

00:00;19;17 - 00:00;40;03

Stephen Gutowski

All right. Welcome, ladies and gentlemen, to another episode of the Weekly Reload Podcast. I'm your host, Stephen Gutowski. I'm also the founder of theReload.com and a CNN contributor. If you head over to The Reload, you can keep up to date with what's going on with guns in America from a sober, serious perspective that focuses on hard news and analysis over hot air and opinion.

00:00;40;05 - 00:01;06;17

Stephen Gutowski

Although I do like the website Hot Air, so no shade there. We've had, Ed Morrissey from the show, on the show before, but this week on our show, we are going to be talking about the appointment of Kash Patel, who is the confirmed director of the FBI, to the acting director position at the ATF. And to do that, we have back with us JD Tuccille.

00:01;06;19 - 00:01;09;27

Stephen Gutowski

I always get this wrong. JD two chili.

00:01;09;29 - 00:01;11;11

J.D. Tuccille

Chili. That's right.

00:01;11;13 - 00:01;27;07

Stephen Gutowski

There I got two because it's easy to two chili. That's not it's I always want to say like too silly or put it, make it real Italian, but which I'm not. So it doesn't work. But, is with Reason magazine. Welcome back to the show. Thank you so much for coming on. You wrote a piece about this week.

00:01;27;07 - 00:01;32;07

Stephen Gutowski

But, before we get started, just give people a little more about your background.

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J.D. Tuccille

I mean, I've been a columnist for years. For reason. I was managing editor at Reason, for some years. And, now my freelancing, relative to what, you know, relevant to what we're doing now is I also enjoy shooting, my son, we homeschooled him. And as a shot project, one of his shot projects, I, he and I built an AR 15 together from an 80% receiver, so, I, I cover topics, and.

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J.D. Tuccille

But I also get my hands dirty, playing with the stuff that, we're talking about here.

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Stephen Gutowski

Very cool. How did what was the receiver made of his metal?

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J.D. Tuccille

And it was an aluminum. It was an aluminum 80% AR 15 lower receiver. And we machined it out. Drilled it out, installed the parts, and, was a good way to teach my son how to use tools. But also, I had to put together and see how a firearm works.

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Stephen Gutowski

Yes. And and to experience a little bit of, the, I guess, political philosophy and action.

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J.D. Tuccille

Exactly. Was, I raised him to be, a fairly libertarian in his views in support of that.

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Stephen Gutowski

Okay. Well, so, let's let's start talking now about the agency that I guess, in theory would regulate or maybe it should not be regulating the, 80% lowers. This is one of the debates going on within the ATF. Now that we've had change over administrations, we got some news, about the agency's leadership or at least its interim leadership.

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Stephen Gutowski

You know, the Biden had appointed, permanent director, got him confirmed for the Senate. But, Steven, Darrell Bock and Darrell Bock resigned before Trump came in because Trump had said on the campaign trail he was going to fire him. And, the ATF had had set their, leader lists, I guess had lists, for a little while.

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Stephen Gutowski

And now we have news of the new director, which is going to be, I think, maybe a little bit surprising for people because, it's Kash Patel, who was already the confirmed Senate confirmed director for the FBI. And so he's going to run both agencies. Is that right?

00;03;33;14 - 00;03;51;29

J.D. Tuccille

It is. Right. At least for the time being. He's acting director of the ATF as well as being the confirmed director, as mentioned, of the FBI. And there's a lot of potential here as as well as some risks. We know that, you know, there's a lot of a lot of, controversy in the U.S over the role of the ATF.

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J.D. Tuccille

Whether it goes well beyond just regulating firearms, which could be bad enough the regulations are heavy handed, which arguably they very much are. But then it's also hostile, growing increasingly hostile to the gun industry and to firearms owners. Under more recent leadership, Kash Patel could be. I mean, he has voiced support for gun rights in the past.

00;04;12;26 - 00;04;47;04

J.D. Tuccille

He could be a corrective to that, providing new direction to the ATF, the regulatory agency, having it back off some of its interpretations, which, turn previous legal activities into felonies, and redirecting its efforts away from safe up paperwork violations and in a more, self-defense friendly direction. The risks, though, is that Patel is very much a political individual, and in the past he has voiced, he was in the U.S., participated in the first Trump administration, and he has voiced, animosity towards political enemies and talked about getting back at them.

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J.D. Tuccille

And so the risk that as head of not just the FBI but the ATF, he's got a lot of, machinery in his hands that could be used, retribution, if that was the direction decided to take this. And so while there's real potential here, there's also real risk. We have to see which direction this goes.

