

Senator Grassley

Responses to Questions from Senator Grassley to David Chipman, Nominee to be Director, Bureau of Alcohol, Tobacco, Firearms and Explosives

1. You have called for a ban on assault weapons, yet during your hearing you were unable to provide your own definition of what an assault weapon was, instead deferring to Congress to create a definition for you.
 - a. How can you support a ban on an undefined category of firearms?
 - b. Based on your previous support for a ban on “assault weapons,” please provide me with **your own** definition of “assault weapons” that you would like to see banned.
 - c. You have previously stopped short of calling for a mandatory buy-back program for assault weapons. Is that still your position?
 - d. If President Biden ordered you to implement a mandatory buy-back program, would you?

RESPONSE: The definition of “assault weapon” for the purposes of a ban would be determined by Congress. As a former ATF special agent, I enforced a federal assault weapons ban when it was law from 1994 to 2004. As an advocate, I have supported certain proposals to reinstate such a ban. However, if confirmed as ATF Director, I would enforce the laws passed by Congress and signed by the President. I would not have the unilateral authority to draft or enact such a ban.

I have not supported a mandatory buy-back program and I am not aware of any authority that would allow the Executive Branch to unilaterally implement such a program. It is my understanding that the President supports a voluntary buy-back program, but has not supported a mandatory buy-back program.

2. During your hearing, you emphasized that you were “a cop” and not a lawyer. Yet when Senator Cotton and I questioned you about Hunter Biden’s illegal purchasing of a firearm, you gave very lawyerly answers to avoid committing to prosecuting a clear case of a crime you yourself have called very dangerous.
 - a. Based only on the facts you have read about in media reports and that Senator Cotton went over with you during your hearing, do you believe Hunter Biden’s case represents one that a cop would present to a prosecutor for prosecution? If not, why not?
 - b. If an admitted drug addict lying on a background form in order to purchase a firearm is not enough for you to say such a case is prosecutable, please list other facts you would need.
 - c. If you are confirmed and the ATF does not prosecute Hunter Biden, will you commit to providing me and members of this Committee with your reasons why, in writing at a minimum, but preferably in a hearing before the Committee?

RESPONSE: I am unable to comment on this case because I do not have access to all of the relevant facts, including facts about the existence or findings of any past or current ATF investigation into this matter. Furthermore, ATF does not prosecute cases. ATF conducts investigations and, in cases that warrant it, refers cases to Justice Department lawyers to be considered for prosecution. If I am confirmed as ATF Director, I would ensure that all investigations and referrals are carried out with total impartiality. I respect the Judiciary Committee’s important oversight role and will work with ATF’s Legislative Affairs Division and the Department of Justice’s Office of Legislative Affairs to be responsive to the Committee’s requests for information consistent with the Department’s longstanding policies and practices.

3. On October 12, 2018, Hunter Biden purchased a firearm. As you are aware, Firearm Transaction Record Form 4473 requires a potential gun purchaser to attest that they are not an “unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance.” Knowingly providing false information on Form 4473 is a felony. According to 27 CFR Part 478.11, “Unlawful user of or addicted to any controlled substance” can be satisfied by several factors and “is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use has occurred recently enough to indicate that the individual is actively engaged in such conduct.”¹ Further, the regulation notes that “a person may be an unlawful current user of a controlled substance even though the substance is not being used at the precise time the person seeks to acquire a firearm or receives or possesses a firearm.”² And finally, an inference of current use can be drawn from recent examples of use or a “pattern of use or possession that reasonably covers the present time.”³ An example of that inference can be an administrative discharge from the military.⁴

In 2014, Hunter Biden was administratively discharged from the U.S. Navy after testing positive for cocaine. Biden gave an interview in 2019 in which he mentioned his drug addiction led him to attempt to purchase crack cocaine from a homeless encampment in Los Angeles in 2016.⁵ He returned to “buy more crack a few times” in one week.⁶ He then proceeded to drive to Arizona in a rental car where he left a crack pipe, a line of white powder residue on the console and a plastic baggie containing a “white powdery substance.”⁷ On February 23, 2017, Biden’s then-wife filed for divorce alleging he

¹ 27 C.F.R. § 478.11 (2019).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Adam Entous, *Will Hunter Biden Jeopardize His Father’s Campaign?*, THE NEW YORKER (July 1, 2019), <https://www.newyorker.com/magazine/2019/07/08/will-hunter-biden-jeopardize-his-fathers-campaign>.

⁶ *Id.*

⁷ *Id.*

“created financial concerns for the family” by “spending extravagantly” including “drugs” and “alcohol.”⁸ In his book, *Beautiful Things*, he noted that he was an avid crack user:

“I used my superpower – finding crack anytime, anywhere – less than a day after landing at LAX in the spring of 2018.”⁹

“The amount of alcohol I consumed and crack I smoked was astounding – even death-defying.”¹⁰ “I holed up inside the Chateau for the first six weeks [spring and summer 2018] and learned how to cook crack.” He “became absurdly good at it.”¹¹

Biden’s book also noted that he returned to Delaware in the fall of 2018 to get clean and reconcile with family but “neither happened.”¹²

These facts show that he was still a drug addict during the fall of 2018 when he purchased the gun. Accordingly, the evidence indicates that Hunter Biden lied on his 4473 forms when he reportedly said “NO” to the question, “[a]re you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?”

Providing false information on a 4473 form is a crime. If confirmed, will you investigate Hunter Biden for providing false information on his 4473 form? If not, why not?

RESPONSE: Please see my answer to Question 2.

4. During your hearing, Senator Whitehouse asked Mr. Kenneth Polite: “I assume you agree it’s wrong to pursue a criminal case for political purposes?” and “Is it also wrong to duck a case for political purposes?” Mr. Polite answered, “Considerations related to politics should play no role in enforcement or prosecutorial decision-making.”
 - a. Do you agree with Mr. Polite’s answer? If not, please give your own answer to both questions.

RESPONSE: Yes.

- b. If it is wrong to duck a case for political purposes, would you agree it would be wrong to duck prosecution of Hunter Biden’s illegal purchasing of a firearm for political purposes?

RESPONSE: It is wrong to allow politics to play a role in criminal matters.

5. During your hearing you said multiple times that things you said were taken out of context or that you failed to successfully communicate the message you meant.
 - a. Is being a good communicator a skill that a leader should have?
 - b. What steps do you plan on taking to improve your communication skills?

⁸ *Id.*

⁹ Hunter Biden, *Beautiful Things* 187 (2021).

¹⁰ *Id.* at 191.

¹¹ *Id.* at 191-192.

¹² *Id.* at 203.

RESPONSE: I agree that good communication is important for leaders—especially public officials, for whom the cultivation of public trust is essential. I served with distinction in various leadership roles at ATF for 15 years. If confirmed as ATF Director, I will work every day to earn the respect and trust of the American people.

6. You have experience as a gun-control advocate and your time as an ATF agent was mostly focused on guns.
 - a. What is your experience enforcing the nation’s alcohol laws?

RESPONSE: During my tenure as an ATF special agent, I did not investigate potential violations of alcohol laws nor did I supervise these investigations. I received training early in my career on enforcing alcohol laws.

- b. What is your experience enforcing the nation’s tobacco laws?

RESPONSE: During my tenure as an ATF special agent, I participated in investigations involving violations of tobacco laws and supervised these investigations. As a special agent in the Norfolk Field Office, I supported an investigation involving the unlawful trafficking of untaxed cigarettes requiring me to surveil the unlawful smuggling of cigarettes from the Commonwealth of Virginia to the State of New York. I later assisted special agents from New York in their arrest of the traffickers and the recovery of the cigarettes. As the Assistant Special Agent in Charge of the Detroit Field Division, I oversaw a criminal enforcement group responsible for investigating all violations of the nation’s tobacco laws in the State of Michigan.

7. In response to a TSA report on the record number of guns seized in 2019, you said, “When I see that now, as a matter of routine, people are carrying guns and don’t even remember they’re carrying them, it says everything about the reality of the concealed-carry movement. There are probably a small percentage of people who carry and are trained, like we expect from law enforcement or military. The rest are untrained or irresponsible.”¹³ I want you to expand on that point. In your opinion, what percentage of people who carry guns are responsible?

RESPONSE: As a former law enforcement official and gun owner myself, I believe most gun owners are responsible. I also believe firearms training is important and that public safety is enhanced when more people are trained.

8. Following President Trump’s decisions to ban bump stocks by regulation following the tragic shooting in Las Vegas, you called the decision to proceed with regulation rather

¹³ Kim Bellware, *TSA had Record Year for Gun Seizures; More than 4,400 Taken at Airports*, The Boston Globe, Jan. 21, 2020.

than legislation a “political calculation.”¹⁴ President Biden has announced a number of executive orders on gun issues since becoming president.

- a. Was his decision to issue executive orders rather than to wait for legislation a political calculation?
- b. If not, please explain the difference between his executive orders and President Trump’s.

