GAGV GLOBAL ACTION ON GUN VIOLENCE

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ATF Rulemaking Comments
Mail Stop 6N-518, Office of Regulatory Affairs
Enforcement Programs and Services
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Ave. NE
Washington, DC 20226

RE: Docket No. ATF–2026–0266; RIN 1140–AB05
Global Action on Gun Violence Comment in Opposition to Proposed Rule on "Revising Non-Over-the-Counter Firearms Transaction Requirements"

To Whom It May Concern:

Global Action on Gun Violence ("GAGV") submits this comment in strong opposition to the rule proposed by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): Revising Non-Over-the-Counter Firearms Transaction Requirements. GAGV is a U.S.-based nonprofit that works to prevent gun trafficking and gun violence through litigation, advocacy, research, international action, and policy reform. GAGV brings particularized experience to this issue; its staff have spent nearly 30 years studying and challenging the business practices that move firearms from lawful commerce into the crime-gun market, including the small share of dealers responsible for a disproportionate share of crime guns. That experience is directly relevant to the proposed rule.

I. Summary of GAGV's Comment.

The proposed rule would create a gaping hole in the firearms regulations that would make it significantly easier for guns to be sold to traffickers, straw purchasers, children, the dangerously mentally ill, intoxicated people, and others who cannot legally purchase firearms. This would almost certainly increase crime, suicides, and mass shootings in the U.S. and throughout the region, if not the world.

The proposed rule would fundamentally change how guns are legally sold by licensed dealers by allowing ordinary remote and online transactions outside the traditional in-person retail setting. That change conflicts with the overriding purpose and structure of the Gun Control Act of 1968 ("GCA"), which was enacted to replace remote mail-order sales with a dealer-centered system in which licensed dealers verify identity, observe the purchaser, maintain records, and refuse suspicious or unlawful transfers before a firearm changes hands.

As long noted by the ATF, "Federal Firearms Licensees (FFLs) are a critical line of defense against illegal gun transfers."[1] Director Cekada himself recently affirmed during his Senate confirmation process that "FFLs are our first line of defense in the fight against firearms trafficking."[2]

The central role that the GCA intended for federally licensed firearms dealers who can assess prospective buyers in-person remains critically important, even with background checks now required for FFL sales. A database check cannot reveal whether a buyer appears intoxicated, is showing signs of severe mental illness, is illegally buying guns for someone else, is being coached by someone else, lacks familiarity with the firearm(s), or otherwise shows signs of dangerousness, straw purchasing, or gun trafficking. Responsible dealers play a key role in protecting public safety by relying on in-person observations to refuse suspicious sales. A national survey of FFLs estimated that more than 30,000 straw purchases are attempted annually and that most licensees would reject suspicious sales and "held a very negative view of retailers who participated in illegal activity."[3] The proposed rule would reduce critical observation opportunities for responsible dealers and make it easier for bad actors to avoid scrutiny.

The proposed rule would facilitate sales to dangerous buyers, including straw purchasers and traffickers who supply criminal organizations in the United States, Mexico, Canada, Haiti, and elsewhere, while also threatening the livelihood of responsible brick-and-mortar dealers who cannot compete on equal footing with large online sellers.

Additionally, the proposed rule exceeds ATF's authority because an agency may only implement a statute or fill statutory gaps, but it may not contradict Congress's chosen policy. With the GCA, Congress replaced remote, impersonal firearm sales with a dealer-centered system so that the dealer can assess the risk posed by buyers in person. ATF cannot reinterpret the GCA to make firearm transfers more remote, less directly verifiable, and less dependent on dealer certification.

The ATF should withdraw the proposed rule to preserve the licensed dealer's gatekeeping function at the point of transfer.

II. <u>The Proposed Rule Conflicts with the GCA Statutory Scheme.</u>

The proposed rule should be withdrawn, first, because it is not merely a modernization of background-check procedures; it would fundamentally alter a foundational premise of the Gun Control Act of 1968. With the GCA, Congress moved firearm transfers away from remote, impersonal channels and into a regulated system centered on federally licensed dealers. Under

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[1] Bureau of Alcohol, Tobacco, Firearms & Explosives, *Don't Lie for the Other Guy*, U.S. Dep't of Just., https://www.atf.gov/firearms/tools-services-law-enforcement/atf-firearms-programs/dont-lie-other-guy (last updated July 30, 2026).

[2] Answers to Questions for the Record for Robert Cekada, Responses to Question 3a and 13d from Senator Durbin*; see also* answer to Question 7d from Senator Blumenthal (Feb. 2026), *available at* https://www.judiciary.senate.gov/imo/media/doc/3502d997-daa5-f550-7914-e7d18cc5b59b/2026-02-04_QFR-Responses_Cekada.pdf.

[3] Garen J. Wintemute, *Firearms Licensee Characteristics Associated with Sales of Crime-Involved Firearms and Denied Sales: Findings from the Firearms Licensee Survey*, 3 RSF: Russell Sage Found. J. Soc. Sci. 58 (2017), https://doi.org/10.7758/RSF.2017.3.5.03.

that system, the dealer is a legally accountable intermediary who verifies identity, obtains truthful information, maintains required records, and uses in-person observations to certify that a transfer may lawfully proceed before the firearm changes hands.