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Stephen Gutowski

Yeah. And I want to. And we'll get deeper into each of those points here. Let's start with I guess kind of the structural view of all this because, you know, as we mentioned, that's the first time we've seen an FBI director, also be the head of the ATF. However, it's not the first time we've seen, a confirmed Senate confirmed director of of one segment of the federal, executive branch take over, as acting director of another segment, which we just recently saw with, Marco Rubio as secretary of state, becoming the acting director of USA aid.

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Stephen Gutowski

As the Trump administration has tried to effectively, you know, neutralize us, just shut it down. In, in all but name, it seems a cut. Most of the funding and grants. There's a big legal fight over that. And we'll see what the outcome of that will be. But, you know, this is that for tell you how things went with U.S. aid and State Department, what they're doing there.

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Stephen Gutowski

You know, like they try the same thing with the ATF and just while they it seems statutorily they would need Congress to, re designate ATF as part of the FBI or disband the ATF or, you know, move its authorities to other agencies. They could, I guess, do it in a sort of effective sense by making the head of the FBI the the head of the ATF, and then just kind of, in all but name merging the two.

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Stephen Gutowski

Is that.

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J.D. Tuccille

The.

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Stephen Gutowski

It means that, like, something comes to mind.

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J.D. Tuccille

I think it's a fair read. I mean, there's a lot of tea leaf reading we're doing here, obviously, but we know this administration so has talked about consolidating elements of government, and it's hard to get rid of an agency. If you're taking someone who owes you political or you owe your political favors and giving them a job as its head and then saying, I want you now, you know, we're not going to put you out of a job where if you put someone in as acting director, it may well signal that you're considering that maybe this agency ought not exist, that its, its responsibilities are to be transferred elsewhere.

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J.D. Tuccille

And a logical place, because it's been proposed in the past, would be to fold ATF into the FBI and make just for a greater law enforcement agency that has wider responsibility. So, yeah, I mean, I, I look at this and I see that as a real possibility.

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Stephen Gutowski

You wrote about this in your piece that wouldn't even necessarily be unprecedented thing. You know, there are some bills floating around Congress do that they're unlikely to pass because the realities of, needing 60 votes in the Senate, at the very least, and maybe even just getting it through the House in the first place with a three vote majority for, for Republicans would be hard left to.

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Stephen Gutowski

But but, you know, it's not a Republican idea necessarily, or a Trump idea necessarily. This is something that's been around reorganizing the ATF or even disbanding it. Right?

00;07;54;04 - 00;08;19;28

J.D. Tuccille

Oh, absolutely. I mean, during the Clinton administration's, early days, they had their own version of DOJ's the Department of Government Efficiency called the National Performance Review. And, one of its proposals was to fold both DEA and ATF, into the FBI, at, DEA entirely. And then ATF, enforcement responsibility would go to the FBI and its revenue responsibilities to go to the IRS.

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J.D. Tuccille

The complaint at that time was it's a similar complaint we have now, which is that you duplicative, institutions, they overlapped, they competed with each other. They didn't always cooperate, and that you would get greater efficiency by folding them into each other less, you know, lower overhead, save costs. Have fewer personnel, and ideally, get better performance in the end.

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Stephen Gutowski

Yeah. And gun rights activists, for a lot of the reasons you outlined the beginning, don't much like the ATF. Right. They think it's, overly broad in its interpretations of federal gun laws to try and give itself as much power as possible. That it's can be vindictive towards, you know, gun owners, that some of the things it does, for instance, the pistol brass band, under the Biden administration turned millions of guns into, prohibited items, through an interpretation of statute without any change to the law.

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Stephen Gutowski

You know, these are things that people very strongly dislike about the ATF. You obviously have a lot of baggage from even the 90s and things like Waco still, causing reputational harm for the agency among especially gun rights activists. And so, yeah, that's something that they've wanted, as well. It's, it's kind of disband, although, you know, it does raise the question of them, what what where does unless you're repealing the laws they're enforcing, somebody has to enforce those laws and has to go somewhere.

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Stephen Gutowski

And and, you know, the FBI would be the, I guess, one of the most obvious solutions. But I think that's turned, a lot of the gun industry off to that concept, that I don't know that they would want the ATF to be disbanded and its responsibilities folded into it. Really two different places, like the Clinton proposal, because, you know, the ATF is a little bit of a weird a weird one because it does enforcement and it does regulation at the same time.

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Stephen Gutowski

The FBI doesn't really do that, just does enforcement. And I think there's an impression that the FBI might be even more aggressive, in going after gun businesses than the ATF has been. I don't know, what are your thoughts on that, that maybe this wouldn't combine these organizations, these agencies might not work out well or for gun owners or gun businesses.

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J.D. Tuccille

Well, if there's a couple of issues here. I mean, one is that you've got laws that people object to and that, or, or support. I mean, you know, either way that are enforced by ATF, others is that, if agencies get politicized and there have been credible charges in recent years that HDF has become hostile to gun owners, as, political leadership has been put in

place, that that supports greater regulation of firearms and less private ownership of firearms.

