

United States Senate

August 23, 2022

The Honorable Merrick Garland
United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Garland:

I am writing to express my concern with and inquire about the Department of Justice's (DOJ) Bureau of Alcohol, Tobacco, Firearms, and Explosives' (ATF) investigative practices of potential firearm straw purchases—in which a purchaser is actually buying a gun on behalf of someone else. While straw purchases are illegal, and contribute significantly to weapons trafficking, recent news reports and viral videos call into question the ATF's tactics into investigating these potential crimes. As the ATF is well aware, owning a firearm is a constitutional right protected by the Second Amendment and the Bureau's investigatory work cannot not be conducted at the expense of that or any other constitutional right, nor should it be used to harass or intimidate lawful gun purchasers.

On July 22, 2021, the *Washington Post* reported DOJ's intent to target straw purchasers.¹ According to the article, “[g]oing forward . . . U.S. attorney’s offices and ATF agents will seek to prosecute more straw purchases—focusing not only on major cities, but also the neighboring towns and states that supply many of the guns used in crimes”² Since that time, several reports and videos have surfaced detailing ATF agents engaging in “knock and talk” investigations of straw purchases. During the course of these “knock and talk” investigations, ATF agents knock on the front door of a private residence and ask the resident to display a recently purchased firearm as proof that the resident did not conduct a straw purchase. In all of the “knock and talk” incidents brought to my attention, none involved the presentation of a warrant. Simultaneously, multiple ATF agents, dressed in official ATF gear—including bullet proof vests—did not inform the resident purchaser of the optional nature of his or her participation in brandishing the requested firearm. The combination of these factors calls into question whether the ATF's actions are meant to harass or coerce firearm purchasers into, at best, legally questionable “investigations.”

In light of these concerns, I request that you answer the following questions by [30 days from sending].

1. What criteria does the ATF use to establish probable cause prior to knocking on a purchaser's door to investigate a potential straw purchase? Is there a written record of this evaluation? If not, why?
2. Does the ATF obtain a warrant prior to knocking on a purchaser's door to investigate a potential straw purchase?
3. How many “knock and talks” has the ATF conducted without a warrant since its July 22, 2021, above referenced announcement?

¹ https://www.washingtonpost.com/national-security/guns-straw-purchases-atf-biden/2021/07/21/1ce07dcc-ea59-11eb-97a0-a09d10181e36_story.html.

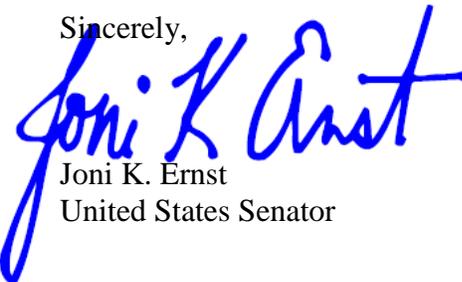
² *Id.*

4. If not, what is the ATF's legal basis for investigating a potential straw purchase through a "knock and talk"? How does the ATF ensure a purchaser's Fourth Amendment rights are protected?
5. Where a straw purchase check is conducted, is the purchaser informed that they may turn down the investigation? If not, why?
6. Are ATF agents required to wear uniforms designating the agency when going to the home of and speaking with a firearm purchaser?
7. What is the current ATF policy regarding what time of day agents may visit the home of a purchaser to investigate a potential straw purchase?
8. Does the ATF notify local or state law enforcement officials prior to knocking on a purchaser's door to investigate a potential straw purchase? If not, why?

Although the ATF is a law enforcement agency, it cannot and should not operate outside of proper legal channels. Any investigation conducted by the Bureau must be balanced with an individual's constitutional right to purchase and own a firearm, as well as Fourth Amendment protections. The ATF should not be conducting investigations without reasonable cause, nor without proper documentation from the judiciary authorizing the investigation.

I look forward to your prompt response.

Sincerely,



Joni K. Ernst
United States Senator

cc: The Honorable Steven M. Dettelbach, Director, Bureau of Alcohol, Tobacco, Firearms and Explosives