

Senator Marsha Blackburn
Questions for the Record to Steve Dettelbach
Nominee to be Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives

1. ATF has developed a reputation in recent years for providing vague guidance, non-public opinions, and constantly shifting standards. Some of the worst offenders within the agency appear to be the Firearms and Ammunition Technology Division and the Imports Branch. Regardless of what ATF's regulations are, I think we can all agree that the public deserves clear guidance from regulatory agencies, not secret rulings hidden from the public. If confirmed, will you commit to ensuring that ATF issues clear and transparent guidance that is available to the public?

RESPONSE: As I testified at my hearing, from my experience in law enforcement and as a private attorney, I believe there are three key elements of a good regulatory scheme. It has to be fair. It has to be consistent. And it has to be effective. Otherwise, law-abiding businesses and individuals can't be certain what their obligations under the law are. Transparency is also important, and I will do my best to ensure that the ATF fulfills meets those goals within the law and pursuant to DOJ policy.

**Nomination of Steven M. Dettelbach
to be Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives
Questions for the Record
Submitted June 1, 2022**

QUESTIONS FROM SENATOR COTTON

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. Have you ever owned a firearm?

RESPONSE: No.

4. Have you ever been issued a firearm in a professional capacity?

RESPONSE: No.

5. Have you ever lost or otherwise misplaced a firearm that you owned or that you were issued in a professional capacity?

RESPONSE: Not applicable.

6. If you have ever lost or misplaced a firearm, whether owned by you or issued to you in a professional capacity, 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: Not applicable.

7. Please describe your understanding of the right or rights protected by the Second Amendment.

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. In *McDonald v. City of Chicago*, 561 U.S. 742 (2010), the Court held that the right guaranteed by the Second Amendment is a fundamental right that applies to the states as well the federal government.

8. Do you believe that the Second Amendment is concerned only with hunting? If not, please list the other purposes for which you believe the Second Amendment protects the right to keep and bear arms.

RESPONSE: The Second Amendment is not concerned only with hunting, but also, for example, protects lawful defense of one's home. My view of the Second Amendment is controlled by the *Heller* and *McDonald* opinions. In *Heller*, Justice Scalia's opinion for the Court held that the Second Amendment confers "an individual right to keep and bear arms." *District of Columbia v. Heller*, 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. In *McDonald*, the Court held that the right guaranteed by the Second Amendment is a fundamental right that applies to the states as well the federal government. It is the Constitution and the decisions of courts that define the scope of this and other rights.

9. Do you believe that the ATF should encourage lawful gun ownership?

RESPONSE: I support the right to lawful gun ownership for all eligible Americans who decide to do so. If confirmed, as I said at my hearing, I promise to do everything that I can do to enforce the law, respect the Constitution, and partner with federal, state, Tribal, and local law enforcement to protect the safety and rights of all law-abiding Americans consistent with the Second Amendment.

10. Do you believe that the ATF should work with firearms manufacturers, or treat them as adversaries?

RESPONSE: A regulated industry member is not the adversary of a regulator, although they may at times have different perspectives on various issues. As I stated at my hearing, I believe it is very important for an ATF Director to hear the perspectives from a wide variety of interested stakeholders, whether they are victim and survivor groups, industry members and representatives, or concerned U.S. citizens. If confirmed, I commit to doing just that.

11. If you are confirmed, will you commit to regular, cooperative, productive contact with firearms manufacturers?

RESPONSE: Please see my response to Question 10.

12. You stated during your hearing before the Committee that politics has no place in law enforcement, and that if confirmed you would leave "political" questions (including legislative ones) to Congress. On May 12, 2013, when you were serving as U.S. Attorney (the chief federal law enforcement official) for the Northern District of Ohio, you authored an op-ed in which you advocated for specific gun control legislation considered by Congress. Do you believe that your op-ed while you were in a law enforcement role left the "political" questions to Congress? Please explain whether you would conduct similar lobbying and policy advocacy if confirmed to lead the ATF.

RESPONSE: The op-ed you reference, which I co-wrote with former prosecutor and Republican Congressman Steven LaTourette, explained the importance of certain legislative reforms to the background check system to efforts by law enforcement to keep our communities safe. I co-wrote that piece in my official capacity with the knowledge of the Department and consistent with Department of Justice procedures for contacts with the media. If confirmed as Director of ATF, I will again follow Department policies and procedures related to the media and Congress.

13. It is estimated that murders increased by approximately 25% nationwide in 2020, and increased further in 2021. Does the United States currently have a violent crime problem?

RESPONSE: As I testified at my hearing, we face many threats to public safety both new and old. Violent crime is increasing. Firearms violence and mass shootings are increasing. Hate crimes and religious violence are increasing as is violent extremism. These trends have been present for several years. I am deeply concerned about it. Combatting violent crime is a top priority of the Attorney General and other Department of Justice leaders. It would be my top priority as ATF Director. If confirmed, I promise to do everything I can to enforce the law, to respect the Constitution of the United States, and to partner with law enforcement to protect the safety and rights of all innocent and law-abiding Americans.

14. Approximately 20,000 Americans were victims of murder in 2020, which is approximately 25% more than in 2019. In 2021, murder rates continued to rise, increasing by an estimated 5% in big cities compared to 2020. During the nationwide increase in riots and violent crime in 2020, 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: Working to prevent and respond to violent crime will be a top priority if I am confirmed as ATF Director. In my experience there is no one group of people or one root cause responsible for an increase in crime. I am unable to speculate on the causes of the increase in violent crime, which is complex and dependent on context and location. As I testified at my confirmation hearing, if I am confirmed as ATF Director, I will do everything I can to enforce the law, respect the Constitution, and protect the safety and rights of all law-abiding Americans.

15. You have called for a ban on so-called “assault weapons.” Were “assault weapons” the cause of the increased murder rates in the United States in 2020 and 2021? If you believe that “assault weapons” were one cause but not the sole cause of the murder rate increase, please explain the extent to which you believe that “assault weapons” were the cause.

RESPONSE: I am unable to speculate on the causes of the increase in violent crime. Currently there is no definition of assault weapon in federal law, and I am not currently at the ATF so I do not have access to detailed analysis of the types of weapons used in various crimes. I am therefore unable to speculate on any role “assault weapons” may have had on the increase in murder rates in the United States.

16. You have called for a ban on so-called “assault weapons.” Are such weapons the most common type of weapon used to commit murder in the United States?

RESPONSE: Please see my response to Question 15. Currently there is no definition of assault weapon in federal law. My understanding, however, is that according to FBI crime data handguns were the most common murder weapon from 2015 to 2020.

17. You have called for a ban on so-called “assault weapons.” Are such weapons used more commonly or less commonly than knives to commit murders in the United States?

RESPONSE: Please see my response to Question 15. Currently there is no definition of assault weapon in federal law. My understanding, according to FBI crime data from 2020, is that 1,739 homicides were committed using knives or cutting instruments. 13,663 homicides were committed using any type of firearm, of which 8,029 involved handguns, 455 involved rifles, 203 involved shotguns, 113 involved “other guns,” and 4,863 involved firearms for which the type is not stated. Because the data set does not use the term “assault weapons,” the data is not sufficiently disaggregated to compare definitively the number of homicides committed using knives against the number of homicides committed using “assault weapons.”

18. You have called for a ban on so-called “assault weapons.” Are such weapons used more commonly or less commonly than blunt objects (such as hammers) to commit murders in the United States?

RESPONSE: Please see my response to Question 15. Currently there is no definition of assault weapon in federal law. My understanding, according to FBI crime data from 2020, is that 393 homicides were committed using blunt objects. 13,663 homicides were committed using any type of firearm, of which 8,029 involved handguns, 455 involved rifles, 203 involved shotguns, 113 involved “other guns,” and 4,863 involved firearms for which the type is not stated. Because the data set does not use the term “assault weapons,” 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 weapons.”

19. You have called for a ban on so-called “assault weapons.” Are such weapons used more commonly or less commonly than things like feet and fists to commit murders in the United States?

RESPONSE: Please see my response to Question 15. Currently there is no definition of assault weapon in federal law. My understanding, according to FBI crime data from 2020, is that 662 homicides were committed using “Personal weapons (hands, fists, feet, etc.).” 13,663 homicides were committed using any type of firearm, of which 8,029 involved handguns, 455 involved rifles, 203 involved shotguns, 113 involved “other guns,” and 4,863 involved firearms for which the type is not stated. Because the data set does not use the term “assault weapons,” 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 weapons.”

20. Is it unreasonable for Americans to want to protect themselves from violent crime?

RESPONSE: It is not unreasonable at all.

21. 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 she is unable to own a firearm to protect herself, what should she do instead?

RESPONSE: I have endeavored to be careful, as a prosecutor and in private practice, not to comment on hypotheticals. 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).

22. What is a pistol brace?

RESPONSE: My understanding is that pistol braces were originally designed to assist persons with disabilities who participate in recreational shooting, but who could not reliably control heavy pistols without assistance.

23. What is your understanding of the difference between a firearm stock and a brace?

RESPONSE: I understand that pistol braces are designed to aid with single-handed shooting of a handgun, whereas a stock is designed for the shoulder-firing of a rifle or shotgun.

24. President Biden recently described a 9mm bullet as a “high-caliber” projectile. Is a 9mm bullet a “high-caliber” projectile?

RESPONSE: I am not familiar with the statement made by the President or its context. Based on my experience as a prosecutor, I understand that 9mm ammunition is commonly used in handguns.

25. Do you believe that 9mm ammunition should be banned for civilian use?

RESPONSE: I have not called for such a measure, developed a policy position, or carefully considered legal issues raised by this hypothetical measure and therefore cannot provide analysis of it. If confirmed, I will take an oath, as all Department employees do, to support and defend the United States Constitution, including the Second Amendment.

