



Kelly Sampson, Senior Counsel and Director of Racial Justice at Brady
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Introduction

Chairman Jordan, Ranking Member Plaskett, and Distinguished Subcommittee members, I thank you for the opportunity to highlight gun violence, which indisputably threatens Americans each and every day.

Founded in 1974, Brady works across Congress, courts, and communities to end America's gun violence epidemic. Our organization carries the name of Jim Brady, who was shot and severely injured in the assassination attempt on President Reagan's life. Jim and his wife, Sarah, led the fight to pass the landmark Brady Bill 30 years ago.

Gun violence is a public health epidemic, leading to more than 44,000 deaths annually. Since 2020, gun violence has been the top cause of death for American children and teens, which is why each year thousands of kids *and their parents* plead for Congress to protect them. Despite our country's love of freedom, gun violence is the reason why many Americans no longer feel free to go to school, a July 4th parade, the movies, concerts, the grocery store, and places of worship. Gun violence is why many of your own constituents, gun owners and non-gun owners alike, are desperate for you and your colleagues to pass common sense gun laws and to ensure those laws are properly implemented. Gun violence is a crisis, and we cannot continue to disregard the threat it poses.

ATF is Essential to Combating Gun Violence

ATF is the only federal agency authorized to regulate firearms and the gun industry. In our current system, the United States cannot enforce gun laws and prevent violence without the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). ATF's mandate includes licensing and overseeing federally licensed firearms dealers (FFLs), who serve as the first line of defense between Americans and gun traffickers. In regulating FFLs, ATF can prevent gun trafficking, and the violence it leads to.

a. Oversight of the Gun Industry

Those who oppose passing any new firearms legislation often say that the country should “enforce the laws on the books.” Taking this argument in good faith, anyone who demands robust enforcement of current law should be advocating for ATF to have all the resources it needs. Instead, many of the same proponents for enforcing current gun laws are seeking to “defund” or even abolish ATF. Given the role of some gun industry actors in perpetuating gun violence, this is a mistake.

Almost all firearms in circulation are sourced from the lawful market. Generally, manufacturers and importers sell to distributors, who sell to dealers, who sell to the public. Dealers should screen for signs of gun trafficking, such as straw purchases, and most do so thoroughly. In fact, the large majority of gun dealers will not have a single crime gun traced to them in any given year. Rather, it is a small number of dealers whose negligent practices disproportionately filter guns directly into the criminal market: according to the last available data, nearly 70% of firearms that are traced to crime were sourced from just over 1% of licensed dealers.¹

Even though the portion of the gun industry disproportionately responsible for supplying crime guns is exceedingly small, the ATF nonetheless struggles to meet its own oversight goals because it has been systematically underfunded, under-resourced, and unfairly demonized for decades. Indeed, just this year, Congress voted to reduce ATF's budget, despite epidemic gun violence.

These obstructions erode ATF's oversight capacity, forcing hardworking law enforcement agents to regulate a behemoth industry with their arms tied behind their backs. This negatively affects State and local law enforcement investigations, which are left to pick up the pieces as irresponsible, negligent, or unlawful industry actors skirt accountability and contribute to the influx of guns into illegal activity and gun violence.

b. Assisting State and Local Law Enforcement

ATF also plays an essential role in supporting State and local law enforcement by generating investigative leads and information on guns recovered in crimes and facilitating important trainings for officers to better understand advancing firearm technology. These services strengthen State and local law enforcement, providing them with information, coordination, and education necessary to enforce existing laws and prevent future gun crimes.

ATF operates twenty-five Crime Gun Intelligence Centers (CGICs) across the nation;² these Centers serve as intelligence hubs that gather and analyze data and information from numerous levels of law enforcement in order to generate information necessary to track down investigative leads. CGICs amalgamate processes and techniques to generate information webs, including the National Integrated

¹ ATF, *Commerce in Firearms in the United States* 23 (2000).

