



**Testimony of Robert B. Wilcox, Jr.
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**House Committee on Oversight & Accountability
*Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs***

**House Committee on the Judiciary
*Subcommittee on Crime and Federal Government Surveillance***

**“ATF’s Assault on the Second Amendment: When is Enough Enough?”
March 23, 2023**

Good morning, Chairs Fallon and Biggs, Ranking Members Bush and Jackson Lee, and distinguished members of these subcommittees.

My name is Rob Wilcox, and I am the Federal Legal Director at Everytown for Gun Safety, the nation’s largest gun violence prevention organization. I appreciate the opportunity to be here this morning.

My professional work on gun policy and gun violence prevention is deeply informed by a number of personal experiences. I grew up in Brooklyn, New York, during the 1980s and '90s, where gun violence was not an uncommon occurrence. At the same time, my father, who served in the Special Forces, taught us to respect firearms. Hunting, sport shooting and responsible gun ownership were all part of growing up, and we kept our firearms locked securely in a gun safe. Responsible gun ownership is something I learned at an early age and something I’m teaching my children.

Unfortunately, my family's relationship with guns took a violent turn when my nineteen-year-old cousin Laura was shot and killed by someone who never should have had a firearm.

Laura had extraordinary talents, kindness, and spirit. She was an outstanding student, graduating as high school valedictorian, and was at the time of her death a sophomore at Haverford College and in the midst of her campaign for student body president. Laura was already living a life full of service. She had unlimited possibilities and the brightest of futures.

In January 2001, Laura was home on winter break and filling in as the receptionist at the rural county behavioral health clinic when a client came in and opened fire. He shot Laura



four times at point-blank range, killing her instantly. When his rampage at the clinic and a nearby restaurant ended, three people lay dead, and three more were severely injured.

I remember attending the funeral and seeing an entire community left shaken. We all packed into a middle school gym. I can still see the dust reflecting off the sunlight streaming in from the windows above the rafters, hear the Sarah McLachlan song “Angel,” and feel the sadness sweeping over the entire room.

We struggled to comprehend the circumstances of Laura’s death as we learned that the shooter’s family, girlfriend, and caseworker were all worried about him. His father and grandfather had died by suicide with a firearm. They knew that he had guns. The warning signs were there. But because he had never committed a crime or been subject to an involuntary mental health hold, there was no legal tool to remove his firearms. It was clear then—and still is today—that there needs to be a way to remove firearms from a person who is in crisis, clearly dangerous, and at risk of harming themselves or others.

I’m grateful that 20 jurisdictions have Extreme Risk laws on the books, and that the Bipartisan Safer Communities Act passed into law last year provides critical funding for implementing the Extreme Risk Laws that can save lives.

My aunt and uncle processed this tremendous loss while also fighting for a safer future for others. They became advocates who turned pain into progress, working to pass dozens of gun safety laws. And they are role models.

I’ve spent 20 years working on law and policy around firearms with experiences at the local, state, and federal levels. One thing that I know for sure is that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) plays an essential role in keeping us safe by enforcing the laws on the books and partnering with state and local law enforcement to address violent gun crime.

Let me explain why ATF is so critically important to our safety:

First, ATF is one of our nation’s leading law enforcement agencies—made up of approximately 5,000 personnel—and it is spread out across the country with 25 field divisions and more than 200 local offices. Its mission is clear: to protect the public from violent crime—which is made all the more violent when firearms are involved. ATF works hand in hand with state and local law enforcement agencies across the United States to help keep our communities safe and to solve crimes.



This is work that only ATF can do to address the diversion of illegal guns and bolster state and local efforts to prevent gun violence. From 2017 to 2021, ATF processed nearly 2 million crime gun traces to assist state and local law enforcement in solving firearm-related crimes and developing analytical information on gun trafficking channels. During that time, ATF also processed 1.5 million National Integrated Ballistic Information Network (NIBIN) cases that use ballistic information to assist local law enforcement in linking crime scenes and developing leads to solve crimes. The five ATF gun trafficking strike forces established by President Biden in 2021 have seized over 8,000 illegal guns. And, ATF regulates the gun industry through education and accountability, providing educational resources and support to members of the gun industry that are the first line of defense in preventing firearms from falling into the wrong hands while rooting out the bad actors that flout the law.

