

ATF Report on Firearms Trafficking Enforcement
Questions and Answers
June 21, 2000

THE ATF REPORT

Q: What is the ATF report about?

A: This report documents an aggressive, productive enforcement effort against the suppliers of guns to criminals. It presents a review of over 1,500 firearms trafficking investigations that ATF initiated between July 1996 and December 1998, involving the illegal distribution of over 84,000 firearms. This effort frequently involved State and local law enforcement, and led to the prosecution, conviction, and sentencing of hundreds of firearms traffickers.

Q: Why is the report important?

A: This is the first report ever prepared on this type of case. It's important for three basic reasons:

- First, the report significantly refines our understanding of the illegal firearms market that supplies guns to unauthorized juveniles, criminals, and other prohibited persons. This benefits law enforcement agencies throughout the country. They need to know the sources of the illegal supply of firearms, the types of traffickers, and the predominant types of trafficking channels in order to develop effective enforcement responses.
- Second, the report shows that the diversion of firearms to the illegal market of prohibited persons is a significant contributing factor to gun violence in our country, and that traffickers are not only an important source of guns to violent criminals, but often are themselves serious violent offenders.

In over half of these investigations, law enforcement officials linked one or more of the trafficked firearms to crimes that took place after the gun trafficking, including homicide, robbery, assault, and illegal possession of guns by felons and other prohibited persons.

A quarter of the traffickers identified in the investigations were convicted felons. About 45 percent of the investigations involved convicted felons who illegally bought, sold, possessed, or received firearms or stole them.

- Third, the report confirms that our national framework of firearms distribution is vulnerable to criminal trafficking and acquisition by prohibited persons at several points. It demonstrates the need for enhanced enforcement tools, including the

legislation that the President has proposed to Congress.

FIREARMS TRAFFICKING FINDINGS

Q: What is the definition you are using of firearms trafficking?

A: The term as used by ATF refers to the illegal diversion of legally owned firearms from lawful commerce into unlawful commerce, often for profit. Trafficked guns may be new, secondhand, or stolen.

Q: What are the different types of traffickers and trafficking channels?

A: Firearms traffickers use a variety of channels to divert firearms from the legal to the illegal market, such as corrupt FFLs, straw purchasers, gunshows, unlicensed sellers, and firearm thefts. They traffic in new, second-hand, and stolen firearms. These guns are diverted to violent criminals, thieves, robbers, gang members, and juveniles with a high likelihood that they will be involved in subsequent crimes.

More detail:

- Corrupt FFLs. Fewer than 10 percent of the investigations, but associated with the largest mean number of firearms per investigation (350). Associated with nearly half of the trafficked firearms (**40,000**).
- Unlicensed Sellers. About a fifth of the investigations, involving an average of 75 guns per investigation. Associated with more than **22,500** trafficked firearms.
- Straw Purchasers. Almost half of the trafficking investigations, with an average of 37 guns per investigation. Associated with almost **26,000** trafficked firearms.
- Gun Shows. About 14 percent of the investigations, but associated with the second highest number of trafficked firearms per investigation, 100. Associated with almost **26,000** trafficked firearms.
- Theft. Firearms stolen from residences, federally licensed retail firearms dealers, and common carriers were involved in over a quarter of the investigations. Common carriers were associated with the most number of stolen guns per investigation, over 66. About **11,000** trafficked firearms were associated with investigations involving theft.

Q: In these investigations, exactly how many firearms were trafficked?

A: The targets of ATF investigations during this period diverted a total of 84,128 firearms from legal to illegal commerce. ATF estimates that agents seized a

quarter of these firearms in connection with the investigations themselves, removing them from the illegal market. The remainder of the trafficked firearms were documented during the criminal investigation or later recovered in crimes. Trafficked firearms may continue to be recovered by law enforcement officials and traced long after traffickers are arrested and incarcerated.

Q: The total number of guns in this breakdown adds up to more than the approximately 84,000 you stated were involved in the ATF investigations - why?

A: A single ATF investigation can involve more than one type of trafficking. For instance, a corrupt dealer might knowingly sell to a straw purchaser who transfers the guns to an unlicensed dealer from whom in turn one or more guns may be stolen as well as sold to prohibited persons. Therefore, there is some overlap in the type of investigations with which trafficked guns are associated.

Q: Is firearms trafficking primarily intrastate or interstate in nature?

A: Firearms trafficking refers to the illegal diversion of legally owned firearms from lawful commerce into unlawful commerce, often for profit. Firearms trafficking investigations, therefore, can be intrastate, interstate, and international in nature depending on the characteristics of the trafficking scheme. However, about 70 percent of the investigations reviewed by ATF involved *intrastate* trafficking, suggesting that where there are applicable State firearms laws, State and local law enforcement have an important role to play in curbing the illegal market in firearms.

ENFORCEMENT ISSUES

Q: Shouldn't ATF be arresting armed criminals who misuse guns instead of traffickers who may never be violent offenders?

A: The trafficking investigations documented in this report represent a subset of ATF's investigations. ATF has an integrated violence reduction strategy that is an inclusive – not exclusive – approach to combating firearms violence. *Most* ATF firearms investigations specifically target violent offenders – armed career criminals, armed narcotics traffickers, and felons in possession of firearms – as part of locally designed strategic efforts to reduce violent crime generally. But as this study shows, the many thousands of guns that traffickers supply illegally, without a Brady background check or an FFL transfer record that enables tracing, are firearms that are likely to be associated with other crimes. In addition, it is a mistake to believe that gun traffickers are not violent offenders -- many of the traffickers are themselves violent criminals.

In over half of these cases, law enforcement officials connected one or more of the trafficked firearms to crimes that took place after the gun trafficking, including homicide, robbery, assault, and illegal possession of guns by felons or other prohibited persons.

A quarter of the traffickers identified in the investigations were convicted felons. About 45 percent of the investigations involved convicted felons who illegally bought, sold, possessed, or received firearms or stole them.

ATF, with its criminal and regulatory enforcement responsibilities and ability to trace crime guns recovered by law enforcement, is uniquely suited to investigate illegal suppliers of firearms.

Q: Have you been increasing the number of trafficking cases since 1993?

A: ATF in 1996 began to focus on improving its ability to identify and apprehend gun traffickers. This effort has led to the prosecution of numerous gun traffickers and violent offenders also acting as traffickers. ATF has not maintained a breakdown of cases in these categories during this period. However, it is fair to say that as the number of ATF agents increases, so do the number of firearms prosecutions of all kinds, including cases against firearms traffickers.

Q: What were the results of the investigations?

A: Almost 1,500 trafficking investigations led to the prosecution of over 1,700 defendants. State and local authorities participated in over two thirds of the investigations. Almost 60 percent of the defendants were adjudicated at the time of the survey. *812 firearms traffickers were convicted and sentenced in Federal court to a cumulative total of 7,420 years in prison, with an average sentence of about nine years.*

Q: There were approximately 1,500 investigations, but only 1,048 defendants have been convicted. What happened to the others?

