

To: Senate Committee on the Judiciary
From: Esther Sanchez-Gomez
Date: December 4, 2024
Re: Questions for the record

Senator Sheldon Whitehouse
Senate Committee on the Judiciary Hearing
“How Bump Stocks and Other Conversion Devices are Amplifying the
Gun Violence Epidemic”
Questions for the Record

- 1. Donald Trump has vowed to oppose any regulations on firearms, and Republicans in Congress have repeatedly attempted to roll back new regulations intended to keep the deadliest firearms and firearm conversion-devices off the streets and out of the hands of criminals. Earlier this year, Senate Republicans blocked a bipartisan bill to ban bump stocks. In your view, what would the legal and policy implications be of a federal law intended to preempt state and local gun-safety laws, such as state bans on bump stocks and similar devices?**

Seventeen states¹, from Rhode Island to Iowa and the District of Columbia, have instituted regulations on bump stocks and trigger activator devices. As with any issue where states have taken the primary regulatory burden, there is variation in the scope of regulation between the states. Without specific language to analyze, the constitutionality and consequences of any federal preemption law are difficult to predict.

Any federal bill that seeks to reduce the authority of states or localities to pass laws to address gun violence would be inconsistent with the traditional police power of the states, and risks running afoul of the 10th Amendment’s protections. In the past, with very narrow exceptions, Congress has not expressly preempted state and local laws regulating firearms and ammunition. Historically, state governments generally have had the authority to enact firearm regulations in the interest of protecting public safety, and current federal law specifically preserves the authority of the states to enact such laws. (18 USC § 927.)

Gun violence is a [public health crisis](#). Regulation at the state level serves the important purpose of addressing this grave problem in a manner tailored to the unique issues and

¹ California, Connecticut, Delaware, Florida, Hawaii, Iowa, Illinois, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New York, Rhode Island, Vermont, Virginia, Washington.

dangers facing each community. A federal firearm preemption statute would ignore the importance of state law to address local issues, separate from or as a supplement to federal law. Importantly, it would also hinder enforcement of existing gun laws, because the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) and other federal law enforcement agencies generally lack the resources or authority to properly address the breadth of every instance of gun violence plaguing communities across the country.

Assuming that the legislation Congress passes is constitutionally sound, the combination of preventing state and local regulation while deregulating at the federal level, would create a dangerous vacuum with deadly consequences.

2. Republicans have also proposed dismantling and defunding the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), which plays a central role in the federal government’s fight against gun violence. How would cuts to ATF funding or similar actions by Congress or the executive branch affect that work?

ATF is the primary law enforcement agency for federal gun laws and regulations. As a subagency of the Department of Justice, ATF answers to the Attorney General in carrying out its mission to partner with state and local law enforcement to solve gun crimes. It oversees federal firearms licensees (FFLs)—the businesses authorized to sell firearms. FFLs conduct background checks on prospective buyers and maintain records on all firearm sales. ATF’s oversight of FFLs is critical to preventing firearms trafficking. In addition, as part of its work to combat gun crime, ATF traces guns used in the commission of crimes. In fiscal year 2022 alone, ATF processed over 600,000 trace requests from law enforcement agencies across the country. These are just a few examples of the important work ATF undertakes—with Congressional authorization—to address gun violence.

If Congress decides to dismantle ATF outright, or through a substantial reduction in annual appropriations, there would be devastating consequences to the safety of communities across the country.

ABOUT GIFFORDS LAW CENTER

For 30 years, the legal experts at Giffords Law Center to Prevent Gun Violence have been fighting for a safer America. Led by former Congresswoman Gabrielle Giffords, Giffords Law Center researches, drafts, and defends the laws, policies, and programs proven to save lives from gun violence.