26. Do you believe that the ATF has the authority to categorically ban 9mm ammunition?

RESPONSE: Please see my response to Question 25. ATF’s regulatory authority begins and ends with the laws as passed by Congress, and ATF cannot act outside of that authority. Because I am not currently at the Department, I am not familiar with all the ATF technical

decisions regarding particular firearm features or accessories.

27. President Biden recently described 9mm handguns that can hold 10 or more rounds as “military-style weapons” that ought to be banned. Are 9mm handguns that can hold 10 rounds “military-style” weapons? Do you agree with President Biden that such weapons should be banned?

RESPONSE: I am only generally familiar with the statement made by the President, I do not know its full context, and I am not currently at the ATF with access to its data and expertise. I would have to study these issues further to offer an informed view, but as I testified, it would be for Congress to decide how to define the weapons covered by any restriction or limitation it might enact. If confirmed, I will take an oath, as all Department employees do, to support and defend the United States Constitution, including the Second Amendment. I will also seek for the ATF to provide any technical assistance or expertise requested by members of Congress, to assist in ensuring they have the facts and data they desire to make proper decisions on such matters.

28. President Biden recently stated that there is “no rational basis” for “high-caliber” weapons for self-protection or hunting, and he described such “high-caliber” weapons to include 9mm bullets. Do you agree with President Biden that there is “no rational basis” for using 9mm ammunition for self-protection or hunting?

RESPONSE: Please see my response to Question 25.

29. Do you believe that the ATF has the authority to require that gunsmiths conduct NICS background checks before returning repaired or customized firearms to their owners?

RESPONSE: To the extent gunsmiths may commercially acquire and transfer firearms from and to the general public, I believe they can be “engaged in” the firearm business just like other federal firearms licensees (FFLs) and would therefore be subject to certain regulations under the Gun Control Act. As a former federal prosecutor, I know that the background checks FFLs perform are essential to preventing prohibited persons from acquiring firearms and that the transaction records FFLs maintain are crucial to tracing firearms used in violent crimes.

30. Do you believe that the ATF has the authority to create or maintain a national gun registry?

RESPONSE: The ATF is prohibited by law from having a national gun registry. *See* 18 U.S.C. § 926(a). As ATF Director, I would be bound by this provision.

31. Please describe your understanding of what is meant by a “national gun registry” in the context of the ATF.

RESPONSE: The ATF is prohibited by law from having a national gun registry. My understanding of that term would be governed by statutory provisions, any applicable

regulations, and any relevant court precedents. *See* 18 U.S.C. § 926(a).

32. Title 18, section 926(a) of the U.S. Code provides in part: “No such rule or regulation prescribed after the date of the enactment of the Firearms Owners’ Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established.” Please explain your understanding of these provisions of law.

RESPONSE: My understanding is that this statute prohibits the ATF from having a national gun registry.

33. The vast majority of mass public shootings (as defined by the FBI) take place in so-called “gun-free zones.” Why do think that such locations are the sites of the vast majority of mass public shootings?

RESPONSE: I am not familiar with the statistics regarding the number of mass shootings that occur in different types of public settings. The recent mass shootings in Buffalo and Uvalde apparently occurred in areas where there were armed public safety officers at the sites. Other recent events of mass shootings have occurred in places like churches and hospitals, and I am unaware as to whether there were armed police or others on the scene. I believe strongly in assessing data, and I would do so in forming an opinion on this topic.

34. In May 2013, you authored an op-ed regarding gun control legislation and background checks for gun purchases. In that op-ed, you wrote: “The existing background check system has been around for 14 years, and there’s no national registry of gun owners. By law, all information identifying a specific gun purchaser who passed a check is destroyed within 24 hours.” Is it your understanding that federal law requires that all information identifying a specific gun purchaser who passed a background check be destroyed within 24 hours of the gun purchase? Do you believe that such record destruction currently occurs in accordance with your description of the law in that op-ed?

RESPONSE: That is my understanding of current law relating to such NICS checks, and, although I am not in the Justice Department, I expect that the FBI, which operates the NICS background check system, fully complies with those rules.

35. If you are confirmed, will the ATF pursue private citizens who use 3D printers to manufacture components or accessories for their own firearms or for their own, personal use?

RESPONSE: My understanding is that ATF’s statutory authority to regulate firearms does not extend to firearm parts or accessories for firearms. Private citizens who may lawfully possess firearms may lawfully use 3D printers to manufacture components or accessories for firearms for their own personal use.

36. What is your understanding of the status of “forced reset triggers” under federal law, and do you believe that the ATF’s policies regarding such products should be changed at all? If you believe that the ATF’s policies regarding such products should be changed, please describe the types of changes that you believe are necessary.

RESPONSE: I am only generally familiar with functionality of the devices described as “forced reset triggers.” I understand, however, that the concern among many in law enforcement with at least some types of these devices is that they can be used to illegally convert semi-automatic firearms into machineguns (fully automatic weapons). While I have not had the occasion to study ATF’s policies concerning “forced reset triggers,” if confirmed, I look forward to learning more about this issue.

37. Do you believe that “open letters” issued by the ATF have the effect of rulemaking? If not, do you believe that firearm manufacturers are obligated to follow the interpretation espoused by such “open letters”?

RESPONSE: Because I am not at the Department, I have not participated in ATF’s issuance of such “open letters.” If confirmed, I look forward to studying this issue more closely and will abide by statutes and binding court decisions on this topic. My general understanding is that ATF’s rulemaking authority is similar to that of other federal agencies – its limits are set by Congress through statute and must be exercised in accordance with the Administrative Procedure Act (APA). I further understand that the APA defines what actions constitute rulemaking, and that certain interpretive documents such as “open letters” issued by federal agencies do not fall within the APA definition of rulemaking. These types of documents do not represent binding agency action; they are a tool used to assist the public with understanding the laws and regulations administered by the agency.

38. Does the ATF have the authority to redefine or reinterpret laws and regulations relating to firearms through the use of “open letters” without following the notice and comment procedures required of rulemaking by federal agencies?

RESPONSE: Please see the response to question 37.

39. It has been publicly reported that North Korea manufactures counterfeit cigarettes for the global black market, and uses the proceeds from counterfeit tobacco products to fund its nuclear weapons program. What do you believe that the ATF should do differently to address this issue?

RESPONSE: Because I am not at the Department, I am not familiar with the work ATF may be doing with respect to North Korea’s counterfeit cigarettes. I do know based on my work as a prosecutor that ATF is involved in resource intensive investigations that identify and dismantle criminal enterprises – linked to terrorism and violent crime – that traffic contraband tobacco. If confirmed, I am committed to taking the lawful actions in partnership with other agencies needed to protect our safety and national security.

40. What is your understanding of the ATF's current policy regarding the sale of individual, or "loose" cigarettes?

RESPONSE: I have not studied the issue closely, but, if confirmed, I look forward to understanding any ATF policies on individual or "loose" cigarettes.

41. Do you believe that the ATF's policy regarding the sale of individual or "loose" cigarettes should be changed? If so, how?

RESPONSE: Please see my response to Question 40.

42. What is your understanding of the ATF's current policy regarding the sale of individual, or "loose" tobacco vapor products known as "vape pods"?

RESPONSE: I have not studied the issue closely, but, if confirmed, I look forward to understanding ATF's policies on the sale of individual, or "loose" tobacco vapor products known as "vape pods".

43. Do you believe that the ATF's policy regarding the sale of individual "vape pods" should be changed? If so, how?

RESPONSE: Please see my response to Question 42.

44. The FDA has proposed a rule to ban menthol cigarettes. Do you personally agree with this proposed rule? Please explain why or why not.

RESPONSE: I have not carefully studied this issue, which I understand is before the FDA, and I have not been privy to any non-public information about it. I understand the FDA's proposed rule is currently subject to public comment. I do not believe it is appropriate for me to express a personal opinion on this matter under these circumstances.

45. If you are confirmed to lead the ATF, and if the FDA's proposed rule banning menthol cigarettes is put into effect, would you enforce the ban on menthol cigarettes against individual users or retailers? If so, please describe how you would enforce such a ban. If not, please describe how you would address the black market for menthol cigarettes under such a rule.

RESPONSE: I have not studied this matter before the FDA in detail and have not been privy to any non-public information about it. I generally understand that ATF's authority to regulate the tobacco industry is based on the provisions of the Contraband Cigarette Trafficking Act, the Jenkins Act, and the Prevent All Cigarette Trafficking Act. My understanding is that other agencies would likely be responsible for enforcing any ban or restriction on menthol cigarettes that may go into effect based on its rule.

46. During the COVID-19 pandemic, jurisdictions around the country expanded the availability of "to-go" alcohol products. How, if at all, has the expanded availability of such products affected minors' access to alcohol?

RESPONSE: I have not studied the effects of the local laws regarding “to-go” alcohol closely.

47. 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 1, 2022, and sent them to me on the same day. 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 6, 2022.

48. 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 identify the department or agency with which those officials are employed.

RESPONSE: No one outside the United States federal government worked with me on these answers. Please see my response to Question 47 regarding the government related process.

SENATOR TED CRUZ

U.S. Senate Committee on the Judiciary

Questions for the Record for Steven M. Dettelbach, to be Director of the Bureau of Alcohol, Tobacco, Firearms & Explosives (“ATF”)

I. Directions

Please provide a wholly contained answer to each question. A question’s answer should not cross-reference answers provided in other questions. Because a previous nominee declined to provide any response to discrete subparts of previous questions, they are listed here separately, even when one continues or expands upon the topic in the immediately previous question or relies on facts or context previously provided.

If a question asks for a yes or no answer, please provide a yes or no answer first and then provide subsequent explanation. If the answer to a yes or no question is sometimes yes and sometimes no, please state such first and then describe the circumstances giving rise to each answer.