A: ATF referred 75% of its investigations to prosecutors during this period, 90% of which were accepted for prosecution, 60% of which have been adjudicated. Of the defendants fully adjudicated at the time of the survey, 97% were convicted. The rest are pending.

Q: Why do some states have more ATF trafficking investigations than others, and why are there none reported from Idaho and South Carolina?

A: There are various factors that affect the workload of a particular field office, i.e. bombing investigations, church arsons, and/or different enforcement strategies at the local level -- as well as ATF staffing and resources.

Q: How did ATF agents uncover the traffickers and what role did firearms tracing play?

A: Almost 30 percent of the investigations (448 of 1,530) were initiated through information analysis – analysis of firearms trace data and/or multiple sales records. After initiation of the investigations, tracing was used as an investigative tool to gain information on recovered crime guns in 60 percent of the investigations (918 of 1,530).

A fifth of the investigations were triggered by information provided by FFLs or mandatory reporting to ATF concerning lost or stolen firearms. ATF agents used traditional case methods, for example, referrals from other agencies and information provided by confidential informants

Q: How are firearms trafficking investigations different from investigations of contraband, such as narcotics?

A: Unlike narcotics or other contraband, virtually every crime gun in the United States starts off as a legal firearm. Crime guns, therefore, start out in the legal market, are identified by serial numbers, and leave some paper trail. ATF, with its criminal and regulatory enforcement responsibilities and ability to trace crime guns recovered by law enforcement, is in a unique position to investigate illegal suppliers of firearms.

Q: What is On-Line LEAD?

A: On-Line LEAD is ATF's automated illegal firearms trafficking information system. On-Line LEAD provides investigative leads to investigators by analyzing crime gun trace data, suspect gun information, stolen firearms information, and multiple sales information to identify recurring trends and patterns that may indicate illegal firearms trafficking.

Q: What is comprehensive crime gun tracing and why is it important?

A: Comprehensive crime gun tracing is the systematic tracking of the history of all firearms recovered by law enforcement in crimes and from juveniles from their source (manufacturer or importer) through the chain of distribution (wholesaler, distributor, retailer) to the individuals who procure the firearms. Comprehensive crime-gun tracing is important because the information from each submitted trace request, and the results, are entered into On-Line LEAD, which is ATF's automated illegal firearms trafficking information system. On-Line LEAD provides investigative leads to investigators by analyzing crime gun trace data, suspect gun information, stolen firearms information, and multiple sales information to identify recurring trends and patterns that may indicate illegal firearms trafficking.

Q: What is the Youth Crime Gun Interdiction Initiative (YCGII)?

A: YCGII is a focused component of ATF's Firearms Trafficking Program, designed to identify and interrupt the illegal supply of firearms trafficked to youths and juveniles through research and enforcement efforts. The most important element of YCGII is comprehensive crime gun tracing in a particular geographic area. Presently, there are 38 cities within the U.S. that participate in YCGII and, as such, conduct comprehensive crime-gun tracing. Another aspect of this project is that a report is generated annually for each of ATF's partners on YCGII. The report identifies current geographical trends that document how juveniles and youth illegally obtained firearms. Federal and local enforcement agencies are better able to assess the illegal firearms problem in their communities and develop strategies to combat it.

ADMINISTRATION BUDGET REQUEST

Q: How would the Administration's budget request for ATF affect the number of investigations?

A: The Administration is seeking approximately \$93 million for ATF to carry out its Integrated Violence Reduction Strategy and to expand the Youth Crime Gun Interdiction Initiative. Both these programs focus on the armed criminal, and the illegal sellers and buyers of guns, in close collaboration with State and local law enforcement and U.S. Attorneys. The funding will support 300 additional special agents and 200 additional ATF inspectors dedicated to firearms enforcement. We expect those additional agents to be able to follow up on many more leads than is currently possible, and refer an increased number of cases to prosecutors. The funds will also support expanded firearms tracing and ballistics imaging.

OTHER ADMINISTRATION RECOMMENDATIONS

Q: Does the Gun Control Act adequately address gun trafficking?

A: We believe the laws against gun trafficking need to be strengthened. One of the primary purposes of the Gun Control Act of 1968 (GCA) was to provide support to State and local law enforcement officials in their fight against violent crime and to assist them in enforcing their own firearms laws. Various GCA violations, as well as conspiracy, aiding and abetting, and money laundering statutes are used to charge illegal firearms traffickers.

Investigators and prosecutors face challenges building successful cases against firearms traffickers. Prosecutors accepted over 60 percent of trafficking cases referred by ATF that involved straw purchasers and dealing by unlicensed sellers, but in the majority of cases proceeded with other charges not related on their face

to firearms trafficking. This suggests problems in how these statutes are constructed. Also notable is that although FFLs are associated with the largest volume of trafficked firearms, many FFL violations are misdemeanors rather than felonies. Similarly, sentencing guidelines do not provide for increased penalties for trafficking crimes involving truly large scale trafficking – more than 50 firearms.

The results of these investigations show that prosecutors are finding ways to prosecute criminal traffickers despite these issues. They must, however, in effect, build a double case against many firearms traffickers, identifying non-trafficking conduct that can be the basis for a strong criminal case.

Q: What are some of the recommendations proposed by the Administration as a result of this report?

A:

- First, the gun show loophole must be closed. *Large numbers of firearms can be sold at gun shows and flea markets without background checks or tracing records. They become an obvious source of firearms for prohibited persons, first-time criminals, and illegal traffickers.*
- Second, criminal penalties for corrupt Federal firearms licensees must be stiffened. False recordkeeping (which can hide gun trafficking) is often punishable only as a misdemeanor. ATF should also be authorized to suspend dealer licenses; impose fines on dealers who violate the rules; and inspect dealers more than once during a 12-month period. *Currently, ATF cannot conduct warrantless inspections of licensed dealers more than once a year.*
- Third, while straw purchasers can sometimes be prosecuted for making false statements to an FFL, we need to strengthen our ability to deal with straw purchasing directly.
- Fourth, there must be appropriate penalties for trafficking large numbers of firearms. The penalty for unlicensed dealers should be increased to 10 years, and sentences for major traffickers should be proportionate to their impact. *Currently, the maximum penalty for unlicensed dealing in firearms is five years' imprisonment, and someone responsible for diverting 1,000 firearms faces the same penalties as the person who trafficks 50 firearms.*
- Fifth, we must curb more effectively the theft of firearms, as well as access by traffickers, violent criminals, and children to improperly stored firearms. To help prevent theft from FFLs, ATF should be given the authority to require FFL security measures. Common carriers should be required to report gun thefts to ATF, so that law enforcement officials can recover missing and stolen firearms before they are

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sold illegally, and so that traffickers can be identified and punished. Similarly, firearms owners should be encouraged to report the loss or theft of a firearm. We have already proposed a child access prevention (CAP) law that would hold adults accountable for recklessly leaving a firearm where a child can get it. By requiring that firearms be stored properly, this law would also reduce firearms thefts.

