September 11, 2023

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

We write to encourage the Biden-Harris Administration to continue taking robust actions to combat gun violence. We commend the important steps your Administration has recently taken on this issue, including steps to expand the scope of dealers required to conduct background checks, increase public access to information about dealers who violate the law, and more. Nevertheless, the American people expect the federal government to use every possible tool to reduce gun violence. Congress must act — and it is an ongoing tragedy that Republican leadership refuses to do so. We also believe you can exercise your executive authority to take additional action to address gun violence without congressional action.

With almost 500 mass shootings since the beginning of this year — in schools, grocery stores, houses of worship, and countless other venues — 2023 is on track to become the deadliest year of mass shootings in recent American history. The number of active shooter incidents has skyrocketed over the past two decades. Gun violence is one of the leading causes of premature death in the United States and, as of 2020, the leading cause of death for youth. Meanwhile, a majority of Americans favor stricter gun laws.

The epidemic of gun violence demands that you use the full power of the executive branch. Your Administration has taken critical steps to reduce gun violence, including through your Executive Order in March 2023 and your May 2023 announcement of actions to strengthen the implementation of the Bipartisan Safer Communities Act (BSCA). Additionally, your Administration issued a rule clarifying which firearm dealers must conduct background checks — a much-needed step to further implement BSCA. We also applaud your Administration’s investment in community violence intervention programs. Furthermore, the confirmation of Steven Dettelbach last summer as the first Senate-confirmed Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) in seven years highlights your Administration’s commitment to this issue. And in January 2023, ATF clarified that pistols equipped with stabilization braces qualify as short-barreled rifles, which closed a critical loophole by ensuring that those highly lethal pistols are regulated by the National Firearms Act. Stabilization braces have been used in recent mass shootings—including a Nashville incident during which a shooter took the lives of three nine-year-old children and three staff at the Covenant School. In spite of this, Republicans in the House...
passed a resolution that would have reversed this much-needed ATF rule. Every Republican in the Senate also supported that resolution, but Senate Democrats stood united and defeated that ill-conceived resolution in June.

With Republicans in Congress blocking further legislative action to reduce gun violence, we urge you to leverage the full scope of your executive authority on this issue. Reporting indicates that you are preparing to undertake an “ongoing series” of efforts to address gun violence. As part of that push, we encourage you to consider the following proposals:

1. **Leverage the federal government’s purchasing power to improve public safety.** The federal government spent at least $1.8 billion purchasing guns and ammunition from private companies in FY 2022 — procuring them for the Department of Defense (DoD) and law enforcement officials throughout the federal government. Your March Executive Order directed DoD to use its acquisition of firearms to advance public safety practices. You can build on that directive by instructing DoD and over 60 other federal agencies that purchase firearms to develop and implement standards for procuring taxpayer-funded firearms only from manufacturers that agree to adopt a code of conduct. Codes of conduct could be developed by each agency in consultation with the White House and could contain various public safety practices that firearm vendors must follow in order to be awarded government contracts. Examples of public safety practices could include declining to sell military-grade weapons in the civilian market, incorporating modern safety features into guns, or only selling firearms to responsible dealers who refuse to proceed with a sale without a completed background check (even when they are legally authorized to do so). This move would push gun manufacturers to improve their practices by leveraging the federal government’s status as a major purchaser of firearms. The federal government has the authority to impose conditions on the award of federal contracts under the Federal Property and Administrative Services Act, and your Administration has leveraged that authority on multiple occasions, as did the Obama Administration.

2. **Revisit the list of guns eligible for import under the “sporting purposes” exception.** The Gun Control Act of 1968 generally prohibits the import of firearms. However, weapons that are “particularly suitable for or readily adaptable to sporting purposes” are exempted from this ban. Roughly one fourth of rifles in the United States are imported, and the “sporting purposes” exception is one of the primary exemptions used for firearm imports. The Attorney General is responsible for determining whether a firearm falls within this “sporting purposes” exception. However, ATF has not reviewed which shotguns should be eligible for this exemption for over a decade, and has not reassessed the list of eligible rifles for over 20 years, despite technological changes. The White House should direct ATF to review the lists of firearms, firearm parts, and related accessories being imported under the “sporting purposes” exception to determine whether those products are still used for legitimate sporting purposes by law-abiding citizens and thus still satisfy the standard for that exception. If they do not, ATF should ban their import.
3. **Transfer authority over assault rifle export controls back to the State Department from the Commerce Department.** In 2020, the Trump Administration transferred authority over exports of certain assault weapons from the State Department to the Commerce Department by removing those firearms from the United States Munitions List (USML) and placing them on the Commerce Control List (CCL). This has had important implications: while the State Department is required to notify Congress of license approvals for certain firearm exports exceeding $1 million (and Congress has the power to adopt a joint resolution to disapprove the sale), this is not the case for exports controlled by the Commerce Department. The State Department is also better equipped than Commerce to assess the human rights and security impact of arms exports. After the transfer of license authority to the Commerce Department, the rate of export license approvals jumped by 30%. The State and Commerce Departments should publish final rules returning export licensing authority to the State Department. Alternatively, if Commerce retains this authority, it should at a minimum tighten export controls over 3D-printed “ghost gun” files by amending or clarifying 15 C.F.R. § 734.7, as members of Congress have recommended.