The GCA was enacted in direct response to the dangers of unregulated interstate firearms commerce, including remote and mail-order sales that bypassed meaningful verification of identity and legal eligibility. Congress declared that the statute was intended to "provide support to Federal, State, and local law enforcement officials in their fight against crime and violence" by strengthening federal oversight of firearm transfers and relying on licensed dealers to prevent unlawful diversion.[4] The Supreme Court has recognized that Congress enacted the GCA to address the "widespread traffic in firearms" and keep firearms out of prohibited hands through a regulatory scheme centered on federally licensed dealers.[5]

That dealer-centered structure is not incidental. The GCA regulates the firearm transaction directly, not merely who may possess a firearm after a sale. Section 922 restricts unlicensed interstate firearms dealing and cross-border transfers.[6] Section 923 imposes licensing, recordkeeping, and inspection obligations on firearms dealers.[7] Section 922(b)(3) limits out-of-state sales.[8] Section 922(c) is a narrow and carefully regulated exception for certain non-over-the-counter transactions under specific and carefully limited procedural safeguards, including a sworn statement, chief law enforcement officer notification, and delayed delivery until the statutory process has run its course.[9] These safeguards show that Congress treated non-over-the-counter transactions as exceptional and risky, not as a general model for firearms commerce.

The proposed change is not a mere technological update to background-check procedures. The GCA long predates the Brady Act and mandatory National Instant Criminal Background Check System ("NICS") checks, and the dealer's role has never been limited to running a database query.[10] From the outset, the GCA imposed a broader compliance framework: identity verification, truthful purchaser disclosure, recordkeeping, law-enforcement traceability, and dealer certification that the transfer is lawful.[11] The later creation of NICS did not erase the dealer-centered structure, and ATF may not treat background checks as the whole statutory safeguard.

Supreme Court precedents underscore the centrality of the dealer's role in the statute's enforcement architecture. In *Huddleston v. United States*, the Court described the GCA as a system of federal licensing and recordkeeping designed to control firearms traffic.[12] In *Abramski v. United States*, the Court held that the identity of the actual purchaser is "material to the lawfulness of the sale" because the dealer must determine whether the transfer is lawful and maintain traceable records.[13] The Court rejected the notion that required purchaser information

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[4] Gun Control Act of 1968, Pub.L. 90-618, Title I, § 101, Oct. 22, 1968, 82 Stat. 1213.
[5] *Huddleston v. United States,* 415 U.S. 814, 824-25 (1974).
[6] 18 U.S.C. § 922(a).
[7] 18 U.S.C. § 923.
[8] 18 U.S.C. § 922(b)(3).
[9] 18 U.S.C. § 922(c).
[10] 18 U.S.C. § 922(t).
[11] 18 U.S.C. §§ 922(b), 922(c), 922(t), 923(g); 27 C.F.R. § 478.124.
[12] *Huddleston,* 415 U.S. at 824-25.
[13] *Abramski v. United States*, 573 U.S. 169, 171-72 (2014).

becomes immaterial merely because the person standing at the counter could pass a background check.[14] Truthful disclosure to the dealer is essential because the dealer's duties are part of the statutory mechanism Congress chose.

ATF Form 4473 embodies this statutory design. The form is not simply evidence that a background check occurred. It is the mechanism by which the dealer records the purchaser's identity, obtains sworn answers about eligibility, reviews information relevant to the legality of the transfer, and certifies compliance before the firearm changes hands. In *Abramski*, the Court emphasized the form's "actual buyer" question, which warned that if the person completing the form was acquiring the firearm on behalf of someone else, "the dealer cannot transfer the firearm" to that person.[15] False statements on Form 4473 are criminal because truthful disclosure to the dealer is essential to the transaction's legal validity.[16]

The proposed rule would weaken this structure by legalizing remote transaction processing without direct dealer verification. The remote identity-proofing envisioned by the proposed rule may be convenient for some, but it limits the dealer's ability to verify the actual purchaser, detect misidentification, identify straw purchases, observe coercion or indicators of dangerousness, and confirm that the person receiving the firearm is the person whose eligibility was evaluated.

Public officials—including President Trump—have complained that, in other contexts, remote processes raise serious questions about identity verification and transaction integrity.[17] Debates over mail-in voting have often turned on whether remote processes adequately assure that the person submitting a ballot is the eligible voter entitled to cast it. Regardless of one's views on that debate, there is no question that those concerns are far greater in the firearms context. In a firearms sale, even if the buyer is the same person as his or her identification card, an in-person assessment is needed to determine if the buyer poses a danger, including whether they are intoxicated, on drugs, in a dangerously mentally ill state, or a straw purchaser. An incorrect assessment can have devastating public safety consequences. A remote system cannot make those determinations and would weaken the safeguards Congress enacted.

III. <u>Legislative History Makes Clear that the Proposed Rule Conflicts with the GCA.</u>

The Supreme Court summarized the GCA's dealer-centered structure and Congress's objective in *Huddleston v. United States*:

> From this outline of the Act, it is apparent that the focus of the federal scheme is the federally licensed firearms dealer, at least insofar as the Act directly controls access to weapons by users. Firearms are channeled through dealers to eliminate the mail order and the generally widespread commerce in them, and to insure that, in the course of sales or

[14] *Id*. at 179-183, 189.
[15] *Id.*
[16] 18 U.S.C. §§ 922(a)(6), 924(a)(1)(A); 27 C.F.R. § 478.124.
[17] Exec. Order No. 14,399, *Ensuring Citizenship Verification and Integrity in Federal Elections* (Mar. 31, 2026), https://www.whitehouse.gov/presidential-actions/2026/03/ensuring-citizenship-verification-and-integrity-in-federal-elections/.

