

Congress of the United States
Washington, DC 20515

March 28, 2022

Marvin Richardson
Acting Director
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue NE
Washington DC 20226

Dear Acting Director Richardson:

We are writing to request information about Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) firearm compliance inspections. In particular, the sharp decline in inspections in 2020, and the extremely low number of ATF revocations or denials of federal firearms licenses (FFLs), raises questions as to whether the ATF is adequately regulating the firearms industry.

We suffered a terrible toll of gun violence in Philadelphia in 2021, with fatal and non-fatal shootings at levels not seen for decades.¹ Philadelphia Police Department officials recently shared that homicides in the city are 12% higher than last year at the same date, with 86 people dead.² The factors for stopping violence are complicated, and our local law enforcement and community violence intervention programs are doing all they can. Still, we know that the majority of firearms used in crimes are purchased outside of Philadelphia and brought into the city.³

Crime guns come from multiple sources, but one clear way to cut off the supply of illegal guns is for FFLs to do all they can to prevent guns from being acquired by straw purchasers and gun traffickers while shutting down the rogue gun dealers who skirt the law. The ATF is responsible for making sure FFLs follow the law. However, we are concerned about the agency's limited number of FFL inspections in recent years.

¹ Katie Meyer, "Philly ends 2021 with over 550 people murdered. But community leaders say a 'peace movement' is building," WHYY, December 31, 2021, <https://whyy.org/articles/philly-ends-2021-with-over-550-people-murdered-but-community-leaders-say-a-peace-movement-is-building/>.

² Brian Saunders, "Philadelphia Police say homicides in pinpoint areas higher this year," *Philadelphia Tribune*, March 2, 2022, https://www.phillytrib.com/news/local_news/philadelphia-police-say-homicides-in-pinpoint-areas-higher-this-year/article_14a828ce-d183-5f83-934a-f5484840bda0.html.

³ Jeff Cole, "ATF lacks funding to crack down on Philadelphia's gun violence crisis, advocacy group says," FOX 29, February 4, 2022, <https://www.fox29.com/news/atf-lacks-funding-to-crack-down-on-ongoing-gun-violence-crisis-advocacy-group-says>.

FFL inspections are at the core of the ATF's mission and the key way to identify rogue gun dealers and take action to shut them down. Yet, between 2019 and 2020, the ATF's total inspections of FFLs dropped by 55%, from 13,079 in 2019 to 5,827.⁴ We recognize that COVID-19 presented challenges in 2020, but the ATF gave the firearms industry unprecedented leeway to continue in business (including the use of drive-up windows)⁵, and the industry posted record sales that year.⁶ Thus, it appears that 2020 was a year where the firearms industry benefited from both record-high sales and record-low regulatory scrutiny. The troubling pattern of low inspections continues today, as the last four months of data shows rates of inspection that would lead to even fewer inspections than in 2020.⁷

The bottom line is that this rate of inspection means thousands of gun dealers may avoid federal oversight. In 2020, ATF reported a total of 59,909 licensed gun dealers and pawnbrokers (Type 01 and Type 02 FFLs, respectively).⁸ It conducted only 4,633 inspections of these gun sellers. This means that ATF conducted inspections of just 7.7% of gun sellers in 2020. At that rate, it would take the ATF nearly 13 years to conduct inspections of all gun dealers and pawnbrokers. This disturbing pattern is reflected locally as well, as the ATF's Special Agent in Charge of the Philadelphia Field Division said the ATF falls short on yearly inspections of Pennsylvania's 3,100 federal firearms dealers.⁹ The data from 2020 shows that the ATF's Pennsylvania Field Division inspected only a scant 136 gun dealers and zero pawnbrokers.¹⁰

Further, ATF data indicates the percentage of inspections resulting in revocation or denial was only half a percent (26 out of 4,633 in 2020).¹¹ Yet, the same statistics indicate 41% of ATF inspections of gun dealers and pawnbrokers (1,940 inspections in total) resulted in a "report of violation," "warning letter," or "warning conference."¹² This low rate of revocation or denial, especially placed in the context of numerous inspections resulting in findings of violations, raises questions as to how many chances the ATF gives FFLs that skirt the rules. It is especially concerning due to recent reports that ATF officials routinely overruled inspector

⁴ ATF, "Fact Sheet - Facts and Figures for Fiscal Year 2020," <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-facts-and-figures-fiscal-year-2020> and "Fact Sheet - Facts and Figures for Fiscal Year 2019," <https://web.archive.org/web/20210318232807/https://www.atf.gov/resource-center/fact-sheet/fact-sheet-facts-and-figures-fiscal-year-2019>.

⁵ ATF, Letter to FFLs, April 10, 2020, <https://www.atf.gov/firearms/docs/open-letter/atf-business-premises-guidance-letter-4-10-2020/download>.

