

**Written Testimony of Andrew Graham
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Submitted to the U.S. House of Representatives
Committee on the Judiciary
Select Subcommittee on the Weaponization of the
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Chairman Jordan, Ranking Member Plaskett, and distinguished members of the Select Subcommittee on the Weaponization of the Federal Government, my name is Andrew Graham, and I appreciate the opportunity to appear before you today to testify on an issue that impacted my career and truly hits home.

For 37 years, I proudly served in the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) in a variety of capacities and was a veteran of the USAF – National Guard. I was the Deputy Assistant Director of Field Operations over ATF’s Regulatory Inspection Program and the Deputy Assistant Director of Enforcement Programs and Services.

During that time, I worked alongside of some of the most talented men and women I know, who have done yeoman's work to provide for safer communities by enforcing the laws and regulations on the books to uphold the Constitution of the United States.

I developed strong relationships not only with ATF Special Agents, Industry Operations Investigators (IOIs), and Directors of Industry Operations (DIOs) but also with members of the firearm industry.

Some may find it surprising that ATF agents and IOIs both develop a rapport with firearm retailers. That relationship is critical as FFLs are often the first line of defense in keeping firearms out of the wrong hands by sharing tips with ATF on suspected illegal gun trafficking and straw purchasing of firearms.

I can tell you from my experience, including now as a consultant, that members of the firearm industry do not want firearms to land in the wrong hands. They strive to remain compliant with the myriad of federal laws and regulations.

In fact, as one of the most regulated industries, firearm retailers spend countless hours ensuring they are up to speed on current laws and regulations. But we are all human and even the best of retailers occasionally make mistakes. That was part of my job for 37 years with ATF to identify errors made, to help ensure they aren't repeated, to educate retailers, and to give them the opportunity to get back into compliance.

In the summer of 2021, President Biden announced a “Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety,” which included directing ATF “to revoke the licenses of dealers the first time, under a Zero Tolerance Policy, that they violate federal law by willfully 1) transferring a firearm to a prohibited person, 2) failing to run a required background check, 3) falsifying records, such as a firearms transaction form, 4) failing to respond to an ATF tracing request, or 5) refusing to permit ATF to conduct an inspection in violation of the law.”¹

¹ “Fact Sheet: Biden-Harris Administration Announces Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety.” The White House, 23 June 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/23/fact-sheet-biden-harris-administration-announces-comprehensive-strategy-to-prevent-and-respond-to-gun-crime-and-ensure-public-safety/>.

Revocation is the loss of a federal firearms license, and closes the business entirely, so this is a big deal. It's not just the loss of a license, but the loss of livelihood. For "willful" violations, however, this is necessary. As stated by ATF in 2014 when detailing the federal firearms license revocation process, "Willfulness is not defined in the regulations but is defined by case law to mean the intentional disregard of a known legal duty or plain indifference to a licensee's legal obligations.

In the case of an FFL who has willfully violated the law, has shown an intentional disregard for regulatory requirements, or has knowingly participated in criminal acts, revocation often becomes the only viable option."²

The problem is the breadth of the "Zero Tolerance" policy is much larger than the "rogue gun dealers" that this policy was supposedly carried out to address. With "willful" violations being redefined on an individual case-by-case basis, with enforcement complexities. It strained our relationships with FFLs who should have never been caught up in this new policy and damaged the cooperative trust that we have built.

² "Fact Sheet: FEDERAL FIREARMS LICENSE REVOCATION PROCESS." Bureau of Alcohol Tobacco, Firearms and Explosives, May 2014, <https://www.atf.gov/filc/11136/download>.

It has become so rampant that FFLs facing revocations that never would have faced them until now are either being pressured to shut down or deplete funds they don't have, to prove their innocence and justify keeping their doors open.

When I took the Oath of Office and joined the ATF, I never imagined that fighting to disrupt violent crime for safer communities entailed weaponizing a federal agency to lay the hammer down on the law-abiding, and it certainly wasn't how I envisioned my last chapter with the agency I've worked with for more than three decades of ending.

In December 2022, I made the tough decision to retire from civil service. In my time since leaving ATF, I have continued to do what I enjoyed while there—working with members of the firearms industry to ensure regulatory compliance—and in the event that FFLs are ensnared in this new policy, helping them to navigate the process to help preserve their livelihood and law-abiding business.

I look forward to answering your questions.