



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, DC 20226

NOV - 2 2000

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MEMORANDUM TO: Secretary Summers

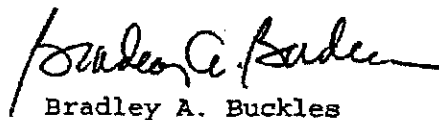
THRU: Under Secretary (Enforcement)

FROM: Director

SUBJECT: ATF Regulatory Actions - Report to the
Secretary on Firearms Initiatives

The attached report, entitled ATF Regulatory Actions - Report to the Secretary on Firearms Initiatives, is submitted in response to issues raised in the Bureau of Alcohol, Tobacco and Firearms' (ATF) report of February 2000 entitled Commerce in Firearms in the United States. The report provides an overview of regulatory actions and firearms initiatives undertaken by ATF in response to the Commerce in Firearms report, along with recommendations for future action.

I am confident that the steps we have taken will help address the problems identified in the Commerce in Firearms report, and that our continued efforts will significantly improve ATF's ability to trace crime guns; initiate trafficking investigations; and ultimately deny criminals, unauthorized juveniles, and other prohibited individuals access to firearms.


Bradley A. Buckles

Attachment

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UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

ATF Regulatory Actions

Report to the Secretary on Firearms Initiatives

NOVEMBER 2000

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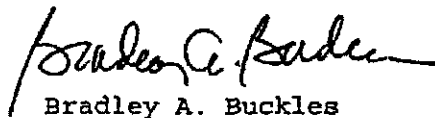
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EXECUTIVE SUMMARY

Commerce in Firearms Report

The first annual report on Commerce in Firearms in the United States, issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) in February 2000, contained significant findings concerning the regulated firearms industry. Specifically, the Commerce in Firearms (CIF) Report revealed that 1.2 percent of federally licensed firearms dealers, or 1,020 dealers, had accounted for 57 percent of crime guns successfully traced to active retail dealers during 1998. The CIF report further revealed that each of these dealers had had 10 or more crime guns traced in 1998 and that many of these dealers, also during 1998, had been associated with 10 or more traces involving firearms that had moved from retail sale to use in crime in 3 years or less. Additionally, the CIF report noted that ATF's tracing and other enforcement activities are hindered by some dealers' lack of cooperation in responding to trace requests as well as by the Bureau's lack of access to data on secondhand or "used" firearms sold by Federal firearms licensees (FFLs).

To address the problems highlighted by the CIF report, ATF undertook two initiatives beginning in February 2000: (1) a focused inspection initiative and (2) a "demand letter" initiative. In undertaking the focused inspection and demand letter initiatives, ATF hoped to improve its ability to successfully complete firearms traces. ATF also hoped to shed light upon the question of why a relatively small portion of the FFL population accounts for a disproportionately large share of crime gun traces. Further, ATF wanted to hone its criteria for focusing inspections and, in this regard, to determine the extent to which factors such as raw number of firearms traces, short "time-to-crime," and lack of cooperation on the part of dealers are indicators of possible firearms trafficking or of other violations of the Gun Control Act of 1968 (GCA).

Focused Inspection Initiative

The focused inspection initiative entailed ATF's conduct of comprehensive compliance inspections of dealers who had been uncooperative in response to trace requests and of FFLs who had 10 or more crime guns (irrespective of time-to-crime) traced to them in 1999. The goals of the initiative were to reconcile the dealers' firearms inventories with their required records, complete traces that could not be completed previously, inspect required transaction records, check compliance with the Brady Act's background check requirements, and educate dealers as to the requirements of Federal law.

We found that, although more than half of the inspected FFLs were in substantial compliance with Federal law, many had violations, including failure to file "multiple sales" reports, failure to maintain an adequate record of acquisitions and dispositions, and failure to properly execute firearms transaction records (ATF Forms 4473). The inspections disclosed violations in approximately 75 percent of the 1,012 dealers we inspected. While some of these violations were minor and were addressed during the course of the inspection, others warranted administrative action against the dealer or referral for further investigation.

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The Appendix is a table summarizing the results of the focused inspection initiative. The most significant findings from the inspections are set forth below.

- *Large number of missing guns.* Nearly half (47 percent) of the dealers had at least one inventory discrepancy. While the majority of discrepancies were resolved through the inspection process, approximately 13,271 missing guns could not be accounted for by 202 licensees. Further, 16 licensees each had more than 200 missing guns. ATF will compare information about each of these missing firearms to data in the Firearms Tracing System to see if we can develop any investigatory leads.
- *Significant problems in complying with recordkeeping requirements.* More than 57 percent of the inspected dealers had at least one violation relating to a failure to properly execute the required ATF Form 4473, and 54 percent of the dealers failed to maintain a complete and accurate acquisition and disposition record. In addition, 22 percent of the dealers had violations of the multiple handgun sales reporting requirement and 15 percent of the dealers had recordkeeping violations relating to the required background check under the Brady Act.
- *Sales to potential traffickers and potentially prohibited persons.* Inspections identified sales to more than 400 potential firearms traffickers and nearly 300 potentially prohibited individuals, resulting in 691 referrals being sent to ATF special agents for further investigation. The overall ratio of trafficking referrals to licensees was more than 3 times higher in the group of licensees with 10 or more firearms traces with a short time-to-crime than in the group of licensees who did not have at least 10 traces with a short time-to-crime.
- *Completion of previously unsuccessful crime gun traces.* Inspectors were able to resolve 76 percent of the previous year's unsuccessful traces associated with the inspected dealers, for a total of 1,336 completed traces.
- *Adverse administrative proceedings.* As a result of the focused inspections, 45 percent of the inspected dealers were recommended for follow-up administrative action, including 2 percent for license revocation. It should be noted that 60 percent of the uncooperative dealers were recommended for follow-up action, including 17 percent for whom license revocation was recommended. By comparison, 47 percent of the dealers with 10 or more short time-to-crime traces and 43 percent of the remaining dealers with 10 or more traces were recommended for some sort of follow-up administrative action, with less than 2 percent of the dealers in these two groups recommended for revocation.

Demand Letter Initiative

The demand letter initiative entailed the issuance, to FFLs who had been uncooperative in response to trace requests, of letters requiring the submission of all their firearms transaction records for the previous 3 years, with monthly reports to be made thereafter. Additionally, demand letters requiring the submission of records concerning the acquisition of used guns were

sent to FFLs who, in 1999, had traced to them 10 or more guns that were found to have had a time-to-crime of 3 years or less. The results of this initiative are summarized below.

- *Increased cooperation by dealers in response to trace requests.* The issuance of demand letters was found to have dramatically improved the level of dealers' cooperation in responding to trace requests. This improvement has occurred both among the dealers who received demand letters because of their earlier lack of cooperation (none of these dealers has been uncooperative since the demand letters were issued in February) and among the general population of dealers (only one other dealer has been uncooperative with a trace request since February).
- *Completion of crime gun traces.* Since February, demand letter recipients have submitted records on more than 350,000 firearms, the majority of which were used guns. These records have enabled ATF to successfully complete 745 crime gun traces, involving at least 523 used guns and 147 trace requests that had been received prior to the demand letter initiative.
- *Providing leads on lost, stolen, and suspect guns.* The demand letter records matched 519 firearms that had been reported to ATF as lost or stolen and 430 firearms that were suspected of being associated with criminal activity. The successful traces and the matches resulting from the demand letter information have provided ATF and other law enforcement agencies with valuable investigative leads.