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J.D. Tuccille

So those are two different issues right there. But you also have an institutional issue, which is that if you have a government bureaucracy that's dedicated to a task, it needs to justify its continued existence and its funding on a, on a basis, on a daily basis. And that means that from year to year, when it's looking for budget, you know, increases, it has to be able to point to victories.

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J.D. Tuccille

So, something like an enforcement agency like ATF or FBI or DEA has to be able to basically make sure that there are law breakers that it's hunting down and arresting in order to show that, hey, we're doing a great job, but we need more resources to do an even better job next year. They can't just sit back and say, you know what?

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J.D. Tuccille

There's nothing here to worry about. That's not going to work when they go asking for funding next year. So the simple of existence of an agency like ATF means that they need there to be firearms rule breakers out there to justify its existence. So on the one hand, having a specialized agency that knows gun regulation knows that, has relationships with the industry, probably does work for firearms manufacturers, for the NSF, for established industry players.

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J.D. Tuccille

But if you're a gun owner, if you're a right, if you're a retailer, if you're a small player knowing that the ATF is out there trying to justify its existence very well might make your life more difficult, because it has to find so many law breakers every year, and it's going to do so. It's going to make sure it does.

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J.D. Tuccille

So it's institutional imperative of it's politicization and, both work against, gun owners and in favor of merging it, even if it's a regulatory role and establish relationships with the industry might be an argument in favor of maintaining as a standalone, agency.

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Stephen Gutowski

Interesting. Obviously they you have a lot of the same critics with with the FBI as well, right? There's certainly, there's often complaints of sort of pseudo entrapment where the FBI will, you know, run a sting operation on somebody, especially in the terrorism space where, maybe that person wasn't considering doing anything until the FBI prompted them to, you know, that's been a long running criticism of sort of counter-terror efforts at the FBI.

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Stephen Gutowski

That sounds similar to what you're talking about here with, the ATF and and some gun, some of their gun related enforcement stuff. So I guess how do you avoid that? Or, you know, I think in your piece you mentioned, well, if it's part of a larger enforcement priority, you don't have to kind of, focus on one area.

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Stephen Gutowski

You can shift resources to where, whatever the prevailing issues are, and maybe that's a better solution than having a standalone agency because of the, the, incentives you mentioned there.

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J.D. Tuccille

Yeah. I mean, and this is where the both the possibilities and the risk of it is that the hope is that if you if you take an ATF and you're folded into a larger agency, it still has to find lawbreakers, but they don't all have to be gun lawbreakers. You know, the the emphasis might shift to drugs or to, you know, white, white collar crime might be, you know, might be, you know, whatever, you know, like the international, you know, criminal organizations, but it's not the same, monomaniacal focus as it gets with the special purpose agency.

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J.D. Tuccille

The risk, though, is that the FBI already, as you mentioned, has its own problems. I mean, we can go back to the church committee in the 70s, but we've had the same thing ever since that, which is that the constant looking for enemies within it has a reputation, an ongoing reputation for decades as a political police that, kind of hunts down, dissidents in the name of fighting terrorism.

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J.D. Tuccille

It tends to, infiltrate relatively harmless groups and make them harmful. We saw that with the, Michigan Wolverines and the plot to get to kidnap the governor of Michigan, where it turned out that something like two thirds of the participants were actually either FBI informants or, in one case, an active duty FBI agent. They also have to find law breakers to justify their, their, you know, resource requests from year to year, the budgets.

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J.D. Tuccille

So, deal with a larger agency just to make a larger problem, or do you dilute the. Yeah. You know, the the problems that are inherent to a, special purpose focused agency. And I think we don't know the hope under the Clinton ministration with the National Performance Review, wish that you would get, greater economy, greater efficiency and fewer problems.

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J.D. Tuccille

But until you address the problems of the existing FBI, folding the ATF into it rather than do, like, dilute the problems may supercharge the problems. Now, you end up with a larger agency that just kind of adopts the hostility to civil liberties, of the previous of the preexisting agencies.

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Stephen Gutowski

And, and I guess that's where we can transition maybe into talking about capital in particular a little bit. Because that is one of the concerns, as you mentioned, that, you know, he's he's highly political guy. His time out of government was spent mostly, you know, railing against, government officials who he thought were disloyal or or, Adam, antagonistic towards Donald Trump, the deep state, right.

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Stephen Gutowski

He, he one point told Steve Bannon that they he was deeply serious about seeking retribution against, media and government officials who wouldn't, lie about the 2020 election being stolen. You know, he did said his confirmation hearing that he doesn't want to look backwards and that he's focused on the future and he, you know, walked back some of these things to some degree.

