

United States Senate  
WASHINGTON, DC 20510

February 20, 2025

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

Dear Deputy Director Richardson:

Thank you for your service in leading the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) during the presidential transition. On Friday, February 7, 2025, President Donald J. Trump took decisive action to reaffirm law-abiding Americans' Second Amendment rights in issuing his Executive Order, *Protecting Second Amendment Rights*.<sup>1</sup> We urge you to immediately align ATF's rules and policies with the President's strong support for the Second Amendment.

Under former President Joe Biden, ATF adopted numerous policies and rules that infringed upon Americans' Second Amendment protections. President Trump's Executive Order directs Attorney General Pam Bondi to review and develop a plan of action regarding President Biden's unlawful firearms regulations. We ask that you work with the Attorney General to quickly identify and rescind these policies. In particular, we call your attention to the following anti-Second Amendment regulations and policies, which must be immediately rescinded:

- The **engaged in the business rule**,<sup>2</sup> which is an unconstitutional attempt to move ATF to do all it can to impose universal background checks on law-abiding Americans. ATF has been enjoined, at least temporarily, from enforcing the rule because it violated the text of the Gun Control Act.<sup>3</sup>
- The **pistol brace rule**,<sup>4</sup> which improperly reclassifies pistols equipped with stabilizing braces as "short-barreled rifles" (SBRs), thereby subjecting them to stringent regulations and serious criminal penalties under the National Firearms Act and the Gun Control Act. We are troubled by the fact that ATF promulgated this rule after it previously determined that attaching a stabilizing brace to a pistol did not render the pistol an SBR.<sup>5</sup> This rule

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<sup>1</sup> Executive Order, Protecting Second Amendment Rights (Feb. 7, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/protecting-second-amendment-rights/>.

<sup>2</sup> Definition of "Engaged in the Business" as a Dealer in Firearms, 89 Fed. Reg. 28968 (Apr. 19, 2024).

<sup>3</sup> *State of Texas v. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, Case No. 2:24-cv-089-Z (N.D. Tex. June 11, 2024).

<sup>4</sup> *Factoring Criteria for Firearms With Attached "Stabilizing Braces"*, 88 Fed. Reg. 6478 (Jan. 31, 2023).

<sup>5</sup> See Letter from John R. Spencer, Chief, Firearms Technology Branch, Bureau of Alcohol, Tobacco, Firearms, and Explosives (Nov. 26, 2012) (on file with Sen. Cornyn); see also *Firearms Regulatory Accountability Coalition, Inc. v. Garland*, 112 F.4th 507, 513 (8th Cir. 2024) ("as the ATF concluded at the time [2012], a pistol with an attached stabilizing brace was not intended to be fired from the shoulder, which means the weapon was neither a 'rifle' nor a 'short-barreled rifle' for purposes of the NFA and GCA."); *Mock v. Garland*, 75 F.4th 563, 572 (5th Cir. 2023) ("As of 2019, the ATF asserted in criminal prosecutions that 'ATF letters do correctly state that they consider a firearm with a pistol brace to not be a rifle under the NFA for purposes of the NFA'").

threatens to put stabilizing braces out of reach of millions of gun owners, including disabled combat veterans who rely on them to be able to shoot heavy pistols. Furthermore, the rule made law-abiding Americans felons overnight for having lawfully purchased stabilizing brace equipped pistols. Multiple courts have already found the rule to be arbitrary and capricious under the Administrative Procedure Act, and it was ordered vacated by the U.S. District Court for the Northern District of Texas.<sup>6</sup> We appreciate the Government's recent motions to hold ATF's 5th and 11th Circuit appeals defending the rule in abeyance and to postpone oral argument, and ATF should work quickly to accede to the vacatur given the ongoing litigation.<sup>7</sup>

- The so-called “**ghost gun**” rule,<sup>8</sup> which cracks down on law-abiding hobbyists who are exercising their Second Amendment rights to privately build firearms—a longstanding tradition that traces back to the Colonial Era.<sup>9</sup> The regulations are currently before the Supreme Court, but ATF should act immediately to rescind this rule.
- The “**zero tolerance**” policy, under which ATF has revoked the licenses of federal firearm licensees (FFLs) over minor bookkeeping violations.<sup>10</sup> This policy violates a decades-long precedent of ATF working *with* FFLs to address these minor, unintentional violations and revoking FFL licenses only in cases of major, willful violations that threaten public safety. ATF should develop a program to restore the federal firearms licenses of those FFLs whose licenses were unfairly revoked—or surrendered under duress—where they did not engage in willful conduct (as understood prior to June 23, 2021, when the policy was announced) and do not represent a threat to public safety.

