



GOVERNOR GREG ABBOTT

June 14, 2022

Mr. Robert Kepple
Executive Director
Texas District & County Attorneys Association
505 West 12th Street Suite 100
Austin, Texas 78701

Dear Mr. Kepple:

Texas is committed to keeping firearms out of the hands of dangerous people who cannot lawfully possess them. The tragic shooting in Uvalde compels us to redouble those efforts. Government officials have a duty to make Texans safer by enforcing the laws that are already on the books. Recent legislation has added a new tool to the Texas prosecutor's toolbox, and all district and county attorneys should put it to good use.

Last session, in response to mass shootings in El Paso and Midland-Odessa, I signed a lie-and-try bill that makes it a state jail felony to falsify information on a background check form, such as ATF Form 4473, in an attempt to illegally purchase a firearm. *See* S.B. 162, 87th Leg., R.S. (2021) (codified at Tex. Penal Code § 46.06(a)(7)). Ideally, the federal government would prosecute these lie-and-try offenses, but that rarely happens. *See, e.g.*, 18 U.S.C. §§ 922(a)(6), 924(a)(1)(A). For example, in F.Y. 2017 the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) investigated 12,710 of the 112,090 background check denials, yet the U.S. Attorney's Offices prosecuted just 12 of those cases. *See* GAO-18-440 (2018).

Aggressive enforcement of Texas's new lie-and-try law can help pick up the slack and deter felons, drug addicts, people facing mental health challenges, and certain dangerous individuals from obtaining firearms when they are prohibited by law from doing so. Given the Texas District & County Attorneys Association's (TDCAA) relationship with Texas prosecutors, I urge you to highlight the new tool that the Legislature has put at their disposal.

TDCAA can provide invaluable training for prosecutors and investigators regarding best practices for prosecuting lie-and-try offenses under Section 46.06(a)(7) of the Texas Penal Code. This training should address the information that will soon be made available under the National Instant Criminal Background Check System Denial Notification Act of 2022, which takes effect on October 1, 2022. As required by that statute, the federal government will give notice of each

Mr. Robert Kepple

June 14, 2022

Page 2

background check denial, within 24 hours, to state and local prosecutors and law-enforcement authorities. *See* 18 U.S.C. § 925B.

In addition, TDCAA can invite all U.S. Attorney's Offices to share the prosecution files from lie-and-try cases that the Department of Justice chooses not to prosecute. This collaboration will enable Texas prosecutors to take advantage of the work-up already performed by the ATF.

Through the efforts described above, TDCAA will help district and county attorneys protect their communities from gun violence. Please feel free to contact my office if there is anything we can do to assist in this important effort.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Abbott". The signature is written in a cursive, flowing style.

Greg Abbott
Governor

GA:jsd