



Department of Justice

STATEMENT OF
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DIRECTOR
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BEFORE THE
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

FOR A HEARING ENTITLED
OVERSIGHT OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS
AND EXPLOSIVES

PRESENTED

MAY 23, 2024

**Statement for the Record of Steven Dettelbach
Director
Bureau of Alcohol, Tobacco, Firearms and Explosives
U.S. Department of Justice**

**Before the Committee on the Judiciary
U.S. House of Representatives**

**At a Hearing Entitled
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**Presented
May 23, 2024**

Good morning, Chairman Jordan, Ranking Member Nadler, and members of this Committee. Thank you for inviting me to testify before you today. When I testified before you a year ago, I said that it is my great honor to represent the dedicated employees of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) who work tirelessly to protect the American people from violent crime. That is truer today than ever. Each day, across the country, ATF employees are making a real impact in the fight against violent crime. They act with great courage, perseverance, professionalism, and integrity, and I am extremely proud of, and humbled by, their service and commitment.

Last year, the United States saw one of the steepest declines in violent crime in our history. The extraordinary efforts made by ATF, our law enforcement partners, and this Administration's comprehensive violent crime reduction policies resulted in double digit drops in violent crime rates – including gun violence rates in many cities in 2023. Murders were down nearly 13% among 175 cities, down, for instance, 11.5% in New York, 15.5% in Los Angeles, 12.7% in Chicago, and, 20% in Baltimore. I have visited these places and worked with our law enforcement partners there. They believe, and I agree, that this progress tells us that our strategies are working, and that it is not time to let up; it is time to double and triple down on these efforts so that this decline continues. At ATF, that means ramping up our efforts using evidence-based, data-driven violent crime strategies to (1) identify and disrupt the trigger pullers who drive violence within our communities, and (2) stop the flow of firearms to the illicit market, where they far too often end up in the hands of those same trigger pullers or other individuals the law says cannot have them.

This is an especially important point to make today, the day before the two-year anniversary of the Robb Elementary School mass shooting in Uvalde, Texas, which claimed the lives of 19 children and two teachers and injured 17 others. In the wake of that tragedy, Congress passed the Bipartisan Safer Communities Act (BSCA). Among other goals, that law contained specific provisions aimed at helping law enforcement, including ATF, prevent the illegal movement of firearms into the hands of prohibited individuals. These bipartisan, common-sense efforts make a real difference, as they provide the invaluable law enforcement tools necessary to help identify, disrupt, and dismantle the root causes of gun crime.

Every day, together with our federal, state, local, Tribal, and territorial law enforcement partners, ATF seeks to use these legal tools supplied by Congress to keep our communities safe from gun crime. Together with our law enforcement partners, ATF does this, including by:

Enforcing the New Criminal Provisions in the Bipartisan Safer Communities Act. In June of 2022, Congress passed the BSCA, which gave ATF new criminal statutes—straw purchasing, 18 U.S.C. § 932, and firearms trafficking, 18 U.S.C. § 933—to protect the public from gun crime by holding those accused of supplying illicit weapons accountable. Since the BSCA’s enactment, the Department of Justice has charged over 480 defendants under BSCA’s new straw purchasing and firearms trafficking provisions. At ATF, these new tools are allowing our special agents to go after the criminals who flood our streets with weapons and put guns in the hands of individuals who are prohibited by law from having them. Just last month, for example, ATF used the BSCA to help:

- Bring straw purchasing charges against three Texas men for their alleged role in purchasing firearms and transporting them to a Mexican drug cartel.¹
- Secure an 84-month prison sentence for an Ohio man who pleaded guilty to being engaged in the business of dealing in firearms without a license and firearms trafficking after selling over 35 firearms.²
- Obtain a 23-year prison sentence for an Iowa man, who was charged, together with ten other members of a criminal street gang involved in the distribution of fentanyl, straw purchasing, firearms trafficking, and possession of machineguns, for his role in an investigation that involved 92 firearms.³

“Engaged in the Business” Rulemaking. In enacting the BSCA, Congress also chose to expand the category of people who must obtain a license and, therefore, conduct background checks before selling firearms. Decades ago, in the 1960s, Congress decided that anyone engaged in the business of dealing firearms for profit was required to get a federal license. In the 1990s,

¹ See USAO S.D. Tex. Press Release, *Three Indicted for Providing Firearms to Cartel del Noreste*, (April 30, 2024) available at www.justice.gov/usao-sdtx/pr/three-indicted-providing-firearms-cartel-del-noreste.