other dispositions by these dealers, weapons could not be obtained by individuals whose possession of them would be contrary to the public interest.[18]

Legislative history confirms that Congress viewed unregulated interstate and mail-order traffic as a problem to be corrected. A Senate Report for the Omnibus Crime Control and Safe Streets Act of 1968 described the need to strengthen federal controls so firearms would not flow, without effective screening, to people disqualified by federal or state law.[19]

Per the Senate Report, a "principal purpose[]" of the Act was "to aid in making it possible to keep firearms out of the hands of those not legally entitled to possess them" and the Report explained that this would be accomplished by channeling the sale of handguns "through federally licensed importers, manufacturers, and dealers, thereby prohibiting the commercial mail-order traffic in firearms other than rifles and shotguns to unlicensed persons."[20] When Congress enacted the GCA later that year, which, *inter alia*, extended the omnibus crime bill's restrictions to rifles and shotguns, the House Report emphasized that interstate channels allowed buyers to evade local restrictions.[21]

Huddleston clarified that Congress did not merely criminalize firearm possession by prohibited persons in the abstract; it built a system in which the dealer is "the principal agent of federal enforcement," who is licensed, must keep records of "sale or other disposition," and faces criminal penalties for unlawful transfers.[22] That structure only works if ordinary consumers obtain guns primarily by going in person to those dealers—something the statute encourages by granting FFLs special authority to "transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce" that non-licensees lack.[23]

Congress understood that mail-order and interstate consumer traffic in firearms allowed purchasers to bypass state law, avoid local accountability, and obtain weapons without appearing before anyone responsible for verifying identity, residency, eligibility, or compliance with federal and state law.[24] Congress chose to pursue its purpose not merely by punishing unlawful possession after the fact, but by imposing strict regulation on the commercial channels through which firearms reach users.[25]

For example, Senator Tydings warned that under prior law "juveniles, felons, and fugitives" could "obtain guns by mail or by crossing into neighboring States with lax or no gun laws at all," thereby rendering state firearms restrictions ineffective.[26] The point of federal legislation, he explained, was to control interstate gun traffic so that state firearms laws would not be rendered ineffective by remote purchases from less regulated jurisdictions. The GCA

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[18] 415 U.S. at 824-25.
[19] S. Rep. No. 90-1097, at 2, 7–8 (1968), reprinted in 1968 U.S.C.C.A.N. 2112, 2113-14, 2118-19.
[20] *Id.* at 2113, 2166.
[21] H.R. Rep. No. 90-1577 (1968), reprinted in 1968 U.S.C.C.A.N. 4410, 4411-13, 4425-26.
[22] *Huddleston*, 415 U.S. at 824–25; 18 U.S.C. §§ 922(d), 923(g).
[23] 18 U.S.C. § 922(a)(1), (a)(2), (a)(3); § 923.
[24] S. Rep. No. 90-1097, (1968), reprinted in 1968 U.S.C.C.A.N. 2112, 2164-66; H.R. Rep. No. 90-1577.
[25] 18 U.S.C. §§ 922, 923.
[26] *Huddleston*, 415 U.S. at 827 (quoting statement of Sen. Tydings).

addressed that problem by channeling ordinary retail acquisition through federally licensed dealers.[27]

The Act's breadth confirms that Congress meant this system to be comprehensive.[28] As *Huddleston* recognized, the GCA covers not only conventional counter sales but also other dispositions through which a person obtains possession, control, or power of disposal over a firearm.[29] The Senate Report for the omnibus bill explained that restrictions on transfers to prohibited persons applied to "all types of sales or dispositions, over-the-counter as well as mail order."[30] Congress's use of broad terms such as "sell or otherwise dispose of" likewise shows that federal safeguards were not meant to turn on the formal structure of a transaction.[31]

The treatment of pawnbrokers reinforces the same point. Congress included pawnbrokers within the definition of "dealer," even though pawn transactions often involved used firearms, pledges, and redemptions, rather than ordinary retail purchases.[32] Senator Tydings warned that excluding pawnshops would leave a major secondhand handgun market outside federal control.[33] Congress declined to create that loophole, and *Huddleston* held that pawn redemptions are covered by the Act because they return firearms to users through a licensed commercial intermediary.[34] That holding reflects the broader statutory premise that whenever an individual "comes into possession, control, or power of disposal" of a firearm from a commercial intermediary, Congress expected that interaction to occur at and through an in-person licensed dealer.[35]

That design reflected the historical setting in which Congress acted.[36] Congress enacted the GCA against the backdrop of public concern over mail-order rifles, cheap imported handguns, and interstate evasion of state firearms laws. In the context of the assassinations of President Kennedy, Senator Robert Kennedy, and Dr. Martin Luther King Jr., and the public attention those events drew to mail-order rifles and cheap imported handguns, Congress understood that divergent state laws could be defeated if buyers could simply order guns from other jurisdictions. The GCA therefore created a federal licensing and recordkeeping framework to regulate interstate movement and retail acquisition through accountable dealers.

