

Congress of the United States

Washington, DC 20515

July 18, 2018

The Honorable Kenneth E. Mapp
Governor
U.S. Virgin Islands
21-22 Kongens Gade
Charlotte Amalie, St. Thomas, VI 00802

Dear Governor Mapp:

On September 4, 2017, in preparation for the Hurricane Irma's landfall, you signed an executive order declaring a state of emergency for the U.S. Virgin Islands directing the Adjutant General of the National Guard to mobilize units as necessary to maintain or restore public order and to guarantee the safety of life and property on the islands.¹ The order, still in effect today, stated that, "the Adjutant General is authorized to seize arms, ammunition, explosives, and incendiary material and other property required" in carrying out the emergency mission.² This language appears to authorize the National Guard to seize lawfully owned firearms from citizens, in clear violation of their constitutional rights.

However, in an interview two days later on September 6, 2017, you explained that neither the language of the order nor Virgin Islands Code, allows the seizure of weapons from citizens.³ Instead, you stated that the order allows for the National Guard to spend government resources to acquire firearms and ammunition outside of normal government procurement processes.⁴ Yet, Virgin Islands Code, Title 23, Section 1552, explicitly referenced in the order, authorizes the Governor to direct the National Guard "to seize arms, ammunition, explosives, incendiary material, and any other property that may be required by the military forces."⁵

The inconsistency between the language in the executive order and Virgin Islands Code allowing for the seizure of legally owned firearms and your public statements regarding how the executive order will be implemented is concerning and potentially jeopardizes citizens' right to bear arms. While your comments indicate the National Guard will not be seizing lawfully owned firearms, weapon confiscations have occurred in similar circumstances. When Hurricane Katrina made landfall in New Orleans in 2005, then-Mayor Ray Nagin issued a similar order allowing

¹ OFFICE OF THE GOVERNOR, UNITED STATES VIRGIN ISLANDS EXEC. ORDER (Sept. 4, 2017).

² *Id.*, See also: 23 V.I.C. § 1522.

³ Tucker Carlson, *Gov of US Virgin Islands Seizes Guns Ahead of Hurricane Irma*, FOX NEWS, Sept. 6, 2017, available at <http://video.foxnews.com/v/5567022765001/?#sp=show-clips>.

⁴ *Id.*

⁵ V.I.Code Ann, titl. 23, §1522.

officers to confiscate lawfully owned firearms.⁶ This order was subsequently found unconstitutional⁷ and prompted the passage of legislation making it illegal for any officer or employee of the United States to confiscate legally owned firearms during support of relief operations for a major disaster or emergency.⁸

With this recent history in mind, we seek clarification on the executive order's language and implementation. Clearly delineating the scope of the executive order is critical as it has been extended several times over the past year without modification and currently remains in effect.⁹ Citizens deserve a clear answer on how the government of the Virgin Islands intends to implement this and any future emergency executive orders that may impact their constitutional right to bear arms and defend themselves in an emergency.

To assist in oversight of the application of the emergency order issued on September 5, 2017, please produce the following documents and information as soon as possible, but no later than 5:00 p.m. on August 1, 2018:

1. Documents sufficient to identify any policies, procedures, memoranda, or guidance on how the executive order is to be implemented by the Adjutant General of the Virgin Islands National Guard pursuant to his authority under Title 23 Section 1522 of the Virgin Islands Code "to seize arms, ammunition, explosives, incendiary material and any other property that may be required by the military forces."
 - a. If no such policies, procedures, memoranda or guidance documents exist, please provide an explanation of how the executive order is to be implemented by the National Guard of the Virgin Islands.
2. Documents sufficient to identify any policies, procedures, memoranda, or guidance detailing circumstances that may warrant the seizure of arms, ammunition, explosives, incendiary material, or any other property required by the National Guard.
3. Documents sufficient to identify any seizure or acquisition of arms, ammunition, explosives, incendiary material, or any other property by the National Guard of the Virgin Islands under the authority of the executive order.

Please deliver your response to room 1324 of the Longworth House Office Building and 2138 of the Rayburn House Office Building. We prefer if possible, to receive your response in electronic format. An attachment contains additional instructions for responding to the request.

⁶ Alex Berenson and John M Broder, *Police Begin Seizing Guns of Civilians*, THE NEW YORK TIMES, Sept. 9, 2005, <https://www.nytimes.com/2005/09/09/us/nationalspecial/police-begin-seizing-guns-of-civilians.html>

⁷ *NRA of Am., Inc. v. Nagin*, No. 05-4234 J(2), 2006 U.S. Dist. LEXIS 275 (E.D. La. Jan. 3, 2006).

⁸ Department of Homeland Security Appropriations Act, 2007, Pub. L. No. 109-295.

⁹ OFFICE OF THE GOVERNOR, UNITED STATES VIRGIN ISLANDS, RENEWAL ORDER AND PROCLAMATION DECLARING A STATE OF EMERGENCY (June 28, 2018).

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Please contact the House Committee on Natural Resources staff at (202) 225-7107 and the House Committee on Judiciary staff at (202) 225-3951 with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rob Bishop", with a stylized, flowing script.

Rob Bishop
Chairman
Natural Resources Committee

A handwritten signature in blue ink, appearing to read "Bob Goodlatte", with a stylized, flowing script.

Bob Goodlatte
Chairman
Judiciary Committee

Enclosure