² See USAO N.D. Ohio Press Release, *Local Men Sentenced to Imprisonment for Illegal Trafficking in Firearms*, (April 19, 2024) available at www.justice.gov/usao-ndoh/pr/local-men-sentenced-imprisonment-illegal-trafficking-firearms.

³ See USAO S.D. Iowa Press Release, *Defendants Charged in Joint Federal, State, and Local Investigation of Firearms Trafficking and Drug Distribution*, (July 21, 2023) available at www.justice.gov/usao-sdia/pr/defendants-charged-joint-federal-state-and-local-investigation-firearms-trafficking. See also USAO S.D. Iowa Press Release, *OMB Gang Member Sentenced on Firearms Trafficking and Fentanyl Distribution Charges to 276 Months in Federal Prison* (April 8, 2024) available at www.justice.gov/usao-sdia/pr/omb-gang-member-sentenced-firearms-trafficking-and-fentanyl-distribution-charges-276.

Congress added a crucial requirement that those federal licensees run background checks when they sell guns, a system that has since prevented millions of felons and other prohibited people from buying a gun. In the BSCA, Congress expanded the category of people who must obtain a license and conduct background checks before selling firearms by making changes to the definition of “engaged in the business” as a dealer in firearms.

Illicit unlicensed dealing, firearms trafficking, and straw purchasing are not victimless crimes. If you illegally help arm violent people, then you too are responsible for the violence that far too often follows. Unfortunately, the data, and our common sense, tell us that there is a large and growing illicit market in firearms that are being sold by people who are in fact engaged in the business of dealing firearms, but doing so without a license. From 2021 to 2023, federal prosecutions for unlicensed firearms dealing increased by 52%. A recent ATF study, in fact, confirmed that, even before the BSCA expanded the definition of “engaged in the business,” unlicensed dealing was skyrocketing as a factor contributing to the illicit flow of firearms. This public safety issue, resulting in cases like the 2019 mass shooting in Midland-Odessa that killed seven and injured 17 more, including three police officers, was one of the reasons Congress passed the BSCA.

Just last month, ATF used the authority delegated under the Gun Control Act (GCA), as amended by the BSCA, to issue a Final Rule with a regulatory “Definition of ‘Engaged in the Business.’” This Final Rule was promulgated pursuant to the full notice-and-comment provisions of the Administrative Procedure Act. The Department of Justice issued the Final Rule after carefully considering and addressing almost 388,000 public comments. Even before this Final Rule went into effect, the Department of Justice and ATF were sued to block the enforcement of this critical regulation. Therefore, while I am limited in what I can say regarding the Final Rule during the pendency of those lawsuits, I encourage you to read the Final Rule for a full understanding of its contents.⁴ To be clear, as I said when it was announced, the Final Rule does not:

- Infringe on the Second Amendment rights of the many law-abiding licensed firearms dealers and individuals who already play by the rules. These dealers already run legally required background checks. They already keep transaction records. They already sell firearms with serial numbers to help police in your districts trace crime guns and catch criminals. And they already work with the ATF to identify and report suspicious activity.
- Require universal background checks. Only Congress can require that every person who transfers or sells a gun needs a license. Rather, the Final Rule explains that the law does not say – and it has never said – that you are allowed to engage in the business of dealing firearms without a license so long as you do it at a gun show, on the internet, or through some other new or non-traditional media.