Significant Findings

The results of the focused inspection and demand letter initiatives have yielded the following significant findings:

- *A small group of dealers accounts for a disproportionately large number of crime gun traces.* Although the 1,012 dealers inspected during the focused inspection initiative represent only 1.2 percent of the 81,325 licensed dealers in 1999, and accounted for less than 20 percent of the firearms sold by retail dealers in 1999, they accounted for more than 50 percent of the crime guns successfully traced to active dealers in 1999. These dealers were responsible for more than 28,000 of the 55,967 crime gun traces to active retail dealers in 1999. Accordingly, sales volume alone cannot be said to account for the disproportionately large number of traces associated with these firearms dealers.
- *The licensees subject to the focused inspections had significantly higher rates of GCA violations than a random sample of licensees inspected in 1998.* In the 1998 sample, approximately 37 percent of the licensed dealers were found to have violations during inspection. By contrast, 75 percent of the dealers inspected during the focused inspection had one or more violation.

- *Certain groups of inspected licensees were disproportionately represented in administrative follow-up actions and investigative referrals.* These included uncooperative dealers, dealers having 10 or more crime guns with a time-to-crime of 3 years or less traced to them in 1999, dealers with a significant number of unresolved inventory discrepancies, and dealers with a significant number of unreported multiple handgun sales.

Focus on the Future

ATF has acquired much useful information from the demand letter and focused inspection initiatives, including information that will help us refine such efforts in the future. Based on the results of these initiatives, ATF is taking the following steps.

- *Refine the focused inspection initiative.* The broad focused inspection initiative we completed in 2000 provided us with valuable data. Nonetheless, given our limited resources, it would not be feasible to conduct such a broad inspection initiative again in 2001. Accordingly, next year's inspection initiative will focus on the following groups of licensees that, based on the focused inspection results, are most likely to have compliance problems: newly identified dealers with 10 or more short time-to-crime traces in a year, uncooperative dealers, licensees with significant inventory discrepancies, dealers who have a significant number of unsuccessful traces, and dealers who were the subject of administrative action during the current inspection initiative.
- *Continue the demand letter initiative for uncooperative dealers and refine the demand letter initiative for other dealers.* The demand letter for uncooperative dealers has proven extremely successful and will be continued. We will also continue to place at least some dealers who have traced to them 10 or more crime guns with a short time-to-crime under demand letters.
- *Continue to take steps to improve licensee inventory practices.* We have issued a proposed rule requiring licensees to conduct at least one physical inventory of their firearms each year. We have required inspected dealers having one or more missing guns to report the missing guns to ATF as a theft or loss. Where appropriate, we are taking administrative action against dealers with unresolved inventory discrepancies.
- *Better data collection.* We have revised the Federal firearms license renewal application form to require applicants to report the number of firearms they have purchased and disposed of during the past 3 years. We are also studying the impact of focused inspections upon the future compliance record of inspected licensees.

Our findings also will help us better focus our inspection resources in the future. As set forth further in the report, we have been and will be engaging in numerous actions as a result of these initiatives. We are confident that these regulatory programs will help us to work with the licensed community to improve dealer compliance, reduce firearms trafficking, and strengthen our capability to trace crime guns.

I. BACKGROUND

A. Gun Control Act of 1968

In enacting the Gun Control Act of 1968 (GCA), Congress declared that its purpose was to keep firearms out of the hands of those not legally entitled to possess them and to assist Federal, State, and local law enforcement officials in their efforts to reduce crime and violence. Congress sought to achieve this goal without placing any unnecessary burden on law-abiding citizens acquiring, possessing or using firearms for lawful activity.

Congress authorized the Secretary of the Treasury to enforce the laws regulating the manufacture, importation, distribution and sale of firearms, and the laws prohibiting the criminal possession and misuse of firearms. Among other things, the GCA requires a person who engages in the business of dealing in firearms to obtain a Federal firearms license and to maintain detailed firearms transaction records. Pursuant to the Brady Handgun Violence Prevention Act (Brady Act), licensed dealers are generally required to initiate a criminal history background check through the National Instant Criminal Background Check System (NICS) prior to transferring a firearm to an unlicensed purchaser. The GCA also authorizes the Secretary to conduct warrantless inspections of the records and inventory of Federal firearms licensees (FFLs) not more than once every 12 months to ensure compliance with the Federal firearms laws. These authorities have been delegated to the Bureau of Alcohol, Tobacco and Firearms (ATF).

B. Crime Gun Tracing

One of ATF's most important responsibilities is the tracing of crime guns. Crime gun tracing is the systematic tracking of the movement of a firearm recovered by law enforcement officials from its first sale by the manufacturer or importer through the distribution chain (wholesaler/retailer) to the first retail purchaser. Crime gun trace information is used for three purposes: (1) to link a suspect to a firearm in a criminal investigation; (2) to identify potential firearms traffickers; and (3) to detect intrastate and interstate patterns in the sources and kinds of guns used in crime, when sufficiently comprehensive tracing is undertaken by a community.

A crime gun trace begins when a law enforcement official recovers a firearm, usually from a crime scene or from the possession of a suspect, felon, or other prohibited person, and the law enforcement agency having jurisdiction over the case submits a trace request to ATF's National Tracing Center (NTC). Although the NTC traces recovered crime guns for local, State, Federal, and international law enforcement agencies, most traces are performed for local law enforcement agencies. The trace request typically identifies the firearm by serial number, type, manufacturer or importer, and caliber. Additional information is given about the individual possessing or associated with the firearm, if known, recovery location, and, in some cases, the offense that brought the crime gun to the attention of law enforcement authorities.

The first step the NTC takes when it traces a firearm is to enter the firearm's serial number into the Firearms Tracing System (FTS). The FTS is a database that contains information relating to all firearms traced by the NTC since 1989. It also includes several subsystems containing information on multiple handgun sales reports, suspect guns (firearms suspected of having been illegally trafficked or diverted, but which have not yet been recovered), and lost and stolen firearms reported by FFLs and common carriers. The NTC also has an auxiliary indexing system of firearm serial numbers from licensees' out-of-business records.

The NTC compares the serial number of the gun being traced against serial number information already in the FTS database. If these steps do not identify the first retail transaction, the NTC contacts the manufacturer or importer and tracks the recovered crime gun through the distribution chain (wholesaler and retailer) to the retail dealer. The NTC then asks the dealer to examine his or her records to determine the identity of the first retail purchaser.

Results are sent back to the trace requester and entered into the FTS, where they are accessible by NTC personnel. Moreover, data from the FTS is now accessible to ATF special agents and inspectors in the field through a program called Online Lead. This program provides field investigators with important leads regarding firearms trafficking patterns.

The firearms tracing system depends entirely on the accuracy and completeness of licensee records. The GCA requires licensees to respond immediately to, and in no event more than 24 hours after the receipt of, a trace request from ATF. If a licensee is uncooperative, ATF inspectors must spend extra time seeking the information. Moreover, if a licensee does not keep proper records, even an inspector may be unable to resolve the trace. If ATF cannot complete a trace, it cannot provide the requesting agency with an investigative lead. Furthermore, as noted above, ATF uses trace information to detect patterns of firearms trafficking through the Online Lead program. When ATF is unable to trace guns, this important investigative tool is weakened.

