

**United States Senate**  
WASHINGTON, DC 20510

September 12, 2022

Director Steven Dettelbach  
Bureau of Alcohol, Tobacco, Firearms and Explosives  
99 New York Avenue, NE  
Washington, DC 20226

Dear Director Dettelbach,

Congratulations on your confirmation to lead the Bureau of Alcohol, Tobacco, Firearms and Explosives. It could not have come at a more important time: gun violence and firearms deaths are on the rise across the country. As you know, it is the duty of ATF to implement and enforce firearm laws and regulations to reduce the level of violent crime and enhance public safety. Below I have detailed several specific actions that I believe ATF should begin now to accomplish that goal. Please provide an update on the Bureau's progress, addressing each of the following areas, by September 30, 2022.

- On June 25, 2022, President Biden signed into law the Bipartisan Safer Communities Act (BSCA) (S.2938). While implementation of this law does not fall on ATF alone, the Bureau has an important leadership role in enforcing many of the law's key provisions.

First, the BSCA closed the "boyfriend loophole" for convicted domestic violence abusers who are or were in dating relationships. Now, it is illegal for these individuals to purchase or possess firearms. This is an incredibly important change in the law because domestic violence victims are five times more likely to be killed when abusive partners have access to a gun and a woman is as likely to be killed by a dating partner as a spouse. ATF must immediately work with the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) to ensure that all gun sellers and gun buyers are aware of these new restrictions. To bolster enforcement, the reauthorization of the Violence Against Women Act of 2022 signed into law on March 15, 2022, authorized the Attorney General to deputize state and local law enforcement to assist ATF in enforcing this provision. **I would appreciate an update on the Bureau's work to ensure that this new class of prohibited possessors do not illegally purchase firearms.**

Second, the BSCA created new federal straw-purchasing and trafficking offenses and toughened penalties for existing firearm offenses. ATF should immediately begin coordinating with federal, state, and local prosecutors and law enforcement officers to enforce these prohibitions and keep guns out of the hands of individuals who may not legally possess firearms. Significantly, the bill makes clear that any seller – including federal firearms licensees – may not make sales to any individual they know or have reasonable cause to believe is a straw purchaser or engaged in gun trafficking. This is a critical new tool which will allow law enforcement to hold gun sellers accountable when they sell firearms to individuals that have displayed clear signs they are engaged in unlawful gun trafficking. ATF can identify dealers at a higher risk of being targeted by gun traffickers and can institute a graduated approach for these high-risk dealers to take additional steps to protect public safety. **I would appreciate an update on how ATF plans to**

**communicate with federal firearms licensees about their responsibilities under the law and what facts would give them reason to believe a purchaser is engaged in unlawful gun trafficking.**

Cumulatively, these new and expanded criminal provisions will afford law enforcement greater power to pursue dangerous, armed criminals and stem the flow of illegal guns from states and cities with lax gun laws into states and cities struggling with rising gun violence. However, as you noted during your confirmation process, “Data show that communities of color have historically experienced disparate outcomes in our society, including our criminal justice system.” Countless studies have confirmed that racial disparities exist in law enforcement and prosecutorial decision-making. As ATF implements these new criminal provisions, it is incumbent on Bureau leadership to ensure that these new tools and power do not come at the expense of historically over-policed and over-prosecuted communities. The drafters of the BSCA included an explicit directive to the United States Sentencing Commission to consider mitigating factors when developing sentencing guidelines to ensure there are less severe criminal consequences for individuals who have been coerced to participate in a gun trafficking scheme, are themselves victims of domestic abuse, or have a limited role or culpability. **I would appreciate an update on the Bureau’s plans to use these new and expanded criminal penalties to prevent gun violence and illegal gun sales while preventing a disparate impact on historically marginalized communities.**

Finally, the Act clarified the definition of “engaged in the business” as it relates to the requirement of an unlicensed gun seller to register for a Federal Firearms License. There are many documented examples of unlicensed individuals selling multiple firearms without background checks to strangers they met online; that behavior should be clearly captured by the law. ATF should immediately review the new definition to determine whether it is appropriate to update the agency’s guidance, and the Bureau should work with gun shows and online marketplaces to crack down on those violating the law. Clear, up-to-date guidance on registration requirements is vital for the entire law enforcement community to help keep our communities safe and for citizens to understand their rights and responsibilities. **I would appreciate an update on any actions ATF is taking to ensure that all appropriate firearms sellers properly register for a Federal Firearms License, including any specific steps the Bureau may take on its own authority to further clarify which sellers are “engaged in the business.”**

- Current law allows a federally licensed firearm dealer to complete a transaction after three business days even if a delayed background check has not been completed. This flaw in the background check system, which allows thousands of sales to prohibited purchasers to proceed each year, became known as the “Charleston Loophole” after it allowed a gunman to purchase the weapon he used to murder nine people at the Emanuel AME Church there in 2015. The BSCA narrowed this loophole by allowing up to a total of ten business days for the National Instant Criminal Background Check System (NICS) to complete a background check on buyers younger than 21 years old prior to a sale being allowed to proceed.