If a question asks for a choice between two options, please begin by stating which option applies, or both, or neither, followed by any subsequent explanation.

If you disagree with the premise of a question, please answer the question as-written and then articulate both the premise about which you disagree and the basis for that disagreement.

If you lack a basis for knowing the answer to a question, please first describe what efforts you have taken to ascertain an answer to the question and then provide your tentative answer as a consequence of its reasonable investigation. If even a tentative answer is impossible at this time, please state why such an answer is impossible and what efforts you, if confirmed, or the administration or the Department, intend to take to provide an answer in the future. Please further give an estimate as to when the Committee will receive that answer.

To the extent that an answer depends on an ambiguity in the question asked, please state the ambiguity you perceive in the question, and provide multiple answers which articulate each possible reasonable interpretation of the question in light of the ambiguity.

II. Questions

1. If confirmed, what will your top priorities be for the Bureau of Alcohol, Tobacco, Firearms & Explosives (“ATF”)?

RESPONSE: If confirmed to be ATF Director, my priority will be to partner with federal, state, Tribal, and local law enforcement to fight violent crime. In that effort, my goal is to leverage the abilities of ATF in a variety of ways, both new and old. For instance, ATF must continue its strong tradition of working side-by-side with local law enforcement on the front lines to combat gun crime and to help arrest shooters and other violent individuals. ATF should also work to scale up important technologies, including NIBIN, to support real time investigative efforts of local law enforcement with respect to violent crime. Finally, ATF should be a partner in countering the increase in violent extremist acts and hate crimes in our nation. Of course, ATF must also be nimble, and rely upon data to assess new or increasing threats and respond accordingly. ATF must also be nimble enough to evaluate and address new threats to public safety as they arise.

2. Will you commit to not engaging in racial discrimination when selecting and hiring staff, should you be confirmed?

RESPONSE: Yes, I commit to following anti-discrimination laws in such activities.

3. Does the right to own a firearm receive less protection than the other individual rights specifically enumerated in the Constitution?

RESPONSE: My view of the Second Amendment is controlled by the *Heller* and *McDonald* decisions. In *Heller*, Justice Scalia’s opinion for the Court held that the Second Amendment confers “an individual right to keep and bear arms.” *District of Columbia v. Heller*, 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. In *McDonald*, the Court held that the right guaranteed by the Second Amendment is a fundamental right that applies to the states as well the federal government. The scope of this right, like others, is defined by the Constitution and pertinent court decisions.

4. Does the right to own a firearm receive less protection than the right to vote under the Constitution?

RESPONSE: If confirmed, I would take an oath—as all ATF employees do—to support and defend the Constitution, and that includes the Second Amendment. The scope of this right, like others, is defined by the Constitution and pertinent court decisions.

5. What was the holding of *District of Columbia vs. Heller*?

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, my view of the Second Amendment would be guided and bound by the *Heller* decision and subsequent court decisions defining that right.

6. In your opinion, how should the U.S. Supreme Court rule in *New York State Rifle & Pistol Association v. Bruen*?

RESPONSE: I understand that the Department of Justice has filed an amicus curie brief in *Bruen* describing the Administration’s position. As a nominee, it would not be appropriate for me to further weigh in on the matter as the case is still pending before the Supreme Court. If I am confirmed, I will be bound by the decision that the Supreme Court issues in *Bruen*.

7. Have you ever personally owned any firearms?

RESPONSE: No.

8. Have you ever used a firearm? If so, when and under what circumstances?

RESPONSE: Yes. As a youth, I engaged in target shooting with rifles on numerous occasions. In my time as a Department of Justice employee, on several occasions I was hosted at federal and local law enforcement shooting ranges and afforded the opportunity to target shoot with different types of firearms. Finally, as an adult, I have taken my son to shoot targets with rifles several times.

9. Is the ability to own a firearm a personal civil right?

RESPONSE: My view of the Second Amendment is controlled by the *Heller* and *McDonald* decisions. In *Heller*, Justice Scalia’s opinion for the Court held that the Second Amendment of the U.S. Constitution confers “an *individual* right to keep and bear arms.” *District of Columbia v. Heller*, 554 U.S. 570, 595 (2008) (emphasis added). Therefore, it is an individual right. The Court also stated that, “[l]ike most rights, the right secured by the Second Amendment is not unlimited.” *Id.* at 626. In *McDonald*, the Court held that the right guaranteed by the Second Amendment is a fundamental right that applies to the states as well the federal government. If confirmed, I will take an oath, as all Department employees do, to support and defend the United States Constitution, and that includes the Second Amendment.

10. Is the criminal justice system systemically racist?

RESPONSE: Data show that communities of color have historically experienced disparate outcomes in our society, including our criminal justice system. There are times where such outcomes are not driven by any individual’s intentional and conscious bias, but by broader issues. We must examine the extent to which this affects our criminal justice system, and address it, to ensure adherence to one of our country’s foundational principles: equal justice under the law, while still ensuring that individual wrongdoers

are held fairly accountable for their own actions.

11. Explain your understanding of what distinguishes an act of mere “prosecutorial discretion” from that of a substantive administrative rule change.

RESPONSE: The Supreme Court has explained that, in exercising prosecutorial discretion, an agency may appropriately consider not only “whether a violation has occurred, but whether agency resources are best spent on this violation or another, whether the agency is likely to succeed if it acts, whether the particular enforcement action requested best fits the agency’s overall policies, and, indeed, whether the agency has enough resources to undertake the action at all.” *Heckler v. Chaney*, 470 U.S. 821, 831 (1985). Changes to administrative rules, which can result in new or amended substantive regulations which, for instance, may define or clarify the meaning of terms under a statute, are generally accomplished under the terms of the Administrative Procedure Act.

12. What do you believe are the root causes of modern-day mass shootings?

RESPONSE: I am unable to speculate on the root causes of mass shootings. Each instance is tragic, but unique, and there are often multiple causes both for a mass shooting itself, as well as the number of lives lost and injuries inflicted in any such shooting.

13. Do you believe that the breakdown of the American family correlates with the rise in mass shootings?

RESPONSE: Please see my response to Question 12.

14. Do you believe that the increase in social isolation due to COVID-19 lockdown mandates correlates with the rise in mass shootings?

RESPONSE: Please see my response to Question 12.

15. In April, the DOJ released its final rule on ATF NPRM 2021R-05, which takes effect on August 24, 2022.

- a. Do you support this rule? Why or why not?
- b. You mentioned at your May 25 hearing that the “three key things for good regulations” are fairness, consistency, and effectiveness. Please explain in detail how this policy does or does not meet those three specifications.
- c. Does any provision of the Constitution authorize the executive branch to create law?
- d. Does any provision of the Constitution authorize the executive branch to prevent the

public from making their own firearms?

- e. If confirmed, what steps would you take as Director of ATF to enforce the new rule?
- f. Under this new rule, do purchases of just an upper receiver require a background check?
- g. Do you believe this new rule would invite further regulation for complete upper receivers?
- h. The new rule amended several definitions due to advancements in firearms technology. Do you anticipate additional amendments for similar reasons within the next two years?
- i. Does the rule, which requires all federal firearms licensees to indefinitely store all their firearm transactions records, violate 18 U.S. Code § 926?
- j. Would you support a Congressional Review Act Joint Resolution of Disapproval to stop the DOJ from implementing this rule? Why or why not?

RESPONSE: My understanding of DOJ regulation process leads me to believe that this regulation – like all others – was subject to review by the Department and the Office of Management and Budget, and the fact of its publication means it was deemed to be an appropriate exercise of ATF’s rulemaking authority.

- 16. In response to a letter sent by U.S. Representative Michael Cloud, ATF said that as of November 2021, the agency maintained an estimated 920,664,765 records on firearm transfers.
 - a. Since more than 850 million of the records can be accessed digitally, does this recordkeeping practice violate 18 U.S. Code § 926?
 - b. Will you commit to not using out-of-business records to form a federal database to track law-abiding gun owners?
 - c. Will you commit to fighting against any policy that attempts to form a federal database to track law-abiding gun owners?

RESPONSE: The ATF is prohibited by law from having a national gun registry. *See* 18 U.S.C. § 926(a). If confirmed as ATF Director, I will be bound by this provision.

- 17. ATF contends that the reason for the recordkeeping is to trace “firearms used in crimes.” The bureau noted that more than half a million traces were done last year, whereas 2020 saw under half-a-million.
 - a. How many successful prosecutions were there in 2021 that were related to crime

gun traces?

- b. If confirmed, will you commit to making information concerning the amount of successful prosecutions related to the gun crime traces publically available?

RESPONSE: In my experience as a prosecutor, I know timely and accurate firearm traces can be crucial pieces of evidence. Their evidentiary value in an investigation or case varies based on the complexities of each particular matter. As such, I believe it would be extremely difficult to quantify the number of successful prosecutions related to a trace in a given time period. However, because I am not at the Department, and I am unaware of whether it is even possible to provide the data requested.

18. Do you believe that the combined effect of the out-of-business records and ATF NPRM 2021R-05 violate 18 U.S. Code § 926?

RESPONSE: I was not at the ATF during this process, but my understanding of DOJ regulation process leads me to believe that this regulation – like all others – was subject to review by the Department and the Office of Management and Budget, and the fact of its publication means it was deemed to be an appropriate exercise of ATF’s rulemaking authority.

19. The ATF reports that as many as over 45,000 privately made firearms had been recovered by law enforcement and reported to the ATF over the past six years.
 - a. Do you believe that guns that were bought and not built with their serial numbers scratched off were included in that count?
 - b. Should the guns described above be in future reporting under your potential directorship?

RESPONSE: I am not at the Department, so I cannot comment on the types of firearms that may have been included in ATF’s figure of 45,000 privately made firearms that were recovered by law enforcement and reported to ATF over the past six years. My general understanding is that privately made firearms, prior to ATF’s recent rule, never had a serial number and are therefore distinct from a firearm with an obliterated serial number.

