United States Senate

WASHINGTON, DC 20510

September 4, 2026

The Honorable Todd Blanche
Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Attorney General Blanche:

We write to express our serious concern that the Department of Justice (DOJ) has chosen to abandon enforcement of the *National Firearms Act of 1934* (NFA)—one of our nation's foundational federal gun violence prevention laws. For months, DOJ has defended the NFA in court against legal challenges brought by the firearms industry, certain state attorneys general, and the gun lobby. But less than one week after you were confirmed as Attorney General, the Department appears to have reversed course. The Department's failure to immediately pursue an appeal in support of the NFA calls into question statements you made to the United States Senate during your confirmation process and raises serious doubts about your willingness—and ability—to keep Americans safe.

The NFA regulates some of the most dangerous concealable firearms and devices in the country, including short-barreled shotguns, short-barreled rifles, and silencers. Enacted to address the "growing frequency of crimes of violence in which people are killed or injured by the use of dangerous weapons," the NFA imposes (among other things) application, registration, and recordkeeping requirements for the importation, manufacturing, possession, and transfer of covered weapons. Since the NFA's enactment, these requirements have played a critical role in reducing the number of crimes involving these highly destructive weapons.

On August 5, 2026, however, the U.S. District Court for the Northern District of Texas struck down the NFA's regulatory requirements for certain firearms and devices as unconstitutional in *Silencer Shop Foundation v. ATF*. The court stayed its order for seven days to give DOJ time to seek a further stay from the Fifth Circuit. But rather than pursue immediate appellate relief—and continue to vigorously defend the NFA as it had throughout the litigation—DOJ stepped aside and let the court's injunction take effect.

DOJ's failure to seek immediate relief is profoundly concerning—for the integrity of the Department, the rule of law, and the public's safety. The Department has long recognized its "duty to defend the constitutionality of an Act of Congress whenever a reasonable argument can be made in its support." During your confirmation proceedings, you reiterated this precise principle—including in the specific context of the NFA. You explained that "[t]he Department's duty is to defend the constitutionality of the laws passed by [Congress]," and "[t]o that end, the Department is presently defending the NFA against constitutional challenges." You further recognized that whether the NFA should be repealed is a policy question for *Congress's* "measured judgment."

The Department's apparent abdication of its responsibility to defend the NFA—just four days after your confirmation—is impossible to reconcile with your statements to Congress. The Department has not identified any reason to believe that the legal arguments it has made to date in support of the NFA have somehow become unreasonable. To the contrary, the only explanation for the Department's about-face appears to be a substantial pressure campaign by gun rights lobbyists and a group of Republican lawmakers to dismantle longstanding gun laws they dislike. For example, just one day after Representative Andrew Clyde led a letter urging DOJ not to seek appellate relief, he purportedly "received confirmation from the Trump Administration that the DOJ will NOT appeal our historic court victory against the NFA," and thanked you and President Trump for "delivering the most significant Second Amendment win in OVER 90 YEARS." As you previously acknowledged, however, whether to repeal the NFA is a policy decision left to Congress. DOJ's role is to independently and impartially enforce the law as written. It is not to help favored groups effectively achieve through litigation what they failed to achieve through legislation.

The Department's decision has, and will continue to have, substantial repercussions for Americans' safety. The NFA's regulatory requirements help ensure that covered weapons are possessed only by law-abiding citizens and deter these weapons' criminal misuse. As a result of DOJ's refusal to seek a stay of the District Court's order, some of the most dangerous concealable weapons in the country—including those that have been used in several mass shootings—can now be (and have been) bought and sold outside the NFA's heightened regulatory framework for the first time in nearly 100 years. Even if DOJ were to eventually appeal the District Court's decision and succeed, the potential damage from weapons made and transferred outside the NFA in the interim cannot easily be undone.

In light of these serious concerns, we request written responses to the following questions no later than September 11:

1. What "confirmation" did DOJ provide Representative Clyde? Was it limited to not seeking a stay from the Fifth Circuit or did it also extend to not appealing the decision on the merits?

2. Does DOJ still commit to defending the constitutionality of an Act of Congress so long as a reasonable argument can be made in its support? If not, what standard are you using to determine whether to defend the constitutionality of federal laws?

3. What was the Department's justification for declining to seek immediate relief in *Silencer Shop*? Please provide all communications with advocacy groups, Republican lawmakers, and the White House concerning this decision.

4. Will the Department commit to enforcing the challenged NFA provisions against individuals and entities who are not covered by the *Silencer Shop* injunction?

5. Will the Department commit to enforcing related firearms provisions—such as 18 U.S.C. § 922(b)(4)—that were not within the scope of the *Silencer Shop* injunction, including against any individuals or entities that may have violated these provisions

in the wake of the District Court's decision?

6. Will the Department continue to defend the NFA in ongoing litigation in other jurisdictions, including *Brown v. ATF*, No. 4:25-CV-01162 (E.D. Mo.) and *Roberts v. ATF*, No. 26-CV-00091 (E.D. Ky.)?

7. Has the Department determined whether to appeal the *Silencer Shop* decision?

    a. If so, please explain the specific justification for any such determination and provide all communication with advocacy groups, Republican lawmakers, and the White House concerning this conclusion.

    b. If not, when does the Department plan to reach a decision? As a reminder, 28 U.SC. § 530D requires you to inform Congress of any decision not to appeal a judicial determination "adversely affecting the constitutionality" of a federal statute "within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but in no event later than 30 days after the making of [such] determination."

The NFA has helped protect Americans' safety for almost a century. And as DOJ explained earlier this year, the NFA's regulatory requirements "fit[] squarely within Congress's constitutional authority." We urge the Department to resume its vigorous defense of the NFA and fulfill the promises you made to defend the constitutionality of laws passed by Congress and keep Americans safe.

Sincerely,

Alex Padilla
United States Senator

Peter Welch
United States Senator

Tim Kaine
United States Senator

Richard J. Durbin
United States Senator

Richard Blumenthal
United States Senator

Angela D. Alsobrooks
United States Senator

Kirsten Gillibrand
United States Senator

Jack Reed
United States Senator

Mark Kelly
United States Senator

Chris Van Hollen
United States Senator

Cory A. Booker
United States Senator

Elizabeth Warren
United States Senator

Adam B. Schiff
United States Senator