There are limitations to the current crime gun tracing system. One is the difficulty in tracing secondhand or "used" guns through the FTS. For the purposes of this report, a used gun is a firearm that a licensee obtains from an unlicensed person. Used guns make up a significant portion of many dealers' sales. However, these firearms are difficult to trace because they have passed through the hands of one or more nonlicensed purchasers before the licensee obtains them. Indeed, once the first retail purchaser of a used gun disposes of it (to a licensee or otherwise), ATF loses the ability to trace the gun's chain of custody through the firearms tracing system. To trace a gun beyond the first retail purchaser, law enforcement authorities must conduct an "investigative trace," using traditional investigative methods such as interviews and use of informants. Investigative traces are extremely resource intensive and, because of the absence of records, often unsuccessful. For these reasons, ATF does not conduct investigative traces on a routine basis.

C. Commerce in Firearms Report

On February 4, 2000, ATF published its first annual report on Commerce in Firearms in the United States (CIF report). The CIF report was intended to help the public better understand the regulated firearms industry and ATF's enforcement of the firearms laws. The report also provided ATF with important data about the firearms industry, particularly regarding the sources of guns used in crime and licensed dealers' cooperation with crime gun tracing requests. Among other findings, the report established the following:

- Only 1.2 percent of Federal firearms dealers (1,020 of approximately 83,200 licensed dealers) accounted for over 57 percent of the crime guns successfully traced to dealers active in 1998.¹
- These 1,020 dealers each had 10 or more crime guns traced to them in 1998.
- Just over 430 dealers had 10 or more crime guns with a time-to-crime of three years or less traced to them in 1998.²
- In 1999, approximately 50 dealers were uncooperative with ATF trace requests,³ thereby hindering ATF's ability to support Federal, State, and local law enforcement in the fight against gun crime and violence.
- ATF's difficulty with tracing used firearms sold by FFLs and unlicensed sellers presented a major enforcement problem.

These findings were significant because they demonstrated that a small percentage of the firearms industry is the source of a large percentage of crime guns and an even smaller percentage of the industry is uncooperative with ATF's tracing efforts. Because ATF has limited regulatory resources, we must focus these resources to have the greatest impact on ensuring licensee compliance and preventing firearms trafficking.⁴ The findings of the CIF report provided a starting point for such initiatives.

To begin to address the problems highlighted by the CIF report, ATF initiated several firearms regulatory programs. On February 4, 2000, ATF sent the Secretary a

¹ In this report, references to licensed dealers include licensed pawnbrokers.

² Time-to-crime is the time between the initial retail sale of a firearm and its recovery as a crime gun. The average time-to-crime for firearms is 6 years. Therefore, a time-to-crime of 3 years or less is considered a short time-to-crime. A short time-to-crime is an important trafficking indicator because it suggests that a firearm was rapidly diverted from its first retail sale to the illegal market.

³ For the purposes of this report, an uncooperative dealer means a dealer who in 1999 either: (1) did not respond to an ATF trace request on at least one occasion, (2) did not respond within 24 hours as required by law on three or more occasions, or (3) provided incorrect information in response to a trace request on at least one occasion.

⁴ The Administration has requested funding for 200 additional ATF inspectors as part of the FY 2001 budget.

memorandum outlining these programs. The present report is intended to update you on the progress of certain of these initiatives, specifically the "focused inspection" and "demand letter" initiatives.⁵

II. FOCUSED INSPECTION INITIATIVE

A. Actions Taken by ATF

ATF has limited inspector resources. Therefore, if ATF is to successfully curb firearms trafficking and assist licensees in complying with the law, it is imperative that we use these resources where they will have the greatest impact.

1. Focusing Inspections on Certain Dealers

As a result of the findings of the CIF report, ATF focused its inspection efforts on the following two categories of licensed dealers:

- (1) dealers who had been uncooperative with ATF trace requests in 1999; and
- (2) dealers who had 10 or more crime guns traced to them in 1999, irrespective of time-to-crime.

ATF selected the uncooperative dealers to be part of this program because we believed that uncooperative dealers likely often fail to maintain accurate records or fulfill other responsibilities under the GCA. ATF selected the second group of dealers to be part of the inspection initiative to try to determine why a large percentage of crime guns were traced to them. ATF intended to take appropriate action against the inspected dealers if violations were found. ATF also sought to identify improvements that could be made in the dealers' business practices to make them less susceptible to straw purchasers⁶ or other traffickers. This initiative resulted in ATF conducting 1,012 inspections.

2. More Intensive Inspection Efforts

In addition to focusing ATF's inspection resources on specific groups of dealers, a large part of the initiative was to conduct inspections of a more comprehensive nature. Accordingly, the focused inspections included:

- *Thorough efforts to reconcile a dealer's physical firearms inventory with the required acquisition and disposition (A&D) records.* Inspectors verified a licensee's inventory

⁵ In our February 4th memorandum, we stated that we would provide the Secretary with a list of dealers who were uncooperative with trace requests in 1999, and a description of actions taken by ATF to enforce compliance. This listing will be forwarded under separate cover.

⁶ A straw purchase occurs when the actual buyer of a firearm (often an individual prohibited under Federal law from possessing 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.

and A&D records in a variety of ways. Inventory was checked against the A&D record to verify the record's accuracy. The A&D record also was compared to the physical inventory to document that all firearms on the licensed premises were properly accounted for and recorded in the record. Further, the A&D record was checked against other documents, such as ATF Forms 4473 (Firearms Transaction Records, completed when sales are made to nonlicensees) and commercial invoices, to determine whether the A&D record was complete and accurate.⁷

- *Completing prior traces.* As part of this process, inspectors also undertook to find the records necessary to resolve any previously incomplete firearms traces involving the dealer.
- *Inspecting required transaction records.* Inspectors conducted a detailed examination of a dealer's Forms 4473 to verify whether they were complete and to determine whether ATF could identify possible prohibited purchasers, potential traffickers,⁸ and unreported multiple handgun sales transactions.⁹
- *Checking compliance with the Brady Act's background check requirements.* ATF reviewed dealers' Forms 4473 to ensure that dealers conducted NICS checks in accordance with the requirements of the Brady Act. ATF also provided the Federal Bureau of Investigation with information on the dealers' usage of NICS so that it could be determined whether dealers were misusing the system.
- *Educating dealers as to the requirements of Federal law.* At the conclusion of each inspection, inspectors reviewed the Federal firearms regulations with the dealers, including the recordkeeping requirements and the requirement to report a missing firearm to ATF and local law enforcement within 48 hours of discovering the gun is missing. The inspectors also discussed any problems noted during inspection and educated the licensees on issues such as ways to identify straw purchasers, theft and loss prevention strategies, and the need to conduct periodic firearms inventories.¹⁰

B. Results

More than half of the licensees inspected under this initiative were in substantial compliance with the Gun Control Act. However, numerous violations and problems were

⁷ Inspectors were required to audit at least 250 firearms in a licensee's inventory and an additional 250 firearms if discrepancies were found. For dealers with 250 or fewer firearms in inventory, inspectors were to audit the entire inventory.

⁸ Potential traffickers include purchasers who buy large numbers of firearms at one time, suspected straw purchasers, and individuals who travel significant distances to purchase firearms.