- Sixth, we must increase the level of firearms tracing and ballistics identification by law enforcement agencies nationwide to identify all sources of crime guns. The President's budget proposes increases in funding for firearms tracing and ballistics identification.
- Seventh, additional resources are needed to investigate and prosecute cases against armed criminals and the traffickers who supply them with guns. This report strongly supports our pending request for appropriators to fund 500 additional agents and inspectors for ATF.
- Eighth, this report shows the need for a State-based system of licensing firearms owners. A nationwide State-based licensing system will help reduce gun trafficking by requiring a comprehensive criminal background check before issuance of a handgun license, which will be needed in order to purchase a firearm. This will make it more difficult for felons and other prohibited persons to acquire a handgun through the use of false identification documents when buying guns from licensed and unlicensed sellers.
- Ninth, unlicensed sellers provide a safe source of guns to criminals because they are not required to conduct Brady background checks or maintain records that can be used to trace crime guns. We should review the legal framework that requires only some firearms sellers to be federally licensed.

Q: How does the Administration's licensing proposal help prevent gun trafficking?

A: A nationwide State-based licensing system will help reduce gun trafficking by requiring a comprehensive criminal background check before issuance of a handgun license, which will be needed in order to purchase a firearm. This will make it more difficult for felons and other prohibited persons to acquire a handgun through the use of false identification documents when buying guns from licensed and unlicensed sellers. Licensing would also make it harder for traffickers to recruit straw purchasers because they would first have to be licensed.

Q: Doesn't this report show that gun shows are not the biggest problem? What does the report add to our knowledge of gun shows?

A: The report confirms that gun shows are a significant problem. Tens of thousands of firearms are bought and sold illegally at gun shows, and the cases involve corrupt licensed dealers and unlicensed sellers. Large numbers of firearms can be sold at gun shows and flea markets without background checks or tracing records. They become an obvious source of firearms for prohibited persons, first-time criminals, and illegal traffickers.

Q: What does the report add to our knowledge of corrupt FFLs, and what are you doing about this group, and what more needs to be done about them?

A: In February, ATF released its *Commerce in Firearms* report, which showed that approximately 1 percent of firearms dealers accounted for over half of firearms traces. This report, which reports ATF criminal trafficking investigations, provides further evidence that a small number of FFLs are indeed responsible for significant numbers of crime guns supplied to prohibited persons. The dealer who are the defendants of the criminal investigations reviewed in this report are not necessarily the dealers associated with crime gun traces; that information is not available from the case review released today.

OTHER POLICY QUESTIONS

Q: Isn't it true that, in the larger context, retail transactions are unimportant because so many crime guns are stolen or obtained from other non-retail sources?

A: This report shows what ATF agents and their State and local police counterparts are finding to be happening in communities across the country. In these 1,500 trafficking investigations, straw purchasers, who buy firearms on behalf of others from licensed dealers, were the most common subject (nearly half). Corrupt gun dealers were a major source of trafficked firearms as well. By contrast, firearms stolen from residences, federally licensed firearms dealers, and common carriers were involved in just over a quarter of the trafficking investigations. Police departments are also undoubtedly pursuing gun thieves under local statutes.

The significant role of direct or indirect retail transactions, is consistent with ATF's analysis of firearms trace data since 1996. This has shown that many firearms recovered by police were relatively *new* firearms, suggesting they had been bought at retail, or straw-purchased or otherwise trafficked, rather than stolen from people's homes. The average age of a handgun in the possession of the general public is almost 11 years. By contrast, the average time-to-crime for a semiautomatic pistol recovered by police was 3.7 years. ATF has also found a very high concentration of firearms traces associated with a small number of FFLs.

Q. Won't criminals always find a way to get guns?

A: Closing the gun show loophole, strengthening our firearms laws in other ways, and enhancing existing enforcement tools and resources will make it significantly more difficult for kids, criminals, and other prohibited persons to obtain firearms. Making it more difficult for criminals to obtain firearms does not mean stopping all violent crime, but it will allow us to reduce gun violence in our country.

Remarks by Secretary of the Treasury Lawrence H. Summers
Press Conference for the Release of ATF Firearms Trafficking Report
June 21, 2000
Washington, DC

- Today, we are releasing an ATF report on firearms trafficking. It represents as complete a picture as anyone can currently provide of the illegal market in firearms. I would like to especially to thank ATF Director Brad Buckles for his commitment to informing ATF's enforcement program with this kind of thorough analysis, and Special Agent Terry Austin for his work on the report.
- This report bears testament to the progress we have achieved in tackling the illegal sale and purchase of firearms. But it also underscores the need for us to do more. It documents conclusively what the stories in our newspapers lead every American family to suspect – that it is still all too easy for criminals and juveniles to obtain guns in America today.
- Let me briefly point up the key findings of the report as they relate to our recent efforts to curb illegal firearms trafficking and how we must work to do more in the future.
- **First, evidence of more aggressive enforcement**
 - This report documents that ATF initiated over 1,500 firearms trafficking investigations between July 1996 and December 1998, involving over 84,000 firearms. Prosecutors won guilty verdicts in 97 percent of the cases that had been completed at the time of our survey. I would like to commend Under Secretary Jim Johnson and ATF Director Buckles for this aggressive and successful enforcement record. I would also like to thank the Justice Department for its partnership and its commitment to these cases.
 - We have also developed powerful tools to combat traffickers. ATF and state and local law enforcement relied on crime gun tracing in 60 percent of the trafficking investigations, and half of those investigations were made possible by leads generated from tracing information.
 - And when we pursue traffickers, we take armed violent criminals from the street. Around 45 percent of these investigations involved convicted felons. One quarter of the traffickers themselves were convicted felons. And more than half of the investigations involved firearms that were known to have been involved in subsequent crimes.
- **Second, new information on the sources of illegal firearms trafficking**
 - *Corrupt licensed dealers* are responsible for trafficking large numbers of guns. The average corrupt dealer investigated by ATF sends hundreds of guns into the illegal



market. So, while corrupt licensed dealers were involved in less than one tenth of investigations, they were associated with nearly half of all trafficked firearms.

- *Gun shows.* Since the tragedy at Columbine High School in April 1999, we have pressed for legislation to close the gun show loophole. This report confirms that gun shows are a major trafficking channel. 14 percent of ATF's trafficking investigations involved gun shows, and gun shows were associated with the second highest number of trafficked firearms per investigation, over 130 guns. The investigations involved almost 26,000 trafficked firearms.

- *Straw purchasers* were the most common subject of trafficking investigations, involved in almost half of the trafficking investigations. These investigations averaged 37 guns and accounted for almost 26,000 trafficked firearms.

- **Third, the need for additional resources and legislation to combat firearms violence.**

- I have enumerated several key steps in my letter transmitting this report to President Clinton. Notably:

- We need to secure passage of the gun show legislation so that traffickers can no longer turn to gun shows for illegal guns.

- We need to stiffen criminal penalties for corrupt federal firearms dealers and large-scale traffickers so that we can penalize and deter illegal trafficking.