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Stephen Gutowski

Although he was also accused of orchestrating firings at the FBI before during this confirmation hearings. We don't that was the accusation from Senator Dick Durbin, Democrat from Illinois. So, you know, I guess it's kind of depends on who if you believe what what you think about Kash Patel. Right. Well, and I will say that a lot of the gun rights groups and all the gun rights groups, I don't think there's a single one that hasn't celebrated his pick here to be acting director or even to be FBI director, but, because I think they expect that he will, institute many of the reforms that they want,

including walking back

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Stephen Gutowski

most of those Biden, era rules from the ATF. But, you know, I don't know how much should people worry, like, if you're not a big MAGA person, if you if you don't like Patel's previous statements, should you be concerned about them or are they or is it too, or should you, if you like. Gun rights, priorities being, you know, pushed through, then should you be happy?

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Stephen Gutowski

I don't know what what are, what's your view on it?

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J.D. Tuccille

My view is that if we were really I mean, ideally, we would have had a head of the head of one of the gun rights groups named as director of the ATF and that, I, you know, that would have indicated a major focus on a policy policy shift, for the ATF, you know, getting it away from pursuing a gun owners, big concern is that we're too era now of political retribution.

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J.D. Tuccille

And political weaponization seems to be a game that everybody wants to play, where once you get power, you know, you lean, you use your regulatory power to lean on private industry to punish you political enemies where you go directly after them through the machinery of government. And Patel is definitely a participant, participant of that kind of thing.

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J.D. Tuccille

As you mentioned to me, he's had his enemies list. He's sort of like going after people, but he's also voiced support for gun rights, which is why you're seeing support from the gun rights groups. So the question is, does he see as retribution and using the machinery of the state to punish his enemies or does he see it in stripping his enemies out of the machinery machinery of government, repurposing it to new ways?

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J.D. Tuccille

Hopefully, ends at a friendly towards self-defense rights and private firearms ownership. And we have to see. I mean, he's never headed a bureaucracy like this before. He's never had this kind of a responsibility before. And so the proof is going to be in the pudding as to how he runs, not just the ATF, the FBI, because that's also a dangerous power to have in your hands if you're, somebody who's looking for retribution.

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J.D. Tuccille

So is he going to be using the FBI and the ATF for his own, you know, for his own vengeance? Or is he looking at just getting his enemies, people he dislikes out of there and living up to something that approaches his promise to the Senate Judiciary Committee to adhere to the Constitution, which would be an ideal, you know, something that we would want to see.

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J.D. Tuccille

At least I would think so I would I hope we have the hope as the case.

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Stephen Gutowski

Certainly. I you know, we'll certainly be covering it as, as it happens here to see, which way things go and do our best to hold him accountable. But, you know, and, and obviously, I think you would get a lot of people who would say that even if he does start firing people at the ATF and they have fired, the general counsel, over the last couple of years, that happened before Patel became acting director.

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Stephen Gutowski

And Pam Bondi said it was because she had been targeting, gun owners. She didn't elaborate on exactly what she meant by that. But presumably it's, you know, these rules that have been implemented that like some of the ones we've mentioned, well, surrounding, unfinished firearms parts or pistol breaks ban or, gun sales by undock, unlicensed private sales of used guns, those sorts of things that the Biden administration had done.

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Stephen Gutowski

But, you know, even if he does start firing some people at the ATF, I guess it's not necessarily going there is an argument that you can make that he's perhaps, just riding the ship because the Biden administration, is I could think it's fair to say, did start to politicize the agency through the attempt to put, Chipman, in place, who was a literal paid gun, right.

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Stephen Gutowski

The gun control activists, he had been an ATF agent, but by the time he was nominated, he was a very bombastic gun control advocates who made very, similar claims, not necessarily in the same retribution style as Patel, but, you know, similar, highly partizan, statements against gun owners and, and gun companies, most certainly. And then, when that fell through, he nominated Stephen Darrell Bock, who was not quite as, bombastic as Chipman, but did run as an Ohio for attorney general in Ohio as a Democrat and embraced a lot of gun control positions and was advocating for those and certainly works to implement Joe Biden's, view of how the ATF should

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Stephen Gutowski

run, which is a pretty highly politicized view, right? In an antagonistic view, an antagonistic standpoint towards the gun industry. And so I don't know if Patel sort of feels like the other side of that coin. I guess it's not. And I wouldn't say somebody who's, you would appoint if you're just trying to get back to a median, like, career law enforcement official.

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Stephen Gutowski

But, you know, he's kind of, Chipman esque, but in the other direction, I don't know. Is that the right read on him, or is that.

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J.D. Tuccille

Yeah. I mean, this is why I would have preferred to see an actual gun rights activist who who's not necessarily vindictive, but just kind of wants to get the agency and, you know, backed away from its anti-gun stance that we have heavily politicized government. We've had heavily politicized government agencies now for a number of years, increasingly so. I mean, this is a systemic problem for US politics in U.S government.