In sum, the proposed rule would eviscerate the "federal scheme" chosen by Congress by which the licensed dealer is a gatekeeper, and firearms are "channeled through dealers to

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[27] 18 U.S.C. §§ 922, 923.
[28] 18 U.S.C. §§ 922(a), (b), (d), (g), 923; *Huddleston*, 415 U.S. at 824-25.
[29] *Huddleston*, 415 U.S. at 824-25.
[30] S. Rep. No. 90-1097, at 2 (1968), reprinted in 1968 U.S.C.C.A.N. 2112, 2204.
[31] 18 U.S.C. § 922(d).
[32] 18 U.S.C. § 921(a)(12).
[33] *Huddleston*, 415 U.S. at 829 n.10 (quoting statements of Sen. Tydings).
[34] *Id.* at 821-25.
[35] *Id.* at 824-25; 18 U.S.C. § 922.
[36] Franklin E. Zimring, *Firearms and Federal Law: The Gun Control Act of 1968*, 4 J. Legal Stud. 133, 134-40 (1975).

eliminate the mail order and the generally widespread commerce in them" that Congress viewed as dangerous and destabilizing.[37]

IV. The Proposed Rule Would Make It Harder to Stop Straw Sales That Arm Criminals.

The proposed rule not only conflicts with the GCA but would also be a boon to criminals seeking illegal firearms. Straw purchases are a primary way that firearms reach prohibited buyers and trafficking networks.[38] A straw purchase occurs when one person buys a firearm for another person while falsely claiming to be the actual buyer.[39] The straw purchaser may be otherwise legally eligible to buy the firearm, but the true recipient may be prohibited from purchasing or possessing it. By falsely answering "yes" to the actual-buyer question on ATF Form 4473, the straw purchaser conceals the true recipient from the dealer and circumvents the background-check system.[40]

These sales often appear lawful on paper, as the straw buyer passes the background check and provides his or her correct identification, which makes responsible dealers' in-person judgment essential. During direct interactions, dealers can observe who selects the firearm, who asks questions, who handles payment, how the purchaser interacts with companions, and whether the purchaser appears unfamiliar with the gun. Those cues cannot be captured by paperwork or a background check alone.

Responsible firearm dealers play an essential role in preventing straw purchases from happening by recognizing warning signs and red flags. Dealers can observe when customers seem to be unfamiliar with the firearm they are purchasing, when there is another individual selecting the firearm, or inconsistencies between the purchaser's statements and conduct. When dealers notice these red flags, they can ask follow-up questions to figure out whether the purchaser is the actual buyer. When dealers conclude that the purchase is likely a straw purchase or otherwise unlawful, the dealer must refuse the sale and, when appropriate, notify the ATF.[41] These measures rely on the dealer's ability to observe the purchase firsthand and have in-person interactions with the purchaser.

ATF has long recognized that federally licensed dealers are critical to preventing straw purchases and other unlawful firearm transfers. ATF's Federal Firearms Licensee Quick Reference and Best Practices Guide instructs dealers to stop a transaction if it appears to involve false information or unlawful conduct and to contact ATF when appropriate.[42] ATF's demand

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[37] *Huddleston*, 415 U.S. at 824-25.
[38] Bureau of Alcohol, Tobacco, Firearms & Explosives, National Firearms Commerce and Trafficking Assessment (NFCTA), Volume 4, Part IV, *Firearms Trafficking Investigations Updates and New Analysis* 4 (April 2026), https://www.atf.gov/media/15516/download.
[39] 18 U.S.C. § 932(b).
[40] Bureau of Alcohol, Tobacco, Firearms & Explosives, *Federal Firearms Licensee (FFL) Newsletter: June 2021* 8 (2021), https://www.atf.gov/media/19536/download.
[41] Bureau of Alcohol, Tobacco, Firearms & Explosives, *Federal Firearms Licensee Quick Reference and Best Practices Guide, Prohibited Transfers* (2026), https://www.atf.gov/firearms/tools-and-services-firearms-industry/current-licensees/federal-firearms-licensee-quick-reference-and-best-practices-guide.
[42] *Id.*

letter two program likewise reflects the agency's view that dealers can identify trafficking indicators.[43]

Along with ATF, the firearms industry has recognized the same point through the National Shooting Sports Foundation's (NSSF) "Don't Lie for the Other Guy" campaign, developed with ATF to educate dealers, employees, and the public about straw purchasing. The campaign's training materials, posters, brochures, and videos teach retailers how to recognize suspicious transactions, refuse unlawful sales, and warn consumers about the criminal penalties for buying a firearm for someone else.[44] An online sale, as envisioned by the proposed rule, would eliminate the ability for the dealer to act as the "critical line of defense against illegal gun transfers" by spotting the "warning signs" of a straw purchase.[45]

The firearms industry has consistently acknowledged that responsible firearm dealers play an important role in preventing straw purchases and other unlawful firearm transfers, and irresponsible dealers who fail to pay attention to indicators of unlawfulness or danger can harm public safety. Over the past several decades, manufacturers, distributors, retailers, and industry organizations have proposed voluntary best practices, educational initiatives, and dealer guidance designed to identify suspicious transactions and reduce illegal firearm trafficking. These efforts have consistently emphasized dealer responsibility, the importance of recognizing warning signs associated with straw purchases, and the need to refuse suspicious sales when appropriate. These proposals demonstrate that the value of dealer judgment and in-person transaction screening has been widely recognized within the firearms industry.