- We need a State-based system of licensing firearms owners, to make it more difficult for the felons and other prohibited persons involved in many trafficking schemes to acquire handguns. Licensing will also make it harder to recruit straw purchasers because they would first have to be licensed.

- Perhaps most important, to build on our success, ATF also needs more resources to enforce the firearms laws. The President's budget proposal for ATF of \$93 million includes funding for 500 new ATF agents and inspectors and for expansion of crime gun and ballistics tracing. Let me urge Congress to provide the funding for this crucial effort to continue. Thank you.

EXECUTIVE SUMMARY

Many criminals obtain their guns from the illegal market supplied by a variety of sources: unlicensed sellers who buy guns with the purpose of reselling them; fences; corrupt Federal firearms licensees (FFLs); and straw purchasers who buy guns for other unlicensed sellers, criminal users, and juveniles. It is the responsibility of the Bureau of Alcohol, Tobacco and Firearms (ATF), often working together with State and local law enforcement agencies, to investigate this criminal trafficking in firearms, arrest the perpetrators, and refer them to U.S. Attorneys for prosecution.

To report on the problem and the Federal enforcement response to it, ATF documented and analyzed the criminal investigations involving firearms traffickers that it initiated from July 1996 through December 1998, from commencement of the investigation to sentencing by a court. This review builds on an earlier examination of the illegal acquisition of firearms by youth and juveniles, prepared in response to a request by Congress.¹ The information for both reports derived from surveys of the ATF special agents responsible for the investigations.²

The analysis documents an aggressive, productive effort that led to the prosecution, conviction, and sentencing of hundreds of firearms traffickers during this period. It also suggests that this effort could be rendered still more effective with continued improvements in investigative techniques and enforcement tools.

The investigations and the trafficked firearms

Trafficking and armed offender investigations. ATF initiated 1,530 firearms trafficking investigations during the period July 1996 through December 1998, which comprised only a portion of ATF's firearms investigations. Most ATF firearms investigations were initiated specifically to target offenders who committed acts of armed violence or were considered potentially violent — armed career criminals, armed narcotics traffickers, and felons in possession of firearms — as part of locally designed strategic efforts to reduce drug trafficking and violent gang activity, and violent crime generally. ATF trafficking investigations complement these enforcement strategies by reducing the illegal availability of firearms to such armed violent offenders as well as to juveniles, and by identifying and arresting other violent criminals through investigations of firearms trafficking activity.

Removing guns from the streets. The targets of the ATF trafficking investigations during this period diverted a total of 84,128 firearms from legal to illegal commerce. ATF estimates that agents seized a quarter of these firearms in connection with the investigations themselves, removing them from the illegal market. The remainder of the trafficked firearms were documented during the criminal investigation or later recovered in crimes. Trafficked firearms may continue to be recovered by law enforcement officials and traced long after traffickers are arrested and incarcerated.

How ATF initiates trafficking investigations. Most of the trafficking investigations were initiated based on traditional case methods, such as referrals from other agencies and information provided by confidential informants. One in every five investigations, however, was triggered by information provided by Federal firearms licensees through tips or mandatory reporting to ATF concerning lost or stolen firearms.

¹ *Performance Report* for the Senate and House Committee on Appropriations, Youth Crime Gun Interdiction Initiative, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, February 1999.

² The survey was designed by Dr. Anthony A. Braga, of the John F. Kennedy School of Government, Harvard University, who also prepared the tables in this report, in consultation with ATF. For a full description of the methodology, see Appendix B.

Role of firearms tracing. Almost 30 percent of the investigations (448 of 1,530) were initiated through the innovative investigative methods of information analysis – analysis of firearms trace data, multiple firearms sales records, or both. After initiation of the investigations, tracing was used as an investigative tool to gain information on recovered crime guns in 60 percent of the investigations (918 of 1,530). These findings show that crime gun trace analysis and on-line Project LEAD, the National Tracing Center's firearms trafficking information system, are being widely used to increase ATF's productivity in the development of firearms trafficking investigations. Almost 60 percent of the investigations involved secondhand guns, which are very difficult to trace because unlicensed sellers are not required to keep any transfer records, and there is no effective way to track a gun beyond the first retail sale. Investigative use of firearms and ballistics trace information by Federal, State, and local law enforcement to identify traffickers and armed offenders is a developing capability that should be strengthened.

Traffickers and armed criminals

Traffickers supply criminals and juveniles with guns. Traffickers move guns onto the streets and into the hands of criminals. Over half of the trafficking investigations involved firearms known to have been subsequently involved in additional criminal investigations, including investigations of homicide and robbery, assault, felon in possession of firearms, and illegal gun possession. Juveniles were involved in about 14 percent of the investigations (209) as possessors, thieves and robbers, and traffickers. The number of crime guns linked to particular traffickers by ATF in investigations or through firearms and ballistics tracing is likely to understate significantly the role of trafficked firearms in violent crime. Investigative resources for trafficking cases are limited, and firearms and ballistics tracing are not yet fully developed and available to law enforcement agencies.

Trafficking investigations lead to armed violent felons. When law enforcement follows the gun used by the criminal to its illegal supplier, the investigation often leads to another violent criminal. Convicted felons play a significant role in firearms trafficking. About 23 percent of the investigations included violations involving convicted felons buying, selling, or possessing firearms. A quarter (669) of the traffickers identified in the investigations were convicted felons. About 45 percent of the trafficking investigations involved convicted felons in various roles, including trafficking and receiving trafficked firearms.

Traffickers and trafficking channels

Different types of traffickers and trafficking channels. Firearms traffickers are using a variety of channels to divert firearms, and investigations usually involve multiple trafficking channels, such as a corrupt FFL and a straw purchaser, or theft and unlicensed dealing.

Corrupt FFLs as major traffickers. Although FFLs were involved in under 10 percent of the trafficking investigations, they were associated with the largest number of diverted firearms – over 40,000 guns, nearly half of the total number of trafficked firearms documented during the two-year period. The mean number of trafficked guns involved in any case in which an FFL figured was over 350. When an FFL was acting as the sole trafficker in the investigation, or working with an unlicensed dealer, the mean number of guns per investigation rose to over 550. Clearly, FFLs' access to large numbers of firearms makes them a particular threat to public safety when they fail to comply with the law. Investigations focused on retail gun stores, pawnshops, and residential FFLs. The 133 investigations of FFLs revealed a variety of violations, including failure to keep required records, transfers to prohibited persons, offenses involving National Firearms Act weap-

ons making false entries in record books, and conducting illegal out-of-state transfers.

Gun shows. Gun shows were a major trafficking channel, involving the second highest number of trafficked guns per investigation (more than 130), and associated with approximately 26,000 illegally diverted firearms. The investigations involved both licensed and unlicensed sellers at gun shows.

Straw purchasers. Straw purchasing was the most common channel in trafficking investigations. Almost half of all the trafficking investigations involved straw purchasers. Therefore, although the average number of firearms trafficked per straw purchase investigation was relatively small, 37 firearms, there were nearly 26,000 firearms associated with these investigations.