20. In March 2018, David Chipman, the former Biden ATF nominee, tweeted support for the March For Our Lives Campaign. He tweeted “Today’s March to defend our children’s right to live and go to school without fear should be embraced by all of us. Frederick Douglass had it right: power concedes nothing without a demand. #MarchForOurLives #EndGunViolence #solidarity”. Do you currently or have you ever expressed public or private support for this campaign?

RESPONSE: I am not aware of the details of this campaign other than media reports and I do not believe I have expressed any view on it.

21. Do you believe that you are more qualified for the role of Director of ATF than David

Chipman?

RESPONSE: I do not know David Chipman's record or background enough to compare our nominations. I believe that I am highly qualified to be the Director of the ATF.

22. Are you in favor of allowing some convicted felons to have their gun rights restored?

RESPONSE: I cannot speculate on hypothetical future legislation and do not have access to data and evidence that the ATF may possess. Under the Constitution, the President currently has the power to pardon individuals, which can result in the restoration of their gun rights.

23. Do you believe that the Secret Service needs guns?

RESPONSE: I believe that some Secret Service employees, such as special agents, need firearms to conduct their jobs. In fact, as an Assistant United States Attorney in Maryland, I personally prosecuted and tried a defendant for assaulting a Secret Service agent, along. In that case, one Secret Service Agent was forced to draw his weapon and shoot the defendant, who was endangering the life of another Secret Service Agent who was his partner. If that Secret Service Agent had not been armed, his partner might have been seriously injured or killed.

24. In 2018, Politico reported that Hunter Biden or Hallie Biden threw away Hunter's gun in a trash can behind a grocery store across from a high school.
- a. Should these actions be prosecuted for a federal crime?
 - b. Could actions like this put students in danger of an active shooter situation?

RESPONSE: I am unaware of the media report you mention in your question. ATF conducts investigations and, in cases that warrant it, refers cases to Justice Department lawyers to be considered for prosecution. Furthermore, it is not appropriate to comment as a nominee on the merits of or evidence concerning any individual case or matter. If I am confirmed as ATF Director, I would ensure that all investigations and law enforcement activities are carried out absent any type of political consideration whatsoever.

25. Did Hunter Biden commit a crime by lying about his habitual drug use and criminal behavior on a Form 4473 to purchase a gun? Should he be prosecuted for that misrepresentation?

RESPONSE: I have been endeavored to be careful, as a prosecutor and in private practice, not to comment about something without knowing all the facts. ATF conducts investigations and, when warranted, refers cases to Justice Department lawyers to be considered for prosecution. Furthermore, it is not appropriate to comment as a nominee on the merits of or evidence concerning any individual case or matter. If confirmed, as I

said at my hearing, I will make decisions at the ATF based on the facts and the law before me in each case and free from any political considerations.

26. Was President Obama's privilege claim in the Fast and Furious investigation appropriate?

RESPONSE: I am not familiar with the basis of any privilege claims asserted by President Obama in that investigation.

27. On June 23, 2021, the "Biden-Harris Administration" announced a new policy of "zero tolerance for rogue gun dealers that willfully violate the law." The policy also states that "[a]bsent extraordinary circumstances that would need to be justified to the Director, ATF will seek to revoke the licenses of dealers the first time that they violate federal law . . ." for certain specified violations.

- a. Do you support this policy?
- b. If confirmed as director, what would you consider to be "extraordinary circumstances" under this policy?
- c. You mentioned at your May 25 hearing that the "three key things for good regulations" are fairness, consistency, and effectiveness. Please explain in detail how this policy does or does not meet those three specifications.
- d. Please define "rogue gun dealer."
- e. Is it effective for the ATF to treat a clerical error on Form 4473, which would have normally been treated as a minor violation, as a "willful" violation?

RESPONSE: I understand that the Justice Department announced a Violent Crime Reduction Strategy that both recognizes that "[l]icensed firearm dealers are often our first line of defense against gun crime and a source of critical enforcement information," and directs ATF to revoke licenses of "dealers who willfully break the law and put the public at risk." If confirmed, my role as ATF Director would be to implement this policy fairly and consistent with the law. Because I am not the Department, I am not currently aware of and cannot comment on how ATF has implemented this policy directive to date.

As I said at my hearing, I strongly believe that ATF should strive to have meaningful relationships and communications with all stakeholders, including federal firearms licensees, most of whom are law abiding and who often work cooperatively with law enforcement to identify those who violate the law. Moreover, as I also said at my hearing, I am not aware of any legal definition of "rogue gun dealer."

Last, as I testified, each action must be evaluated on its own facts, and "willful" is a legal term that is generally understood to imply a level of intent that is inconsistent with wholly unintentional errors.

28. In your 2018 campaign for Ohio Attorney General, you called for a ban on “assault weapons.”
- a. Please define “assault weapons.”
 - b. Do you agree with President Biden that assault weapons are “weapons of war?”
 - c. Do you agree with the definition of “assault weapons” that Congress used in the Federal Assault Weapons Ban in 1994?
 - d. Which types of guns fall under the category of assault weapons?

RESPONSE: Currently there is no definition of assault weapon in federal law. As I said during my confirmation hearing, when I was a candidate for office, I did talk about restrictions on assault weapons, and it would be for the Congress ultimately to define that term if it chose to legislate on that issue. If Congress did seek to legislate in this area, I would pledge to support those efforts with expertise, data, and technical assistance that ATF can provide to members of Congress, so Congress can make evidence-based decisions that protect the public consistent with the Second Amendment.

29. Do you agree that law-abiding American citizens should be permitted to own semi-automatic weapons?

RESPONSE: Unless otherwise restricted under the law, citizens are permitted to own semi-automatic weapons.

30. Are you in favor of legislation that allows teachers with the proper background and training to arm themselves?

RESPONSE: I cannot speculate on hypothetical legislation and have not studied the issue with the information available within ATF and DOJ, because I am not there. If Congress did seek to legislate in this area, I would pledge to support those efforts with any expertise, data, and technical assistance that ATF can provide to members of Congress, so Congress can make evidence-based decisions that protect the public consistent with the Second Amendment.

31. Are you in favor of legislation that reauthorizes the National Threat Assessment Center to establish a national program on targeted school violence prevention?

RESPONSE: I cannot speculate on hypothetical legislation and have not studied the issue with the information available within ATF and DOJ, because I am not there. If Congress did seek to legislate in this area, I would pledge to support those efforts with any expertise, data, and technical assistance that ATF can provide to members of Congress, so Congress can make evidence-based decisions that protect the public consistent with the Second Amendment.

Senator Chuck Grassley, Ranking Member
Questions for the Record
Steven M. Dettelbach

Nominee to be Director, Bureau of Alcohol, Tobacco, Firearms & Explosives

1. Since President Biden instituted his zero-tolerance policy that purportedly targets “rogue gun dealers,” the number of revocations of licenses for federal firearm licensees has reportedly increased 500%. Do you find that statistic to be concerning, and do you think it could hurt the cooperative relationship between the industry and ATF?

RESPONSE: I understand that the Justice Department announced a Violent Crime Reduction Strategy that both recognizes that “[l]icensed firearm dealers are often our first line of defense against gun crime and a source of critical enforcement information,” and directs ATF to revoke licenses of “dealers who willfully break the law and put the public at risk.” Because I am not at the Department, I cannot comment on the context of the statistic you cite concerning the implementation of this policy. However, as I said at my hearing, I strongly believe that ATF should strive to have good relationships with all stakeholders, including federal firearms licensees, who often work cooperatively with law enforcement to identify those who violate the law. Fair, effective and consistent regulation, free from any political considerations, is key to any regulatory scheme.

2. As a member of the Democratic Platform Committee in 2016, you voted in favor of the platform, which called for “repeal[ing] the Protection of Lawful Commerce in Arms Act (PLCAA) to revoke the dangerous legal immunity protections gun makers and sellers now enjoy.” You offered two amendments to other provisions of the platform, but not this one. Do you still support the repeal of the PLCAA?

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.

To my understanding, ATF does not have a role in enforcing PLCAA or attempting to retain or repeal it, as it deals with potential litigation between private parties, and not the government. If I am confirmed as ATF Director, I would therefore not be the person enforcing or in charge of attempting to repeal PLCAA, which would be up to Congress. I would enforce those laws on the books which come within ATF’s jurisdiction.

3. In 2018 as a candidate for Attorney General of Ohio, you supported reinstating the 1994 assault weapons ban and large capacity magazine ban. Do you still support reinstating those bans?

RESPONSE. As I said during my confirmation hearing, when I was a candidate for office, I did talk about restrictions on assault weapons, which are not defined under current federal law, and it would only be for Congress to define that term, if it chose to

legislate on the issue. If Congress did seek to legislate in this area, I would pledge to support those efforts with the expertise, data, and technical assistance that ATF can provide to members of Congress, so Congress can make evidence-based decisions that protect the public consistent with the Second Amendment.

4. Do you think it is appropriate for ATF to conduct an inspection of an FFL, issue a warning letter, close the inspection, reopen that inspection six months later without receiving any new information, and then revoke the FFL's license on same issue for which a warning letter was issued?

RESPONSE: Because I do not know all the facts, I am not in a position to comment on this hypothetical. If confirmed, as I said at my hearing, I will support a regulatory scheme that is effective, fair and consistent, where ATF makes decisions based on the facts and the law as applied in each case.

5. Please cite the federal statutory provisions or regulations giving ATF the authority to reopen its own final judgments.

RESPONSE: I am more familiar with the term "final judgment" in litigation occurring in a court than in the context of an action by an agency such as the ATF. However, if I am confirmed as ATF Director, I will seek to ensure that the ATF regulatory process is effective, fair and consistent.