⁹ The GCA requires FFLs who sell or dispose of two or more handguns to one person within five business days to report such "multiple sales" to ATF and the appropriate State or local law enforcement agency.

¹⁰ Although periodic inventories are not yet required by the regulations, inspectors recommended them as a good business practice. As discussed in Part V, ATF has issued a proposed rule that would require importers, manufacturers, and dealers to conduct at least one annual physical firearms inventory.

uncovered, some particularly egregious. Where appropriate, ATF took action against dealers with violations.

The Appendix is a table summarizing the inspection results. The significant findings from the inspections are set forth below.

1. Overall GCA Violations

- *The vast majority of inspections disclosed one or more violations of the GCA or its implementing regulations.* The focused inspections disclosed violations of the GCA or its implementing regulations by 761 licensees (75 percent of the 1,012 FFLs inspected). Many of the violations were deemed to be minor and were addressed during the course of inspection. As set forth below, others warranted administrative action of some type.

2. Significant Problems with Inventory Discrepancies

- *The dealers inspected in the focused inspection initiatives had significant problems with discrepancies in inventory.* Of the 484,122 firearms the inspected dealers had in inventory, ATF identified 37,372 discrepancies between the dealers' physical inventories and firearms listed in their A&D records. Nearly half of the dealers (47 percent) had at least one discrepancy.
- *Many of the inventory discrepancies were resolved by taking physical inventories of guns.* Inspectors were able to resolve 24,101 of these discrepancies (nearly 65 percent), with the majority of problems resulting from failure to record the acquisition and/or disposition of firearms in the A&D book. For example, an inspector would find a firearm in inventory which had never been listed as an acquisition in the A&D book. Similarly, although there may have been no disposition recorded in the A&D book for a gun which was not in inventory, the inspector may have been able to find a Form 4473 in the dealer's records which showed the recipient of the firearm. Because these discrepancies have been resolved, the dealer now will be able to respond accurately and in a timely manner to trace requests involving these guns.¹¹
- *The inspection process could not account for 13,271 missing guns.* Inspectors were not able to resolve all the inventory discrepancies through the physical inventory process. The inspection process could not account for 13,271 missing guns. These missing firearms were associated with 202 licensees (20 percent of those inspected). Sixteen licensees each had more than 200 missing guns, a disturbingly high number. Some possible causes include past or current careless recordkeeping procedures, undetected firearm thefts, and dealers intentionally selling firearms off their books.

¹¹ Moreover, when a dealer's inventory is in order, he will notice if a firearm is stolen. Thus, dealers with accurate inventory may be less vulnerable to firearms theft.

ATF will compare information about each of these missing firearms to data contained in the FTS to see if we can develop any investigatory leads.

3. A Significant Number of Recordkeeping Violations

Inspectors reviewed over 500,000 Forms 4473 and found more than 3,300 violations of the Gun Control Act and its implementing regulations. Seventy-five percent of inspected dealers had at least one violation. These violations ranged from minor infractions to serious recordkeeping violations that could, whether intentional or not, facilitate firearms trafficking. For example, the failure to submit multiple handgun sales reports deprives ATF, as well as State and local law enforcement agencies, of useful leads on handgun traffickers. The following breakdown reveals the types of recordkeeping violations found through the focused inspection process.

- *Failure to properly execute ATF Form 4473.* The focused inspections uncovered more than 1,400 violations involving at least 581 licensees (57 percent of the inspected dealers) relating to a failure to properly execute the required ATF Form 4473. The Form 4473 includes important information about the identity of the firearm purchaser and the firearm itself. It also includes questions designed to ensure that the purchaser is not prohibited from possessing firearms. Accordingly, a licensee's failure to ensure that the Form 4473 is accurately completed may adversely affect the Government's ability to prosecute a prohibited purchaser.
- *Failure to maintain a complete and accurate A&D record.* The focused inspections uncovered more than 850 violations involving 549 licensees (54 percent of the inspected dealers) relating to failure to maintain complete and accurate acquisition and disposition records. These recordkeeping violations lead to inventory discrepancies and make it more difficult to trace crime guns.
- *Failure to submit multiple handgun sales reports.* There were nearly 225 violations (involving 222 FFLs, or 22 percent of the inspected dealers) of the multiple sales report requirements. These included 1,187 unreported multiple sales involving 195 FFLs, or 19 percent of the FFLs inspected. These violations make it more difficult for ATF to detect illegal traffickers in handguns and they may sometimes indicate dealer cooperation with traffickers.
- *NICS recordkeeping violations.* The inspectors found 193 NICS recordkeeping violations involving 147 FFLs (15 percent of the inspected dealers). These generally did not rise to the level of a failure to conduct a Brady background check; however, a dealer's failure to keep accurate records of NICS checks reduces the effectiveness of the required background checks.

4. Sales to Potential Traffickers and Potentially Prohibited Persons.

- *Inspections identified sales to more than 400 potential firearms traffickers and nearly 300 potentially prohibited individuals, resulting in 691 referrals being sent to ATF*

special agents for further investigation. The potentially prohibited persons may include persons who obtained firearms as a result of "delayed" denials from NICS (i.e., the FFL received a "denied" response after 3 business days had elapsed and the gun had already been sold) and may include guns sold before November 30, 1998, the implementation date for NICS.

5. Completion of Previously Unsuccessful Traces

- *Inspectors were able to complete most of last year's previously unsuccessful traces.* In 1999, more than 28,000 firearms were traced to the inspected dealers. In 1,750 of these traces, the dealers were not able to provide the NTC with the retail purchaser of the firearm, and therefore the trace was unsuccessful.¹² Inspectors were able to resolve 1,336 (76 percent) of the unsuccessful traces associated with these licensees. That information was then provided to the NTC. The NTC entered the information into the FTS and Online Lead, thereby providing an important trafficking investigation tool. The NTC also forwarded the information to the agencies that had made the trace requests, providing investigatory leads.

C. Adverse Administrative Proceedings

ATF can take several administrative actions, short of initiating a criminal investigation, if it finds that a licensee has violated Federal firearms laws or implementing regulations. In order of increasing severity, these include: (1) conducting a follow-up compliance inspection;¹³ (2) issuing a warning letter; (3) holding a warning conference; and (4) revoking the license.¹⁴ In order to revoke a license, ATF must establish that the licensee willfully violated the GCA or its implementing regulations. The use of warning letters and conferences has been developed as a means of establishing that subsequent violations by a licensee are willful as opposed to negligent or inadvertent.

- *Overall, approximately 45 percent of the inspected dealers were recommended for some sort of follow-up action, including 2 percent for license revocation.*¹⁵ The uncooperative dealers were disproportionately represented in this group; 60 percent were recommended for follow-up action. By contrast, 47 percent of the dealers with 10 or more short time-to-crime traces in 1999 and 43 percent of the remaining dealers inspected for having 10 or more crime gun traces in 1999 were recommended for follow-up administrative action.

¹² Unsuccessful traces do not make dealers uncooperative for the purposes of the demand letter and inspection initiatives; so long as the dealers respond in a timely manner and do not provide incorrect information to the NTC, they will not be found to be uncooperative.

¹³ The GCA generally limits ATF to one warrantless compliance inspection every 12 months.