Unlicensed sellers. Unlicensed sellers were a focus of about a fifth of the trafficking investigations, and involved an average of about 75 guns per investigation and almost 23,000 guns. Unlicensed sellers range from individuals who knowingly sell guns to criminals from their personal collections to interstate gun runners buying guns to sell to gangs and drug organizations.

Firearms theft. Firearms theft is an important source of trafficked firearms. Firearms stolen from FFLs, residences, and common carriers were involved in over a quarter of the trafficking investigations. Investigations involving firearms stolen from residences and federally licensed firearms dealers were associated with over 9,000 trafficked firearms. There were a handful of investigations involving thefts of firearms from common carriers, but such thefts may involve a large number of firearms. ATF is proposing a regulation that would require FFLs to report guns missing in shipment.

Productive partnerships between ATF, U.S. Attorneys, and State and local authorities

Successful prosecutions. Over 1,000 of ATF's trafficking investigations were referred to prosecutors. Prosecutors accepted 90 percent of ATF's trafficking case referrals, involving more than 1,700 defendants. At the time of the survey, over 60 percent of the defendants were fully adjudicated. Over 1,000 traffickers -- 97 percent of those adjudicated -- were found guilty and sentenced in Federal, State, and local courts. Over three-quarters received sentences of incarceration up to life in prison; most of the remainder received probation. Altogether, as a result of these investigations, 812 defendants were sentenced in Federal court to a cumulative 7,420 years in prison, with an average sentence of about nine years.

State and local law enforcement role. More than 33,000 offenders were convicted of felony firearms-related offenses in State and local courts in 1996.³ State or local law enforcement agencies participated in 68 percent (1,037 of 1,530) of the ATF trafficking investigations. Although only about 3 percent of ATF's case referrals and about 10 percent of the defendants referred were to State and local prosecutors, about 70 percent of ATF's investigations involved intrastate trafficking and about 10 percent involved guns stolen from residences. This suggests that where there are applicable laws, State and local law enforcement play an important role in curbing the illegal market in firearms.

Enforcement challenges. Investigators and prosecutors face challenges building successful cases against firearms traffickers. Prosecutors accepted over 60 percent of trafficking cases referred by ATF that involved straw purchasers and dealing by unlicensed sellers, but in the majority of cases proceeded with other charges, not related on their face to firearms trafficking. Also notable is

³ Rodi M. Brown, Patrick A. Langan, and David J. Levin, *Felony Sentences in State Courts*, 1996. Bureau of Justice Statistics (1999).

that although FFLs are associated with the largest volume of trafficked firearms, many FFL violations are misdemeanors rather than felonies, presenting a dilemma for prosecutors who understandably give priority to crimes with greater penalties. Similarly, sentencing guidelines do not provide for increased penalties for trafficking crimes involving truly large scale trafficking — more than 50 firearms. The most important conclusion to be drawn from this case review is that prosecutors are finding ways to prosecute criminal traffickers despite these issues. Law enforcement authorities, however, must in effect build a double case against many firearms traffickers, identifying non-trafficking conduct that can be the basis for a strong criminal case.

Gun traffickers play a critical and deadly role in the chain of violence. They are a principal source of firearms for criminals. Although some guns are bought legally and used in crime, the many thousands of guns that traffickers supply illegally, without a Brady background check or an FFL transfer record that enables tracing, are firearms that are likely to be associated with other crimes. While the success of the firearms trafficking enforcement effort is to be measured by a reduction in gun violence, it is clear that enforcing Federal laws against firearms traffickers has a deservedly high priority.

1. INTRODUCTION

When the Gun Control Act of 1968 (GCA) was enacted, Congress declared that its primary purpose was to "keep firearms out of the hands of those not legally entitled to possess them . . . and to assist law enforcement authorities in the States and their subdivisions in combating . . . crime in the United States." Many criminals obtain their guns from the illegal market supplied by a variety of sources: unlicensed sellers who buy guns with the purpose of reselling them; fences; corrupt Federal firearms licensees (FFLs); and straw purchasers who buy guns for other unlicensed sellers, criminals, and juveniles.⁴ It is the responsibility of the Bureau of Alcohol, Tobacco and Firearms (ATF), often working together with State and local law enforcement agencies, to investigate this criminal trafficking, arrest the perpetrators, and refer them to U.S. Attorneys for prosecution.

ATF has pursued cases against firearms traffickers throughout its history. Starting in 1996, through the Youth Crime Gun Interdiction Initiative and related enforcement and training programs, ATF increased its efforts to work with State and local law enforcement agencies to expand the tracing of guns recovered by police, and to make discovery of the source of the crime gun, and criminal prosecution of the illegal supplier of firearms, a routine aspect of the investigation and prosecution of armed criminals and juveniles.

This report documents ATF criminal investigations involving firearms traffickers that were initiated from July 1996 through December 1998. The report begins by explaining how the nation's firearms laws prohibit illegal transfers of firearms. It then presents an analysis of more than 1,500 ATF firearms trafficking investigations as reported in a survey of ATF field agents. The report also analyzes the agents' reports of the disposition of the cases — the violations referred by ATF, the charges filed and verdicts won by U.S. Attorneys and State and local prosecutors, and the sentences imposed by courts. Finally, the report discusses lessons learned from these investigations and conclusions about the further development of

an integrated firearms enforcement strategy against armed criminals and the illegal suppliers who fuel their gun violence.

During the period of review, trafficking investigations comprised only a portion of ATF's firearms investigations. Most ATF firearms investigations specifically targeted violent offenders — armed career criminals, armed narcotics traffickers, and felons in possession of firearms — as part of locally designed strategic efforts to reduce drug trafficking and violent gang activity, and violent crime generally. The gun trafficker, however, also plays a critical role in the chain of violence. Whether a single straw purchaser buying a TEC-9 at a gun show for a high school student, a corrupt licensed dealer selling a silencer to a felon who fails a Brady check, or a gun runner funneling guns to an urban gang, these are violators who demand the full enforcement attention of ATF and our State and local partners. In addition to being traffickers, these violators are also often themselves violent offenders. ATF issues this report to assess and strengthen our efforts, to broaden public understanding, and to support other law enforcement authorities in their efforts to confront the illegal trafficker in guns.

⁴ Under current law, a "straw purchase" occurs when the actual buyer of a firearm uses another person, the "straw purchaser," to execute the paperwork necessary to purchase a firearm from an FFL. The "straw purchaser" violates the GCA by making a false statement with respect to information required to be kept in the FFL's records.

Gun Shows and the Diversion of Firearms

Gun shows are a special case of the retail sale of firearms. Unlike at other venues, both federally licensed dealers and unlicensed sellers sell guns at gun shows. While federally licensed firearms dealers perform background checks, unlicensed sellers are not required to do so. Gun shows are also places where buyers can choose to buy from the primary (firearms sold by FFLs) or secondary (firearms resold by unlicensed sellers) firearms markets. Second-hand firearms are far more difficult than new guns for law enforcement officials to trace to the most recent seller. This is because second-hand firearms likely have left the hands of FFLs, who are required to keep records, into the hands of unlicensed persons who are not required to keep records. Even if the second-hand guns are resold to an FFL, they are untraceable, because the trace will effectively end at the last sale in the unbroken chain of licensed sellers. The access to anonymous sales and large numbers of secondhand firearms makes gun shows attractive to criminals.