For example, Bill Bridgewater, the Executive Director of the National Alliance of Stocking Gun Dealers (NASGD) in the early 1990s, consistently emphasized that the firearms industry shared responsibility for preventing firearms from reaching the illegal market and encouraged higher standards for federally licensed dealers.[46]

Robert Ricker, a former executive with firearms industry trade associations, also emphasized the importance of dealer vigilance in preventing unlawful gun sales. Ricker testified that greater actions by the industry to identify suspicious dealers and strengthen oversight were both possible and would reduce the flow of firearms into the illegal market. He additionally stated that responsible sales practices and increased oversight of dealers would help prevent illegal firearms trafficking, demonstrating that concerns regarding dealer vigilance and trafficking indicators have long been recognized within the firearms industry.[47]

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[43] Bureau of Alcohol, Tobacco, Firearms & Explosives, *National Tracing Center*, *Demand Letter Program*, U.S. Dep't of Just., https://www.atf.gov/firearms/tools-services-law-enforcement/national-tracing-center (last updated Sept. 19, 2024).
[44] Bureau of Alcohol, Tobacco, Firearms & Explosives, *Don't Lie for the Other Guy*, U.S. Dep't of Just., https://www.atf.gov/firearms/tools-services-law-enforcement/atf-firearms-programs/dont-lie-other-guy (last updated July 30, 2026).
[45] *Id.*
[46] 139 Cong. Rec. 17,958 (1993), https://www.govinfo.gov/content/pkg/GPO-CRECB-1993-pt12/pdf/GPO-CRECB-1993-pt12-7-2.pdf.
[47] Complaint at ¶ ¶ 239-240, *Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc.*, No. 1:21-cv-11269-FDS (D. Mass. Aug. 4, 2021).

Leaders of the NSSF have repeatedly emphasized the important role that firearm retailers play in preventing straw purchases. For example, when the NSSF partnered with the ATF to develop the "Don't Lie for the Other Guy" campaign, NSSF President Doug Painter described the program as being a "valuable educational tool" that helps firearm retailers identify "would-be straw purchasers and prevent illegal firearm sales."[48]

Importantly, most federally licensed firearm dealers conduct business responsibly, comply with federal law, and make good-faith efforts to prevent unlawful firearm transfers. Most dealers are rarely associated with crime-gun recoveries and play an important role in supporting lawful firearms commerce. ATF found that about 90 percent of dealers sell no crime guns. However, a relatively small number of dealers repeatedly ignore obvious warning signs, facilitate straw purchases, and become disproportionate sources of firearms recovered in crimes. ATF found that about 5 percent of dealers sell about 90 percent of crime guns, and about 1 percent sell almost 60 percent of crime guns.[49] The proposed rule would make the practices of the worst of the worst easily available to all through remote, online sales.

Targeted enforcement against bad actor dealers is needed, rather than limiting opportunities for dealers to recognize suspicious conduct through in-person interactions. ATF should preserve and strengthen the safeguards that have long been recognized by both the agency and the firearms industry as essential to preventing straw purchases.

V. Real World Examples Show How In-Person Indicators Enable Responsible Gun Dealers to Stop Straw Purchases.

Examples of real-life scenarios illustrate how the proposed rule would make straw purchases significantly easier by moving key parts of the firearm-selection and purchase process online. These examples show that dealers are not mere paperwork processors; they are expected to identify signs of straw purchasing and unlawful transfers through direct interaction with customers. Those signs often arise from conduct, companions, payment, familiarity with the firearm, and other circumstances best observed during an in-person transaction.

An intoxicated buyer illustrates the problem. In a store, a dealer can observe slurred speech, balance, demeanor, odor, and other signs of impairment throughout the sales process. In a remote transaction, the buyer may need to appear only briefly on camera, giving the dealer far less opportunity to assess whether the sale should proceed.

Examples of straw buyers further demonstrate the importance of in-person transactions. A common scenario for straw purchases is when one person, who cannot legally buy a gun, recruits another person to buy it for them. This is made significantly easier with online

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[48] Press Release, U.S. Att'y's Off. for the Dist. of Md., *Campaign to Reduce "Straw Purchases" of Guns Announced* (June 28, 2006), https://www.justice.gov/archive/usao/md/news/2006/Campaign%20to%20Reduce%20Straw%20Purchases%20of%20Guns%20Announced.html

[49] *See, e.g.*, Brady United Against Gun Violence, *Combating Crime Guns – Reducing Gun Violence Through Supply-Side Solutions*, Brady United, https://www.bradyunited.org/programs/combating-crime-guns.

purchases. For example, a domestic violence offender could coerce his girlfriend into purchasing a gun for him. Or a 12-year-old boy might ask his older brother to buy a gun for him. During an in-person transaction, the dealer can observe who selected the firearm, who asked technical questions, who appeared familiar with the firearm, who directed the transaction, who handled payment, whether one purchaser repeatedly looked to another for guidance, and whether the purported purchaser appeared unfamiliar with the purchase. But if this transaction occurred online, the straw-purchaser would only need to appear for several minutes on a video call and present her ID. The dealer would have substantially fewer opportunities to observe any of the warning signs that an in-person transaction would exhibit.

These concerns are not hypothetical. Courts have repeatedly encountered straw-purchase cases in which dealers had the opportunity to observe suspicious conduct during an extended, in-person transaction. The following examples illustrate the kinds of warning signs that can arise during face-to-face sales and that would be significantly more difficult to detect if much of the transaction occurred remotely. In each of these cases—litigated by GAGV's President—the gun dealer was ultimately held liable for failing to fulfill its responsibility to stop sales where circumstances indicated that the gun was headed to criminal hands—even though the "buyer" completed a background check. Under the proposed rule, the negligent practices of these dealers could become the norm.