6. The Biden Administration recently proposed to increase ATF's budget. Progressive gun-control groups have campaigned for ATF to hire hundreds of additional Industry Operations Investigators (IOIs). Which is more important for public safety – increasing the number of Industry Operations Investigators within ATF or the number of special agents?

RESPONSE: I am not at ATF and cannot assess where the greatest budgetary needs lie within the agency at this time.

7. Do you believe gun stores are essential businesses?

RESPONSE: As a general matter, I believe that gun stores are important businesses as they can assist law-abiding citizens to exercise their rights under the Second Amendment. As I said at my hearing, I understand that ATF depends on positive and productive relationships with the many responsible federal firearms licensees to work together to enhance public safety.

8. At your hearing, I asked if you could name two gun control policies that Mr. Chipman supported that you support and two that you do not. You explained that you were not familiar with the policy positions expressed by the previous nominee to serve as the Director of the ATF. Please familiarize yourself with his policy positions and name two gun control policies he supports that you support and two that you do not.

RESPONSE: As I said at my confirmation hearing, I do not come to this position with a specific policy agenda, and I do not know Mr. Chipman’s record and positions in detail. From a brief review of some of his public testimony, I agree with Mr. Chipman that it is important that federal authorities notify state and local enforcement when someone lies on their background check form. I was pleased to see that Congress recently took bipartisan action to address that concern. I have also stated that I share the belief that expanded background checks is a topic that would be meaningful for Congress to consider.

Firearm policies are often nuanced and fact specific, and without having full information and context I am reluctant to say whether I agree or disagree with any further specific policies or views of Mr. Chipman’s as opposed to standing on my own record.

9. Please review the interview of Marvin Richardson on SHOT TV. Do you believe Mr. Richardson said anything inappropriate in the interview?

RESPONSE: Marvin Richardson is a talented leader who has dedicated his professional life to ATF’s mission, making our nation a safer place. I have reviewed his interview as you requested. Because I am not currently at ATF and was not at that time, I do not have the same context or information available to me as did Mr. Richardson at the time of the interview. That said, I believe it is important for an ATF Director to hear from a wide variety of interested parties, whether they are victim and survivor groups or people, groups in the regulated industry or others, to hear and understand their perspective.

10. Former ATF Director nominee David Chipman 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.”¹ What other rights do we restrict for fear that citizens might exercise them out of fear?

RESPONSE: I am not familiar with Mr. Chipman’s quote or its context, so I cannot comment on it.

11. What is your understanding of community policing?

RESPONSE: I believe that law enforcement has a difficult job and police departments should have the resources they need to do their job safely, effectively, and in a manner that builds a strong, trusting relationship between law enforcement and the community. Community policing can take many forms, but my understanding of the term generally is that it describes efforts to encourage that type of relationship between the police and the community.

¹ 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.

12. Do you support the implementation of community policing?

RESPONSE: While I cannot speak to hypothetical policies that people may define differently, my experience as a prosecutor has led me to generally support policies and practices which encourage developing deep and strong relationships between our law enforcement officers and the communities they serve.

13. When you were the U.S. Attorney for the Northern District of Ohio, *The Plain Dealer* reported that your office filed 207 gun indictments in 2013. In a comment to the paper, you stated that “We will continue to go after the worst of the worst—those who tote firearms and ammunition, despite prior felony convictions, as well as unlicensed dealers, straw purchasers and others who break the law.”

- a. In 2013, how many of the 207 indictments highlighted by *The Plain Dealer* involved a defendant who was:
 - i. An unlicensed dealer?
 - ii. A straw purchaser?
 - iii. Others who break the law?
- b. In 2014, how many of the 113 firearm and explosive criminal case filings by the U.S. Attorney’s Office for the Northern District of Ohio involved a defendant who was:
 - i. An unlicensed dealer?
 - ii. A straw purchaser?
 - iii. Others who break the law?
- c. In 2015, how many of the 75 firearms and explosive criminal case filings by the U.S. Attorney’s Office for the Northern District of Ohio involved a defendant who was:
 - i. An unlicensed dealer?
 - ii. A straw purchaser?
 - iii. Others who break the law?

RESPONSE: Because I am not with the Department, and do not have access to the data underlying the statistics cited in the article you reference, I am unable to answer how many of the defendants charged by my office were unlicensed dealers, straw purchasers, and/or “others who break the law” for the years in question. My memory is that the majority of these cases were prosecutions based on the possession of a firearm by a prohibited person under 18 U.S.C. § 922(g).

In general, during my time as U.S. Attorney, from 2009 to 2016, combating violent crime, including specifically gun crime, was one of the office’s top priorities. At my direction, and due to the hard work of dedicated career federal prosecutors and federal, state and local law enforcement, the United States Attorney’s Office in the Northern District of Ohio (USAO) implemented a number of enforcement programs specifically to address firearms-related crime. These included:

(a) the Violence and Gun Reduction Interdiction Program (V-GRIP) where federal, state, and local law enforcement agencies and prosecutors targeted violent criminals for federal prosecution and surged resources to areas facing an increase in firearms crime, such as Youngstown, Cleveland and Toledo;

(b) Operation Samson in 2014, where the U.S. Attorney's Office, in partnership with the Mayor of Cleveland, ATF agents, and Cleveland Police Department worked collaboratively in a multi-pronged strategy targeting gun crime, bringing 60 indictments in just over three months, which included federal charges against dangerous felons, undercover purchases of illegally possessed firearms and testing of recovered shell casings; and

(c) working with ATF and other undercover agents to target dangerous felons and others who were illegally purchasing and illegally possessing firearms, ammunition, and narcotics which lead to the prosecution of over hundreds of cases;

(d) The Northern Ohio Violent Crime Consortium, where our office continued to regularly meet with the chiefs of eight of the District's larger police departments to work on innovative ways to use crime data to combat violent crime.

As a result of these and other efforts, the USAO under my leadership brought federal firearms-related cases and sentenced 1,093 defendants between fiscal year 2009 and 2016 (for an average of about 136 defendants/year), according to data from the United States Sentencing Commission.

14. Do you have implicit bias? How do you know if it's implicit?

RESPONSE: I am not a trained psychologist, but as the Attorney General explained at his confirmation hearing, having implicit bias, "is part of what it means to be a human being." I believe it is important to examine any biases we may have to try and overcome them and treat people with fairness. That is how I try to lead my life, and, if confirmed, would be part of how I would approach my role as ATF Director.

15. Assuming that you are confirmed, how will your implicit bias impact the manner in which you carry out your role as the head of the ATF?

RESPONSE: Although like all humans, I am not perfect and carry implicit biases with me, I will do my best to carry out my role as head of the ATF in a manner that is effective and fair to all people.

16. On multiple occasions in the wake of the Cleveland Consent Decree, you advocated that law enforcement officers receive better "training." What kinds of additional "training" do you envision these officers receiving? Do you plan to implement this additional "training" for ATF employees and special agents?

RESPONSE: In partnership with law enforcement, I have supported calls for updated and top-level police training for many years, both before and after the Cleveland consent decree. The type of training needed by law enforcement depends heavily on the needs of a particular agency, department, or officer. Both in the context of the consent decree and otherwise, one crucial source of information regarding those needs are the men and women in law enforcement, themselves. In the instance of the Cleveland Division of Police, where we met with hundreds of officers and sought their input, we learned that one of the single most popular training programs for police officers was CIT training, offered for officers to respond to calls where there was an individual in mental or emotional distress. We also learned that providing such intensive training was expensive, and not every officer who was in need was able to receive it. We worked with in partnership with the City of Cleveland in its efforts to provide that training to more of its officers as part of the Consent Decree. Other important goals were to provide officers with a greater amount of “scenario based” training, which was also viewed by officers and command staff as highly effective, but was also expensive and time consuming. Because I am not currently at the ATF, I do not know what types of training are currently being provided, or whether the agents, supervisors, or others may believe that new or different training is needed. Generally speaking, I believe it is important to evaluate such matters often and, where needed, to invest in providing police and other law enforcement ongoing training and support to seek to ensure they are equipped with the skills needed to do their jobs as effectively and safely as possible. It will be my goal to ensure that the men and women of ATF receive this support in their important and dangerous work.

17. Is the ATF effected by implicit bias?

- a. Do you plan to mandate implicit-bias training within the ATF?
- b. How will implicit-bias training improve the work within the ATF?

RESPONSE: I am not trained in psychology, but I understand implicit bias to mean the unconscious biases that every person has as a result of their culture and experiences. Because I am not at ATF, I am not aware of the work that has already been done on this issue so I cannot speculate at this time what training, if any, may be appropriate. Generally, implicit bias training seeks to help individuals identify and be more conscious of such biases so that they can better perform their jobs as they interact with and impact others.

18. The Director of the ATF should be familiar with firearms. To that end, have you ever shot a firearm? How many times have you shot a firearm in the last five years?

RESPONSE: As a youth, I engaged in target shooting with rifles on numerous occasions. In my time as a Department of Justice employee, on several occasions I was hosted at federal and local law enforcement shooting ranges and afforded the opportunity to target shoot with different firearms. Finally, as an adult, I have taken my son to shoot targets with rifles several times. I am not sure of all the dates, but I believe at least one such occasion was within the last five years.

19. During the course of your legal practice, have you ever asserted a Second Amendment defense?

RESPONSE: No, however my practice has been as a prosecutor for over 20 of my 30 years as an attorney, and a prosecutor does not assert any defenses at all. While U.S. Attorney, my office did defend civil actions brought against federal law enforcement, including actions alleging improper use of their firearms. During my time in private practice, I had primarily a commercial litigation and white-collar defense practice, and I do not believe such issues arose.