For example, in May 2022, a federally licensed gun dealer pled guilty to a gun trafficking scheme in which he sold firearms to individuals he should have known were unlawfully engaged in the business of selling guns. ATF's crime gun tracing program showed that guns sold by the dealer were linked to numerous crime scenes, including multiple homicides. All links in this gun trafficking chain faced accountability—from the person who pulled the trigger up through the dealer who supplied the firearms.

Second, ATF's work is constitutional, and its mission is to enforce the laws that Congress passed to keep dangerous firearms out of the hands of dangerous individuals and off our streets. Throughout history, Congress has passed a number of gun laws regulating the manufacture of firearms, the business of selling firearms, and the use of firearms—all for the purpose of enhancing public safety. Congress has also delegated authority to ATF to enforce those laws. Enforcement means providing clarification to the public about what is and is not covered by the law, and constantly assessing how the law applies to changing technology.

ATF's work at the federal, state, and local levels takes armed criminals off our streets and out of our communities. For example, last Wednesday, in Florida, the armed leader of a fentanyl and cocaine distribution network was sentenced to 40 years in federal prison. ATF helped make that case by working with four other federal law enforcement agencies, Florida Highway Patrol, and ten local law enforcement agencies.¹ In February, two Texas men were each sentenced to 10 years in federal prison for a restaurant shootout that took place last summer. ATF's Dallas Field Division, working with the Arlington Police

¹ Press Release, Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Armed Leader of Fentanyl and Cocaine Distribution Conspiracy Sentenced to 40 Years in Federal Prison* (Mar. 15, 2023), <https://www.atf.gov/news/pr/armed-leader-fentanyl-and-cocaine-distribution-conspiracy-sentenced-40-years-federal-prison>.



Department, conducted the investigation that led to their convictions.² And last year, five individuals were arrested and charged in a firearms trafficking conspiracy involving more than 500 firearms shipped from Georgia to California and then sold on the illegal market. That investigation—conducted by ATF, the U.S. Postal Inspection Service, and one firearms trafficking strike force—began when a firearm used in a shooting in Sacramento was traced to the last known sale by a federally licensed dealer in Georgia.³

Even when faced with calls to defund or abolish this federal law enforcement agency, ATF continues to protect and serve. Now more than ever, we need an ATF that has the resources and support to address the flow of illegal guns. Violent crime and gun violence are increasingly threatening communities across the United States. For instance, in 2020, murder and assault rates rose nationwide by 30 and 10 percent, respectively. The Brennan Center for Justice reports that “[b]oth increases are part of a broader surge in gun violence.”⁴ Moreover, gun deaths in the United States reached an all-time high—48,832—in 2021 with “guns...used in a greater proportion of homicides than ever before.”⁵

We’ve also seen an increase in gun trafficking. From 2017 to 2021, law enforcement recovered 1.4 million crime guns that ATF was able to trace back to purchasers. Nearly half of these crime guns were recovered less than three years after purchase—a strong indication that the guns were purchased with the intent to be trafficked. What’s more is that 25 percent were recovered within one year of being purchased. This likely trafficking activity not only underscores how important it was for Congress to pass the new provisions in the Bipartisan Safer Communities Act, but it also shows how critical it is for ATF to inspect gun dealers, especially those who supply crime guns.

To that end, ATF’s Federal Firearms Licensee (FFL) inspection responsibilities have never been more important. Through these inspections, ATF ensures that FFLs are in compliance with federal law and regulations, including reporting, background check, and recordkeeping requirements, intended to prevent firearms from ending up in the hands of prohibited persons and used in violent crimes. These requirements further help ATF and its law enforcement partners at the state and local levels trace firearms recovered at crime

² Press Release, Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Men Involved in Arlington Restaurant Shooting Sentenced to Combined 20 Years for Firearm Crimes* (Feb. 28, 2023),

<https://www.atf.gov/news/pr/men-involved-arlington-restaurant-shooting-sentenced-combined-20-years-firearm-crimes>.

³ Press Release, Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Five Arrested in Firearms Trafficking Conspiracy Involving 500+ Firearms Shipped From Georgia to California, Sold on Black Market in California* (Mar. 24, 2022),

<https://www.atf.gov/news/pr/five-arrested-firearms-trafficking-conspiracy-involving-500-firearms-shipped-georgia>.

⁴ Ames Grawert and Noah Kim, *Myths and Realities: Understanding Recent Trends in Violent Crime*, Brennan Ctr. for Justice (July 12, 2022),

<https://www.brennancenter.org/our-work/research-reports/myths-and-realities-understanding-recent-trends-violent-crime>.