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J.D. Tuccille

ATF has definitely been subject to that. It was, turned into a bludgeon to use against, gun owners and the firearms industry. Rules were deliberately reinterpreted in ways to be more restrictive. And that turned people into felons. I mean, there weren't this wasn't a small thing. This is a big deal. I don't think the the curative for that is to put people in who just want to politicize it another direction.

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J.D. Tuccille

I would think that the curative for that is to put people in who want to strip some of that power out of there. So that's not so dangerous. And that ideally could come from a merger of the ATF. So it's not special purpose anymore into a larger federal agency, so long as that larger patient federal agency is also depoliticized.

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J.D. Tuccille

That would require sizing the FBI. So this is something where we're looking at a small component of a systemic problem. And we're hoping in this case that at least we can make the ATF less dangerous to civil liberties in this case, specifically self-defense rights, by, you know, by putting in a, an acting head who at least has voiced support for gun rights, and ideally, any that he wants to move the agency in that direction.

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J.D. Tuccille

But we need a systemic change. This should be part of a larger, change where a lot of these powers are pulled away from federal agencies. Overall, and where we consolidate agencies and depoliticize them. Ideally, that's a lot to hope for, but that's what we need.

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Stephen Gutowski

And to be fair to Patel here, I suppose the message he's given since being nominated is that he wants to return these agencies to, what he would view as a non partizan or nonpolitical path. It's just, you know, obviously his rhetoric for the last four years doesn't necessarily match that. And it sort of depends on whether you believe in that or you believe him.

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Stephen Gutowski

Now, and you know, I think a lot of his pro-gun credentials come from the fact that he spoke at, gun Gun Owners of America's conference that they had last year. And if you listen to that speech, you know, certainly he does, reiterate support for the Second Amendment and, and so forth, but it's mostly a campaign speech for to support Donald Trump.

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Stephen Gutowski

And it's focused around his main message of, combating the deep state, trying to root out people who he thought were, antagonistic towards Donald Trump within the executive branch, sort of this the unity, you know, unified executive theory, right, that the executive branch should be fully within the control of the president and, and should do you know, what he what he wants at all times and that's, anyone who's not doing that is is sort of, thwarting the president's vision.

00;25;16;10 - 00;25;47;06

Stephen Gutowski

Right. And and, you know, this is, we don't need to get super deep into it here on the show, but this is a, a constitutional theory, that a lot of Trump intellectual, a lot of the intellectual backing behind Trump is supporting, too. And and so to me, yeah. And that was a lot of his message with focused on, gun rights too, was just basically that there's a deep state is undermining your gun rights in addition to, all the other stuff it's doing.

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Stephen Gutowski

And so my assumption is then, that Patel becoming acting head of the ATF is going to forestall or foretell firings at the ATF, right? I mean, is that this is the guy you bring in. If you want to clear out some of the internal resistance to, the president's policies. And you do that by firing people, is that what you expect?

00;26;11;04 - 00;26;44;27

Stephen Gutowski

Or, you know, because there's other things they've, they've done since they've with the ATF, and it's not all obvious which direction they're going to take things. One is Bundy had ordered, the ATF to stop prioritizing alcohol and tobacco

enforcement, which my understanding is they kind of already were not doing a lot of that anyway, they had talked about and in the first administration, kind of eliminating those parts of the organization that the agency's mission anyway, because it's not a high, high spend area for them regardless.

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Stephen Gutowski

But, you know, that's one thing. They've sort of consolidated the mission, but also at the same time, Trump has deputized ATF agents to do enforcement for immigration laws. So they've they've also expanded the what the ATF is doing at the same time. And then Patel being appointed makes me think, you know, for whatever, whatever justification might be or however you might view the firings.

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Stephen Gutowski

The main thing that I take away from it is that it's probably going to be firings of ATF agents, I don't know, what do you think? And will those firings reach beyond just some of the leadership people who are most responsible for, you know, the rules that a lot of the industry and gun rights advocates don't like? Or will it reach into your rank and file ATF agents?

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Stephen Gutowski

Well, you know, that's I mean, these are the questions I have. Yeah.

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J.D. Tuccille

Deputizing as ATF agents. And let's remember that this administration is very focused on immigration policy. So deputizing ATF agents, tells me that the administration is looking for more warm bodies to enforce its immigration policy internally. Right. ATF agents. And the result of that course is that ATF agents who work, who are basically working as Ice agents, aren't going to be going to gun shows or retailers.

00:27:56;13 - 00:28;20;06

J.D. Tuccille

So, I mean, they would just be using as kind of, you know, multi-purpose enforcers, for a day, for a purpose that's outside the original, remit of the ATF. And, yeah, having an acting head rather than a permanent nominee, you know, probably permanent director of the ATF tells me that the ATF today's, militia in its current form may well be numbered.

