



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Washington, DC 20226

May 9, 2007

Open Letter to All Federal Firearms Licensees from the Acting Director, Bureau of Alcohol, Tobacco, Firearms and Explosives

We at the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), like all Americans, were saddened by the tragic events that unfolded at Virginia Tech just last month. In the immediate aftermath, many questions arose about whether the person responsible for the shootings was prohibited under Federal law from possessing a firearm, and how the shooter passed the background check required before purchasing the two firearms used on April 16, 2007.

As Federal Firearms Licensees (FFLs), you play a significant role in firearms transfers to consumers. As do each of you, ATF takes seriously our common obligation to ensure that persons ineligible under the law do not acquire firearms. This Open Letter serves to assist you in understanding the scope of the prohibition set forth in Title 18 U.S.C. § 922(g)(4), the provision that makes it unlawful for a person who has been adjudicated as a mental defective or committed to a mental institution to possess firearms or ammunition. As your partners, we hope this information will help you better understand the law and regulations so together we can prevent the unlawful possession and criminal misuse of firearms.

Title 18 U.S.C. § 922(g)(4) makes it unlawful for any person who has been adjudicated as a mental defective or who has been committed to a mental institution to possess firearms or ammunition. This prohibition covers two classes of persons—those who have either been (1) adjudicated as a mental defective; or (2) committed to a mental institution. Each of these terms is defined by federal regulation at 27 C.F.R. § 478.11. These regulations are set forth in the ATF Publication 5300.4, the Federal Firearms Regulations Reference Guide, which was provided to you and is available at www.atf.gov.

To assist you and your customers to better understand this provision, ATF is clarifying the Firearms Transaction Record (ATF Form 4473), to make it clear, for example, that any person who has been found by a court, board or other lawful authority to be a danger to self or others is prohibited from purchasing a firearm or ammunition. We will provide you with additional information about this change in the Form 4473 in the near future.

We are also working with each State's Attorney General to clarify whether the procedures in any particular state might result in a firearms disability. We recognize that the procedures that result in a person being prohibited under section 922(g)(4) vary widely under state law and we encourage each of you to work closely with your local ATF office to determine whether a particular determination qualifies as a federal prohibition. In any event, you

should not transfer a firearm if you know or have reasonable cause to believe the transferee is prohibited. ATF values its close cooperation with you on the local level and encourages you to direct any questions or concerns about any of these issues to your local ATF field office.

A handwritten signature in black ink, appearing to be 'MJS', with a long horizontal line extending to the right.

Michael J. Sullivan
Acting Director