4. **Encourage the FTC to issue a policy statement on “unfair or deceptive” gun ads.** The FTC regularly issues policy statements that describe how it interprets statutory standards, such as the prohibition on unfair or deceptive practices. Gun sellers have sought to capture the market of anxious buyers through messaging that asserts that firearm ownership increases household residents’ physical safety from gun violence — despite extensive empirical evidence to the contrary. Gun violence prevention groups have argued that such marketing is unfair and deceptive. The FTC should consider issuing a policy statement establishing that advertisements will be found unfair and/or deceptive when they falsely convey that gun ownership increases the safety of household residents.

5. **Direct the Department of Justice (DoJ) to review its interpretation of the Tiahrt Amendment.** The Tiahrt Amendment, first enacted as a rider to the 2003 Consolidated Appropriations Resolution, prohibits ATF from releasing information from its firearm trace database to the public, including to researchers, litigants, and journalists. An exception permits ATF to share “statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations.” Still, the Tiahrt restriction — and narrow interpretations of its exceptions — have stymied the public’s ability to comprehensively understand gun violence trends and to hold wrongdoers in the gun industry accountable. As advocates have urged, the Administration should direct DoJ to consider issuing guidance clarifying that “statistical aggregate data” includes information such as the aggregate number of crime gun traces on a per-dealer basis, and information about the largest crime gun suppliers in annual state trafficking reports.

These proposals are just examples of the additional actions your Administration can take to reduce gun violence and protect our communities from the next mass shooting. With Republicans in Congress refusing to act, the American people are relying on your
Administration to ensure that they can move through their daily lives without fear of firearms on the streets, in public establishments, and in their homes.

Thank you for your attention to this important matter.

Sincerely,

Elizabeth Warren
United States Senator

Charles E. Schumer
United States Senator

Raphael Warnock
United States Senator

Richard J. Durbin
United States Senator

Richard Blumenthal
United States Senator

Dina Titus
Member of Congress

Maxwell Alejandro Frost
Member of Congress

Diana DeGette
Member of Congress
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Henry C. "Hank" Johnson, Jr.
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Seth Magaziner
Member of Congress

Stephen F. Lynch
Member of Congress
15 Congressional Research Service, “DOD and Other Federal Agency Spending on Firearms and Ammunition, FY2022,” Memorandum, July 26, 2023, on file with the Office of Senator Elizabeth Warren. This figure includes items categorized as “guns” under the General Service Administration’s (GSA) relevant Product and Service Codes in the System for Award Management Data Bank, and associated ammunition. It excludes bombs, guided missiles, mines, and other weapons that may meet the statutory definition of a firearm in 18 U.S.C. § 921 but that are not categorized as “guns” by the GSA.
Examples of modern safety features include: (1) microstamped-enabled technology (which allows for linking gun shells to the gun that fired them); (2) chamber-load indicators (which indicate whether the gun contains a bullet); (3) internal locking systems/personalization technology so only authorized users can fire the gun; (4) tamper-proof serial numbers; and (5) child-proof technology.


21 40 U.S.C. § 101, 121; see also Am. Fed’n of Lab. & Cong. of Indus. Organizations v. Kahn, 618 F.2d 784, 789 (D.C. Cir. 1979); Perkins v. Lukens Steel Co., 310 U.S. 113, 127 (1940) (“[T]he Government enjoys the unrestricted power . . . to determine those with whom it will deal, and to fix the terms and conditions upon which it will make needed purchases.”).


24 22 CFR § 123.15.


37 18 USC § 923 note.
38 Id. (emphasis added).