HAS ENDORSED A POSITION**

1. **Gun Show Loophole:** Currently, licensed gun dealers are required to run criminal background checks on all buyers, but a gap in the law enables criminals to avoid these checks if they buy from gun-sellers who don't have licenses. Often operating at gun shows, these unlicensed sellers give criminals the opportunity to sidestep the background check system and easily purchase guns. ATF has reported that about 30% of their investigations into illegal gun trafficking involve guns purchased at gun shows. Mayors Against Illegal Guns has endorsed closing the gun show loophole.

Senator Obama, you have indicated that you support “requiring background checks and closing the gun-show loophole that has been exploited by everyone from foreign terrorists to the Columbine High School shooters”<sup>1</sup> and have said recently: “We can work together to enact common-sense laws, like closing the gun show loophole and improving our background check system, so that guns do not fall into the hands of terrorists or criminals.”<sup>2</sup>

Senator McCain, you have said “convicted felons have been able to buy and sell thousands of guns at gun shows because of a loophole in the law. Many were later used in crimes. That’s wrong. Close the loophole”<sup>3</sup>; and, more recently you said: “I have supported efforts to have NICS background checks apply to gun sales at gun shows. I recognize that gun shows are enjoyed by millions of law-abiding Americans. I do not support efforts by those who seek to regulate them out of existence. But I believe an accurate, fair and instant background check at guns shows is a reasonable requirement. I also oppose efforts to require federal regulation of all private sales such as the transfer between a father and son or husband and wife.”<sup>4</sup>

*As President, will you commit to push for the passage of legislation in Congress to require background checks on all gun sales at gun shows in 2009?*

2. **“Terror Gap”:** Six years after 9/11, the federal government still lacks the authority to prevent gun sales to suspects on terror watch lists. The Justice Department’s inability to identify and stop these suspects when they attempt to purchase guns represents a dangerous “Terror Gap” in federal laws. A 2005 GAO study found that suspected terrorists were able to purchase guns from dealers on 47 occasions in just a nine-month period because of the terror gap. Legislation has been introduced to close the Terror Gap by giving the Department of Justice the authority to stop a gun sale to a terror suspect. The Bush Administration and the Department of Justice have endorsed the legislation.

Senator McCain, you have said “I take a backseat to no one in my support of Second Amendment rights. But this right, which Americans have fought and died for, does not extend to terrorists, criminals and illegal aliens.”<sup>5</sup>

Senator Obama, you have indicated a concern that terrorists may acquire firearms and said, “We can work together to enact common-sense laws, like closing the gun show loophole and improving our background check system, so that guns do not fall into the hands of terrorists or criminals.”<sup>6</sup>

*As President, would you support passage of S.1237/H.R.2074 or other similar legislation to close this Terror Gap in federal laws?*

3. **Federal Firearms Licensee (FFL) Employee Background Checks:** Under the current law, if a person is prohibited from buying guns – because he or she has a felony record or has been adjudicated as mentally defective, for example – that person cannot sell guns either. But the law does not require dealers to conduct background checks on their employees, even though they already use the background check system in their stores every day. Legislation has just been introduced to make background checks for all employees handling firearms at FFLs mandatory.

*As President, would you support passage of H.R.6676 or other similar legislation that would require that people behind the counter at gun stores pass the same background check as their customers?*

4. **Dealer Inventory Sell-offs:** When the federal government has shut down a gun dealer for selling illegally, it has nevertheless permitted dealers to sell off inventory – *without* conducting background checks. The dealer is permitted to do so by simply converting their business inventory to their private collection, at which time they can continue to sell hundreds of guns – without background

checks – as an “occasional seller” rather than as a licensed gun dealer. It is the same seller, selling the same guns – but with all the safeguards removed. These inventory sales for dealers who lose licenses reward instead of punish the gun dealers who break the law. Legislation has been introduced to end such inventory sell-offs to the public, while allowing dealers who lose their licenses to sell or transfer inventory to other FFLs.

*As President, would you support passage of H.R.6664 or other similar legislation to put an end to the practice of allowing gun dealers whose licenses have been revoked for selling guns illegally to continue selling guns in their inventory without doing background checks?*

5. **Tiahrt Amendment:** In 2004, Congress put in place an appropriations restriction that limits access by local law enforcement, cities, and states to crime gun trace data, which is critical for catching criminals, illegal traffickers, and dealers who break the law. According to ATF, 57% of guns recovered in crimes originate from just 1.2% of gun dealers – yet the Tiahrt Amendment has prevented cities and states from identifying these dealers. Our coalition of hundreds of mayors, 10 national police organizations – including the National Sheriffs’ Association and the International Association of Chiefs of Police – and 22 state and regional police groups have called on Congress to repeal the Tiahrt Amendment restrictions.