In addition to promptly rescinding these rules and policies, we urge you to immediately destroy the hundreds of millions of ATF Form 4473 firearm transaction records and other licensee records that are over 20 years old. These records have no particular law enforcement value but do contain the sensitive information of millions of law-abiding gun owners.<sup>11</sup> ATF should

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<sup>6</sup> See *Mock v. Garland*, Case 4:23-cv-00095-O (N.D. Tex. June 13, 2024); *Firearms Regulatory Accountability Coalition Inc. v. Garland*, Case No. 23-3230 (8th Cir. Aug. 9, 2024).

<sup>7</sup> See *Colon v. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, No. 8:23-cv-223, 2024 WL 309975 (M.D. Fla. Jan. 26, 2024), *appeal filed*, No. 24-10897 (11th Cir. Mar. 26, 2024); Motion to Postpone Oral Argument and Hold Appeal in Abeyance, *Colon v. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, Case No. 24-10897 (11th Cir. Feb. 11, 2025), Doc. No. 32; Motion to Hold Appeal in Abeyance for 60 Days, *Mock v. Bondi*, Case No. 24-10743 (5th Cir. Feb. 13, 2025), Doc. No. 53.

<sup>8</sup> *Definition of “Frame or Receiver” and Identification of Firearms*, 87 Fed. Reg. 24652 (Apr. 26, 2022).

<sup>9</sup> Brief of the National Rifle Association of America as Amicus Curiae, *Garland v. VanDerStok*, No. 23-852 (Aug. 20, 2024), <https://www.nra.org/media/3022/23-852-nra-amicus.pdf>.

<sup>10</sup> President Joseph R. Biden, *Remarks by President Biden & Attorney General Garland on Gun Crime Prevention Strategy*, THE WHITE HOUSE (June 23, 2021), <https://bidenwhitehouse.archives.gov/briefing-room/speeches-remarks/2021/06/23/remarks-by-president-biden-and-attorney-general-garland-on-gun-crime-prevention-strategy/>; Bureau of Alcohol, Tobacco, Firearms, & Explosives, *Enhanced Regulatory Enforcement Policy* (last reviewed Jan. 16, 2025), <https://www.atf.gov/rules-and-regulations/enhanced-regulatory-enforcement-policy>; Bureau of Alcohol, Tobacco, Firearms, & Explosives, Order ATF O 5370.1E (Jan. 28, 2022), [https://foundation.gunowners.org/files/foia/2022\\_ATF\\_O53701E\\_Federal\\_Firearms\\_Administrative\\_Action\\_Policy\\_Procedures\\_1.pdf](https://foundation.gunowners.org/files/foia/2022_ATF_O53701E_Federal_Firearms_Administrative_Action_Policy_Procedures_1.pdf).

<sup>11</sup> Aidan Johnston, *ATF's Illegal Gun Owner Registry*, at 21 GUN OWNERS OF AMERICA (2022), <https://www.gunowners.org/wp-content/uploads/GOA-ATFs-Illegal-Gun-Owner-Registry.pdf>; Randy Kozuch, “*Face the Nation*” *Airs ATF Propaganda*, NRA Institute of Legislative Action (Apr. 21, 2024), <https://www.americas1stfreedom.org/content/face-the-nation-airs-atf-propaganda/>.

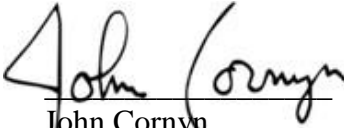
likewise return to the policy of allowing FFLs to destroy Form 4473 in their possession that are over 20 years old, which the Biden Administration initiated in violation of the federal prohibition on gun registration.<sup>12</sup> Ending the policy of retaining these very old records will save money for the American taxpayer and counteract ATF's unconstitutional rule change.

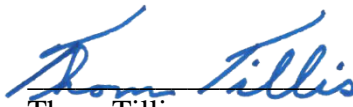
Furthermore, we urge you to "continue collaboration to improve the process for" National Firearms Act applications. Congress recently instructed ATF to make these improvements.<sup>13</sup> While NFA wait times have improved significantly, ATF must continue to "address ongoing delays in application processing times" until the archaic process is at least as efficient as the National Instant Criminal Background Check System. There is no reason that the right to purchase a firearm should be so greatly delayed; a right delayed is a right denied.

The foregoing should not be considered a full accounting of every action or policy for which ATF may be held responsible under President Trump's Executive Order but represent obvious and high priority places for ATF to initiate compliance.

