

ATF: Captured by the Gun Lobby

What's a captured agency?

When a government agency becomes captured by the industry it is supposed to regulate, it is unable to accomplish the goals Congress intended for it. Research has shown that small agencies have a greater tendency than larger agencies to become captured by the industry they regulate, since they lack the strength and resources to withstand the influence of the industry. Think of the FAA with relation to the fatal crashes of 737 MAX airplanes or the FDA and the opioid epidemic.

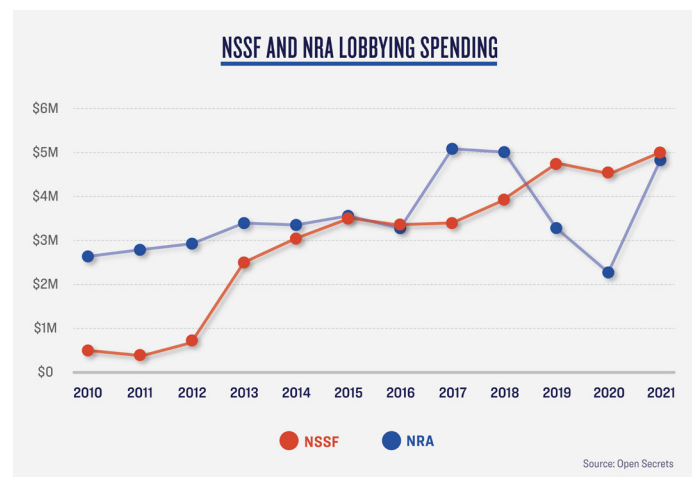
One of the main reasons why the gun industry has been able to exert this influence over ATF is because the agency has lacked effective leadership. In fact, until now, the gun industry has successfully mobilized against a number of presidential nominees for ATF director, leaving the agency without long-term, dedicated leadership willing to stand up to the industry. This absence has made the agency more susceptible to outside pressure and has reduced its ability to maintain a commitment to its core objectives. **The successful confirmation of Steve Dettelbach as ATF director makes him just the second Senate-confirmed director since 2006.**

What's ATF's mission?

ATF is the primary agency charged with enforcing our nation's gun laws, and the only federal agency charged with the responsibility of providing oversight for the gun industry and ensuring that gun businesses comply with applicable laws and regulations. ATF inspects gun dealers, regulates unusually dangerous firearms, and traces firearms recovered at crime scenes.

What's the evidence that ATF has been captured?

- ▶ ATF often defers to the industry regarding important policy decisions, causing ATF to actively advocate on behalf of the industry within the Department of Justice and unquestioningly accepting the opinion of the industry regarding the classification of particular weapons. **The gun industry has taken advantage of this deference by spawning deadlier and deadlier devices**—from bump stocks to ghost guns to stabilizing braces—creating a slippery slope towards the acceptance of these devices by exploiting ATF's unwillingness to draw the line.
- ▶ ATF has taken an extremely lenient approach towards irresponsible gun stores, often enabling them to stay open despite clear violations of the law. According to ATF's most recent report, ATF noted violations of the law in 48% of the FFL compliance inspections it conducted between 2016 and 2020. **Yet approximately 99% of FFLs found to have violated the law were allowed to stay open.**
- ▶ A lack of transparency within ATF has also benefited the industry and deprived policymakers and the public of information about the gun industry and ATF's activities in regulating (or not regulating) them. In 2020, almost half of ATF's FOIA request processed were backlogged, compared to less than one-fifth among agencies across the federal government. **The agency's refusal to provide information to the public about its inner workings has often shielded it from scrutiny,** benefiting the gun industry at the expense of the public.
- ▶ The industry, and in particular NSSF, has used its partnerships with ATF to avoid any sort of bad press, instead cultivating a positive image for gun businesses and building its brand name. ATF's presence at the SHOT show indicates that the agency has come to act as more of a partner to, rather than an overseer of, the gun industry. **The friendly relationship between ATF and NSSF is even more troubling given NSSF's opposition to many gun safety proposals supported by a majority of Americans.**



How can the ATF be fixed?

Congress and the Senate should:

- Repeal the current restrictions on ATF, including those on physical inventory requirements for gun dealers and on the release of gun trace data
- Update the language of the National Firearms Act to address newer weapon designs
- Exercise its oversight authority to address the issues raised in this report and hold ATF officials to account for their performance

The Department of Justice should:

- Provide stronger legal and administrative oversight
- Hold those in leadership positions within ATF accountable for results
- Ensure the licenses of irresponsible FFLs are promptly revoked
- Vigorously defend ATF against gun lobby attacks
- Advocate for more funding for ATF
- Provide ATF with support for its gun trafficking investigations from the FBI, US Marshals, and other federal law enforcement agencies, including by detailing officers from those agencies to increase ATF's capacity for those investigations
- Ensure that ATF engages with public safety advocates
- Provide the public with complete data



We need look no further than the opioid epidemic and environmental disasters of the BP oil spill to understand the truly devastating repercussions of agency capture, and as this report has laid out, evidence points to ATF being in a similar, extremely dangerous position. As public safety advocates, we must clearly and repeatedly demand a different, better way forward for ATF and for our country.