20. Recently, President Biden summarily fired 56 (all but two) Trump-appointed U.S. attorneys on February 10, 2021, a full month before President Trump, during his term, fired all of the remaining Obama-appointed U.S. Attorneys on March 13, 2017. On March 10, 2017, you tweeted about President Trump’s decision to terminate U.S. Attorneys: “Firing 46 U.S. Attorney’s in 1 day, many career prosecutors? Not a way to keep us safe. Law enforcement and politics don’t mix. #USAttorneys.”²

- a. You have deleted a number of social media posts. Did you author a tweet, op-ed or a letter decrying President Biden’s political move to fire 56 top law enforcement officials?
- b. Was President Biden’s termination of 56 U.S. Attorneys “not a way to keep us safe”?
- c. Did President Biden’s decision to terminate 56 U.S. Attorneys mix law enforcement and politics?

RESPONSE: I have not commented publicly on President Biden’s decisions about United States Attorneys. My understanding is that United States Attorneys are typically appointed by the President, subject to advice and consent of the Senate, and are subject to removal by the President. *See* 28 U.S.C. § 541.

21. You authored an op-ed with several other former U.S. Attorneys appointed by Democrats entitled “Ex-U.S. Attorneys: Delaying Scalia Successor Unsafe.” In your op-ed, you argue that “[b]oth the plain language of the Constitution and plain truths regarding public safety and national security demand” that “the president promptly nominate, and the Senate promptly consider, a U.S. Supreme Court nominee to replace the late Justice Antonin Scalia.”³

- a. Please identify the national security risk posed by not immediately filling Justice Scalia’s open seat.
- b. Please identify the public safety risk posed by not immediately filling Justice Scalia’s open seat.

RESPONSE: I co-authored that op-ed with four other former Presidentially appointed, Senate confirmed United States Attorneys from geographically and otherwise diverse

² Dettelbach, <https://twitter.com/SteveDettelbach/status/840415913262354432> (March 10, 2017).

³ SJQ 12(E) at 449.

districts, which were a combined home to over 20 million Americans. In the op-ed, we identified numerous national security and public safety risks facing those citizens. We set forth examples, including the threat of terrorism related activities, digital privacy threats, and the opioid epidemic. We stated that delaying the filling of an open Supreme Court seat for an extended period could hamper the effectiveness of federal investigations, which often have to occur quite quickly and require predictability with respect to legal standards and requirements. We explained that with key questions pending before a closely divided Supreme Court, delaying their resolution for an extended time could result in uncertainty as to whether and under what circumstances certain national security or law enforcement tools were permissible to use. We argued this could endanger national security and public safety interests, which often overlap.

22. In 2018, you accused Republicans of “rigging” the Ohio Attorney General electoral results and on multiple occasions you accused the system of being “rigged” in favor of Republicans. Please explain the basis for your repeated claims.

RESPONSE: I have never claimed that the results of the 2018 Ohio Attorney General race were “rigged.” In fact, I telephoned my Republican opponent just after 11:00 pm on the night of the election and congratulated him on his election as Ohio Attorney General.

During the race, I did make statements relating to two specific legal issues that, in my view, were pertinent to the electorate’s choice of the next Ohio Attorney General. One was my opponent’s role in approving what many considered gerrymandered state legislative districts in his then-current role as Auditor of State. These maps later caused the people of Ohio to overwhelmingly enact an Ohio Constitutional Amendment to change the entire way those lines would be drawn in the future. Second, I used that term to criticize the Ohio Secretary of State’s purging of Ohio’s voter rolls, which the Sixth Circuit had already found to be unlawful at the time, and which was being appealed to the Supreme Court by the Attorney General during the campaign.

23. If confirmed, will you commit to attending the National Shooting Sports Foundations’ annual Shooting, Hunting, Outdoor Trade Show?

RESPONSE: As I said at my hearing, I believe that it very important for an ATF Director to hear from all interested stakeholders, whether they are victim and survivor groups or people in regulated industries, to hear their perspectives, and I have sought to do so even during my confirmation process. I commit that, if confirmed, I plan to listen to a wide variety perspectives and groups.

24. 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

and other relevant Supreme Court opinions. I do support firearms education programs and training on the use and safety measures relating to firearms ownership.

25. 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.” Bearing a firearm can include carrying it. The Court, however, 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, and I would be bound by, the *Heller* decision and any subsequent pertinent decisions.

26. 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. I will be bound by the courts’ interpretation of these terms.

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

RESPONSE: Consistent with controlling federal statutes, it is my understanding that it is legal to engage in commerce involving firearms under federal law.

28. Do you believe legal gun purchases have caused the violent crime spike?

RESPONSE: I am unable to speculate on the causes of the increase in violent crime, which is complex and dependent on context and location. As I testified at my confirmation hearing, if I am confirmed as ATF Director, I will do everything I can to enforce the law, respect the Constitution, and protect the safety and rights of all law-abiding Americans.

29. You were unable to define the term “rogue gun dealer” during your hearing. Do rogue gun dealers constitute a substantial factor in the amount of crimes committed with firearms?

RESPONSE: As I said at my hearing, I am unaware of a legal definition of “rogue gun dealer,” and, therefore, I cannot answer this question.

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

RESPONSE: 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 Supreme 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, and I would be bound by, the *Heller* decision and any subsequent Court decisions defining that right.

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

RESPONSE: If confirmed, I would take an oath to support and defend the entire Constitution, including the Second Amendment, and would strive to do so without fear or favor.

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

RESPONSE: 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, and I will be bound by, the *Heller* decision and any subsequent Court decisions defining that right.

33. 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: From my experience in law enforcement and as a private attorney, I believe there are three key elements of good regulatory scheme. It has to be fair. It has to be consistent. And it has to be effective. Otherwise, law-abiding businesses and individuals cannot be certain of their obligations under the law. If I am confirmed as ATF Director, my role would be to ensure that the ATF achieves these objectives while also satisfying the requirements set forth in the Administrative Procedure Act.

It is my understanding that 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.

34. During your selection process did you talk with any officials from or anyone directly associated with the organization Everytown for Gun Safety, or did anyone do so on your behalf? If so, what was the nature of those discussions?

RESPONSE: Not to my knowledge. At some point I was made aware that this group had supported my nomination.

35. During your selection process did you talk with any officials from or anyone directly associated with Giffords, or did anyone do so on your behalf? If so, what was the nature of those discussions?

RESPONSE: I attended one remote meeting with individuals from Giffords. The discussion included a general introduction, including my background because I had not met people from this group before, and a presentation to me explaining the group's structure and general goals.

36. During your selection process, did you talk with any officials from or anyone directly associated with Brady, or did anyone do so on your behalf? If so, what was the nature of those discussions?

RESPONSE: I attended one remote meeting with individuals from Brady. The discussion included a general introduction, including my background because I had not met people from this group before, and a presentation to me explaining the group's structure and general goals.

37. Everytown for Gun Safety is a progressive organization that is "the largest gun violence prevention organization in America" that is "fighting for the changes that will save lives."

- a. Has anyone associated with Everytown for Gun Safety requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?
- b. Are you currently in contact with anyone associated with Everytown for Gun Safety, including, but not limited to: John Feinblatt, Rob Wilcox, Nick Suplina, and/or Alla Lefkowitz?
- c. Have you ever been in contact with anyone associated with Everytown for Gun Safety, including, but not limited to: John Feinblatt, Rob Wilcox, Nick Suplina, and/or Alla Lefkowitz?

RESPONSE. I do not believe so as to parts (a) and (b) of this question, except one time several years ago my law firm was approached about representing this organization, and the engagement did not proceed. When I ran for Ohio Attorney General in 2018, I also believe I may have had a call with representatives from this group before they endorsed me, but I have no specific memory of the call. I do not believe I have had contact with the group since then.

38. Giffords is an "organization dedicated to saving lives from gun violence" that is "fighting to end the gun lobby's stranglehold on our political system."

- a. Has anyone associated with Giffords requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?

- b. Are you currently in contact with anyone associated with Giffords, including, but not limited to: Gabrielle Giffords, Peter Ambler, Sean Holihan, and/or David Pucino?
- c. Have you ever been in contact with anyone associated with Demand Justice, including, but not limited to: Gabrielle Giffords, Peter Ambler, Sean Holihan, and/or David Pucino?

RESPONSE: I do not believe so as to questions (a) and (c). With respect to question (b), in addition to the answer set forth in Question 35, I had a call with David Chipman, limited to personal conversation and not relating to any issues involving firearms policy.

39. Brady is an organization dedicated to providing a “comprehensive approach to preventing gun violence.”
- a. Has anyone associated with Brady requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?
 - b. Are you currently in contact with anyone associated with Brady, including, but not limited to: Kris Brown, Liz Dunning, Jonathan Lowy, Erin Davis, Kelly Sampson, and/or Robert Cross?
 - c. Have you ever been in contact with anyone associated with Brady, including, but not limited to: Kris Brown, Liz Dunning, Jonathan Lowy, Erin Davis, Kelly Sampson, and/or Robert Cross?

RESPONSE: I do not believe so, except for my answer in response to Question 36.

40. The Raben Group is “a national public affairs and strategic communications firm committed to making connections, solving problems, and inspiring change across the corporate, nonprofit, foundation, and government sectors.” It manages the Committee for a Fair Judiciary.
- a. Has anyone associated with The Raben Group or the Committee for a Fair Judiciary requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?
 - b. Are you currently in contact with anyone associated with the Raben Group or the Committee for a Fair Judiciary, including but not limited to: Robert Raben, Jeremy Paris, Erika West, Elliot Williams, Nancy Zirkin, Rachel Motley, Steve Sereno, Dylan Tureff, or Joe Onek?
 - c. Have you ever been in contact with anyone associated with the Raben Group or the Committee for a Fair Judiciary, including but not limited to: Robert Raben, Jeremy Paris, Erika West, Elliot Williams, Nancy Zirkin, Rachel Motley, Steve Sereno, Dylan Tureff, or Joe Onek?