¹⁴ Existing law enables ATF to impose a fine or suspend a license only in one limited situation involving misuse of the NICS system.

¹⁵ Approximately 4 percent of the licensees selected for inspection went out of business and surrendered their firearms licenses to ATF. Another 1 percent surrendered their licenses in lieu of adverse action.

- *Reinspections.* For 144 licensees (approximately 14 percent of those inspected), the only follow-up action recommended was reinspection. This allows ATF to determine whether the licensees are continuing to have compliance problems, in which case further administrative action may be appropriate.
- *Warning letters or warning conferences.* ATF issued warning letters or held warning conferences with 289 licensees, or 29 percent of those inspected. Of the uncooperative dealers, 20 percent received warning letters or attended warning conferences. In comparison, 33 percent of the dealers with 10 or more short-time-to-crime traces and 27 percent of the remaining dealers inspected for having 10 or more crime gun traces were subjected to these sanctions.
- *Revocation proceedings.* ATF field offices have recommended the initiation of license revocation proceedings on 20 licensees, or approximately 2 percent of those inspected. Again, the uncooperative dealers were overrepresented in this group; 17 percent of these dealers were recommended for revocation. Less than 2 percent of the remaining dealers inspected were recommended for revocation.

III. DEMAND LETTER INITIATIVE

A. Actions Taken by ATF

While the GCA requires licensees to maintain detailed records of firearms transactions at their premises, licensees generally are not required to report this information to ATF. However, the GCA authorizes the Secretary to send letters to licensees, demanding the submission of all record information required to be kept by law.¹⁶ In February 2000, ATF issued two sets of "demand letters" to licensees, which this report will refer to as "demand letter 1" and "demand letter 2."

1. Issuance of Demand Letters to Uncooperative Dealers

Demand letter 1 required uncooperative dealers to submit to ATF all firearms transactions records for the last 3 years and to continue to submit these reports on a monthly basis until further notice. ATF sought this information so that we could quickly trace firearms sold by these dealers if they continued to be uncooperative and could verify responses they did provide. Demand letters were sent to 41 such dealers.¹⁷ Presently 31 uncooperative dealers remain under demand.¹⁸

¹⁶ See 18 USC § 923(g)(5) and 27 CFR § 178.126.

¹⁷ A dealer in Maryland sued ATF after receiving demand letter 1, alleging, in part, that the demand letter violates the prohibition in 18 USC § 926(a) against rules or regulations enacted after May 19, 1986 that require firearm records be "recorded at or transferred to a facility owned, managed, or controlled by the United States." On April 13, 2000, the Federal District Court in Baltimore held that the demand letter was contrary to section 926(a) and enjoined ATF from enforcing the demand letter against the dealer. The Government is appealing this decision and ATF continues to believe it has the legal authority to demand the specified firearms records from federally licensed dealers. The decision has not prevented ATF from receiving records from any licensees other than the dealer involved in this case.

2. Issuance of Demand Letters to Dealers Who Had Traced to Them 10 or More Crime Guns with a Time-to-Crime of 3 Years or Less

Demand letter 2 was issued to licensed dealers who, in 1999, had 10 or more crime guns with a time-to-crime of 3 years or less traced to them. The letter required these dealers to provide ATF with the following information about the used guns they had acquired in the past year: the manufacturer or importer, the serial number, the model, and the caliber or gauge.¹⁹ The dealers were also notified that, following the initial report, they would be required to submit this information on a quarterly basis.

Because the dealers who received demand letter 2 had been associated with a significant number of traces of new guns with a short time-to-crime, ATF believed there was a substantial likelihood that the used guns they sell also are being used in crime. The information acquired through these letters would enable ATF to trace the used guns sold by these dealers when they are recovered in crime. It also would enable ATF to resolve crime gun trace requests that previously could not be completed without resort to investigative tracing methods because they involved used guns.

ATF initially identified 430 licensees who met the requirements of demand letter 2. Presently 394 licensees remain under demand.²⁰

3. Entry of Demand Letter Records into the FTS

When the NTC receives the demand letter records, the records are entered into the FTS. More specifically, the information is entered into an FTS demand letter subsystem that was created as part of this project.²¹ As of September 25, 2000, ATF had received information on nearly 76,000 firearms in response to demand letter 1 and information on more than 274,000 firearms in response to demand letter 2.

B. Results

The results of the demand letter initiative have been significant. ATF has seen increased cooperation from all licensed dealers with respect to trace requests. The data that we received from the demand letters has enabled us to complete traces on used guns that we

¹⁸ Of the original 41 dealers placed on demand, 4 dealers have gone out of business and 6 others have had their demand letters rescinded.

¹⁹ These licensees were not required to submit any identifying information on the individuals who had transferred the guns to them or on individuals subsequently purchasing the firearms.

²⁰ From the original 430 licensees, 14 have gone out of business, 17 have advised ATF that they do not deal in secondhand firearms, and 5 were released from the demand requirements based upon recommendations from ATF field division offices or as a result of further review of ATF National Tracing Center records.

²¹ Information on firearm purchasers contained in demand letter 1 records is not placed in the FTS. When licensees are released from the demand letter requirements, the NTC will maintain the firearms information which has been entered into the FTS.

would otherwise never have been able to complete through the FTS. The results are set forth in more detail below.

1. Increased Cooperation by Dealers in Response to Trace Requests

- *Since we issued demand letter 1, we have seen dramatic improvement in the cooperation of previously uncooperative dealers.* We have made 805 trace requests to previously uncooperative dealers since the issuance of demand letter 1; not a single dealer has failed to cooperate with these requests. This increase in compliance levels suggests that the demand letter requirement helped educate previously uncooperative dealers regarding their statutory responsibilities to respond to trace requests. We will reevaluate the level of cooperation by these dealers after 1 year, and we expect that most of these licensees will be removed from the requirements of demand letter 1 at that time.²²
- *We have also seen an increase in the cooperation of all dealers.* ATF's NTC records reflect that only one other dealer in the country has been uncooperative with a trace request since the demand letters were issued. This suggests that the demand letter initiative is an incentive to all dealers to comply with the legal requirement to respond to ATF trace requests in a timely manner.

2. Completing Crime Gun Trace Requests

- *The demand letters have enabled ATF to complete a significant number of crime gun traces.* The demand letter records have been used to complete 598 crime gun trace requests that have been received since the demand letters were issued. These trace results provided the requesting law enforcement agencies with important investigative leads. Although ATF often does not learn of the ultimate impact of the trace information we provide to a requesting agency (e.g., whether such information is integral to securing a homicide conviction), we do know that 3 percent of the successful traces from the demand letter information involved homicides, 8 percent involved assaults, and 12 percent involved drug-related investigations.²³ Additionally, it bears noting that we were able to enter these successful trace results into the Online Lead program, thereby providing ATF special agents with important investigative data concerning firearms trafficking.
- *The demand letters have enabled ATF to complete traces of used guns that would not otherwise have been possible.* Of the 598 successful crime gun traces, 523 involved demand letter-2 firearms and were therefore traces of used guns. The remaining

²² In addition, licensees will be removed from the requirements of demand letter 2 if they do not meet the criteria for receiving that demand letter next year.

²³ Because law enforcement agencies requesting traces do not always provide ATF with data concerning the nature of particular gun-related crimes, these figures may not represent fully the percentages of homicides, assaults, and drug-related incidents that were connected to the 598 successful traces.