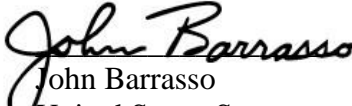
We look forward to working with you through the transition as you implement President Trump's agenda and reorient ATF toward protecting Americans' Second Amendment rights.

Sincerely,

  
John Cornyn  
United States Senator

  
Thom Tillis  
United States Senator

  
John Thune  
United States Senator

  
John Barrasso  
United States Senator

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<sup>12</sup> See Supplemental Brief of Blackhawk Manufacturing Group, Inc., *VanDerStok v. Garland*, Civ. No. 4:22-cv-00691, at 9-10 (N.D. Tex. Dec. 5, 2022), ECF No. 134, <https://storage.courtlistener.com/recap/gov.uscourts.txnd.366145/gov.uscourts.txnd.366145.134.0.pdf> ("By now instructing that FFLs may never destroy their records (even after 20 years), ATF effectively ensures that all such records eventually will be transferred to the ATF out-of-business records center, 'a facility owned, managed, [and] controlled by the United States....' This new recordkeeping requirement is arguably part of the agency's larger scheme which violates the Section 926(a)(3) prohibition on creation or maintenance of a national gun or gun owner registry.") (citations omitted); 27 C.F.R. 478.129(b); *Definition of "Frame or Receiver and Identification of Firearms*, 87 Fed. Reg. 24652, 24746 (Apr. 26, 2022).

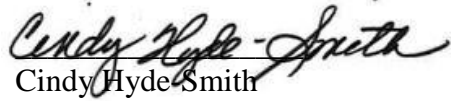
<sup>13</sup> H. Comm. on Appropriations, 118th Cong., *Consolidated Appropriations Act, 2024: Legislative Text and Explanatory Statement, Book 1 of 2*, at 423 (Comm. Print 2024) ("National Firearms Act Application Processing Times.—The agreement directs ATF and the FBI to continue collaboration to improve the process for consideration of applications to address ongoing delays in application processing times."); *Consolidated Appropriations Act, 2024*, Pub. L. No. 118-42.



Shelley Moore Capito  
United States Senator



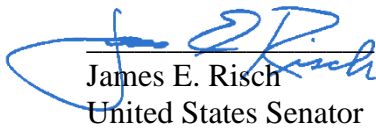
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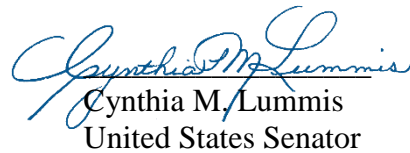
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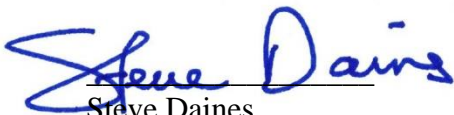
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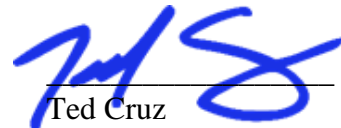
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Steve Daines  
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Ted Cruz  
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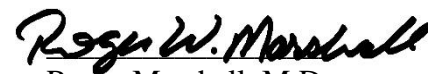
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Roger Marshall, M.D.  
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Rick Scott  
United States Senator



Lindsey O. Graham  
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Ted Budd  
United States Senator



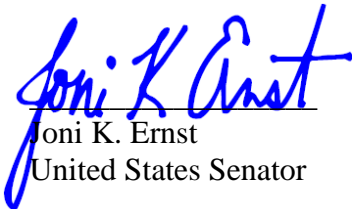
Tim Sheehy  
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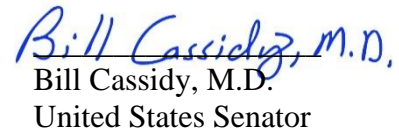
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United States Senator



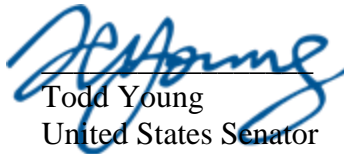
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United States Senator



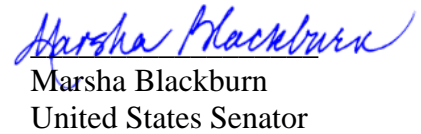
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United States Senator



Bill Cassidy, M.D.  
United States Senator



Todd Young  
United States Senator




Marsha Blackburn  
United States Senator



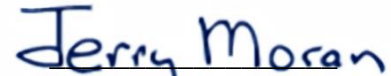
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Deb Fischer  
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Jim Banks  
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Jerry Moran  
United States Senator