RESPONSE: I have been friends with Jeremy Paris and his family for many years. Like me, they live in Cleveland. Over the course of my 30-year career, I have had a few

conversations with Robert Raben and Nancy Zirkin, but not relating to the Committee for a Fair Judiciary or the ATF.

41. Please describe the selection process that led to your nomination to be the Director of the ATF, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).

RESPONSE: I expressed interest in the position of ATF Director in late 2021, after the prior nominee for the position was withdrawn. I was informed in early 2022 that I was under consideration for potential nomination to serve as ATF Director. I participated in a vetting and screening process, mostly in February and March 2022. I received a formal offer in early April 2022 and President Biden announced my nomination on April 11, 2022.

42. Please explain, with particularity, the process whereby you answered these questions.

RESPONSE: The Department of Justice received these questions on June 1, 2022 and sent them to me. 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 6, 2022.

**Senator Josh Hawley
Questions for the Record**

Steven Dettelbach

Nominee, Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives

- 1. The number of firearms-related prosecutions that you brought as U.S. Attorney dropped substantially toward the end of your tenure. From 2010 through 2013, the number of cases your office filed ranged between 141 and 160. But that number dropped in each of the subsequent three years, falling to a low of 65 in the final year of your tenure. The year after you left, the number of firearms-related cases filed doubled.**
 - a. Did Eric Holder or Loretta Lynch, or anybody else in the Department of Justice, ever say anything to your office that caused you to decrease the number of cases your office filed?**
 - b. Why did your firearms-related case filings fall 60% between 2013 and 2016 even as the case filings in many other criminal categories remained steady or increased?**
 - c. Did you ever direct anybody in your office to study why your firearms-related case filings decreased precipitously after 2013?**
 - d. When did you first find out that your firearms-related case filings decreased three years in a row after 2013?**
 - e. Did you ever adopt a policy of decreasing enforcement with respect to any offense while you were U.S. Attorney?**
 - f. The Sentencing Commission reports that the total number of firearms convictions nationwide remained steady from 2013 to 2014, yet the number of firearms-related cases your office filed fell 30%. Why?**

RESPONSE: In general, during my time as U.S. Attorney, from late 2009 to early 2016, combating violent crime, including specifically gun crime, was one of the office's top priorities, and I was never instructed otherwise by any superior at DOJ. At my direction, in addition to its normal operations and work, the United States Attorney's Office in the Northern District of Ohio (USAO) implemented and continued a number of enforcement programs specifically to address firearms-related crime. These included, among others:

(a) the Violence and Gun Reduction Interdiction Program (V-GRIP) where federal, state, and local law enforcement agencies and prosecutors targeted violent criminals for federal prosecution and surged resources to areas facing an increase in firearms crime, such as Youngstown, Cleveland, and Toledo, Ohio;

(b) Operation Samson in 2014, where the U.S. Attorney's Office, in partnership with the Mayor of Cleveland, ATF, and the Cleveland Police Department, worked collaboratively in a multi-pronged strategy targeting gun crime, bringing 60 indictments in just over three months. This included federal charges against dangerous felons, undercover purchases of illegally possessed firearms and testing of recovered shell casings to develop crime gun intelligence;

(c) working with ATF and other undercover agents to target dangerous felons and others unlawfully purchasing and illegally possessing firearms, ammunition, and narcotics. This led to the prosecution of hundreds of cases; and,

(d) The Northern Ohio Violent Crime Consortium, where our office continued to regularly meet with the chiefs of eight of the District's larger police departments to work on innovative ways to use crime data to combat violent crime.

As a result of these efforts and others, the USAO under my leadership, and due to the hard work of dedicated career federal prosecutors and law enforcement, brought federal firearms-related cases and saw sentenced 1,093 defendants between fiscal year 2009 and 2016 (for an average of about 136 defendants/year), according to data from the United States Sentencing Commission ("USSC"). Specifically, according to the USSC data, 124, 131, 125, 185, 151, 163, 116, and 98 defendants were sentenced for firearms-related offenses by my USAO in the fiscal years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016, respectively. *See* USSC Statistical Information Packets for the Northern District of Ohio 2009 to 2016, *available at* <https://www.ussc.gov/topic/data-reports>. In 2012, for example, the USAO set a record for the number of firearms-related cases in our district. *See* USSC Statistical Information Packets for the Northern District of Ohio from 1995 to 2020, *available at* <https://www.ussc.gov/topic/data-reports>.

I am also honored that the United States Attorneys before me and after my tenure, appointed by President Bush and Trump, both of whom I worked with in the office, and who both also have a strong record of combatting violent crime, support my nomination. My nomination is also supported by the acting United States Attorney who served at the outset of the Trump Administration, the same dedicated career prosecutor who served as the Criminal Chief for both me and the Bush United States Attorney appointed by President Bush who supervised all criminal prosecutions, including gun crime, during our tenures.

Questions for the Record for Steven M. Dettelbach
From Senator Mazie K. Hirono

1. As part of my responsibility as a member of the Senate Judiciary Committee and to ensure the fitness of nominees, I am asking nominees to answer the following two questions:
 - a. **Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?**
 - b. **Have you ever faced discipline, or entered into a settlement related to this kind of conduct?**

RESPONSE. a. No. b. No.

Senator Mike Lee
Questions for the Record

Steven Dettelbach, Nominee to the Bureau of Alcohol, Tobacco, Firearms, and Explosives

1. Did you know that President Biden's new zero tolerance policy for Federal Firearms Licensees was issued outside the normal rule-making process that requires public notice and comment?

RESPONSE: I was not in the Department and am unaware of the deliberations and process leading up to the announcement of that policy.

2. If confirmed, will you commit to follow the appropriate rule-making process, including allowing public notice and comment, when issuing new regulations?

RESPONSE: If confirmed, I commit to following the law as set forth in the Administrative Procedure Act and as interpreted by courts in issuing new regulations.

3. The ATF also skirted the rulemaking process regarding solvent traps and forced reset triggers by issuing enforcement memos to ATF agents and private letters to manufacturers and individuals. These memos and private letters state that the ATF is now classifying solvent traps as suppressors and forced reset triggers as machine gun parts that require registration under the National Firearms Act. Are you familiar with solvent traps and how they function?

RESPONSE: I am only generally familiar with the open-source discussions of both solvent traps and forced reset triggers, and I am not familiar with details regarding the technical aspects of how they function. If confirmed, I look forward to learning more about these issues.

4. Most law-abiding Americans, licensed firearms dealers, and firearms and component manufacturers want to follow the legal process, but ATF makes it very difficult to do so when they issue policies in secret. If confirmed, will you agree to stop this process of secret guidance and follow the Administrative Procedures Act?

RESPONSE: If confirmed, I commit to following the law, including as set forth in the Administrative Procedure Act and as interpreted by courts, in issuing new regulations.

5. On March 11, 2022, I and nineteen other Senators, sent a letter to Acting Director Richardson and Attorney General Garland asking questions about ATF's secret guidance regulating solvent traps and forced reset triggers. To my knowledge, we have not received a response. If confirmed, will you ensure that this letter receives a response?

RESPONSE: If I am confirmed, I will use my best efforts to have ATF respond in a timely fashion to all congressional inquiries in a manner consistent with the Department's policies and practices.

6. I, along with Senator Daines, and twenty-six other Senators sent a letter to ATF Acting Director Richardson on March 16, 2022 asking why the ATF had begun denying hundreds of Form 1 applications for suppressors without any publicly announced change in policy. Would you please explain why? If confirmed, will you commit to providing a full and timely response to this letter?

RESPONSE: I am not at the ATF and am not aware of the circumstances regarding this letter. If I am confirmed, I will use my best efforts to have ATF respond in a timely fashion to all congressional inquiries in a manner consistent with the Department's policies and practices.

7. During your run for Ohio Attorney General you supported universal background checks, an assault weapons ban, and magazine capacity limits. What specific assault weapons would you prohibit?

RESPONSE: Currently there is no definition of assault weapon in federal law. As I said during my confirmation hearing, when I was a candidate for office, I did talk about restrictions on assault weapons, but it would be for the Congress ultimately to define that term and what if any restrictions to impose if it chose to legislate on that issue. If Congress did seek to legislate in this area, I would pledge to support those efforts with the expertise, data, and technical assistance that ATF can provide to members of Congress so Congress can make evidence-based decisions that protect the public consistent with the Second Amendment.

8. How would you define an assault weapon for purposes of an assault weapons ban? When you indicated support for an assault weapons ban during your campaign for Ohio Attorney General, did you ever define an assault weapon or support a specific ban?

RESPONSE: Please see my response to Question 7.

9. According to the 2021 National Firearms Survey, 30.2% of gun owners – about 24.6 million individuals in the United States – have owned an AR-15 or similar rifle, which adds up to about 44 million AR-15 or similarly styled rifles total in the United States. If you were to be successful in convincing Congress to enact a federal assault weapons ban, how would you deal with the existing semi-automatic rifles and the law-abiding citizens who legally own them?

RESPONSE: Please see my response to Question 7.

10. How would you define a high-capacity magazine for purposes of a high-capacity magazine ban? When you indicated support for an assault weapons ban during your campaign for Ohio Attorney General, did you ever define a high-capacity magazine or support a specific ban?

RESPONSE: Currently there is no definition of high-capacity magazine in federal law. When I was a candidate for office, I do not believe I took positions on or defined high-

capacity magazines. In any event, it would be for the Congress ultimately to define these terms, if it chose to legislate on these issues. If Congress did seek to legislate in this area, I would pledge to support those efforts with expertise, data, and technical assistance that ATF can provide to members of Congress, so Congress can make evidence-based decisions that protect the public consistent with the Second Amendment.