75 traces involved demand letter 1 firearms and so were traces of either new or used guns. ATF would not have been able to resolve the traces involving used guns through the FTS if we had not had the demand letter information.

- *The demand letter records enabled ATF to complete old crime gun trace requests.* The demand letter records have been used to complete 147 crime gun trace requests received prior to the issuance of the demand letters.

3. Providing Leads on Lost, Stolen, and Suspect Guns

In addition to completing standard firearm traces, the demand letter information has provided ATF with leads on lost, stolen, and suspect guns.

- *We found that 519 demand letter firearms matched firearms in ATF's lost/stolen firearms database.* Of these, 22 firearms matched firearms in ATF's database of firearms common carriers had reported as lost or stolen. Information on all firearms matched to the lost/stolen firearms database has been sent to ATF field offices for investigation.
- *An additional 430 demand letter firearms matched firearms in ATF's suspect gun database.* "Suspect guns" are firearms that are suspected of having been involved in criminal activity, but that have not yet been recovered by law enforcement. As with the stolen firearms matches, this information has been forwarded to ATF field offices for investigation.

4. New Information About Used Guns

As part of this project, ATF sought to determine whether licensees with a large number of short time-to-crime traces for new guns also would have a significant number of traces for used guns they sell. Through the used gun records we received from these licensees, we learned that these dealers had sold a significant number of used guns that subsequently were traced as crime guns.

- *While more new guns than used guns were traced to the dealers who received demand letter 2, these dealers did sell at least 523 used guns that were traced as crime guns.* This is a significant number of used gun traces, given the fact that these traces were made based on only 19 months' worth of used gun information from these dealers. Accordingly, the results of this initiative suggest that there is a connection between selling a high number of new crime guns with a short time-to-crime and selling a significant number of used crime guns.²⁴

²⁴ Without having access to used gun information from dealers who did not have 10 or more short time-to-crime traces (other than from the small group of uncooperative dealers), we cannot tell if those dealers would also have a significant number of used gun traces. Accordingly, our analysis of the connection between new gun traces with a short time-to-crime and used gun traces is incomplete. Additionally, because recipients of demand letter 2 provided information not only on used guns they had disposed of but also on used guns they merely had acquired, it is possible that for some of the trace hits on used guns

- *The used firearms that have been successfully traced since the inception of the demand letter initiative have generally had a very short time-to-crime, as measured from their most recent sale by an FFL. As previously noted, a gun that is traced within 3 years of its initial retail sale is considered a short time-to-crime gun. Since the demand letters gave us access to information regarding the second (or subsequent) retail sale of certain used guns, we were able to look at the time that had elapsed between the most recent sale by an FFL and the tracing of the crime gun. The used gun records that have been obtained under the demand letter initiative are no more than 19 months old. This means that all of the used crime guns we traced through demand letter 2 records were either traced as crime guns within 19 months of their most recent sale by an FFL or were acquired by an FFL after being used as crime guns.*

IV. SIGNIFICANT FINDINGS BASED ON ANALYSIS OF RESULTS

A. A Small Group of Dealers Accounts for a Disproportionately Large Number of Crime Gun Traces

As noted in the CIF report, only 1.2 percent of Federal firearms dealers (1,020 of approximately 83,200 licensed dealers) accounted for over 57 percent of the crime guns successfully traced to dealers active in 1998. One of the purposes of the focused inspections was to gain insight into why a relatively small group of dealers has a large number of crime guns traced to them. Although we hoped the inspection initiative would help us answer this question, from the outset we were aware that there would not be a single explanation.

In some cases, a dealer may fall within this category for reasons that do not reflect GCA violations. For example, some dealers might fall into this group simply because they sell a high volume of guns. Some may have been in business for a long period of time and the firearms they sold have changed hands many times, eventually falling into a criminal's hands. Others might have experienced a single large theft of inventory that resulted in firearms being sold on the street to prohibited persons. However, there are other reasons that may reflect violations of the law and implementing regulations. For example, some dealers may have poor inventory controls and recordkeeping practices, making them susceptible to firearms being taken from them without detection. Other dealers may accept large numbers of straw purchasers; and still others may intentionally be supplying firearms to prohibited individuals.

When we began the inspection initiative, we were aware that the significance of the number of firearms traced to a licensee is limited when it is not analyzed in conjunction with the volume of firearms sold by that licensee. For example, the fact that a licensee has 10 or more crime guns traced to him in a year is more significant if he sells only 20

for previously submitted traces, the guns may only have been acquired by these dealers, and not sold by them. To the extent this might bear upon the correlation between traces of new guns having a short time-to-crime and traces of used guns, it must be studied.

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guns per year and has been in business for 2 years than if he sells 5,000 guns per year and has been in business for 20 years. Similarly, if the set of dealers accounting for 57 percent of traces also accounts for 57 percent of all firearms sales, then the number of traces alone is not as significant.

When the CIF report was issued, we did not have any data regarding the total sales volume of the 1.2 percent of retail dealers who were responsible for 57 percent of the successful crime gun traces to active retail dealers in 1998. Accordingly, one of the goals of the focused inspections was to obtain data regarding the sales volume of the dealers who were the subject of the focused inspections.

The 1,012 licensees who were inspected during the focused inspection initiative constituted approximately 1.2 percent of the approximately 81,325 dealers in 1999. From the focused inspections, we have learned that these dealers sold approximately 1.2 million, or less than 20 percent, of the approximately 6.5 million guns that were sold in the 12-month period preceding the inspection initiative.²⁵ As a group, however, these dealers accounted for more than 28,000 crime gun traces in 1999, which amounts to more than 50 percent of the 55,967 successful crime gun traces to active retail dealers for that year. Accordingly, it is apparent that sales volume alone does not account for the disproportionately large number of traces associated with these firearms dealers.

B. The Licensees Subject to the Focused Inspections Had Significantly Higher Rates of GCA Violations than the Random Sample of Licensees Inspected in 1998

Because sales volume alone did not explain why the inspected licensees accounted for a disproportionate number of crime gun traces, we looked at prior inspection results for a randomly selected group of licensees to see how they differed from the results of these "focused" inspections in which licensees were selected on the basis of number of crime gun traces and lack of cooperation with crime gun trace requests.

In 1998, ATF selected a random sample of 752 dealers to inspect, using a uniform workplan and questionnaire to ensure that the information gathered was consistent.²⁶ These dealers were *not* selected on the basis of crime gun trace numbers. While the methodology used for the 1998 inspections was not identical to that used in the FY 2000 focused inspections, a comparison of the results is nonetheless instructive and reveals that the licensees ~~inspected~~ during the focused inspections had a significantly higher rate of GCA violations ~~than those~~ inspected during the 1998 random inspections.

In the 1998 sample, approximately 37 percent of the inspected dealers were found to have violations during inspection. By contrast, in the focused inspections that are the subject

²⁵ See *Commerce in Firearms in the United States*, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, February 2000, p. 1 (estimating that each year approximately 4.5 million new firearms and 2 million secondhand firearms are sold by retail licensees).

²⁶ See *Operation Snapshot: An Analysis of the Retail Regulated Firearms Industry*, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 2000.

of this report, 75 percent of the inspected dealers were found to have at least one GCA violation.