00:28;20;08 - 00:28;35;03

J.D. Tuccille

I mean, there's this element that Patel doesn't like. The guy he's brought in from corporate. You've never seen him before, and he's supposed to be there to clean out 50% of the of the of the staff from the, you know, from the field office. And that is the feeling I get from this, even though I don't know.

00:28;35;03 - 00:28;53;01

J.D. Tuccille

So, yeah, I mean, you take the warm bodies, the enforcers, you give them new jobs, you know, enforcing immigration. I would expect middle management and hire management to be heavily cleaned out, because the further up you go, the more politicization you're going to see. And especially after the last ministration, politics that are hostile to the current administration.

00:28;53;06 - 00:29;14;12

J.D. Tuccille

So those are the ones whose head you're going to see role the enforcers and probably end up a lot of them in new roles, especially accompanying ice. And then the ultimate, fate of the ATF. I don't know why I think we really have to see that. I mean, I'm looking at this, and there is a real chance of just falling into a larger enforcement agency where you can use the enforcers as you want to use them.

00;29;14;13 - 00;29;29;14

J.D. Tuccille

I mean, maybe ice gets rolled in there, too, at some point. Used to have a very large federal enforcement agency, but for the time being right now, I think that they're going to kind of gut that agency and repurpose a lot of its resources just looking at the enforcers in the field.

00;29;29;16 - 00;29;50;11

Stephen Gutowski

But, you know, because the latter would require legislation like, yeah, it doesn't seem likely that you're going to get legislation to disband the ATF or to fold it in the FBI or what have you. But but it's sort of maybe in a practical sense, yeah, that might be happening. Especially if the president, you know, can deputize ATF agents to do immigration enforcement.

00;29;50;11 - 00;30;09;19

Stephen Gutowski

I don't mean maybe that's only in the course of their other already, you know, the work they're already doing. You do see that with ATF press releases where they'll talk about how, you know, in addition to a firearms crime, there's also an immigrant, you know, it's committed by somebody who's in the country illegally or whatever, and that they'll mention that in their press releases.

00;30;09;19 - 00;30;25;05

Stephen Gutowski

They've been doing that a lot more since the Trump administration took over, probably on purpose. And, yeah, I know, it's just kind of interesting to to guess at where they're where this is all headed. I mean, yeah, it's pretty because it's hard to say. Exactly.

00;30;25;05 - 00;30;45;18

J.D. Tuccille

Yeah, it's pretty easy to repurpose agents. You're absolutely right. If you're going to formally fold one agency to another, that's Congress. And you cannot do that without the legislative branch. So whether it's ATF and FBI or consolidating overall enforcement agencies, but it's pretty easy to designate enforcers from one agency to another and to justify it. Trendy Iraq.

00;30;45;18 - 00;31;07;18

J.D. Tuccille

Well, they have guns, okay. ATF agents and they go in the field with Ice agents now. Yeah, I knew it. I.n.s. agent years ago, back before ice pack was the old immigration. Naturalization Service, and he was under a prolonged attachment to the DEA for a long time. And they justified that because there was the, you know, there was a, you know, an immigration role and the drug gangs are coming into the country.

00;31;07;20 - 00;31;19;08

J.D. Tuccille

It's all you need to do is put a few, know a few of the right words into a piece of paper, and you've justified it. That is easy to do for an executive, but it's not a long term thing. The next president could overturn that and completely undo all of that.

00;31;19;08 - 00;31;35;08

Stephen Gutowski

Too, right? Right. Yeah. Same for these rules. I mean, I guess we're still waiting. A lot of this is speculation right now because we're we're just seeing a few things that they've done, and we're still waiting on the meat of the action. Right. Because we had the executive order from the president, but it just orders a review right now.

00;31;35;08 - 00;32;14;04

Stephen Gutowski

And we still have another, I think two weeks before we're supposed to get the results of that review, of, you know, federal gun policies, especially these by their rules. I think it's fair to assume that many or most of them are going to be, repeat, like they're going to undertake an attempt to repeal them. Although the rules, will require, more than just an executive action to undo, you have to go through the rulemaking process, after a certain period of time, and I think all the gun rules are passed that now, the, the Trans or Sears rule, the one that was implicated in the story that you brought up

00:32:14:04 - 00:32:42:10

Stephen Gutowski

the beginning of, of the episode here. That one is at the Supreme Court waiting on a decision. We haven't had any action from the DOJ has taken action to kind of try and delay some of these these cases against those rules as they come up with their new legal footing on them. You know, what, they decide on what they're going to ultimately do with, when it comes to defending these rules in court, or they're going to try to, you know, undo them.