² ATF, *Fact Sheet - Crime Gun Intelligence Centers (CGIC)* (June 2023), www.atf.gov/resource-center/fact-sheet/fact-sheet-crime-gun-intelligence-centers-cgic.

Ballistic Information Network³ (NIBIN) and the National Tracing Center⁴ (NTC). NIBIN uses ballistic imaging technology to analyze the unique marking on recovered shell casings, identifying matches between the casings and specific firearms. These matches can be used to generate links between firearms used in different crime scenes. For example, in 2022, Texas law enforcement officers, in collaboration with NIBIN, were able to link two seemingly unrelated gun violence incidents. By analyzing unique aspects of bullet casings, NIBIN and investigators were able to connect a 29-year old to both a fatal shooting of a 62-year old and an accidental shooting in a Walmart parking lot.⁵

While NIBIN focuses on connections in ballistics, the National Tracing Center (NTC) focuses on the path of firearms. The NTC utilizes the eTrace program,⁶ through which it shares trace information with state and local law enforcement agencies that have opted-in. When state and local authorities recover crime guns in their respective jurisdictions, they send the make, model, and serial number to ATF, which uses that information to trace the chain of custody of that firearm from its manufacturer or importer to its last known retail sale. These gun traces are critical for law enforcement agencies to investigate and solve firearm-related crimes as they allow them to develop investigative leads and tie firearms to a suspect. The number of crime gun traces conducted by ATF has steadily grown over the last several years. In 2022, the NTC processed *over 500,000* firearm trace requests for guns recovered in the United States,⁷ up from just under 340,000 in 2017.⁸ Without these types of investigative leads, State and local law enforcement would be greatly hindered in being able to solve firearm-related crimes.

ATF also provides law enforcement agencies with essential training on evolving firearm technology and investigative tactics. Law enforcement professionals must be able to collaborate with other agencies and remain up to date on evolving firearm technologies in order to effectively prevent and solve firearm related crime. ATF provides numerous training programs to State and local law enforcement that allow them to develop necessary investigative skills to solve complex crimes. First launched in 1999, the National Firearms Examiner Academy⁹ (NFEA) offers a year-long training program educating law enforcement of numerous jurisdictions on firearm forensics. The NFEA also offers individualized courses on Serial Number Restoration¹⁰ and Toolmark Examination, Comparison,

³ ATF, *National Integrated Ballistic Information Network (NIBIN)*, www.atf.gov/firearms/national-integrated-ballistic-information-network-nibin.

⁴ ATF, *National Tracing Center*, www.atf.gov/firearms/national-tracing-center.

⁵ Maggie Prosser, *How ATF Ballistic Database Helps Texas Police Solve Gun Violence Cases*, Officer.com (Nov. 28, 2022), www.officer.com/investigations/forensics/firearms-identification/news/21288339/how-atf-ballistic-database-helps-texas-police-solve-gun-violence-cases.

⁶ See ATF, *Fact Sheet - eTrace: Internet-Based Firearms Tracing and Analysis* (Apr. 2023), www.atf.gov/resource-center/fact-sheet/fact-sheet-ettrace-internet-based-firearms-tracing-and-analysis.

⁷ See ATF, *Top Calibers Recovered and Traced in the United States and Territories - CY 2022*, www.atf.gov/resource-center/docs/report/top-calibers-recovered-and-traced-united-states-and-territories-cy-2022.

⁸ ATF, *National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns, Volume Two, Part III: Crime Guns Recovered and Traced within the United States and its Territories 1* (Mar. 27, 2024).

⁹ ATF, *Firearms-Related Training for Law Enforcement*, www.atf.gov/careers/firearms-related-training-law-enforcement.