RESPONSE: During his remarks in the Rose Garden on April 8, 2021, President Biden said, “My job, the job of any President, is to protect the American people. Whether Congress acts or not, I’m going to use all the resources at my disposal as President to keep the American people safe from gun violence.” Executive agencies like ATF have narrowly tailored authorities to issue regulations through a transparent and public process. In April, the Attorney General announced that ATF would undertake two specific such rulemaking processes in order to enhance public safety within the bounds of current law.

9. In an article about the diminishing power of the NRA, you said, “What’s going to be the next thing? I hope it’s a group that fights for our constitutional rights but at the same time, acknowledges that we have to do so in a way that keeps our country safe because no constitutional right is so great if it’s making you unsafe by exercising it.”¹⁵
 - a. Is your position still that a constitutional right is not “great” if exercising it can make you unsafe?
 - b. Jews in America are being attacked in hate crimes for freely exercising their religion. Is their right to exercise their religion not “great” because it can make them unsafe?
 - c. Some mostly peaceful protestors last summer were injured while freely exercising their rights to free speech and free assembly. Are their free-expression rights not “great” because they led to civil unrest?
 - d. Some people who travel in cars across interstate lines get in car accidents. Is their right to freely travel not “great” because they can be injured in a car accident?

RESPONSE: My view of the constitutional right guaranteed by the Second Amendment is guided by the Supreme Court’s holding in *District of Columbia v. Heller*, in which the Court held that the Second Amendment confers “an individual right to keep and bear arms.” 554 U.S. 570, 595 (2008). The Court also said that, “[l]ike most rights, the right secured by the Second Amendment is not unlimited,” recognizing that some limitations on the right to keep and bear arms, including public safety laws such as “longstanding prohibitions on possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings,” are constitutional. *Id.* at 626.

¹⁴ Gary Martin, *Nevada Rep. Dina Titus Pushes Bump Stock Ban*, Las Vegas Review Journal, July 3, 2019.

¹⁵ Katherine Fung, *Rival Gun Rights Group Accuses NRA of Never Advocating for Second Amendment Amid Lawsuit*, Newsweek, Aug. 7, 2020.

10. During Chairman Durbin’s questioning of you about a picture identified as you at Waco, he referred to “Photoshop.” In your response, I believe you said the photo was real, but it was not of you or of any ATF agent.
- a. Is your answer that the picture was Photoshopped, or that it was just not a picture of you or any other ATF agent?
 - b. Do you have any idea what Chairman Durbin meant when he asked about Photoshop?

RESPONSE: As I testified at my hearing, the photo is real, but it is not a photo of me or any ATF agent. It was one piece of evidence I examined while investigating the events that occurred at Waco. While I have seen some manipulated or Photoshopped versions of the photo circulating online, the photo published by the *Daily Mail*, National Shooting Sports Foundation, and others is a real photo of a federal agent at Waco—but these organizations and individuals have made the false claim that the photo depicts me.

11. Do you believe gun stores are essential businesses?

RESPONSE: My understanding is that states and cities determine the definition of an “essential business” for their localities, as they have done during the COVID-19 pandemic. As a general matter, I believe that gun stores are vitally important. ATF depends on positive and productive relationships with federal firearms licensees (FFLs) to work together to ensure public safety as people exercise their constitutional right to purchase and own guns. I depended heavily on FFLs during my service at ATF, from my first job as a special agent in Tidewater, Virginia, working with local FFL partners to investigate trafficking cases, all the way to my final position as Chief of ATF’s Liaison Division, working closely with industry partners.

12. During your hearing you tried to avoid answering a question about the Second Amendment by saying “I’m a cop” and not a lawyer.
- a. When you were a law-enforcement agent, were you exempt from knowing the terms of the Fourth Amendment by virtue of not being a lawyer?
 - b. When you were a law-enforcement agent, were you exempt from knowing the terms of the Fifth Amendment by virtue of not being a lawyer?

RESPONSE: I am indeed a cop, not a lawyer. Like all cops, I became familiar with the practical application of the laws I was tasked with enforcing. My success as a law enforcement official depended on it. If I am confirmed as ATF Director, I would draw upon the considerable expertise and knowledge of attorneys at ATF and the rest of the Department of Justice to advise me on complex legal issues.

13. When you were a law-enforcement agent, what steps did you take to familiarize yourself with the Fourth Amendment and its application?

RESPONSE: I was trained by ATF.

14. When you were a law-enforcement agent, what steps did you take to familiarize yourself with the Fifth Amendment and its application?

RESPONSE: I was trained by ATF.

15. When you were a law-enforcement agent, what steps did you take to familiarize yourself with the Second Amendment and its application?

RESPONSE: I was trained by ATF.

16. Should ATF officers be required to familiarize themselves with the Second Amendment and its application just as they presumably do with the Fourth and Fifth Amendments? If not, why not?

RESPONSE: Yes.

17. In 2012, while you were a fellow with the International Association of Chiefs of Police, you were the lead author on a report about the use of force among law enforcement officers. In the report's executive summary, you shared the statistic that 1.9% of the 40 million respondents to a survey reported the use of force or threat thereof during an encounter with law enforcement. You extrapolated this data as such:

“These facts stand in stark contrast to the public perception of the frequency and appropriateness of force used by the police. In large part, the public perception of police use of force is framed and influenced by the media depictions, which present unrealistic and often outlandish representations of law enforcement and the policing profession. Nightly, police dramas and news programs show officer-involved shootings, high speed chases, and trips to the morgue to recover microscopic evidence. These myths are further reinforced in popular books and film.”¹⁶

The report also said, “In the absence of a cohesive fact-based message the media and other constituencies are left to frame the topic, which often results in sensationalizing incidents or driving the agenda of various special interest groups.” For the questions below, it is not acceptable to disclaim ownership of the statements referenced in the report. You were the lead author, and if someone else wrote a particular section (which seems unlikely for the executive summary), you still had to sign off on the language. So please do not avoid answering these questions.

¹⁶ *Emerging Use of Force Issues: Balancing Public and Officer Safety*, International Association of Chiefs of Police/COPS Office Use of Force Symposium, Mar. 2012.

- a. Is it still your position that the public perception of police use of force is overblown by the media?
- b. What special interest groups was the report referring to?

RESPONSE: The report made general conclusions about the public perception of police use of force. There are ongoing, complex conversations across the country about police use of force, including debates within Congress and within law enforcement organizations across the country. If confirmed to lead ATF—a law enforcement agency—I would embrace the opportunity to continue building community trust across ATF’s many field offices and to continue partnering with state and local law enforcement to help them ensure the safety of their communities. As the former Chief of ATF’s Liaison Division, I would also embrace the opportunity to work once again with stakeholder groups representing a diversity of viewpoints.

18. In 2011, you contributed to another report from IACP, this time as a guide for police departments on steps to take to reduce gun violence. One action step the report suggested was for departments to use “hot-spots” in their analysis, which meant analyzing patterns on criminal activity so departments could best target their resources. As the report suggested, “related types of criminal activity typically associated with gun violence, such as illegal drug sales, should be included in the analysis.”¹⁷

- a. Do you still believe police departments should use “hot-spots” in their analysis?
- b. What if using “hot-spots” disproportionately affects minority communities?

RESPONSE: Yes. Precision policing, involving focused deterrence and targeting previously identified shooters, can avoid the risk of unduly targeting minority communities. It is ATF’s mission to use its intelligence tools to target those few armed individuals responsible for most of the crime.

19. Do you stand by your statement that gun manufacturers market their products to “a certain type of extreme and violent part of this country”?¹⁸

RESPONSE: Not all gun marketing draws upon these themes. I have seen some advertisements that make use of violent and extreme imagery.

20. Do you still believe that “[p]eople who sold guns, people who want to sell guns for self-defense wanted a scary nation so that people would want to buy guns”?¹⁹

¹⁷ *Reducing Gun Violence in Our Communities: A Leadership Guide for Law Enforcement on Effective Strategies and Programs*, International Association of Chiefs of Police, Oct. 2011.

¹⁸ Congressional Testimony, Hearing on Protecting America from Assault Weapons, before the H. Comm. On the Judiciary (Sep. 25, 2019).

¹⁹ Speaker, “Only in America: Examining the Everyday Toll of Gun Violence,” March for Our Lives, Georgetown University, Nov. 19, 2019.

RESPONSE: Not all gun marketing draws upon these themes. I have seen some advertisements that make use of violent and extreme imagery.

21. You said of the Silencers Helping Us Save Hearing Act in 2019, “The only people that benefit from this bill are gun lobbyists and criminals who want easier access to deadly weapons.” That bill was sponsored by Senators Lee, Cruz, Cornyn, Paul, Risch, and Crapo. Whom do you believe these Senators sought to benefit with his bill: gun lobbyists or criminals?

RESPONSE: Silencers have been legal and regulated under the National Firearms Act since 1934. I have advocated against efforts to deregulate silencers because I believe the regulations in place for nearly 90 years have had a positive impact on public safety.

22. You once said, “Contrary to what the NRA will tell you, ‘good guys with a gun’ aren’t the best answer to [bad guys with a gun.]”²⁰ What did you mean by this?

RESPONSE: The brave men and women of law enforcement are tasked with responding to violent crime. As a general matter, the best way to deal with violent crime is to strive to prevent it from happening in the first place.