Rather, this Final Rule:

⁴ *Definition of “Engaged in the Business” as a Dealer in Firearms*, 89 FR 28968 (Apr. 19, 2024).

- Takes a practical approach aimed at identifying under current law, specific, identifiable actions, like purchasing credit card processing services to repetitively accept payment for firearms, that are likely to indicate that someone is in the business of selling guns with the intent to profit.
- Plainly identifies other circumstances, like occasional transfers to family members, that do not so indicate.
- Provides common sense clarity to make sure that true hobbyists and collectors can enhance or liquidate their personal collections without fear of violating the law.

Domestic and International Firearms Trafficking. Firearms violence is far too often facilitated by the ease with which criminals can obtain weapons from unlawful commerce, including those engaged in illicit dealing without a license, firearms trafficking, and straw purchasing. In fact, between 2017 and 2021, 60% of trafficked firearms went into the hands of previously convicted felons or other prohibited people. And thousands of those illicit firearms were used to commit crimes, such as murder, drug trafficking, aggravated assault, and home invasions.⁵

That is why ATF is focused on identifying, disrupting, and dismantling domestic and international firearms trafficking networks. Those include not only domestic networks, but also networks that transport firearms illegally from the United States to Mexico. Cross-border firearms trafficking does not occur only at the border any longer. Nor is it limited to cases with scores of firearms being illegally transported at once. Rather, the problem is often diffuse, with firearms trafficking many times involving the smuggling of only a few weapons at a time, from sources that penetrate far away from the border, into the interior of the United States. Accordingly, ATF uses every tool available to address international and domestic firearms trafficking, including Operation Southbound.

Operation Southbound, established in 2020, is ATF's signature initiative focused on degrading transnational crime organizations (TCOs) and the Mexican cartels' weapons trafficking capabilities. This operational initiative employs a whole-of-government effort that consists of nine interagency Firearms Trafficking Task Forces (FTTFs) deployed in eight cities along the Southwest Border with the sole focus on interdicting illegal firearms trafficking and then making cases. It aims to use these operations to stem the trafficking of firearms from the United States to Mexico. In addition to ATF, these task forces include participants from Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), Customs and Border Protection (CBP), and state and local law enforcement, as well as prosecutors in the pertinent United States Attorney's Offices and the Department of Justice's Criminal Division.

⁵ See National Firearms Commerce and Trafficking Assessment (NFCTA), *available at* <https://www.atf.gov/firearms/docs/report/national-firearms-commerce-and-trafficking-assessment-firearms-commerce-volume>.

This whole-of-government approach has proven effective, the data shows. Since 2020, Operation Southbound has resulted in a 40% increase in investigations of firearms trafficking into Mexico and a related 11% increase in firearm seizures.⁶ In 2023 alone, over 2,600 firearms destined for Mexico were seized—representing a 65.8% increase over 2022—while over 115,000 rounds of ammunition were also seized in 2023—representing a 19% increase from 2022.⁷

As these numbers indicate, in the last few months Operation Southbound has seen many successes. In March 2024, in Texas, five individuals were charged for attempting to traffic more than 100 military-grade firearms to a drug cartel in Mexico.⁸ Also, in March 2024, in California, 28 defendants associated with a criminal organization with ties to Mexico were charged for their involvement in drug and firearms trafficking that included over 936 pounds of meth, 5 pounds of fentanyl, and 50 firearms.⁹ These are just examples of the incredible and dangerous work ATF and our law enforcement partners are doing to stop southbound firearm trafficking.