¹⁰ ATF, *Serial Number Restoration Training (Course ID FRMS-CS-0022)*, www.atf.gov/firearms/serial-number-restoration-training-course-id-frms-cs-0022.

and Identification.¹¹ Additionally, ATF offers education for law enforcement users of NIBIN, training them on how to perform acquisitions and correlations in the system.¹² Together, these programs provide Federal, State, and local law enforcement with the skills to engage in investigative firearm forensics. Additionally, the Project Safe Neighborhoods Enforcement Training course provides a jurisdiction's law enforcement agency and justice system with a multidisciplinary approach¹³ to combat violent crimes. This program facilitates a coordinated effort in investigating, prosecuting, and preventing firearm trafficking and gun violence incidents. In running these education programs, ATF is able to increase information-sharing and coordination between various law enforcement agencies. This cross-jurisdiction collaboration reduces the ability for gun traffickers and other bad actors to operate, reducing instances of gun violence and saving billions of taxpayer dollars.¹⁴

ATF serves as an essential partner to law enforcement agencies across the country and beyond. Yet, with limited resources, the Bureau is unable to fulfill its duty to State and local law enforcement efficiently and to its maximum capacity. For example, ATF classifies "routine" traces as taking seven to ten days to complete.¹⁵ Yet, in 2022, it was reported that non-expedited traces take an average of twelve to fourteen days to complete.¹⁶ These additional days matter when law enforcement is investigating violent crimes. The longer that perpetrators of violent crimes are not held accountable for their actions, the more lives are at risk.

1. c. Implementing and Enforcing the Law

In 2022, Congress passed the Bipartisan Safer Communities Act (BSCA), the first landmark gun violence prevention law enacted in nearly 30 years. Included in BSCA was a definition change about those who should be considered "engaged in the business" of dealing firearms, and as a consequence, should be licensed as an FFL.¹⁷ As ATF has sole federal jurisdictional authority over licensure and the firearms industry, it finalized a rule to provide the public and the industry clarity about what this definitional change meant.

Prior to the passage of BSCA, the Gun Control Act of 1968 (GCA) required those engaged in the business of firearms to obtain a federal firearms license and follow all attendant responsibilities, such as conducting Brady background checks. Although the Brady background check system has prevented over

¹¹ ATF, *Toolmark Identification and Comparison Training* (Course ID FRMS-CS-0027), www.atf.gov/firearms/toolmark-identification-and-comparison-training-course-id-frms-cs-0027.

¹² ATF, *NIBIN Training Outline and Guidelines*, at www.atf.gov/firearms/nibin-training-outline-and-guidelines.

¹³ The program is "a collaborative effort among the U.S. Department of Justice, the International Association of Chiefs of Police (IACP), the National District Attorney's Association, the National Crime Prevention Council and ATF." ATF, *Project Safe Neighborhoods Enforcement Training (PSN 3-day Program)*, www.atf.gov/firearms/project-safe-neighborhoods-enforcement-training-psn-3-day-program.

¹⁴ See Mark Follman et al., *The True Cost of Gun Violence in America*, Mother Jones (Apr. 15, 2015), www.motherjones.com/politics/2015/04/true-cost-of-gun-violence-in-america.

¹⁵ See ATF, *National Tracing Center*, www.atf.gov/firearms/national-tracing-center ("Traces classified as 'Routine' are completed within seven to ten days on average.").

¹⁶ See, e.g., ATF, *National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns, Volume Two, Part III: Crime Guns Recovered and Traced within the United States and its Territories* 1 (Mar. 27, 2024).

¹⁷ See 18 USC § 921(a)(21)(C)

four million prohibited firearms transfers since 1993, the narrow definition of “engaged in the business” included in the Firearm Owners Protection Act of 1986 (FOPA) had allowed unlicensed dealers to circumvent the background check process,¹⁸ threatening to public safety. Prior to the enactment of BSCA, one in five firearms sold in America were sold without a background check — resulting in millions of firearms potentially ending up in the hands of prohibited persons.¹⁹

These unregulated sales are far more than a mere loophole; unlicensed dealers are a deadly public safety threat. A recent ATF analysis has found that “unlicensed dealers were associated with the largest number of trafficked firearms (68,388) and averaged 20 trafficked firearms per investigation.”²⁰ And contrary to mischaracterizations, many of the individuals engaged in regular unlicensed gun sales were not hobbyists or one-off sellers, but repeated players in the firearms market. An amicus brief filed by several gun violence prevention organizations²¹ illustrates several instances of unlicensed individuals engaging in persistent gun sales to deadly effect.²² In one instance, an individual bought numerous guns from FFLs and immediately resold them, without completing background checks, to his “customers,” who were prohibited purchasers.²³ The man’s customers went on to commit several shootings, including one that killed a 2-year-old.²⁴ That is just one example of many situations in which unlicensed dealers have sold firearms to individuals who took innocent lives. That is why Congress passed BSCA and expanded the “engaged in the business” definition.