23. You said last spring, “If you keep [the gun store] open, there’s the risk of first-time buyers who are largely buying out of fear and panic and untrained.”²¹ What other rights do we restrict for fear that citizens might exercise them out of fear or with a lack of training?

RESPONSE: I was not advocating—and have not advocated—for the restriction of any constitutional right. I believe that firearms training is important and that public safety is enhanced when more people are trained, whether first-time gun buyers or longtime gun owners.

24. You also said, “Most of the new buyers who went out to the gun store and bought a gun have no training whatsoever. In their mind they might be competent, they might think they’re die-hard and ready to go, but unfortunately they’re more like Tiger King....”²²

- a. Is this a reference to Joe Exotic’s background, criminal status, or sexuality?
- b. What were you trying to tell recent gun owners with this comparison?

RESPONSE: I was attempting to add humor to a long and wide-ranging interview by referencing a show that was popular at the time. I believe that firearms training is important and that public safety is enhanced when more people are trained, whether first-time gun buyers or longtime gun owners.

²⁰ David Chipman, *Ghost Guns are Specifically Designed for Criminals*, Giffords, May 13, 2020.

²¹ Frances Mulraney, *Are Guns Essential in a Pandemic? Some States are Forcing Firearm Shops to Close – While Others have Stopped Background Checks for Concealed Weapons*, MailOnline, Mar. 27, 2020.

²² Lauren Sonnenberg, *As Firearm Sales Spike, Giffords Advocate Says Lock Those Guns Away*, cheddar news, Apr. 3, 2020.

25. Does the Second Amendment include the right to train with a lawful firearm? Why or why not?

RESPONSE: In *District of Columbia v. Heller*, the Supreme Court held that the Second Amendment confers “an individual right to keep and bear arms.” The Court also stated that, “[l]ike most rights, the right secured by the Second Amendment is not unlimited.” If confirmed, my view of the Second Amendment would be guided by the *Heller* decision.

26. Does the Second Amendment include the right to carry a firearm? Why or why not?

RESPONSE: In *District of Columbia v. Heller*, the Supreme Court held that the Second Amendment confers “an individual right to keep and bear arms.” The Court also stated that, “[l]ike most rights, the right secured by the Second Amendment is not unlimited.” If confirmed, my view of the Second Amendment would be guided by the *Heller* decision.

27. Is there any difference between the right to “keep” and the right to “bear” an arm?

RESPONSE: I am aware that the Supreme Court, in *District of Columbia v. Heller*, has recognized that the Second Amendment confers an individual right to both “keep” and “bear” arms. Federal law allows for people to purchase, possess, sell, transfer, deliver, and use firearms.

28. Does the Second Amendment include the right to engage in commerce regarding firearms?

RESPONSE: It is legal to engage in commerce regarding firearms under federal law.

29. Do minors have rights under the Second Amendment?

RESPONSE: Under current federal law, minors can possess long guns and long gun ammunition. In limited circumstances, federal law allows for a minor to possess a handgun or handgun ammunition.

30. What are the limits placed on legislatures by the Second Amendment when it comes to dispossession of firearms?

RESPONSE: While I am unable to generalize about limitations on all legislatures, I am aware that in *District of Columbia v. Heller*, the Supreme Court, in striking down a handgun ban passed by the legislature of the District of Columbia, recognized “an individual right to keep and bear arms” under the Second Amendment. The Court also stated that, “[l]ike most rights, the right secured by the Second Amendment is not unlimited.” If confirmed, my view of the Second Amendment would be guided by *Heller*.

31. Justice Clarence Thomas has described the Second Amendment as “a disfavored right.” Do you agree with him?

RESPONSE: I am not familiar with this quote. If confirmed, I would take an oath—as all ATF employees do—to support and defend the Constitution, including the Second Amendment, without fear or favor.

32. Do you agree with Justice Sam Alito that the Second Amendment “guarantees the right to carry weapons ‘typically possessed by law-abiding citizens for lawful purposes’”?

RESPONSE: I am not familiar with the full context of this quote. Justice Alito appears to be quoting the Supreme Court’s holding in *District of Columbia v. Heller*. If confirmed, my view of the Second Amendment will be guided by the *Heller* decision.

33. Do you agree with Judge Ken Lee that “[t]he record shows that firearms capable of holding more than ten rounds of ammunition have been available in the United States for well over two centuries”?

RESPONSE: I am not familiar with this quote and have no context to determine its accuracy.

34. Do you agree with Judge Ken Lee that “[t]he Second Amendment provides one last line of defense for people of color when the state cannot—or will not—step in to protect them”?

RESPONSE: I am not familiar with the full context of this quote. I am aware that the Supreme Court, in *District of Columbia v. Heller*, has recognized that self-defense is the “central component” of the individual right to keep and bear arms under the Second Amendment. If confirmed, my view of the Second Amendment would be guided by the *Heller* decision.

35. Do you agree with Judge Diarmuid O’Scannlain that “self-defense, recognized since ancient times as a ‘basic right,’ is the ‘central component’ of the Second Amendment guarantee”?

RESPONSE: I am not familiar with the full context of this quote. Judge O’Scannlain appears to be quoting the Supreme Court’s holding in *District of Columbia v. Heller*. If confirmed, my view of the Second Amendment would be guided by the *Heller* decision.

36. Do you think it’s appropriate for U.S. Senators to threaten the Supreme Court with “reform” if it continues to enforce the Second Amendment against the government?

RESPONSE: I am not aware of the circumstances you reference. My view of the Second Amendment is guided by the Supreme Court’s holding in *District of Columbia v. Heller*. If I am confirmed, I will take an oath, as all ATF employees do, to support and defend the Constitution.

37. As a gun owner and former law-enforcement officer. Have you ever lost a firearm or had a firearm stolen from your possession?

RESPONSE: No.

38. In a 2019 blog for Giffords you wrote “ATF’s annual budget is only \$1.2 billion, while the last aircraft carrier purchased for the Navy cost \$13 billion.” Do you support cutting funds for the military in order to increase ATF’s budget?

RESPONSE: No.

39. When you were a senior vice president at ShotSpotter, were you ever made aware of reports of ShotSpotter sensors recording conversations of people located close to a sensor?

RESPONSE: Yes. During my tenure at ShotSpotter, I was made aware of a few isolated historical instances among hundreds of thousands of gunshot detections where a voice was captured simultaneous to a brief audio clip of gunfire. In one instance, during an incident in Oakland, California, a gunshot victim screamed the name of his attacker. I have not been employed by the company since 2016.

40. The ATF has authority to issue rules and regulations that affect many important areas, especially the Second Amendment. In detail, can you describe the ATF’s rulemaking process and what role you would play in that process?

RESPONSE: My understanding is that ATF, like all agencies, follows the requirements set forth in the Administrative Procedure Act for its rulemaking. Once ATF decides that a regulation in the Code of Federal Regulations needs to be added, changed, or deleted, it typically publishes a proposed rule in the Federal Register to ask the public for comments. After ATF considers public feedback and makes changes where appropriate, ATF publishes in the Federal Register a final rule, describing and responding to the public comments received. The final rule includes a specific date for when the rule will become effective and enforceable. If I am confirmed, I will ensure that the legal requirements for the rulemaking process are met and that the process is open, transparent, consistent, and fairly applied.

41. Please explain, with detail, the process by which you became a nominee for Director of the ATF.

RESPONSE: I was informed in March 2021 that I was under consideration for potential nomination to serve as ATF Director. I participated in a vetting and screening process. I received a formal offer in early April 2021 and President Biden announced my nomination on April 8, 2021.

42. Have you had any conversations with individuals associated with the Giffords Group in connection with this nomination? If so, please explain the nature of the conversations.

RESPONSE: Yes. I am currently employed by Giffords and have remained in contact with my colleagues and other stakeholder groups regarding my nomination.

43. Have you had any conversations with individuals associated with any other outside group in connection with this nomination? If so, please explain the nature of the conversations.

RESPONSE: I have met with stakeholder groups, including several law enforcement groups, in connection with my nomination in order to meet their leadership and hear about their interests and concerns.

44. Please explain with particularity the process by which you answered these questions.

RESPONSE: The Department of Justice received these questions on June 2, 2021. I worked with Department attorneys to answer the questions. I finalized and approved all answers to the questions and authorized their transmission to the Committee on June 7, 2021.

45. Do these answers reflect your true and personal views?

RESPONSE: Yes.

Senator Blackburn

Responses to Questions from Senator Blackburn to David Chipman, Nominee to be Director, Bureau of Alcohol, Tobacco, Firearms and Explosives

1. In 1994, President Clinton and Congress enacted a ban on assault weapons that barred the purchase of numerous common, self-defense, and hunting firearms. In 2016, Obama issued 23 Executive Actions on gun violence, including a call to ban assault weapons and high-capacity magazines. If confirmed as Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, will you promote a similar reenactment of these types of gun bans?

RESPONSE: If I am confirmed as ATF Director, I would not have the unilateral authority to enact such a ban. Only Congress and the President would have the ability to do so, as they did in 1994. If confirmed, I would enforce the laws passed by Congress and signed by the President.

