

By Jason Ouimet
Executive Director,
NRA-ILA



SO MUCH FOR MODERATION:

Biden's Gun Grab Is Officially Underway

Joe Biden was sworn in as president of the United States on Jan. 20, 2021. Seventy-seven days later, on April 7, he announced a series of executive actions that would criminalize formerly lawful behavior and invest a rank gun-control advocate with the power to target gun owners as criminals.

Biden likes to portray himself as America's best hope for unity, moderation and normalcy. With these actions, however, he has made it unmistakably clear that millions of law-abiding gun owners do not deserve the consideration and respect of other Americans.

Instead, we are his scapegoats for social ills we didn't cause and for criminal acts we didn't commit. Worse, the price we are expected to pay will not even meaningfully improve public safety. Joe Biden has, for all practical purposes, removed gun owners from the privileges and immunities of U.S. citizenship and from the benefits of the rule of law.

The NRA has long warned this day was coming. But, as the White House emphasized in its official announcement, these orders are merely "initial actions" that are sure to continue and to escalate as long as Biden and the extremists who surround him remain in power.

Biden's determination to push activism over professionalism and unity was most exemplified by his choice to nominate David Chipman as director of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Biden emphasized Chipman's time as an ATF agent, as if he were merely a dedicated police professional who would put politics aside to protect the American people.

In fact, Chipman's post-ATF career has been one of overt gun control and political advocacy,

including for Michael Bloomberg's Everytown for Gun Safety and for the Giffords gun-control group.

Chipman was a "policy advisor" for both organizations, meaning that he counseled them on which gun-control schemes to pursue. His government experience was supposed to provide the technical and subject matter expertise and credibility to back up the organizations' public bluster.

One would think a career law-enforcement agent would want to focus on violent crime and criminals in formulating policy supposedly to make America safer. Yet, Chipman has emphasized expanding the reach of the law to envelop people who unwittingly violate arbitrary bureaucratic line-drawing, rather than using criminal statutes to crack down on violent and unrepentant predators. His instincts are those of the opportunistic D.C. swamp creature rather than the traditional American lawman.

This is evident in the policies pushed by Chipman's gun-control paymasters. Everytown, for example, has long preached that so-called "universal background checks" are key to its "plan to end gun violence."

Yet, Chipman knows as well as anyone that serious criminals who are prohibited from firearm possession—the people who pose the biggest public safety threats with guns—don't submit to background checks. They obtain their guns through criminal networks, theft, straw purchases and other channels that purposely and systematically defy the law. The full weight of this policy will instead fall on the people who seek to obey the law, placing more fees, more bureaucracy and more government intrusion between them and the exercise of their constitutional rights.

The real value of this policy for gun-banners is the creation of a government-accessible and

taxpayer-funded paper (or digital) trail to every lawfully transferred firearm. Those records form the framework for a national gun registry, which would facilitate any future attempt to seize lawfully held guns.

Even if this happens in incremental steps, the final outcome is preordained. Two of Biden's other executive actions, as I'll explain, would upset what was considered settled law. But, the law is never truly settled for gun-banners as long as law-abiding Americans still have guns.

Giffords' gun-control agenda is more expansive, encompassing virtually every scheme that has been proposed in the last 50 years to make lawful firearm ownership more difficult, expensive, legally perilous and impractical. Giffords filed a brief in the landmark Second Amendment case, *District of Columbia v. Heller*. The brief argued that, "The Second Amendment does not limit the options available to cities to address the problem of gun violence." Notably, Giffords argued that the District's complete ban on the possession of handguns by law-abiding Americans was constitutional. Such an interpretation would have completely eviscerated the Second Amendment.

This extremist view put Giffords sharply out of touch with the American people. For those who might think that Giffords has moved on from such extreme views, their law center's website still proudly notes that they filed the brief arguing "that the right to possess a firearm is not based on an individual right of self-defense, but rather related to service in a militia based on the prefatory language in the Amendment." To the degree it reflects Chipman's view of the Second Amendment, it indicates he is more activist than lawman and would enthusiastically embrace the most-far-reaching gun control, including expansive gun bans.