⁵ Jennifer Mascia, *Gun Deaths Hit an All-Time High (Again) in 2021*, The Trace (updated Jan. 25, 2023),

<https://www.thetrace.org/2022/09/gun-deaths-cdc-2021-record/>.



scenes to solve crimes and hold criminals and the FFLs from which they obtained their guns accountable.

In addition, the gun industry has made repeated attempts to "innovate" around federal law—by creating bump stocks that turn semi-automatic weapons into machine guns, untraceable ghost guns, and arm braces for easily concealed rifles—that have only exacerbated our gun violence epidemic.

- Bump stocks are devices that convert semi-automatic firearms into machine guns. In October 2017, a shooter using multiple firearms equipped with bump stocks killed 60 people and injured over 400 more in Las Vegas. He fired over 1,000 rounds of ammunition into the Route 91 Harvest Festival in mere minutes. Machine gun fire is sought after by criminals as ATF reported that the recovery of machine gun conversion devices increased by 570 percent over the last five years.
- Ghost guns are untraceable firearms that anyone, including convicted felons, domestic abusers, minors, and gun traffickers, can build at home with commonly available tools and easy-to-find instructions. The core part for a ghost gun—the partially complete frame or receiver—was easy to acquire with no background check or serial number and no questions asked. ATF reported a 1,000-percent increase in ghost gun recoveries between 2017 and 2021, and they have been used in mass shootings—like at Saugus High School in Santa Clarita, California, in 2019 in which two students were killed and three others were injured—in domestic violence and domestic terrorism situations, and in police shootouts resulting in officers injured and killed.
- Arm braces are firearm attachments used to convert large-format pistols, like AR-15s and AK-47s, into short-barreled rifles that are more powerful and lethal than traditional handguns and that can be fired from the shoulder, giving shooters greater control and greater accuracy. At the same time, arm-brace-equipped firearms are easier to conceal and transport than full-length rifles, making them all the more dangerous to the public. These were the firearms of choice in the 2019 Dayton, Ohio, shooting in which nine were killed and another 17 were injured, and in the 2021 Boulder, Colorado, shooting, in which 10 were killed.

ATF has responded to mitigate these threats in a manner fully consistent with its statutory authority and law enforcement mission as well as the Second Amendment. As it has throughout its history, ATF has engaged in substantive notice-and-comment rulemaking to regulate bump stocks, ghost guns, and arm braces. ATF has identified dangerous problems, assessed what can and should be done about them within existing constitutional and legal frameworks, and taken steps to enforce the laws that Congress passed.



- Under the Trump Administration, in 2019, ATF promulgated its bump stock rule, which clarified that bump stocks are machine guns as defined by the National Firearms Act and Gun Control Act.
- Last year, ATF finalized its ghost gun rule, which updated the regulatory definitions of “frame or receiver” to include nearly complete frames and receivers—the core components used to construct ghost guns. Under the final ghost guns rule, readily completed frames and receivers are subject to the same background check and serialization requirements as traditional firearms.
- In January, ATF promulgated its final arm brace rule, which amends the regulatory definition of “rifle” to include arm-brace-equipped firearms. Under this rule, pistols equipped with arm braces are correctly classified as short-barreled rifles and are subject to all the same statutory and regulatory requirements under current law. These requirements have existed for nearly a century because Congress wisely determined that these firearms were more dangerous than other weapons in passing the National Firearms Act of 1934.

Saving lives is what this is all about. The lives of people who want to attend concerts without the fear of bullets raining down on them. The lives of kids who want to go to school without the fear that a classmate has brought along a ghost gun. The lives of people who want to buy food for their families at a grocery store without the fear of being gunned down.

It’s not lost on me that yesterday—March 22—was the two-year anniversary of the mass shooting at the King Soopers in Boulder, Colorado, where 10 people, including a law enforcement officer, were killed. It’s also not lost on me that the shooter in Boulder used a short-barreled AR-15 “pistol” equipped with an arm brace—the same kind of firearm ATF has now regulated.

ATF uses the legal authority granted by Congress to prevent these tragedies and spare families from having to go through what mine did, from having to leave an empty seat at the holidays, and from having to tell their children about the memories of family members they can never meet.

Thank you again for inviting me to testify today, and I look forward to your questions.