11. According to the 2021 National Firearms Survey, forty-eight percent of gun owners – approximately thirty-nine million individuals – have owned magazines that hold over ten rounds totaling 542 million magazines. If you enacted your preferred magazine ban, how would you deal with existing magazines? Would you grandfather currently-owned magazines or criminalize current law-abiding gun owners?

RESPONSE: Currently there is no restriction on the possession of large capacity magazines in federal law. I do not believe I took a position on this matter when I was a candidate for Ohio Attorney General. In any event, it would be for Congress ultimately to decide how it would deal with existing magazines, if at all, if it chose to take up this matter.

12. You have the support of radical gun control groups such as Everytown, and you have you have taken some far-left positions on gun control. If confirmed, how do you plan to balance your personal gun control agenda with the ATF Director’s other role of working with the firearms industry to promulgate regulations?

RESPONSE: I am proud to have the support of a wide range of groups and individuals, from law enforcement, to former ATF Directors, to faith leaders, to regulated industry, to public health leaders, to Mayors, to former Department of Justice officials from both Republican and Democratic Administrations, to victim and survivor groups and more. As ATF Director, if confirmed, I will seek to communicate with a wide variety of groups to try and hear all viewpoints on matters of import to the ATF. As I said at my confirmation hearing, I do not come to this position with a specific policy agenda. If confirmed as ATF Director, I will work to protect the safety and rights of all law-abiding Americans and will base my decisions on the facts and the law.

13. On March 10, 2017, you tweeted the following criticism of President Trump’s decision to fire 46 U.S. Attorneys: “Firing 46 U.S. Attorney’s [sic] in 1 day, many career prosecutors? Not a way to keep us safe. Law enforcement and politics don’t mix. #USAttorneys”. And when Senate Democrats protested President Bush’s firing of 9 U.S. Attorneys, you said the following in support of Democrats attempt to pressure Attorney General Alberto Gonzales to resign “it’s sort of hard to imagine that there could be more pressure than there already is on that point.” On February 10, 2021 President Biden fired 56 U.S. Attorneys, which is all but two of the remaining Trump appointed U.S. Attorneys. Did you make a statement criticizing President Biden for firing of all but two U.S. Attorneys?

RESPONSE: I did not.

14. Do you believe that U.S. Attorneys, as executive branch political appointees, serve at the pleasure of the President?

RESPONSE: My understanding is that United States Attorneys are typically appointed by the President, subject to advice and consent of the Senate, and are subject to removal by the President. *See* 28 U.S.C. § 541.

15. In a 2013 op-ed you wrote: “Some critics have argued that universal background checks will lead to a national gun registry. But establishing such a federal gun registry is and will remain illegal under the proposal. The existing background check system has been around for 14 years, and there’s no national registry of gun owners.” This seems to be an acknowledgement that creating a federal gun registry is illegal. Do you still believe that federal law prohibits the creation of a federal gun registry?

RESPONSE: The ATF is prohibited by law from having a national gun registry. *See* 18 U.S.C. § 926(a). As ATF Director, I would be bound by this provision.

16. Federal law prohibits ATF from implementing rules requiring records be kept on government facilities. And yet, the Biden Administration is expanding the ATF’s record keeping regulations and is set to require FFLs to maintain Firearm Transaction Records permanently in August. According to the rule, these records shall be transferred to an ATF facility when a Federal Firearms Licensee goes out of business. How does this rule not violate the prohibition on creating a national gun registry?

RESPONSE: I am not at the ATF now, and do not have a detailed understanding of the referenced rule and how it is being implemented. If confirmed, once at the ATF I will become more familiar with this system and follow all legal requirements, while attempting to support and partner with federal, state, tribal and local law enforcement to apprehend violent criminals.

17. If confirmed as ATF Director, what would you do to ensure that no rule or regulation is implemented violating federal statute?

RESPONSE: It is the responsibility of every federal official to ensure that no agency action violates the statutes or the Constitution. If confirmed, I will work with officials at the ATF and the Department of Justice in an effort to ensure that ATF follows all rules, procedures, and policies designed to ensure compliance with the law.

18. If confirmed, will you commit to a reexamination of the proposal to address concerns that it might create a permanent national gun registry before final implementation?

RESPONSE: The ATF is prohibited by law from having a national gun registry. *See* 18 U.S.C. § 926(a). As ATF Director, I would be bound by this provision.

Questions from Senator Thom Tillis
for Steve Dettelbach
Nominee to be ATF Director

1. When is it appropriate for an agency to use internal guidance to make public policy in the absence of congressional action?

RESPONSE: If confirmed, I will ensure ATF communicates instructions, directives, and guidance to regulated entities and the general public clearly, consistently, and in a manner that complies with applicable laws, legal precedents, and the Justice Department’s policies and practices.

2. President Biden established a policy to go after federal firearms licensees who “willfully” violate the law. Are you aware of how the ATF is defining “willful?” What do you think the definition of “willful” means in this context? What do you think the definition of “willful” should be in this context?

RESPONSE: Because I am not currently at the Department, I am unable to comment on how “willfully” is currently defined or interpreted by ATF under that policy. As I said at my hearing, I generally understand “willful” to require a higher level of intent, and I believe determinations on whether that intent has been established must be made based on the facts and law in each case. If I am confirmed, I will look forward to consulting with the relevant Department and ATF officials to learn more about this policy.

3. Should a simple clerical error, one that has historically been treated with a warning or other appropriate action, warrant a license revocation? Why or why not?

RESPONSE: I believe it is important to be careful not to comment or draw conclusions about something without knowing all the facts. I therefore am not in a position to comment on this hypothetical as posed. I do believe that violations based on inadvertent errors are generally less serious than those based on intentional misstatements, but of course all the facts must be known to make such determinations. If confirmed, as I said at my hearing, I will seek to have the ATF make fair, effective and consistent decisions based on the facts and the law before it.

4. Will you commit to reviewing ATF policy to determine that it is not unfairly impacting those, like my constituents, who are acting in good faith to comply with the law?

RESPONSE: From my experience in law enforcement and as a private attorney, I believe there are three key elements of good regulatory scheme. It has to be fair. It has to be consistent. And it has to be effective. Otherwise, law-abiding businesses and individuals cannot be certain what their obligations under the law are. It is very important for an ATF Director to hear from a wide variety of interested parties, whether they are victim and survivor groups or people, groups in the regulated industry or others to hear what their perspective is. Thus, I commit if confirmed to review and listen to a variety of perspectives

and to manage ATF operations in a manner that is intended to ensure fair, effective, and consistent regulation.

5. How would you describe the duties the ATF has to communicate its ongoing instructions, directives, or guidance?

RESPONSE: I believe that all regulatory agencies, including ATF, should communicate instructions, directives, and guidance to regulated entities and the general public clearly, consistently, and in a manner that complies with applicable laws, legal precedents and Departmental policies.

6. As director of the ATF what, steps would you take to ensure transparency at the agency, particularly regarding the use of agency guidance documents or enforcement policies?

RESPONSE: Throughout my career in public service, I have been committed to clarity, consistency, and transparency in the enforcement of Federal law. I will continue that commitment if confirmed to be ATF Director to the extent allowed by applicable laws, legal precedents and Justice Department policy.

7. How responsive should the ATF be to requests for documents and communications related to internal changes in policy or guidance?

RESPONSE: I am unsure what this question is referring to regarding “internal changes.” Throughout my career in public service, I have been committed to clarity, consistency, and transparency in the enforcement of Federal law. I will continue that commitment if confirmed to be ATF Director to the extent allowed by applicable laws, legal precedents and Justice Department policy.

8. Do you think it is appropriate and fair for ATF to conduct an inspection of an FFL, issue a warning letter, close the inspection, and then 6 months later reopen that inspection, without receiving any new information and revoke the FFL’s license on same issue for which a warning letter was already issued? Wouldn’t this be considered changing the goal post on a prior ruling without any new evidence?

RESPONSE: I have endeavored to be careful, as a prosecutor and in private practice, not to comment about something without knowing all the facts. I therefore am not in a position to comment on this hypothetical. If confirmed, as I said at my hearing, I will seek to direct ATF to make fair and consistent decisions based on the facts and the law before it.

9. If confirmed, what steps will you take to ensure this new policy isn’t being used as blanket authority to revoke the licenses of lawful federally licensed firearm retailers for simple paperwork errors?

RESPONSE: Please see my response to Question 4.

Senate Judiciary Committee Hearing
“Hearing to Consider the Nomination of Steven Dettelbach to be Director of the Bureau of
Alcohol, Tobacco, Firearms and Explosives”
Questions for the Record
for Mr. Steven Dettelbach
Submitted June 1, 2022

QUESTIONS FROM SENATOR SHELDON WHITEHOUSE

1. A firearm leaves distinct markings on the cartridge case of spent ammunition. These markings are unique, allowing law enforcement to examine bullets and cartridge casings from different crime scenes to determine if they were expelled from the same firearm. The ATF developed technology known as the Integrated Ballistic Identification System that digitizes and automatically sorts bullet and shell casing signatures to help identify ballistic evidence found at crime scenes.
 - a. Given the recent rise in gun violence, particularly gun homicides, would you say managing and updating ATF’s ballistics identification work is a top priority?
 - b. As ATF Director, how will you enhance the ability of local law enforcement to access ballistics identification information as quickly and effectively as possible?

RESPONSE: Managing and updating ATF’s ballistics identification work should be a top priority. If confirmed I will work with local law enforcement to continue to expand access to the NIBIN system. This can be done through continued expansion of ATF’s own capabilities, as well as ensuring that a greater number of local and state law enforcement agencies can quickly and easily access that database. There is no one-size-fits-all approach to that effort. I commit to working with all interested parties, including Congress, to partner in this effort.