1. *Two New Jersey Police Officers Shot with Straw Purchased Gun (Lemongello v. Will Co., Inc.)*

In *Lemongello v. Will Co., Inc.*,[50] convicted felon James Gray recruited Tammi Lea Songer to buy firearms for him. The transaction presented obvious warning signs indicating an illegal straw sale that a responsible dealer would have used to stop the sale and contact law enforcement. Gray and Songer entered the store together, and Gray selected twelve semiautomatic handguns, but Songer completed the paperwork and paid approximately $4,000 in cash. The dealer later contacted ATF because the transaction was suspicious, but only after completing the sale. One of the guns was trafficked to New Jersey and used to shoot police officers David Lemongello and Kenneth McGuire, who were seriously injured.

Under the proposed rule, only Songer could have appeared on camera to verify her identity and there would have been no opportunity for the dealer to spot the ATF's "warning sign" that she was "being directed or coached by someone else" during the selection of the firearms.[51]

2. *Seven-year-old Kansas Boy Killed by Felon with Straw Purchased Gun (Shirley v. Glass)*

In *Shirley v. Glass*,[52] prohibited purchaser Russell Graham arranged for his grandmother,

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[50] No. CIV.A. 02-C-2952, 2003 WL 21488208 (W. Va. Cir. Ct. June 19, 2003).
[51] Bureau of Alcohol, Tobacco, Firearms & Explosives, *Don't Lie for the Other Guy*, U.S. Dep't of Just., https://www.atf.gov/firearms/tools-services-law-enforcement/atf-firearms-programs/dont-lie-other-guy (last updated July 30, 2026).
[52] 297 Kan. 888, 890, 308 P.3d 1, 3 (Kan. 2013).

Imogene Glass, to buy a shotgun for him. Graham called ahead about the gun, entered the pawn shop with Glass, identified the firearm, said he would pay for it, examined it, and admitted at the counter that he had a felony conviction. The dealer then turned to Glass to complete Form 4473, falsely certifying that she was the actual purchaser. Graham later used the shotgun to murder his son before taking his own life.

A responsible dealer would have stopped the sale and contacted law enforcement after observing the prohibited purchaser selecting the firearm, paying for it, and admitting his felony status before another person completed the paperwork. Under the proposed rule, dealers would likely lose the opportunity to observe who selects and pays for the firearm(s).

3. Arkansas Married Couple Killed with Straw Purchased Gun (Miller v. Harp's Food Stores, Inc.)

In *Miller v. Harp's Food Stores, Inc.*,[53] prohibited purchaser Nicholas Roos recruited Talmadge Pendergrass to buy a 9mm handgun for him. The two entered the store together; Roos selected and paid for the gun while Pendergrass completed the background check and Form 4473 during a 30-minute in-person transaction captured on surveillance video. Pendergrass later admitted he falsely bought the gun for Roos, who used it less than 24 hours later to murder Donald and LaDonna Rice, an elderly retired couple, in their home. Like the prior examples, the warning signs were observable during the in-person sale because the prohibited purchaser selected and paid for the firearm while another person completed the paperwork.

4. Two Wisconsin Police Officers Shot with Straw Purchased Gun (Norberg v. Badger Guns, Inc.)

In *Norberg v. Badger Guns, Inc.*,[54] 18-year-old Julius Burton was prohibited under Wisconsin law from buying a handgun from a federally licensed dealer, so Jacob Collins acted as the straw purchaser. Burton selected the Taurus PT140, remained beside Collins during the roughly 40-minute transaction, and later paid Collins to buy the gun for him. Collins initially answered "No" to the Form 4473 asking if he was the actual purchaser, but a store employee allegedly instigated him to change the answer to "Yes." Burton later used the handgun to shoot Milwaukee police officers Bryan Norberg and Graham Kunisch, who were seriously injured. The case further illustrates warning signs that existed only because the transaction unfolded in person.

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Each of these dealers were held liable because reasonable care requires dealers to observe indicators of dangerousness or straw purchasing and to prevent those transactions from occurring. Each case involved behavioral cues available only through direct interaction. The proposed rule would remove many of those cues by shifting key parts of the transaction online.

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[53] No. 72CV-18-2652 (Wash. Cnty. Cir. Ct., filed Sept. 28, 2018); *see also Gassville Man Sentenced on Federal Firearms Charge, Baxter Cnty. Sheriff's Off*. (Nov. 3, 2017), https://www.baxtercountysheriff.com/press-releases/gassville-man-sentenced-on-federal-firearms-charge.
[54] No. 2010-cv-20655 (Wis. Cir. Ct., Milwaukee Cty. 2015).

The law should preserve the opportunity for conscientious dealers to recognize suspicious conduct before a firearm is transferred.

VI. The Proposed Rule Would Likely Increase Cross-Border Gun Trafficking into Other Countries.

By making it easier for buyers to falsify records and commit straw purchases, the ATF would put millions of lives at risk not just in the United States but around the globe. Straw purchases are a major source of supply for international firearms trafficking from the United States to neighboring countries, and they are the second most common violation of federal law driving trafficking.[55] Thousands of firearms are already being trafficked, causing massive devastation in the countries they arrive in, and claiming numerous lives in neighboring jurisdictions. Were the ATF to institute the proposed rule and reduce the ability for conscientious dealers to spot warning signs, the devastation would only become worse and more difficult to halt.

1. Mexico

A substantial share of crime guns recovered in Mexico originate in the United States. Sources have estimated that 70 to 90 percent of firearms recovered in Mexico come from the United States, and researchers have estimated that nearly 2.2 percent of U.S.-manufactured guns are trafficked into Mexico.[56] ATF data also identify Mexico as the top foreign recipient of trafficked firearms of U.S. origin. Weakening dealer-level safeguards could increase cross-border trafficking.