00:32:42:10 - 00:33:09:07

Stephen Gutowski

So they're going to try to move the cases, perhaps, you know, in the controversy because they're undoing the rules, you know, that sort of thing. And, and we just don't know exactly where they're going to end up. Right? I mean, what what are you expecting to see out of that executive order? Do you think they're going to go, all the way and do everything suggested in there, including changing their position on all sorts of Second Amendment related cases, undoing all these rules?

00:33:09:07 - 00:33:19:17

Stephen Gutowski

Are they going to try and move the step into the Supreme Court case and, and do something before that opinion gets issued? What I don't know, what do you what are you expecting?

00:33:19:19 - 00:33:39:08

J.D. Tuccille

I would expect, at the very least, that the, that the Trump administration is going to try to undo some of the rule changes that might mean having to go through the rule change process all over again and just reinterpret it back to something, you know, like the original rules or even more permissive, being the support for the Trump administration is largely, firearms friendly.

00:33:39:11 - 00:34:01:27

J.D. Tuccille

Gun rights are important to a lot of a lot of, voters who put Trump back in office. So at the very least, I would anticipate that. I would also expect you can de-emphasize enforcement to, emphasis on this. Where do you put your manpower? Where do you put your resources? You can't simply pull people out of, you know, one enforcement area, no matter what rule is on the book, and, and assign them to something else.

00:34:01:27 - 00:34:19:15

J.D. Tuccille

And that can have a huge impact on people's lives. But I would expect, at the very least, they're going to try and emphasize. Can they throw a Supreme Court case at this point? Well, yeah, it depends. A the arguments I think have been already been heard. So, I mean, that they can't, you know, they can't go in there and say, actually we were wrong.

00:34:19:17 - 00:34:38:27

J.D. Tuccille

So it's too late for that. But you can try to reinterpret the rules. You can do a lot of things that can have a huge impact on people's lives. At the retail level of the legal level, what you're allowed to legally own. If your own use, even if you have to redo the rules process, there's the Biden administration did before that.

00;34;38;29 - 00;35;09;14

Stephen Gutowski

Right. And, I though I do assume at some point you can't cut too much because if you cut too much from, for instance, the regulatory side of the ATF, then you're going to have issues with actually being able to, you know, issue federal firearms licenses to gun dealers, process, you know, forms, under the, say that people need to, suppressors, you know, that sort of thing becomes an issue if you cut too much.

00;35;09;16 - 00;35;27;22

J.D. Tuccille

Yeah. And in the statute, see if it's a law, you're stuck with it. I mean, the administration can't do that. Well, despite the fact that our presidents have been drifting more and more in a direction of doing whatever they want. We're still do have laws that have to be abided by. And, presidents cannot undo what's on the books, so.

00;35;27;22 - 00;35;46;20

J.D. Tuccille

Yes. You, Yeah. You need to have people who are going to actually issue pieces of paper licenses, permits and then what have you. Otherwise that will just jam up the system entirely because people need those in order to go into business, make purchases. Over at the FBI, someone needs to run the next checks. I mean, that just has to be done because a law says so.

00;35;46;22 - 00;36;07;19

J.D. Tuccille

This stuff that we're you have, you know, with the executive branch has, room to maneuver is stuff that it's just chosen emphasis. It's interpretations of rules. It's chosen emphasis on enforcement. But they can't just. You're absolutely right. You can't just gut people who are doing the administrative duty that's mandated by law.

00;36;07;22 - 00;36;23;28

Stephen Gutowski

And that's one of the risks of somebody, like, even if somebody's pro-gun, you know, if you're a gun rights advocate and you see, you look at capital and you think, okay, this guy's pro-gun, but he's not an expert. He doesn't have a lot of knowledge of the ATF, necessarily. He doesn't work there or work with the ATF.

00;36;24;00 - 00;36;40;04

Stephen Gutowski

In a significant role, as far as I'm aware. And so, you know, brute force is kind of the main way he could affect the agency by just coming in. And we've seen this obviously is, a method in a lot of other agencies up to this point. But, you know, if you do that at the ATF, you cut the wrong people.

00;36;40;04 - 00;37;06;20

Stephen Gutowski

I mean, this is kind of a generic critique of this type, this this approach. You know, you might end up making things worse for the industry if you cut the wrong people, I guess, is the idea. And that's why, we we had like, for instance, Professor Robert Leiter from George Mason University was talking about what what he wanted to see at the ATF is somebody who understands the ATF and has the administrative knowledge to know what changes to make.

00;37;06;22 - 00;37;27;27

Stephen Gutowski

You know, some of them are more obvious, like just undo those rules. Right? That's that's an ask that the gun rights groups have put out, and perhaps the gun rights groups can will be able to have that same knowledge and guide somebody like Kash Patel if he's receptive to it. But, but if you, you know, brute forcing change at the ATF, seems like a more likely outcome.