2. Since retiring from the ATF, you have worked or associated with numerous national gun control groups. How will your past positions and associations affect your decisions as ATF Director?

RESPONSE: If confirmed as ATF Director, I would return to service as a federal law enforcement officer—a role I held for 25 years. I would enforce the law without fear or favor, consistent with the longstanding practice and policies of ATF and the Department of Justice.

3. Do you believe that the Second Amendment guarantees an individual right to own a firearm for self-defense?

RESPONSE: In *District of Columbia v. Heller*, the Supreme Court held that the Second Amendment confers “an individual right to keep and bear arms.” 554 U.S. 570, 595 (2008). The Court also stated that, “[l]ike most rights, the right secured by the Second Amendment is not unlimited.” *Id.* at 626. If confirmed, I will take an oath, as all ATF employees do, to support and defend the United States Constitution, and that includes the Second Amendment.

4. How would you define an “assault weapon,” and do you support a ban on ownership and manufacturing of these firearms?

RESPONSE: The definition of “assault weapon” for the purposes of a ban would be decided by Congress. As a former ATF special agent, I enforced a federal assault weapons ban when it was law from 1994 to 2004. As an advocate, I supported certain proposals to reinstate such a ban. However, if confirmed as ATF Director, I would enforce the laws

passed by Congress and signed by the President. I would not have the unilateral authority to enact such a ban.

5. Would a ban on firearms described as “assault weapons” be in violation of the current and conventional interpretation of the Second Amendment?

RESPONSE: I am unable to speculate on a hypothetical situation. If confirmed as ATF Director, I would enforce the laws passed by Congress and signed by the President. I would consult with the attorneys at ATF and the Department of Justice if presented with questions regarding the constitutionality of a particular law.

6. What differentiates an “assault weapon” and common semi-automatic firearms lawfully owned by millions of Americans?

RESPONSE: I am unable to speculate on the potential contours of a definition of “assault weapon” until and unless Congress passes a law defining the term.

Senator Cotton

Responses to Questions from Senator Cotton to David Chipman, Nominee to be Director, Bureau of Alcohol, Tobacco, Firearms and Explosives

1. Since becoming a legal adult, have you ever been arrested for or accused of committing a hate crime against any person?

RESPONSE: No.

2. Since becoming a legal adult, have you ever been arrested for or accused of committing a violent crime against any person?

RESPONSE: No.

3. During your career working for the ATF, did you ever lose or otherwise misplace a firearm issued to you by the ATF or intended primarily for use in your employment with the ATF?

RESPONSE: No.

4. Have you ever lost or otherwise misplaced a firearm that you owned?

RESPONSE: No.

5. If you have ever lost or misplaced a firearm, whether owned by you or issued to you by the ATF, please provide details of each such instance, including when each incident occurred, whether and to whom you reported the missing firearm, and whether the firearm was recovered.

RESPONSE: Please see my responses to Questions 3 and 4.

6. It is estimated that murders increased by approximately 25% nationwide in 2020. Does the United States currently have a violent crime problem?

RESPONSE: There is no doubt that violent crime has surged across the country. I am deeply concerned about it. As I testified at my hearing, when I previously served at ATF, I launched the Violent Crime Impact Team program, credited with preventing gun homicides in 15 targeted cities. If I am confirmed as ATF Director, my focus will be, in part, to strive to prevent more violent crimes from occurring in the first place. I understand that combatting violent crime is a top priority of the Attorney General and other Department of Justice leaders. If confirmed, I would work in partnership with

Department counterparts, as well as federal, state, local, tribal, and territorial partners, in this mission.

7. You have worked as a registered lobbyist on the issue of gun control, including working for Michael Bloomberg, and have also been involved with multiple gun control advocacy groups. Please provide a list of all issues and legislation on which you have been a lobbyist.

RESPONSE: During the second and third quarters of 2013, I was reported as a lobbyist for Mayors Against Illegal Guns involving a variety of firearms-related matters, including background checks, large-capacity magazines, and ATF funding. From the fourth quarter of 2016 to the end of 2019, I was reported as a lobbyist for Americans for Responsible Solutions, and later Giffords, involving a variety of firearms-related matters, including background checks, trafficking of firearms, concealed carry reciprocity, the National Firearms Act, and the Hearing Protection Act. Lobbying was not a large part of my duties at either organization.

8. You have worked as a registered lobbyist on the issue of gun control, including working for Michael Bloomberg. Over the course of your career, approximately how much have you been paid to lobby on behalf of gun control interests?

RESPONSE: Please see my response to Question 7. Lobbying was not a large part of my duties at either organization.

9. On March 24, 2020, you posted on your Facebook account an article about Liberty University students attending in-person classes, which you suggested demonstrated that Liberty University “is a cult.” Do you believe that Liberty University students are members of a “cult”?

RESPONSE: No.

10. Approximately 20,000 Americans were victims of murder in 2020, which is approximately 25% more than in 2019. During the nationwide increase in riots and violent crime, around five million Americans became first-time gun buyers. Do you believe that those first-time gun buyers are to blame for the increase in violence in the United States?

RESPONSE: The increase in violent crime is concerning. Striving to prevent violent crime will be a top priority if I am confirmed as ATF Director. I am unable to speculate on the causes of the increase in violent crime, which is complex and dependent on context and location.

11. You have called for a ban on so-called “assault rifles.” Are “assault rifles” the cause of the murder spike in the United States in 2020?

RESPONSE: The increase in violent crime is concerning. Striving to prevent violent crime will be a top priority if I am confirmed as ATF Director. I am unable to speculate on the causes of the increase in violent crime, which is complex and dependent on context and location.

12. Are so-called “assault rifles” the most common type of weapon used to commit murder in the United States?

RESPONSE: According to FBI crime data from 2019, handguns were the most common homicide weapon from 2015 to 2019. In 2019, 10,258 homicides were committed using firearms, of which 6,368 were committed using handguns.

13. Are so-called “assault rifles” used more commonly or less commonly than knives to commit murders in the United States?

RESPONSE: According to FBI crime data from 2019, 1,476 homicides were committed using knives or cutting instruments. 10,258 homicides were committed using any type of firearm, of which 6,368 involved handguns, 364 involved rifles, 200 involved shotguns, 45 involved “other guns,” and 3,281 involved firearms for which the type is not stated. Because the data set does not use the term “assault rifles,” the data is not sufficiently disaggregated to compare definitively the number of homicides committed using knives against the number of homicides committed using “assault rifles.”

14. Are so-called “assault rifles” used more commonly or less commonly than blunt objects (such as hammers) to commit murders in the United States?

RESPONSE: According to FBI crime data from 2019, 397 homicides were committed using blunt objects. 10,258 homicides were committed using any type of firearm, of which 6,368 involved handguns, 364 involved rifles, 200 involved shotguns, 45 involved “other guns,” and 3,281 involved firearms for which the type is not stated. Because the data set does not use the term “assault rifles,” the data is not sufficiently disaggregated to compare definitively the number of homicides committed using blunt objects against the number of homicides committed using “assault rifles.”

15. Are so-called “assault rifles” used more commonly or less commonly than things like feet and fists to commit murders in the United States?

RESPONSE: According to FBI crime data from 2019, 600 homicides were committed using “Personal weapons (hands, fists, feet, etc.).” 10,258 homicides were committed using any type of firearm, of which 6,368 involved handguns, 364 involved rifles, 200 involved shotguns, 45 involved “other guns,” and 3,281 involved firearms for which the type is not stated. Because the data set does not use the term “assault rifles,” the data is not sufficiently disaggregated to compare definitively the number of homicides committed using “personal weapons” against the number of homicides committed using “assault rifles.”

16. Are Americans unreasonable to want to protect themselves from violent crime?

RESPONSE: No.

17. In an article in 2020, you wrote that, “[c]ontrary to what the NRA will tell you, ‘good guys with a gun’ aren’t the best answer to . . . ‘bad guys with a gun.’” Let me give you an example: Imagine that a woman is home alone and an armed intruder breaks in. Even if she calls the police immediately, they are at least several minutes away. If having a gun to protect herself is not the answer, what should she do instead?

RESPONSE: I am unable to comment on a hypothetical situation. As a general matter, I support the “individual right to keep and bear arms,” as recognized by the Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570, 595 (2008).

18. Your Twitter account describes you as an “advocate” for “gun violence prevention.” Have you used your Twitter account and other social media to engage in policy advocacy or make statements about gun policies?

RESPONSE: Yes.

19. Your Twitter account is currently set to “private,” meaning that your tweets can only be viewed by individuals whose access you approve. Prior to your nomination to lead ATF, was your Twitter account set to allow public viewing?

RESPONSE: Yes.

20. If your Twitter account was set to allow public access prior to your nomination, when did you set your Twitter account to “private”?

RESPONSE: April 7, 2021.

21. Did you discuss with anyone in the Biden administration or transition team anything related to setting your Twitter account to “private” or deleting or removing particular public posts?

RESPONSE: Yes. I decided to set my Twitter account to private because of violent threats I had received in the past and anticipated receiving once my nomination was made public. I notified officials at the Department of Justice that I intended to make my account private.

a. If so, did anyone in the Biden administration or transition team suggest that you set your Twitter account to “private” or delete or remove particular public posts?