⁶ Kate Gibson, "US Gun Sales Surge to Record High in 2020", CBS News, November 3, 2020, <https://www.cbsnews.com/news/gun-sales-record-high-2020/>.

⁷ ATF, "Firearm Compliance Inspection Results," <https://www.atf.gov/firearms/firearms-compliance-inspection-results>.

⁸ ATF, "Firearms Commerce in the United States Annual Statistical Update 2021," <https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download>.

⁹ *Id.*

¹⁰ ATF, "Firearm Compliance Inspection Results," <https://www.atf.gov/firearms/firearms-compliance-inspection-results>.

¹¹ ATF, "Firearms Compliance Inspections," <https://www.atf.gov/firearms/compliance-inspections>.

¹² *Id.*

recommendations for license revocation.¹³ The ATF's Philadelphia Field Division reported that over 30 percent of the 136 gun dealers inspected were found to be in violation of the law, and of the 42 gun dealers that had violations, only two had their licenses revoked.¹⁴

We were pleased to see the recent announcements that the ATF will be formalizing the use of data-driven prioritization of inspection resources that will focus on dealers at the highest risk of selling guns that are later recovered in crime. It was also welcome that the ATF will establish a zero-tolerance policy for rogue gun dealers that willfully violate certain federal laws. This is exactly the kind of leadership we need from the ATF, and we are committed to supporting you with the resources needed in this endeavor.

As part of our oversight duties, and to ensure we have an understanding of the resources needed to carry out ATF's critical mission, we would like detailed answers to the following questions:

- 1. How many FFL compliance inspections were conducted in 2021 and 2022, broken down by FFL type, region, month, and disposition?**
 - a. How many of the gun sellers were recommended for license revocation under the zero-tolerance policy announced in June 2021? What were the violations, and how many of the licenses were revoked?
- 2. What were the reasons for such a sharp decline in inspections in 2020 that apparently has continued into 2021 and 2022?**
 - a. To the extent that the reduction was in part due to COVID-19 restrictions, how did the ATF shift resources and practices accordingly?
 - b. How were the resources used to conduct the additional 7,252 inspections in 2019 deployed in 2020 to ensure regulatory compliance by the industry?
- 3. How many of the 1,940 gun dealers and pawnbrokers that were found to have violations in 2020 were recommended by ATF inspectors for license revocation?**
 - a. How many of those 4,633 gun dealers would have qualified for license revocation under the new zero-tolerance policy?
- 4. How many of the 59,909 gun dealers and pawnbrokers have been identified for inspection under the new data-driven prioritization?**

¹³ Brian Freskos, Daniel Nass, Alain Stephens, and Nick Penzenstadler, "After repeated ATF warnings, gun dealers can count on the agency to back off; sometimes firearms flow to criminals," *USA Today*, May 27, 2021, <https://www.usatoday.com/in-depth/news/investigations/2021/05/26/gun-dealers-let-off-hook-when-atf-inspections-find-violations/7210266002/>.

¹⁴ ATF, "Firearm Compliance Inspection Results," <https://www.atf.gov/firearms/firearms-compliance-inspection-results>.

- a. What is the schedule for inspecting the gun dealers and pawnbrokers that are on the priority list?
 - b. What resources does the ATF need to complete inspections of these prioritized dealers within 2022?
 - c. What is the plan and schedule for inspecting gun sellers not on the priority list?
 - d. What resources and staffing levels are needed to inspect every gun dealer and pawnbroker within a three-year time period?
5. **For those gun dealers and pawnbrokers where violations are found during ATF compliance inspections but are not subject for license revocation, what does the ATF do to ensure violations are remedied?**
- a. The law allows for one unannounced compliance inspection of an FFL in a 12-month period unless the ATF has reasonable cause to believe a violation of this chapter has occurred or has a warrant issued by a magistrate judge.¹⁵ How does the ATF use this authority to continue to inspect gun sellers that have a history of compliance issues without having to wait 12 months for another inspection?
 - b. What is the schedule for inspecting the 1,940 gun sellers where ATF identified violations in 2020?
 - c. What is the ATF's policy for inspecting a dealer that was found to have violations?
6. **ATF statistics indicate that in 2020 ATF recommended 8,025 cases for prosecution, and that 5,181 convictions were obtained. Of the 5,181 convictions obtained in 2020, how many involved an FFL as a defendant?**

We are sure you share our goal of ensuring compliance by the firearms industry with federal law. Thank you for your prompt and personal attention to this request. We would appreciate a reply no later than April 15, 2022.

Sincerely,



Mary Gay Scanlon
Member of Congress



Madeleine Dean
Member of Congress

¹⁵ 18 U.S.C. § 923 (g)(1).

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Brendan F. Boyle
Member of Congress

Handwritten signature of Dwight Evans in blue ink.

Dwight Evans
Member of Congress