Biden also ordered the Department of Justice (DOJ) to promulgate a new rule that would turn unfinished metal and plastic templates favored by hobbyists and do-it-yourselfers into regulated firearm receivers and stabilizing brace-equipped pistols into "short-barreled rifles" subject to special taxation and registration.

Since the founding of the Republic, Americans have always been able to make their own firearms for lawful personal uses. Traditionally, that

has been considered none of the government's business until the firearms entered the stream of commerce.

Current ATF policy does not consider what are known as 80% receivers as subject to the same types of regulations as finished receivers that are ready to be built into functional firearms. These 80% receivers, typically made of metal or polymers, are shaped to facilitate their transition into firearm frames or receivers, but still require relatively precise drilling and machining to be usable for that purpose.

The 80% threshold is partly a matter of practicality. If everything that could, with sufficient effort and know-how, be fashioned into a firearm was itself a firearm, then ATF would be overseeing the extraction of iron or bauxite ore from the ground. Lines have to be drawn.

BUT, THE LAW IS NEVER TRULY SETTLED FOR GUN-BANNERS AS LONG AS LAW-ABIDING AMERICANS STILL HAVE GUNS.

Biden obviously wants to move those lines back to a more primitive stage of manufacture. If history is any guide, the ATF will want to set an arbitrary standard that will be changed again in the future when it suits their preference. And how detached will the policy eventually become from the legal standards actually present in the statutes enacted by Congress?

This proposal will therefore cause logistical headaches and legal jeopardy for legitimate firearm manufacturers and private makers, but it cannot stop those determined to evade the law to make and sell guns for nefarious ends. If people are willing to possess and use a gun in violation of the law, why would they have any qualms about violating the law to make it?

Biden also ordered the DOJ to promulgate a rule to "make clear when a device marketed as a stabilizing brace effectively turns a pistol into a short-barreled rifle subject to the requirements of the National Firearms Act." You may remember that ATF already tried to do this last December, sparking so much opposition and

outrage that it withdrew the proposal before the end of its comment period.

This effort has always been a solution in search of a problem. Braced pistols are used extremely rarely in crime, and are also more expensive than typical handguns. Braced pistols obviously do not feature the concealment, portability and relative affordability as standard handguns.

As with unfinished receivers, they are being singled out merely as a target of opportunity, not because doing so actually solves any pressing problem.

Biden's executive actions also order the DOJ to publish "model 'red-flag' legislation" for states that wish to empower courts to issue surrender or seizure orders for firearms whose lawful owners are determined to be a danger to self or others. While largely symbolic and duplicative of the various such laws and proposals already in existence, this move demonstrates that the administration is happy to use any pretext to encourage seizure of lawfully possessed guns.

It takes a gun-control advocate to argue a person is just dangerous enough to be ineligible to possess guns, but not for any other kind of intervention to address the true underlying cause of dangerousness. Seizing a person's lawful property could indeed make a volatile situation even worse; at least one gun owner has already been killed from an attempt to execute an order of this type.

Thanks to your support, NRA has already started a more than two-million-dollar campaign to counter this gun-control push. We've invested in television and digital ads, mailed postcards, sent thousands of text messages and engaged in town halls in targeted states to ensure that the United States Senate rejects Biden's gun-control agenda.

Official proposed language for the rules and model legislation was unavailable as this article went to press. Exact numbers are difficult to quantify, but clearly millions of Americans already lawfully own personally made firearms and braced pistols. Will they retroactively be declared criminals if they do not surrender, modify, destroy, register or pay new taxes on them? Time will tell.

But the time has passed when Joe Biden can claim to be a unifying moderate. His gun grab has officially begun. 🌀