BSCA expanded the definition of “engaging in the business” of dealing firearms to apply to “a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business *to predominantly earn a profit* through the repetitive purchase and resale of firearms.”²⁵ Under the new definition, individuals who currently serve as unlicensed dealers now will be required to register as an FFL and conduct background checks on all sales and transfers they facilitate. This will greatly reduce the ability for gun traffickers and prohibited persons to circumvent the background check system and to divert firearms into illegal activity.

In order to provide additional clarification on what this new definition means to everyday Americans, the Justice Department announced on August 31, 2023 that it had submitted a notice of proposed rulemaking that would clarify the circumstances in which a person is “engaged in the

¹⁸ The Firearm Owners Protection Act (Pub. L. 99-308) included a four part test for determining if an individual was engaged in the business, most notably that the person was engaged with “with the principal objective of livelihood and profit.”

¹⁹ See Matthew Miller et al., *Firearm Acquisition Without Background Checks*, 166 *Annals of Internal Med.* 233 (2017). This statistic does account for ghost guns and ghost gun kits sales, discussed in the following pages.

²⁰ ATF, *National Firearms Commerce and Trafficking Assessment (NFCTA): Firearms Trafficking Investigations, Volume Three, Part XI: Summary and Conclusions 2* (May 21, 2024).

²¹ Amici are: Brady Center to Prevent Gun Violence; March for Our Lives; Giffords Law Center to Prevent Gun Violence; and Everytown for Gun Safety.

²² Brief for Brady Center et al. as Amici Curiae Supporting Defendants, *Texas v. ATF*, No. 24-cv-89 (N.D. Tex., May 14, 2024) (ECF No. 27-1).

²³ *Id.*

²⁴ *Id.*

²⁵ Bipartisan Safer Communities Act, Pub. L. 117–159, sec. 12002, 136 Stat. 1313, 1324 (2022) (codified at 18 U.S.C. § 921(a)(21)(C)).

business” of dealing in firearms. The rule was finalized on April 10 of this year, providing the public and the firearms industry with needed clarity about the changes authorized by Congress in BSCA.

Conclusion

Gun violence is an epidemic, and the constant deluge of gun violence threatens each and every resident and visitor in the United States. As the sole federal agency authorized to regulate firearms and the gun industry, ATF serves an essential function to law enforcement agencies nationwide and the American people. Yet, ATF faces repeated defunding and even threats of disbandment that cripple its effectiveness.

As you and your colleagues proclaimed in these very halls during Police Week just days ago, it is vital that we support law enforcement in their efforts to prevent and solve violent crime. If we truly support State and local law enforcement, then we must ensure they have access to the information and resources they need to complete their jobs and secure public safety. Therefore, Congress must fully fund the Bureau of Alcohol, Tobacco, Firearms, and Explosives so that they can continue to partner with other law enforcement agencies and prevent violent crime.

With proper funding, ATF provides appropriate oversight over the firearm industry — enforcing the nation’s gun laws, preventing firearm trafficking, and holding the individuals who break the law accountable for their actions. However, when ATF is under-resourced and hindered from completing its mandate, State and local law enforcement agencies are left to flounder independently and the firearm industry operates without a proper accountability system.

Polls show that gun violence prevention policies are overwhelmingly popular with the American people. Every day, gun violence impacts more and more of your constituents; and everyday more and more Americans are asking for commonsense measures to end gun violence. It’s never too late to save American lives. Use your power and take action to prevent gun violence today.