RESPONSE: No.

22. You have advocated for an outright ban on so-called “assault weapons” and have said that the 1994 Assault Weapons Ban “didn’t go far enough.” During your testimony, I asked you how you would define an assault weapon. After a few efforts to avoid the question, you eventually cited a definition that included “any semi-automatic rifle capable of accepting a detachable magazine above the caliber of .22.” Approximately how many rifles in America fit that definition?

RESPONSE: During my hearing testimony, I stated that the definition of “assault weapon” for the purposes of a ban would be determined by Congress if such a law were to pass. Congress previously defined the term in 1994. When I was asked to define the term, I cited one definition of “assault rifle” currently in use for a specific, limited purpose by ATF for multiple sale reports on the Southwestern border. I do not have data on how many rifles fit this definition. I am not aware of any proposal to use this definition in the context of a ban.

23. Please describe with particularity the process by which you answered these questions and the written questions of the other members of the Committee.

RESPONSE: The Department of Justice received these questions on June 2, 2021. I worked with Department attorneys to answer the questions. I finalized and approved all answers to the questions and authorized their transmission to the Committee on June 7, 2021.

24. Did any individual outside of the United States federal government write or draft your answers to these questions or the written questions of the other members of the Committee? If so, please list each such individual who wrote or drafted your answers. If government officials assisted with writing or drafting your answers, please also identify the department or agency with which those officials are employed.

RESPONSE: Please see my response to Question 23.

Senator Cruz

Responses to Questions from Senator Cruz to David Chipman, Nominee to be Director, Bureau of Alcohol, Tobacco, Firearms and Explosives

1. When asked in a forum what gun laws were currently working and working well, you responded: “ERPOs (red flag) laws in 17 states and states that require licensing appear to prevent gun crime. Based on my time at ATF, requiring a background check for every gun sale at a licensed gun dealer would have the biggest impact on gun violence and largely disrupt interstate firearms trafficking.” You then stated that you “believe all guns should be limited to licensed gun stores where a background check and paperwork is required.” Does that remain your position? If not, please explain how your current position differs from your previous statement.

RESPONSE: As an advocate, I supported efforts to address shortcomings in the background check system based on the experience I gained during my 24-year career at ATF, including my work to disrupt firearms trafficking from Tidewater, Virginia, to the Northeast. If I am confirmed as ATF Director, I would enforce the background check laws currently on the books.

2. You have previously stated that gun control “is a perfect opportunity to arrest people before committing crimes rather than responding after the fact.” Does this remain your position? If not, please explain how your current position differs from your previous statement.

RESPONSE: I was referring to the fact that people who have failed a background check in an attempt to illegally purchase a firearm have already committed a crime—a serious federal felony—and such cases present opportunities for law enforcement to prevent potential violent crimes from occurring. As I indicate in my response to Question 13 below, I know this is a priority for you, and I appreciate your leadership on this issue. My full quote from a 2019 Reddit forum is as follows: “While at ATF I conducted studies involving people who failed background checks to determine how many later committed crimes with a gun—many did. This is a perfect opportunity to arrest people before committing crimes rather than responding after the fact. CNN even reported on this: <https://www.cnn.com/2018/12/21/us/gun-form-liars-atf-invs/index.html>.”

3. You have supported raising the minimum age to buy a firearm to 21 years. Does that remain your position?

RESPONSE: As an advocate, I have held that position. If confirmed as ATF Director, I would enforce the laws passed by Congress and signed by the President. Under current federal law, the minimum age to buy a handgun is 21 years for a sale from a licensed dealer and 18 years for a sale from a private seller, and the minimum age to buy a long gun from

a licensed dealer is 18 years, with no minimum age for long gun purchases from a private seller.

4. You have referred to AR-15s as “weapons of war,” and advocated for “treating them just like machine guns” You have also mentioned that “[o]ne option would be to require the registration of all existing assault weapons under the National Firearms Act while banning the future manufacture and sale of these firearms.”
 - a. Does this remain your position? If not, please explain how your current position differs from your previous statement.
 - b. Please define “weapon of war” and the source of your definition.
 - c. What specific attribute(s) or function(s) of an AR-15 render it a “weapon of war”?
 - d. For each attribute or function identified in subpart (c), please identify any other firearms that possess that attribute or function and whether that firearm is a “weapon of war.”

RESPONSE: If I am confirmed as ATF Director, I would enforce the laws passed by Congress and signed by the President. There is currently no federal law requiring the registration of assault weapons or restrictions on the future manufacture and sale of such firearms. There are several proposals to regulate or ban assault weapons.

5. Define “assault rifle.”

RESPONSE: As I stated during my hearing testimony, the definition of “assault weapon” or “assault rifle” for the purposes of a ban would be determined by Congress if such a law were to pass. Congress previously defined the term in 1994.

6. What is the difference between an “assault rifle” and a “weapon of war”?

RESPONSE: Please see my response to Question 5.

7. You have stated about the NRA: “I can fully understand why a community might say, ‘You know what? We think any money coming from the NRA is just dirty.’ I don’t trust that the NRA would be giving sound, balanced advice about the risks of funds and how they play a role in violence in America.” Does the same standard about playing a “role in violence in America” apply to organizations that have offered cash to pay bail for rioters and looters this past summer?

RESPONSE: My quote was provided in the context of a 2018 *Sacramento Bee* article investigating how some public and private schools in California received a total of \$1 million in grant funding from the NRA Foundation between 2010 and 2016. I said that a community

should be able to decide whether they want to accept such grant money. I believe a community should be free to make its own decisions about grant funding. The quote, which appeared correctly in the *Sacramento Bee*, says “risks of guns” rather than “risks of funds.” I am not familiar with specific organizations you reference.

8. You have supported the repeal of the Protection of Lawful Commerce in Arms Act (“PLCAA”).
 - a. Please explain your understanding of the PLCAA.
 - b. Under what circumstances does the PLCAA apply?
 - c. Does the PLCAA immunize firearms manufacturers who produce defective products?
 - d. Does the PLCAA immunize firearms manufacturers who have committed criminal misconduct?
 - e. You have stated that firearm manufacturers should be liable for misuse of firearms by third parties, “[j]ust like any other industry.” Name another industry in which companies are held liable when individuals use their products to commit a crime.

RESPONSE: President Biden has stated his support for repealing the Protection of Lawful Commerce in Arms Act (PLCAA) in order to ensure that victims of gun violence are given an opportunity to pursue justice in court. The law is codified in 15 U.S.C. §§ 7901-7903. The ATF does not have a role in enforcing PLCAA or attempting to retain or repeal it. If I am confirmed as ATF Director, I would therefore not have a role in enforcing or attempting to repeal PLCAA. I would enforce the laws on the books.

9. Is it appropriate for banks to deny financing or other services to firearms manufacturers? If not, will you commit to opposing any efforts to deny financing or financial services to firearms manufacturers on equal terms with other lawful businesses?

RESPONSE: I am not familiar with this issue. If I am confirmed as ATF Director, I would not have a role in financial services provided to firearms manufacturers. As a general matter, I think the laws should be fairly and faithfully enforced, free of any political or partisan influence.

10. What is the purpose of a firearm?

RESPONSE: People own and use firearms for different reasons. Speaking for myself, I was issued firearms during my service as an ATF special agent, and like many Americans, I now own firearms for self-defense. As I testified at my hearing, my most prized firearm is a Smith & Wesson Treasury commemorative gun, on which the serial number is my birth date.

11. During a Reddit forum, you falsely claimed that, “At Waco, cult members used 2 .50 caliber Barretts to shoot down two Texas Air National Guard helicopters.” Did you do any research before making this statement in a public forum? If not, do you believe you acted responsibly when you made this statement?

RESPONSE: I was an investigative agent for ATF in Waco, Texas, and I came in following the events at the Branch Davidian complex in early 1993. As part of my duties, I interviewed the federal agents who were involved. During a Reddit forum in 2019, when asked to illustrate the lethality of .50 caliber weapons, I shared what federal agents had told me based on their firsthand experience: that Branch Davidians used .50 caliber Barretts to shoot at Texas Air National Guard helicopters, and that the helicopters were forced to land as a result of the gunfire. During the course of my work, I examined pictures of the helicopters riddled with bullet holes. As I testified at my hearing, I regret any confusion between the phrases “shot down” and the more accurate “forced down because of the gunfire.”

12. What is your opinion of the ATF’s role in the siege at Waco? Do you believe that ATF acted appropriately? Please explain.

RESPONSE: ATF conducted an appropriate investigation of Vernon Howell and obtained a lawful search warrant. An operational plan dependent on the element of surprise was drafted and practiced by agents. Prior to the start of the operation, the element of surprise was compromised and ATF erred by moving forward with the operation. If I am confirmed as ATF Director, I will strive to ensure that such errors will never happen again under my leadership. I will always be honest and straightforward with ATF and the American people—they deserve nothing less.

The overall loss of life was tragic from all vantage points. However, Vernon Howell was a dangerous cult leader bent on death and destruction. He is ultimately responsible for the violence and loss of life near Waco, Texas, in 1993.