These results support ATF's conclusion that uncooperative dealers and licensed dealers with 10 or more crime gun traces in a year are more likely, as a group, to have GCA violations than the dealer population as a whole. This does not, of course, mean that that all or even most of the licensees in this group are committing willful violations of the GCA. However, this result does validate ATF's use of number of crime gun traces and lack of cooperation with crime gun trace requests as factors in focusing inspection resources on certain dealers. As will be discussed further in Part V of this report, we will continue to refine our criteria for focusing inspection resources.

C. Certain Groups of Inspected Licensees Were Disproportionately Represented in Administrative Follow-up Actions and Investigative Referrals

Even within the category of licensees who were inspected as part of the focused inspection initiative, the following subgroups of licensees made up a disproportionately large number of the licensees who were the subjects of recommendations for adverse administrative proceedings or whose records provided the basis for investigative referrals of potential traffickers.

- *Uncooperative dealers.* Uncooperative dealers represent a disproportionate number of the proposed revocations. While only 30 of the 1,012 inspections were of uncooperative dealers, 5 of the 20 proposed revocations were for these uncooperative dealers.²⁷ Moreover, 17 percent of the uncooperative dealers were recommended for revocation, versus less than 2 percent for each of the other categories of dealers inspected.
- *Dealers with 10 or more crime guns traced to them with a time-to-crime of three years or less.* The 331 inspections conducted on FFLs with 10 or more short time-to-crime firearms traces in 1999 yielded 252 potential firearms traffickers. The 651 inspections conducted on FFLs who had 10 or more traces in 1999 but did not have at least 10 traces with a short time-to-crime yielded 154 potential traffickers.²⁸ The overall ratio of trafficking referrals to licensees was more than 3 times higher in the group of licensees with 10 or more firearms with a short time-to-crime traced to them in 1999 than in the group of FFLs who did not have at least 10 or more traces with a short time-to-crime.
- *Dealers with a significant number of unresolved inventory discrepancies.* Administrative action was recommended for 96 of the 100 dealers with the highest number of unresolved inventory discrepancies. These dealers were found generally to have many GCA violations in addition to their inventory discrepancies. This suggests that inventory discrepancy is a significant predictor of other GCA violations.

²⁷ The licensee who sued the Government over the issuance of the demand letter was not inspected.

- *Dealers with a significant number of unreported multiple handgun sales.* Administrative action was recommended for 82 of the 100 dealers who had the most violations for unreported multiple handgun sales.

V. FOCUS ON THE FUTURE

ATF has acquired much useful information from the focused inspection and demand letter initiatives, including information that will help us refine such efforts in the future. In this section, we will discuss the actions ATF will take in response to these findings.

A. Refining the Inspection Initiative

The focused inspection initiative we completed in 2000 was a broad one. Our focus on uncooperative dealers and all dealers who had 10 or more crime guns traced to them in 1999 provided us with valuable data. Nonetheless, given our limited resources, it will not be feasible to conduct such a broad inspection initiative again in 2001.

After analyzing the data received from the focused inspections, ATF has determined that next year's inspection initiative should focus on the groups of licensees that are most likely to have compliance problems. Accordingly, we will focus our inspections on the following categories of dealers.

- *Newly identified dealers with 10 or more short time-to-crime traces in a year.* ATF will continue to conduct focused inspections of newly identified dealers with 10 or more short time-to-crime traces in a year. As previously noted, the overall ratio of trafficking referrals to licensees was more than 3 times higher in the group of licensees with 10 or more firearms with a short time-to-crime traced to them in 1999 than in the group of FFLs who did not have at least 10 or more traces with a short time-to-crime. We believe that newly identified dealers with 10 or more short time-to-crime traces in a year merit continued heightened oversight by ATF.
- *Uncooperative dealers.* ATF will continue to focus inspection resources on these dealers and, when appropriate, revoke their licenses. We will take steps to ensure that when the NTC becomes aware of an uncooperative dealer, it immediately notifies the appropriate ATF field division to schedule a compliance inspection of that FFL.
- *Licensees with significant inventory discrepancies.* ATF will begin to conduct focused inspections of licensees with significant inventory discrepancies. In conjunction with the proposed rule requiring licensees to take an annual physical inventory of firearms, ATF will amend the Federal Firearms Licensee Theft/Loss Report form to require licensees to acknowledge if a theft or loss was uncovered in the course of an inventory. When the NTC becomes aware of significant inventory

discrepancies, it will immediately notify the appropriate ATF field division to schedule a compliance inspection of that FFL.²⁸

- *Dealers who have a significant number of unsuccessful traces.* We will inspect all dealers found to have a significant number of unsuccessful traces. A high number of unsuccessful traces may indicate that these dealers are not complying with their recordkeeping obligations.
- *Dealers who were the subject of administrative action during the current inspection initiative.* We will reinspect all dealers against whom we took any administrative action pursuant to the focused inspection program, assuming the dealers remain in business.

B. Demand Letters

Our demand letter initiative helped us trace crime guns and increased the level of cooperation given by dealers in response to trace requests. Accordingly, ATF plans to continue the initiative, with some modifications.

- *We will continue to place uncooperative dealers under the requirements of demand letter 1.* The issuance of demand letter 1 to uncooperative dealers has resulted in a dramatic increase in the compliance rates of previously uncooperative dealers - not one of these dealers has failed to cooperate with a trace request since the issuance of the demand letters. The focus on this issue also appears to provide an incentive for all dealers to comply with their legal obligation to respond to ATF trace requests in a timely manner.
- *We will continue to issue demand letter 2 to at least some dealers with 10 or more crime guns with a time-to-crime of three years or less traced to their businesses in 2000.* ATF will also attempt to identify additional criteria that might be helpful in honing our ability to target those dealers to whom demand letter 2 should be issued. We learned that many dealers who have 10 or more crime guns with a short time-to-crime traced to their businesses in a year are likely also to have used guns traced to their businesses. Having access to information about used guns enables ATF to complete trace requests that it could not otherwise complete through the FTS. It also improves ATF's ability to provide leads in cases involving lost or stolen firearms and suspect guns.
- *ATF agents will continue to investigate the leads on lost, stolen, and suspect firearms provided by the demand letter records.* The demand letter records have provided many useful investigative leads.

²⁸ Unfortunately, ATF generally does not know that a dealer has failed to comply with the multiple handgun sales reporting requirement until we have inspected the dealer. Accordingly, this factor cannot be used in selecting licensees for inspection.

C. Improving Licensee Compliance with Inventory-Related Recordkeeping Requirements

ATF found a large number of discrepancies between licensees' A&D books and physical inventories. This is serious problem. Licensees often cannot accurately respond to trace requests in a timely manner because of discrepancies, and licensees with poor inventory control are more susceptible to having firearms stolen from them without detection. The discrepancies may reflect violations on the part of the licensee, ranging from negligence in complying with recordkeeping requirements to intentional firearms trafficking. We are taking the following steps to address this problem:

- *ATF has published a proposed rule that would require licensed importers, manufacturers, and dealers to conduct at least one physical inventory of their firearms each year.*²⁹ The focused inspection initiative demonstrated the need for improved inventory controls. Licensees can fulfill their legal requirement to report thefts and losses of firearms from inventory only if they follow good business practices and conduct at least one physical inventory per year.
- *ATF is taking steps to address the 13,271 missing guns disclosed during the focused inspections.* ATF has required inspected dealers having one or more unresolved discrepancies to report the missing gun(s) to ATF as a theft or loss. ATF will run information about each of these firearms through the FTS in an attempt to develop investigatory leads.
- *Where appropriate, ATF is taking administrative action against dealers with unresolved inventory discrepancies.* Where inventory discrepancies evidence a dealer's failure to comply with the recordkeeping requirements of the GCA, ATF will take appropriate administrative action against the dealer.