Senator McCain, you have said that crime gun trace information “is not top secret data that jeopardizes our national security, or hinders law enforcement. We cannot have a government that operates in secret and refuses to release information that shows where criminals have obtained a gun.”<sup>7</sup>

Senator Obama, you have said indicated that you will “repeal the Tiahrt Amendment, which restricts the ability of local law enforcement to access important gun trace information, and give police officers across the nation the tools they need to solve gun crimes and fight the illegal arms trade.”<sup>8</sup>

*As President, would you eliminate the Tiahrt Amendment crime gun trace data restrictions in your budgets for the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)?*

6. **Mental Health Records and Background Checks:** Federal law currently prohibits persons determined to be mentally unstable from purchasing or possessing firearms. As you may know, under this existing prohibition, Seung-Hui Cho, the Virginia Tech shooter, was legally prohibited from buying guns. Unfortunately, millions of mental health records are currently missing from the

federal NICS background check database. According to the Department of Justice and nonpartisan congressional Office of Technology Assessment, only about one-sixth of the people who should be prevented from having guns under federal law due to mental illness are included in NICS Mental Defectives database. Mayors Against Illegal Guns supports full funding of the NICS Improvement Amendments Act of 2007, which Congress passed unanimously and was signed into law by President Bush on January 8, 2008, that seeks to ensure that states provide all mental health records of persons already prohibited from buying guns to the federal NICS background check database.

Senator Obama, you have said that the country must do a “more effective job of enforcing our gun laws, strengthening our background check system.”<sup>9</sup>

Senator McCain, your campaign website says that you support “instant criminal background checks to help prohibit criminals from buying firearms and has voted to ensure they are conducted thoroughly, efficiently, and without infringing on the rights of law abiding citizens.”<sup>10</sup>

*Will your first proposed budget include full funding of the NICS Improvement Amendments Act of 2007?*

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<sup>1</sup> Obama campaign website, accessed July 24 2008, Urban Policy section, <http://www.barackobama.com/issues/urbanpolicy/#crime-and-law-enforcement>

<sup>2</sup> Obama campaign statement, June 26, 2008, available at <http://my.barackobama.com/page/community/post/stateupdates/gG5NxL>

<sup>3</sup> Americans For Gun Safety TV ad campaign, October 2000, transcript at [http://www.campaignadvantage.com/services/websites/archive/ags/ad\\_mccain.html](http://www.campaignadvantage.com/services/websites/archive/ags/ad_mccain.html)

<sup>4</sup> Remarks before NRA convention, May 16, 2008, cited at [http://www.pbs.org/newshour/vote2008/blog/2008/05/mccain\\_urges\\_closing\\_gun\\_show.html](http://www.pbs.org/newshour/vote2008/blog/2008/05/mccain_urges_closing_gun_show.html)

<sup>5</sup> Congressional Record – Senate, Statements on introduced bills and joint resolutions, October 31, 2003, page S13711, available through searching at [www.thomas.gov](http://www.thomas.gov)

<sup>6</sup> Obama campaign statement, June 26, 2008, available at <http://my.barackobama.com/page/community/post/stateupdates/gG5NxL>

<sup>7</sup> Senate remarks, Congressional Record – Senate, January 21, 2004, page S87 [http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S87&dbname=2004\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S87&dbname=2004_record)

<sup>8</sup> BarackObama.com, “Plan to Stimulate Urban Prosperity”, Barack Obama Campaign website, <http://www.barackobama.com/issues/urbanpolicy/#crime-and-law-enforcement>

<sup>9</sup> Remarks at a press conference, February 15, 2008, cited at [http://www.swamppolitics.com/news/politics/blog/2008/02/barack\\_obama\\_comments\\_on\\_shoot.html](http://www.swamppolitics.com/news/politics/blog/2008/02/barack_obama_comments_on_shoot.html)

<sup>10</sup> “Protecting Second Amendment Rights,” accessed July 24, 2008, <http://www.johnmccain.com/Informing/Issues/77636553-6337-4ecd-b170-49e1c07d2fbd.htm>