In the ATF trafficking investigations reviewed here, gun shows were associated with the

diversion of approximately 26,000 firearms. Trafficking of firearms at and through gun shows was more prevalent in the trafficking investigations submitted by the Southwest (22 percent) and Western (21 percent) regions when compared to trafficking investigations submitted by the Central (15 percent), Southeast (12 percent), and Northeast (8 percent) regions of the United States.

A prior review of ATF gun show investigations shows that prohibited persons, such as convicted felons and juveniles, do personally buy firearms at gun shows and gun shows are sources of firearms that are trafficked to such prohibited persons. The gun show review found that firearms were diverted at and through gun shows by straw purchasers, unregulated private sellers, and licensed dealers.²² Felons were associated with selling or purchasing firearms in 46 percent of the gun show investigations.²³ Firearms that were illegally diverted at or through gun shows were recovered in subsequent crimes, including homicide and robbery, in more than a third of the gun show investigations.²⁴

²² *Gun Shows: Brady Checks and Crime Gun Traces*, Department of the Treasury and Department of Justice, January 1999: Table 3.

²³ *Gun Shows: Brady Checks and Crime Gun Traces*, Department of the Treasury and Department of Justice, January 1999: Table 3.

²⁴ *Gun Shows: Brady Checks and Crime Gun Traces*, Department of the Treasury and Department of Justice, January 1999: Table 4.

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**ATF Report on Firearms Trafficking Enforcement
Questions and Answers
June 21, 2000**

THE ATF REPORT

Q: What is the ATF report about?

A: This report presents a review of over 1,500 firearms trafficking investigations that ATF initiated between July 1996 and December 1998, involving the illegal distribution of over 84,000 firearms. This analysis also documents an aggressive, productive enforcement effort. It frequently involved State and local law enforcement, and led to the prosecution, conviction, and sentencing of hundreds of firearms traffickers.

Q: Why is the report important?

A: This is the first report ever prepared on this type of case. It's important for three basic reasons:

- First, the report significantly refines our understanding of the illegal firearms market that supplies guns to unauthorized juveniles, criminals, and other prohibited persons. This benefits law enforcement agencies throughout the country. They need to know the sources of the illegal supply of firearms, the types of traffickers, and the predominant types of trafficking channels in order to develop effective enforcement responses.
- Second, the report shows that the diversion of firearms to the illegal market of prohibited persons is a significant contributing factor to gun violence in our country, and that traffickers are not only an important source of guns to violent criminals, but often are themselves serious violent offenders.

In over half of these investigations, law enforcement officials linked one or more of the trafficked firearms to crimes that took place after the gun trafficking, including homicide, robbery, assault, and illegal possession of guns by felons and other prohibited persons.

A quarter of the traffickers identified in the investigations were convicted felons. About 45 percent of the investigations involved convicted felons who illegally bought, sold, possessed, or received firearms or stole them.

- Third, the report confirms that our national framework of firearms distribution is vulnerable to criminal trafficking and acquisition by prohibited persons at several points. It demonstrates the need for enhanced enforcement tools, including the legislation that the President has proposed to Congress.

FIREARMS TRAFFICKING FINDINGS

Q: What is the definition you are using of firearms trafficking?

A: The term as used by ATF refers to the illegal diversion of legally owned firearms from lawful commerce into unlawful commerce, often for profit. Trafficked guns may be new, secondhand, or stolen.

Q: What are the different types of traffickers and trafficking channels?

A: Firearms traffickers use a variety of channels to divert firearms from the legal to the illegal market, such as corrupt FFLs, straw purchasers, gunshows, unlicensed sellers, and firearm thefts. They traffic in new, second-hand, and stolen firearms. These guns are diverted to violent criminals, thieves, robbers, gang members, and juveniles with a high likelihood that they will be involved in subsequent crimes.

More detail:

- Corrupt FFLs. Fewer than 10 percent of the investigations, but associated with the largest mean number of firearms per investigation (350). Associated with nearly half of the trafficked firearms (40,000).
- Unlicensed Sellers. About a fifth of the investigations, involving an average of 75 guns per investigation. Associated with more than 22,500 trafficked firearms.
- Straw Purchasers. Almost half of the trafficking investigations, with an average of 37 guns per investigation. Associated with almost 26,000 trafficked firearms.
- Gun Shows. About 14 percent of the investigations, but associated with the second highest number of trafficked firearms per investigation, 100. Associated with almost 26,000 trafficked firearms.
- Theft. Firearms stolen from residences, federally licensed retail firearms dealers, and common carriers were involved in over a quarter of the investigations. Common carriers were associated with the most number of stolen guns per investigation, over 66. About 11,000 trafficked firearms were associated with investigations involving theft.

Q: In these investigations, exactly how many firearms were trafficked?

A: The targets of ATF investigations during this period diverted a total of 84,128 firearms from legal to illegal commerce. ATF estimates that agents seized a quarter of these firearms in connection with the investigations themselves, removing them from the illegal market. The remainder of the trafficked firearms were documented during the criminal investigation or later recovered in crimes.

Trafficked firearms may continue to be recovered by law enforcement officials and traced long after traffickers are arrested and incarcerated.

Q: The total number of guns in this breakdown adds up to more than the approximately 84,000 you stated were involved in the ATF investigations - why?

A: A single ATF investigation can involve more than one type of trafficking. For instance, a corrupt dealer might knowingly sell to a straw purchaser who transfers the guns to an unlicensed dealer from whom in turn one or more guns may be stolen as well as sold to prohibited persons. Therefore, there is some overlap in the type of investigations with which trafficked guns are associated.

Q: Is firearms trafficking primarily intrastate or interstate in nature?

A: Firearms trafficking refers to the illegal diversion of legally owned firearms from lawful commerce into unlawful commerce, often for profit. Firearms trafficking investigations, therefore, can be intrastate, interstate, and international in nature depending on the characteristics of the trafficking scheme. However, about 70 percent of the investigations reviewed by ATF involved *intrastate* trafficking, suggesting that where there are applicable State firearms laws, State and local law enforcement have an important role to play in curbing the illegal market in firearms.

ENFORCEMENT ISSUES

Q: Shouldn't ATF be arresting armed criminals who misuse guns instead of traffickers who may never be violent offenders?

A: The trafficking investigations documented in this report represent a subset of ATF's investigations. ATF has an integrated violence reduction strategy that is an inclusive – not exclusive – approach to combating firearms violence. *Most* ATF firearms investigations specifically target violent offenders – armed career criminals, armed narcotics traffickers, and felons in possession of firearms – as part of locally designed strategic efforts to reduce violent crime generally. But as this study shows, the many thousands of guns that traffickers supply illegally, without a Brady background check or an FFL transfer record that enables tracing, are firearms that are likely to be associated with other crimes. In addition, it is a mistake to believe that gun traffickers are not violent offenders -- many of the traffickers are themselves violent criminals.