13. When we spoke, I told you that I have been concerned for years that the Department of Justice does not prosecute cases where criminals illegally try to buy firearms but are stopped by a background check. Every Congress since 2013, Senator Grassley and I have introduced legislation that would fix this. Our bill (the “Protecting Communities and Preserving the Second Amendment Act”), among other things, create a taskforce to prosecute these cases. If you are confirmed to lead the ATF, will you support this bill and prioritize these cases to help take dangerous criminals off the streets?

RESPONSE: I appreciated our conversation about this important issue, and I applaud your leadership. As I testified at my hearing, I view these cases as near-misses, and I believe it is good policy to bring criminal prosecutions for such violations in appropriate cases. Because I am not presently at the Department, I do not have a full picture of the status and prioritization of such prosecutions. If I am confirmed, it will be a top priority for me to understand this issue and the current work being undertaken by ATF and other Department

components. As I testified, I want to ensure that ATF can effectively leverage its expertise and resources to prevent more violent crimes from occurring in the first place.

14. While you were at ATF, did you ever lose, misplace, or have your service weapon stolen? If so, please explain the circumstances, the results of any pending investigation(s), whether the firearm or firearms were ever recovered, and any disciplinary action taken.

RESPONSE: No.

15. While you were at ATF, were you ever the subject of any disciplinary actions? If so, please explain.

RESPONSE: No.

16. While you were at ATF, were you ever the subject of any EEOC complaints? If so, please explain.

RESPONSE: During my 15 years as a manager at ATF, I received two EEO complaints. Both complaints were resolved without any finding of discrimination and no disciplinary action was taken against me.

17. While you were at ATF, were you ever the recipient of any formal or informal counseling as the result of allegations of inappropriate or unlawful behavior?

RESPONSE: No.

18. Are you willing to make your full personnel file from your time at ATF available to the Committee?

RESPONSE: My ATF personnel file is under the control of the federal government. As a nominee and private citizen, I have submitted more than 2,000 pages of responsive public and private records to the Committee. If I am confirmed, I will continue to be responsive and transparent with the Committee to the best of my ability, consistent with Department policies and practices.

Senator Graham

Responses to Questions from Senator Graham to David Chipman, Nominee to be Director, Bureau of Alcohol, Tobacco, Firearms and Explosives

1. You have been a vocal advocate of a ban on AR-15s. Given your extensive gun control activist background, I think it is important for the American people to know what other legal guns or gun parts you would like to see banned. Please list them here.

RESPONSE: If I am confirmed as ATF Director, I would enforce the laws on the books. I would not have the unilateral authority to enact a ban on AR-15s.

2. On May 21, 2021, ATF published Proposed Rule 2021R-05, *Definition of “Frame or Receiver” and Identification of Firearms*, in the Federal Register, with the stated goal of “ensur[ing] the proper marking, recordkeeping, and traceability of all firearms manufactured, imported, acquired and disposed by federal firearm licensees.”
 - a. Under the proposed rule’s new definitions, many firearms would have two or more frames or receivers, each requiring a serial number. How would this affect law enforcement, ATF, and federal firearm licensees’ (FFL) ability to conduct traces? Would this not make a difficult process even more onerous?
 - b. Was this proposed rule one you advocated for as a gun control activist?
 - c. If confirmed, will you commit to consulting industry prior to the proposed rule becoming final?

RESPONSE: As a nominee, it would not be appropriate for me to weigh in on the substance of the proposed rule during the public comment period. If I am confirmed before the rule is finalized, I will ensure that all applicable ATF and Department of Justice policies and practices are applied to the remainder of the rulemaking process.

3. ATF reported a 70 percent increase in the number of federal firearm licensee (FFL) burglaries and a 266 percent increase in the number of FFL robberies from 2013 to 2017. In 2017, 8,129 firearms were taken in FFL burglaries and robberies. In 2018, South Carolina FFLs reported that 193 firearms were stolen during burglaries and robberies. Last Congress, I introduced the FFL Protection Act to help address the rapid increase in the number of “smash-and-grab” thefts targeted at federally licensed gun dealers. I intend to reintroduce the legislation this Congress. The FFL Protection Act is designed to discourage “smash-and-grabs” and make it more costly for criminals who target FFLs by 1) increasing the statutory maximum penalty from 10 to 20 years for knowingly stealing a firearm from a FFL; 2) imposing mandatory minimum sentences of 3 years for burglary from a FFL and 5 years for robbery from a FFL; and 3) criminalizing the attempted theft of a firearm from a licensed importer, manufacturer, dealer, or collector.
 - a. How do you perceive the threat of weapons acquired by criminals from “smash-and-grabs”?

- b. Do you believe mandatory minimum sentences would help stop the illegal dissemination of such guns?

RESPONSE: This is an important public safety issue. If confirmed as ATF Director, I would seek to ensure that investigations of FFL burglaries and other crimes targeting the firearms industry will be one of ATF's top investigative priorities. The industry ATF regulates should expect that when they are the victims of crime, ATF will bring the resources at its disposal to investigate these offenses and to identify the perpetrators of these crimes. I look forward to studying your legislation.

Senator Hawley

Responses to Questions from Senator Hawley to David Chipman, Nominee to be Director, Bureau of Alcohol, Tobacco, Firearms and Explosives

1. In a December 2012 interview with Chris Matthews, in response to a question about the role of the Secret Service, you stated directly that “their use of guns, shooting guns, is not necessary.” Do you hold that view today?

RESPONSE: As an ATF special agent, I regularly worked closely with the brave men and women of the Secret Service and gained a first-hand appreciation for their important mission. In this interview, I was observing that one of the most effective ways for law enforcement to combat violent crime is to prevent criminals from accessing firearms in the first place rather than to engage criminals in a shootout: “One of the things I got to do at ATF is work with the United States Secret Service, the most heavily armed group that we have in this country and they haven’t used their guns to protect the President and thwart an assassination attempt since 1950. So what I’m saying is that I believe that the answer is keeping guns out of the hands of criminals before they get them.” I would never advocate—and have never advocated—for Secret Service agents to work without arms.

2. In that same 2012 interview, you expressly agreed with Matthews’s comment that “their whole rule is to cover and evacuate” and you stated that “possibly we need to think of strategies like that in schools.” Do you believe it is preferable for school resource officers to adopt an unarmed “cover and evacuate” approach in the event of a mass shooting scenario, rather than using firearms against armed assailants?

RESPONSE: This interview took place shortly after the horrific massacre at Sandy Hook Elementary School in Newtown, Connecticut. I believe strongly in making our schools safe and secure for our children. Our students should be able to learn and thrive free from the fear of gun violence in their classrooms. While I have supported certain approaches to school safety as an advocate, there is no one-size-fits-all approach to this issue. If confirmed as ATF Director, I would not have a direct role in school safety policies.

3. Do you support restricting the number of firearms an individual may purchase per month?

RESPONSE: If confirmed as ATF Director, I would enforce the laws passed by Congress and signed by the President. I am not aware of a federal law restricting the number of firearms an individual may purchase per month.

4. Under the Gun Control Act (GCA), a firearm has only one frame or receiver: “The term ‘firearm’ means (A) any weapon . . . which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) *the frame or receiver* of any such weapon” 18 U.S.C. § 921(a)(3). Manufacturers and importers are required

to “identify, by means of a *serial number* engraved or cast on the receiver or frame of the weapon,” each firearm. § 923(i).

ATF recently proposed a new regulation that purports to say that many firearms have two or more frames or receivers and each must have a serial number—meaning, in practice, that a typical firearm would have multiple serial numbers. Since parts are interchangeable (e.g., an upper and lower receiver), invariably many firearms will end up with more than one serial number, and the same serial number will be found on multiple firearms.

What effect will this have on the ability of law enforcement and ATF to trace firearms?

RESPONSE: As I am not currently at ATF, I am unfamiliar with ATF’s technical decisions regarding the marking and tracing of firearms with more than one frame or receiver. However, I do know generally that the proposed rule recognizes ATF’s prior classifications that most firearms only have one frame or receiver, and that it authorizes persons to obtain variances from having to place multiple serial numbers. I also know that one of the main goals of the proposed rule is to ensure that firearms have markings that can be traced by law enforcement if used in a crime.

5. Under ATF’s newly-minted proposed regulation, some observers have argued that raw material in the shape of a handgun or a frame or receiver would be defined as a firearm. What considerations should inform ATF’s analysis in redefining particular elements of raw material as firearms?

RESPONSE: I understand from my more than 20 years of experience as an ATF special agent that ATF follows the definitions set forth in the Gun Control Act of 1968 and the National Firearms Act to determine what is and is not a firearm. It is my understanding that the determination of when an item reaches a state of manufacture falling within the statutory definition of a firearm frame or receiver involves an examination of the specific product and application of the statutory criteria. I further understand that ATF has a pending proposed rule to clarify the regulations applicable to these determinations. If confirmed, I will follow the requirements of the Administrative Procedure Act to ensure that ATF takes into consideration input from the public in promulgating all proposed regulations, including the pending rulemaking relating to firearm frames and receivers.