The price paid for this illegal trafficking is Mexican lives and blood. Mexico has the third most gun-related deaths in the world and murders are the leading cause of death for Mexicans between 15 and 19 years of age.[57] The economic impact of violence in Mexico is also immense; in 2019, it was estimated at 4.57 trillion pesos, or $238 billion.[58] Cartel violence not only harms the Mexican population, but it also fuels drug trafficking and migration into the U.S.[59]

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[55] Bureau of Alcohol, Tobacco, Firearms & Explosives, NFCTA, Volume 4, Part IV, *Firearms Trafficking Investigations Updates and New Analysis* 4 (April 2026), https://www.atf.gov/media/15516/download.

[56] Lauren Villagran, *How the "Iron River" Fed El Mencho's Stockpile of Weapons from the U.S.*, USA Today (Feb. 24, 2026), https://www.usatoday.com/story/news/nation/2026/02/23/el-mencho-guns-united-states-mexico/88828828007/; U.S. Gov't Accountability Off., *Firearms Trafficking: U.S. Efforts to Disrupt Gun Smuggling into Mexico Would Benefit from Additional Data and Analysis* 13 (2021), https://www.gao.gov/assets/720/712530.pdf; U.S. Gov't Accountability Off., *Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges*, GAO-09-709, at 15 (2009), https://www.gao.gov/assets/gao-09-709.pdf; Topher L. McDougal et al., *The Way of the Gun: Estimating Firearms Traffic Across the U.S.-Mexico Border* (Trans-Border Inst., Univ. of San Diego & Igarapé Inst. 2013), https://catcher.sandiego.edu/items/peacestudies/way_of_the_gun.pdf.

[57] Complaint at ¶ 453, *Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc.*, No. 1:21-cv-11269-FDS (D. Mass. Aug. 4, 2021).

[58] Institute for Economics & Peace, *Global Peace Index 2020: Measuring Peace in a Complex World* 41 (2020), https://www.visionofhumanity.org/wp-content/uploads/2020/10/GPI_2020_web.pdf.

[59] June S. Beittel, Cong. Rsch. Serv., R41576, Mexico: Organized Crime and Drug Trafficking Organizations (2020), https://sgp.fas.org/crs/row/R41576.pdf; Sean Campbell & Topher L. McDougal,

2. *Canada*

Canada also receives large numbers of U.S.-sourced crime guns. ATF has traced thousands of firearms recovered in Canada each year back to U.S. dealers and distributors.[60] ATF has identified Canada as the second most common recipient of trafficked firearms of U.S. origin, and reporting from Ontario found that 91 percent of crime handguns recovered there in 2024 came from the United States.[61]

Despite Canada's strong gun laws, numerous shootouts and deaths have occurred across the country because of these smuggled firearms. From crime lords to celebrities to students to children sheltering with their mothers, people from all walks of life have fallen victim to the United States smuggled firearms, which continue to rack up a higher death toll each year.

3. *The Caribbean*

Caribbean nations also suffer from substantial trafficking of U.S.-sourced firearms. From 2018 to 2022, 73 percent of Caribbean firearms recovered and traced by ATF were of known U.S. origin.[62] Of 7,399 firearms, 3,365 were traced directly to a U.S. retailer, and 717 had a time-to-crime of less than one year, indicating likely straw purchases intended for trafficking.

The Caribbean as a whole has also seen significant violence as a result of this trafficking, with six of its nations being among the top ten nations in the world with the highest murder rates. For example, Haiti is one of the countries most affected by U.S.-sourced firearms trafficking. Smuggled guns to Haiti fuel gang violence, including attacks on health care workers and facilities, and contribute to displacement and migration.

4. *Beyond*

The scope of trafficking does not end in North America and the Caribbean. According to an ATF investigation, Brazil is the fifth most common destination for American trafficked firearms.[63] And in June 2026, ATF tracing led to the identification, seizure, and recovery of 44 U.S.-sourced firearms trafficked to Africa.[64]

Guns Bought in the US and Trafficked to Mexican Drug Cartels Fuel Violence in Mexico and the Migration Crisis, The Conversation (May 28, 2025), https://theconversation.com/guns-bought-in-the-us-and-trafficked-to-mexican-drug-cartels-fuel-violence-in-mexico-and-the-migration-crisis-256070

[60] Firearms Trace Data: Canada - 2019-2024, Bureau of Alcohol, Tobacco, Firearms, and Explosives (April 3, 2025), https://www.atf.gov/resource-center/firearms-trace-data-canada-2019-2024.

[61] Norimitsu Onishi, *As U.S. Guns Pour into Canada, the Bodies Pile Up*, N.Y. Times, Dec 21, 2025, https://www.nytimes.com/2025/12/21/world/americas/canada-gun-violence-us.html.

[62] U.S. Gov't Accountability Off., *Caribbean Firearms: Agencies Have Anti-Trafficking Efforts in Place, but State Could Better Assess Activities*, GAO-25-107007 (2024), https://files.gao.gov/reports/GAO-25-107007/index.html.

[63] Bureau of Alcohol, Tobacco, Firearms & Explosives, National Firearms Commerce and Trafficking Assessment (NFCTA), Volume 3, Part IV, *Source-to-Market Type* 17 (April 2026), https://www.atf.gov/media/15516/download.

