

United States Senate

November 10, 2022

COMMITTEES
ARMED SERVICES
AGRICULTURE, NUTRITION
AND FORESTRY
ENVIRONMENT
AND PUBLIC WORKS
SMALL BUSINESS
AND ENTREPRENEURSHIP

The Honorable Merrick B. Garland
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Dear Attorney General Garland:

I write to request the Federal Bureau of Investigation (FBI), in conjunction with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), make additional preparations to accommodate the anticipated influx of legal gun purchases on Black Friday, November 25, 2022.

The day after Thanksgiving is typically the biggest day of the year for gun purchases. Therefore, retailers rely heavily on background checks through the Instant Criminal Background Check System (NICS), to assure they are not transferring a firearm to a prohibited person.

Last year, NICS recorded 187,585 inquiries on Black Friday alone, ranking it among the top ten highest days for NICS checks.¹ This was an increase from Black Friday in 2020. The record for most background checks processed in a single day was set on Black Friday in 2017, with 203,086 checks. It is safe to assume with almost certainty that gun purchases and background checks on Black Friday in 2022 will follow this trend.

The FBI is notoriously understaffed on Black Friday, despite knowing year-after-year of the high-volume of gun sales. This must change. Now is the time to prepare the FBI and ATF for adequate staffing to avoid the inevitable holiday rush.

Black Friday is less than a month away and reports already indicate the ATF is shorthanded and facing backlogs. The current wait time for approval of a paper Form 4, which is used to complete a tax stamp purchase, is one year, and an e-Form 4 is at least 180 days, some taking more than a year.² The average processing time for an e-Form 4 has increased by 80 days since the enactment of the "Frame or Receiver" final rule, which went into effect just over a month ago.³

While NICS is under the FBI's jurisdiction, prospective buyers are required to complete an ATF Form 4473, and the Federal Firearms Licensee (FFL) relays that information to NICS.⁴ The NICS staff perform a

¹ *Background Checks Top 687,000 During Black Friday 'Week'*, NSSF (Nov. 29, 2021) <https://www.nssf.org/articles/background-checks-top-687000-during-black-friday-week/>.

² *Current Processing Times*, ATF (Oct. 1, 2022) <https://www.atf.gov/resource-center/current-processing-times>.

³ 27 C.F.R. § 478.11, 479.11 (2022).

⁴ *Firearms Checks (NICS)*, FBI, <https://www.fbi.gov/how-we-can-help-you/need-an-fbi-service-or-more-information/nics#:~:text=NICS%20Process&text=The%20prospective%20buyer%20fills%20out,purchase%20or%20own%20a%20firearm>.

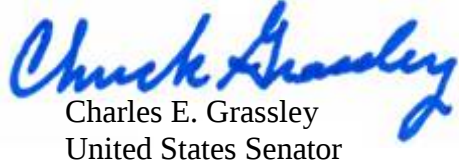
background check on the buyer, and that background check verifies the buyer is not prohibited from purchasing or owning a firearm.

To ensure that the delays and backlogs that have plagued the FBI, ATF, and NICS in the past are not repeated this year, I request, no later than November 18, 2022, an explanation on how the Department of Justice, FBI, and ATF plan to ensure they are adequately staffed to avoid additional delays during this high-volume day. Thank you for your swift attention to this important matter.

Sincerely,



Joni K. Ernst
United States Senator



Charles E. Grassley
United States Senator

CC:

The Honorable Christopher Wray, Director, Federal Bureau of Investigation

The Honorable Steve Dettelbach, Director, Bureau of Alcohol, Tobacco, Firearms and Explosives