D. Better Data Collection

One of ATF's goals in conducting focused inspections was to educate licensees as to good business practices and required compliance with the GCA and its implementing regulations. We hope that these efforts will result in improvements in the future compliance of these licensees. However, in order to judge the effectiveness of these programs, we need better data regarding the licensee population.

- *ATF has revised the Federal firearms licensee renewal application form to require applicants to report the number of firearms they have purchased and disposed of during the past 3 years.* Although the purpose of this initiative is to ensure that only licensees who are actively engaged in the business of dealing in firearms may renew their licenses, it has the additional benefit of providing ATF with valuable sales volume information. This new information will help ATF better focus its limited inspection resources.

²⁹ The proposed rule was published for notice and comment in the Federal Register on August 28, 2000.

- *We will study the impact of focused inspections upon the future compliance record of the inspected licensees. We will be able to obtain data to further analyze the impact of focused inspections upon future compliance when we reinspect dealers next year who were inspected as part of the current initiative. We also will study the impact of focused inspections on the number of crime guns subsequently traced to a licensee.*

CONCLUSION

The focused inspection and demand letter initiatives have proven extremely effective. Through our inspection program we were able to educate a segment of the licensee population which, for a variety of reasons, has a high number of crime gun traces connected to them. We were able to uncover violations among many in this group and take adverse administrative action where appropriate. We were able to complete previously open traces, thereby aiding law enforcement and improving our FTS database. In addition, we opened investigations into sales to potential traffickers and prohibited persons as a result of the inspections.

The demand letter initiative appears to have virtually eliminated the problem of uncooperative dealers. The demand letter records have enabled us to complete traces involving used guns, thereby providing investigative leads to numerous law enforcement agencies and enhancing our intelligence on firearms trafficking. The records also have been valuable for investigations of lost, stolen and suspect firearms. The demand letter project also supported our belief that dealers who sell a large number of new crime guns with a short time-to-crime likely also sell a significant number of used crime guns.

Our findings also will help us better focus our inspection resources in the future. The inspection initiative revealed some predictors of licensees who should be inspected in the future, such as licensees with significant inventory discrepancies. As set forth in this report, we will be engaging in numerous actions as a result of these initiatives. We are confident these actions will help us to work with the licensed community to improve dealer compliance, reduce firearms trafficking, and strengthen our capability to trace crime guns.

Results of Focused Inspections

<u>Category of FFL Inspection:</u>	<u>Uncooperative FFLs</u>	<u>10+ Traces < or = 3 Years Time to Crime CY - 1999</u>	<u>* 10+ Traces CY - 1999</u>	<u>Totals</u>	
<u>Inspections Completed:</u>	30	331	651	** 1,012	** (See Endnote 1)
<u>Volume of Sales:</u>	32,699	486,561	721,602	1,240,862	
<u>Traces (1999)</u>					
Number of Traces these FFLs were involved with:				28,428	
Number of Unsuccessful Traces attributed to these FFLs:	62	608	1,080	1,750	(27% or 274 FFLs)
Number of Unsuccessful Traces resolved by Inspectors:	34	505	797	1,336	
Number of Traces that remain Unsuccessful:	28	103	283	414	(14% or 144 FFLs)
Number of ATF Forms 4473 Examined:	6,614	213,470	288,665	** 508,749	** (See Endnote 2)
<u>Type of Violations</u>					
Licensing violations:	1	16	13	30	(2% or 25 FFLs)
Number of (178.99) Prohibited Person Sales violation:	0	42	80	122	(9% or 87 FFLs)
Number of (178.100) Gun Show Sales violations:	2	8	17	27	(3% or 27 FFLs)
Number of (178.102) NICS violations:	5	69	119	193	(15% or 147 FFLs)
Number of (178.126a) Multiple Sales Report violations:	5	73	147	225	(22% or 222 FFLs)
Number of (178.124/ Item 9) Form 4473 violations:	8	51	76	135	(11% or 110 FFLs)
Number of (178.124/ Items 1-8) Form 4473 violations:	15	126	70	211	(8% or 83 FFLs)
Number of Other (178.124) Form 4473 violations:	39	357	723	1,119	(57% or 581 FFLs)
Number of (178.123(c)) A & D Bound Book violations:	25	268	559	852	(54% or 549 FFLs)
Number of Other Part 178 violations:	16	150	258	424	(25% or 250 FFLs)
Total Number of All Violations:	116	1,160	2,062	3,338	(75% or 761 FFLs)
<u>Inventory</u>					
Firearms in Inventory for Target FFLs:	7,057	177,000	300,865	484,122	
Number of Firearm Inventory Discrepancies:	2,150	9,234	25,988	** 37,372	(47% of FFLs) ** (See Endnote 3)
Number of Firearm Inventory Discrepancies Resolved:	1,490	7,618	14,993	24,101	
Number of Unresolved Discrepancies (Missing Firearms):	659	1,617	10,995	13,271	(20% or 202 FFLs)
<u>Multiple Sales/Referrals:</u>					
Number of Unreported Multiple Sales:	42	411	734	1,187	(19% or 195 FFLs)
Number of Guns involved in Unreported Multiple Sales:	91	847	1,524	2,462	(19% or 189 FFLs)
Number of Potential Traffickers Identified:	0	252	154	406	(10% or 97 FFLs)
Number of Referrals to ATF Special Agent	2	429	260	** 691	(21% or 220 FFLs) ** (See Endnote 4)
<u>Recommended Actions</u>					
No Further Action	10	157	327	494	(49% of FFLs)
Reinspect in 2 Years	0	0	2	2	(0.2% of FFLs)
Reinspect in 1 Year	7	41	94	142	(14% of FFLs)
Warning Letter	4	70	97	171	(17% of FFLs)
Warning Conference	2	40	76	118	(12% of FFLs)
Revocation	5	4	11	20	(2% of FFLs)
Surrendered (in lieu of adverse action)	0	3	8	11	(1% of FFLs)
FL voluntarily went Out of Business	1	14	30	45	(4% of FFLs)
Other Actions (e.g., rescind a variance)	1	2	6	9	(0.8% of FFLs)

Endnotes

Column 3 includes licensees with 10 or more crime guns traced, no more than 9 of which had a time-to-crime of three years or less. These licensees did not receive a Demand Letter.

This number reflects the total number of inspections completed during this initiative.

This number is the total number of ATF Forms 4473 examined during this project. The number of ATF Forms 4473 and the period of examination varies due to size of dealer and volume of sales; therefore, this number does not reflect the total number of ATF Forms 4473 executed by the FFLs for calendar year 1999.

This number reflects the total number of discrepancies found during all inspections. This includes when the physical inventory was greater than the bound book record or when the bound book was greater than the physical inventory.

Referrals include potential traffickers and prohibited persons.

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