[64] Press Release, Bureau of Alcohol, Tobacco, Firearms & Explosives, *ATF Tracing Leads to Overseas Seizure and Recovery of 44 Firearms* (June 25, 2026), https://www.atf.gov/news/press-releases/atf-tracing-leads-to-overseas-seizure-and-recovery-44-firearms.

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The proposed rule would likely lead to heavier volumes of illegally trafficked U.S. firearms that would cause further devastation not just in the U.S., but around the world. Under the proposed rule, it would be harder for even the most conscientious, well-trained dealer to spot a dangerous or illegal purchaser, since on a video call, there would be no way to tell if someone else is accompanying the purchaser, if they chose the guns, if the buyer is familiar with the purchased firearms, if they smell intoxicated, or if the so-called buyer is just a name and ID for someone else.

Increasing the ease of trafficking by making it harder to be stopped at the dealer level would also put untenable pressure on the ATF and DOJ. Both agencies are already stretched thin trying to prevent trafficking and stop the flow of crime guns, and they rely heavily on gun dealers to self-regulate and keep firearms from reaching the criminal market. Many of those safeguards would be eliminated.

Weakening dealer-level safeguards would make trafficking harder to prevent and investigate. ATF and DOJ would face more cases with less reliable front-end screening. That would burden already limited enforcement resources and increase the likelihood that trafficked firearms reach criminal markets in the United States and abroad.

The proposed rule would not just harm U.S. citizens, it would also place a burden on the residents of all nations previously listed as destinations for trafficked firearms. Canada, Mexico, and Caribbean nations all work alongside the ATF to curb trafficking into their countries. If dealers' first line of defense is weakened and ATF is faced with a heavier workload, it will become more difficult to prevent firearms from reaching those countries.

VII. <u>The Proposed Rule Would Likely Economically Harm Many Gun Dealers.</u>

The proposed rule could also be harmful economically for the "good guys" of the gun industry who sell honestly and prioritize safety over sales. Trends in retail commerce, such as the introduction of Amazon, show that online businesses can destroy many brick-and-mortar retail businesses. The ATF predicts that close to 3.3 million people per year would order guns online for home delivery, accounting for half of all gun buyers. Industry experts believe these numbers could, in reality, be much higher.[65]

As a result of the rise of e-commerce, in-person retail stores across the country are facing the challenges of reduced foot traffic and increased price competition. As fewer people visit in-person stores to shop, the number of potential paying customers decreases. Sales and customer engagement go down, and it becomes more difficult for stores to create a memorable experience or relationship with their customers.[66] Moreover, e-commerce traditionally operates with a lower overhead cost than brick-and-mortar stores, allowing them to decrease prices for the consumers to a level that in-person retail stores cannot keep up with.

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[65] Heather Miller, *Guns Could Be Shipped Directly to Homes Under Major Rule Change*, LiveNOW from FOX (July 3, 2026), https://www.livenowfox.com/news/atf-rule-guns-could-be-shipped-directly-homes
[66] Katie Tame, *Navigating Declining Foot Traffic in Retail: How Clienteling with BSPK Can Keep You Connected to Your Customers*, BSPK (Aug. 16, 2024), https://www.bspk.com/post/navigating-declining-foot-traffic-in-retail-how-clienteling-with-bspk-can-keep-you-connected-to-you.

The gun industry is no exception to the effects of e-commerce and is just as vulnerable as businesses driven to bankruptcy by Amazon and online commerce, such as Sears, Circuit City, and Toys R Us. Of course, the key concern with firearms is public safety and enforcing the law, but economic viability is a factor as well, especially with the potential introduction of this rule.

The rule also raises conflict-of-interest concerns because Donald Trump Jr. is a shareholder, board member, and adviser of GrabAGun, an online firearm retailer described as the "Amazon of guns."[67] GrabAGun has reportedly told investors that its business model is positioned to benefit from the proposed rule, and it launched PEW Logistics, a white-label logistics service for manufacturers selling directly to consumers, four months before ATF published the proposal. Those facts warrant scrutiny of whether private financial interests influenced a rule that could shift firearm sales away from traditional dealers and toward online platforms.

VIII. <u>Conclusion</u>

The proposed rule is bad law, bad policy, and dangerous to public safety. It is also potentially damaging economically to gun dealers who may be driven out of business by the Amazon-ification of the gun business. The fact that the President's family is positioned to profit from the rule is another reason it should be treated with skepticism.

Gun dealers play a critical role in protecting public safety while supplying lawful gun owners with firearms—and most gun dealers perform their role admirably, paying attention to and acting on indicators of dangerousness to keep guns out of the wrong hands. However, a small percentage of bad acting dealers greatly harm public safety by selling guns despite indicators of dangerousness. This rule makes the bad actors readily accessible to all through online sales and makes it harder for the good guys in the industry to continue to protect public safety.

The proposed rule should be withdrawn.

Thank you for your consideration of this comment.

Sincerely,

/s/ Jonathan E. Lowy

Jonathan E. Lowy
President
Global Action on Gun Violence

/s/ Jake Steisel

Jake Steisel
Senior Staff Attorney
Global Action on Gun Violence

[67] Chip Brownlee, *Todd Blanche, Donald Trump Jr. Face Questions Over Direct-to-Door Gun Rule*, The Trace (July 15, 2026), https://www.thetrace.org/newsletter/todd-blanche-donald-trump-jr-grabagun-atf-direct-to-door-gun-rule/.