In over half of these cases, law enforcement officials connected one or more of the trafficked firearms to crimes that took place after the gun trafficking, including homicide, robbery, assault, and illegal possession of guns by felons or other prohibited persons.

A quarter of the traffickers identified in the investigations were convicted felons. About 45 percent of the investigations involved convicted felons who illegally bought, sold, possessed, or received firearms or stole them.

Q: Have you been increasing the number of trafficking cases since 1993?

A: ATF in 1996 began to focus on improving its ability to identify and apprehend gun traffickers. This effort has led to the prosecution of numerous gun traffickers and violent offenders also acting as traffickers. ATF has not maintained a breakdown of cases in these categories during this period. However, it is fair to say that as the number of ATF agents increases, so do the number of firearms prosecutions of all kinds, including cases against firearms traffickers.

Q: What were the results of the investigations?

A: Almost 1,500 trafficking investigations led to referrals for prosecution for over 1,700 defendants. State and local authorities participated in over two thirds of the investigations. Almost 60 percent of the defendants were adjudicated at the time of the survey. *812 firearms traffickers were convicted and sentenced in Federal court to a cumulative total of 7,420 years in prison, with an average sentence of about nine years.*

Q: There were approximately 1,500 investigations, but only 812 defendants have received sentences. What happened to the others?

A: [ATF referred 75% of its investigations to prosecutors during this period, 90% of which were accepted for prosecution, x% of which have been adjudicated. The rest are pending.]

Q: Why do some states have more ATF trafficking investigations than others, and why are there none reported from Idaho and South Carolina?

A: [ATF]

Q: How did ATF agents uncover the traffickers and what role did firearms tracing play?

A: ATF agents used traditional case methods, for example, referrals from other agencies and information provided by confidential informants. A fifth of the investigations were triggered by information provided by FFLs or mandatory reporting to ATF concerning lost or stolen firearms. Almost 30 percent of the investigations (448 of 1,530) were initiated through information analysis - analysis of firearms trace data and/or multiple sales records. After initiation of the investigations, tracing was used as an investigative tool to gain information on recovered crime guns in 60 percent of the investigations (918 of 1,530).

Q: How are firearms trafficking investigations different from investigations of contraband, such as narcotics?

A: Unlike narcotics or other contraband, virtually every crime gun in the United States starts off as a legal firearm. Crime guns, therefore, start out in the legal market, are identified by serial numbers, and leave some paper trail. ATF, with its criminal and regulatory enforcement responsibilities and ability to trace crime guns recovered by law enforcement, is in a unique position to investigate illegal suppliers of firearms.

Q: What is On-Line LEAD?

A: On-Line LEAD is ATF's automated illegal firearms trafficking information system. On-Line LEAD provides investigative leads to investigators by analyzing crime gun trace data, suspect gun information, stolen firearms information, and multiple sales information to identify recurring trends and patterns that may indicate illegal firearms trafficking.

Q: What is comprehensive crime gun tracing and why is it important?

A: Comprehensive crime gun tracing is the systematic tracking of the history of all firearms recovered by law enforcement in crimes and from juveniles from their source (manufacturer or importer) through the chain of distribution (wholesaler, distributor, retailer) to the individuals who procure the firearms. Comprehensive crime-gun tracing is important because the information from each submitted trace request, and the results, are entered into On-Line LEAD, which is ATF's automated illegal firearms trafficking information system. On-Line LEAD provides investigative leads to investigators by analyzing crime gun trace data, suspect gun information, stolen firearms information, and multiple sales information to identify recurring trends and patterns that may indicate illegal firearms trafficking.

Q: What is the Youth Crime Gun Interdiction Initiative (YCGII)?

A: YCGII is a focused component of ATF's Firearms Trafficking Program, designed to identify and interrupt the illegal supply of firearms trafficked to youths and juveniles through research and enforcement efforts. The most important element of YCGII is comprehensive crime gun tracing in a particular geographic area. Presently, there are 38 cities within the U.S. that participate in YCGII and, as such, conduct comprehensive crime-gun tracing. Another aspect of this project is that a report is generated annually for each of ATF's partners on YCGII. The report identifies current geographical trends that document how juveniles and youth illegally obtained firearms. Federal and local enforcement agencies are better able to assess the illegal firearms problem in their communities and develop strategies to combat it.

ADMINISTRATION BUDGET REQUEST

Q. How would the Administration's budget request for ATF affect the number of investigations?

A: The Administration is seeking approximately \$93 million for ATF to carry out its Integrated Violence Reduction Strategy and to expand the Youth Crime Gun Interdiction Initiative. Both these programs focus on the armed criminal, and the illegal sellers and buyers of guns, in close collaboration with State and local law enforcement and U.S. Attorneys. The funding will support 300 additional special agents and 200 additional ATF inspectors dedicated to firearms enforcement. We expect those additional agents to be able to follow up on many more leads than is currently possible, and refer an increased number of cases to prosecutors. The funds will also support expanded firearms tracing and ballistics imaging.

OTHER ADMINISTRATION RECOMMENDATIONS

Q: Does the Gun Control Act adequately address gun trafficking?

A: We believe the laws against gun trafficking need to be strengthened. One of the primary purposes of the Gun Control Act of 1968 (GCA) was to provide support to State and local law enforcement officials in their fight against violent crime and to assist them in enforcing their own firearms laws. Various GCA violations, as well as conspiracy, aiding and abetting, and money laundering statutes are used to charge illegal firearms traffickers.

Investigators and prosecutors face challenges building successful cases against firearms traffickers. Prosecutors accepted over 60 percent of trafficking cases referred by ATF that involved straw purchasers and dealing by unlicensed sellers, but in the majority of cases proceeded with other charges not related on their face to firearms trafficking. This suggests problems in how these statutes are constructed. Also notable is that although FFLs are associated with the largest volume of trafficked firearms, many FFL violations are misdemeanors rather than felonies. Similarly, sentencing guidelines do not provide for increased penalties for trafficking crimes involving truly large scale trafficking – more than 50 firearms.

The results of these investigations show that prosecutors are finding ways to prosecute criminal traffickers despite these issues. They must, however, in effect, build a double case against many firearms traffickers, identifying non-trafficking conduct that can be the basis for a strong criminal case.

Q: What are some of the recommendations proposed by the Administration as a result of this report?