Senator Lee

Responses to Questions from Senator Lee to David Chipman, Nominee to be Director, Bureau of Alcohol, Tobacco, Firearms and Explosives

1. Mr. Chipman, a report by the Western Criminology Review on the Criminal Use of Firearm Silencers found that between 1995 and 2005, there were “only two [federal] cases of a silencer being used in a murder in the United States.” The report also found that in a ten-year period, there were “approximately 40,000 homicides prosecuted in federal court and considerably fewer than .01 percent involved a silencer.” This data seems to suggest that silencers, or suppressors, are not nearly as problematic as you have suggested in the past. In fact, silencers are hardly ever deployed by criminals in the United States. If this is true, why do you think it is important to expend limited ATF resources on the regulation of silencers?

Source: Paul A. Clark, *Criminal Use of Firearm Silencers*, 8 W. Criminology Rev. 44, 51 (2007).

RESPONSE: Silencers are currently legal and available to purchase and own. They have been regulated under the National Firearms Act since 1934. Those individuals who want to buy silencers to protect their hearing have the means to do so through the many companies that sell National Firearms Act weapons. I have advocated against efforts to deregulate silencers because I believe the regulations in place for nearly 90 years have had a positive impact on public safety.

2. Mr. Chipman, the ATF released statistics showing that “[a]s of 02-03-2017, there are 1,297,670 suppressors registered with ATF under the National Firearms Act,” and that they are “rarely used in crimes.” The statistics further showed that only “.003 percent of silencers are used in crimes each year. Of those . . . only 6 involved defendants with prior felony convictions.” In fact, in an internal memo, ATF Associate Deputy Director Ronal Turk “argued that silencers should be deregulated due to the low rate at which they are used in crimes.” You make silencers out to be such dangerous devices, yet the statistics and testimony from the ATF and its agents show that they rarely are used to commit crimes. Why prioritize the government regulation of suppressors?

Source: <https://freebeacon.com/issues/atf-despite-nearly-1-3-million-silencers-united-states-rarely-used-crimes/>;
<http://apps.washingtonpost.com/g/documents/national/read-the-white-paper-on-firearms-regulations/2325/>

RESPONSE: Please see my response to Question 1.

3. Mr. Chipman, the ATF and the firearms industry have enjoyed years of proactive safety cooperation “to promote firearm safety, responsible actions among lawful gun owners,

and [reducing] criminal access to, and [the] misuse of firearms.” For example, Project ChildSafe is a nationwide initiative to promote firearms responsibility and provide safety education to all gun owners . . . through which [the Firearm Industry Trade Association] and its more than 15,000 law enforcement partners have distributed more than 40 million free firearm safety kits to gun owners in all 50 states. If you are appointed as the ATF Director, how will you maintain this cooperation with the firearms industry to promote gun safety with manufacturers and retailers given your time advocating for gun control for Giffords and Everytown for Gun Safety and your adversarial history with the firearms industry?

Source: [Home - Project ChildSafe](#)

RESPONSE: ATF’s partnerships with firearms manufacturers and retailers, in addition to other stakeholders, are critical to enhance public safety together. I know this firsthand. While at ATF, I served as the Chief of the Liaison Division, responsible for managing ATF’s external partnerships with law enforcement organizations, international liaisons, industry, research, and other groups. Prior to holding that position, I held a number of increasingly senior positions within ATF for which success depended on productive and positive relationships with industry actors.

4. Mr. Chipman, according to ATF data, there were 343 burglaries of Federal firearm licensees (FFLs) in 2019, and 4,691 firearms stolen. If you are appointed as the ATF director, how will you assist the efforts to prevent these burglaries, and how will you maintain a relationship with FFLs?

RESPONSE: I know that ATF currently has several ways of helping FFLs prevent firearms burglaries, including education during inspections and offering seminars as to how businesses can secure inventory and avoid being the victim of burglaries and thefts. I also know that upon learning of any FFL burglary, theft, or robbery, ATF agents and Industry Operations Investigators respond to investigate and provide the victim FFL with guidance on steps they can take to prevent future incidents. ATF has partnered with an industry trade group in Operation Secure Store to promote security measures and the safeguarding of FFL premises to prevent thefts of firearms. If I am confirmed, I would work to ensure that ATF maintains these practices, which facilitate positive relationships with FFLs. FFLs should also expect that when they are victims of crime, ATF will bring the resources at its disposal to investigate these offenses and to identify the perpetrators. Lastly, I would exercise my best efforts to provide all necessary resources to ATF field personnel, who maintain a vital connection and strong rapport with all industry members.

5. Mr. Chipman, my staff recently spoke with representatives from the Firearm Industry Trade Association, and they discussed, among other things, working with FFLs for safe firearm storage. One of their points was how the most effective programs work with FFLs to provide incentives to sell safe storage devices and provide free training materials to new and returning gun purchasers. If appointed, will you work with FFLs and firearm manufacturers to promote voluntary safe storage programs, and what, in your mind, is the best approach to ensure the safe storage of firearms?

RESPONSE: If confirmed, I would strive to ensure that ATF continues to work with FFLs and industry groups to promote safe storage of firearms, including in Project ChildSafe. I would work with private industry, as well as partner with DOJ's Office of Justice Programs and the COPS Office, to ensure that grant dollars are provided to promote the safe and secure storage of firearms nationwide.

6. In September 2019, you posted the following on Reddit: "while at ATF I conducted studies involving people who failed background checks to determine how many later committed crimes with a gun – many did. This is a perfect opportunity to arrest people BEFORE committing crimes rather than responding after the fact." In your testimony before the committee, you talked about wanting to "prevent more violent crimes from occurring in the first place", and attempted to explain your Reddit post as referring to prosecution of those who lie on their Form 4473. Your 2019 comments are a clear threat to Due Process as protected by the Constitution. Do you stand by those comments? If not, how would you further clarify those concerning statements?

RESPONSE: I was referring to the fact that people who have failed a background check in an attempt to illegally purchase a firearm have already committed a crime—a serious federal felony—and such cases present opportunities for law enforcement to prevent potential violent crimes from occurring. My full quote from a 2019 Reddit forum is as follows: "While at ATF I conducted studies involving people who failed background checks to determine how many later committed crimes with a gun—many did. This is a perfect opportunity to arrest people before committing crimes rather than responding after the fact. CNN even reported on this: <https://www.cnn.com/2018/12/21/us/gun-form-liars-atf-invs/index.html>."

7. How will you competently represent the ATF to the American public, many of whom are lawful gun owners, when you have made numerous concerning and inflammatory comments that you have later claimed were misconstrued or misstated?

RESPONSE: I am a gun owner myself, and I served at ATF for more than two decades. I recognize that public office is a public trust. If confirmed as ATF Director, I will work every day to earn the trust and respect of the American people.

8. In response to a question regarding *Heller*, you stated that you are "a cop, not a lawyer." If confirmed as the Director of the ATF you will have significant regulatory authority to implement the laws enacted by Congress in addition to law enforcement authority. This entails a significant legal responsibility. How will you effectively carry out these functions if you lack the interest or desire to understand existing law?

RESPONSE: I am indeed a cop, not a lawyer. As a law enforcement officer for 25 years, I had a desire to understand existing law because I was responsible for enforcing it. All cops do. If I am confirmed as ATF Director, I will do the same—and I will be able to leverage the considerable expertise and knowledge of attorneys at ATF and the Department of Justice to do so.

9. You stated that you agree with the landmark Supreme Court holding in *District of Columbia v. Heller* that the 2nd Amendment protects the individual right to bear arms outside of any organized militia. How do you reconcile that with your extensive political work with gun control lobbyists and activist groups some of which seek the removal of that right? How would your policy beliefs on this issue influence your actions as the ATF Director?

RESPONSE: In *District of Columbia v. Heller*, the Supreme Court held that the Second Amendment confers “an individual right to keep and bear arms.” 554 U.S. 570, 595 (2008). The Court also stated that, “[l]ike most rights, the right secured by the Second Amendment is not unlimited.” *Id.* at 626. If confirmed, I will take an oath, as all ATF employees do, to support and defend the United States Constitution, and that includes the Second Amendment.

10. Are you familiar with the Supreme Court’s decision in *McDonald v. Chicago*? Do you support the Court’s holding that Due Process extends the 2nd Amendment right to keep and bear arms to states?

RESPONSE: Yes. Yes.

11. With the *McDonald* case as a background, do you support restrictive gun control laws passed in numerous states across the country severely limiting gun possession and use? If so, how do you reconcile these increasingly restrictive state laws with *McDonald*’s holding?

RESPONSE: If confirmed as ATF Director, I would be responsible for enforcing federal laws consistent with the Constitution. I am unable to comment on state laws generally without more information.

12. What is your recommended strategy for effective firearm tracing? Do you support tracing all legal firearms as well as illegal firearms?

RESPONSE: Based on my 24 years of service as an ATF special agent, I know that firearm tracing provides critical information to assist domestic and international law enforcement agencies in solving firearm-related crimes. If confirmed, I would urge all federal, state, and local law enforcement agencies to commit to comprehensive crime-gun tracing. The information generated by comprehensive tracing not only helps to solve individual firearm crimes, but also allows ATF and law enforcement partners to identify crime-gun sources and trafficking trends so they can develop effective investigative strategies to reduce and prevent firearms-related violent crime. My understanding is that ATF’s authority to trace firearms extends only to firearms “illegally possessed, used in a crime, or suspected by law enforcement officials of having been used in a crime.”