Enhanced Regulatory Enforcement Initiative (EREI). ATF’s core mission is to protect the public from violent crime, including crimes involving the use of firearms. Part of that mission includes ensuring that the provisions of the GCA are followed, to help stem the flow of firearms into the black market and to prohibited persons. There is an important regulatory aspect to that effort. FFLs are often ATF’s first line of defense against illegal gun trafficking and are often a source of critical information that helps law enforcement across the country identify straw purchases and disrupt illegal trafficking schemes. However, a small number of FFLs that willfully violate the law must be held accountable, because they increase the risk that guns will fall into the hands of violent criminals.¹⁰ This sadly became evident, for example, in August 2023, when the

⁶ See Dept. of State Fact Sheet, *Third Meeting of the U.S.-Mexico High-Level Security Dialogue* (Oct. 13, 2023) available at <https://www.state.gov/third-meeting-of-the-u-s-mexico-high-level-security-dialogue/#:~:text=DOJ%27s%20Operation%20Southbound%2C%20led%20by,the%20number%20of%20firearms%20seized>.

⁷ See U.S. Embassy Mexico, *Fact Sheet: Biden-Harris Administration’s Ongoing Efforts to Stem Firearms Trafficking to Mexico* (June 14, 2023), available at <https://mx.usembassy.gov/fact-sheet-biden-harris-administrations-ongoing-efforts-to-stem-firearms-trafficking-to-mexico/>.

⁸ USAO W.D. Tex. Press Release, *Five Arrested in South Texas for Allegedly Trafficking Military Grade Firearms to Mexican Drug Cartel*, (March 25, 2024) available at <https://www.justice.gov/usao-wdtx/pr/five-arrested-south-texas-allegedly-trafficking-military-grade-firearms-mexican-drug>.

⁹ USAO E.D. Cal. Press Release, *“Operation SLO Ride” Dismantles Major Drug Trafficking Organization in Tulare County*, (March 14, 2024) available at <https://www.justice.gov/usao-edca/pr/operation-slo-ride-dismantles-major-drug-trafficking-organization-tulare-county>.

¹⁰ USAO D. Ariz. Press Release, *FFL Owner Sentenced to Prison for Illegally Providing a Firearm to Essa Williams, Alleged Shooter of Phoenix Police Department Officer Tyler Moldovan*, (Aug. 10, 2023) available at <https://www.justice.gov/usao-az/pr/fll-owner-sentenced-prison-illegally-providing-firearm-essa-williams-alleged-shooter>.

owner of an Arizona FFL was sentenced to prison for illegally selling a firearm to a prohibited person. The next day, this individual shot a Phoenix Police Officer using a different weapon.¹¹

The EREI is an effort to enforce existing provisions of the GCA. It is focused on violations that pose an inherent public safety risk, such as transferring a firearm to a prohibited person, not allowing ATF to conduct an inspection or failing to conduct a background check. These violations, when willful, are not mere “paperwork” violations. They put the American people at risk by allowing firearms to enter the illicit market.

FFLs are afforded robust due process protections throughout the inspection and revocation process, as they have been in the past. FFLs have the right to an administrative hearing, and they also can appeal a final license revocation for *de novo* review in federal court. Moreover, ATF strives for transparency with respect to its inspections process so the public can see for themselves how ATF enforces the inspection requirements established by Congress. For example, between July 2021 and December 2023, ATF has revoked the licenses of just 250 FFLs under this Policy, which amounts to less than 1.5% of the over 16,000 FFLs inspected during this period. And, these revocations are for good cause, since each violation was found to be willful. For example, in 2022, an FFL was revoked under the Policy after ATF found dozens of willful violations that included failure to conduct a background check prior to transferring a firearm on 12 occasions and transferring a firearm to a person who the FFL knew or had reasonable cause to believe was federally prohibited from possessing firearms on more than one occasion.¹² Violations such as these, when found to be willful, directly place the public at significant risk, which is why ATF must act.

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Of course, the efforts mentioned above are not exhaustive; they are just some of the examples of what we are doing at ATF to drive violent crime down. And despite our relative successes, we know, all too well, that there is still much more to do. Too many lives are being lost to gun violence every single day. Last year, more than 40,000 people died from gun violence in our country. And another 36,000 suffered gunshot wounds, often with life-changing injuries. These are not just numbers. They are our family members, friends, neighbors, and, most tragically, our children. Indeed, gun violence is now the leading cause of death for America’s children.