A:

- First, the gun show loophole must be closed. *Large numbers of firearms can be sold at gun shows and flea markets without background checks or tracing records. They become an obvious source of firearms for prohibited persons, first-time criminals, and illegal traffickers.*
- Second, criminal penalties for corrupt Federal firearms licensees must be stiffened. False recordkeeping (which can hide gun trafficking) is often punishable only as a misdemeanor. ATF should also be authorized to suspend dealer licenses; impose fines on dealers who violate the rules; and inspect dealers more than once during a 12-month period. *Currently, ATF cannot conduct warrantless inspections of licensed dealers more than once a year.*
- Third, laws preventing straw purchasing must be strengthened. Straw purchasers can sometimes be prosecuted for false statements on an FFL transaction record, but the practice of purchasing a gun on behalf of another is not banned. Some straw purchasers, therefore, can operate with impunity.
- Fourth, there must be appropriate penalties for trafficking large numbers of firearms. The penalty for unlicensed dealers should be increased to 10 years, and sentences for major traffickers should be proportionate to their impact. *Currently, the maximum penalty for unlicensed dealing in firearms is five years' imprisonment, and someone responsible for diverting 1,000 firearms faces the same penalties as the person who trafficks 50 firearms.*
- Fifth, we must curb more effectively the theft of firearms, as well as access by traffickers, violent criminals, and children to improperly stored firearms. To help prevent theft from FFLs, ATF should be given the authority to require FFL security measures. Common carriers should be required to report gun thefts to ATF, so that law enforcement officials can recover missing and stolen firearms before they are sold illegally, and so that traffickers can be identified and punished. Similarly, firearms owners should be encouraged to report the loss or theft of a firearm. *(We have already proposed a child access prevention (CAP) law that would hold reckless adults accountable for the injurious use of firearms by children, and measures against FFL and common carrier theft.)*
- Sixth, we must empower law enforcement agencies nationwide to use comprehensive firearms and ballistics tracing to identify all the illegal sources of guns used in crime, as well as increase Federal funding and encourage firearms industry investment to improve tracing.

- Seventh, additional resources are needed to investigate and prosecute cases against armed criminals and the traffickers who supply them with guns. This report strongly supports our pending request for appropriators to fund 500 additional agents, inspectors, and related personnel for ATF.
- Eighth, this report shows the need for a State-based system of licensing firearms owners. A nationwide State-based licensing system will help reduce gun trafficking by requiring a comprehensive criminal background check before issuance of a handgun license, which will be needed in order to purchase a firearm. This will make it more difficult for felons and other prohibited persons to acquire a handgun through the use of false identification documents when buying guns from licensed and unlicensed sellers.
- Ninth, we must reexamine the legal framework that requires some firearms sellers to be federally licensed and allows others to sell guns without a federal license. Unlicensed sellers provide a safe source of guns to criminals because they are not required to conduct Brady background checks or maintain transaction records that can be used to trace a firearm used in a crime. There is no such dual sales system for other legal commodities that involve prohibited persons or use restrictions. For example, there are no legal unlicensed or unregistered sellers of prescription drugs. As long as such a dual framework persists, it will be difficult for law enforcement to curb trafficking by unlicensed sellers of firearms.

Q: How does the Administration's licensing proposal help prevent gun trafficking?

A: A nationwide State-based licensing system will help reduce gun trafficking by requiring a comprehensive criminal background check before issuance of a handgun license, which will be needed in order to purchase a firearm. This will make it more difficult for felons and other prohibited persons to acquire a handgun through the use of false identification documents when buying guns from licensed and unlicensed sellers.

Q: Doesn't this report show that gun shows are not the biggest problem? What does the report add to our knowledge of gun shows?

A: The report confirms that gun shows are a significant problem. Tens of thousands of firearms are bought and sold illegally at gun shows, and the cases involve corrupt licensed dealers and unlicensed sellers. Large numbers of firearms can be sold at gun shows and flea markets without background checks or tracing records. They become an obvious source of firearms for prohibited persons, first-time criminals, and illegal traffickers.

Q: What does the report add to our knowledge of corrupt FFLs, and what are you doing about this group, and what more needs to be done about them?

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Following the Gun:

Enforcing Federal Laws Against Firearms Traffickers



June 2000

**Department of the Treasury
Bureau of Alcohol, Tobacco & Firearms**

I [We] enclose a report prepared by the Bureau of Alcohol, Tobacco and Firearms (ATF) entitled *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers*. It documents over 1,500 firearms trafficking investigations that ATF initiated between July 1996 and December 1998.

These investigations disclose that traffickers illegally distributed over 84,000 firearms, including new, secondhand, and stolen firearms. Traffickers are not only an important source of guns to violent criminals, but often are themselves serious violent offenders or can lead law enforcement officials to armed offenders. A quarter of the traffickers identified in the investigations were convicted felons. About 45 percent of the investigations involved convicted felons who illegally bought, sold, possessed or received firearms or stole them. In over half of the investigations, law enforcement officials linked one or more of the trafficked firearms to crimes that took place after the gun trafficking, including homicide, robbery, assault, and illegal possession of guns by felons or other prohibited persons.

These investigations show that our national framework of firearms distribution is vulnerable to criminal trafficking and acquisition by prohibited persons at several points:

- Corrupt federal firearms licensees (FFLs) – retail dealers, pawnshops, and residential FFLs -- were associated with the smallest percentage of investigations, under 10 percent, but with the largest average number of firearms per investigation, 350. Nearly half of the trafficked firearms, 40,000, were associated with investigations of corrupt FFLs.
- Unlicensed sellers, offering firearms that they acquire directly or through other purchasers (“straw purchasers”), were the focus of about a fifth of the investigations and were associated with an average of 75 guns per investigation. More than 22,500 trafficked firearms were associated with investigations of unlicensed sellers.
- Straw purchasers, who buy firearms on behalf of others from licensed and unlicensed sellers, and transfer them either to prohibited persons or to unlicensed sellers, were the most common subject of trafficking investigations. While the average number of firearms trafficked per investigation, 37 guns, was relatively small when compared with other trafficking channels, almost half of all the trafficking investigations involved straw purchasers. Almost 26,000 trafficked firearms were associated with investigations in which there was a straw purchaser.
- Gun shows, where licensed and unlicensed sellers sell guns, were associated with the second highest number of trafficked firearms per investigation, 130 guns, and about 14 percent of the investigations. Almost 26,000 trafficked firearms were associated with investigations involving gun shows.
- Theft is an important source of guns for firearms traffickers. Firearms stolen from residences, federally licensed retail firearms dealers, and common carriers were involved in over a quarter of the ATF trafficking investigations. Of the three targets of theft, common carriers were associated with the most number of guns per investigation, over 66. About 11,000

trafficked firearms were associated with investigations involving theft.

While most ATF investigations target armed offenders or felons in possession of firearms, the report's findings confirm the need to target illegal suppliers. The report also underscores the increasingly effective partnership among ATF personnel, U.S. Attorneys, and State and local authorities in attacking criminal diversion of firearms. Almost 1,500 trafficking investigations led to referrals for prosecution of over 1,700 defendants. State and local authorities participated in over two thirds of the investigations. Almost 60 percent of these defendants were adjudicated at the time of the survey; 812 firearms traffickers were convicted and sentenced in federal court to a cumulative total of 7,420 years in prison, with an average sentence of about nine years.

Since investigations often involve a chain of different types of criminal transfers, the sum of investigations involving particular trafficking channels, and the sum of firearms associated with them, may exceed 100 percent.