13. You have stated that you support an assault weapons ban, specifically on AR-15s because they are “particularly lethal”. How could such a standard of lethality be adjudicated in an

unbiased manner? Where do you draw the line on what guns, especially rifles, would be “lethal” enough to be banned or restricted under an assault weapons ban?

RESPONSE: If confirmed as ATF Director, I would enforce the laws passed by Congress and signed by the President. I am not aware of any proposals to classify assault weapons based on lethality, but any such standard would be established by Congress, not the ATF Director.

14. You admitted that there is no substantial data or evidence to support that the previous assault weapons ban, enacted under the Clinton administration, had a net positive effect on gun violence. Why would such a ban have a different result today, especially when the only ones likely to lose access to assault weapons would be law-abiding Americans?

RESPONSE: Congress has the discretion and authority to draft and pass a bill to ban assault weapons based on its own findings. I am not aware of an assault weapons ban proposal that would cause law-abiding Americans to lose access to their existing weapons.

15. Do you support mass regulation and registration of existing, privately owned assault weapons? Does this include AR-15 rifles?

RESPONSE: If confirmed as ATF Director, I would enforce the laws on the books. Aside from the existing registry of weapons regulated under the National Firearms Act, there is no registry of privately owned assault weapons.

16. Do you support barring ownership of high-capacity magazines?

RESPONSE: If confirmed as ATF Director, I would enforce the laws on the books.

17. During a recent Judiciary Committee hearing on safe gun storage, several unfortunate examples of accidents or crimes involving unsecured firearms were shared. What do you personally do to safely store your firearms?

RESPONSE: I secure my handgun in a certified firearms lockbox with a push button cabinet lock.

Have you ever had a negative experience resulting from unsafe gun storage?

RESPONSE: No.

Have you ever lost a firearm or had one stolen, whether personally or in your work as an ATF agent?

RESPONSE: No.

18. In your previous career with ATF, how many times were suppressors used in violent crimes in your investigations? Do you believe that they pose a serious threat today?

RESPONSE: Silencers are legal and have been regulated under the National Firearms Act since 1934. I believe that these regulations have played an important role in minimizing the threat posed by the use of silencers by criminals.

19. Given your previous statements that only gun lobbyists and criminals benefit from easily accessible suppressors, can you produce any data showing significant use of suppressors in violent crimes?

RESPONSE: I am not aware of any publicly available statistical studies on the use of silencers in violent crimes. My statements about silencers have been based primarily on the determination by Congress nearly 90 years ago that these devices are subject to the registration provisions of the National Firearms Act.

20. In a 2020 interview on Cheddar News, you spoke negatively of gun owners during the recent rise in first-time gun purchases stating that first time buyer should safely store their weapon and hide it “behind the cans of tuna and beef jerks they have stored in a cabinet and only bring that out of the zombies start to appear.” These first-time purchasers include unprecedented increases in Blacks, Latinos, and women (per NSSF statistics). Why did you associate these new gun owners with the “Tiger King” and other condescending themes?

RESPONSE: As I testified during my hearing, these remarks were made in jest and were intended to be self-deprecating.

21. Do you believe that low-income Americans, Black Americans, Latino Americans, Asian Americans, and women should be encouraged to purchase and own guns? Why or why not?

RESPONSE: As a gun owner myself, I support responsible gun ownership for all eligible Americans.

22. Do you have statistics on how many first-time gun owners who purchased firearms during the pandemic have training?

RESPONSE: No. However, as a general matter, I believe firearms training is important, whether for first-time gun owners or for longtime gun owners.

23. Do you support the Protection of Lawful Commerce in Arms Act? Why or why not?

RESPONSE: President Biden has stated his support for repealing the Protection of Lawful Commerce in Arms Act (PLCAA) in order to ensure that victims of gun violence are given an opportunity to pursue justice in court. The ATF does not have a role in enforcing PLCAA or attempting to retain or repeal it. If I am confirmed as ATF Director, I would therefore not have a role in enforcing or attempting to repel PLCAA. I would enforce the laws on the books.

24. Gun manufacturers and dealers are facing increasing social pressure and legal actions over crimes committed with weapons they produce and sell. As the head of ATF, how would you work with the gun manufacturers and dealers that ATF regulates to protect their rights while enforcing gun laws?

RESPONSE: Through my experience as an agent, I recognize that Federal Firearm Licensees (FFLs) are valuable partners in preventing the diversion of firearms to violent criminals. I know that ATF Industry Operations Investigators (IOIs) work closely with FFLs to help them achieve voluntary compliance with Federal firearms regulations. I am also aware that the vast majority of FFLs are in compliance with the federal firearm regulations and support law enforcement efforts to protect the public and prevent violent gun crime. If confirmed, I would continue to build on this important partnership with the firearms industry.

Senator Tillis

Responses to Questions from Senator Tillis to David Chipman, Nominee to be Director, Bureau of Alcohol, Tobacco, Firearms and Explosives

1. Mr. Chipman, how am I supposed to believe you can be impartial given you have been an activist on issues you will have jurisdiction over in the past?

RESPONSE: If confirmed as ATF Director, I would return to service as a federal law enforcement officer—a role I held for 25 years. I would enforce the law without fear or favor, consistent with the longstanding practice and policies of ATF and the Department of Justice.

2. Do you support the proposed red flag laws and why?
 - a. What should a red flag law include in your opinion?
 - b. You've publicly stated that you support red flag laws, have your views changed now or are you being dishonest with this Committee?

RESPONSE: On June 7, 2021, the Department of Justice published a model “extreme risk protection order” (ERPO) law for states to consider adopting and implementing in order to enhance public safety while protecting the rights of law-abiding Americans. Research has shown that such laws can save lives. I support the Department’s model legislation. I also understand that President Biden supports an appropriate national ERPO law.

3. If Congress were to enact a law requiring a background check for every sale of a firearm—how would you enforce that law for example if I were to sell a gun to my neighbor. Would I be required to check with the ATF before selling the firearm? How would that work?
 - a. What about to my son or daughter?

RESPONSE: I am unable to speculate on the implementation of a law that has not passed, but I will enforce any law that Congress passes.

4. You once said, in talking about red flag laws, that: “This is a perfect opportunity to arrest people before committing crimes rather than responding after the fact.”
 - a. Is this *Minority Report*? Do we arrest people for “pre-crime”?
 - b. Can you explain this statement and if you still stand by it?
 - c. As director of ATF how will you ensure American’s second, fourth, fifth, and sixth amendment rights are not infringed?

RESPONSE: My quote did not refer to “red flag laws.” I was referring to the fact that people who have failed a background check in an attempt to illegally purchase a firearm have already committed a crime—a serious federal felony—and such cases present opportunities for law enforcement to prevent potential violent crimes from occurring. My full quote from a 2019 Reddit forum is as follows: “While at ATF I conducted studies involving people who failed background checks to determine how many later committed crimes with a gun—many did. This is a perfect opportunity to arrest people before committing crimes rather than responding after the fact. CNN even reported on this: <https://www.cnn.com/2018/12/21/us/gun-form-liars-atf-invs/index.html>.”

If confirmed, I will take an oath, as all ATF employees do, to support and defend the United States Constitution.

5. How many state legislatures have you appeared before on the subject of universal background checks?

RESPONSE: I appeared before the following state legislatures for which my testimony was primarily focused on background checks: Nevada, Oregon, Colorado, and Minnesota.

6. How old should someone have to be to purchase a firearm? Would this apply to veterans? What about to young women living on their own or people in rural American who hunt for the food?

RESPONSE: Under federal law, licensed firearms dealers may not sell a long gun or long gun ammunition to anyone under 18, and unlicensed persons may sell a long gun or long gun ammunition to a person of any age. Licensed firearms dealers may not sell a handgun or handgun ammunition to anyone under 21, and unlicensed persons may not sell a handgun or handgun ammunition to anyone under 18.

7. You said under oath to the House Judiciary Committee that “simply reinstating the 90’s-era ban on assault weapons is not enough. Instead, we should regulate a broader class of firearms, including assault weapons manufactured before the law’s enactment. One option would be to require the registration of all existing assault weapons under the National Firearms Act while banning the future manufacture and sale of these firearms.”
 - a. How would a national firearms registry work? Would police go door to door looking for firearms? And who would have this database?
 - b. Can you explain this statement and how based on this view you can in any way be impartial as ATF director?

RESPONSE: If confirmed as ATF Director, I would enforce the laws on the books. Aside from the existing registry of weapons regulated under the National Firearms Act, there is no registry of privately owned assault weapons. Congress has the discretion and authority to draft and pass a bill to ban or regulate assault weapons. I am unable to speculate on the implementation of a law that has not passed.

8. Do you believe the second amendment creates an *individual* right to keep and bear arms?

RESPONSE: Yes. The Supreme Court has said so in *District of Columbia v. Heller*, 554 U.S. 570 (2008).