Just last week, our nation commemorated Police Week and honored our fallen officers. We know that, far too often, the victims of gun violence are members of law enforcement. By some counts, in 2023, 378 law enforcement officers were shot in the line of duty, 46 of whom died from

¹¹ USAO D. Ariz. Press Release, *FFL Owner Sentenced to Prison for Illegally Providing a Firearm to Essa Williams, Alleged Shooter of Phoenix Police Department Officer Tyler Moldovan*, (Aug. 10, 2023) available at <https://www.justice.gov/usao-az/pr/ffl-owner-sentenced-prison-illegally-providing-firearm-essa-williams-alleged-shooter>.

¹² See ATF Final Notice of Denial of Application, Revocation Suspension and/or Fine of Firearms License for The Gun Shop (May 10, 2022), available at www.atf.gov/docs/undefined/garywilliamgibbs84fci-24948508pdf/download.

their injuries.¹³ In 2024, this horrific trendline is reportedly up, with already 136 officers shot, including the tragic loss of four law enforcement officers, including a Deputy U.S. Marshal, in North Carolina as they approached a suspect wanted for illegally possessing a firearm.¹⁴ At ATF, we respond to every call for assistance when an officer is shot or shot at. We support our partners in their time of need. Just last week, after the tragic death of an officer in Euclid, Ohio, one of our federal law enforcement partners called me to emphasize what incredibly dedicated partners ATF have been in an investigation there.

Last week, I participated in Police Week activities, and I know many of you did as well. And, earlier this month, I attended Deputy U.S. Marshal Weeks' funeral. And last month, I held the first-ever Survivors of Gun Violence Summit at ATF HQ, with families of victims of gun violence from across the Nation.

These sobering events underline why I am here today. ATF is a small agency with a huge mission: to protect the American people from violent crime. It's what drives us at ATF. It's why we do everything we can to enforce the laws Congress has passed. It's why brave ATF agents run toward gunfire to protect strangers. It's why ATF inspectors work tirelessly to educate the FFL communities on the importance of the laws governing the transfer of firearms. And it's why ATF scientists perfect technologies and techniques to squeeze every ounce of evidence to help law enforcement solve crimes; it's why our analysts spend hours scouring data sets to generate actionable intelligence; and it's why our professional staff work tirelessly to support every aspect of this small agency's outsized mission.

Violent crime rates, while still unacceptably high, were down last year. For our part, ATF criminal enforcement efforts were up—with over 4.5% more defendants indicted and 8.5% more defendants convicted between 2022 and 2023. But these cases are not just statistics, they have a direct impact on public safety. ATF is the only federal law enforcement agency whose sole focus is to work with police and other partners to protect Americans from violent crime—whether it's by indicting 45 Minneapolis gang members involved in murder and drug trafficking or 7 Sinaloa Cartel Members for fentanyl and firearms trafficking, our enforcement efforts are having a very real effect on violent crime.

Although great strides were made last year, we must do more. While violent crime is down, it is not the time for celebration. Nor is it the time to curtail or defund efforts that are working. Rather, it is the time to come together, to double and triple down on successful strategies to protect the American people. Although we may have many differences, my hope is we can all agree that the level of gun crime remains wholly unacceptable in our country. Together we can, and we must, do more.

All our efforts are designed to reduce violent crime and make our communities safer using the tools Congress has given us. Mr. Chairman, Mr. Ranking Member, and Members of the

¹³ See Fraternal Order of Police Press Release, *378 Officers Shot in the Line of Duty in 2023* (Jan. 02, 2024), available at <https://fop.net/2024/01/378-officers-shot-in-the-line-of-duty-in-2023/>.

¹⁴ See Fraternal Order of Police, *Monthly Update: Officers Shot and Killed* (May 1, 2024), available at <https://fop.net/2024/05/fop-monthly-update-shot-and-killed-3/>.

Committee, thank you again for inviting me to testify today. I look forward to any questions you may have about ATF and our mission.