However, in the absence of legislation to completely close the loophole, there is more ATF can do to keep guns out of the hands of dangerous individuals—even in cases where a sale goes ahead before a background check can be completed. Specifically, ATF can require dealers to notify the FBI when they complete a sale prior to the completion of a background check so that the FBI can prioritize completing these checks. Dealers are already required to provide additional information to the FBI on delayed checks under the NICS Denial Notification Act that was passed as part of the Violence Against Women Action Reauthorization of 2022. Providing information on when a firearm has been transferred can help NICS prioritize the hundreds of thousands of delayed

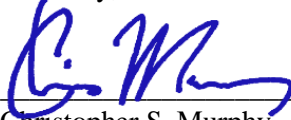
checks they are responsible for completing. When the FBI discovers a firearm has been sold to a prohibited purchaser, ATF must then prioritize retrieval of that firearm. **I would appreciate an update on ATF's plans to communicate with licensed dealers to expedite delayed background checks and the retrieval of firearms mistakenly sold to prohibited purchasers.**

- Ghost guns have proven to be one of the fastest growing gun safety issues across the country. Ghost guns are untraceable and undermine our federal gun laws by creating an easy path to acquire firearms outside of the law. The wide availability and simple manufacture of these untraceable firearms has led to a dramatic spike in recoveries of these weapons by law enforcement, but it is impossible to quantify how many remain in the wrong hands. The new ghost gun regulation and National Ghost Gun Enforcement Initiative are critical steps to bring these firearms under the law, shutting off the supply and addressing existing ghost guns that are unlawfully possessed. **I would appreciate an update on how ATF intends to enforce this regulation and ensure that companies currently making and selling ghost guns sellers are following the law.**
- Policymakers, law enforcement and the public are often in the dark about the sources of illegal guns and national gun trafficking patterns. The President has called for better data collection and reporting to shed light on this topic, and I understand that ATF is hard at work to produce a comprehensive gun trafficking report. We must have better insight into dealers that are supplying illegal guns, commercial marketplaces being exploited by gun traffickers, as well as other gun trafficking channels. Investing in a strong data analytics team with updated technology is essential to staying ahead of gun violence rather than just responding to tragedy. **I would appreciate an update on how ATF is developing its data analytics capacity, what resources it needs to be effective in this endeavor, and the projected timeline for release of the new gun trafficking report.**
- ATF has long acknowledged that private sales without background checks play a significant role in diverting firearms into illegal commerce. ATF's gun trafficking strike forces have uncovered that online marketplaces in states without background check laws are a dangerous source for criminals looking to acquire firearms. A recent bust revealed that gun traffickers acquired over 500 firearms in sales brokered over the internet before shipping those firearms across the country. It is critically important that ATF's strategy focus on the source of illegal guns and not just the individuals breaking the law. **I would appreciate an update on how ATF intends to investigate online gun marketplaces for illegal activity and ensure that the operators of those sites are not consciously disregarding the harm they are causing.**
- The President announced that disrupting access to firearms is part of the Administration's comprehensive effort to address suicide. Suicides comprise nearly two-thirds of gun deaths in this country. The fact is that most people who attempt suicide do not die—unless they use a gun. Across all suicide attempts without a gun, just 4% result in death. But when a gun is involved, that figure skyrockets to 90%. The President's directive required federal agencies, including ATF, to coordinate on a comprehensive strategy to improve lethal means safety as a tool to save lives. **I would appreciate an update on ATF's work to reduce and prevent gun-involved suicides, including the steps the Bureau is taking to incorporate feedback and data from suicide prevention experts, law enforcement, families, and survivors.**

- Each year licensed gun dealers report thousands of firearms either lost or stolen from their inventory. I recently joined my colleagues in expressing our concern to 28 shipping companies about potential lax security standards leading to firearm theft and loss. It is clear that similar issues exist throughout the firearm supply chain. Some gun stores are repeatedly targeted by thieves or routinely report lost firearms. Lost and stolen firearms are diverted into the criminal marketplaces. ATF has issued important guidance about dealer security and inventory management that too many dealers have not adopted, making them soft targets for thieves. **I would appreciate an update on how ATF is working with licensed gun dealers to identify and remedy security and inventory weaknesses.**

It is no secret that the survivors, families, and advocates who built the gun violence prevention movement have been eagerly awaiting a confirmed Director to lead ATF. That your confirmation coincided with the passage of the Bipartisan Safer Communities Act demonstrates that ordinary people across the country will no longer tolerate the status quo of daily gun violence, mass shootings, and suicides, fueled by weak firearm regulation and lax enforcement. Congress and the President have given the Bureau substantial authority and responsibility to prevent more violence, keep guns out of the wrong hands, and hold criminals accountable to the law. We have no time to lose, and I am confident that the Bureau, under your leadership, is up to the challenge. I look forward to hearing from you, and to continuing to work together on these issues.

Sincerely,



---

Christopher S. Murphy  
United States Senator