

TESTIMONY OF RYAN M. CLECKNER  
BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY,  
SUBCOMMITTEE ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT

MAY 22, 2024

“HEARING ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT”

Good morning Chairman Jordan, Ranking Member Plaskett, and members of the Subcommittee. I am Ryan Cleckner, an attorney specializing in federal firearms law and Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) compliance.

I am actively involved in the firearms industry and I help Federal Firearms Licensees (FFLs) to stay compliant with federal laws and ATF rules and regulations through online training at RocketFFL and, most recently, I co-founded a software company, FFLSafe, that provides free ATF compliance software for all FFLs to help keep them compliant. I am also a former firearms industry executive, university lecturer and special operations sniper.

I am here today because I am concerned with, what I see as, the over-reach of the ATF when it comes to their enforcement actions over FFLs and the current administration’s “zero tolerance” policy when it comes to licensee inspections.

The Gun Control Act of 1968 (GCA) is the main body of law concerning standard firearms and the Federal Firearms Licensing system. Specifically, the GCA allows the ATF to revoke an FFL’s license for a “willful” violation of the law.<sup>1</sup>

Originally, the GCA had no such “willfulness” standard. Congress, in 1986, amended the GCA to specifically include the willfulness requirement “to ensure that licenses are not revoked for inadvertent errors or technical mistakes.”<sup>2</sup>

The Senate notes on the matter referenced *Rich v. United States*, 383 F. Supp. 797 (SD. Ohio 1974) wherein the ATF was required to “reissue [a] license absent a showing of willful violation” because willful was found to mean “purposeful, intentional behavior.”

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<sup>1</sup> 18 U.S.C. § 923(e)

<sup>2</sup> 98th Congress, Senate Committee on the Judiciary, S.914 Report

The addition of a “willful” standard by Congress was significant because an FFL’s compliance obligations are largely clerical and technical in nature and, in some instances, a mere typo could be considered a violation of the GCA. By requiring “willfulness,” Congress clearly raised the standard for revocation to only include situations in which a licensee purposefully and intentionally violates the law.

The Administration’s current “zero tolerance” policy flies in the face of Congress’s intent, it is causing harm to otherwise law-abiding FFLs, and it is wasting ATF’s limited resources.

I have a client, Point Blank Firearms, an FFL in Michigan, that is a perfect example of the harm caused by this “zero tolerance” policy and over-reach by the ATF.

The ATF is currently trying to revoke their license based on an inspection that started on July 26th of last year. On April 9th of this year, the acting Director of Industry Operations (DIO) for the Detroit Field Division provided my client with a Notice of Revocation (NOR). We elected to have a hearing on the matter and we have yet to be provided with a hearing date.

My clients, the owners of Point Blank, are here with me now while their employees are back home unsure of their jobs. And, one of the owners, a first generation Arab-American, also owns a second FFL business with another partner who is being denied his due process because they have had their ATF inspection ongoing for almost a year now pending the outcome of this company’s revocation proceeding.

In this matter, the ATF falsely claimed that my client had 308 missing firearm transaction forms (4473s). In reality, my client has 0 missing 4473s - every single one has been located, matches the FBI background check numbers, and bears the customers’ signature.

The ATF also falsely claimed that my client transferred a firearm to a customer more than 30 days after successfully passing their background check. In reality, my client transferred the firearm on the very same day the background check was passed - well within the 30 days allowed in accordance with the law and ATF rules and regulations.

To be fair, the ATF inspectors were not aware of the facts during the inspection and the decision by the ATF to issue the Notice of Revocation was based on their misunderstanding of the situation. However, we showed the ATF that its revocation decision is based on erroneous information. We showed ATF that there were, in fact, no missing forms nor late transfers. There is clearly no public safety issue. No firearms were transferred without a 4473, without a background check, nor to a prohibited person. Despite the

information we provided to ATF that the revocation was based on factually incorrect assumptions the ATF responded by dismissing the new information and continuing to pursue revocation.

I'm going to share a few facts about my client that are relevant to understand what type of FFL the ATF is spending all of this time, energy, and money trying to shut down:

- In the over 12,000 firearms acquired by Point Blank, not a single firearm has ever been lost or stolen.
- Point Blank has 100% 4473 accountability - over 11,500 of them.
- Point Blank has never transferred a firearm to someone who failed a background check.
- Point Blank has never failed to make, submit, nor properly store a multiple handgun sales form.
- Not once, in the approximately 300 trace requests received by the ATF, has Point Blank failed to provide accurate and timely information.

In summary, Point Blank has never engaged in any activity, even accidentally, that would have any negative impact on public safety. Point Blank takes its role as an FFL seriously and views itself as the front line helping to prevent the criminal acquisition of firearms.

Point Blank has been living with the threat of being shut down for 10 months. Just this week ATF falsely accused them of failing to respond to a trace request. Thankfully, Point Blank keeps good records and was able to show that they complied and that the ATF was mistaken, again.

ATF's "zero-tolerance" policy is misguided and wasting the ATF's limited resources. This overzealous policy is harming ATF's relationship with retailers upon which ATF relies to provide information on suspicious activity.

ATF should focus its resources on taking "trigger pullers" off the street - not shutting down honest, hard working and law-abiding gun stores. Congress never intended for ATF to shut down FFLs for minor clerical errors that are not "willful violations."

Thank you for the opportunity to speak here today. I'm willing to answer any questions you may have,

Ryan Cleckner