00;37;27;27 - 00;37;30;22

Stephen Gutowski

And that seems like a riskier one for gun rights advocates.

00:37:30;22 - 00:37:53;22

J.D. Tuccille

On it is riskier. I mean, to throw a name out, I'd love to see someone like Dave couple, you know, put in his, head of, you know, the ATF because he's a lawyer. He's a he's a, you know, he understands gun law, gun regulation. He knows this field. And unless you know what it is, you need to change, it's hard to reform regulatory agency because the agency is still there.

00:37:53;22 - 00:38:11;22

J.D. Tuccille

The rules are still there. The the mechanism is still there. You can wield a hammer against it. You can cripple the agency. But what you can't do is undo a lot of the, the, the damage it can do with its rulemaking. You can't undo the threat it poses to people's liberty by the way it interprets the rules, interprets laws that are on the books.

00:38:11;25 - 00:38:32;23

J.D. Tuccille

So it would have been better to have somebody who is very familiar with, not just advocacy for firearms, you know, rights, but also with the nuts and bolts of, the regulatory apparatus rules was what needs to be changed. Goes in there with already a list of what needs to be done, not just people. They want to strip from positions.

00:38:32;26 - 00:38:52;29

Stephen Gutowski

Right. And I guess this leads into pretty well to my last question here, which deals with like the future for the ATF character is the acting director, and he can do that because he was already Senate confirmed for FBI. They have, I have multiple sources told me they've been interviewing people for ATF director. The permanent role.

00:38:53;02 - 00:39:13;08

Stephen Gutowski

They certainly still could nominate a permanent director. It doesn't. Just because Kash is there for the moment does not mean he, just needs to be the person who runs the agency for, you know, the limit of an acting director, which I think is pretty long. It is like a couple of years. He can be acting director, but, not an expert on that point.

00:39:13;08 - 00:39:39;13

Stephen Gutowski

You might have to have somebody who is. But regardless, they could certainly still, Trump could try to appoint a permanent director who's more like what you described. But in your experience, apologies got through almost the whole thing with that coughing. But that's the perils of podcasting. You know, acting. The permanent directors are very hard to get.

00:39:39;15 - 00:40:09;04

Stephen Gutowski

There's only been two since the requirement was put in place almost 20 years ago. And they either those two only served two years as the permanent director. One, do you think that Trump is going to even bother going in that direction? He's liked acting directors. Honestly, as president, he's been pretty happy to use acting directors pretty, prolifically, although he has had a lot of success in getting his appointments through this Republican Senate so far.

00:40:09;06 - 00:40:21;06

Stephen Gutowski

But is the political fight going to be worth it for him? When it comes to that point that we're we're it's time to start looking at ATF directors. Or do you think they're just going to keep it on?

00:40:21;08 - 00:40:40;00

J.D. Tuccille

Yeah, this is interesting because if he nominates somebody to be, the permanent director of the of the ATF, that's an indication that he probably wants to keep the agency around. They does not want to fold it into, the FBI, because why go through two fights if you could just go through one? So if he does make that nomination, I would assume.

00:40:40:00 - 00:41:11:28

J.D. Tuccille

Okay, the ATF isn't going away. He just probably going to make some rules changes there. And then we have to really look closely at who it is, is nominated. Is it the kind of person we've been discussing who would do a better job reforming that agency? If he doesn't, if he keeps us an acting head, that's when it becomes more likely that whether or not he formally tries to eliminate the agency and in the FBI, or just kind of, you know, pillages it for manpower for other agencies that he's looking at, not, you know, just kind of an informal arrangement.

00:41:12:05 - 00:41:29:13

J.D. Tuccille

And that's what he may do. So if we stay with acting directors, whether it's Patel or somebody of past him, the that the ATF is going to stay around, but they'll probably just kind of repurpose its manpower for as long as Trump is in office. And then, of course, it's all back on the table. For the next election.

00:41:29:15 - 00:41:44:17

Stephen Gutowski

Right? Yeah. If the if there doesn't end up being any legislation, which, again, seems pretty unlikely. All right. Interesting. Yeah. No, that makes a lot of sense. I appreciate you coming on and going through all this with us. And we covered a lot of ground here in this episode, so I appreciate you being up for that.

00:41:44:19 - 00:41:50:11

Stephen Gutowski

And, you know, if people want to read more about your perspective on this, where can they go and do that.

00:41:50:14 - 00:42:01:00

J.D. Tuccille

Reason.com. That's where most of my stuff appears. And, just look for my, you know, my byline Tuccille and, I hope you enjoy what you read.

00:42:01:02 - 00:42:10:18

Stephen Gutowski

Danny. Wonderful. Well, I'm going to hand it off to, myself, some of the guests to tell us a little bit about, the Dispatch and our little ad swap we've got going on here.